



## Municipality of Wawa

### Staff Report - Maury O'Neill, CAO-Treasurer



<b>For: Mayor and Council</b>	<b>Report No.: CAO 2021-05</b>
<b>Date: May 14, 2021</b>	<b>Council Meeting Date: May 18, 2021</b>

### PLANNING REPORT – TEMPORARY ZONING BY-LAW

#### Staff Recommendation

**THAT** Council receive Report No. CAO 2021-05 dated May 14, 2021, and approve the following By-laws;

- a) A By-law to amend Zoning By-law 2821-15 to permit the use of 67 McKinley Avenue for a temporary period of up to 24 months (two-years) for accessory structures being three Sea Containers as the primary use of the property from the time the By-law is passed.
- b) A Site Plan Agreement and By-law to be forwarded to the Council Meeting on June 1, 2021, which will set-out the conditions of the use of the land as follows;
  - 1) The front yard will be seeded and grassed within four (4) weeks of the passing of the Site Plan Agreement.
  - 2) A selection of bushes and small trees will be planted in the front yard to partially cover the front of the Sea Containers within four (4) weeks of the passing of the Agreement.
  - 3) It is recommended that the Sea Containers be screened from view or painted the following colours; dark green, grey or dark brown. The accessory storage units are to be painted prior to June 30, 2021.
  - 4) Lighting to be placed on the site should be illuminated to the ground and property as to not impact surrounding neighbours.
  - 5) All Sea Containers on the property will be removed within 24 months or two years of the passing of the Zoning Amendment By-law. If the Owner fails to remove the Sea Containers, then the Municipality will remove and add the expense to the Owner's property taxes.

#### Report Purpose

To provide a recommendation to Municipal Council regarding an application requesting a Temporary Use Zoning By-law at 67 McKinley to permit the property to be used for accessory building purposes only (up to three Sea Containers).

## Background

### **A) REQUEST FOR TEMPORARY ZONING AMENDMENT**

A public meeting for a temporary use zoning by-law amendment was held on May 4, 2021, for 37 McKinley Avenue in Wawa. The property is owned by Nick Alexopoulos and Greg Honour is the Agent for the Owner for the application.

The applicant wishes to establish temporary storage comprised of three (3) Sea Containers (accessory buildings) on the property, without a principal use on the lot.

The property is currently Zoned GENERAL COMMERCIAL (C1) under By-law 2821-15. Under the current zoning, accessory buildings on a commercial property must;

**Be subordinate to, or exclusively devoted to, the principal use or main building on the same lot. Accessory use means a use that is related to and is incidental, subordinate, or exclusively devoted to, the principal use on the same lot.**

The Owner and Agent are requesting a Temporary Zoning Amendment for a three-year period with the intention that they may request of Council an additional three-year extension if required.

The Agent has entered into a rental agreement for the property to place three Sea Containers to act as storage for the Wawa Canadian Tire Ltd. The CTC store and its property on Broadway Avenue is under-sized and the owner requires additional space for storage of goods in close proximity to the store to service customers quickly.

### **B) PUBLIC MEETING COMMENTS**

#### **i) Owner/Agent Comments**

At the Public Meeting, the Owner and Agent spoke in favour of the requested amendment. The rationale was that the lot is zoned commercial, is vacant, is in close proximity to the Canadian Tire store and there are no adverse impacts from the development (Sea Containers). The property is zoned General Commercial (C1) which does permit Sea Containers, with a primary commercial use, therefore, the Owner and Agent believe the accessory buildings are in keeping with the general intent of the Zoning By-law. The Agent stated that there is minimal new traffic generated to and from the site, which is basically a small business forklift that may attend the site twice per day.

The Owner will be required to enter into a Site Plan Control Agreement passed by Municipal Council by By-law to be considered by Council on June 1, 2021. The Site Plan Control Agreement will include the following proposed conditions to mitigate the unappealing view of the accessory dwellings to surrounding residential neighbours;

**Site Plan Agreement – Proposed Conditions**

- 1) The front yard will be seeded and grassed within four (4) weeks of the passing of the Site Plan Agreement.
- 2) A selection of bushes and small trees will be planted in the front yard to partially cover the front of the Sea Containers within four (4) weeks of the passing of the Agreement.
- 3) It is recommended that the Sea Containers be screened from view or painted the following colours; dark green, grey or dark brown. The accessory storage units are to be painted prior to June 30, 2021.
- 4) Lighting to be placed on the site should be illuminated to the ground and property as to not impact surrounding neighbours.
- 5) All Sea Containers on the property will be removed within 24 months or two years of the passing of the Zoning Amendment By-law. If the Owner fails to remove the Sea Containers, then the Municipality will remove and add the expense to the Owner's property taxes.

**ii) Public Meeting Comments**

One objection to the application for rezoning was received and the planning concerns noted in the complaint included additional traffic generated by the use, the appearance of the site in the middle of a residential area and impact on surrounding property values and proposed length of time requested of up to six (6) years total for the temporary rezoning.

**C) WAWA ZONING BY-LAW (2821-15) – PLANNING REQUIREMENTS**

In the ZBL and under Section 2.7, Council may provide temporary use permissions in accordance with Section 39 of the Planning Act and shall be identified in a similar manner to an exception zone. Existing Zoning By-law regulations include the following paragraphs.

Under Section 3.0 an ACCESSORY BUILDING OR STRUCTURE means a detached building or structure, the use of which is naturally and normally incidental to, subordinate to, or exclusively devoted to, the principal use or main building on the same lot.

In the ZBL definitions section, SEA CONTAINER means an enclosed metal container, originally designed to be used for shipping purposes.

Section 4.1.2.1 provides that accessory buildings and structures shall not be in the front yard and be set back a minimum distance of 1.2 metres from the rear lot line and 1.2 metres from the interior side lot line. The maximum lot of all detached accessory buildings and structure on a lot shall be 10 percent.

**i) Sea Containers**

Section 4.1.2.8 states that Sea Containers and unlicensed trailers shall not be permitted to be used or stored on any lot zoned for residential use. This provision shall not restrict the use of a sea container or unlicensed trailer to be used in a residential zone on a temporary basis for the storage of construction materials and equipment for any project undertaken by or on behalf of a public authority or for any construction project for which the Municipality has issued a building permit, provided the container or trailer is removed upon completion of the project and/or prior to final inspection.

Mr. Robert Lehman, Professional Planner, advised that Sea Containers are buildings or structures under the Ontario Building Code, therefore, zoning cannot prohibit a sea container as a structure, only as a use. Since the Wawa ZBL states that Sea Containers cannot be used for any purpose or stored in any residential zone, other than temporary construction use, it is a reasonable way of using zoning to prohibit Sea Containers in Residential Zones. Regardless, the Zoning By-law only refers to residential zones therefore they are be permitted in commercial and other Zones.

Municipal Council should consider a future Zoning By-law amendment that would set a maximum time for Sea Containers to be on residential properties and restrict such containers to industrial and commercial lands only, with additional restrictions such as placement on the lot in back yards only that are shielded from street view.

**D) OTHER PLANNING REGULATORY CONSIDERATIONS****i) Provincial Policy Statement (2020)**

The new Provincial Policy Statement came into effect on May 1, 2020. The following statement from the Policy may be applicable and relevant to this proposal:

*1.3.1 Planning authorities shall promote economic development and competitiveness by providing opportunities for a diversified economic base, including maintaining a range and choice of economic activities and ancillary uses, and consider the needs of existing and future businesses.*

**ii) Wawa Official Plan**

The Wawa Official Plan does provide Council with the authority to pass temporary use zoning by-laws and require site plan agreements, as per By-law 771-91. Since the application is an exception to the existing zoning on the property, there are no policies in the Official Plan that impact the proposed amendment.

**E) PROPOSED TEMPORARY ZONING BY-LAW**

The proposed amendment to the property reflects an economic reality in Wawa and the Province currently in that the cost of lumber is driving the market for accessory buildings to the Sea Containers and steel building type. Sea Containers are relatively

inexpensive and are low cost from a property tax assessment impact, especially compared to the building of more costly structure.

The existing properties along Broadway Avenue in the commercial district are small (50' x 100') and many of the lots are built upon with 100% of maximum lot coverage, leaving little room for outside storage and parking. As a result, the property housing the Canadian Tire Building is undersized for current needs for storage of goods and the owner requires additional space which is not easily found on Broadway Avenue in the Commercial area.

In the past, when the Broadway Avenue commercial district was growing, the Official Plan and Zoning By-law of 1985 envisioned that more land would be required for commercial growth and expansion. As a result, the East-Side of McKinley Avenue was designated General Commercial (C1) for future growth which did not occur. The street is in fact primarily residential in use, which has never changed since the road was built.

This has led to conflict in uses between residential and commercial, such as is being experienced with this application. As a recommendation, Municipal Council should consider Rezoning the East-Side of McKinley primarily Residential with some exceptions where commercial uses are established (e.g. Canadian Tire).


To mitigate the negative impacts of the Sea Containers to abutting neighbours, it is recommended that the Temporary-Use Zoning By-law be limited to a maximum of Two (2) Years. This will provide the Owner enough time to determine a more permanent solution to the storage problem it is experiencing.

### Options/Conclusion

Municipal Council has the following options to consider regarding the request for a Temporary Zoning By-Law Amendment;

- a) Approve the application and request for three Sea Containers to be placed temporarily on the property at 67 McKinley in a Temporary-Use Zoning By-law to be limited to a maximum of Two (2) Years.
- b) Approve the application and rezoning request for a temporary period of up to three (3) years.
- c) Deny the application.

Staff recommends that Wawa Mayor and Council select option a) above.

Submitted By:   
Maury O'Neill  
CAO-Treasurer