



Planning Advisory Committee Report

To: To the Chair and Members of the Planning Advisory Committee
From: Dan Namisniak – Planner/Secretary Treasurer, Comm. of Adjustment
Date: July 4, 2017
Subject: PA-17-28 (LIV Developments)
Zoning By-law Amendment Application ZBA15/17/DN
249 Garden Ave, County of Brant
Purpose: **Recommendation Report** on an Application to Amend the County of Brant Zoning By-law 61-16 (i.e. to permit the use of a Temporary Sales Trailer)
Note: Concurrent with Sign Variance Application SV1/17/JK

Recommendation

That Application ZBA15/17/DN for ZONING AMENDMENT MINOR from IBI Group, Agent for LIV Developments Ltd., Applicant and Paramjit Singh, Owner of CON 3 PT LOTS 43 TO 45, geographic Township of Brantford, and is located at 249 Garden Ave, County Road 18, in the County of Brant proposing to rezone a portion of the subject lands from Agricultural (A) to Special Provision Temporary (T-xx), to permit a Temporary Sales Trailer. **BE APPROVED.**

Key Strategic Priority

Undertaking actions that elevate customer service to those we serve.

Financial Considerations

Not applicable.

Executive Summary

The purpose of this report is to provide the Committee with a recommendation from Staff regarding details of the application to amend the County of Brant Zoning By-law 61-16.

This application proposes to rezone a portion of the subject lands from Agricultural (A) to Special Exception Temporary (T-xx), to permit a Temporary Sales Trailer for a time period of Three (3) year as outlined in Section 39(2) of the *Planning Act*.

The Temporary Sales Trailer will be located on the East Side of Garden Ave (County Road 18) in the County of Brant. The Sales Trailer will advertise a LIV Communities development on a separate parcel of land, which is located on the west side of County Road 18 in the City of Brantford.

This application is concurrent with Sign Variance Application SV1/17/JK to the permit development signage as well as a key map with directions to the development site.

Planning Analysis indicate that 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 proposed amendment be approved.

Proposal

This application proposes to rezone a portion of the subject lands from Agricultural (A) to Special Provision Temporary (T-xx), to permit a Temporary Sales Trailer for a time period of three (3) years as outlined in Section 39(2) of the *Planning Act*. The Sales Trailer will advertise a development on a separate parcel being located on the west side of County Road 18 in the City of Brantford.

The proposed Special Provision Temporary (T-xx) rezoned portion will have an approximate area of 4,700 sq.m. to accommodate a Sales Trailer of approximately 135 sq.m. (1,440 sq.ft.).

The proposed Sales Trailer site is located at the signalized intersection of Henry St & Garden Ave (County Road 18). Access to the site will utilize an existing entrance off County Road 18 and will follow an existing 9.5 metre wide gravel driveway to a large open gravel area which able to accommodate approximately 18 parking spaces. The site will also feature hydro services and accessible mobile restrooms.

The Applicants have submitted a sales opening schedule (see attached) to help provided understanding as to the type of activity that can be expected during sales hours on the site. The sale schedule also aims to promote a structured phased release of available units to help control and reduce traffic in and out of the site.

Background

The Development in question is a +/- 250 single detached LIV Communities subdivision known as 'Brantview Heights'. The Development lands are approximately 17 hectares (42 acres) and are located on the west side of Brant County Road 18 in the City of Brantford. The Draft Plan of Subdivision is currently being reviewed by the City of Brantford and is expecting approvals in Late August / Early September.

The applicant wishes to utilize this site as it is located along a major roadway with high visibility and exposure. In contrast, the development site is located within the interior of an existing neighbourhood which may create greater navigation and traffic congestion.

Based on the boundary negotiations, Garden Ave (County Road 18) is owned and maintained by the City of Brantford. A traffic study for the proposal submitted with the application was circulated to the City of Brantford for review and comments in regards to the traffic study and proposed signalized intersection, pavement marking and signage modifications. The City of Brantford has confirmed that the traffic lights are active along the east leg of the intersection. The City of Brantford has provided additional comments based on the recommendations in the Traffic Report that require further discussion.

As a result of discussions with The City of Brantford and LIV Communities, The City of Brantford recommends that traffic comments regarding access to the site be addressed through the City of Brantford's Site Alteration Permit Process.

Report

Planning Act

Section 34 of the *Planning Act* establishes that Zoning By-laws may be passed by Councils of local municipalities. Section 34(10) of the *Planning Act* (see attached) provides policy direction to be considered when reviewing Zoning By-law Amendment Applications.

Section 39. (1) of the *Planning Act* establishes that the Council of a local municipality may, in a by-law passed under section 34, authorize the temporary use of land, buildings or structures for any purpose set out therein that is otherwise prohibited by the by-law.

The proposal is in keeping with the policies of *Planning Act* as it meets the criteria for an amendment to the Zoning By-law.

Official Plan

The site is designated on Schedule 'A' Land Use Plan of the CBOP as Employment. Section 3.12 of the CBOP provides direction and intent when dealing land uses in the Employment designation (see attached).

The County may, in a By-law passed under Section 39 of the *Planning Act*, authorize the temporary use of land, buildings or structures for any purpose set out therein that is otherwise prohibited by this Plan or by the Zoning Bylaw.

It is Planning Staff's opinion that the requested rezoning, complies with the policies in the CBOP provided that the rezoning is not indefinite and that the lands can be used for employment in the future as intended.

Zoning By-Law 61-16

The subject lands are zoned Agricultural (A) and Natural Heritage System (NHS) in Zoning By-law 61-16. The portion of land to which the use is proposed would be rezoned to a special provision Temporary (T-xx) in the adopted Zoning By-law.

The Draft Plan of Subdivision is currently being reviewed by the City of Brantford and is expecting approvals in Late August / Early September. The applicant wishes to permit the Temporary Sales Trailer for a time period of three (3) years as outlined in Section 39.1 in the *Planning Act*. The Sales Trailer will conform to the setbacks as required outlined in the Zoning By-law.

It is Planning Staff's opinion that the requested rezoning, complies with the policies in the Zoning By-Law.

Interdepartmental Considerations (see attached)

City of Brantford Transportation Department:

Please see City of Brantford transportation comments below:

1. The submitted traffic brief seems to confirm that there is no operational concern at the intersection of Garden Road/County Road #18 and Henry Street based on the expected trip generation identified.
 2. The traffic brief should address the safety concerns of proposed left turning movements at the intersection related to the following:
 - a. The increased potential for rear end collisions without a dedicated southbound left-turn lane on an arterial road with higher travel speeds
 - b. Sightlines concerns for northbound left and southbound left turn movements due to offset left-turn configuration.
 3. The proposed westbound configuration creates concerns related to the geometric alignment of the intersection. Specifically, the offset with the receiving lane on the east side of the intersection does not align to the proposed eastbound through movement on Henry Street. This concern should be addressed which may include but may not be limited to; widening of the receiving lane on the east side, revision to eastbound approach lane, and signal infrastructure revisions.
- Since the ROW is owned by the City, we will need to secure to ensure that no damage is done to our ROW through this process as a condition of this permit, we will ask that the City's Transportation comments are addressed accordingly.
 - As a result of discussions with The City of Brantford and LIV Communities, The City of Brantford recommends that traffic comments regarding access to the site be addressed through the City of Brantford's Site Alteration Permit Process.

Development Engineering Division:

–No objections.

Zoning Administrator:

–No objections.

Legal Division:

–No objections.

Fire Department:

–No objections.

Energy Plus:

- Energy+ Inc. has no objection to the proposal by the Applicant to locate a temporary sales trailer on the site for up to three (3) years.
- The Applicant will be responsible for any cost to relocate or upgrade existing electrical plant that may result from this Application at 100% Customer cost. As per Current

Conditions of Service, latest edition, only one service per property is permitted. The Applicant is cautioned that they must maintain all ESA Approved clearances to existing electric plant. Early consultation with Energy+ Inc.'s Service Coordinator is recommended.

- If easements are required as a result of this proposal the Applicant will be responsible for all costs. Early consultation with Energy+ Inc.'s Legal Coordinator is recommended.

Public Considerations

None Received

Conclusions and Recommendations

The application proposes to rezone a portion of the subject lands from Agricultural (A) to Special Provision Temporary (T-xx), to permit a Temporary Sales Trailer for a time period of three (3) years as outlined in Section 39(2) of the *Planning Act*. The Sales Trailer will advertise a development on a separate parcel being located on the west side of County Road 18 in the City of Brantford.

The proposed Special Provision Temporary (T- xx) rezoned portion will have an approximate area of 4,700 sq.m. to accommodate a Sales Trailer of approximately 135 sq.m. (1,440 sq.ft.).

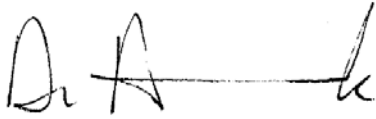
Based on the information provided with the application and through discussions with the Agent and Applicant, Planning Staff will recommend that the following provisions be included as part of the proposed Special Provision Temporary (T- xx) rezoning:

- All development signage must be removed or remain covered until the time which the City of Brantford provides confirmation to the County of Brant that Draft Plan Approval for the subdivision has been received.
- Signage and Sales Trailer is to serve the 'Brantview Heights' Subdivision only.
- Signage to clearly state the location of the development site being located in the City of Brantford.
- Third-Party traffic control to be present on Sales Opening Event days.
- No driveway and/or access aisles to be blocked and parking to be restricted to the designated parking areas.
- No occupancy of the sales trailer until the time which the City of Brantford provides confirmation to the County of Brant that Draft Plan Approval has been received.
- Sales Centre hours to be restricted to the schedule as outlined in the Sales Opening Event Structure [Monday-Thursday 1pm-8pm, Friday 1pm-6pm, Saturday Closed, Sunday 11am-6pm]
- Temporary Sales Trailer to be permitted for a time period of three (3) years as outlined in Section 39(2) of the *Planning Act*.
- That Traffic comments regarding access to the site be addressed through the City of Brantford's Site Alteration Permit Process to the satisfaction of the City of Brantford.

The proposed Special Provision Temporary (T-xx) rezoning is consistent with the Provisions in the Planning Act, County of Brant Official Plan and the Zoning By-law as they relate to the criteria for an amendment to the Zoning By-law and implementation of a Temporary Use By-law. None of the agencies and departments raised any concerns.

It is the opinion of Staff that the Zoning By-law Amendment has merit and therefore, Staff is recommending approval of the application.

Respectfully submitted,



Dan Namisniak

Planner / Secretary-Treasurer, Committee of Adjustment

Attachments

1. Aerial Photo
2. Official Plan Map
3. Legislation Excerpts
4. LIV Communities: Sales Opening Event Structure
5. LIV Communities: Proposed Signage

Copy to

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

File # ZBA15/17/DN

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

By-law required (Yes)

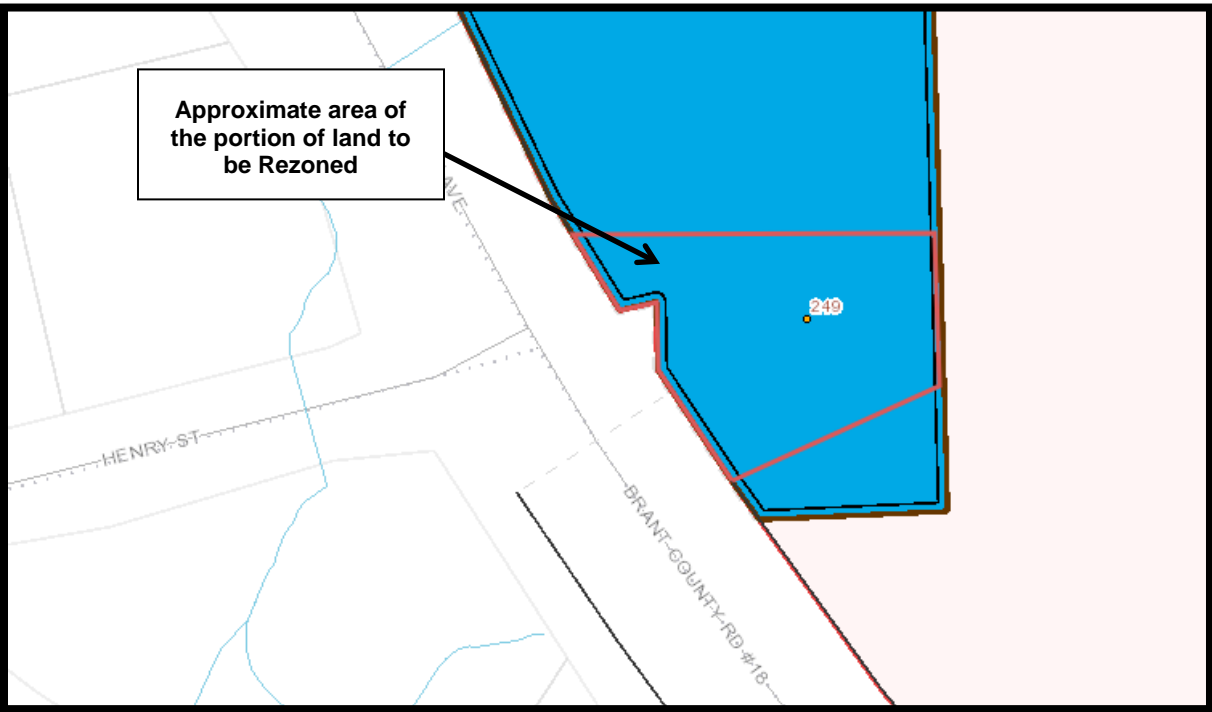
Agreement(s) or other documents to be signed by Mayor and /or Clerk (Yes)

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

AERIAL PHOTO



OFFICIAL PLAN MAP



LEGISLATION EXCERPTS

PLANNING ACT R.S.O.1990

By-law may be amended

(10) Despite any other provision of this section, any by-law passed under this section or a predecessor of this section may be amended so as to permit the extension or enlargement of any land, building or structure used for any purpose prohibited by the by-law if such land, building or structure continues to be used in the same manner and for the same purpose as it was used on the day such by-law was passed. R.S.O. 1990, c. P.13, s. 34 (10).

Temporary use provisions

39. (1) The council of a local municipality may, in a by-law passed under section 34, authorize the temporary use of land, buildings or structures for any purpose set out therein that is otherwise prohibited by the by-law. R.S.O. 1990, c. P.13, s. 39 (1).

Area and time in effect

(2) A by-law authorizing a temporary use under subsection (1) shall define the area to which it applies and specify the period of time for which the authorization shall be in effect, which shall not exceed three years from the day of the passing of the by-law. 2002, c. 17, Sched. B, s. 11 (2).

Extension

(3) Despite subsection (2), the council may by by-law grant further periods of not more than three years each during which the temporary use is authorized. R.S.O. 1990, c. P.13, s. 39 (3).

Non-application of cl. 34 (9) (a)

(4) Upon the expiry of the period or periods of time mentioned in subsections (2) and (3), clause 34 (9) (a) does not apply so as to permit the continued use of the land, buildings or structures for the purpose temporarily authorized. R.S.O. 1990, c. P.13, s. 39 (4).

COUNTY OF BRANT OFFICIAL PLAN (CBOP)

Employment

3.12.1 The Employment designation applies to land that is comprised of or intended to be developed for light, heavy and prestige industrial uses, limited service commercial uses, and related uses as set out in Section 3.12.2, and are generally highly visible land uses.

Temporary Use By-Laws

6.5.3 The County may, in a By-law passed under Section 39 of the *Planning Act*, authorize the temporary use of land, buildings or structures for any purpose set out therein that is otherwise prohibited by this Plan or by the Zoning Bylaw. With respect to the passing of a Temporary Use By-law, the following shall be the policies of the County:

- a. The County shall satisfy itself that the proposed use is temporary, and shall not create detrimental impacts on the surrounding area. Any temporary use permitted shall comply with the General Development Policies contained in Section 2.7 of this Plan.
- b. A By-law authorizing a temporary use shall define the area to which the temporary use By-law applies and the period for which it shall be in effect, not to exceed three years from the date of passing of the By-law (with the exception of by-laws authorizing Garden Suites). The three year time period may, by By-law, be extended for a maximum additional three year term. The temporary use shall not become a legal non-conforming use at the date of expiry of the By-law.
- c. The type of uses envisaged by the County when passing a temporary use By-law include, but not limited to, parking lots, fairs, special events, ploughing match, or the temporary use of a mobile home as a dwelling unit.
- d. In enacting a Temporary Use By-law, the County shall consider the following:
 - i. the proposed use shall be of a temporary nature, and shall not entail major construction or investment on the part of the owner so that the owner shall not experience undue hardship in reverting to the original uses upon the termination of temporary use provisions;
 - ii. the compatibility of the proposed use with the surrounding land uses and character of the surrounding area;
 - iii. the proposed use shall be properly serviced and not require the extension or expansion of existing County services;
- e. the proposed use shall not create any traffic problems within the surrounding area, or adversely affect the volume and/or type of traffic commonly found on the areas roads;
- f. parking facilities shall be provided entirely on-site; and
- g. the proposed use shall generally be beneficial to the surrounding community.

ZONING BY-LAW 61-16

Model Home/Temporary Sales Trailer

4.26 Notwithstanding any other provisions of this By-Law, a model home or a temporary sales trailer for conducting sales of new units shall be permitted provided the following regulations are met:

- a) The lands on which the model home/ temporary sales trailer is to be constructed have received draft plan approval under the *Planning Act* and the Subdivision or Condominium or any other Agreement has been registered.
- b) The model home/ temporary sales trailer shall be located within the development site and that sales are restricted to the units within that development only.
- c) The number of model homes shall be in accordance with the conditions of draft plan approval within the draft plan of subdivision or condominium and in no case exceeding 5 dwelling units to be used as model homes.
- d) The use shall be permitted in the Zone in which the model home is to be located.
- e) The model home shall comply with the provisions and regulations of this ByLaw, except for parking, as though the dwellings and/or dwelling units were constructed on the lot.
- f) The dwelling units used for the purpose of model homes shall not be occupied for human habitation prior to the date of registration of the plan of subdivision or condominium.
- g) The model home/ temporary sales office shall comply with all applicable terms and conditions of the said subdivision or condominium agreement,
- h) The temporary sales trailer shall be located 6 metres from any lot line.
- i) The parking area associated with the Model Home/ temporary sales trailer shall be contained on the development site and shall be located at least 6 metres from any lot line.
- j) The temporary sales trailer shall be removed from the site within 1 year of placing on site or within 60 days of completing all sales of dwelling units, whichever is less.
- k) No model home or temporary sales trailer shall be established until the County has approved the location and the design for the access, parking area and grading for these uses and have been constructed to the satisfaction of the County.