



## PLANNING & DEVELOPMENT

57 Napier Street, Goderich, Ontario N7A 1W2 CANADA

**Phone:** 519.524.8394 Ext. 3 **Fax:** 519.524.5677 **Toll Free:** 1.888.524.8394 Ext. 3

[www.huroncounty.ca](http://www.huroncounty.ca)

### **Zoning By-law Amendment Report to Municipality of South Huron Council**

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Re: Temporary Zoning By-law Amendment Application (#D14-22/17)

Location: Conc S BDY S PT Lot 9, Stephen Ward (39074 Mt Carmel Drive)

Applicant: John Orville Brock

Owner: John Orville Brock

This report is submitted to South Huron Council for the Public Meeting on February 20, 2018.

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### **RECOMMENDATION**

It is recommended this rezoning application for a temporary use **be approved for a three (3) year period.**

### **PURPOSE AND EFFECT**

This Temporary Use By-law amendment affects the property known municipally as 39074 Mr Carmel Drive. The legal description of the subject lands is Conc S BDY S PT Lot 9, Stephen Ward, Municipality of South Huron.

At present the applicant has extended the area of the permitted salvage yard boundary and related vehicle storage area beyond the permitted C4-1 (Salvage Yard Special Provisions) zone boundaries into the AG1 zone and is therefore in contravention to the Township of Stephen Zoning By-law. The applicant received a temporary use by-law (By-law # 46-2015) to allow temporary use of this land and facilitation of removal of vehicles in the area that has extended beyond the zoned C4-1 area. This temporary use expires in July 2018. The applicant is requesting an extension to this Temporary Use to provide time to remove the cars that have encroached beyond the C4-1 zone area, noting issues with timing required to prepare vehicles so they can be removed from the site. The property owner has requested an extension for a ten (10) year period.

This By-law amends Zoning By-law #12-1984 of the former Township of Stephen.

## COMMENTS

### *Background*

Based on aerial photography dating back to 1978 the subject lands were once used for an agricultural farm operation which included cropped land; structures on the site included a dwelling and shed. In 1984, Mr. John Brock signed an agreement with the former Township of Stephen to operate a salvage yard on the premises. Under this agreement, the Township added specific perils to adhere by to ensure an orderly operation of his business.

Since this agreement was signed Mr. John Brock has indicated that his business has expanded to include towing, and the number of vehicles on the site has increased to approximately 1200. With this expansion, the area used for the vehicle storage has expanded beyond the permitted Salvage Yard Special Provisions (C4-1 Zone) vehicle storage area in the 1984 agreement, and has encroached into the lands zoned General Agriculture (AG1).

Figures 1 and 2 show the area included in the C4-1 zoning and the area of vehicle storage that has encroached beyond the permitted boundaries. The area identified in Figure 1 in Blue, is the lands under the Temporary Zoning By-law #46-2015 and the area under this current request for additional Temporary Use.

**Figure 1**

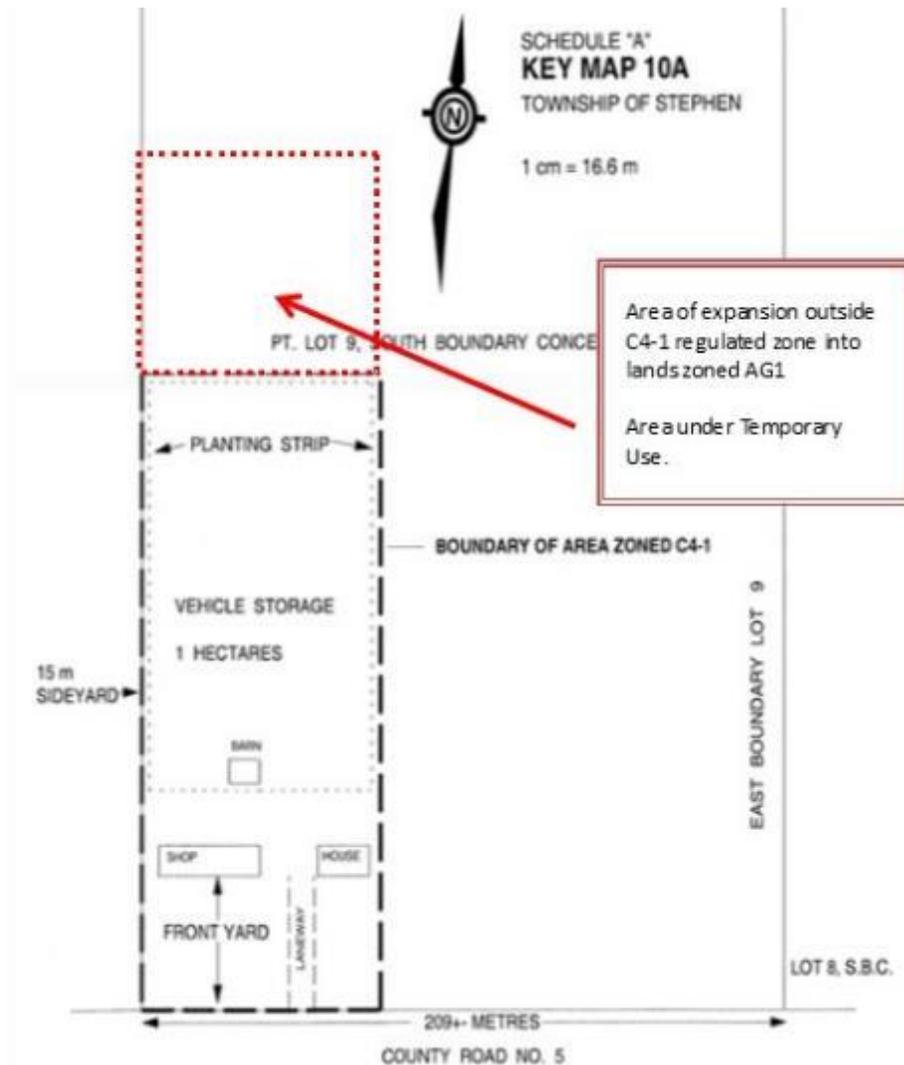


Area in BLUE indicates the area of vehicle storage that has encroached beyond the permitted C4-1 zone and into General Agricultural (AG1) Zone. **Area under Temporary Use.**

Area in RED indicates the Vehicle Storage area as permitted with in the Stephen Zoning By-Law and specified in Key Map 10A

Area in YELLOW indicates the Specified are that is Zoned C4-1 as permitted with in the Stephen Zoning By-Law and specified in Key Map 10A

**Figure 2. Zone Map showing area under Temporary Use.**



*South Huron Official Plan*

The South Huron Official Plan designates the property as Agriculture. Agricultural areas predominate in the Municipality of South Huron and the primary use of this land is for farming of all types, sizes and intensities, including related uses and on farm diversified uses. In 1984 Mr. John Brock negotiated an agreement to operate his salvage yard on his lands designated Agriculture. This use is existing and is permitted based on the agreements made between the former Township of Stephen and Mr. John Brock. This current application seeks to extend the temporary use to provide time to remove vehicles that have extended beyond the permitted C4-1 zone provisions to ensure his property and business come into compliance with zoning provisions.

*Township of Stephen Zoning By-law*

The subject lands are currently zoned AG1 (General Agricultural) and C4-1 (Salvage Yard

Special Provisions) in the Township of Stephen Zoning By-law. The entire property is approximately 20.54 acres (8.31 hectares) in size. The applicant currently operates a salvage yard on the south west portion of this property, in the area zoned C4-1. A dwelling, shop and shed are located on the subject lands. The area of vehicle storage has extended beyond the permitted C4-1 boundaries and is encroaching into the AG1 Zone. A previous three (3) year temporary use was granted through By-law # 46-2015 to provide the owner time to remove these vehicles; this By-law will expire in July 2018. The applicant has submitted this application to request additional time to remove these vehicles, and has requested a temporary use for a further ten (10) years.

Under the Planning Act, Councils are permitted to allow a use of a property on a temporary basis. Extension of a temporary use is evaluated based on the merits and evidence submitted by the applicant to show how they have worked to meet the requirements of the temporary use, and/or provide justification as to why additional time is required or an extension should be granted.

*Note per the applicant request for a ten (10) year extension to Temporary Use:*

*Under Planning Act Section 39, Council is entitled to permit a by-law authorizing a temporary use for a period of time, which shall not exceed three years from the day of the passing of the by-law.*

*Further, Section 39(3) allows for an extension to a temporary use, in that “the Council may by by-law grant further periods of not more than **three years** each during which the temporary use is authorized”.*

*The request of 10 years has been made by the applicant; Under the Planning Act, Council is entitled to permit an extension to a temporary use by-law of not more than three (3) years.*

#### *Application Review*

In support of this application, the applicant/owner included a letter outlining the reasons he is unable to move the vehicles in the time allotted under the current three year use. Please see next page.

Figure 3. Applicant Letter.

- ① unable to remove vehicles because
  - weather
  - stinging Nettle plants - was sprayed by airplane.
  - end of vehicle permit required to move cars
  - prepare cars to move requires ~~to~~ removal of fluids - please see attached document for end of vehicle life.
- ② please see photos showing car removal.
- ③ Based on the End of Life requirements I can only process 50 ~~cars~~<sup>cars</sup> a year. Again see end of life attachment.

Figure 4 and 5. Photos of site car removal. Applicant notes photos taken in 2016.





Based on applicant letter, Point #3 and “End of Life Requirements”, below are a few points taken from documentation included with the application from the Ontario Government Website regarding “End-of Life vehicle waste disposal site user guide for Environmental Activity and Sector Registry”:

- “An ELV is a motor vehicle or motor vehicle hulk that has been abandoned, or is being managed for the purposes of recycling it, reusing it for a purpose other than an operable motor vehicle, or disposal. ELV waste disposal sites are where ELVs are managed. The management of ELVs includes collecting, handling, transporting, storing, processing and disposing of it. ELV has replaced the term ‘derelict motor vehicle’”;
- “Any person who engages in an activity prescribed by O. Reg. 85/16 must ensure that all fluids have been removed and collected from all material permitted to be managed at the site prior to shearing, crushing or shredding (see paragraph 1 of subsection 7 (1)).”
- “O. Reg. 85/16 sets out the types of records that must be created and retained for two years. The owner or operator of an ELV waste disposal site is required to retain records and be able to make the records available for inspection upon request by a provincial officer.”
- If using a crusher or shearer, “you use or operate a crusher or shearer for 50 days or less a year” or certain limiting factors, i.e. minimum distance to a nearest noise receptor are met.

### *Planning Recommendation*

On review of the above, the applicant has provided some valid reasons to demonstrate that works have taken place on the property to remove the encroaching vehicles. It is therefore recommended that the applicant be provided a further three (3) year extension through

temporary use to allow for continued removal of vehicles beyond the C4-1 zone area to come into compliance with the related zone provisions for this site.

It is recommended the following provisions make up the Temporary Use By-law, which are included in the attached Temporary Use Zoning By-law Amendment for Council consideration:

1. To permit a three (3) year time frame to remove vehicles stored outside the permitted C4-1 vehicle storage area. The lands included in this temporary use area represent an approximate width of 94 metres by a depth of 83 metres and abut the north boundary of the designated C4-1 zone.
2. To permit, during a three (3) year time frame, equipment and storage containers on a temporary basis to support the clean-up work on site.

### **STAF AND AGENCY COMMENTS**

This report has been prepared in advance of the public meeting. At the time of preparation, no comments were received from any agencies or the public. Comments may arise at the public meeting.

I will be in attendance at the public meeting to answer questions of Council and the public on this Zoning By-law amendment.

### **SUMMARY**

It is recommended the applicant be granted a further three (3) year temporary use to allow time to remove vehicles that have encroached beyond the permitted C4-1 salvage yard zone area.

Sincerely,

“original signed by”

Sarah Smith  
Planner