



MUNICIPALITY OF THAMES CENTRE

REPORT NO. PDS-038-24

FILE NO. Z5-24

TO: Mayor and Members of Council

FROM: A. Kertesz, Planner

MEETING DATE: July 15, 2024

SUBJECT: **Application for Zoning By-Law Amendment; Doggo Den Inc. (Applicant), Stewart Findlater (Agent); 20170 Fairview Road**

RECOMMENDATION:

THAT Application for Zoning By-law Amendment (Z5-24) filed by Stewart Findlater on behalf of Doggo Den Inc. to permit a 'Doggy Day Care', 'Retail Store' and 'Personal Service Establishment' for lands legally described as Part of Lot 1, Concession 4 (geographic Township of West Nissouri), Municipality of Thames Centre and known municipally as 20170 Fairview Road be **REFUSED**.

PURPOSE:

The purpose and effect of this Application is to rezone the subject property **from** the Agricultural (A) Zone **to** a site-specific Agricultural (A-#) Zone to add 'Doggy Day Care', 'Retail Store', and 'Personal Service Establishment' as additional permitted uses on the property. The effect would be to legalize and permit the establishment of the use on the lands.

BACKGROUND:

The subject property is 0.85 hectare (2.1 ac) lot situated on the east side of Fairview Road, north of Dundas Street (County Road 2) and north of the CP Railway. The lands contain a single detached dwelling which the applicant has indicated has a floor area of approximately 190 square metres (2045 ft²), serviced by private well and septic system and also contains two (2) accessory buildings used for dog training and storage purposes respectively. Access for the lands is available off Fairview Road. The property contains a mixture of coniferous and deciduous trees along the north and south property lines and for a majority of the easterly lot line. The lands are used for residential purposes and for the existing business on the property known as Doggo Den Inc.

According to the Thames Centre Official Plan, the lands are designated Agricultural. The lands are zoned Agricultural (A) within the Thames Centre Zoning By-law. This property was previously used as a kennel in the past, however, the use has since ceased and would not meet today's zoning requirements for a kennel, due to the required 180 metre (590.55 ft)

setback from the closest neighbouring dwelling. The surrounding uses are predominantly agricultural in nature although, there are nearby residential uses to the north and south of the property.

The applicants are seeking to legitimize the existing business on the property, known as Doggo Den, which offers day care services for dogs including the training of dogs. Furthermore, the applicant is proposing grooming services which would fall under the 'personal service establishment' definition in the zoning by-law and proposing a 'retail store' to sell dog treats/ food, leashes, and t-shirts. As part of the Doggy Day Care use, the application would permit the installation of a dog diving pool which is proposed to have an area of 88 square metres (947.22 ft²) and a dog wading pool proposed to have an area of 28 square metres (301.40 ft²). Additionally, the Doggy Day Care use would also include a private dog park, four (4) booking areas and a patio serving refreshments for clients. The booking areas are proposed to be booked in 30- or 60-minute increments and would be used by a client and their dog. The dog park would require testing and assessment of the dog and client in order to obtain membership to use the booking area.

The applicant has proposed the following definition to be included in the site-specific zone: "Doggy Day Care" shall mean a place or facility where more than three (3) dogs are kept, no dogs, other than up to three (3) dogs that are owned by a licensed resident of the property, are kept between the hours of 8:00 p.m. and 6:00 a.m."

The applicant has advised the business operates from 7:00 a.m. to 6:30 p.m. Monday to Friday with occasional appointments on weekends and has seven (7) part time and full-time employees. The business averages approximately 34 dogs per day with a maximum capacity of 40 dogs. The kennels that were previously used have been removed from the site.

In regard to noise mitigation measures, the applicant has advised they have implemented noise mitigation measures which includes fire rated drywall with resonating channels and insulation, 50-60 Sound Transmission Class (STC) rated doors, and a privacy screen at the daycare play area. Additionally, the applicant advised counter-conditioning dog training is practiced for outside noises and stimuli to stop dogs from barking at people, wildlife and machinery. The applicant has also advised there are cedar trees and bushes between the daycare area and the neighbouring property. As part of the application submission, a planning justification report (PJR) was provided. The PJR indicates although the doggy day care use will not be a kennel, it will be similar in nature to a kennel, however dogs will not be locked in kennels and will be supervised.

The proposed accessory building to be used for the doggy day care is located approximately 77 metres (252.63 ft) from the neighbouring dwelling to the north and approximately 106 metres (348 ft) from the neighbouring dwelling to the south. The outdoor areas for dogs are proposed to be located approximately 16 metres (52.5 ft) from the neighbouring dwelling to the north and 63 metres (206.7 ft) to the neighbouring dwelling to the south.

ANALYSIS:

The Provincial Policy Statement 2020 (PPS), County of Middlesex Official Plan, and Thames Centre Official Plan generally permit agriculture-related uses in agricultural areas subject to

criteria. In particular, the Thames Centre Official Plan permits agricultural related commercial and industrial uses including kennels provided the use is directly related to, and supportive of agricultural operations, require a location in close proximity to agriculture, conform to the Minimum Distance Separation requirements, do not require large volumes of water and do not generate large volumes of effluent, and can be serviced with appropriate water supply and sewage treatment facilities. The Thames Centre Official Plan also states the development of agricultural related commercial and industrial uses shall be subject to site plan control. The PJR indicates the use will be similar in nature to a kennel.

The Thames Centre Comprehensive Zoning By-law permits kennels in agricultural areas provided the kennel is at least 180 metres (590.55 ft) from a dwelling located on a separate lot, 300 metres (984.25 ft) from an Institutional (I) Zone or any Residential Zone, and 300 metres (984.25 ft) from another kennel. Although the application indicates the proposed use is not a kennel, staff is of the opinion the proposed use which would involve keeping up to 40 dogs on the property during the day, would have the same impact as a kennel.

The Thames Centre Official Plan requires that prior to the approval of a zoning by-law amendment, it shall be established to the satisfaction of Council that:

- ***soil and drainage conditions are suitable to permit the proper siting of buildings;***

There is currently a building permit submission for an addition to the existing shed and a gazebo accessory to the residential use. The proposed doggy wading pool and splash pad may be subject to building permits, any alterations to the existing building will be subject to building permits, soil and drainage conditions are capable of being determined at the building permit stage.

- ***the services and utilities, whether they are municipal or private, can adequately accommodate the proposed development. Full municipal or communal sanitary and water services will be preferred method of servicing development;***

The site is privately serviced by well and septic system. No information was provided as part of the zoning by-law amendment application to indicate the size of the existing septic bed and well is sufficient to accommodate the proposed use. The applicant would need to satisfy the Building Department that the existing system is large enough to accommodate the proposed use.

- ***the road system is adequate to accommodate projected increases in traffic;***

Fairview Road is a local road, maintained to municipal standards. With this, the road system is adequate to accommodate projected increases in traffic considering the nature of the proposed use. No comments or concerns were identified by the Director of Public Works.

- ***the land fronts on a public road (unless specifically noted as an approved private road) which is of a reasonable standard of construction and maintenance;***

The lands front onto Fairview Road which is a public road.

- ***lot frontage and area is suitable for the proposed use and conforms to the standards required by the implementing Zoning By-law; and***

The subject property has less than the minimum lot area of 40 hectares (99 ac) and has less than the minimum lot frontage of 150 metres (492 ft) although staff are of the opinion that the frontage and area is suitable for the proposed use and conforms to the standards required by the Zoning By-law.

- ***adequate measures will be taken to alleviate or prevent any adverse effects that the proposed use may possibly have upon any proposed or existing or adjacent use or on the natural heritage features and functions.***

Staff have concerns regarding the anticipated adverse effects from the proposed Doggy Day Care on neighbouring residential uses given the proximity of the use to neighbouring residential uses. Although the applicants are proposing a Doggy Day Care and have implemented noise mitigation measures, staff have not been provided with a noise assessment completed by a qualified acoustical engineer to demonstrate no negative impacts would occur.

The Thames Centre Zoning By-law has a more restrictive regulation in relation to kennels, including a required 180 metre (590.55 ft) setback from a dwelling located on a separate lot. This regulation is in place to ensure compatibility with neighbouring uses. Considering the proximity of the building to be used for the doggy day care and the outdoor fenced areas (booking areas/ private dog park) to neighbouring dwellings, this proposed use would not be compatible with neighbouring uses and could create a public nuisance relative to noise from the barking of dogs.

Additionally, the applicant's proposal to include the uses retail store and a personal service establishment, could have impacts to adjacent lands. Without potentially limiting the definition of these uses, any retail store or personal service establishment would be able to locate on the site if zoning permissions exist. Should Council consider approval of such uses, they are advised to take into consideration scoping the uses to only apply to those as requested by the applicant; being a retail store devoted to the sale of dog related products, and a personal service establishment limited to grooming and dog training.

Alternate Option:

Should Council wish to approve the subject application, staff offers the following information for consideration. As noted in the Official Plan, agriculture related uses such as kennels are subject to site plan control. Given that staff is of the opinion the use would have the same impact as a kennel and anticipate there would be adverse effects on neighbouring uses, this proposal should be required to go through the site plan control process. Site plan control is a technical review process to ensure site development matters such as land use compatibility, parking, and barrier-free accessibility areas are built and maintained. Site plan

control is also used to ensure safe, appropriate and functional development that is in line with Municipal standards. This process would involve the owner entering into a site plan agreement with the Municipality which would be registered against the title of the lands. A security deposit would be required as part of the site plan agreement to ensure the works are completed to the satisfaction of the Municipality.

To ensure the site plan control process is carried out, consideration should be taken in regards to applying a holding provision to the subject lands as part of the site-specific zone. The Thames Centre Zoning By-law includes an existing holding provision (H-3) which, if applied to the subject lands, would require the site plan control process to be finalized before the holding provision can be removed. The holding provision would need to be removed before any building permits for buildings or structures related to the proposed uses can be issued. To remove the holding provision, the site plan agreement would need to be registered on title and an application to remove holding would need to be submitted along with the associated fee. Once holding is removed, the building permit process can commence.

A by-law and draft alternate resolution has been drafted for Council's consideration. Municipal staff were consulted regarding the proposed doggy care definition and have reviewed the by-law. Staff indicate that should Council choose to approve this amendment, the Animal Control By-law will also need to be updated to add Doggy Day Care Licences provisions, similar to Kennel Licencing.

Should Council wish to approve the subject application, staff offers the following for consideration:

ALTERNATE RESOLUTION FOR COUNCIL CONSIDERATION:

***THAT** Application for Zoning By-law Amendment (Z5-24) filed by Stewart Findlater on behalf of Doggo Den Inc. to rezone the subject lands **from** the Agricultural (A) Zone **to** a site-specific (A-#-H-3) Zone to permit a 'Doggy Day Care', 'Retail Store' and 'Personal Service Establishment' for lands legally described as Part of Lot 1, Concession 4 (geographic Township of West Nissouri), Municipality of Thames Centre and known municipally as 20170 Fairview Road be **APPROVED**;*

***AND THAT** the implementing by-law be included in the by-law portion of the agenda.*

CIRCULATION COMMENTS:

Agency Comments

In the circulation of the notice of public hearing to prescribed agencies, the following comments were received:

County Engineer:

No comment – not on a County road.

Director of Public Works:

Public Works have no comments/concerns with this application.

Drainage Superintendent:

No comment.

Upper Thames River Conservation Authority:

No objections.

Chief Building Official:

With respect to application Z5-24, the proponent shall be advised that building permit(s) shall be required for any alterations to existing buildings to accommodate the new proposed uses and for any new proposed buildings having an area greater than 10 square meters.

The proponent should be advised that any pools capable of holding a depth of water of 24" or greater shall be enclosed by a fence meeting the requirements of the Thames Centre Fence By-Law.

Public Comments

In the circulation of the notice of public hearing to surrounding property owners, a comment has been received by Susan A. Toth who provided support for the application. This comment has been appended to the report.

FINANCIAL IMPLICATIONS:

None.

STRATEGIC PLAN LINK

Pillar: *Smart Planning*

Goal: *Make smart planning decisions to grow the community, while maintaining a "hometown feel"*

ATTACHMENTS:

Location Map
Concept/ Site Plan
Public Comment

Prepared by: A. Kertesz, Planner
Reviewed by: A. Storrey, Interim Director of Planning and Development Services
Reviewed by: J. Nethercott, Director of Legislative Services/Clerk