



Planning Advisory Committee Report

To: To the Chair and Members of the Planning Advisory Committee
From: Ruchika Angrish, Senior Planner
Date: July 4, 2017
Report: PA-17-19a
Subject: Zoning By-Law Amendment File ZBA 9/17/RA
160 King Street, County of Brant – Zylstra
Purpose: **Recommendation Report** on a request to amend the Zoning By-law to modify the Home Occupation provisions of the Zoning By-Law to allow for continuation of a bicycle sale and repair shop use.

Recommendation

That Application ZBA9/17/RA from Gerrit Zylstra, Owner of lands described as Plan 727 Lot 25, Burford, County of Brant, located at 160 King Street to amend the Zoning By-Law 61-16 to change the current zoning from Suburban Residential Zone (SR) to special exception Suburban Residential Zone (SR-xx) to allow for continuation of a bicycle sale and repair shop use as a residential home occupation, **BE APPROVED**.

Key Strategic Priority

Undertaking actions that elevate customer service to those we serve.

Financial Considerations

Not applicable.

Executive Summary

The purpose of the report is to provide the Committee with recommendation from staff regarding the details of an application to amend the Zoning By-law. This application proposes to change the zoning on the subject lands from Suburban Residential Zone (SR) to allow for the existing use of sales and repair of bicycles as a home based business.

The planning analysis focus on literature reviews of applicable policy (i.e. Planning Act, PPS, Official Plan, and Zoning By-law), consultation with departments, an inspection of the subject lands and surrounding neighbourhood and discussions with both the agent/public. The proposal is in conformity with the policies of both the Provincial Policy Statement (2014) and the County of Brant Official Plan.

This report recommends that the application be approved.

Proposal

The Applicant is proposing to allow for the existing use of sales and repair of bicycles as a home based business. The business has been existing for the past 30 years since 1987. By-Law Enforcement staff received a complaint last year (June 2016) regarding property standards and nuisance to the neighbours. Staff has been working with the complainant and the owners to mitigate the concerns. However, having researched the zoning history on the property, Staff has determined that the business is not a permitted use and has no legal non-conformity, which resulted in the current Zoning By-Law Amendment Application.

Location

The subject property is located on the north side of King Street, east of Jarvis Street, west of Saint Williams Street and south of Dufferin Street in the Village of Burford. The subject lands are surrounded by single family dwellings.

Report

Planning Act

Section 34(1) of the Planning Act establishes that Zoning By-laws may be passed by Councils of local municipalities. Staff is of the opinion that there are no outstanding legislative matters with respect to this application.

Provincial Policy Statement (PPS)

Section 1.1.1 of PPS (see attached) provided policy direction for planning authorities to consider matters relating to land use planning and development. It provides for appropriate development while protecting resources of provincial interest, public health and safety, and the quality of the natural and built environment. It supports improved land use planning and management, which contributes to a more effective and efficient land use planning system. In accordance with PPS, land use must be carefully managed to accommodate appropriate development to meet the full range of current and future needs, while achieving efficient development patterns and avoiding significant or sensitive resources and areas which may pose a risk to public health and safety. Staff is of the opinion that the proposed land use is in keeping with the Provincial Policy Statement.

Official Plan

The lands are situated within the Secondary Urban Settlement Area Boundary of Burford and designated Urban Residential in the Official Plan. Section 3.4 sets out the permitted uses in this designation. Home Occupation is a permitted use in the Urban Residential Designation subject to the criteria set out in the Zoning By-Law. The proposed draft by-law restricts the use to the sales and repair of bicycles only and further regulations to recognise the open storage have been included. Staff is of the opinion that the proposal complies with the policies of the Official Plan.

Infrastructure/Servicing

The lands are serviced by private services.

Source Protection Plan

The subject lands are located outside the Source Protection Plan.

Zoning By-Law 61-16

The subject lands are currently zoned Suburban Residential (SR) in the Zoning By-law 61-16.

The Applicant is proposing to amend the home occupation provisions of the by-law to allow for sales and repair of bicycles. The business has been existing since 1987. The draft by-law reflects the regulations to allow for continuation of the use on the property.

A home occupation sign is also permitted on the property subject to the regulations stated in the sign by-law.

Interdepartmental Considerations

Development Engineering Department (see attached): No objections.

Zoning Administrator (see attached): No objections.

Energy Plus: No objections.

Legal Division: No objections.

The following departments/agencies did not provide any comments with regard to this application:

- Building Division
- Economic Development Division
- Grand Erie District School Board
- Brant Haldimand Norfolk District School Board
- Community Services Bell Canada
- Brant Heritage Committee
- Forestry
- Six Nation/New Credit
- Union Gas

Public Considerations

One letter of concern has been received from the neighbour with respect to the application that has been attached with the staff report. Staff met with the neighbour and the applicants in order to mitigate the concerns raised. The draft by-law has been prepared as a resolution to those discussions.

Another letter in support of the application has also been attached to this report.

Conclusions and Recommendation

The proposal is to amend the Zoning By-law to legalize and provide for the continuation of an existing bicycle repair and sales shop. The business has been existing since 1987, but was not considered as a permitted use in the Township of Burford Zoning By-Law 86-2 with regard to the Home Occupation Regulations.

Staff at the request of Planning Advisory Committee Members reviewed the previous Township by-laws. Burford Township passed two comprehensive zoning bylaws, By-Law 1705 passed August 10, 1970 and By-Law 86-2 passed January 21, 1986. Both by-laws did not allow any home occupations in the accessory structures or repair and sales of any items. Furthermore, County records did not have any files of the Ontario Municipal Board hearing for either of the By-Laws to determine if the proposed use was considered legal at any time historically.

Staff has determined that the proposed land uses are being directed to an appropriate area and are not likely to have any adverse impact any existing or future land uses in the area.

It is the opinion of staff that the planning application has merit as it is consistent with the Provincial Policy Statement and conforms to the general intent of the Official Plan.

This report recommends that the application be approved.

Respectfully Submitted,



**RUCHIKA ANGRISH, MCIP, RPP
SENIOR PLANNER**

Attachments:

1. Official Plan Map
2. Aerial Photo
3. Legislative Excerpts

Copy to:

1. Heather Boyd, Clerk Council Committee Services
2. Rob Trotter, Director of Planning
3. Mark Pomponi, General Manager of Development Services
4. Jennifer Mayhew, Planning Administrative Assistant
5. Applicant/Agent

File # ZBA 9/17/RA

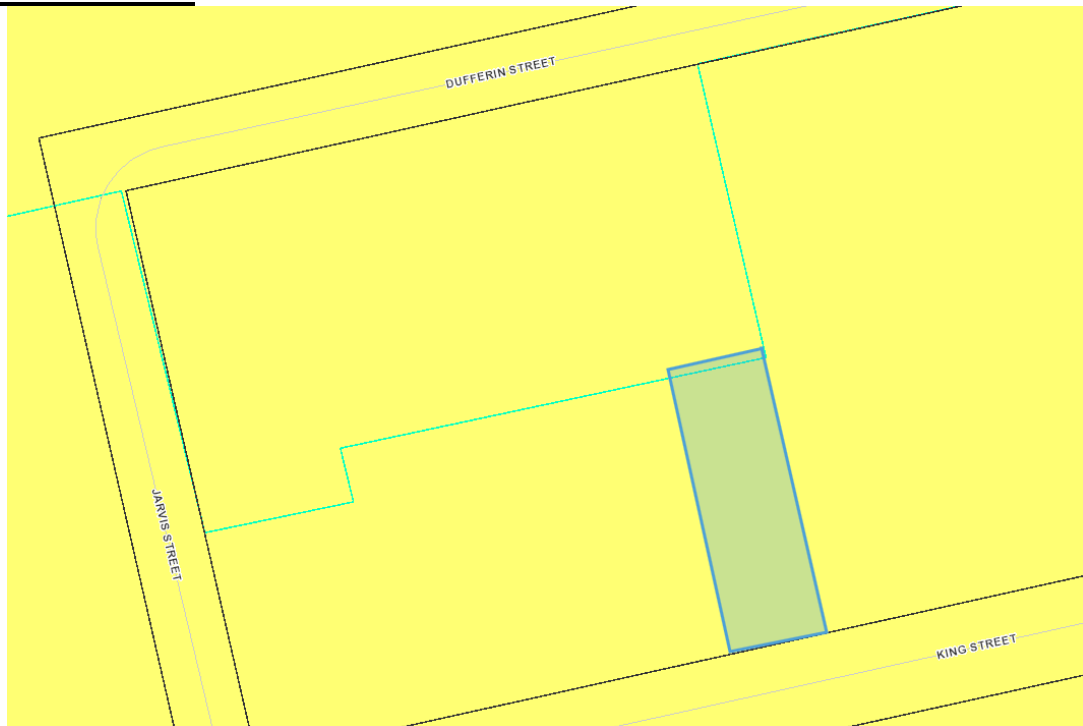
In adopting this report, is a bylaw or agreement required?

By-law required (Yes)

Agreement(s) or other documents to be signed by Mayor and /or Clerk (No)

Is the necessary by-law or agreement being sent concurrently to Council? (Yes)

OFFICIAL PLAN MAP:



AERIAL PHOTOGRAPH:



LEGISLATIVE EXCERPTS

Provincial Policy Statement (2014)

Section 1.1.1 Healthy, liveable and safe communities are sustained by:

c) avoiding development and land use patterns which may cause environmental or public health and safety concerns;

1.1.3 Settlement Areas

1.1.3.1 *Settlement areas* shall be the focus of growth and development, and their vitality and regeneration shall be promoted.

1.1.3.2 Land use patterns within *settlement areas* shall be based on:

- a) densities and a mix of land uses which:
 1. efficiently use land and resources;
 2. are appropriate for, and efficiently use, the *infrastructure* and *public service facilities* which are planned or available, and avoid the need for their unjustified and/or uneconomical expansion;
 3. minimize negative impacts to air quality and climate change, and promote energy efficiency;
 4. support *active transportation*;
 5. are *transit-supportive*, where transit is planned, exists or may be developed; and
 6. are *freight-supportive*; and
- b) a range of uses and opportunities for *intensification* and *redevelopment* in accordance with the criteria in policy 1.1.3.3, where this can be accommodated.

1.1.3.3 Planning authorities shall identify appropriate locations and promote opportunities for *intensification* and *redevelopment* where this can be accommodated taking into account existing building stock or areas, including *brownfield sites*, and the availability of suitable existing or planned *infrastructure* and *public service facilities* required to accommodate projected needs.

Intensification and *redevelopment* shall be directed in accordance with the policies of Section 2: Wise Use and Management of Resources and Section 3: Protecting Public Health and Safety.

Planning Act R.S.O.1990

Section 34 of the Planning Act sets out criteria to be considered when processing zoning by-law amendment applications.

34. (1) Zoning by-laws may be passed by the councils of local municipalities.

County Of Brant Official Plan (CBOP 2012)

3.5 SUBURBAN RESIDENTIAL

3.5.1 INTENT

The County's Suburban Residential designations apply to certain land within the Secondary Urban Settlement Areas.

The intent of the Suburban Residential designation is to recognize existing clusters of suburban development within the County and to provide policies that will ensure efficient and orderly future growth. Lands designated Suburban Residential will function predominantly as low density residential areas.

3.5.2 PERMITTED USES

The following policies shall apply in determining uses that are permitted on land that is designated Suburban Residential:

- a) The predominant use of land in the Suburban Residential designation shall be for low density residential dwellings, including single detached dwellings, semi-detached dwellings, duplex/triplex/fourplex dwellings and converted dwelling units containing two or more dwelling units.
- b) Institutional uses that support residential neighbourhoods shall be permitted in the Suburban Residential designation, including libraries, public and private educational facilities, and places of worship.

3.5.3 LAND USE POLICIES

The following policies apply to all lands designated Suburban Residential:

- a) Development on partial systems will be limited to infilling or minor rounding out of existing development on partial County services in accordance with the servicing requirements in Section 5.2.3 of this Plan.
- b) Where new residential development is proposed for undeveloped land, the development shall connect to municipal water supply and/or sewage disposal systems, where they exist. Where such development is proposed, existing water and sanitary sewer systems shall be capable of accommodating the proposed development project, or the proponent shall commit to extending services at no cost to the County.
- c) In addition to other policies of this Plan, new development, redevelopment, and intensification within the Suburban Residential designation, including applications to amend the County's Zoning By-law in order to permit a proposed development, shall be subject to the following criteria:
 - i. a report on the contribution of the proposed development towards the County's intensification goals or Density Target may be required by the County;
 - ii. the height and massing of the buildings at the edge of the proposed development project shall have regard to the height and massing of the buildings in adjacent areas and may be subject to additional setbacks and design elements, or landscaping to provide an appropriate transition;
 - iii. a report on the adequacy of the road network to accommodate the expected traffic flows and the adequacy of water and sewer services may be required by the County;
 - iv. the proposed development project shall be adequately serviced by parks and educational facilities;
 - v. the proposed development project shall be designed and landscaped, and buffering may be required, to ensure that the visual impact of the development on adjacent uses is minimized; and
 - vi. all required parking shall be provided on-site. Cash-in-lieu of required parking shall not be accepted by the County.

Zoning By-Law 61-16

4.16 Home Occupation

A home occupation shall be permitted in an Agricultural Zone, Urban Residential Zone and Non-Urban Residential Zone only as an accessory use to a residential use, in accordance with the following provisions:

4.16.1 Location and Residential Character

- a) The residential appearance and character of the dwelling and the lot shall be maintained and no exterior alteration shall be made to the dwelling which would indicate that any part of the premises is being used for any purpose other than that of a residential dwelling.
- b) A home occupation shall be clearly secondary and incidental to a dwelling occupied by the owner or tenant as his main residence.
- c) A home occupation shall only be permitted within the residential dwelling except in Agricultural (A) Zone, Rural Residential (RR) Zone and Residential Hamlets and Villages (RH) Zone, the home occupation may be located within a building or structure which is accessory to the main residential or agricultural use.
- d) Notwithstanding anything in this By-Law to the contrary, a maximum of two home occupations otherwise permitted in this section may be permitted within one dwelling unit provided the two home occupations cumulatively do not exceed the gross floor area requirements for home occupations as set out herein.

4.16.2 Parking

An additional parking space, in accordance with this By-Law, shall be provided for each home occupation in addition to those required by the By-Law for other permitted uses on the lot.

4.16.3 Size

- a) No more than twenty-five percent (25%) of the gross floor area of the dwelling unit may be devoted to a home occupation use, to a maximum of 45 square metres.
- b) The gross floor area used for a home occupation shall not reduce the dwelling area required by this By-Law except that a bed and breakfast establishment or a private home day care may be larger than 45 square metres.
- c) The gross floor area for the home occupation if located within accessory building shall not exceed 10% coverage of the lot area or a total of 300 square metres of floor area of the building, whichever is the lesser.

4.16.4 Nuisance

- a) No residential home occupation shall create or become a public nuisance, particularly with regard to noise, odour, fumes, vibration, traffic, emissions or parking nor shall it cause electrical interference or interference with telephone, television, and radio or satellite equipment reception.
- b) The home occupation shall not create or become a fire, health or building hazard.

4.16.5 Employees/Customers

- a) Any home occupation in any Urban Residential Zone or Non-Urban Residential Zone shall not employ anyone at any time.
- b) No more than two (2) people who do not reside on the lot may be employed by the home occupation in an Agricultural Zone.
- c) The home occupation shall not involve the use of the premises as a base of operations for people who are employed by or associated with the home occupation, nor shall the premises be used to assemble or rally such people for transportation to a work site.
- d) No more than two (2) clients, customers or students shall be serviced at any one time.

4.16.6 Storage and Display

- a) Open storage or display of merchandise, material or equipment is prohibited.
- b) Merchandise may be displayed within the dwelling or accessory building provided it shall not be visible from outside the dwelling or accessory building where it is displayed.
- c) Merchandise, material and equipment shall be stored within an attached or detached garage or other accessory building provided it shall not be visible from outside.
- d) External advertising is prohibited except in accordance with the County's Sign By-Law.

4.16.7 Retail Sales

Any gross floor area used for retail sales shall be no more than 10% of the gross floor area of the home occupation and shall generally include goods related the home occupation or manufactured as a part of the home occupation.

4.16.8 Uses Permitted and Prohibited

a) Home occupations shall be limited to the following occupations:

- (i) Bed and breakfast establishment subject to Section 4.16.9;
- (ii) Caterer's establishment;
- (iii) Computer services;
- (iv) Crafts Shop;
- (v) Instruction of music, arts, academic subjects;
- (vi) Insurance and/or sales agents;
- (vii) Office, Business or Professional;
- (viii) Medical Office limiting the use to physiotherapist, osteopathic, chiropractor, massage therapist limited to only one practitioner. This shall not include dentists, laboratory, pharmacy or a dispensary;
- (ix) Personal service establishment;
- (x) Private home day care;
- (xi) Seamstress/tailor;
- (xii) Studio.

b) None of the following uses shall be considered home occupations, except where such uses are specifically permitted:

- (i) hospital;
- (ii) funeral home;
- (iii) restaurant;
- (iv) medical/dental office;
- (v) salvage yard;
- (vi) automotive use;
- (vii) open storage;
- (viii) veterinary clinic.