

**DATE:** November 9, 2021

**REPORT NO:** PD-119-2021

**SUBJECT:** **Comprehensive Zoning Bylaw 2017-70, as amended  
Housekeeping Amendments No. 6**

**CONTACT:** Gerrit Boerema, Planner II  
Brian Treble, Director of Planning & Building

**OVERVIEW:**

- In June of 2017 the Council of the Township of West Lincoln approved the new Comprehensive Zoning Bylaw 2017-70.
- In the following years (2018, 2019, 2020) the zoning bylaw has been updated through minor housekeeping amendments to keep the bylaw functioning as intended and to correct a number of site specific issues.
- Two additional housekeeping amendments have been completed this year dealing with general housekeeping updates and new regulations for back-to-back townhouse dwellings.
- Township Planning staff have identified a few other items that now need to be address through an additional round of housekeeping which include:
  - The definition of lot as it relates to natural severances
  - Zoning change on Concession 9, Part Lot 4, South Grimsby fronting onto Spring Creek Road
  - Zoning change on Plazek Auto Recycler property – 9558 RR 65
- Planning Staff recommend that a public notice be issued and that a public meeting be held at a future Planning/Building/Environment Committee Meeting to address these proposed changes.
- This effort is part of an ongoing attempt to keep the ZBL current and functional so that Council is setting the standards in advance.

**RECOMMENDATION:**

1. That, Report PD-119-2021, regarding “Housekeeping Amendments No. 6 to Zoning Bylaw 2017-70, as Amended”, dated November 9, 2021 be received; and,
2. That, proper notice be given and a public meeting be held, as required by the Planning Act, at a future Planning/Building/Environmental Committee Meeting.

## **ALIGNMENT TO STRATEGIC PLAN:**

### **Theme #3 & #6**

- Strategic Responsible Growth
- Efficient, Fiscally Responsible Operations

## **BACKGROUND:**

Township Council in June of 2017 approved the new Comprehensive Zoning Bylaw 2017-70. This was the first time a new comprehensive zoning bylaw was passed since the Township passed its first Zoning bylaw in 1979.

Several minor issues have been identified since the bylaw was passed, concerning both Township wide regulations and site specific zonings. Many of these issues have been addressed through four previous housekeeping amendments which took place in 2018, 2019, 2020 and most recently twice in 2021.

Another round of housekeeping amendments is being proposed to address a number of additional items. The first item is the zoning bylaw definition of lot. The definition of lot is one of the most significant definitions in the Township's zoning bylaw as it dictates what is and is not a lot for the purposes of building. If something is not considered a lot, building permits cannot be issued. This has historically applied to lots created through Testamentary devise and occasionally, but not always, natural severance.

The second item that staff are reviewing deals with a property currently just outside of the Smithville urban boundary owned by the Griffin family. The property has frontage on Spring Creek Road and is immediately east of the urban boundary. It is within the Master Community Plan study area and is being reviewed for possible inclusion into the urban boundary.

In 2015 the property's zoning was amended through an amendment to the Township's former Zoning Bylaw 79-14 to permit a contractor's establishment including outdoor storage of machinery and equipment. This zone was only added to a portion of the property abutting the rail tracks on the south end. This area was previously within the Smithville urban boundary prior to the SWAP process completed in 2015 which saw the lands removed.

When the Township approved and implemented its new zoning bylaw 2017-70, the exception clause text was added to the zoning bylaw but the zoning exception was not included in the mapping. It has now come to our attention that this discrepancy exists and staff are now reviewing whether the zone should be included in the mapping.

## **CURRENT SITUATION:**

Within the Township of West Lincoln there are a number of parcels of land that do not meet the definition of 'lot' in the Township's current zoning bylaw, 2017-70, or its former zoning bylaw, 79-14. The definition of lot has been developed to ensure parcels can only be built on if they meet the following criteria:

- Were created through a Planning Act process such as a Plan of Subdivision or Condominium or Consent

- Were created prior to March 5, 1979 (date of implementation of Zoning Bylaw 79-14)
- Have frontage along a public street or tied to a plan of condominium or frontage along an existing private street.

This has historically excluded parcels that were created through Testamentary Devise and Natural Severances under the Navigable Waters Act from being defined as 'lots' as they were not created through a process under the Planning Act.

Testamentary Devise was a process used in the 80's and 90's to skirt the Planning Act lot creation process to create lots typically on Agricultural land through an individual's last will and testament. The Township currently has 115 parcels of land created through this process throughout the agricultural area of the Township that the staff are currently aware of.

Natural severances under the Beds of Navigable Waters Act occurs when a property is further divided along lines of navigable waters. This occurs when a landowner makes an application to the courts to confirm that the bed of a watercourse that traverses their property was never originally released from the Crown, and that those lands have always belonged to the public for navigation. This Crown ownership often results in the creation of separate parcels on each side of the Crown land.

The proposed change to the zoning bylaw deals with the later issue of natural severances under the Beds of Navigable Waters Act as staff and legal Counsel believe that the Township's current bylaw is adequate in dealing with the Testamentary Devise parcels.

Recently the Township has witnessed a number of Natural Severances under the Navigable Waters Act where the Courts approved a parcel fabric which does not meet the Township's objectives or policies for the agricultural area and where the courts have deemed the remnant parcels as lots for the purposes of building.

Township Staff, in consultation with Legal Counsel, have reviewed a potential change to the definition of lot which gives the Township greater control over the ability to issue building permits on parcels created through Natural Severances under the Navigable Waters Act. Township Staff are looking at proposing these changes through a housekeeping zoning amendment at which time the public can provide comments.

Secondly this housekeeping amendment is needed to review a zoning bylaw mapping change for a property just east of the existing urban boundary of Smithville owned by the Griffin family. In 2015 zoning bylaw amendment 2015-81 was approved by Township Council which permitted the following on the southern portion of the property abutting the rail tracks:

*A1-559 To permit a contractors yard, which will include the outside storage of materials, machinery and other products used in association with the use of the property, as well as permit any structures and buildings accessory*

*thereto. Any buildings and structures will be serviced by private services. Any manufacturing that requires municipal servicing of sewer and water are prohibited on the subject lands.*

Bylaw 2015-81 can be found attached to this report.

The subject property was subsequently mapped as Agricultural 'A' in the Township's new zoning bylaw 2017-70, but the exception text remained in Section 13 of the bylaw as 'A-111'. Township staff have reached out to the consultant who worked on the new zoning bylaw and have concluded that at some point of the process of creating the new zoning bylaw the 'A-111' zone was dropped from the mapping, potentially due to the significant amount of environmental zoning on the property.

Township staff are now requesting a public consultation process to see if the 'A-111' zone can be re-established on the subject property.

A third change that Township staff are reviewing deals with the Plazek Auto Recycling operation on Silver Street. The owners of the subject properties have retained Upper Canada Consultants to address some site plan related matters on the property requiring an updated site plan. The work being done for that process has identified a number of areas where the zoning mapping needs to be adjusted to reflect the current uses of land.

Finally there may be additional mapping related changes dealing with properties within Smithville that have current zoning issues such as no frontage. A recent issue has come up on a property within Smithville which staff are still determining if that property needs to be included in this round of housekeeping amendments.

#### **FINANCIAL IMPLICATIONS:**

There are no financial implications associated with this report or the proposed changes to the Zoning Bylaw. The housekeeping amendment and proper notice requirements can be processed based on the approved 2021 planning operating budget.

#### **INTER-DEPARTMENTAL & PUBLIC COMMENTS:**

Planning staff are recommending that a public consultation process commence which will provide notice of the proposed changes to Township departments, agencies and the public by way of a newspaper notice. The Township will also consult with the affected property owners and with Legal Counsel concerning the definition of lot.

#### **CONCLUSION:**

Staff recommends that a public meeting be held at a future Planning/Building/Environmental Committee meeting to address any concerns from the public and to meet the requirements of the Planning Act to address the number of issues identified in the Township Zoning Bylaw.

#### **Attachments**

1. Bylaw 2015-81 – Griffin Property

**Prepared & Submitted by:**

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**Gerrit Boerema  
Planner II**

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**Brian Treble  
Director of Planning & Building**

**Approved by:**

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**Bev Hendry  
CAO**