



County of Brant Planning and Development Committee Report

To: To the Chair and Members of the Planning and Development Committee
From: Brandon Kortleve, Planner (Policy Planning)
Date: February 1, 2022
Subject: RPT-22-12
Zoning By-Law Amendment ZBA27-21-BK
(Seventh Housekeeping to ZBL 61-16)
Purpose: **Recommendation Report for Approval**

Recommendation

WHEREAS The County of Brant has initiated a Zoning By-Law Amendment application, being application ZBA27-21-BK to amend Zoning By-Law 61-16 for general housekeeping purposes, as further outlined in RPT-22-12 and its attachments,

AND WHEREAS, it is recommended that the proposed update to the performance standards for shipping container structures be included as part of application ZBA27-21-BK and as outlined in option 'SC-3' of RPT-22-12,

THEREFORE, that application ZBA27-21-BK, **BE APPROVED**

AND THAT the reasons for approval are as follows:

1. The proposed changes will conform with the County of Brant Official Plan and improve the implementation of the Official Plan policies,
2. The proposed changes are consistent with the *Provincial Policy Statement (2020)* and conform to the policies of the *Growth Plan for the Greater Golden Horseshoe (2020)*, and
3. The proposed changes will improve the overall accuracy and function of Zoning By-Law 61-16.

Key Strategic Priorities

1. Sustainable and Managed Growth
2. Healthy, Safe and Engaged Citizens
3. Effective Communications

Financial Considerations

None.

Background Summary

Section 34 of *The Planning Act* provides municipalities with the power to adopt a Comprehensive Zoning By-Law and subsequent amendments to the document. The intent of undertaking regular housekeeping amendments to a Zoning By-law is to address implementation barriers, and minor issues or discrepancies within the document and to ensure that the policies of the County's Official Plan and the Province of Ontario are effectively implemented.

This housekeeping project, being the seventh housekeeping project under Zoning By-Law 61-16, was first introduced with RPT-21-168 at the July 7, 2021, Planning and Development Committee (PDC) Meeting. Further information including the proposed amendments under study, a preliminary policy review, and the process for continued public and stakeholder engagement were provided with RPT-21-248 at the November 2, 2021, PDC meeting where staff were directed to prepare the recommendation for this application.

This final report provides a policy review of the proposed amendments to the County's Comprehensive Zoning By-Law (CZBL), further information on circulations and engagement undertaken during the project and includes reference to comments received and modifications made to the proposed amendments as a result of ongoing engagement.

Policy Review

Proposed changes to the CZBL, as previously included with RPT-21-248, have been updated and included as Attachment 1 to this report. These proposed amendments are also reflected in the attached draft By-Law recommended for adoption (Attachment 2).

Application ZBA27-21-BK proposes amendments that will improve the implementation of the County's Zoning By-Law. Proposed updates to the CZBL will ensure further consistency with the *Provincial Policy Statement (2020)* and conformity with the *Growth Plan for the Greater Golden Horseshoe (2020)* and the County of Brant Official Plan (2012). A summary of the supporting policy review has been included in Table 1 of this report, below.

Table 1 - Supporting Policy Review

Topic	Proposed Amendment (Further outlined in Attachment 1)	Official Plan (2012) Policy	Provincial Planning Legislation
Housing Options & Intensification	2.15 Additional Residential Unit Permissions	<ul style="list-style-type: none">1.11.2.2.2. – Providing opportunities for compatible residential infill2.2.3.4 – Providing opportunities for housing that protect agricultural lands2.4.5.1 – Providing sufficient flexibility for the creation of additional residential units	<p><i>The PPS</i></p> <ul style="list-style-type: none">1.1.4.1(d) – appropriate redevelopment of housing stock on rural lands.1.4.3 – Providing an appropriate range and mix of housing options. <p><i>The Growth Plan</i></p>

Topic	Proposed Amendment (Further outlined in Attachment 1)	Official Plan (2012) Policy	Provincial Planning Legislation
			<ul style="list-style-type: none"> 2.2.6.1.a.i – Provide a diverse range and mix of housing options and densities. 2.2.6.2.d – Diversify overall housing stock across the municipality.
Economic Development	2.12 Definition of Sawmill + Lumber Mill 2.13 Personal Clean Energy Generation Device Definition 2.16 Taxi Stand Definition	<ul style="list-style-type: none"> 1.11.2.3.2.h – Sustainable Energy use and green technology 2.5.1 – General Economic Development policies that balance social, cultural, natural environment and other factors. 	<i>The PPS</i> <ul style="list-style-type: none"> 1.7.1 – Support for long-term economic prosperity <i>The Growth Plan</i> <ul style="list-style-type: none"> 1.2.1 – Economic Resilience & Flexibility 2.2.5.1.d – Economic Development and Land use planning integration
Orderly Development & Implementation	2.1 Temporary Tent Structures 2.2 Structure Height 2.3 Landscaped Open Space 2.4 Alterations to Existing Structures 2.5 Accessory On-Site Construction Permissions 2.6 Model Home Permissions 2.11 Exterior Stairs / Landings 2.17 Shipping Containers	<ul style="list-style-type: none"> 1.11.2.1.2.b – Infrastructure provisions 1.11.2.1.2.h – Orderly development 3.2.b – Accessory uses 6.7 – Site Plan Control 	<i>The PPS</i> <ul style="list-style-type: none"> 1.1.1 – Sustaining healthy, livable, and safe communities through efficient and resilient development patterns 1.6.6.7 – Stormwater management 1.6.7.2 – Efficient transportation systems infrastructure <i>The Growth Plan</i> <ul style="list-style-type: none"> 3.2.7 – Stormwater management 2.2.1 – Managing growth

Topic	Proposed Amendment (Further outlined in Attachment 1)	Official Plan (2012) Policy	Provincial Planning Legislation
Environmental & Agricultural Systems	2.7 Farm Labour Dwelling + Bunkhouse Definition 2.8 Prime Agricultural Land Protection 2.9 Farm Production Outlet Permissions in AE Zone 2.10 Surplus Farm Dwelling and Farm Consolidation Requirements 2.14 Natural Heritage Refinements	<ul style="list-style-type: none"> • 3.3.1 – Agricultural permitted uses • 3.16.2 – Natural Heritage System permitted uses 	<i>The PPS</i> <ul style="list-style-type: none"> • 2.1.1 – Protection of natural features • 2.2.1.3 – Environmental and Agricultural Protection and Conservation + Growth Management • 2.3.1 – Protection of prime agricultural areas • 2.3.3.1 – Permitted uses in prime agricultural areas • 3.1.1 – Public safety and natural hazards <i>The Growth Plan</i> <ul style="list-style-type: none"> • 4.2.2 – Natural Heritage System protection • 4.2.6 – Agricultural System protection

Consultation and Engagement

Public Engagement

As part of the public engagement undertaken for this project, the preliminary proposed amendments were made available on the County of Brant website (www.brant.ca/ZBLHousekeeping) beginning in late October 2021 and in advance of the November 2nd, 2021 Planning and Development Committee Meeting. Information about the project, including the circulation to meet the requirements of *the Planning Act*, was also published in the Brantford Expositor in January 2022.

In addition to general public comments, staff also sought specific feedback on the topic of shipping containers. To improve the implementation of the zoning by-law with respect to these structures, and after an evaluation of other regulatory approaches to these structures, it is my opinion that the CZBL should be updated to provide a more consistent approach to these structures and to provide clear guidance to property owners who may wish to erect and utilize a shipping container structure in the County of Brant.

To summarize the feedback collected about shipping containers, the polls posted online received over 600 unique responses and indicated that approximately 70% of respondents wish to see shipping container structures permitted in the County, including the potential to be used for things like sheds, pools, and tiny homes. When asked about the areas of greatest

concern about shipping containers in residential areas, the greatest number of votes went to having no concerns (74%). The results also highlighted that there is some concern around up-keep/ aesthetics, having received 11% of the votes, which is consistent with the comments received throughout all stages of this project.

While the majority of respondents stated they had no concerns, it is understood that shipping containers can be a topic of contention, notably with how well they may fit in with the character of certain areas of the County (e.g., residential areas). These concerns about up-keep, character, and overall visibility from neighbouring properties have been specifically addressed in the proposed changes so as to provide opportunity for property owners to use these types of structures but ensure that they are appropriately placed and match the character of the area in which they are used. The proposed updates have been coordinated with Enforcement and Regulatory Services staff who are also considering an update to the Property Standards By-Law, and specifically language that will be updated to reflect the newly proposed approach of the Zoning By-Law. This update undertaken should the proposed amendments to the CZBL be adopted.

A detailed review of the shipping container recommendations, including a review of public and stakeholder engagement, how the proposed zoning requirements will address common issues/questions, and further details on the recommendations specific to this topic have been included as Attachment 3 – Detailed Shipping Container Review.

Development Industry Engagement

As part of County's ongoing engagement with the development industry, staff have provided ongoing project updates through the weekly 'Development Services Update' email circulation list to the development industry. Additionally, Planning staff presented information on the proposed housekeeping changes at a December 2021 workshop with the County's Development Liaison Working Group. This included specific discussions about ARUs, Shipping Containers, Model Homes, and overall Parking Standards in the Zoning By-Law as well as an overview of the housekeeping project itself. A presentation on the final recommendations of this housekeeping report was also made at the January 2022 Development Information Session hosted by Development Services Staff where there were approximately 30 representatives from the development industry in attendance.

Feedback from the development industry has included general support for changes that will clarify the intention of the Official Plan policies and will help guide development proposals for ARUs, general support for the creation of clear and comprehensive parking standards that would include consideration and transition policies for developments that are already approved but not yet built, and general support for the inclusion of clear criteria differentiating between temporary sales trailers and the construction of model homes that ensure safety but also provide flexibility for developers who have received draft-plan approvals on plans of subdivision.

Interdepartmental and Agency Considerations

A formal request for comments was circulated in October 2021 to agencies and County departments. Several County departments have provided ongoing comments on the proposed changes and these comments have also been incorporated into the recommendations. A summary of the interdepartmental and agency considerations has

been included below including how the comments have been addressed to best facilitate the implementation of the Zoning By-Law.

The following departments and agencies provided a response to the circulation:

Development Engineering Division

A response to the request for comments was received noting that there were no further comments from the Development Engineering Division at the time of circulation.

Community and Protective Services Department – Parks and Facilities Division

Comments were provided by way of email response and requested consideration under the shipping containers section, for permissions on recreational lands and parks (Item 2.17). These comments have been addressed with the proposed amendments, which would permit the container structures when attributed to the permitted uses of the property.

Legal and Enforcement Services Department

Comments were provided by way of email regarding the Vehicle-For-Hire By-Law (VFH) project to ensure that terminology is consistent between the CZBL and VFH By-Law. Additionally, questions were raised about the definitions and requirements for campgrounds in the County of Brant and specifically clarification about seasonal use. These questions have been addressed by adding additional proposed changes noted in Item 2.18 of Attachment 1 which will add clarity to these requirements for enforcement purposes.

Comments were also provided by way of email regarding the proposed updates to the performance standards for shipping container structures. Enforcement and Regulatory Services staff are considering an update to the Property Standards By-Law, and specifically language that will be updated to reflect the newly proposed approach of the Zoning By-Law, which will be coordinated with Policy Planning staff should the proposed amendments to the CZBL be adopted.

Grand River Conservation Authority

Comments were provided by way of email response and noted that consideration should be given to adding consideration for “erosion hazards” in the updates to standards for Additional Residential Unit (Item 2.15). Staff have incorporated this suggestion in the proposed amendments recommended for approval.

Other Agencies and Stakeholders

The following departments and agencies did not provide any comments on this circulation at the time of the writing of this report:

Bell Canada

Brant County Health Unit

Brant-Haldimand-Norfolk District School Board Building Division

Building Division

Canada Post Community Services

Energy Plus

Fire Administration

Grand Erie District School Board

Hydro One

Long Point Region Conservation Authority

Mississaugas of the Credit First Nation

Operations Department

Six Nations of the Grand River

Strategic Initiatives Department

Union Gas

While comments from the above noted departments and agencies have not been received at this time, I am of the opinion that appropriate consideration has been given to the proposed amendments and that there will be no negative impacts on these agencies with the adoption and implementation of the proposed amendments. Planning staff continue to monitor and address any implementation barriers that are noted within the CZBL in a timely manner and if further comments are received, they will be addressed appropriately.

Findings and Conclusions

Consideration has been given to the background research, policy review, public, stakeholder, and Council comments on this project, which have been compiled at various stages as part of the findings of this project. The proposed housekeeping amendments have been prepared based on the findings of this project and are further explained in this report and reflected in the attached draft By-Law for consideration.

Temporary Tent Structures

Implementation barriers had been noted by both the Building Division and By-Law Enforcement Division with respect to the use of certain types of temporary tent structures in the County. This included the purposes for which they would be permitted, defining setbacks to the structures, and clarifying time-limitations on their use. The proposed amendments will add requirements to separately regulate tents for private occasions (e.g., garage sale, wedding etc.) and temporary sales events (e.g., sidewalk sales, pop-up markets). Requirements will also be added to address permissions for temporary carport structures, which are commonly found structures throughout the County. Additionally, a note has been added to clarify that any tent exceeding 60 square metres in aggregate ground area requires a building permit under the Ontario Building Code.

Legal Non-Conformity Buildings and Structures

Definitions and reference throughout the CZBL to legal non-conformity (commonly referred to as 'grandfathering') will be amended to ensure the approach of the By-Law is consistent with the *Planning Act* and with applicable case law. Proposed amendments include the addition of specific criteria to help determine when a legal non-conforming structure is considered 'altered' and permitted to be so without the need for consideration by the Committee of

Adjustment. Where the alteration doesn't meet the criteria, consideration by the Committee would be required and it has been specified that the application must use appropriate objective evidence to support the extension of the non-conforming structure.

Surplus Farm Dwelling Severances

The current standards will be updated for clarity and conformity purposes, including the addition a definition for "farm consolidation". The updated standards will also streamline the current process by allowing the consent application and the special exception zoning to be applied at the same time and to address any zoning deficiencies under one application rather than through the need for multiple applications as is the current standard.

Additional Residential Units

The intention of an Additional Residential Unit is to be accessory to a primary residential unit, meaning that an ARU should be established near the main dwelling to benefit from the existing resources of the dwelling (e.g., driveway, servicing infrastructure, etc.) and be limited in size, being smaller than the primary residential unit.

The CZBL provides a flexible approach to developing ARU housing and intends to direct these types of development to ensure they are secondary to the primary residential development of a property. One of the implementation issues noted with the current requirements was regarding the distance an ARU is permitted to be located from the primary unit and what distances would be supported as reflective of a secondary unit on the property.

The addition of requirements to use the same driveway entrance as the primary house and to limit the overall development area of the project will assist with guiding proposed ARU developments to the most appropriate location and scale on a subject property, one that is truly secondary to the primary dwelling. These additional requirements will help guide what may constitute an appropriate 'minor variance' to allow for site-specific consideration that would still meet the objectives of the County's Official Plan Policy Framework.

Additional flexibility is also proposed for property owners to locate an ARU amongst an existing building cluster on their property to accommodate those who may not find it appropriate to locate the ARU strictly within the 40.0m distance from the primary house. This change will acknowledge that there may be suitable locations for the ARUs beyond that 40.0m maximum but amongst existing development on a property.

Shipping Containers

As previously discussed in the November 2, 2021 PDC Report, [being RPT-21-248](#), four potential options were presented to Committee for consideration regarding the regulatory approach to shipping containers. These options have been reiterated in Table 2 of this report below, for reference.

Table 2 - Shipping Container Amendment Options

Option	Summary of Proposed Amendments
SC-1	The definition of a shipping container would be amended so that structures that have been altered to include exterior cladding, in keeping with the character of other residential structures, would be permitted. This change would also provide property owners with an option to bring illegally established containers into compliance with zoning to simply require a building permit application as opposed to a zoning by-law amendment.
SC-2	To remove all references and requirements specific to Shipping Containers from By-law 61-16 so that such a structure is treated as any building/structure and zoning is applied based on its proposed use. The property standards by-law would regulate the upkeep of any shipping container in a manner consistent with other buildings/structures. This change would also provide property owners who wish to bring illegally established containers into compliance with the Zoning By-Law to, in many cases, simply obtain an approved building permit.
SC-3	Proposing a similar outcome to SC-2, reference to shipping containers would be maintained but specific requirements would be removed from each zone category and consolidated in Section 4.35. Zoning would be applied consistently with the approach to other structures and based on its proposed use. This approach will help provide clarification on current inconsistencies and provide further education opportunities. Clarification would also be provided in the By-Law regarding the character and coordinated with the language of the Property Standards By-Law for further consistent enforcement.
SC-4	No changes would be made to the current requirements of the Zoning By-Law at this time and staff would focus on undertaking public education about safety, permissions, and requirements for the placement of a shipping containers on properties within the County of Brant. This could also be a transitional measure between the current CZBL and the new By-Law where staff could address possible changes through the full comprehensive review project scheduled for 2022.

As the basis for establishing these four options, the objectives of this review were as follows:

1. Ensuring the safe and lawful placement of these structure and providing clarity on the requirements for when a building permit is required for establishment,
2. Clearly distinguishing permissions for temporary and permanent placement consistent with the intent of each zone category, and
3. Regulating the character of the structures to an extent appropriate for a Zoning By-Law and in a way that will support the enforcement of the performance standards.

It is my opinion that the preferred approach to meet these objectives is that of option SC-3, with minor modifications having been added since previously presented to the committee to address public and stakeholder feedback on the topic (as further outlined in Attachment 3). Additionally, Policy Planning Staff have been coordinating with By-Law Enforcement Staff to ensure that the Property Standards By-Law appropriately addresses requirements for the finish of any exterior walls in a way that corresponds with the proposed update to the Zoning By-Law. Part of this review will require an update to the language in the Property Standards By-Law, which would be undertaken by By-Law Enforcement Staff upon adoption of the proposed amendments to the CZBL.

Recommendation and Next Steps

In summary, I am of the opinion that each of the proposed amendments represents a necessary technical update that is consistent with the *Provincial Policy Statement (2020)*, in conformity to the *Growth Plan for the Greater Golden Horseshoe (Office Consolidation, 2020)*, in conformity with The County of Brant Official Plan (2012) and will improve the overall implementation of the Comprehensive Zoning By-Law of the County of Brant.

Upon finalization of this housekeeping project and adoption of the proposed amendments, a full consolidation of the County's current CZBL will be undertaken and published. Staff will use this opportunity to begin the transition to a full review of the CZBL, which will be required to implement the policies of the County's New Official Plan. This will be a large-scale project and will be undertaken by Planning staff in collaboration with the County of Brant community, County of Brant Council, neighbouring First Nations, other internal County departments and interested stakeholders.

More information on this project will be provided to Council following the submission of the New Official to the Province for final review and approval. This will include project objectives, expectations and a workplan, and is expected to be presented in Q2 of 2022.

Attachments

1. Comparison Chart – Housekeeping #7
2. Draft Amending By-Law
3. Shipping Containers – Detailed Review

Copy to

1. Alysha Dyjack, Director of Council Services, Clerk

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)