

# THE MUNICIPALITY OF LAMBTON SHORES

**Report PL 03-2024**

**Council Meeting Date: January 16, 2024**

**TO:** Mayor Cook and Members of Council

**FROM:** Will Nywening, Senior Planner

**RE:** ZBA Application ZO-07/2023 – Clyde St, Forest – Gold Leaf Properties Inc.

## **RECOMMENDATION:**

**THAT** Report PL 03-2024, relating to a Zoning By-Law Amendment Application submitted by Gold Leaf Properties Inc., be received;

**THAT** ZBA Application ZO-07/2023, submitted by Gold Leaf Properties Inc, requesting an amendment to Zoning By-Law 1 of 2003 to rezone property south of Clyde St, Forest, to a site-specific R3 Zone permitting a 7m rear yard, for permitting a townhouse development, be approved, subject to the inclusion of holding provisions on a portion of the property; and

**THAT** By-Law 04 of 2024 be approved.

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## **SUMMARY**

This report relates to the Zoning Amendment application submitted by the Gold Leaf Properties Inc, affecting lands located south of Clyde St, Forest, described as Con 14, Pt Lt 30, Plan 14, S Pt Lt 112, Lot 113, S Pt Lt 115. The applicant proposes to rezone the properties to a new site-specific Residential-3 (R3) Zone with a 7m minimum required rear yard setback. The R3 Zone is the Municipality's standard multiple dwelling Zone and the zoning amendment would permit the applicant to develop the property for a 19-unit townhouse development.

## **BACKGROUND**

Official Plans: Forest is designated "Urban Centre" in the Lambton County Official Plan.

The subject parcel and much of the immediate area is designated "Residential" in the Lambton Shores Official Plan. The exceptions to this are the "Open Space" designation applying to the former railway trail to the south and a municipally-owned parcel to the west of the subject lands. The "Downtown Commercial" designation is a little to the east and abuts a small portion of the subject lands in the southeast corner. The Lambton Shores OP also designates a "Significant Woodlot" and "[St Clair Region Conservation

Authority] General Regulation Area” at the southwest corner of subject lands where they are crossed by Hickory Creek’s valleylands.

The Residential Area policies of the Lambton Shores Official Plan permit medium density developments, including townhouses, in the “Residential” designation.

The proposed use of the property for a townhouse development is consistent with the County and Lambton Shores Official Plan designations.

Zoning By-Law: In Zoning By-Law 1 of 2003, the subject lands are designated as “Exception 6 to the Residential-1 (R1-6) Zone”. This is a Zone specific to the subject lands, permitting single detached dwellings, and having zone provisions very specific to a 2006 development concept with which current Staff have no familiarity. The southwest corner of the property including and adjacent to the Hickory Creek valleylands is zoned “Environmental Protection – Hazard (EP-H) Zone”.

Site Plan Approval: The applicant has also submitted an application for site plan approval for the proposed development. The Province amended the *Planning Act* recently to delegate site plan approval to Staff (Council chose the CAO for that duty) but the power to enter into site plan agreements remains with Council. While still working out some of the finer details of the site plan with the applicant, Staff is now satisfied that the proposed use and general layout are viable. Staff will come back to a future Council meeting with finalized site plans and a draft agreement for Council’s approval and/or with several items for which Staff may want Council direction.

Submission Materials: The applicant submitted the following materials in support of the zoning amendment and site plan approval applications. Those marked with an asterisk are included in Council’s agenda package:

- Zoning Amendment Application Form\*
- Site Plan Approval Application Form
- Planning Justification Report\*
- Architectural Renderings\*
- Site Plan Drawing\*
- Landscaping Plan
- Civil Drawings
- Design Brief (Functional Servicing Report)
- Photometric (Lighting) Plan
- Traffic Impact Brief
- Geotechnical Report
- Environmental Impact Study (and Addendum Letter)
- Environmental Site Assessment (Phase I and II)

St Clair Region Conservation Authority: The SCRCA provided formal written comments, which are included in the agenda. They indicate no objection to the proposed development. More details of their comments are discussed below.

## **DISCUSSION**

Proposed Townhouse Use: Architectural renderings of the proposed townhouses and the most recent draft of the site plan are attached to Council's agenda. The development consists of a total of 19 townhouse units, split between 4 buildings ranging from 3 to 7 units each. The development would remain under a single ownership, with all units being rentals.

The property is currently zoned for single detached dwellings. The property is a relatively large parcel close to the downtown and abutting the Town's open space network of trails, specifically sharing its south lot line with the former railway trail. This is a good location, in Staff's opinion, for a medium density residential development. The proposed Townhouse use is compatible with adjacent land uses.

Access: All units would front onto an internal, private road, connecting to the Municipal road network at the south end of Argyle Street. The applicants completed a Traffic Impact Brief, which concludes that the existing road network can support the additional traffic. Improvements (e.g. curbing) and road widenings are proposed, and will be dealt with through the site plan agreement. Public Works Staff have reviewed and accepted the TIB.

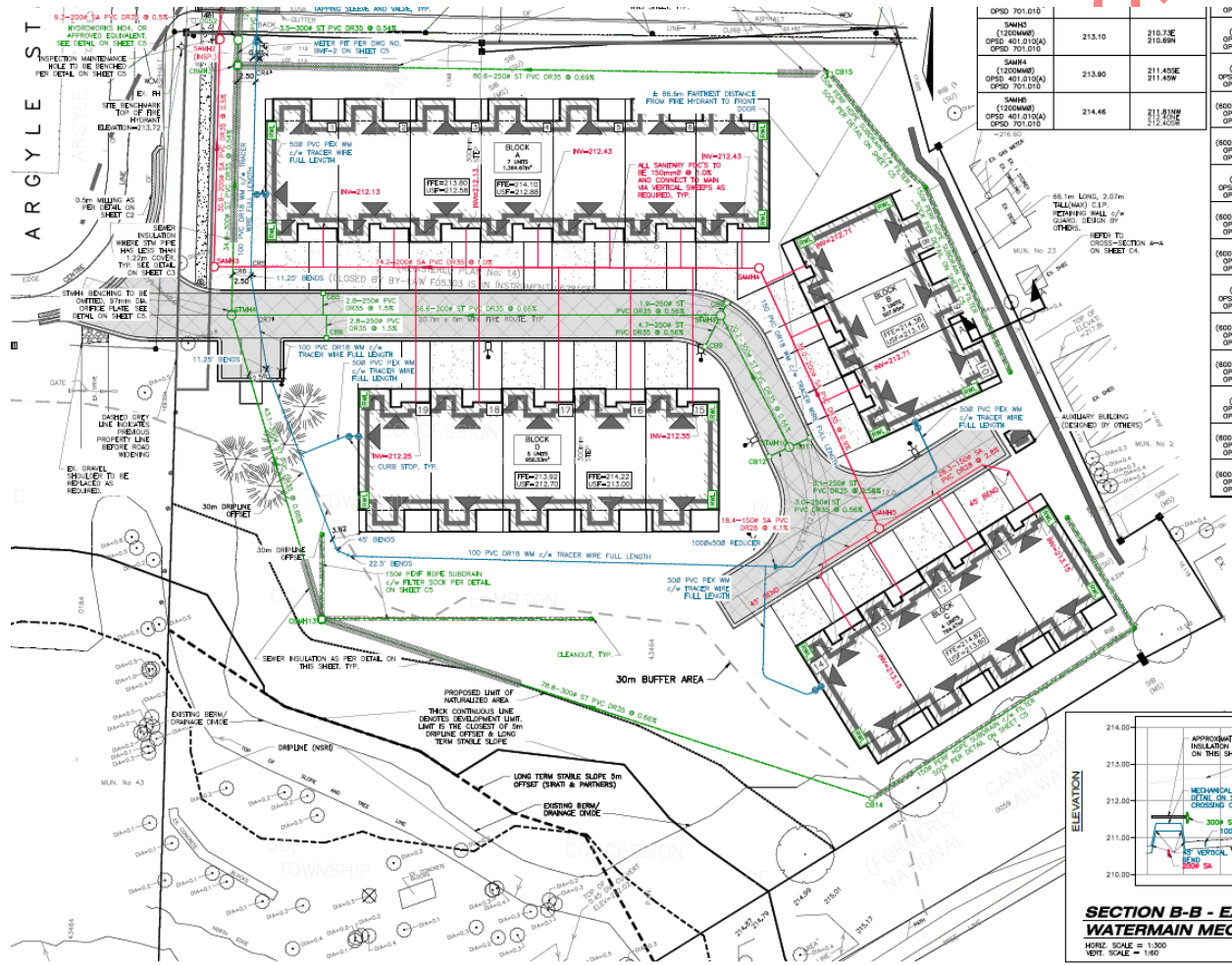
Natural Heritage: Hickory Creek crosses through the southwest corner of the property along with the associated valleyland and woodlot. At the time that preliminary discussions with the applicant began with respect to this development, Conservation Authorities were still permitted to assist Municipalities with natural heritage matters, and the SCRCA provided some preliminary direction in this respect. The applicants completed an EIS with respect to the natural heritage features, finding nothing remarkable. The applicant's natural heritage consultant also provided an addendum to clarify some of the EIS's recommendations.

The main recommendation of the EIS is the naturalization of much of the area between the proposed townhouses and the woodlot / valleyland top of bank. Additional recommendation of the EIS (like sediment fencing) may be incorporated into the site plan agreement.

Natural Hazards: The SCRCA reviewed the geotechnical report and agrees with its conclusions respecting the extent of the erosion hazard. The southwest corner of the lot will remain in the EP-H Zone, which will be adjusted slightly to match the extent of the area regulated by the SCRCA for flooding and erosion hazards. No development is proposed in the regulated area and the SCRCA is satisfied the EP-H Zone encompasses the extent of the erosion and (emergency) access allowance.

Man-Made Hazards: The property is the former location of a cannery and provincial legislation requires the filing on a Record of Site Conditions before the property can be developed for residential uses. To this end the applicant has completed a Phase I and II Environmental Site Assessment.

The applicant will only be filing the RSC on a portion of the property. Areas closer to the top of bank of a watercourse are subject to different RSC standards. Rather than assess and remediate that area, the applicant is limiting the development to the portions of the property further from the top of bank. For this purpose, the applicant has surveyed a line measuring 30m from the top of bank to establish the limits of the area that will be cleared for Residential use under the RSC. A portion of the stormwater management and drainage works will encroach into this 30m setback (grey dashed line below).



Staff has not dealt before with a partial RSC and therefore consulted with the Ministry of Environment Conservation and Parks. MECP confirmed that it is a permitted practice to file an RSC on only part of a lot, with a surveyed line. MECP also confirmed that it is not a problem to have stormwater and drainage infrastructure associated with residential uses within the “uncleared” area as long as the qualified person who completed the ESA is supportive and residential buildings and any associated open spaces and amenity uses are located within the portion of the property on which the RSC has been filed. MECP confirmed that those areas on which the RSC has not been filed may not be used as part of any outdoor amenity space or lawn. These areas must be somehow separated or differentiated from the rest of the property to prevent their use. Staff is still working through

the details of this aspect with the applicants in the site plan. A possible solution is to have the naturalized area recommended by the EIS include the area for which the RSC is not filed.

Holding Provision: In order to address the fact that the applicant will not be filing an RSC on the portion of the lot towards the top of bank, Staff recommends that portion of the property be placed into a “Holding Zone” pursuant to section 36 of the *Planning Act*. The boundary of the holding zone would be deemed to correspond with the surveyed line associated with the filed RSC. The provisions of the holding zone would prohibit buildings and landscaped open space uses associated with residential use until such time as further environmental site assessment and/or remediation is completed. Assessment and remediation is not proposed, but the holding provision provides a record. The wording of the holding provision is chosen carefully, using terms appropriately defined in the zoning by-law, to not prohibit the infrastructure that is proposed beyond the surveyed line (in the area that is not cleared for residential use).

Reduced Rear Yard: The Zoning By-law’s definition section defines the front lot line as the shortest lot line abutting a road allowance. Given frontage on both Argyle and Clyde Streets, and a number of sharp jogs in the Clyde St lot line(s), the technical application of the definition does not result in the front and rear yard lot lines being located intuitively. The proposed site-specific Zone includes a clarification that Clyde St is considered the front lot line, making the south lot line abutting the former railway the rear lot line.

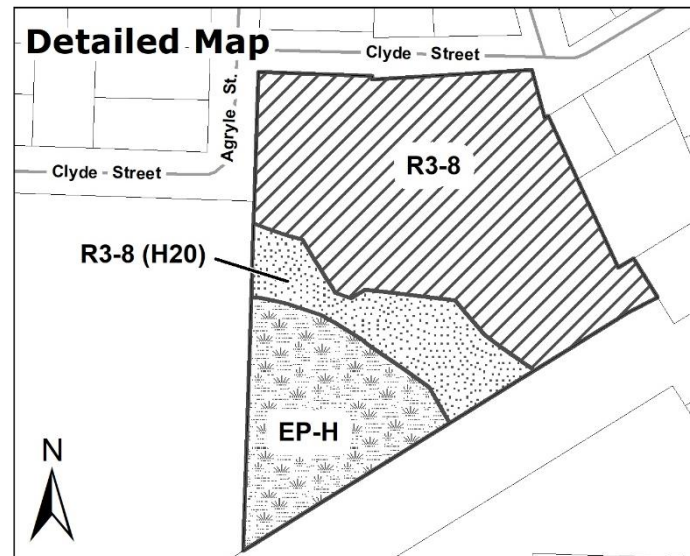
A 7.0m setback is proposed from the back of the 4-unit townhouse block to the south lot line, rather than the 10m rear yard required by the standard R3 Zone. Staff has no concern with this. There is a wide, unoccupied, grassed area between the trail and the property line that will give the impression of a greater setback. 7m is a typical rear yard setback for many residential zones. Also, the 7.0m is measured to proposed porches rather than the main wall of the townhouse building itself.

As the property is to be developed as a whole, required yard setbacks are based on the lot as a whole, not individual units. The 3-unit townhouse will back onto the easterly lot line, which will be considered an interior side yard. Although only a 3m setback is required by the R3 Zone, the development will provide a 5.6m setback. Again this is to the covered porches, and the main wall of the townhouse will be set back further. These units will also sit lower than the abutting lands, with a 2m high retaining wall proposed at the property line, so this will prevent overlook from the new townhouse use over the existing single detached residential use on the higher, abutting lot.

Draft Amending By-law: Staff has drafted an amending by-law, included in the by-laws section of Council’s agenda. As drafted, the amendment would:

- Adjust the “Environmental Protection – Hazard (EP-H) Zone” on the subject lands slightly to match the SCRCA regulated area.

- Change the zone designation on the balance of the subject lands from “Exception 6 to the Residential-1 (R1-6) Zone” to a new “Exception 8 to the Residential-3 (R3-8) Zone”.
- Apply a “Holding Provision 20 (H20)” symbol to the portion of the lands on which a RSC is not being filed.
- Delete section 7.3 f) from the Zoning By-law, since the R1-6 Zone will no longer apply to any property in the Municipality.
- Add text to the R3 Zone’s Special Provisions at Section 9.4 of the Zoning By-law establishing the new R3-8 Zone provisions, which would include:
  - A 7.0m minimum rear yard setback.
  - Clarification which lot lines are front, interior side, exterior side, and rear lot lines.
- Add text to the Holding Provisions at Section 4.3.2 of the Zoning By-law with provisions as described above.



Planning Opinion: The creation of a townhouse on this property is compatible with abutting land uses and consistent with the “Residential” designation and other applicable policies of the Official Plan. Although a number of details need to be worked out through the site plan approval process, the applicant has provided sufficient information to show that the use and general proposed layout are appropriate.

In Staff’s opinion the proposed zoning amendment, as drafted, conforms to applicable Planning policies, is appropriate, and represents good planning. Staff can support the amendment as proposed subject to the inclusion of a holding provision on the portion of the lot on which an RSC is not being filed.

The site plan approval process and site plan agreement will address specific details of the development to further address matters of Municipal and public interest.

**ALTERNATIVES TO CONSIDER**

None at this time.

**RECOMMENDED ACTIONS**

Staff recommend that Report PL 03-2024 be received, that Zoning By-law Amendment Application ZO-07/2023 be approved subject to the use of a holding provision on a portion of the lot, and that the implementing by-law be passed.

## FINANCIAL IMPACT

The applicant has paid the Municipality a \$1300 application fee for rezoning.

## CONSULTATION

The applicants

Lane Chevalier, Ministry of Environment, Conservation and Parks

St Clair Region Conservation Authority

James Marshall, Fire Chief

Nick Verhoeven and Sam Shannon, Public Works Department

Steve McAuley, CAO

24-2024



**Subject Lands (2020 Air Photos)**