

DATE: January 13, 2025

REPORT NO: PD-02-2025

SUBJECT: **PD-02-2025 titled “Extension Request for Temporary Use (T13) at 9127 Regional Road 20 (File No. 1601-010-23)**

CONTACT: Susan Smyth, Senior Planner
Gerrit Boerema, Director of Growth and Sustainability

OVERVIEW:

- An application requesting an extension to the Temporary Use By-law for 9127 Regional Road 20 was submitted by Mr. Larry Pomerantz (Agent) on behalf of Mr. Giovanni Diflavio (Owner) to extend the permissions of the temporary use for outdoor storage of rain barrels/composters.
- The subject lands have a lot area of approximately 19.82 hectares (48.97 acres).
- Council approved By-law 2024-10 (T13) on February 26, 2024 to permit the temporary use for outside storage of rain barrels/composters for 12 months of which the permissions will lapse on February 26, 2025.
- The temporary outdoor storage area is 9,712.45 square metres (0.97 hectares/2.4 acres) approximately 5% of the total lot area.
- The outdoor storage area is situated behind the existing storage buildings fronting Regional Road 20 along the west side of the property below the existing berm.
- The subject lands are located in the Fulton Hamlet expanded settlement area and subject to the Fulton Employment Area Land Use Study which is now underway, but will not be completed until the fall 2025.
- The application has requested an extension for three years or until the recommendation of the Fulton Employment Land Use Study is provided.

RECOMMENDATION:

1. That Technical Report PD-02-2025 titled “Extension Request for Temporary Use (T13) at 9127 Regional Road 20 (File No. 1601-010-23)” be received; and,
2. That, a Recommendation Report be submitted to a future Growth and Sustainability Committee and Council meeting once a full Staff and agency review has been completed.

ALIGNMENT TO STRATEGIC PLAN:

Theme #2 – Strategic Responsible Growth

Theme #3 – Enrich Strong Agricultural Legacy

BACKGROUND:

The lands subject located at 9127 Regional Road 20 are on the north side of Regional Road 20, west of South Grimsby Road 18 and in the expanded Fulton Hamlet settlement area. The subject lands have a lot area of approximately 19.6 hectares (48.7 acres) of which 0.97 hectares are being used currently for barrel storage. Refer to Schedule A for a map of the subject lands.

Administration Staff presented the application for a temporary use for the outside storage of rain barrels/composters at the Public Meeting held on Monday January 15, 2024 and the information of the proposal is found in report [PD-01-2024](#). Members of the public attended and presented a number of concerns including drainage and flooding.

Upon consideration of the intended use along with the agency and public comments received, Administration Staff recommended approval of the temporary use for 18 months. The full details of the report are found in report [PD-07-2024](#). Council approved, through By-law 2024-10 a reduced length of the temporary use by-law from 18 months to 12 months.

A condition of the temporary use by-law was to have the applicant enter into a temporary use agreement and this was completed on March 18, 2024. The agreement required a \$5,000 security deposit to ensure the property was re-instated to the previous use, and a \$20,000 security deposit to ensure that the grading and drainage works were completed to the satisfaction of the Township. Staff attended the site in December of 2024 and the site works were not completed which is in contravention of the Temporary Use Agreement.

CURRENT SITUATION:

Currently, the Township's Official Plan provides policy relating to the use of temporary use by-laws. Temporary use by-laws authorize the temporary use of lands, buildings or structures for any purpose set out therein that is otherwise prohibited by the Zoning By-law. It is Council's discretion to extend the term of the by-law, by a further by-law amendment, for a maximum of an additional three (3) years. In doing so, the Official Plan states that Council shall be satisfied that the proposed use is temporary, and will not create detrimental effects on the surrounding area.

Upon expiry of the temporary use by-law, uses permitted by that by-law must cease and cannot be considered as non-conforming uses, unless addressed by the Official Plan land use designation changes and zoning by-law amendment confirming the temporary use is deemed appropriate and meets the intent of the rural employment area.

The Township has awarded the Fulton Employment Land Use Study project to WSP Canada Inc. in late 2024. The study is expected to take up to eight months to complete

including public consultation and engagement sessions with anticipation to present a recommendation report for Council adoption/approval of the amendments to the Official Plan land use designations and Zoning By-law provisions for rural employment uses in late September 2025.

Administration contacted the Applicant by letter on November 25, 2024 indicating that the temporary use by-law is set to expire on February 26, 2025 and the site alteration approval by the Township has not been completed and requested a site visit.

The Applicant indicated that no major site works took place until the site drainage plan was completed and approved by Administration. The site drainage and grading plan was provided via email on July 19, 2024 (refer to Attachment 1) and was approved by Staff on August 8, 2024.

The Applicant noted that the site received deliveries of the rain barrels/composters in late August until mid-December 2024, and indicated that inventory typically increases during the slow growing months of the year and that is why no major site works took place until late November and was unable to get it completed without the proper equipment.

Staff conducted a site visit on December 17, 2024 and confirmed that the site grading and site works as approved on the grading and drainage plan was not completed in contravention of the Temporary Use Bylaw and Agreement. The works not yet completed included grading of the berms, soil and erosion control measures and tree planting, which are required as part of the site alteration and use of the property.

Below captures some of the photos taken during the site visit and the condition of the site.



Looking south from Regional Road 20 into the site.



Looking along the west side of the site from Regional Road 20.



Looking south into the site with new delivery of rain barrels/composters to be assembled with the lids and stored.



Looking south from the east edge of the site to where the storage area is to start.



Debris around the barrel storage area.



Berms located along the east side of the site and uncompleted stormwater works.

Open pond area with an outlet that reaches the eastern edge of the site.



Landscape trees to be planted.

Improvements to the site to align with the approved plans of the Temporary Use Agreement are necessary to be in compliance with the Temporary Use Agreement and

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bylaw.

A full planning review will be completed prior to the presentation of a recommendation report at a future committee meeting.

FINANCIAL IMPLICATIONS:

The Applicant provided the application and fee for the extension of the temporary use on December 2, 2024. Since the temporary use by-law lapses on February 26, 2025, the Applicant is requesting the extension for up to three years or at least until the Fulton Employment Land Use Study is completed to determine whether or not the outdoor storage use is feasible.

Although there may not be a direct financial implication to the Township, Administration Staff note there is a security amount of \$20,000 and this amount will not be returned until the Applicant completes the necessary site works including the grading and improvements to the berms. Staff note there is more work yet to be done and to comply with the approved plans and satisfy the requirements of the Township.

Additionally, a security deposit of \$5,000 was provided for clean-up of the site and removal of the rain barrels/composters if the temporary use lapses, although this amount might be insufficient for the work necessary to complete such task.

INTER-DEPARTMENTAL COMMENTS:

Region of Niagara

The Region noted that the proposed temporary use would not negatively impact the ability of the lands to meet rural employment growth forecasts, and Regional staff is satisfied that the proposed temporary use by-law application would not be contrary to the applicable Provincial and Regional policies. As such, Regional staff offers no objection to the proposal.

Furthermore, as the proposed temporary outdoor storage is located more than 120 metres of the Provincially Significant Wetland (PSW) and other wetlands, and adjacent to existing storage buildings, staff has no requirements for the application from an environmental perspective.

An approximate road widening of 4.07 metres for a small section of this property would be required through any future development application.

Public Works Department

Based on the site visit on December 17, 2024, the work completed on site does not completely align with the grading and erosion control plan. The berms are not sloped or sodded causing concern for erosion. The trees proposed for screening are not planted as

the area is blocked by the berm. The Township is still holding \$20,000 for those works.

CONCLUSION:

An application to extend the Temporary Use By-law for outdoor storage of the rain barrels/composters has been submitted by the agent Mr. Larry Pomerantz for the subject lands located at 9127 Regional Road 20.

The Temporary Use Agreement including the deposited security amounts would remain applicable until the permissions of such use expires and or are extended.

ATTACHMENTS:

1. Site Grading and Erosion and Control Plan

Prepared & Submitted by:

Susan Smyth
Senior Planner

Approved by:

Gerrit Boerema
Director of Growth and Sustainability

Truper McBride
CAO