

To: Mayor and Members of Tillsonburg Council

From: Laurel Davies Snyder, Development Planner, Community Planning

Application for Zone Change ZN-23-01 – Southside Construction Management Ltd.

REPORT HIGHLIGHTS

- The application for a Zone Change proposes to rezone a portion of the subject property from 'Passive Use Open Space (OS1)' to 'Minor Institutional (IN1)' to recognize and preserve an existing First Nations cemetery, registered under the Funeral, Burial and Cremation Services Act. The Town of Tillsonburg will assume ownership of these lands.
- Planning staff are recommending support for the application as it is consistent with policies in the Provincial Policy Statement regarding conserving archaeological and cultural resources, and the application conforms to the relevant policies in the Official Plan with respect to conserving archaeological resources and permitting Minor Institutional uses within Residential Area designations.

DISCUSSION

Background

APPLICANT/OWNER: Southside Construction Management Ltd.
75 Blackfriars Street, London, Ontario N6H 1K8

AGENT: Zelinka Priamo Ltd. c/o Casey Kulkchycki
318 Wellington Road, London, Ontario N6C 4P4

LOCATION:

The subject lands are described as Part Lot 8, Concession 11 (former Township of Dereham), Town of Tillsonburg. The lands are located on the south side of North Street West, between the municipal boundary with the Township of South-West Oxford and Quarter Town Line and are municipally known as 97 North Street West.

COUNTY OF OXFORD OFFICIAL PLAN:

Schedule "T-1" Tillsonburg Land Use Plan – Residential

Schedule "T-2" Tillsonburg Residential Density Plan – Low Density Residential

TOWN OF TILLSONBURG ZONING BY-LAW NO. 3295:

Existing Zoning: Passive Use Open Space (OS1)

Proposed Zoning: Minor Institutional (IN1)

PROPOSAL:

The purpose of this application is to rezone a portion of the subject property from 'Passive Open Space Zone (OS1)' to 'Minor Institutional Zone (IN1)' to recognize and preserve an existing First Nations cemetery, registered under the Funeral, Burial and Cremation Services Act.

No development will occur on the lands. Southside Construction Management Limited, First Nations communities, and the Town of Tillsonburg will enter into a Site Disposition Agreement to establish the terms regarding the future stewardship and maintenance of the site. The Town of Tillsonburg will assume ownership of these lands and be responsible for its management going forward (ongoing maintenance and preservation).

The subject lands comprise approximately 3,707.6 m² (0.92 ac) and are located within the first phase of a recently approved residential plan of subdivision. Surrounding land uses include:

- North: Residential (single detached dwellings)
- South: Parkland (Tillsonburg Soccer Park), Residential (single detached dwellings),
 Institutional (place of worship)
- East: Open Space and Residential (single detached dwellings)
- West: Stormwater Management block

Plate 1 – Location Map with Existing Zoning, indicates the location of the subject lands, and the existing zoning in the immediate vicinity.

Plate 2 – 2020 Aerial Map, provides an aerial view of the subject lands.

Plate 3: Applicant's Sketch, provides a diagram of the of the subject lands.

Application Review

2020 PROVINCIAL POLICY STATEMENT (PPS)

The 2020 Provincial Policy Statement (PPS) provides policy direction on matters of provincial interest related to land use planning and development. Under Section 3 of the Planning Act, where a municipality is exercising its authority affecting a planning matter, such decisions "shall be consistent with" all policy statements issued under the Act.

Section 1.0 of the PPS, Building Strong Healthy Communities, establishes policies for wisely managing change and promoting efficient land use and development patterns. With respect to this application, Policy 1.1.1 b) in Section 1.1 Managing and Directing Land Use to Achieve Efficient and Resilient Development and Land Use Patterns, establishes that including institutional uses such as cemeteries is a component of sustaining healthy, liveable and safe communities.

Section 2.0 Wise Use and Management of Resources, establishes policies for conserving biodiversity, protecting the health of the Great Lakes, and protecting natural heritage, water, agricultural, mineral and cultural heritage and archaeological resources.

The policies of Section 2.6, Cultural Heritage and Archaeology, establish that:

- 2.6.1 - Significant built heritage resources and significant cultural heritage landscapes shall be conserved.
- 2.6.2 - Development and site alteration shall not be permitted on lands containing archaeological resources or areas of archaeological potential unless significant archaeological resources have been conserved.
- 2.6.3 - Planning authorities shall not permit development and site alteration on adjacent lands to protected heritage property except where the proposed development and site alteration has been evaluated and it has been demonstrated that the heritage attributes of the protected heritage property will be conserved.
- 2.6.4 - Planning authorities should consider and promote archaeological management plans and cultural plans in conserving cultural heritage and archaeological resources.
- 2.6.5 - Planning authorities shall engage with Indigenous communities and consider their interests when identifying, protecting and managing cultural heritage and archaeological resources.

OFFICIAL PLAN

The subject lands are designated 'Residential' as per Schedule T-1, Town of Tillsonburg Land Use Plan, and 'Low Density Residential' as per Schedule T-2, Town of Tillsonburg Residential Density Plan, as contained in the Official Plan. Low Density Residential areas are those lands that are primarily developed or planned for a variety of low-rise, low density housing forms including single detached, semi-detached, duplex, converted dwellings, quadraplexes, townhouses, and low density cluster development. In these areas, it is intended that there will be a mixing and integration of different forms of housing to achieve a low overall density of use. The area of the subject lands to be rezoned has been identified as an existing First Nations cemetery, registered under the Funeral, Burial and Cremation Services Act.

Section 2.1.2, Environmental and Cultural Integrity, establishes that cultural heritage and archeological resources will be conserved, and where possible, enhanced through appropriate planning and urban design measures. Section 3.3.2.4, Burial Sites and Cemeteries, states that lands or sites identified as containing the remains of human beings shall not be developed except in accordance with the Cemeteries Act. Such lands shall be evaluated for archaeological and/or historical significance under the Ontario Heritage Act.

With respect to the presence of an existing First Nations cemetery on the subject lands, Section 8.5.3 of the Official Plan establishes that minor institutional uses - which includes cemeteries - are permitted as ancillary uses within the Residential Area designations. Furthermore, Minor Institutional uses in a Residential Areas designation will be subject to a specific 'Institutional' zoning category. The policies in Section 8.2.3.1, Objectives for All Residential Designations, state that the compatible transition between lands of different residential densities and between residential and non-residential land uses be achieved.

TOWN OF TILLSONBURG ZONING BY-LAW

The subject lands are currently zoned 'Passive Open Space Zone (OS1)' according to the Town of Tillsonburg Zoning By-law. Permitted uses in this zone include a conservation project, a flood

control works, a picnic area, a passive use park, and a public use in accordance with the provisions of Section 5.27 of the Town of Tillsonburg Zoning By-Law. A cemetery is not a permitted use in the 'Passive Use Open Space (OS1)' Zone.

The applicant proposes to rezone the subject lands to 'Minor Institutional Zone (IN1)', which permits the use of the lands for cemetery purposes.

AGENCY COMMENTS:

Tillsonburg Chamber of Commerce have indicated that they are in support of this application.

Tillsonburg Building Services Department, Canada Post, Long Point Region Conservation Authority (LPRCS), Tillsonburg Economic Development and Marketing Division, Ministry of the Environment, Conservation and Parks (MECP) Species at Risk Branch, and Southwestern Public Health, indicated that they have no concerns or comments.

PUBLIC CONSULTATION:

A Notice of Complete Application was circulated on May 16, 2023 and the Notice of Public Meeting was circulated to surrounding property owners on June 12, 2023 in accordance with the requirements of the Planning Act. At the time this report was written, no comments or concerns had been received from the public.

Planning Analysis

The application for Zone Change proposes to rezone a portion of the subject lands from 'Passive Open Space Zone (OS1)' to 'Minor Institutional Zone (IN1)' to recognize and preserve an existing First Nations cemetery, registered under the Funeral, Burial and Cremation Services Act.

No development is proposed on the First Nations cemetery lands, and through the Plan of Subdivision approval process, adequate buffering has been established to ensure the First Nations cemetery lands will not be disturbed. Consistent with policies in the PPS and the Official Plan regarding conserving archaeological resources, the conservation and stewardship of the lands to be rezoned (including ongoing maintenance and preservation) will be ensured through a Site Disposition Agreement between Southside Construction Management Limited, First Nations communities, and the Town of Tillsonburg. The Town of Tillsonburg will assume ownership of these lands and be responsible for its management going forward.

The proposal is also consistent with PPS Policy 1.1.1 b) which states that including institutional uses such as cemeteries is a component of sustaining healthy, liveable and safe communities. Rezoning the portion of the subject lands containing the First Nations cemetery lands to 'Minor Institutional Zone (IN1)' also conforms with Section 8.5.3 of the Official Plan which permits cemeteries as ancillary uses within Residential Area designations and that cemeteries will be subject to a specific 'Institutional' zoning category.

It is Planning staff's opinion that the application for a zone change to permit the rezoning the subject lands from 'Passive Open Space Zone (OS1)' to 'Minor Institutional Zone (IN1)' is consistent with the policies of the Provincial Policy Statement and maintains the general intent and purpose of the Official Plan, and can be given favourable consideration.

RECOMMENDATIONS

It is recommended that the Council of the Town of Tillsonburg approve the zone change application submitted by Southside Construction Management Ltd., whereby the lands described as Part Lot 8, Concession 11 (Dereham), Town of Tillsonburg are to be rezoned from 'Passive Open Space Zone (OS1)' to 'Minor Institutional Zone (IN1)' to recognize and preserve an existing First Nations cemetery, registered under the Funeral, Burial and Cremation Services Act.

SIGNATURES

Authored by:

"original signed by"

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Approved for submission by: *"original signed by"*

Gordon K. Hough, RPP
Director