APPLICATION FOR ZONE CHANGE

TO: The Mayor and Members of Norwich Township Council
MEETING DATE: March 13, 2007
REPORT NO.: 2007-77

OWNER:
Marguerite Treffry
60 Brown Ave.
R.R. #2
Burford, ON N0E 1A0

APPLICANT:
Larry Clarkson
766 Colborne St E.
Brantford, ON N3S 3S1

LOCATION:
The subject property is described as Part Lot 3, Reg. Plan 168, being Part 2, Plan 41R-2369, in the Township of Norwich. The subject site is located on the north side of Mill Street East, between John Street South and Buchan Street, and is municipally known as 42 Mill Street East, Village of Otterville.

COUNTY OF OXFORD OFFICIAL PLAN:
Schedule “N-1” Township of Norwich Land Use Plan
Schedule “C-1” County of Oxford Settlement Strategy Plan

TOWNSHIP OF NORWICH ZONING BY-LAW NO. 07-2003-Z:
Existing Zoning - Development Zone (D)
Requested Zoning - Special Residential Type 1 (R1-special).
APPLICATION REVIEW:

(a) Proposal:

An application for zone change has been submitted to the Township of Norwich to change the zoning for the subject site from “Development Zone (D)” to “Special Residential Type 1 Zone (R1-special)” to allow construction of a single detached dwelling. This vacant property is located in the central area of Otterville, on Mill Street East. It is subject to an agreement of purchase and sale between the owner and a third party (B. Walker), with the real estate agent acting as the applicant on behalf of the purchaser. A detailed sketch of the subject site, showing the proposed dwelling and the yard setbacks and the location of a proposed private sanitary system was not provided.

Plate 1 - Location and Existing Zoning, indicates the location of the subject property, as well as the existing zoning in the immediate vicinity.

Plate 2 - 2006 Air Photo Close Up View, shows the extent of development on the subject site and on the neighbouring properties in this central area of Otterville.

For Council’s information, staff has determined that the subject property was created via severance (#B-75/80) in 1980. In accordance with the conditions associated with Oxford Land Division Committee’s decision on the severance, the current owner entered into an agreement with the Township of Norwich (dated October 31, 1980). Said agreement was registered on title (Instrument No. 272022, dated Dec. 5, 1980) and it includes the following restriction:

The Land Division Committee of the County of Oxford has approved of the severance of the parcel as noted above, provided, however, that no residence or other building will be constructed on the subject lot until such time as sanitary sewers have been installed to service the said property, more particularly set out on Schedule “A” attached hereto.

Staff has determined the above noted agreement between the owner and the Township remains on the property title. Staff has been advised that the agent and the purchaser were not made aware of this restriction prior to entering into the Purchase and Sale Agreement.

(b) 2005 Provincial Policy Statement

The 2005 Provincial Policy Statement (PPS) provides policy direction on matters of provincial interest related to land use planning and development. Under Section 3 of the Planning Act, where a municipality is exercising its authority affecting a planning matter, such decisions “shall be consistent with” all policy statements issued under the Act.

The policies of Section 1.1.3 – SETTLEMENT AREAS, encourage development within these areas to be based on a range of densities and mix of land uses that efficiently use land and resources, public infrastructure and services. A range of intensification (infilling) and redevelopment land uses are to be promoted, taking into account existing building
stock and the availability of services required or planned to accommodate the projected needs. Additionally, new development within designated growth areas shall have a compact form and involve a mix of uses and densities that allow for efficient use of land and public services.

The development of a vacant lot in a built-up settlement area is considered to be residential intensification. Therefore, this development proposal is consistent with the 2005 PPS.

(b) **Official Plan:**

The subject property is designated as part of the Settlement of Otterville, on Schedule “N-1” Township of Norwich Land Use Plan, in the County Official Plan. Further, Otterville is designated as a “Village” (municipal water only) within the County of Oxford Settlement Strategy Plan, Schedule “C-3”. Within Settlement areas with only municipal water services, development is intended to accommodate a range of land uses with the exception of multiple unit residential development involving more than two (2) units.

Growth within the Village designation is intended to occur through infilling and by plans of subdivision. Under the policies of Section 6.2.2.1 – INFILL HOUSING, such development is defined as “the placement of new residential development into established built-up areas on vacant or underutilized sites.” The subject property is considered to be appropriate for residential infilling because it is surrounded by existing residential development and is centrally located in the Village of Otterville. The infill policies state that infill development should be consistent with the street frontage, setbacks, lot area and spacing of existing development within the immediate residential area. The Official Plan also contains additional evaluation criteria, including provision for adequate control of stormwater runoff, adequate access and off-street parking, adequate outdoor amenity areas, adequate services, retention of desirable natural features and compliance with the Area Municipality zoning by-law regulations.

In this case, it is noted the subject property is considerably larger than most neighbouring properties, in terms of lot area and lot frontage. It has a lot depth similar to most of the nearby residential lots. However, the site is smaller than the residential zoning standard for development on private sanitary services. In order to address the additional evaluation criteria noted above, the applicant (or purchaser) will be required to provide a site design drawing that adequately addresses the County’s and Township’s needs relative to the proposed servicing and access to the site. This information can be provided in conjunction with a building permit.

Generally, this proposal conforms to the Official Plan policies that encourage infilling residential development within Settlement areas.

(c) **Zoning By-law:**

The subject property is zoned “Development (D)” in the Township Zoning By-law. This zone is applied to properties that are intended for future development, but may be
constrained due to lack of municipal services or the need for a comprehensive subdivision plan.

For properties in villages with only municipal water service, the Residential Type 1 Zone (R1) requires a lot to have a minimum lot area of 2800 sq.m. (30,140 sq.ft.), a lot frontage of 35 m (114.8 ft) and a lot depth of 50 m (164 ft). Information provided by the agent indicates the property has a lot area of 2,117.5 sq.m. (22,794 sq.ft.), a lot frontage of 40.6 m (133.3 ft) and a lot depth of 52.1 m (171 ft). Should Council give favourable consideration to this development proposal, a special provision would be necessary to recognize the existing lot area.

(d) **Agency Review:**

The application for zone change was circulated to a number of public agencies.

The County Department of Public Health and Emergency Services indicated an objection to the development on the subject site because it does not meet the minimum lot area for residential development on private sanitary services. However, if residential development were to be permitted, they noted the applicant will be required to provide a building envelope plan, showing proposed location of the private sanitary service designed in accordance with the Ontario Building Code. They noted such private service requires approval of the County, prior to construction. As well, they noted the site is within a groundwater recharge area of high vulnerability and caution is required when undertaking new development.

The County Department of Public Works noted the design of water service to this lot must be in accordance with applicable County standards and specifications. The standard connection fee for new municipal water service to the lot will be applied. As well, they suggested the location of the new home on this lot should take into account the possible further division of this lot, should municipal sanitary services be made available at a future date.

The Township Public Works Superintendent indicated Mill Street East is a paved Township road, maintained year round.

The Township Chief Building Official indicated no objections to the proposal. He noted consent application #B-75/80 was granted by the Oxford Land Division Committee in 1980. He noted the reason for placing the site in the Development Zone (D) was to ensure minimal impact on a nearby municipal well. However, since the well is no longer operating, any concern relating to proximity of additional private sanitary systems is no longer relevant.

The Township Drainage Superintendent did not provide a response to the agency circulation.
(e) Planning Summary:

This zone change application applies to a vacant lot on Mill Street East, centrally located in the Village of Otterville. The vacant lot was created in 1980, via consent application #B-75/80 and it is subject to an Agreement, registered on title, regarding services for any development on this lot.

A review of the proposal in regard to the 2005 Provincial Policy Statement determined the request to apply residential zoning on this vacant lot is consistent with the Settlement Area policies, which encourage efficient use of public infrastructure and development via intensification (infilling).

A review of the proposal in regard to the County Official Plan policies for Villages determined an infilling residential proposal such as this one conforms to the applicable policies, with the exception that the lot area does not conform to the municipal zoning standard. The County Department of Public Health and Emergency Services objects to the application due to insufficient lot area for a partially serviced (water only) lot. However, they noted that should favourable consideration be given by Council, the applicant (or purchaser) will be required to provide a building envelope (site plan), showing the proposed location of a private sanitary system and address the requirements of the Ontario Building Code, prior to starting the construction of a dwelling.

The County Department of Public Works has suggested that the development on this lot should occur in a manner that promotes “infilling”. This approach can be accomplished by locating the dwelling to one side of the lot, thereby leaving sufficient land for a future lot, should municipal sanitary services be provided at a future date. From a long-term planning perspective, this suggestion merits consideration by the owner.

As noted earlier in this report, the 1980 severance that created this vacant lot also resulted in the current owner entering into an Agreement (Instrument No. 272022) with the Township that specifically prohibits construction of any residence or other buildings on this lot until such time as municipal sanitary service is available. If Council were to approve the R1-special zoning in advance of the removal of the Agreement from the property title, the property sale could close, however, no building permit could be issued by the Chief Building Official because of the Agreement’s prohibition on building permits. Under the present circumstances, it would be appropriate for Council to defer consideration of this application in order to allow the owner and purchaser to address the restriction imposed by the registered Agreement. Staff has discussed the situation with the applicant, and it is anticipated that the owner will approach Council with a request to have Council support removal of the Agreement;00 whereupon, should Council agree to do so, the appropriate R1-special zoning could be applied afterward. Therefore, until such time as this Agreement is removed from the lot title, Council should not establish R1 zoning to allow a new home to be constructed.

Based on the above analysis and the comments of circulated agencies, the application for zone change should be deferred for a period of up to 3 months.
RECOMMENDATION:

It is recommended that the Council of the Township of Norwich defer consideration of the zone change application of Larry Clarkson, for a period of 3 months, whereby a property consisting of Part Lot 3, Registered Plan 168, being designated as Part 2, 41R-2369, and municipally known as 42 Mill Street East, Village of Otterville, in the Township of Norwich is requested to be re-zoned from “Development Zone (D)” to “Special Residential Type 1 Zone (R1-special)” to permit construction of a single detached dwelling on the subject site; it being noted that the owner and applicant must address the prohibition on new building construction in the Agreement (Instrument No. 272022), registered on title in conjunction with Consent Application #B-75/80, before Council can consider the request for Zone Change.

Authored By:           Approved By:

“Stephen Couture”     “Margaret Misek-Evans”
Stephen Couture, B.E.S.  Margaret Misek-Evans, MCIP  RPP
Planner                  Corporate Manager

SC/  

Report prepared: March 8, 2007

File:  3-07-1_Treffry.doc
PLATE 1: ZON 3-07-1 (42 Mill St East, Otterville - Treffry / Clarkson)
Location and Existing Zoning

NOTE: THIS IS NOT A PLAN OF SURVEY
NORWICH - SCOUTURE
PLATE 2: ZON 3-07-1 (42 Mill St East, Otterville - Treffry / Clarkson)
2006 Aerial Orthophotography (with parcels overlay)