

Municipality of Lakeshore – Report to Council

Growth & Sustainability

Community Planning



To: Mayor & Members of Council

From: Kristina Brcic, Team Leader – Community Planning

Date: March 8, 2023

Subject: OPA No. 20 Official Plan Application OPA-2-2018 & Zoning By-law Amendment Application ZBA-20-2014 for a Soil Management Facility by 2438305 ONTARIO LIMITED at 0 Manning Road (County Road 19), ARN 375122000002640

Recommendation

Adopt OPA No. 20 to the Municipality of Lakeshore Official Plan (By-law 29-2023) being Official Plan Amendment Application OPA-2-2018, to remove the reference of rail related uses within the site specific policy area 6.11.3.2 Maidstone Rail-Related Employment Area, to permit a soil management facility to operate on lands known as ARN 375122000002640, and direct Administration to forward OPA No. 20 to the County of Essex for approval; and

Approve Zoning By-law Application ZBA-20-2014 (By-law 30-2023), to amend the wording of the site specific zone 'General Employment Zone Exception 2 (M1-2) (h2)' to:

- a) add the site specific use of a non-effluent formal operation of a Class 1 soil management facility as a permitted use, and;
- b) remove the reference to "that have a dependency on the rail line, rail-related storage facilities", and;

Direct the Clerk to read By-laws 29-2023 and 30-2023 during the "Consideration of By-laws", all as presented at the April 4, 2023 regular Council meeting.

Background

The subject property was purchased by the current owner in 2014 and has remained vacant for several years. The owner wishes to establish a Class 1 soil management site on the subject lands. With permission of the Ontario Ministry of Environment, Conservation and Parks (MECP), 2438305 Ontario Limited has been operating a soil management facility on the property since 2021.

The MECP's Excess Soil Guideline and O. Reg. 406/19 provides guidance on the best management practices in managing excess soil resulting from excavation and construction activities. Based on the regulatory requirements imposed by O. Reg. 406/19, for the Site to receive and condition liquid soils from various project areas, the Site requires to be classified as a Class 1 Soil Management Site under an MECP Environmental Compliance Approval (ECA). According with O. Reg. 406/19 'On-Site And Excess Soil Management', "Class 1 soil management site" means a soil bank storage site or a soil processing site; whereas "Class 2 soil management site" means a waste disposal site, other than a Class 1 soil management site, at which excess soil is managed on a temporary basis and that is,

- (a) located on a property owned by a public body or by the project leader for the project from which the excess soil was excavated, or
- (b) operated by the project leader for the project from which the excess soil was excavated.

Currently both the Official Plan designation and zoning of the subject lands require uses to be rail related. Therefore, the applicant has applied for amendments to remove the reference to rail related uses and permit a Class 1 soil management facility.

Comments

Land Description

The subject property, 0 Manning Road (County Road 19) is located on the east side of Manning Road, south of Little Baseline Rd, see Appendix A. The property is 35 hectares in lot area with 21.6 metres of frontage along Manning Rd. The subject property is located north of the Canadian Pacific railway track and contains a municipal drainage ditch that runs through the middle of the property in a north-south direction (Little Baseline Drain – West). The subject property is not utilizing any municipal or private services at this time.

The subject property is currently vacant, designated as "6.11.3.2 Maidstone Rail-Related Employment Area," a site specific policy area under the Lakeshore Official Plan. The subject property is split zoned through the middle of the property. The western portion is zoned "General Employment Zone Exception 2(M1-2)" and the eastern portion is zoned "General Employment Zone Exception 2 with a holding provision (M1-2)(h2)". The subject property is subject to the Essex Region Conservation Authority's (ERCA) limit of regulated area and is located in a Source Water Protection Area (Belle River Intake Protection Zone 3).

Provincial Policy Statement (PPS)

Section 1.1.3.1 of the PPS states that settlement areas shall be the focus of growth and development. The subject property is within the settlement area of the County of Essex and Municipality of Lakeshore Official Plans.

Section 1.2.6.1 discusses land use compatibility with concerns to sensitive land uses. In this case, the surrounding sensitive land uses are residential uses which are located along Manning Road to the west and West Pike Creek Road to the east. The applicant included a site operation plan including site buffering with berms and safety gates at the access points in order to mitigate any risks to surrounding sensitive land uses. Furthermore, Section 2.2.1 includes the protection, improvement and restoration of water quality and quantity, which will not be impacted by the proposed use of the site. Details can be reviewed in Appendix E, Design and Operations Report.

Therefore, the Official Plan Amendment and Zoning By-law Amendment applications are consistent with the PPS.

County of Essex Official Plan

The subject lands are within the 'Settlement Areas' designation according to Schedule "A1" Land Use Plan and within the 'Primary Settlement Areas' designation as shown on Schedule "A2" Settlement Structure Plan within the County of Essex Official Plan. By maintaining the settlement areas as areas of growth and development in the County, the Official Plan Amendment and Zoning By-law Amendment applications are in conformity with the County of Essex Official Plan.

Lakeshore Official Plan

The subject property consists of two Official Plan designations. The driveway and entrance from Manning Road portion of the property is designated as "Urban Reserve Area". The remainder of the site is designated as "6.11.3.2 Maidstone Rail-Related Employment Area," which is a Site Specific Policy Area under the Lakeshore Official Plan. The latter portion of the lands described shall be the primary focus of the Official Plan amendment application of this report as alteration to the designation of the "Urban Reserve" portion of lands is not proposed nor recommended at this time.

The subject lands were identified in the 1990 Maidstone Official Plan as 'Rail Related Industrial' in order to maintain space within the industrial park for industry uses that are not rail related. It appears that this designation was carried over since amalgamation to the current Official Plan.

Policy 6.11.3.2 'Maidstone Rail-Related Employment Area' states the following:

- a) The predominant use of land will be for dry industrial uses that require a location abutting a direct rail line. Examples of these types of industries include, but are not limited to, a transfer yard and a wood recutting operation;
- b) All development will be required to conform to high standards relating to parking, loading, lighting, landscaping, buffering, outdoor storage and access as set out in detail in the implementing zoning by-law and site plan agreements;
- c) Access to the lands will be restricted to County Road 19;
- d) The lands that are not planned for immediate development will be placed in a corresponding holding zone in the implementing zoning by-law. The holding provisions will not be removed until such time as development proposals complete

- with site plans are submitted and approved by the Town. In the interim, agricultural uses will be the only uses permitted on the site;
- e) Consent applications involving the lands will be in accordance with the policies of Section 8.3.5.2, and will generally not be permitted except for the creation of an easement or right-of-way or a minor lot alteration required for legal or technical reasons; and
 - f) All development will be subject to site plan control in accordance with Section 8.3.4 of this Plan

While the proposed soil management operation will not include the development of any buildings or structures, thus not requiring site plan control, the main access from the site will be from County Road 19 (Manning Road). In this case, a rail spur or rail related uses are not envisioned. It is proposed to amend the Official Plan Section 6.11.3.2 to remove the reference of rail related uses in order to permit the soil management facility.

Section 3.3.2 Employment Areas identifies such areas to be the focus of major concentrations of industrial-related employment growth and development in the Town. The proposed soil management operation is consistent with the Employment Areas designation permitted uses.

Therefore, the Official Plan Amendment and Zoning By-law Amendment applications conform to both the County of Essex and Municipality of Lakeshore the Official Plans.

Zoning By-law

The majority of the subject property is zoned General Employment Zone Exception 2 (M1-2) the eastern portion zoned "General Employment Zone Exception 2 holding provision 2 (M1-2)(h2)". The driveway portion of the subject property is zoned 'Urban Reserve Zone Exception 5 (UR-5)' and a very small portion abutting Manning Rd is zoned 'Urban Reserve Zone Exception 4 (UR-4)'. For the zoning amendment application, the primary focus will be on the lands zoned M1-2 and M1-2(h2), see the Key Map in Appendix B.

The (M1-2) (h2) site specific zone details the following permitted uses:

Existing uses only until such time as the (h2) is removed. Upon removal of the (h2), permitted uses shall include only non-effluent producing industrial uses that have a dependency on the rail line, rail-related storage facilities and uses accessory to the foregoing permitted uses including accessory retail and office uses.

Permitted Uses Until the Holding Symbol is Removed: *Existing uses shall be the only uses permitted in the interim.*

Conditions for Removal of the Holding Symbol: *That site plan approval has been granted by the Town and a site plan agreement has been entered into, pursuant to the provisions of the Planning Act.*

It is proposed to amend the current M1-2 and M1-2(h2) zoning to permit the site specific use of a non-effluent formal operation of a Class 1 soil management facility. The reference to, “that have a dependency on the rail line, rail-related storage facilities,” within the site specific zoning is to be removed in order to permit the proposed use. It is also proposed to allow other non-effluent producing industrial uses that are not rail related. However, there are no specific other uses being considered at this time. The holding (h) provision can remain as new development in the future will be subject to site plan approval being granted and a site plan control agreement being entered into. Permitted uses shall include existing uses until such time as the (h) is removed. Upon removal of the (h), permitted uses shall include only non-effluent producing industrial uses and uses accessory to the foregoing permitted uses, including accessory retail and office uses.

The design and operation report prepared by RWDI (see Appendix E) provides the details of the soil management site including surface water run-off control and proposed site layout. Additionally, the applicant completed a traffic memo (see Appendix D) which was reviewed by internal staff and external agencies. The County of Essex Engineering Department did not have any concerns as the main access to the site is from Manning Road (County Road 19). Any alterations to the access off Manning Road will require a permit from the County of Essex.

The immediate surrounding land uses are primarily agricultural or industrial and are zoned as Agriculture or Urban Reserve, which provides a significant buffer between the Site and nearest residential areas.

Therefore, there are no issues with the proposed zoning by-law amendments.

Others Consulted

External and Internal Agencies

The application was circulated to various external and internal agencies, comments received are summarized below.

The County of Essex did not have any objections to the applications and provided that the Applicant will be required to comply with the following County Road regulation:

- 1) County By-Law Number 2481 – A By-Law to Provide for the Protection of Highways and to Provide for the Installation of Entrance Ways.
- 2) County By-Law Number 2480 – A By-Law of the Corporation of the County of Essex to Regulate the Location of Buildings and Structures on Land Adjacent to County Roads.

Full comments are provided in Appendix F.

ERCA does not have any objections to the application and, provided that under Section 28 of the Conservation Authorities Act, any proposed future development, including the placement and grading of fill on the parcel, would be subject to setback restrictions from

top of bank of the Little Baseline Drain West and Manning Road Drain. Full comments are provided in Appendix G.

Lakeshore Building Department provided that the applicant must particularly adhere to By-law 60-2020, a By-law to Regulate Site Alterations of Land or Private Drain Alterations in the Town of Lakeshore. As a result of the proposed use of the subject property, the applicant will be required to apply for a Fill Permit through the Chief Building Official. After review of the permit, the applicant will receive the permit if the Chief Building Official is satisfied that:

- a) a satisfactory grading plan has been received showing:
 - i) the extent of the works,
 - ii) the maximum and minimum elevations of the affected Land, and the maximum elevation shall be consistent with the elevation of adjoining land and in no circumstance shall the raised elevation exceed one metre more above the Crown of the Road; and,
 - iii) the measures proposed to control storm-water run-off;
- b) if there is an existing grading plan that was designed by a professional engineer then the proposed new grading plan must be certified by a professional engineer;
- c) storm water control measures, including swales, tile drains, retaining walls or other professionally designed systems are adequate to prevent the runoff of storm water to adjacent land;
- d) there is no adverse impact on neighbouring land;
- e) all required yards are adequately sloped from the existing Grade at the property line and the maximum slope of all required yards shall be eight centimetres per metre (one inch per foot);
- f) the minimum elevation conforms to the requirements of the Conservation Authority, where applicable;
- g) any Topsoil being removed is being used to restore the Land for which the Permit is being issued unless it can be shown to the satisfaction of the Chief Building Official that the Topsoil is not needed to restore the Land in which case the Topsoil may be removed from the Land provided the Topsoil is not being relocated outside the municipal limits and a permit has been issued for the land to which the Topsoil is being applied; and,
- h) satisfactory dust control, traffic control, noise control, hours of operation and vehicle travel routes are established for all vehicles and equipment involved in the Dumping, filling or Grading operation.

These permits expire in 6 months, requiring the application to re-apply semi-annually. A permit that has expired may be renewed within 60 days of its date of expiry upon written application to the Chief Building Official accompanied by the applicable fee as set out in the User Fees By-law as well as an updated deposit, if required, and provided that the proposed work has not been revised. By-law 60-2020 shall be enforced by a by-law enforcement officer. By-law 60-2020 is attached as Appendix H for reference. However, it is to be noted that this permit is not a requirement for the MECP approvals for a soil management facility.

Lakeshore Engineering does not have any objections to the proposed use; however, it is understood that this site is currently operating. In order to continue operations, the following items are required to be immediately addressed:

- Update to the RWDI report to include how the stormwater run-off quantity and quality will be controlled. Currently there is no protection (as is indicated in the RWDI report) which is a significant concern related to not only sediment control but also having an unrestricted outlet to the existing municipal drainage system; and
- The applicant is required to provide confirmation by an Engineer that the existing access bridge across the municipal drain is acceptable to accommodate the weight/load restrictions for all equipment required to operate the soil management site.

Further, full Engineering & Infrastructure comments are available in Appendix I. Since site plan is not required for this site, it is also noted that Engineering & Infrastructure needs to be included in the fill permit process to ensure that stormwater management and protection of the municipal drainage system continues to be adhered to through the proposed operations of this site.

Lakeshore Fire identified the recreational vehicles located on the site would not receive adequate fire fighting in the case of an emergency event. Lakeshore Planning supports this statement in that *Recreational vehicle sales, service, and storage* establishment is not a permitted use in the M1 zone and should be removed immediately.

Conclusion

Lakeshore Community Planning supports the proposed Official Plan Amendment and Zoning By-law Amendments to permit a non-effluent formal operation of a Class 1 soil management facility and remove the reference to rail-related uses in the permitted uses of both the Official Plan policies and Zoning By-law. The surrounding community structure consists of farm land and employment uses which will not be negatively impacted by the proposed use. It is noted that the need for such soil management facilities has been identified to store soil due to construction activity. In addition, the proposed operation reduces the amount of reusable excess soils entering a landfill.

Following the approval of the Official Plan amendment and Zoning change, the applicant needs to successfully obtain a Site Alteration Permit from the Chief Building Official (CBO), as outlined in By-law 60-2020, which includes engineering drawings and studies to demonstrate that surface water runoff is not impacting the surrounding lands including any municipal drains. To further confirm that there will be no impacts to the municipal drain dissecting the subject property, the Lakeshore CBO will have the Drainage Superintendent review the site alteration permits prior to the release.

Public Notice Circulation

Notice of Public Meeting and information regarding the requested official plan and zoning by-law amendments were sent to all property owners within 120 m of the subject land, in accordance with the *Planning Act*. At the time of writing this report, no written comments were received.

Financial Impacts

There are no adverse financial budget impacts resulting from the recommendation.

Attachments

Appendix A – Location Map

Appendix B – Key Maps

Appendix C – Planning Justification Report

Appendix D – Traffic Memo

Appendix E – Design and Operations Report

Appendix F – County of Essex Comments

Appendix G – ERCA Comments

Appendix H – By-law 60-2020 - To Regulate Site Alterations of Land or Private Drain
Alteration

Appendix I – Lakeshore Engineering Comments

Appendix J – Zoning Map

Appendix K – Official Plan Map

Report Approval Details

Document Title:	Soil Management Site 0 Manning Rd OPA-2-2018 ZBA-20-2014.docx
Attachments:	<ul style="list-style-type: none">- Appendix A - Location map.pdf- Appendix B - Key Map.pdf- Appendix C - Planning Justification Report.pdf- Appendix D - Traffic Memo.pdf- Appendix E - Design and Operations Report.pdf- Appendix F - County of Essex Comments.pdf- Appendix G - ERCA Comments.pdf- Appendix H - By-law 60-2020 - To Regulate Site Alterations of Land or Private Drain Alteration.pdf- Appendix I – Lakeshore Engineering Comments.pdf- Appendix J - Zoning Map.pdf- Appendix K - Official Plan.pdf
Final Approval Date:	Mar 29, 2023

This report and all of its attachments were approved and signed as outlined below:

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