

Report to Planning and Environment Committee

To: Chair and Members
Planning & Environment Committee

From: John M. Fleming
Managing Director, Planning and City Planner

Subject: Application by: City of London
Allowing “Farm Gate Sales” on Lands within the Urban
Growth Boundary

Public Participation Meeting on: November 18, 2019

Recommendation

That, on the recommendation of the Managing Director, City Planning and City Planner, the following actions be taken with respect to the City-wide zoning by-law amendment initiated by the City of London:

- (a) the proposed by-law attached hereto as Appendix "A" **BE INTRODUCED** at the Municipal Council meeting on November 26, 2019 to amend Zoning By-law No. Z.-1, in conformity with the Official Plan, to add a new “Farm Gate Sales” definition in Section 2 Definitions and amend Section 49.2 1) of the Urban Reserve (UR) Zone to allow Farm Gate Sales as a permitted use in the Urban Reserve (UR1) Zone; and,
- (b) Staff **BE DIRECTED** to initiate a zoning by-law amendment to permit the sales of produce grown on a residential property (direct food sales) on more occasions than the current limitation of up to two times per year.

Executive Summary

Purpose and Effect of Recommended Action

The proposed zoning by-law amendment would both define Farm Gate Sales, and permit the sales of locally grown food from farms on lands zoned Urban Reserve (UR1) located within the Urban Growth Boundary. This will implement actions identified in the Urban Agriculture Strategy, adopted by Council in November 2017, to make locally grown food more readily available to the general public.

Rationale of Recommended Action

1. The recommended amendment to Zoning By-law Z.-1 is consistent with the Provincial Policy Statement (2014).
2. The recommended amendment to Zoning By-law Z.1 conforms to the 1989 Official Plan, including the policies of the Urban Reserve land use designation and to The London Plan, including the policies of the Food Systems chapter and the Future Growth Place Type, and provides for appropriate uses on these sites.
3. The recommended amendment to Zoning By-law Z.-1 will allow the sales of agricultural products from farms located within the Urban Growth Boundary.

Analysis

1.0 Relevant Background

The Urban Agriculture Strategy was adopted by Council in November 2017. The Strategy identified five broad categories: growing, processing, distribution, food loss and recovery and education and connection as the basis of the Strategy. Under each category, community-identified priorities were described, and a series of actions were identified for these priorities. For each action, roles were identified for each of the partners (community and City).

The distribution of food is organized under three priorities identified by the community, and includes Farmers' Markets, Local Food Procurement and Direct Food Sales. This zoning by-law amendment specifically addresses two actions within the "distribution" category of the Strategy under the Farmers' Markets and Direct Food Sales priorities.

Farmers' Markets provide opportunities where small-scale local growers and regional farmers can sell food and increase the accessibility of nutritious, fresh, healthy food for residents. The Urban Agriculture Strategy identified 12 farmers' markets in London. These are located on properties where retail sales are permitted, and include venues such as Covent Garden Market, Masonville Mall and Western Fair. One of the actions identified under Farmers' Market is *"Access the current zoning and by-law requirements for markets and the potential for allowing temporary food and other pop-up markets at locations such as community gardens, etc."*

Another related action is under the priority of Direct Food Sales. This refers to opportunities for small-scale urban farmers to sell their produce directly to the public. The specific action is *"Investigate bylaw issues related to food sales on private property and community gardens."*

In Zoning By-law Z-1, Household Sales (or Garage Sales) are permitted in association with any dwelling unit for two days per year, not to exceed two days in duration. In discussions with By-law Enforcement, it was determined that no changes to the by-law would be required to allow the sales of produce grown on the property because what can be sold at a Household Sale is not defined, in other words, direct sales of food is permitted up to two times a year. There is concern, however, that the limitation of only two sales per year would not be consistent with the broader initiative to support direct food sales on private property, as the wide variety of what could be grown and sold from a private garden could likely span more than two occurrences a season. It is recommended that staff initiate an amendment to the zoning by-law that would allow the direct sales of food from a property on more than the current limitation of two sales events per year.

The Urban Agriculture Steering Committee is currently preparing a "How-to-Guide" for urban agriculture, and this guide could inform residents of the current opportunity to sell food produced on their property two times per year, and note that this limitation is being reviewed by staff.

Another opportunity identified in the actions relates to the sale of produce from community gardens. In reviewing this opportunity, it was determined that the sales of produce from community gardens would be inconsistent with the community garden principles and guidelines. Guideline #1802 states that it is prohibited to *"sell produce or flowers from the garden; however they may be traded or exchanged with other Gardeners."* It is intended that there can be informal sharing of food between growers for individual use and consumption. These garden plots are individually used and are intended for personal use, not retail or commercial use.

An additional opportunity to allow the sales of produce on a temporary basis that was identified was in city-owned parks. Part 4.1 of the Parks and Recreation Area By-law PR-2 describes "Activities prohibited-subject to approval". Among those activities, it is

prohibited to “*sell refreshments or other merchandise to the public;*” without approval. Approval can be granted from the Managing Director – Parks and Recreation, or a designate, taking into account a number of factors. Each request is considered on a case-by-case basis. As the temporary sales of agricultural products could be permitted in city parks subject to approval, no amendments to the by-law would be required. It is recommended that the process to seek approval for temporary sales in parks be included in the “How-to-Guide” described above.

2.0 Farm Gate Sales

There are currently over 30 farms in the Middlesex/London area that sell directly to consumers. In London, this occurs in agricultural areas that are both zoned and designated to permit agriculture, and are defined in Zoning By-law Z-1 as “Farm Markets”. This is a permitted use in the Agriculture (AG) Zone, specifically the AG1 and AG2 zone variations. Within the London Urban Growth boundary there are no lands zoned Agriculture (AG) to permit agriculture. A new defined use that would allow farm market uses on lands that are not zoned to permit agriculture is proposed. As there are no agriculturally zoned lands within the Urban Growth boundary of London, and to support the implementation of the Urban Agriculture Strategy, it is necessary to identify “urban” zones where farm market type uses would be permitted and would not require a zoning by-law amendment to permit the use. The current zoning by-law amendment fee is \$11,000, which is cost prohibitive for small scale growers and food distributing organizations.

New Definition

Farm Markets and Farm Food and Products Market are both defined terms in Zoning By-law Z-1, and allow a scale and a range of goods available for sale greater than what is envisioned for a similar use within the urban are of the City. As previously noted, these uses are only permitted in the Agriculture AG1 and AG2 zones.

The definitions for both uses are:

"FARM MARKET" means the use of land, buildings or structures for the purpose of selling fruit and vegetables to the general public. The fruit and vegetables sold in a farm market must be grown exclusively by the operator on the property owned by the operator of the said farm market. For the purposes of this definition it does not include a Farm Food and Products Market.

"FARM FOOD AND PRODUCTS MARKET" means a retail store located on a farm, where farm food, fruits and vegetables, meat and dairy products, and handicraft products are sold, a portion of which are produced and/or processed on the farm. The market may include the processing of farm food, a portion of which are produced on the farm, into finished food products. An eat-in restaurant, ancillary to the permitted market use may also be permitted to a maximum 15% of the gross floor area on the site.

The current “Farm Market” use requires that the operator on the property sell the goods produced on that farm, and could be interpreted to mean the owner. Conversations with the Urban Agriculture Steering Committee indicated that the lands may not be owned by the persons selling the agricultural products; they may be leased or given permission by the owner to grow and sell on the property. The recommended definition is intended to allow small scale retail sales on lands that do not need to be owned by the operator, and to distinguish this use from the larger-scale use permitted in agriculture zones.

The recommended new Farm Gate Sales use is defined as:

“Farm Gate Sales” means the use of land, buildings or structures for the purpose of selling agricultural products grown on the property to the general public. This small-scale farm market may or may not have structures in which to sell the products. For the purposes of this definition, Farm Gate Sales does not include a Farm Market or a Farm Food and Products Market.

Zones to Permit Farm Gate Sales

As previously noted, Farm Markets are already a permitted use in Agricultural (AG) Zones, but there are no properties zoned Agriculture (AG) within the Urban Growth boundary and none within the developed urban area of London. The Urban Reserve (UR) Zone, a zone which permits existing uses plus some low impact uses, could also permit these uses. The Urban Reserve (UR) Zone is applied to lands within the Urban Growth Boundary.

The Urban Reserve (UR) zone is generally used as a “holding zone” in advance of the redevelopment of a parcel. Agriculture and associated retail sales are appropriate interim uses for these types of lands, as there are no significant structures associated with the use, and farming makes use of the land as an alternative to leaving it vacant. Many of the lands zoned Urban Reserve are actively farmed, and the addition of the Farm Gate Sales use would provide the same opportunity for these lands as exist in agricultural lands outside the Urban Growth Boundary. The recommended amendment is to add Farm Gate Sales as a permitted use to the Urban Reserve (UR1) Zone.

21 Norlan Avenue

This site is located within the Urban Growth Boundary, and is currently the location of Urban Roots, an active urban agriculture operation. This site has been identified by the Urban Agriculture Steering Committee as an example of type of use supported and contemplated by the Urban Agriculture Strategy. The lands are currently zoned Open Space (OS1), which does not permit farm gate sales. As the recommendation of this report is to permit farm gate sales as a permitted use in the Urban Reserve (UR) Zone, this amendment would not allow farm gate sales as a permitted use at this location.

The operation is not within or close to a residential area, and is surrounded by a hydro corridor, park land and floodplain lands. In order to permit agricultural sales at this location, a zoning by-law amendment would be required. In order to permit the farm gate sales use on these lands, a city-initiated zoning by-law amendment will be brought forward for consideration at a future public participation meeting before the Planning and Environment Committee.

Staff and the Urban Agriculture Steering Committee have not identified any other existing urban agriculture uses within the Urban Growth Boundary.

3.0 Conclusion

The recommended amendments are appropriate and implement actions identified in the Urban Agriculture Strategy to make locally grown fresh food readily available to the general public.

Prepared by:	W.J. Charles Parker, MA Senior Planner – Planning Policy
Submitted by:	Gregg Barrett, AICP Manager, Long Range Planning and Sustainability
Recommended by:	John M. Fleming, MCIP, RPP Managing Director, City Planning and City Planner
Note: The opinions contained herein are offered by a person or persons qualified to provide expert opinion. Further detail with respect to qualifications can be obtained from Planning Services	

November 11, 2019

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Appendix A

Bill No.(number to be inserted by Clerk's Office)
2019

By-law No. Z.-1-19_____

A by-law to amend By-law No. Z.-1 to add a new definition of Farm Gate Sales and add Farm Gate Sales as a permitted use in the Urban Reserve (UR) Zone.

WHEREAS the City of London has applied to make amendments to Zoning By-law Z-1 as set out below;

AND WHEREAS this rezoning conforms to the Official Plan;

THEREFORE the Municipal Council of The Corporation of the City of London enacts as follows:

- 1) Section 2 (Definitions) of Zoning By-law Z-1 is amended by adding the following new definition;

“Farm Gate Sales” means the use of land, buildings or structures for the purpose of selling agricultural products grown on the property to the general public. This small-scale farm market may or may not have structures in which to sell the products. For the purposes of this definition, Farm Gate Sales does not include a Farm Market or a Farm Food and Products Market.

- 2) Section 49.2 1) of the Urban Reserve (UR) Zone is amended by adding the following additional permitted use to the current range of permitted uses;

) UR1

_) Farm Gate Sales

The inclusion in this By-law of imperial measure along with metric measure is for the purpose of convenience only and the metric measure governs in case of any discrepancy between the two measures.

This By-law shall come into force and be deemed to come into force in accordance with Section 34 of the *Planning Act, R.S.O. 1990, c. P13*, either upon the date of the passage of this by-law or as otherwise provided by the said section.

PASSED in Open Council on November 26, 2019.

Ed Holder
Mayor

Catharine Saunders
City Clerk

First Reading – November 26, 2019
Second Reading – November 26, 2019
Third Reading – November 26, 2019

Appendix B – Public Engagement

Community Engagement

Public liaison: Notice of Application was also published in the *Public Notices and Bidding Opportunities* section of *The Londoner* on May 16, 2019 and posted on the City website on May 14, 2019.

As part of the public review process we met with the Urban Agriculture Working Committee on December 7, 2018, February 15, 2019 and September 17, 2019. That Committee was established to implement the Urban Agriculture Strategy at a “grass roots” level.

Other than comments from the Committee no other replies were received.

Nature of Liaison: Allow Farm Gate Retail Sales on Lands Not Zoned Agricultural.

The purpose and effect of this zoning change is to possibly add a new definition and/or add new permitted uses to various zones to allow the retail sale of urban agriculture products on non-agricultural lands. This is one of the initiatives identified in the Urban Agriculture Strategy adopted by Council in November 2017.

Responses: Two respondents requested further information.