

STAFF REPORT: Planning & Building Services Department



REPORT TO: Planning & Building Committee
MEETING DATE: Monday, November 2, 2009
REPORT NO.: PL.09.118
SUBJECT: Applications for Temporary Use Zoning By-law Amendment & Site Plan Approval -
1304019 Ontario Limited
Part 1, RP 16R-1023;
North Part Lots 4 and 5, Plan 482;
104 Hope Street;
Town of The Blue Mountains

PREPARED BY: Bryan Pearce,
Planner I

A. Recommendations

THAT Council receive Planning Staff Report PL.09.118, “Applications for Temporary Use Zoning By-law Amendment & Site Plan Approval – 1304019 Ontario Limited; Part 1, RP 16R-1023; North Part Lots 4 & 5, Plan 382; 104 Hope Street; Town of The Blue Mountains”; and

THAT Council enact a Temporary Use Zoning By-law so as to permit the temporary use of 104 Hope Street as an animal (cat) shelter for a maximum period of three (3) months; and further

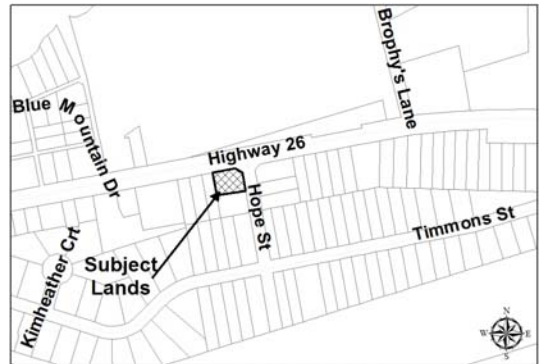
THAT Council grant site plan approval pursuant to Section 41 of the *Planning Act* for the temporary use of 104 Hope Street as an animal (cat) shelter.

B. Background

The purpose of these applications is to permit for a temporary period, the continued use of an animal (cat) shelter on the subject lands.

By way of complaints filed with the Town on June 29 and 30, 2009, with respect to odour emanating from the subject premises, Town By-law Enforcement Staff attended the subject premises and found that the premises was being used as an animal shelter containing numerous felines. Through dialogue with a representative of the owner, By-law Enforcement Staff became aware that the premise was operated by Georgian Bay Animal Rescue (GBAR). The Owner/Applicant is 1304019 Ontario Limited, who have filed an application on behalf of GBAR.

The subject lands are located on the southwest corner of the intersection of Hope Street and Highway 26 and are comprised of 1393.5 square metres, containing an existing dwelling and detached shed built around 1960. The dwelling is connected to the municipal water service, but not to municipal wastewater service.



The surrounding uses include vacant mixed use development lands to the north, commercial to the west, residential to the south and commercial to the east.

Planning Comments

Planning authorities must have regard to matters of Provincial interest, the criteria of the *Planning Act* and be consistent with the Provincial Policy Statement (PPS-2005). Within the Town of The Blue Mountains they must also make decisions that conform to the County of Grey Official Plan and Town of The Blue Mountains Official Plan; and make decisions that represent good land use planning.

Provincial Interest – Legislation, Policy, Guidelines

The PPS-2005 supports this temporary use proposal under Section 1.1.3 which states that “*settlement areas shall be the focus of growth and their vitality and regeneration shall be promoted*”, as the subject lands are within the Craigeith Urban Area, a designated settlement area within the Town.

County of Grey Official Plan

All development must conform to the purposes and policies of the County of Grey Official Plan.

The subject lands are designated as Escarpment Recreation Area within the County of Grey Official Plan. Section 2.5.2(2) states that “*Local Official Plans and/or Secondary Plans shall provide detailed land use policies and development criteria in these areas that are not in conflict with the provisions of the Niagara Escarpment Plan*”. Planning Staff note that the Town’s Official Plan policies are detailed below, along with agency comments from the Niagara Escarpment Commission, addressing the Niagara Escarpment Plan.

The subject lands are within 120 metres of a Provincially Significant Wetland (PSW). Due to the nature of the application and that the proposed temporary use is within an existing dwelling an Environmental Impact Study (EIS) may not be required, as Section 2.8.3(2) of the Official Plan references. Comments shall be received by the Conservation Authority in this regard, as detailed below in the agency comments.

Section 5.2.2(6)(f) of the Official Plan states that any applications for development for land abutting a Provincial Highway shall be referred to the appropriate approval authority prior to approval in order to determine if the use, siting, and/or right-of-way width are adequate and meet the provisions of this Official Plan. Comments should be received from the Ministry of Transportation (MTO) prior to making a decision on the application since it abuts Highway 26, as detailed below in the agency comments.

Section 6.9 policies of the Official Plan addresses temporary use by-laws, in which to allow for a temporary use of land for a purpose that is otherwise prohibited by the Zoning By-law for a period of up to three (3) years. The approval authority must have regard to the following:

1. The financial investment required for the establishment of the temporary use
2. Compatibility with the surrounding land uses, and approved development
3. The adequacy of services for the intended temporary use
4. Access and parking for the intended temporary use
5. An assessment of impact of the intended temporary use on the social, physical, and economic well-being of the municipality
6. The intent and purpose of the Official Plan.

Planning Staff note that the existing dwelling was changed to a commercial use by simply occupying the subject lands; and that the financial investment by GBAR is limited by utilizing the existing dwelling.

With respect to #2, compatibility with surrounding land uses and approved development, it is noted that the lands immediately to the east and west are commercial in nature while the lands to the south are residential. These residential lands are well screened from the subject building by mature vegetation and a garage building to the south of the premises. It is the writer's opinion that, provided measures are implemented to mitigate odours, that the use is compatible with surrounding land uses.

In regards to #3, the subject lands are serviced by municipal water and an on-site sewage system. Planning Services Staff have been advised that the water service to the premises has been damaged and is not functioning and that the majority of the waste created by the use is taken away by a licenced contractor. Provided the water service is repaired, adequate municipal services for the intended use are in place.

In regards to #4, the access to the site is via Hope Street. MTO have advised that they have no objection to this application provided access to the property is by way of Hope Street. As to parking, Planning Staff note that the operator has advised that in general, a maximum of two motor vehicles are on-site at one time in order for a maximum of three persons to provide care for the felines. Parking on-site is currently restricted to one motor vehicle parking space due to the location of a garbage bin. As the use does not include adoptive or retail services, parking is not an issue.

With respect to #5, the writer is of the mind that there is not a negative impact on the social, physical, and economic well-being of the municipality.

In regards to #6, it is the writer's opinion that the intent of the County of Grey Official Plan is maintained, as detailed above and supports this proposal.

The Blue Mountains Official Plan

The Town of The Blue Mountains Official Plan designates the subject lands as Highway Commercial (HC), addressed under Section 4.21 land use designation policies. The purpose of the Highway Commercial designation is to identify lands for small scale commercial uses which primarily serve vehicular traffic, as well as some limited small scale retail and service commercial uses.

Section 4.21.2 policies permit small scale commercial uses which rely heavily upon vehicular traffic for their economic existence including gas stations, service commercial uses, personal service uses, business and professional offices, veterinary clinics, convenience stores and eating establishments.

Section 4.21.3 policies state that adequate natural buffering shall be provided between the commercial use and the surrounding residential area to ensure the visual protection and amenity of the residential area. As noted previously, the subject lands immediately to the east and west are commercial in nature while the lands to the south are residential. These residential lands are well screened from the subject building by mature vegetation and a garage building to the south of the premises. It is the writer's opinion that, provided measures are implemented to mitigate odours, that the use is compatible with surrounding land uses.

It should be noted that the subject lands are within the adjacent lands of the PSW as identified on Appendix Map A-1 of the Official Plan. Section 8.5(2) states that limited development may be permitted on Adjacent Lands provided that the development or site alteration shall not result in any negative impact on the natural features or on the ecological functions of the wetland. Planning Staff notes that there would appear to have no impact on the PSW, as this proposal is contained to the existing dwelling.

As the proposal is to permit the continued use, on a temporary basis, of an existing animal shelter in an existing dwelling, it would appear to conform to the land use designation policies of the Official Plan, provided site plan approval was obtained.

Zoning By-law

The subject lands are zoned Highway Commercial (C2-145-h) within the Township of Collingwood Zoning By-law 83-40. Currently, the permitted use of the premises is restricted to the use that existed prior to the establishment of the holding 'h' symbol – a dwelling. If the holding 'h' symbol was removed, permitted uses would personal

service uses, real estate offices, veterinary clinics, convenience stores and eating establishments.

Exception 145 further limits the permitted uses to a maximum ground floor area of 1500 square metres for all uses combined and a maximum of 375 square metres for an eating establishment within the total ground floor area of 1500 square metres and a maximum height of 1 storey.

The conditions for the removal of the holding 'h' symbol are:

1. Traffic Impact Study satisfactory to the Town and MTO; and,
2. Site Plan Approval pursuant to Section 41 of the Planning Act.

An amendment is required to permit the use of an animal (cat) shelter in the zoning by-law, through the temporary use provisions under Section 39 of the *Planning Act*.

Based on assessment, the dwelling is 101.7 square metres and the attached garage being 22.1 square metres for a total gross floor area (GFA) of approximately 123.8 square metres. Section 5.14 parking requirements regulations require 1 parking space per 100 square metres of GFA; and therefore this temporary use proposal, must demonstrate 2 parking spaces. Parking regulations require that the surface of the parking area must be a stable surface that is treated to prevent the raising of dust or loose particles and with provisions for drainage facilities.

Section 5.11 load space requirements regulations require one load space when the total GFA is between 93 square metres and 1858 square metres. It should be noted that load spaces are to be located in the side or rear yards with a minimum driveway width of 6 metres.

Planning Staff note this proposal is subject to site plan control pursuant to Section 41 of the *Planning Act* as the alteration to the building has the effect of substantially increasing the usability of the subject lands.

Given the nature of the use, and low human occupant load, Planning Staff are of the opinion that the proposed use for a temporary period is in keeping with the general intent and purpose of the Zoning By-law.

Additional Comments

Agency Comments

Comments were received from the County of Grey - Planning and Development Department; Grey Bruce Health Unit (GBHU); and Niagara Escarpment Commission (NEC), GSCA and MTO. These comments are summarized below.

The County of Grey Planning and Development Department have no issues of concern with this application, provided positive comments are received from GSCA,

MTO and that Council is satisfied that Section 6.9 of the County of Official Plan has been addressed.

The GBHU indicates that they have no objection to the intent of this application.

The NEC indicates that the subject lands are located within the Escarpment Recreation Area of the Niagara Escarpment Plan; and have no objection to this application.

The GSCA indicates that they have no objection to this application. It was noted that the subject lands are affected by their regulated area. This regulated area is associated with the buffer area of PSW on an adjacent parcel. A permit is required from the GSCA prior to any development and/or site alteration on the subject lands. Planning Staff note that no development and/or site alteration is associated with this proposal, as it would be contained to the existing dwelling.

The MTO indicates that they have no objection to this application. It was noted that access to the property must be obtained from Hope Street. Planning Staff note that the proponent is to continue to use the existing access fronting Hope Street.

Interdepartmental Comments

Comments were received from the Manager of Solid Waste and Environmental Initiatives on this proposal. The Manager of Solid Waste and Environmental Initiatives has indicated that all commercial properties are subject to the Town's garbage bag limit and other by-law provisions including weight (18kg) and size restrictions on each can or bag, bag limit is one plus one with a tag to a maximum of 2 bags per week, and mandatory recycling. If the operator cannot conform to the provisions they must make alternative arrangements with a private service or use of the Town's landfill depot. Commercial recycling carts are also available for use through the Town. Planning Staff note that the proponent uses a private service.

Planning Staff notes that no other interdepartmental comments have been received on this application; and therefore no further issues of concern has been raised for this proposal.

Public Meeting Comments

Notice of Application and Public Meeting to consider a temporary use zoning by-law amendment was completed with a mailed out circulation to area assessed property owners on September 11, 2009; and with publication in the September 11, 2009 edition of the Collingwood Enterprise-Bulletin.

The public meeting was held on the October 5, 2009, as required under the *Planning Act*. Below are the issues of concern raised at the public meeting with the proposal:

Lack of an Animal Shelter in the Town

Planning Staff note that there is no shelter located in the municipal jurisdiction of the Town. Accordingly GBAR has constructed an animal shelter on the west end of the Town of Collingwood, located at 545 10th Line, just north of Mountain Road.

Temporary Animal Shelter until new Shelter is Complete

Planning Staff note that the Town of Collingwood completed an occupancy inspection on the new animal (cat) shelter and was approved in September 2009.

Service Levels at the Animal Shelter

It was noted at the public meeting that three (3) volunteers attend the shelter in the morning and again in the evening to nurture and feed the animals; and clean the premises.

Air Quality & Odour

It was noted at the public meeting that due to the number of animals (cats) in the existing dwelling has created an issue with air quality and odour.

Planning Staff note that the Town's Property Standards By-law and Noise By-laws are the mechanism to ensure that the subject lands are not creating a public nuisance, including odour; and can be enforced through the Town's Building & By-law Division.

Rubbish & Debris

It was noted at the public meeting that earlier on there was rubbish and debris on the property, but has since been clean up.

Planning Staff note that the Town's Property Standards By-law is the mechanism to ensure that the subject lands are kept to standard and can be enforced through the Town's Building & By-law Division.

Written Correspondence Received From The Public

Eight (8) items of correspondence were received from the public, six (6) in support and two (2) in opposition of this application. In addition, a petition supporting the use of the premises was presented by a representative of GBAR at the Public Meeting

In support of this application, there were five (5) general letters of support with one noting that the Town should provide this service until the new Animal Shelter is finalized. Also, a petition was circulated obtaining signatures in support of this application.

In opposition of this application there was one (1) general letter that addressed issues of concern with well-being and health of the animals (cats). Also, a petition was circulated obtaining signatures in opposition of the application with issues of concern encompassing length left unsupervised, capturing pets without

acknowledgement, no notices posting found cats, amount of cats in dwelling, well-being, if it meets fire code, furnishings still in dwelling and ventilation.

It is noted that at the Public Meeting that Dori Butler, Vice-president, GBAR, requested that the cats be allowed to “stay at 104 Hope Street until their new shelter is complete.” With respect to this, Planning Staff have been advised that the shelter at 545 10th Line in Collingwood was approved for occupancy by the Project Architect and the Town of Collingwood’s Chief Building Official on September 18, 2009.

Summary

The majority of the issues that have been relayed are related to the humane treatment of the felines. On one side, GBAR are of the mind that the shelter provides for humane care of the felines while on the other side, area residents have concerns for the care of the felines. In this regard, it is noted that Enforcement staff from the Ontario Society for the Prevention of Cruelty to Animals (OSPCA) has attended the premises and conducted an inspection and have advised the Town that they found the felines to be adequately cared for.

The use of the subject premises as an animal (cat) shelter is not ideal given the residential land uses to the south and the desire to develop the Highway 26 corridor with high performance, sustainable buildings. Furthermore, the location of the garbage bin and the control of odour are not desirable however, the felines are in an enclosed space, there are plans for the redevelopment of the site, the Temporary Use By-law can be developed to require that the garbage bin be contained in an enclosed space and, controls are in place related to odour (Municipal By-laws). Given the above, the use of the premises for a temporary period is supportable.

As GBAR’s new Animal Shelter at 545 10th Line Collingwood has now been approved for occupancy, the use of the subject premises will likely soon become redundant. Planning Staff are of the opinion that it would be appropriate for Council to enact a Temporary Use By-law for a three month period in order to allow GBAR to arrange for the transference of the felines from 104 Hope Street to their recently completed premises at 545 10th Line.

C. The Blue Mountains’ Strategic Plan

The recommendation in this Planning Staff Report PL.09.118 is consistent and supports the following Strategic Plans Goals:

“1. Managing growth to ensure the ongoing health and prosperity of the community”.

D. Environmental Impact

The proposal does not appear to generate any special or significant environmental impacts.

E. Budget Impact

Fees were not submitted in conjunction with the subject application. The fees pursuant to the Tariff of Fees By-law, By-law No. 2008-114, are:

\$1,600.00 - Temporary Use By-law
\$1,500.00 - Site Plan Approval

In addition, the proponent did not submit Agency Fees in the following amounts:

\$210.00 – GSCA
\$150 - GBHU

Planning Staff recommend that the above noted fees be addressed through the Town's 2010 Grants and Donations Program.

F. Attached

1. Draft Temporary Use Zoning By-law Amendment

Respectfully submitted,

Bryan Pearce, HBA, CPT
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ATTACHED ITEM #1

THE CORPORATION OF THE TOWN OF THE BLUE MOUNTAINS

BY-LAW NO. 2009 - _____

Being a By-law to amend Zoning By-law No. 83-40
which may be cited as " The Township of Collingwood
Zoning By-law ".

WHEREAS the Council of the Corporation of the Town of The Blue Mountains deems it necessary in the public interest to pass a by-law to amend By-law No. 83-40;

AND WHEREAS pursuant to the provisions of Section 34 and 39 of the Planning Act, R.S.O. 1990, c. P.13, the By-law may be amended by Council of the Municipality;

NOW THEREFORE, THE COUNCIL OF THE CORPORATION OF THE TOWN OF THE BLUE MOUNTAINS ENACTS AS FOLLOWS:

1. For the purposes of this By-law, the following term shall have the corresponding meaning;

"Animal (cat) shelter" means an enclosed shelter, being the former dwelling located at 104 Hope Street, for felines only; not to be used for the transacting of business, including adoptive services.

2. Notwithstanding Zoning By-law No. 83-40, as amended, an animal (cat) shelter use is permitted on a temporary basis for those lands lying and being in the Town of The Blue Mountains, comprised of North Part Lots 4 and 5, Plan 482; Part 1, RP 16R-1023; locally described as 104 Hope Street; as indicated on the attached key map Schedule "A-1" provided:

- a) Garbage/waste receptacles are contained in an enclosed building or, behind the main front wall of the main building.

3. Schedule "A-1" is hereby declared to form part of this By-law.

4. This By-law shall come into full force and effect on the date of enactment and shall expire three (3) months therefrom unless the term is extended pursuant to Section 39 of the *Planning Act*, R.S.O. 1990, c. P.13, as amended.

Enacted and passed this ____th day of November, 2009.

Ellen Anderson, Mayor

Stephen Keast, Clerk

I hereby certify that the foregoing is a true copy of By-law No. 2009 - _____ as enacted by the Council of the Corporation of the Town of The Blue Mountains on the ____th day of November, 2009.

DATED at _____

this _____ day of _____, 2009.

Signed: _____
Stephen Keast, Clerk

Town of The Blue Mountains

Key Map Schedule A-1

By-Law No. _____



Area Affected By This Amendment

