



Staff Report

Report No. PDS-034-25

To: Mayor and Members of Council

From: A. Kertesz, Planner

Meeting Date: June 23, 2025

Subject: Temporary Use Zoning By-law Amendment Application (Z10-25);
Fred Jamieson and Susan Jamieson (Applicants); 5242 Marion
Street

Recommendation:

THAT the Municipality of Thames Centre Comprehensive Zoning By-law 75-2006 be **AMENDED** to permit two single unit dwellings on the property municipally known as 5242 Marion Street for a temporary period not to exceed three (3) years, as filed by Stewart Findlater on behalf of Fred Jamieson and Susan Jamieson (Z10-25);

AND THAT the Temporary Use Agreement **BE CONSIDERED**, as included in the by-law portion of the agenda;

AND THAT the implementing zoning by-law be **CONSIDERED**, as included in the by-law portion of the agenda.

Purpose:

The purpose and effect of this Application is to permit two single-detached dwellings on the subject lands for a temporary period not to exceed three (3) years while a new dwelling is being constructed.

Background:

The subject property is a 1.1 hectare (2.71 ac) lot situated on the north side of Marion Street, between Clara Street and Elgin Road (County Road 73). The lands contain an existing single detached dwelling with a floor area of 160 square metres (1,722.23 ft²) serviced by private well and septic system. The lands also contain a detached garage with a floor area of 146 square metres (1571.53 ft²). Access for the lands is available off Marion Street.

The applicants are proposing to retain the existing single detached dwelling while a new single detached dwelling is constructed. The new dwelling is proposed to have a floor area of 201 square metres (2163.53 ft²) as well as an attached three (3) car garage to be located north of the existing dwelling, within the Agricultural (A) Zone. Upon three (3) years, the existing dwelling at 5242 Marion Street is to be removed. Typically, a temporary-use rezoning would require the existing dwelling to be removed from the land upon the expiration of a three-year period or the occupancy of the new single detached dwelling whichever occurs first. The applicants have however requested that the said existing dwelling be permitted for up to three (3) years regardless of the occupancy of the new dwelling with the stated intent of seeing if Additional Residential Unit (ARU) policies change in the County Official Plan and Thames Centre Official Plan in the future.

As Council will recall, this property is also subject to zoning by-law amendment application Z20-24 which requested to permit an ARU on the lands. The application was deferred by Municipal Council on March 24th, 2025. The following resolution was passed by Council at the March 24th meeting:

“THAT Application for Zoning By-law Amendment Z20-24 as requested by Fred and Susan Jamieson to rezone a portion of the subject property from the Agricultural (A) Zone to a site-specific Agricultural (A-#) Zone to permit an Additional Residential Unit (ARU) having a floor area of 201 square metres as a permitted use, in addition to all other uses permitted in the parent Agricultural (A) Zone, for lands legally described as Part of Lot 11, Concession 3, NRT (geographic Township of North Dorchester) and designated as part 1 on Reference Plan 33R-21614, Municipality of Thames Centre be DEFERRED to provide the applicant and agent the opportunity to revise the site of the proposed ARU and to provide staff the opportunity to prepare a draft policy for Council to consider a process for the redesignation of a principle residence on a single site.”

The lands are designated ‘Residential’ within the settlement area boundary and ‘Agricultural’ outside of the settlement area boundary according to the Thames Centre Official Plan. The lands are zoned Future Development (FD) and Agricultural (A) Zone according to the Thames Centre Comprehensive Zoning By-law. The lands contain natural heritage features identified by the Middlesex Natural Heritage Systems Study 2014 (MNHSS). These natural heritage features include significant woodlands. Surrounding land uses include residential uses within the settlement area boundary and natural heritage features. Lands to be developed for residential purposes are also located within the settlement area boundary on the south side of Marion Street. Agricultural uses and natural heritage features are found outside of the settlement area boundary.

Policy and Regulation Background

Planning Act

Subsection 39 (1) of the *Planning Act* states 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.

Subsection 39 (2) states 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.

Thames Centre Official Plan

The subject lands are designated Residential and Agricultural according to the Thames Centre Official Plan. Subsection 7.10 of the Official Plan states Council may, in a by-law passed under Section 39 of the *Planning Act, R.S.O. 1990 Chap.P.13*, authorize the temporary use of lands, buildings or structures for any purpose set out therein that is otherwise prohibited by this Plan and/or by the Zoning By-law. Council shall satisfy itself that the proposed use is temporary, will not create detrimental effects on the surrounding area, is compatible with surrounding land uses, is adequately serviced, will not create any undue traffic or parking impacts, and conforms to the general intent of this Official Plan. Any temporary use permitted shall comply with the general development standards contained in Section 2 of this Plan.

Additionally, the subsection states 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 for all temporary uses except "garden suites" or "granny flats". Garden suites, as defined by the *Planning Act, R.S.O. 1990 Chap.P.13*, may have by-laws passed to be in effect for up to ten years from the date of passage. For uses other than garden suites the three-year time period may, by by-law, be extended for further periods of not more than three years each. The temporary use shall not become a legal non-conforming use at the date of expiry of the by-law. The type of uses envisaged by Council as using a temporary use by-law include, but are not limited to, parking lots, fairs, plowing matches, temporary use of a mobile home as a dwelling unit, or the existence of two homes on one lot while one of the homes is under construction.

Thames Centre Comprehensive Zoning By-law

Subsection 3.7.2 of the Zoning By-law speak to properties with multiple zones. The by-law states:

(1) Where a lot is divided into two or more zones, each such portion of the said lot shall be considered a separate lot as defined herein and shall be used in accordance with the provisions of this By-Law which are applicable to the zone wherein such portion of the said lot is located.

(2) Notwithstanding anything to the contrary in Clause (1) of this Subsection, where a use or uses are permitted by the zones applying to two or more portions of the lot, those portions shall be considered to constitute a single lot as defined herein and the highest or most restrictive zone requirements pertaining to such use or uses in all the pertinent zones shall apply throughout. Where the lot includes an Environmental Protection Zone, the property may be treated as one lot for the purpose of lot area, coverage, and/or lot frontage so long as the applicable zone regulations can be met.

The subject lands are zoned Agricultural (A) and Future Development (FD) within the Thames Centre Zoning By-law. The Agricultural (A) Zone permits a range of agricultural and related uses. The Agricultural (A) Zone requires a minimum lot area of 40 hectares (98 ac) and a minimum lot frontage of 150 metres (492.13 ft). The Future Development (FD) Zone permits existing permitted uses. The Future Development (FD) specifies the minimum lot area and frontage, front, side and rear yard requirements, the maximum lot coverage and building height shall remain as they lawfully existed as of the day of the passing on the by-law and permits one (1) dwelling unit per lot.

Analysis:

The *Planning Act* allows for the council of a local municipality to pass a by-law to authorize the temporary use of land for a period of time not to exceed three years from the day of the passing of the by-law.

The Thames Centre Official Plan allows temporary uses for up to three (3) years including the construction of a second dwelling while retaining the existing dwelling under certain circumstances. The Official Plan provides criteria for the evaluation of temporary uses namely: the proposed use is temporary; the proposed use will not create detrimental effects on the surrounding area; compatibility with adjacent and surrounding area; the proposed use can be adequately serviced and will not create any undue traffic or parking impacts; and the proposed use shall conform to the general intent of the Plan.

The foregoing criteria have been satisfied or are capable of being satisfied by having the owner enter into an agreement with the Municipality to require removal of the existing dwelling upon the expiry of the temporary use by-law within three (3) years. A draft agreement is provided for Council's consideration, which includes a requirement for the payment of \$5,000 security deposit due at the time of the issuance of the building permit.

Under the Agricultural (A) zoning, one (1) single detached dwelling is permitted. Staff would like to note, although existing permitted uses are allowed to continue within the Future Development (FD) Zone, as noted above, the multiple zones provision in the zoning by-law would not allow for a single detached dwelling in both the Agricultural (A) Zone and the Future Development (FD) Zone. One (1) single detached dwelling is permitted on the property as a whole, therefore this planning approval is being sought. The proposed temporary use by-law would permit the existing single detached dwelling to remain until the end of the period specified in the by-law (whichever occurs first). At that time, the dwelling would have to be removed from the lands. As noted, the new dwelling is proposed to be constructed north of the existing dwelling and will meet the setback requirements of the Agricultural (A) Zone.

Furthermore, the subject application would ensure consistency with the Provincial Planning Statement and conformity with the County and Thames Centre Official Plans.

Circulation Comments:

Agency Comments

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

County Engineer:

No comments – not a County road.

Director of Public Works:

No comments/concerns with this application.

Drainage Superintendent:

No comment.

Chief Building Official:

No comment.

Public Comments

In the circulation of the notice of public meeting to surrounding property owners, no responses have been received from the public as of the date of this 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

Prepared by: A. Kertesz, Planner
Reviewed by: A. Storrey, Director of Planning & Development Services
Reviewed by: D. Barrick, Chief Administrative Officer