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**Town of Tecumseh**  
**Public Council Meeting**  
Tuesday, August 14, 2012  
6:30 PM  
Tecumseh Town Hall

**MEETING:**

**I. CALL TO ORDER**

**II. ROLL CALL**

**III. DISCLOSURE OF PECUNIARY INTEREST**

**IV. INTRODUCTION AND PURPOSE OF MEETING**

The purpose of the meeting is to give consideration to a proposed Temporary Use By-law pursuant to the provisions of the *Planning Act, R.S.O. 1990* to permit the use of a 97 square metre mobile home as a garden suite (as defined in Section 39 of the *Planning Act*) for a period of up to five years on a 9.6 hectare (23.7 acre) property situated on the west side of 10th Concession Road, approximately 600 metres north of its intersection with County Road 8 (7035 10th Concession).

**V. DELEGATIONS**

**VI. COMMUNICATIONS**

A. Town of Tecumseh, Notice of Public Meeting, August 14, 2012  
*Re: Proposed Temporary Use By-law - Proposed Garden Suite, 7035 10th Concession*

B. Manager, Planning Services / Senior Planner, July 13, 2012,  
Report No. 17/12 - *Re: William Leon, 7035 10th Concession - Temporary Use By-law - Proposed Garden Suite*

C. **Essex Region Conservation Authority (ERCA), August 10, 2012**  
*Re: Zoning By-law Amendment, 7035 10th Concession, Leon*

**VII. ADJOURNMENT**

TOWN OF TECUMSEH

NOTICE OF PUBLIC MEETING

PROPOSED TEMPORARY USE BY-LAW

**TAKE NOTICE** that the Council of the Corporation of the Town of Tecumseh will hold a public meeting **Tuesday, August 14<sup>th</sup>, 2012 at 6:30 p.m.** in the Town Municipal Office at 917 Lesperance Road to consider a proposed Temporary Use By-law pursuant to the provisions of the *Planning Act, R.S.O. 1990*.

The purpose of the proposed temporary use by-law is to permit the use of a 97 square metre mobile home as a garden suite (as defined in Section 39 of the *Planning Act*) for a period of up to five years on a 9.6 hectare (23.7 acre) property situated on the west side of 10<sup>th</sup> Concession Road, approximately 600 metres north of its intersection with County Road 8 (7035 10<sup>th</sup> Concession) (see Key Map below for location). Garden suites are intended to permit aging members of a family to maintain their independence while living in close proximity to family members who have the ability to provide care for them. The proposed garden suite will be located to the rear of the existing dwelling unit on the property. The garden suite will be fully serviced and will meet all National Building Code of Canada requirements.

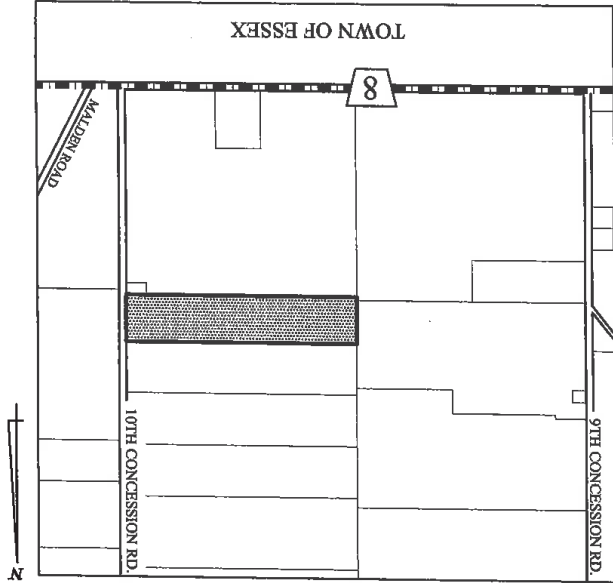
In addition, as a condition of the temporary use by-law, and in order to conform to Section 39 of the *Planning Act*, the property owner will be required to enter into a Temporary Use Agreement with the Town. This agreement will set the restrictions on matters such as installation and removal of the garden suite, period of occupancy and servicing of the garden suite, setbacks from the property lot lines, parking and the maintenance/appearance of the garden suite.

**ANY PERSON** may attend the public meeting and/or make written or verbal representation either in support of or in opposition to the proposed Temporary Use By-law amendment.

If a person or public body that files an appeal of a decision of the Town of Tecumseh in respect of the proposed Temporary Use By-law does not make oral submissions at a public meeting or make written submissions to the Town of Tecumseh before the proposed Temporary Use By-law is adopted, the Ontario Municipal Board may dismiss all or part of the appeal.

**ADDITIONAL INFORMATION** relating to this matter is available for review during regular office hours at the Town Municipal Office on Lesperance Road.

DATED AT THE TOWN OF  
 TECUMSEH THIS 25th DAY  
 OF JULY, 2012.  
 LAURA MOY  
 CLERK  
 TOWN OF TECUMSEH  
 917 LESPERANCE ROAD  
 TECUMSEH, ONTARIO  
 N8N 1W9



Area Affected by the  
 Proposed Temporary Use By-law

0 400 800 metres



**THE CORPORATION OF THE  
TOWN OF TECUMSEH**

**Planning and Building Services  
Report No. 17/12**

**3.6**  
PRESENTED TO  
PUBLIC COUNCIL:  
AUGUST 14, 2012

**12.10**  
PRESENTED TO  
REGULAR COUNCIL:  
JULY 24, 2012

**TO:** Mayor and Members of Council  
**FROM:** Chad Jeffery, MA, MCIP, RPP  
Manager, Planning Services / Senior Planner  
**DATE:** July 13, 2012  
**SUBJECT:** William Leon  
7035 10<sup>th</sup> Concession  
Temporary Use By-law – Proposed Garden Suite  
OUR FILE: D19 LEON

**RECOMMENDATIONS:**

It is recommended that Council:

1. Authorize the scheduling of a public meeting for the application submitted by Mr. William Leon (“the applicant”) requesting the passage of a temporary use by-law in accordance with Section 39.1 of the *Planning Act* to permit the use of a garden suite as an accessory dwelling unit for a period of up to five years on a 9.6 hectare (23.7 acre) parcel of land situated on the west side of 10<sup>th</sup> Concession (7035 10<sup>th</sup> Concession), approximately 600 metres north of its intersection with County Road 8;
2. Consider passage of a temporary use by-law for a period of up to five years for the lands subject to:
  - i. The resolution of any concerns being identified through the public consultation process and public meeting; and
  - ii. The applicant entering into a Temporary Use Agreement with the Town.

**BACKGROUND:**

**Proposal**

An application has been filed with the Town to amend the Sandwich South Zoning By-law 85-18, requesting the passage of a temporary use by-law in accordance with the provision of Section 39 of the *Planning Act*, for a 9.6 hectare (23.7 acre) parcel of land situated on the west side of 10<sup>th</sup> Concession, approximately 600 metres north of its intersection with County Road 8 and known municipally as 7035 10<sup>th</sup> Concession Road (see Attachment 1). A single unit dwelling along with multiple agriculturally-related accessory structures are currently situated at the northeast corner of the subject property. The balance of the land includes a fenced-in area for horses and a large oval track for horse training purposes.

The applicant is proposing to utilize a 97 square metre (1040 square foot) mobile home as a garden suite on the property. Garden suites are intended to permit aging members of a family

to maintain their independence while living in close proximity to family members who have the ability to provide care for them. The proposed garden suite will be located to the rear of the existing dwelling unit on the property and adjacent to the accessory structures (see Attachment 2). The applicant originally requested that the garden suite be allowed for a period of 10 years but after discussions with Town Administration, it was agreed that that request be changed to five years with consideration for an extension beyond that time period.

The garden suite is intended to be occupied by the applicant's son and family who currently reside in the existing single unit dwelling on the subject property. This arrangement will allow for the applicant's 89 year-old mother to move into the existing single unit dwelling along with other members of the Leon family who will be providing care for her. The applicant has advised that it is in the best interest of his mother that she reside in the existing residential dwelling and that his son and family reside in the garden suite. Accordingly, an application has been filed with the Town requesting the passage of a temporary use by-law.

A Temporary Use Agreement between the applicant and the Town is recommended as a condition of approval of the Temporary Use By-law. This agreement will set restrictions on matters such as installation and removal of the garden suite, period of occupancy and servicing of the garden suite, distance from the existing dwelling, parking requirements, and the maintenance/appearance of the garden suite.

## **COMMENTS:**

### **Garden Suites**

A garden suite is a self-contained dwelling that is typically installed for a temporary period of time in the rear or side yard of a lot that contains an existing, permanent, single-unit dwelling. A garden suite is to be designed to be mobile but has all the living arrangements a typical dwelling would have such as a kitchen, living area, bedroom(s), bathroom(s) and storage areas. In addition, garden suites must meet National Building Code of Canada requirements under the certification provisions of Canadian Standards Association (CSA).

These living alternatives are usually intended for individuals or couples of a senior age who can live independently. The people/family living in the permanent dwelling provide the care and support to those living in the garden suite. As noted in this case, the intent is for the applicant's mother to live in the existing dwelling, with care being provided to her by family members residing in both the existing dwelling and the proposed garden suite.

The benefits of garden suites are that they facilitate the ability to:

- allow the family to provide support, companionship and security to the senior members of the family;
- provide a healthy and supportive environment that may enable senior members of the family to continue to live independently longer;
- potentially reduce demands on community services when the family can provide support;
- not significantly alter neighbourhood character, as they are temporary.

### **Planning Act**

Garden suites are regulated through Section 39.1 of the *Planning Act*. Section 39.1 states:

*"39. 1 Garden Suites*

*(1) As a condition to passing a by-law authorizing the temporary use of a garden suite under subsection 39 (1), the council may require the owner of the suite or any other person to enter into an agreement with the municipality dealing with such matters related to the temporary use of the garden suite as the council considers necessary or advisable, including,*

- a) the installation, maintenance and removal of the garden suite;*
- b) the period of occupancy of the garden suite by any of the persons named in the agreement; and*
- c) the monetary or other form of security that the council may require for actual or potential costs to the municipality related to the garden suite.*

*(2) Definition*

*In this section, "garden suite" means a one-unit detached residential structure containing bathroom and kitchen facilities that is ancillary to an existing residential structure and that is designed to be portable.*

*(3) Area and time in effect*

*Despite subsection 39 (2), a by-law authorizing the temporary use of a garden suite shall define the area to which it applies and specify the period of time for which the authorization shall be in effect, which shall not exceed 20 years from the day of the passing of the by-law.*

*(4) Extension*

*Despite subsection (3), the council may by by-law grant further periods of not more than three years each during which the temporary use is authorized.*

*(5) Non-application*

*Upon the expiry of the period or periods of time mentioned in subsections (3) and (4), clause 34 (9) (a) does not apply so as to permit the continued use of the garden suite."*

Council consideration of the proposed temporary use of a garden suite on the subject property can only proceed in accordance with Section 39.1 of the *Planning Act*. Administration recommends that the initial temporary use time period be set at five years, with the applicant being able to seek further extension of the temporary use thereafter, in accordance with subsection 39.1 (4) above. Each subsequent by-law may be granted by Council and could permit the extension of the garden suite by not more three additional years.

The Planning Act also establishes that Council must hold a public meeting prior to the passage of a temporary use by-law similar to the type of meeting required by a Zoning By-law amendment.

**Official Plan**

The subject property is designated "Agricultural" on Schedule "A" of the former Sandwich South Official Plan (see Attachment 3). The Plan permits agricultural and agricultural related uses, including a single unit dwelling.

In addition, Section 6.15 of the Sandwich South Official Plan establishes the policies, principles and criteria to be met related to temporary use by-laws, as follows:

**“6.15 TEMPORARY USE BY-LAWS**

*Pursuant to Section 39 of the Planning Act, R.S.O. 1990, Council may pass “temporary use by-laws” to authorize the temporary use of land, buildings or structures for a purpose not otherwise authorized by the zoning by-law for a specific period of time not to exceed three years. Council may authorize a temporary use on a one-time basis or for a short period of time on a periodic basis, where it is considered inappropriate by Council to permit the proposed use on a permanent or continuing basis, and where alternatives such as relocation, etc. are not practical. Council may pass subsequent by-laws granting extensions of up to three years. However, once the by-law has lapsed, the use must cease or otherwise will be viewed as contravening the zoning by-law.*

*Prior to the approval of any temporary use by-law, Council shall be satisfied that the following principals and criteria are met:*

- i) the proposed use shall be of a temporary nature, and shall not entail any major construction or investment on the part of the owner so that the owner will not experience undue hardship in reverting to the original use upon the termination of temporary use provisions;*

**COMMENT:** The proposed garden suite is currently already in the possession of the applicant. The garden suite is a mobile home that will be removed from the property once it is no longer needed to facilitate the living arrangement for the applicant’s mother. The applicant has advised that the required servicing of the building and any associated Ontario Building Code requirements will not be onerous and will not require any major construction or investment. It is understood that the garden suite will be required for a limited period of time and that undue hardship will not result in removing the garden suite upon the termination of the temporary use provisions and in accordance with the Temporary Use Agreement.

- ii) the proposed use shall not be incompatible with adjacent land uses and the character of the surrounding area;*

**COMMENT:** The subject property is surrounded by agricultural lands to the immediate north, south and east. A golf course abuts the property to the west and to the south for a 200 metre portion of the rear part of the subject property. The property to the immediate north of the subject property has a residential dwelling located approximately 375 metres to the north-west of the proposed location of the garden suite (see Attachment 1). No other residential dwellings are located in the immediate surrounding area. The existing dwelling and accessory structures on the property will shield the view of the garden suite from adjacent properties. The setbacks of the proposed garden suite from the lot lines comply with, and in fact exceed, the minimum yard requirements established in the Zoning By-law. It is the opinion of the writer that the proposed temporary use and its location on the property is compatible with the surrounding area and will not cause any adverse impacts to neighbouring properties.

- iii) the proposed use shall be properly serviced and not require the extension or expansion of existing municipal services;*

COMMENT: The garden suite will be serviced by municipal water, a private septic facility and hydro. No extension or expansions to existing municipal services will be required.

- iv) *the proposed use shall not create any traffic problems within the surrounding area, nor shall it adversely affect the volume and/or type of traffic found on the area's roads;*

COMMENT: The garden suite will not create traffic problems.

- v) *parking facilities required by the proposed use shall be provided entirely on-site; and*

COMMENT: Ample parking areas are present on site to service the garden suite.

- vi) *the proposed use shall generally be beneficial to the surrounding area or the community-at-large.*

COMMENT: The garden suite will allow the applicant's family to provide support, companionship and security to the applicant's mother. In addition, it will potentially reduce demands on community services that the family can provide on-site.

*Notwithstanding the policies of this Plan, Council may authorize the temporary use of land which may not conform with the land use policies of this Plan provided:*

- i) *the temporary use is determined to not have any detrimental effect upon the existing land uses in the area; and*

COMMENT: it is the opinion of the writer that the garden suite will not have a detrimental effect upon existing land uses in the area.

- ii) *the proposed temporary use conforms to the principles and criteria established in this subsection."*

COMMENT: it is the opinion of the writer that the proposed garden suite conforms to the principles and criteria established in this subsection, subject to hearing and adequately addressing the concerns, if any, of area residents.

## Zoning

The subject property is currently zoned Agricultural Zone (A) on Map 17 of the Sandwich South Zoning By-Law (see Attachment 4). The (A) zone permits agricultural and agricultural related uses, including a single unit dwelling. The proposed structure is not permitted in the Agricultural Zone of the Zoning By-law. More particularly, it is noted that subsection 5.15 specifically prohibits mobile home in the municipality except where specifically listed as a permitted use.

However, as previously noted, the *Planning Act* and the Sandwich South Official Plan contemplate the use of a mobile home as a garden suite, but only for a temporary period of time. The passage of a temporary use by-law is a regulatory tool made available to municipalities by way of the *Planning Act*. It allows for the temporary use of land for a purpose that is currently not permitted by the Zoning By-law. Accordingly, the application that has been filed with the Town requesting the passage of a temporary use by-law is reasonable and in



accordance with the provisions of Section 39 of the *Planning Act* and Section 6.15 of the Sandwich South Official Plan.

### **Administrative Comments**

Tecumseh Building Department has advised that the garden suite will be required to be properly serviced (water, sanitary, hydro) and meet all requirements of the Ontario Building Code (i.e. proper foundation, tie-downs, smoke alarms, etc.).

Tecumseh Fire and Rescue Services has advised that it has no concerns regarding the proposed temporary use.

### **Temporary Use Agreement**

As noted above, Subsection 39.1 (1) of the *Planning Act* grants Council the ability to require the owner of the garden suite to enter into an agreement with the municipality dealing with various matters related to the temporary use of the garden suite. This agreement ensures that the garden suite is used for its intended purpose and that once the garden suite is no longer required for its intended purpose, it be removed from the property. This is an important consideration in order to protect against the mobile home becoming a permanent structure, which clearly is not the intended outcome.

Accordingly, Administration recommends that no Temporary Use By-law be adopted until the applicant enters into a Temporary Use Agreement with the Town. The applicant has been advised of this requirement. The Temporary Use Agreement will be brought forward for Council's approval prior to any Temporary Use By-law being approved.

### **Conclusion**

In summary, it is the opinion of the writer, along with Town Administration, that the proposal warrants further consideration. It is the writer's opinion that the proposed temporary use is contemplated by the policies established in Section 39.1 of the *Planning Act* and Section 6.15 of the Sandwich South Official Plan regarding garden suites and temporary uses respectively. It is recommended that Council consider passage of a temporary use by-law for a period of up to five years, subject to the resolution of any concerns being identified through the requisite public consultation process/public meeting and the applicant entering into a Temporary Use Agreement with the Town.

A public meeting to consider the proposed Temporary Use By-law is required in accordance with the requirements of the *Planning Act* and will provide an opportunity to hear concerns and comments, if any, of neighbouring owners and other interested stakeholders, including the County of Essex. It is important that the concerns and comments of these stakeholders be taken into consideration as part of the full evaluation of the applications.

### **CONSULTATIONS:**

The application was reviewed at recent Planning Staff Review meeting(s) by:

Planning and Building Services  
Public Works and Environmental Services  
Fire and Emergency Services

**FINANCIAL IMPLICATIONS:**

There are no financial implications.

**LINK TO STRATEGIC PRIORITIES:**

Encouraging the orderly and proper development for the Town has been identified as a key strategic priority.

This report has been reviewed by senior Administration as indicated below and recommended for submission by the CAO.

Prepared by:



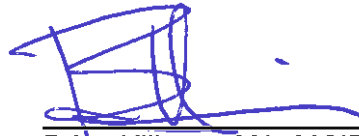
Enrico De Cecco, BA (Hons.), MCIP, RPP  
Junior Planner

Reviewed by:



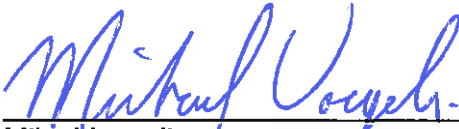
Chad Jeffery, MA, MCIP, RPP  
Manager, Planning Services/Senior Planner

Reviewed by:



Brian Hillman, MA, MCIP, RPP  
Director, Planning and Building Services

Reviewed by:



Mike Voegeli  
Area Manager, Building Services / Chief  
Building Official

Recommended by:



Tony Haddad, MSA, CMO, CPFA  
Chief Administrative Officer

ED

Attachment(s):

1. Location Map;
2. Site Detail Map
3. Official Plan Map
4. Zoning Map



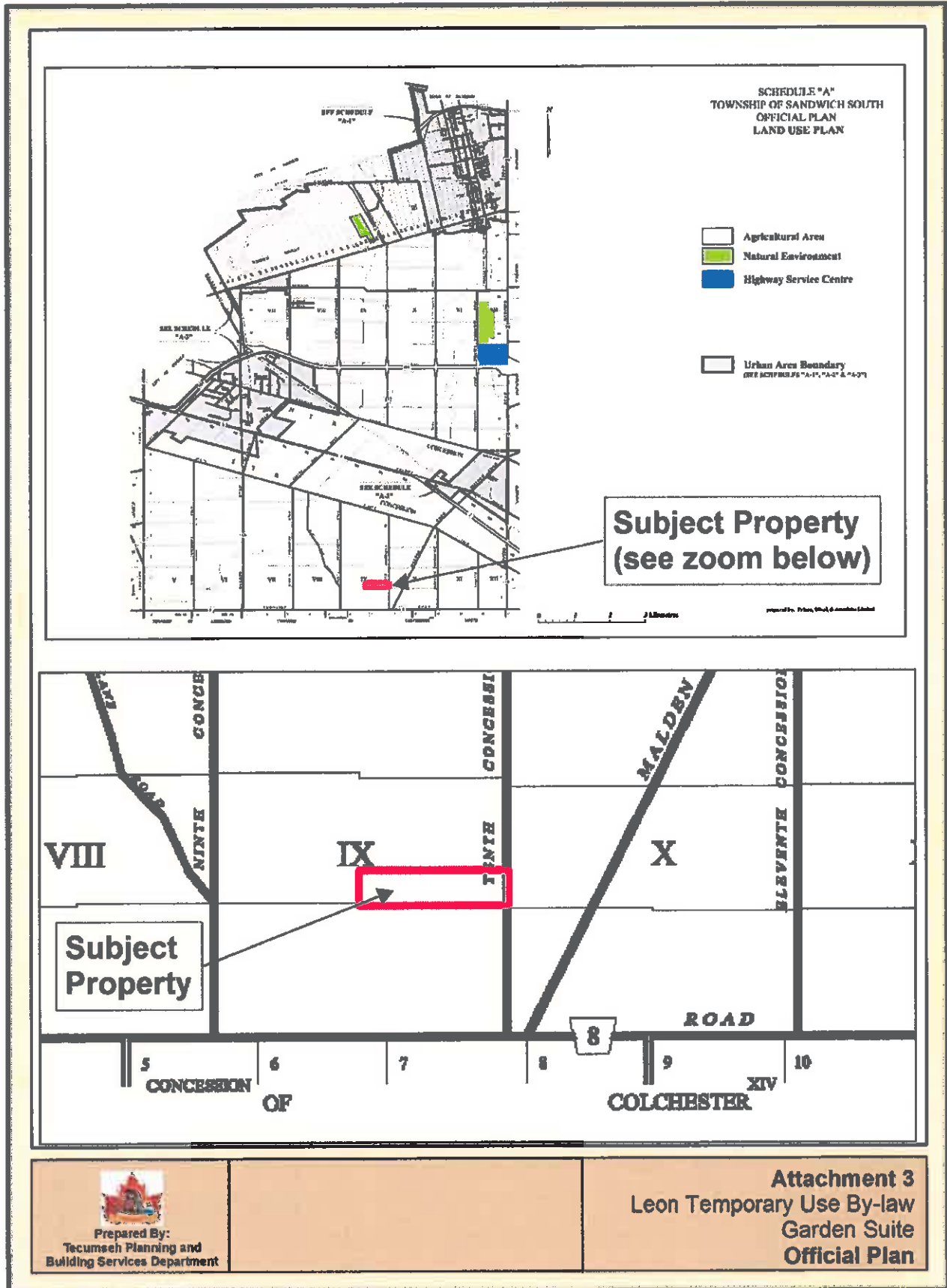


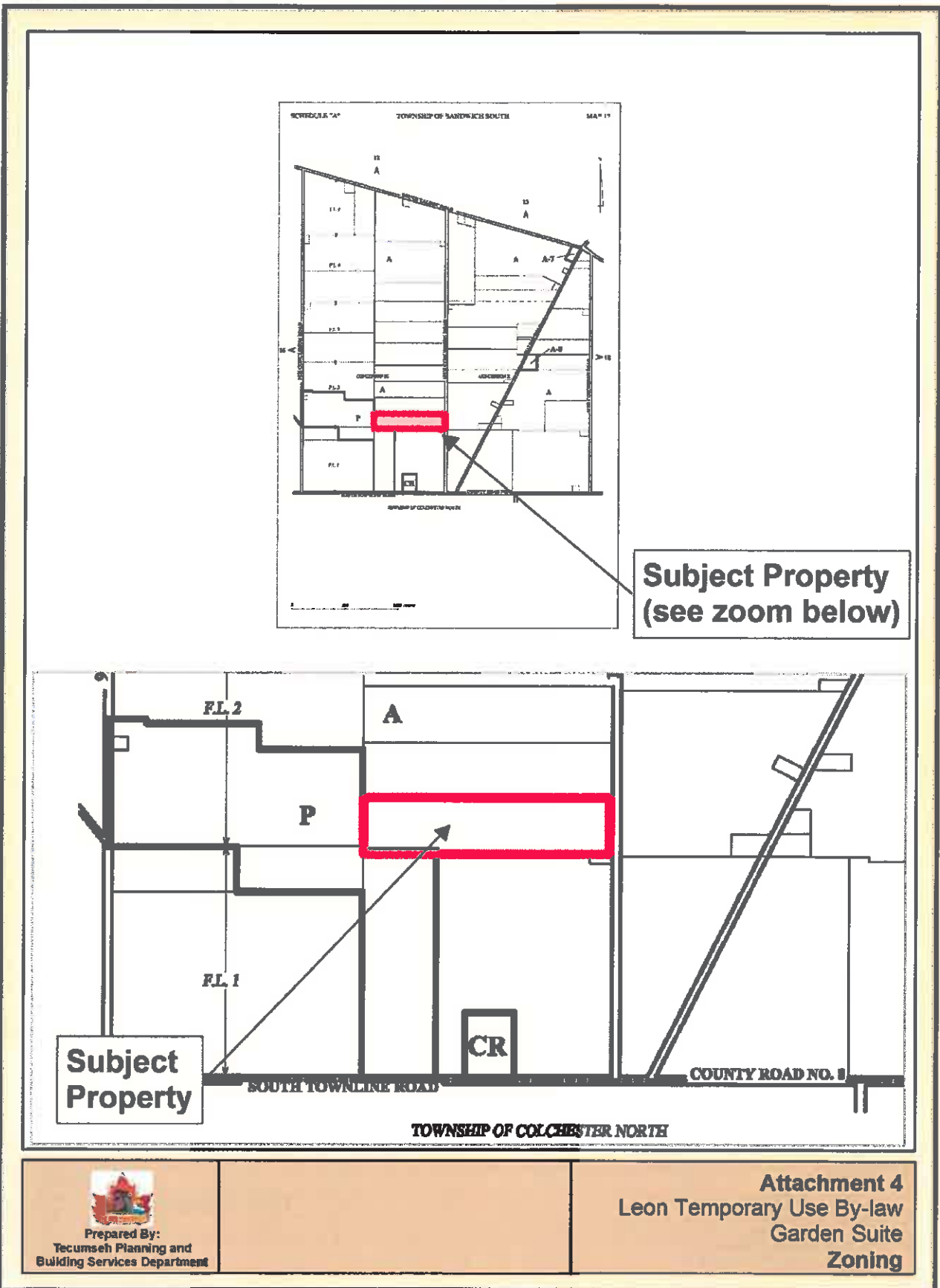
  
Prepared By:  
Tecumseh Planning and  
Building Services Department



0 45 90 180  
METRES

**Attachment 2**  
Leon Temporary Use By-law  
Garden Suite  
Site Detail Map







Essex Region  
Conservation  
Authority

360 Fairview Avenue West, Suite 311, Essex, ON, Canada, N8M 1Y6 | P 519-776-5209 | F 519-776-8688 | erca.org | ourgreenlegacy.org



3.6	PRESENTED TO PUBLIC COUNCIL:
	AUGUST 14, 2012

**2012 Board of Directors** August 10, 2012

**Town of Amherstburg**  
Robert Pillon  
John Sutton

Ms. Laura Moy, *Clerk*  
Town of Tecumseh  
917 Lesperance Road  
Tecumseh, ON N8N 1W9

**Town of Essex**  
Sherry Bondy  
John Scott

**Town of Kingsville**  
Gord Queen  
Tamara Stormp

Dear Ms. Moy:

**Town of Lakeshore**  
Al Fazio  
Len Janisse

RE: Notice of Public Meeting to Consider Zoning By-Law Amendment (ZBA) - Lot 2, Concession 9; 7035 10th Concession; ARN: 374441000002500; PIN: 752300011; Applicant: William Leon; Regulated Area: Webster Drain.

**Town of Lasalle**  
Sue Desjarlais  
Ray Renaud

The following is provided for your information and consideration as a result of our review of the above referenced Notice of Public Meeting to Consider Zoning By-Law Amendment (ZBA).

**Municipality of Leamington**  
Rick Atkin  
Larry Verbeke

For the owner's information, we note that portions of the above noted lands are subject to our Development, Interference with Wetlands and Alteration to Shorelines and Watercourses Regulations under the *Conservation Authorities Act*, (Ontario Regulation No. 158/06). Prior to any construction or site alteration, or other activities affected by the regulations, the property owner will be required to obtain a Permit and/or Clearance from the Essex Region Conservation Authority.

**Township of Pelee**  
Rick Masse

**Based on our review, we have no objections to the application.**

**Town of Tecumseh**  
Joe Bachetti - Vice Chair  
Cheryl Hardcastle

If you should have any questions or require any additional information, please do not hesitate to contact the ERCA office by phone at (519) 776-5209 or by fax at (519) 776-8688.

**City of Windsor**  
Percy Hatfield - Chair  
Al Maghnieh  
Hilary Payne  
Ed Sleiman

Thank you.

**General Manager / Secretary Treasurer**  
Richard Wyma

Sincerely,

Tim Byrne  
*Coordinator of Flood & Erosion Control*

/dl

C: William Leon

Member of



**Conservation  
ONTARIO**  
*Natural Champions*

