

## Staff Report 2021-0101

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Meeting Date: April 20, 2021

Subject: Proposed Zoning By-law Amendment (Temporary Use), Tarpa Construction Co. Ltd., 7904 Mayfield Road, Ward 4

Submitted By: Adam Wendland, Community Planner, Development Review Services, Planning Department

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### RECOMMENDATION

That in accordance with Section 34(17) of the *Planning Act*, no further notice is required to be provided on the proposed Zoning By-law Amendment (Temporary Use);

That the By-law attached as Schedule 'C' to Staff Report 2021-0101 be enacted to amend Comprehensive Zoning By-law 2006-50, as amended, to rezone the lands to various zones in order to permit a commercial nursery with accessory open storage area for a period of three (3) years; and

That applications for minor variances for the lands as identified in Schedule 'A' to Staff Report 2021-0101 be permitted prior to the second anniversary of the passing of any implementing Zoning By-law Amendment, pursuant to Section 45(1.4) of the *Planning Act*.

### REPORT HIGHLIGHTS

- A Zoning By-law Amendment (Temporary Use) application (RZ 20-08) was submitted by Weston Consulting on behalf of Tarpa Construction Co. Ltd. on July 29, 2020 and deemed 'complete' by staff on September 22, 2020.
- The application was submitted to permit the continued use of the land as a commercial nursery and garden supply centre with accessory open storage area for a period of three years.
- The subject lands were previously subject to a Temporary Use Zoning By-law (BL-2017-42) which expired on June 20, 2020 and permitted the same uses.
- A statutory public meeting was held on January 19, 2021 in accordance with the requirements of the *Planning Act*.
- The proposed by-law is consistent with Provincial policies and conform to Provincial, Regional and local planning policy documents.
- Planning staff recommends that Council enact the Temporary Use By-law, attached as Schedule "C" to this report.

### DISCUSSION

The purpose of this Report is to recommend that Council enact the proposed Temporary Use By-law to allow the continued use of the property as a commercial nursery for a period of three years.

### Subject Lands

The site is known municipally as 7904 Mayfield Road and is located on the north side of Mayfield Road, between Humber Station Road and The Gore Road.

Legally, the lands are known as Part of Lot 1, Concession 4 (Albion), designated Part 1 of Plan 43R-37959. The subject lands are approximately 4.1 ha (10.1 ac) in size and is currently occupied by an existing detached dwelling, a temporary retail building, and agricultural storage buildings.

### Background

In 2012, the applicant applied for a Zoning By-law Amendment (Temporary Use) application (RZ 12-08) to temporarily permit a commercial nursery and accessory open storage area. Following approval of the Temporary Use By-law, the applicant received Site Plan approval (SPA 15-30) to implement the Bylaw. The Temporary Use By-law (BL-2017-42) was passed by Council on June 20, 2017 for a period of three (3) years and expired on June 20, 2020.

### Proposed Development

On July 29, 2020, the Town received a Zoning By-law Amendment (Temporary Use) application (RZ 20-08) from Weston Consulting on behalf of the Tarpa Construction Co. Ltd. for the subject lands. The application was deemed 'complete' by staff on September 22, 2020.

The property is currently home to Tarpa Construction Co Ltd. The company sells horticultural products grown on site and accessory products related to the nursery. The applicant has proposed to dedicate 7,857m<sup>2</sup> (84,572.04 ft<sup>2</sup>) for the growing of horticultural crops related to the existing nursery. The applicant has proposed to sell these materials and associated materials (e.g. soils, earthen products, etc.) and has proposed 7,232m<sup>2</sup> (77,844.6 ft<sup>2</sup>) for the accessory open storage/outside display and sales area, 1,365m<sup>2</sup> (14,692.74 ft<sup>2</sup>) for soil screening and 1,043m<sup>2</sup> (11,226.76 ft<sup>2</sup>) for a pick-up and delivery area for customers. The property will remain as is with no changes proposed to the approved site plan application.

The purpose of the application is to rezone the lands to temporarily permit a commercial nursery and an accessory open storage area for a period of three (3) years.

### Planning Review

Documents that have been considered by the Town in its review of the proposed application include the Provincial Policy Statement, 2020, A Place to Grow: Growth Plan for the Greater Golden Horseshoe, 2020, Region of Peel Official Plan, the Town of Caledon Official Plan and the Town of Caledon Comprehensive Zoning By-law 2006-50, as amended. Supporting technical studies and reports as well as comments and recommendations provided by internal departments, external review agencies and the public also informed the review of this application.

#### Provincial Policy Statement, 2020 (PPS, 2020)

The PPS, 2020 provides policy direction on matters of provincial interest related to land use planning and development. The PPS, 2020 contains policy direction on the efficient use of land to support sustainable, strong, livable, healthy and resilient communities while protecting the environment, public health and safety and facilitating growth.

The PPS, 2020 (Section 1.1) speaks to creating healthy, livable and safe communities being achieved by avoiding development and land use patterns which may cause environmental or public health and safety concerns, avoiding land use patterns that prevent the efficient expansion of settlement areas should also be avoided and providing for healthy, integrated and viable rural areas should be supported by providing opportunities for economic activities in prime agricultural areas. Section 2.3 of the PPS, 2020 speaks to permitted uses in prime agricultural areas, which includes agricultural uses, agricultural-related uses and on-farm diversified uses. Proposed agriculture-related uses and on-farm diversified uses shall be compatible with, and shall not hinder, surrounding agricultural operations.

The proposed application is consistent with the PPS, 2020 as the temporary use will not hinder the efficient development and land use patterns within the municipality and is generally compatible with the existing uses in the surrounding area. The applicant has demonstrated through supporting studies that the proposed application will not have an adverse effect on the environment or cause any public health or safety concerns. The operation has been established in a non-permanent manner utilizing the existing dwelling, land and implementing accessory buildings and structures which are temporary in nature. In addition, staff recognize the location of the site within the GTA West Study Area and the recommendations from MTO that would limit development to a temporary nature for three years. It is staff's opinion that the proposed by-law is consistent with the Provincial Policy Statement, 2020.

### Places to Grow Growth Plan for the Greater Golden Horseshoe (Growth Plan)

The Growth Plan, in conforming to the PPS, 2020, contains similar, although refined, policy direction to the PPS, 2020. The Growth Plan is intended to be a framework for implementing the Province's vision for supporting strong prosperous communities through managing growth in the region through 2041. While the Growth Plan directs growth to settlement areas, it also contains policies which permit other land uses provided that they are compatible with the rural landscape and surrounding local land uses, will be sustained by rural service levels and will not adversely affect the protection of agricultural uses and other resource-based uses such as mineral aggregate operations (Section 2.2.9.3). Section 4.2 of the Growth Plan contains policies which protect the agricultural land base and areas. The Growth Plan also speaks to protecting transportation and infrastructure corridors (Section 3.2.5.1). For the same reasons as explained in the PPS, 2020 discussion, the proposed by-law conforms to and is consistent with the Growth Plan.

### Region of Peel Official Plan

The Region of Peel Official Plan designates the subject property as Rural System with identification of the Conceptual Strategic Infrastructure Study Area (under appeal) on Schedule "D" Regional Structure and Prime Agricultural Area on Schedule "B" Prime Agricultural Area. The Region's Official Plan also provides for specific policies directing area municipalities to include more detailed objectives and policies in the local municipal official plans. Section 3.2 contains policies which speak to protecting the Prime Agricultural Area and directing the Town to designate and protect the Area in the Town's Official Plan. Section

3.2.2.11 directs the Town only to permit a non-residential use in the Prime Agricultural Area, subject to an area municipal official plan amendment and provided that:

- a) there are no reasonable alternative locations which avoid the Prime Agricultural Area;
- b) there are no reasonable alternative locations in the Prime Agricultural Area with lower priority agricultural lands;
- c) there is a demonstrated need for the use, which has been justified in the context of applicable growth management policies; and,
- d) impacts from any new non-residential use on surrounding agricultural operations and lands are minimal or will be satisfactorily mitigated.

The Region has provided comments and while the Region would generally not encourage uses that are not an on-farm diversified use associated with an active farm operation to be located in this area, Regional staff also recognize that the land is located within the GTA West Corridor and that the by-law is temporary in nature. The Region has indicated that there are no concerns with this by-law.

#### Town of Caledon Official Plan

In the Town of Caledon Official Plan, the subject lands are designated Prime Agricultural Area and Environmental Policy Area in accordance with Schedule “A” Town of Caledon Land Use Plan. The permitted uses within the Prime Agricultural Area include agricultural uses, high impact agricultural uses, agricultural-related commercial, agricultural-related industrial uses and a detached dwelling among other uses listed in Section 5.1.1.4.

In accordance with Section 6.2.13 of the Town’s Official Plan, prior to the passing of a Temporary Use By-law, Council shall be satisfied that the proposed temporary use meets the specific conditions including: that the use is compatible with the neighbouring land uses activities, that adequate parking is provided, that no adverse impacts on traffic will be created, that the use does not facilitate the construction of a permanent building or structure, that the use is not permanent or difficult to terminate and that adverse environmental impacts are avoided, minimized or mitigated. Each one of these items is discussed below in further detail:

*a) That it is compatible with neighbouring land use activities;*

The subject property is currently surrounded by predominantly agricultural and rural residential uses including residential dwellings, vacant/open space, and institutional uses to the south. The nature of the business, and the operation of the business is compatible with the surrounding uses considering many properties in the area are used for cash crop farming and the proposed use will include growing and sell of nursery products on site. Staff is of the opinion that the proposed use is compatible with the surrounding land uses.

*b) That adequate parking can be provided;*

Town staff have reviewed the parking requirements for the development proposal and have determined that the proposed parking complies with the provisions of the Zoning By-law 2006-50, as amended, and complies with the previously approved site plan. Adequate parking is available on site for the general public and employees of the commercial nursery.

*c) That an adverse impact on traffic will not be created;*

A Traffic Impact Study was prepared for the original Temporary Use By-law application (RZ 12-08) which determined that the intended uses and functions of the site were feasible from a traffic perspective. There is no change from the original Temporary Use and Site Plan applications, and transportation have been circulated the application for review and have no concerns/objections with the development proposal.

*d) That the construction of a permanent building or structure is not encouraged;*

There are no permanent buildings or structures proposed as part of this application. The existing use is utilizing existing buildings and structures on the property, including the existing detached dwelling, agricultural buildings, temporary retail building and a shed. The temporary retail building can be removed once the temporary use ends.

*e) That the use cannot become permanent and difficult to terminate;*

The applicant has submitted a Temporary Use By-law application to temporarily permit a commercial nursery and an accessory open storage area for a period of three (3) years. The business is primarily focused on growing and selling of horticultural and associated nursery products. As indicated above, all the existing buildings and structures can be repurposed for agricultural uses upon expiry of the temporary use. The property is also located within the GTA West Corridor and the Town is also in the midst of completing an Official Plan review which will determine the ultimate use for the land.

*f) That adverse environmental impacts will be avoided, minimized or mitigated.*

Through the application, the applicant has adequately demonstrated that impacts will be avoided, minimized and mitigated. The property is partially within Toronto and Region Conservation Authority (TRCA) regulation limit, as a small western portion of the site is within the Regional Flood limit. All works proposed with the application are appropriately setback outside of the TRCA's regulation limit and are zoned in an appropriate category. The TRCA has reviewed the application and has no further concerns.

Based on the above and the temporary nature of the proposal, staff are of the opinion that the proposed by-law is in conformity with the Town of Caledon Official Plan.

Comprehensive Zoning By-law 2006-50, as amended

The subject lands are currently zoned Agricultural (A1) and Environmental Policy Area 2 Zone (EPA2) in Zoning By-law 2006-50, as amended.

The proposed Temporary Use By-law is in keeping with the previously approved by-law (BL-2017-42) which was passed by Council on June 20, 2017 for a period of three (3) years and expired on June 20, 2020. The applicant is proposing a temporary use by-law to rezone the lands for a period of 3 years to:

- Agricultural – Temporary 17 (A1-T17), to permit a commercial nursery with an accessory open storage area, with site specific standards to recognize the existing use of the site but also ensure buffers and provide mitigation measures to neighbours (i.e. lighting, parking of vehicles, open storage location, etc.)

- Environmental Policy Area 1 Zone – Temporary 18 (EPA1-T18), environmental management related uses
- Environmental Policy Area 2 Zone – Temporary 19 (EPA2-T19), to permit the existing detached dwelling

See attached Schedule 'C' Temporary Use By-law.

### Consultation

#### Notice of Application

In accordance with the *Planning Act*, a Notice of Application was mailed to all landowners within 120 m (393.7 ft) of the subject property. In addition, a notice sign has been posted on the subject lands and this Notice was posted on the Town's website and advertised in the Caledon Citizen, Caledon Enterprise, and Brampton Guardian newspapers on October 1, 2020.

#### Agency and Department Review

The proposed by-law was circulated to external agencies and internal departments for review and comment. Comments are attached to this report as Appendix 'D' – Agency and Department Comment Sheet. No objections to the proposed by-law were received.

#### Public Meeting

In accordance with the *Planning Act*, the Notice of Public Meeting was mailed to all landowners within 120 m (393.7 ft) of the subject property and was advertised in the Caledon Citizen, Caledon Enterprise, and Brampton Guardian newspapers on December 17, 2020.

A statutory Public Meeting was held on January 19, 2021 in accordance with the requirements of the *Planning Act*. The following questions were raised at the Public Meeting and/or received during the processing of this proposed by-law:

Question/Comment	Response
The owner/renter of the subject property is operating an illegal trucking depot.	The activity and use within the subject property involve a nursery and sales of topsoil, and the use has not changed. Truck traffic is limited to the access and egress of topsoil delivery vehicles.
Council should make a requirement that trees and shrubs be planted along the watercourse that traverses the property.	The watercourse is along the western limit of the property and the activity of the subject property occurs on the eastern limit of the property and is regulated by the TRCA. The previously Site Plan application was approved by Town and Toronto and Region Conservation Authority (TRCA) which included a landscape plan. There are no changes to the property proposed.
The owner should contact the Heritage Department to determine if the existing farmhouse is designated	Please refer to the heritage comments from first summary letter from Town Staff, indicating the farmhouse does not possess architectural heritage value.

heritage due to its architectural style.	
Has there been any by-law complains or infractions in the past 3 years?	<p>In January 2020, the property owner's tenant committed a By-law infraction relating to the placement of soils and debris on the property. In June 2020 a second infraction was committed by the same tenant. The property owner has since been evicted the tenant and prior to eviction has restored the property in terms of the removal of the soils and debris from the property. Since that time, there have not been any new infractions as the lands are vacant.</p> <p>The Town is currently engaged with the property owner for zoning infractions; using property not in accordance with the temporary use and undertaking development within a site plan control area without approval. As the courts are closed, a second appearance has not been set.</p>

#### Minor Variances

Section 45 (1.3) of the *Planning Act* prohibits any owner or applicant to apply for a Minor Variance application within two years of the approval of a Zoning By-law Amendment. Normally, variances would proceed to the Committee of Adjustment, however prior to the expiration of that two-year period, any request for a variance would need to appear before Council to allow a land owner to make an application to the Committee. This step may cause significant delay in processing of any future Site Plan and Building Permit applications if a Minor Variance is required.

Section 45 (1.4) of the *Planning Act* allows Council to declare by resolution that such application is permitted within the two years. Staff is therefore recommending that Council, pursuant to the above *Planning Act* reference, permit Minor Variance applications to be applied as a precautionary measure to ensure development can proceed in a timely manner. Any variance application submitted would still require consideration and approval by the Committee of Adjustment.

#### No Further Notice (Section 34(17) of the *Planning Act*)

Since the Public Meeting, through the processing of the Zoning By-law Amendment (Temporary Use), minor refinements to both the draft by-law have occurred. The initial draft by-law identified a larger entrance width, existing planting strip widths, existing fencing heights, and limits to the open storage area (maximum). The Town has since worked with the applicant to ensure that the draft zoning by-law amendment matched the existing and approved operations on site. Staff is of the opinion that the clarifications are minor and maintain the intent of the application and therefore request that Council confirm that no further notice or a Public Meeting is required as per Section 34(17) of the *Planning Act*.

#### **FINANCIAL IMPLICATIONS**



Property at 7904 Mayfield Road is currently assessed as Commercial with Residential (\$623,000 CVA). The Town's share of property taxes levied, based on current value assessment is approximately \$3,500. As at February 22, 2021, the property tax account is determined to be current.

If the proposed development (includes a rezoning to accommodate temporary structures) were to proceed as planned, the property's taxable assessment value would change to reflect the developments that would have taken place. Under current Town of Caledon By-laws, a temporary building is defined as a "building or structure that is... placed on land for a continuous period of not more than eight months." Upon application for the issuance of a building permit for the temporary structure, the applicant will be required to either pay appropriate Development Charges, or deposit satisfactory securities.

If the proposed structure eventually meets the eight months' time threshold, the applicant may, as allowed under the Development Charges By-law, apply to the Town for a refund of any Development Charges, no later than one month following the expiration of that eight months period. Otherwise, the deposited Development Charges or securities will be retained.

The Development Charges comments and estimates above are as at February 22, 2021 and are based upon information provided to the Town by the applicant, current By-laws in effect and current rates, which are indexed twice a year. For site plan or rezoning applications dated prior to January 1, 2020, Development Charges are calculated and payable at building permit issuance date. Development Charge by-laws and rates are subject to change. Further, proposed developments may change from the current proposal to the building permit stage. Any estimates provided will be updated based on changes in actual information related to the construction as provided in the building permit application.

### **COUNCIL WORK PLAN**

**Connected Community:** Discourage non-agricultural storage on rural land; preserve natural areas

### **ATTACHMENTS**

Schedule A: Location Map  
Schedule B: Concept Plan  
Schedule C: Proposed Temporary Use By-law  
Schedule D: Agency and Department Comment Sheet