



MUNICIPALITY OF THAMES CENTRE

PLANNING & DEVELOPMENT SERVICES

REPORT NO: PDS-071-23

FILE: Z30-23

TO: Mayor and Members of Council

FROM: Marc Bancroft, Director of Planning and Development Services

MEETING DATE: November 27, 2023

**RE: APPLICATION FOR ZONING BY-LAW AMENDMENT
JACK NORMAN & ROSEANNE STALKER
23061 NISSOURI ROAD**

1. PURPOSE

The purpose and effect of this Application is 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) and to allow the ARU to be constructed in the front yard.

2. BACKGROUND (see attached map)

The subject property is a 3.7 hectare (9.21 ac) lot situated on the west side of Nissouri Road, north of Plover Mills Road (County Road 16). The property contains a two-storey single detached dwelling with a floor area of approximately 302 square metres (3,253 ft²) and an accessory structure with a floor area of 232 square metres (2,497 ft²), all of which are clustered at the rear of the property and setback approximately 325 metres (1,066 ft) from Nissouri Road. The lands are privately serviced by well and septic system. The property also backs onto the Thames River.

The subject lands are designated 'Agricultural' and 'Protection Area' according to the Thames Centre Official Plan and are zoned Agricultural (A) and Environmental Protection (EP) according to the Thames Centre Comprehensive Zoning By-law. The lands contain natural heritage features identified by the Middlesex Natural Heritage Systems Study (MNHSS) 2014 including significant woodlands and regionally significant wetlands. The lands are not actively farmed and are currently used for residential purposes. A portion of the lands are regulated by the Upper Thames River Conservation Authority. Surrounding land uses vary and include agricultural uses to the east, residential and agricultural uses to the south and natural heritage features including significant woodlands located north and west of the property.

The applicants are proposing to construct a single storey Additional Residential Unit (ARU) to be located in the front yard and setback approximately 325 metres (1,066 ft) from the existing dwelling. The proposed ARU would have a floor area of 227 square metres (2,443 ft²) containing an attached garage and basement. The applicants are proposing a separate driveway off Nissouri Road to access the ARU, which would be privately serviced by a well and septic system. The applicants have advised the proposed location of the ARU is the most ideal placement due to the proximity of the existing dwelling's septic bed and to ensure the ARU is situated at least 50 metres (164 ft) from adjacent natural heritage features.

3. ANALYSIS

The Provincial Policy Statement (PPS) provides policy direction to encourage an appropriate range and mix of housing types (including ARUs) to meet long-term needs of the community. The Planning Act also requires that official plans include policies to authorize the use of ARUs either within a single, semi or townhouse dwelling within a structure ancillary or accessory to that form of housing in areas specified by a municipality.

The County of Middlesex Official Plan also encourages a broad range of housing types to meet projected demographic and market requirements of current and future residents including the provision of alternative forms of housing. The County Plan states that ARUs created outside of settlement areas shall be grouped to the primary dwelling, shall meet Minimum Distance Separation (MDS) formulae, and shall be prohibited from being severed from the property unless as part of the severance of the primary dwelling unit as a residence surplus to a farming operation. The intent of grouping or clustering the ARU with the primary dwelling is to prevent the severance of an ARU on a separate parcel of land and to minimize impacts on the agricultural community with respect to MDS requirements for any nearby existing or future livestock operations. Considering the proposed ARU is not being clustered with the primary dwelling but rather setback approximately 300 metres (984 ft) from the said dwelling, this proposal does not conform to the County Plan.

The Thames Centre Official Plan also includes policy direction in allowing the addition of ARUs including in agricultural areas provided private servicing can be appropriately addressed. The Official Plan also notes that any regulation concerning ARUs shall limit the size of the ARU to ensure it remains clearly secondary to the primary dwelling unit and furthermore compliance with the Ontario Building Code shall be required. Those matters are capable of being addressed at the time of the issuance of the building permit and through the zoning regulations that limit the size of the ARU. Through recently approved Amendment No. 27 to the Thames Centre Official Plan and similar to the County Plan, any proposed ARU needs to be grouped or clustered with the primary dwelling. Considering the proposed ARU is not being clustered with the primary dwelling as mentioned previously, this proposal does not conform to the Thames Centre Official Plan.

According to the accessory uses provisions in the Thames Centre Comprehensive Zoning By-law, a building or structure accessory to a single detached dwelling, apart from a detached garage in a residential zone, is not permitted in the front yard. The intent of this requirement is to ensure that the primary dwelling remains the main residential use on the property. Staff have concerns with the proposed location of the ARU as it would not be clustered with the existing dwelling and would appear to be the primary residential use on the property considering the ARU is to have a separate driveway and the existing dwelling is substantially setback from Nissouri Road and mostly concealed by trees.

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;

This is capable of being addressed at the building permit issuance stage.

- 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 the preferred method of servicing development;

The adequacy of the private servicing will need to be demonstrated as a prerequisite to obtaining a building permit.

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

This property has access onto Nissouri Road, north of Plover Mills Road (County Road 16) being a local road designed to municipal standards. No concerns were identified by the Director of Public Works regarding the subject application.

- 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 a public road, Nissouri Road.

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

The lands are smaller in size than the minimum lot area of 40 hectares and have less frontage than required although the lands contain sufficient lot area for the proposed use.

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

Considering the proposed ARU is to be setback at least 50 metres (164 ft) from adjacent natural heritage features, unacceptable adverse impacts are not anticipated. As such, an Environmental Impact Study (EIS) would not be required.

Based on the foregoing, the subject application, although consistent with the general policy direction offered by the Provincial Policy Statement, does not conform to the County of Middlesex Official Plan or the Thames Centre Official Plan. As such, the subject application should be denied.

Alternatively, the applicants' agent may request that their clients' application be deferred to allow an opportunity for an amended submission to demonstrate conformity with the applicable Official Plans, by grouping or clustering the proposed ARU in proximity to the existing residential use (septic bed included) located at the rear of the property and outside the UTRCA regulated area. In this instance, an EIS would not be required to allow the proposed ARU considering the lands are already pre-zoned to allow the construction of any building or structure in accordance with the permitted uses of the Agricultural (A) Zone regardless of the adjacent natural heritage features since such building or structure do not require a Planning Act approval. The proposal would not result in a change in land use but rather the addition of a qualifier to the permitted uses to allow the proposed ARU. It is important to note that the foregoing matters were shared with the applicants' agent in advance of the preparation of this report.

3.1 Agency Comments

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

3.1.1 County Engineer: No comment.

3.1.2 Upper Thames River Conservation Authority: No objection.

3.1.3 Director of Public Works: No comment.

3.1.4 Drainage Superintendent: No comment.

3.1.5 Chief Building Official:

The proponent is advised that building permits are required prior to the construction of the proposed additional residential unit and associated on-site sewage system. The proponent is also advised that a portion of the property is regulated by Upper Thames River Conservation Authority (UTRCA) and a permit(s) or clearance letter(s) will be required from UTRCA prior to the issuance of any building permits.

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3.2 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.

4. RECOMMENDATION

THAT Application for Zoning By-law Amendment Z30-23 filed by Zelinka Priamo Ltd. c/o Aliyah Richards on behalf of Jack Norman and Roseanne Stalker for lands legally described as Part of Lot 26, Concession 2 (geographic Township of West Nissouri), Municipality of Thames Centre and known municipally as 23061 Nissouri Road, be **denied**.

Prepared by: Marc Bancroft, Director of Planning & Development Services

Reviewed by: David Barrick, Chief Administrative Officer