
TO: GENERAL COMMITTEE

SUBJECT: TEMPORARY USE ZONING BY-LAW TO PERMIT AGRICULTURAL USE ON THE PROPERTY GENERALLY LOCATED AT THE SOUTHWEST CORNER OF HIGHWAY 400 AND HARVIE ROAD

WARD: 7

PREPARED BY AND KEY CONTACT: A. HILL, PLANNER, EXTENSION #4430

SUBMITTED BY: S. NAYLOR, MES, M.C.I.P., R.P.P., DIRECTOR OF PLANNING AND BUILDING SERVICES

GENERAL MANAGER APPROVAL: R. FORWARD, MBA, M.Sc., P. ENG.
GENERAL MANAGER OF INFRASTRUCTURE AND GROWTH MANAGEMENT

CHIEF ADMINISTRATIVE OFFICER APPROVAL: C. LADD, CHIEF ADMINISTRATIVE OFFICER

RECOMMENDED MOTION

1. That the application submitted by Smart Centres on behalf of Barrie-Bryne Developments Limited to extend a Temporary Use By-law for the property legally described as Part Lot 7, Plan 67, Part Lots 5 – 7, Plan 51R-34356 and Part of Part 1, Parts 2 – 8, Concession 12, City of Barrie to permit agriculture activity limited to field crops in an open field, be extended for a period of 3 years from the date of passage of the implementing Temporary Use By-law. (Attached as Appendix “A” to Staff Report PLN023-16)
2. That the written and oral submissions received as part of the original public meeting held on October 28, 2013, relating to this application have been, on balance, taken into consideration as part of the deliberations and final decision related to approval of the application for the extension of the Temporary Use By-law, including access and buffering.
3. That in accordance with Section 34(17) of the Planning Act, no further public notification is required.

PURPOSE & BACKGROUND

Report Overview

4. The purpose of this staff report is to recommend the extension of a Temporary Use By-law for a period of 3 years to permit the operation of agricultural uses, restricted to field crop production.

Location

5. The site is an irregular shaped parcel approximately 35.15 hectares in size and generally bordered by Harvie Road to the north and Highway 400 to the east. A portion of the property is bounded by Thrushwood Drive to the west and Bryne Drive ends at the south limit of the property. Bryne Drive is intended to extend the length of the property through to Harvie Road. The property is located in the 400 West Planning Area and is legally described as Part Lot 7, Plan 67,

Part Lots 5 – 7 of Plan 51R-34356 and Part of Part 1, Parts 2 to 8, Concession 12, City of Barrie. The lands do not have an official municipal address.

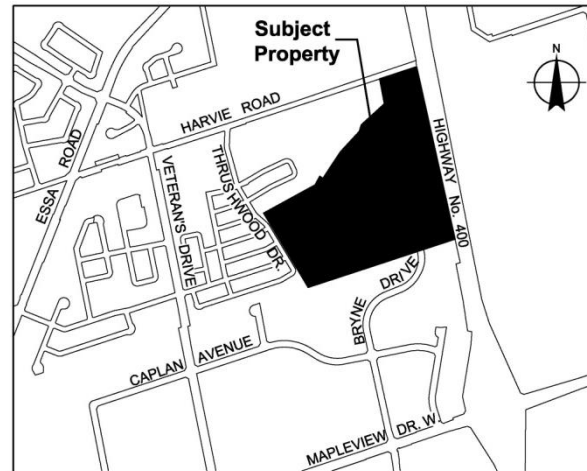
Surrounding Land Uses

North: Whisky Creek, mixed townhouse and single family residential, Harvie Road, vacant lands zoned Industrial.

East: Highway 400

South: Commercial and business uses, Bryne Drive.

West: Thrushwood Drive, single family residential.



Background

6. The application for an extension was considered complete for circulation on October 26, 2016.
7. The Temporary Use By-law currently in effect for the subject property came into effect on February 10, 2014, and is in effect for 3 years or until February 10, 2017.
8. No additional reports or studies were required with the application for an extension. The following studies and reports were provided with the initial temporary use by-law application:
 - a) Cover Letter/Planning Brief (Smart Centres, September 2013)
 - b) Environmental Brief – Farming (Beacon Environmental, September 2013)
 - c) Background Information:
 - i) Tree Inventory and Preservation Plan (Beacon Environmental, August 2012)
 - ii) Phase 1 Environmental Assessment (AMEC, January 2006)
 - iii) Reports from Plan of Subdivision Application D12-401

Public Consultation

9. In accordance with Section 39(3) of the Planning Act, a public meeting is not required for an extension providing the by-law extending the Temporary Use By-law is passed by Council prior to the expiry date. The public would still be provided notice of the passing of the by-law and would have the opportunity to appeal following Council approval of the by-law.
10. A public meeting was originally held on October 28, 2013 when considering the initial Temporary Use By-law for the property.
11. Correspondence was originally received regarding the potential interference of the agricultural use with existing businesses on Bryne Drive. As a result of this comment, the By-law requires that access to the farming operation would be from Harvie Road only. Farm equipment would not be able to access the site from Bryne Drive or Thruswood Drive.

12. Comment was provided at the initial public meeting that the property was currently used for recreational use by the public and requested consideration of a tree line adjacent to Thrushwood Drive to provide a visual barrier for the existing residents. It was noted that the portion of the applicant's land adjacent to Thrushwood Drive is a Hydro easement and cannot include vegetation that would impact access to the easement for maintenance purposes. Through the conditions for the Draft Plan of Subdivision approved for this portion of the subject lands, the applicant agreed to provide a 2 metre tight board fence along the property adjacent to Thrushwood Drive when construction activity begins for the industrial lands.

Departmental and Agency Comments

13. The request for an extension was circulated to a number of departments and the Lake Simcoe Region Conservation Authority. No concerns were received.

ANALYSIS

Temporary Use By-law

14. Under the Planning Act and the City's Official Plan, a Temporary Use By-law is intended to allow uses that are not permitted under the current zoning for the subject property for a limited period of time. A Temporary Use By-law can be granted for a period of up to 3 years. Upon expiry of the By-law the temporary use is intended to cease, unless an extension is applied for and granted. These uses cannot seek protection under Section 34(9) of the Planning Act as a legal non-conforming use.
15. The application before Council is the first application for an extension of the temporary use currently in effect over the property.
16. The applicant can cease the agricultural use at any time prior to the expiry of the temporary use by-law, should they wish to develop the property for its intended purposes.

Agriculture as an Interim Use

17. The historic use of this property has been identified as agriculture through the previous environmental investigation. The interim use of these lands for farming purposes, within the guidelines provided, does not offend Provincial policy or the policies of the City's Official Plan.
18. Staff are still supportive of productively utilizing lands when possible. Field crop operations create an overall benefit to the community as a short term use. Keeping the lands vacant and fallow while waiting for development to occur could further contribute to the degradation of the area from past recreational use.

Restriction to Agricultural Uses

19. Due to the location of the property and the potential environmental impacts, staff are not supportive of livestock or longer term farming operations such as orchards being permitted on the subject lands.

Buffer Requirement

20. The temporary use by-law requires a 30 metre buffer which is intended to protect the integrity of the watercourse and naturalized area adjacent to both Lover's Creek and Whisky Creek. The intent is that the width of the buffer area would also incorporate the Conservation Authority

Regulated Area. This boundary was confirmed by the City and LSRCA through the permit application processes.

ENVIRONMENTAL MATTERS

21. The following environmental matters were considered in the development of the original recommendation for the Temporary Use By-law:
- a) Protection of a 30 metre naturalized buffer for both Lover's Creek and Whisky Creek; and
 - b) Best management practices to ensure that infiltration does not adversely impact water quality for the identified watercourses and groundwater table.

ALTERNATIVES

22. The following alternative is available for consideration by General Committee:

Alternative #1 General Committee could deny the application for an extension of the Temporary Use By-law on the subject lands prior to the development of the Industrial Plan of Subdivision (D12-401) or the Commercial zoned lands adjacent Highway 400.

This alternative is not recommended, as the property is currently vacant. With the appropriate measures in place, permitting an interim use for the property will contribute to the preservation of the naturalized area adjacent Lover's Creek and Whisky Creek and potentially reduce the impacts of any recreational uses that had previously been evident on the property.

FINANCIAL

23. The extension of the Temporary Use By-law, if approved, does not change the permitted uses in the existing Light Industrial (LI), Commercial (C4) and Environmental Protection (EP) zoning. The site has been used for crop production and no structures are intended to be built to facilitate the continued use of the property for crop production.

LINKAGE TO 2014-2018 STRATEGIC PLAN

24. The recommendations included in this Staff Report are not specifically related to the goals identified in the 2014-2018 Strategic Plan.

ATTACHMENTS: "Appendix A" – Temporary Use By-law 2014-017

APPENDIX "A"

By-law 2014-017



Bill No. 018

BY-LAW NUMBER 2014-017

A By-law of The Corporation of the City of Barrie to amend By-law 2009-141, a land use control by-law to regulate the use of land, and the erection, use, bulk, height, location and spacing of buildings and structures in the City of Barrie.

WHEREAS the Council of The Corporation of the City of Barrie deems it expedient to amend By-law 2009-141 to permit agriculture use as a temporary use pursuant to Section 39 of the Planning Act on certain lands being Part Lots 5, 6, 7, Plan 67 and Part Lot 7, Con 12 Innisfil, now in the City of Barrie, County of Simcoe, designated as Parts 1 to 8, Plan 51R34356, save and except Part 1, Plan 51R32351, Barrie, located at the southwest corner of Highway 400 and Harvie Road;

AND WHEREAS the Council of The Corporation of the City of Barrie adopted Motion 14-G-004.

NOW THEREFORE the Council of The Corporation of the City of Barrie enacts the following:

1. THAT for the property described as Part Lots 5, 6, 7, Plan 67 and Part Lot 7, Con 12 Innisfil, now in the City of Barrie, County of Simcoe, designated as Parts 1 to 8, Plan 51R34356, save and except Part 1, Plan 51R32351, Barrie, located at the southwest corner of Highway 400 and Harvie Road; as set out in Schedule "A" to this By-law, an agriculture use shall be permitted subject to the following provisions:
 - a) Agricultural activities are limited to field crops in an open field;
 - b) A 30 metre naturalized buffer must be provided around Lover's Creek and Whiskey Creek;
 - c) Access to the site for farming purposes is restricted to the entrance at Harvie Road; and
 - d) Best Management practices must be applied respecting the use of fertilizer and pesticides.

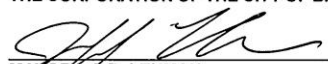
This use shall be permitted as a temporary use until **February 10, 2017**, in accordance with the provision of s. 39 of the *Planning Act*, R.S.O. 1990, c.P.13, after which time this section shall be deemed to be repealed.

2. THAT the remaining provisions of By-law 2009-141, applicable to the above described lands as shown in Schedule "A" to this By-law shall apply to the said lands except as varied by section 1 of this By-law.
3. THAT this By-law shall come into force and effect immediately upon the final passing thereof.

READ a first and second time this 10th day of February, 2014.

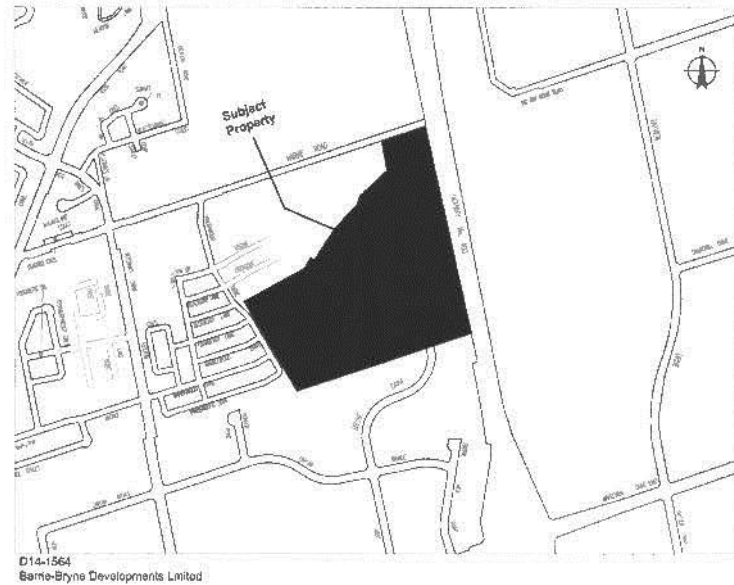
READ a third time and finally passed this 10th day of February, 2014.

THE CORPORATION OF THE CITY OF BARRIE


MAYOR - J. R. LEHMAN


CITY CLERK - DAWN A. MCALPINE

SCHEDULE "A"



Schedule "A" to attached By-law 2014-017


MAYOR J.R. LEHMAN


CITY CLERK - DAWN A. MCALPINE