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# HALDIMAND COUNTY

## Report PDD-11-2024 Temporary Use By-law Amendment to Permit Uses Associated with Special Events – Royal Canadian Legion-Dunnville

For Consideration by Council in Committee on May 21, 2024

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### OBJECTIVE:

To consider a Temporary Use Zoning amendment to permit the exclusive use of the existing commercial parking lot for patio and seating purposes during the Mudcat Festival and other similar events.

### RECOMMENDATIONS:

1. THAT Report PDD-11-2024 2024 Temporary Use By-law Amendment to Permit Uses Associated with Special Events – Royal Canadian Legion-Dunnville be received;
2. AND THAT application PLZ-HA-2024-070 to permit a temporary use by-law for a period of three (3) years to May 27<sup>th</sup>, 2027 to permit use of the parking area for full patio and entertainment purposes during special events, be approved for the reasons outlined in the Report PDD-11-2024;
3. AND THAT the application is considered to be consistent with the Provincial Policy Statement, 2020, conforms to A Place to Grow: Growth Plan for the Greater Golden Horseshoe, 2020 and the Haldimand County Official Plan, and has sufficient regard for matters of provincial interest under the *Planning Act, 1990*;
4. AND THAT the temporary use by-law attached to Report PDD-11-2024 be approved at a future Council meeting.

**Prepared by:** Shannon VanDalen, MCIP, RPP, Manager of Planning and Development

**Respectfully submitted:** Mike Evers, MCIP, RPP, BES, General Manager of Community & Development Services

**Approved:** Cathy Case, Chief Administrative Officer

### EXECUTIVE SUMMARY:

The Royal Canadian Legion Branch 142 (Dunnville Legion) is seeking a Temporary Use By-law and permissions for the extension of their patio area, proposing to fence off the entire parking lot exclusively for patio space during the annual Dunnville Mudcat Festival in June of each year, as well as the option for other similar special events associated or in conjunction with a permitted event as approved through the County's Festival and Event Policy. The intent of the extension is to provide additional seating and entertainment space for patrons during the special events. It is Planning staff's opinion that the proposal is consistent and conforms to Provincial and County policy frameworks. Planning staff recommends approval of this application and passing of the attached Temporary Use By-law, which includes conditions of operation and an expiry date.

**Background:**

The subject lands are known municipally as 305 Queen Street, Dunnville and are located on the north side of Queen Street, on the north-west corner with Maple Street (Attachment 1). The subject lands are approximately 0.14 hectares (0.35 acres) containing the existing Dunnville Legion facility, with the parking area located to the rear of the building and accessed off Maple Street.

The area is predominately commercial in nature; however, it is noted that there are some legal non-conforming residential dwellings immediately north of the Dunnville Legion.

**ANALYSIS:**

Through the review of this proposal, Planning staff have identified the following key planning matters:

**Planning Act:**

The *Planning Act* is the provincial legislation that sets out the ground rules for land use planning in Ontario. It sets out Provincial interests, policy statements, planning applications and the planning process and timelines that are required to be observed.

The *Planning Act* empowers Council to pass a by-law for the temporary use of land, buildings, or structures for any purpose that is otherwise not recognized or prohibited by the Zoning By-law. The *Planning Act* requires the temporary use by-law to define the area to which it applies and to specify the period of time for which the authorization shall be in effect, which cannot exceed three (3) years from the day of passing of the temporary use by-law. Prior to expiry of the temporary use by-law, the *Planning Act* authorizes Council to grant extensions for not more than three (3) years per extension. The extension request would be circulated to neighbours for input and feedback—the same as the initial application—and would require Council's approval. Upon expiry of the temporary use by-law, and if there is no extension, the use is no longer permitted on the subject lands. The applicant could continue to request extensions prior to expiry as the *Planning Act* does not limit the number of times that Council can extend a temporary use by-law.

In this case, Council is authorized (should they choose) to pass a temporary use by-law to permit the Dunnville Legion to utilize the entirety of the parking lot for additional seating and entertainment area associated with special events, in particular the annual Mudcat Festival. The permissions would only be applicable when there is a permitted special event occurring in town, otherwise the parking provisions on-site would have to be maintained and the patio would only be permitted to be as currently approved.

**Provincial Policy:**

The Provincial Policy Statement (PPS) (2020) and A Place to Grow: Growth Plan for the Greater Golden Horseshoe (2020) are high level planning documents that provide direction on matters of provincial interest related to land use planning, development, and growth. The policies seek growth and development with existing settlement areas and promote the economic growth and prosperity for communities. The subject lands are located within the urban centre of Dunnville, and the temporary use is proposed to assist the Dunnville Legion relating to outdoor seating in support of special events and also provide additional opportunities to accommodate tourism and attraction during special events.

These policy frameworks are general, as they apply province wide; they do not drill down into all local circumstances, issues, and policies. This is the function of the Haldimand County Official Plan (OP). As such, the proposal is consistent with the PPS and conforms to A Place to Grow.

## **Haldimand County Official Plan:**

The Official Plan (OP) creates the long-term framework for guiding land use changes in the County to 2051 by protecting and managing the natural environment, directing and influencing growth patterns, and facilitating the vision of the County as expressed through its residents. The OP also provides the avenue through which Provincial Policy is implemented into the local context. Decisions on temporary use by-law applications must conform to the OP.

The subject lands are designated 'Community Commercial' in the OP and located within the downtown area of Dunnville. The Community Commercial designation permits a wide range of commercial uses and activities including, retail and service commercial facilities; business; personal and professional offices; recreation and entertainment facilities; communication and transportation services; hotels; restaurants; private clubs, government offices, community and cultural facilities, and public and private institutions. The Official Plan notes that the County will continue to support the viability and vitality of the commercial core and encourage development and redevelopment of businesses. This includes flexibility to react to changing trends or opportunities.

The Official Plan provides enabling policy for Council to enact temporary use by-laws under the following situations:

- a) For a separate housing unit (such as a garden suite), in accordance with the relevant policies of this Plan;
- b) For unfamiliar or uncommon uses on a trial basis that do not necessarily conform to the policies of this Plan; and/or
- c) For a use where it is known that the use will only be established for a brief, defined period.

For the subject request, a) and b) are not applicable, however, clause c) is applicable because the intention for the patio extension is proposed on defined times that are associated with a special event. The time identified for the use is clear and known and occurring over a short period. The presence of the special event alters the form and function of the area by the nature of the planned program that could include road closures, and thus creating a specified need to adapt and provide the opportunity to expand the existing use. It is noted that the Mudcat Festival is considered a Major Festival. It is noted that if there is not a special event occurring, as defined as an organized gathering with a planned program oriented towards arts, culture, sport and entertainment, charitable or educational activities, occurs within a defined period of time and provides community benefit, the temporary use would not be applicable and the site would function on a normal operating basis with the parking provisions and smaller approved patio space.

Additionally, the OP states that prior to passage of the temporary use by-law, Council shall be satisfied that:

- a) The temporary use permitted is compatible with adjacent uses or alternatively, that appropriate measures to mitigate any adverse impacts are implemented;

### Comment

The area is predominately commercial in nature and a patio does exist on the subject lands, just in a smaller state on a regular basis. The expansion of the existing patio is only during special events, which at that time the neighbourhood is transformed and there are extenuating circumstances for the community, including road closures for street markets, parades, races and other similar events. During the special events, the use is considered appropriate and would maintain compatibility with the surrounding area. There would be no negative impacts to the neighbourhood relating from the temporary use, largely because the parking lot (where the patio is to be extended) has limited accessibility and is underutilized.

- b) On-site parking is adequate for the use and no adverse impacts on traffic or transportation facilities will result; and

Comment

The temporary use would remove all on-site parking for the Legion, however, during the special events there is typically no or very limited vehicular access to the subject lands so the impact is considered minor. During the special event, the subject lands are most often only accessible via pedestrian access, so the need for on-site parking is reduced or not accessible.

- c) There is a reasonable probability that the temporary use will cease on or before the expiry of the by-law.

Comment

The temporary use by-law is on a limited and defined basis and appropriate in the context of the request relating to special events. At the end of the three (3) years of the applicable by-law, an extension can be considered and granted by Council if the need continues to exist.

The proposed temporary use by-law is considered appropriate in the context of the subject lands and conforms to the intent of the Official Plan.

**Haldimand County Zoning By-law HC 1-2020:**

The subject lands are zoned “Downtown Commercial (CD)” and the existing use is permitted. The proposed temporary use would see the parking provisions suspending during special events to permit the entirety of the parking lot to be utilized as patio/entertainment space. The purpose of the zone provisions and parking requirements is to ensure that a property and use is compatible with the surrounding area, ensure proper functionality of the site and minimize potential impacts. The requested temporary use by-law would only be in effect on specific and brief periods of time, when the broader community is also impacted by a special event. At these times, the primary function and day-to-day operation of the Dunnville Legion changes with on-site parking less critical and typically not accessible. Further, for special events, off-site parking is arranged to ensure proper community function and accessibility to buildings, events, etc. by patrons of the event(s). The proposed temporary use is considered appropriate in the context of the Zoning By-law and of minimal impact to the surrounding properties. A Temporary Use By-law has been prepared and included with this report as Attachment 2 for Council to pass.

**Summary:**

It is Planning staff’s opinion that Council is authorized by the *Planning Act* to pass temporary use by-laws to permit the temporary use of land and buildings that is otherwise prohibited by the Haldimand County Zoning By-law HC 1-2020. It is Planning staff’s opinion that the proposal generally conforms to the Haldimand County Official Plan policies relating to temporary use by-law amendment applications. As such, Planning staff recommend approval of this application and passing of the attached Temporary Use By-law (Attachment 2).

**FINANCIAL/LEGAL IMPLICATIONS:**

Not applicable.

**STAKEHOLDER IMPACTS:**

No comments or concerns.

## **REPORT IMPACTS:**

Agreement: No

By-law: Yes

Budget Amendment: No

Policy: No

## **REFERENCES:**

1. Policy No. 2015-02 Festival and Event Policy: <https://www.haldimandcounty.ca/wp-content/uploads/2021/09/Festival-and-Event-Policy-2015-02.pdf>

## **ATTACHMENTS:**

1. Location Map.
2. Draft By-law.