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Date: January 21, 2025

To: Municipality of Middlesex Centre, Planning Department

RE: Planning Justification Brief for Proposed Application for
Site Plan Approval, Official Plan and Zoning By-law Amendment
5606 Westdel Bourne, Pt. Lot 14, Concession Gore

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Purpose

To provide an overview of the related land use planning considerations in support of an official plan amendment, zoning by-law amendment and eventual site plan approval to permit a contractor's business and associated hydrovac slurry processing business on the subject property.

Background

The subject property is a 10.36 ha (25.6 ac.) parcel located on the east side of Westdel Bourne, just north of Decker Drive. (Figure One) The property contains a dwelling and two outbuildings. The business on the site originally started as a concrete installation and finishing business, later expanding into providing hydrovac services.

Hydrovac or hydrovac excavation is not a new technology in the construction industry but the technology has improved considerably over the last 40 years. Hydro-excavating relies on the use of a truck or trailer mounted vacuum unit and high-pressure water to break up soil and rock and then vacuum it into a large, sealed tank. The construction industry relies significantly on hydro excavation for a variety of tasks including digging trenches, locating underground utilities and gas lines, cleaning sewer pipes and excavating delicate structures. The process is far less destructive and safer than traditional open trenching with large backhoes and tracked excavators. It provides a self-contained unit that does not rely on the transport of equipment on other trucks and can often complete work in areas not accessible to larger equipment.

There are many private companies that provide this service and most municipalities also have units of their own to maintain storm drains and sanitary sewer systems. However, as with any technology, there are pros and cons. For the hydrovac industry the issue is what to do with the material that is removed from the site particularly since it contains a large percentage of water. Material that is removed from sewer cleaning or sewer repair projects must be transported to a treatment facility because of the waste content. Non-sanitary waste material, or slurry as it is referred to, is made of soil, sand, rock or gravel, presents more of a challenge as there are limited facilities to accept and process this material.

In addition to this the Ministry of Environment, Conservation and Parks (MECP) has introduced a number of regulations in the last several years that outline where and what is done with excess soil which is what the slurry from hydrovac services is considered. The purpose of the regulations are to ensure that any soil taken off one site and potentially reused on another is free of contaminants.

What my client is proposing to establish on the subject property is the installation of a recovery system which processes the slurry collected in the hydrovac trucks by separating the mixed materials, stone, gravels, clay and sand while at the same time removing the water which can then be cleaned and reused by the hydrovac business. This would replace the current method of material being placed in a settling area and then stockpiling materials, simply waiting for them to dry out naturally. What remains is a mix of what are generally unmarketable mixed aggregate. By processing the material as it arrives at the site it greatly reduces the footprint needed by the business, increases the marketability of the separated materials, reusing water thereby creating a near closed loop system.



5606 Westdel Bourne



FIGURE ONE

WGS_1984_Web_Mercator_Auxiliary_Sphere
0.5 Kilometers
0 0.23 0.5
This map is a user-generated static output from an internet mapping site and is for reference only. Data layers that appear on this map may or may not be accurate, current, or otherwise reliable.
THIS MAP IS NOT TO BE USED FOR NAVIGATION

1:9,028

- Legend
- North Middlesex Address Unit
 - Thames Centre Address
 - Parcels

Notes

11/15/2024

Planning Rationale

1) Provincial Planning Statement (2024)

The subject lands are considered prime agricultural and as such subject to the policies of Section 4.3, Agriculture under PPS. There are two sections under PPS that should be considered as follows:

Section 4.3.2 Permitted Uses

Section 4.3.2.1 states that, “In prime agricultural areas, permitted uses and activities are: agricultural uses, agriculture-related uses and on-farm diversified uses based on provincial guidance.

“Proposed agriculture-related uses and on-farm diversified uses shall be compatible with, and shall not hinder, surrounding agricultural operations. Criteria for these uses may be based on provincial guidance or municipal approaches, as set out in municipal planning documents, which achieve the same objectives.”

The Ontario Ministry of Agriculture, Food and Rural Affairs, after the implementation of PPS, 2014, developed, “*Guidelines on Permitted Uses in Ontario’s Prime Agricultural Area*” Publication 851.” This guide was developed to assist municipal planners in the assessment of ever-increasing requests to permit more diversification in rural areas. This became particularly important because PPS, 2014 introduced on-farm-diversified as a permitted use in prime agricultural areas.

The guide itself under Section 2.4, Table 2 provides a comprehensive overview of many different examples of potential on-farm diversified uses. The proposed development would fall under industrial use given the processing nature of the recovery and dewatering system used to treat the slurry from the hydrovac business.

In consultation with the Municipality, it is understood that the business is potentially being considered as an on-farm diversified use. Because the use also shares some characteristics of a non-agricultural nature it is suggested that consideration of Section 4.3.5 is given as a method of providing added assessment of the business and its potential impacts.

Section 4.3.5 Non-Agricultural Uses in Prime Agricultural Areas

1. Planning authorities may only permit non-agricultural uses in prime agricultural areas for:

- a) Extraction of minerals, petroleum resources and mineral aggregate resources; or
- b) Limited non-residential uses, provided that all of the following are demonstrated:
 1. the land does not comprise a speciality crop area;

Comment: The area in question is made up of a variety of soil types. From a review of the Middlesex County Soil mapping the property is in an area of silt and clay loam type soils. From a review of the crop type in the area it appears limited to traditional cash crops such as corn, soybeans and wheat. There was no evidence in the immediate area of speciality cropping.

2. the proposed use complies with the minimum distance separation formulae;

Comment: It is important to consider what type of zoning amendment is proposed in agricultural areas as it can have a significant impact on the required setbacks for new or expanding livestock operations. The subject is located southeast of a livestock operation(horses). Based on the required MDS I calculation estimating approx. 30 horses the required setback from the barn to the nearest property line is 151 m, the actual is 162 m. The required setback to the manure storage is also 151 m, the actual is 153 m. In both cases the MDS setback requirement is met. In addition, the actual setback to the proposed operation area is 325 m providing a significant buffer between the required and actually setbacks.

3. there is an identified need within the planning horizon provided for in policy 2.1.3 for additional land to accommodate the proposed use; and

Comment: Not all land use needs are identified or anticipated each time plans and policies are developed. Agricultural parcels of land, such as the subject parcel, have the opportunity to service two needs. The active use of the lands for farming such as cash crops on the subject lands and providing a location for a variety of uses that can be compatible with the predominate surrounding agricultural uses.

Most farming operations fall under one of two classifications; significant, farming several thousand acres of a variety of crops to diversify the operation and average, farming a hundred to perhaps several hundred acres with additional income being derived from either full time off-farm employment or an on-farm business that can be either agri or non-agri related. Examples can include fabricating, equipment repair, a variety of

contracting enterprises such as excavating, drainage, building construction, electrical, HVAC, equipment sales, seed and farm supply sales, custom harvesting, spraying, trucking, whatever can provide additional income to support the farm while intermixing with the continued operation of the farm.

The contractors yard with the original concrete finishing business and now hydrovac business can be considered in that mix. The addition of the slurry recovery system to the business will actually help to maintain or reduce the current footprint of the business while servicing an increasing demand in the hydrovac business to process and reuse materials from the various job sites.

PPS and local Official Plan policy are concerned with the protection of prime agricultural lands on two fronts; limiting the loss of actual physical agricultural acreage and insuring that non-residential uses do not negatively impact on the continued use of prime agricultural land.

The subject parcel has evolved over time between 2006 and present. Approximately 3.4 ha (8.4 ac.) of the site was not actively farmed in 2006. About half of the site was used for the dwelling and single outbuilding at the time with the balance used to pasture a few animals. In 2015 the footprint was reduced to 2.4 ha (6 ac.). At present approx. 3.3 ha (8.2 ac.) including a new building make up the non-farmed portion of the lot. The area used for the drying of the slurry, based on earlier aerial photos, was a low-lying area and not readily cropped at the time.

The second point related to ongoing impact has a number of points to consider including traffic, scale of the business, what are the associated impacts and what, if any, environmental issues does the slurry processing pose.

Traffic – Trucks used in the business are larger tandem to triple axle trucks about the size and weight of most standard dump trucks. The overall volume of trucks does vary depending on the time of year with the winter months being much slower. Since site plan approval is a requirement if the Official Plan amendment and Zoning are approved the municipality my seek to have some form of improvements at the entrance to the property to safeguard the road and mitigate potential safety concerns. The applicant has indicated that they do not expect the volume of traffic to and from the site to increase as a result of the addition of the processing plant.

In comparison to agricultural uses large equipment and trucks are a common site with peak activities in the spring and fall.

Scale of the business – Although the goal of the business is to offer the ability to process slurry for other companies in the area in the future the introduction of the processing and dewatering plant is to maintain or reduce their own footprint by avoiding the need for a large storage area as the slurry can be processed as it arrives with the potential ability to return the material back to the job site, clean and reuse water extracted from the slurry and supplement with collected onsite stormwater.

In comparison to agricultural uses there are often large facilities on many farms which store grain, process a vary of crops, haul manure and generate noise, dust, smells and traffic.

Associated impacts – Any processing type business has the potential to create impacts such as noise, dust, smell and vibration. Since the slurry arrives and is processed wet it still exits the system with some water contain so dust is not emitted. Noise is generated by the operation of the machine however it is electrically powered so there is no engine noise only mechanical and no emissions from a diesel engine. The applicant has included a noise profile from the manufacturer that shows the noise levels around the plant. (Appendix A) The closest dwelling to the site is approximately 350 meters to the southwest at 8308 Decker Rd. The conceptual site plan shows the location of the plant behind the existing building and berming can be added or enhanced through the site plan approval phase to provide added noise mitigation and screening.

Environmental Considerations – The operation of the processing plant will require an Environment Compliance Approval (ECA) to operate. The purpose of the ECA is to ensure that material transported and processed on the site is not contaminated by off-site sources and that the reclaimed water from the dewatering process of the slurry is undertake correctly. MECP issued an ECA to the property owner dated Oct 1, 2024. (Appendix B) The required zoning amendment should incorporate the ECA as an operational requirement for the slurry processing portion of the business.

4. Alternative locations have been evaluated, and
 - i. there are no reasonable alternative locations which avoid prime agricultural areas; and

Comment: The subject property has contained a contractor's business for several years operating on the same built-up footprint around the house and associated yard and buildings. The proposed

change and expansion of that business has not removed any lands from active production and the addition of the processing plant seeks to operate on the existing area or potentially less area. Middlesex County is generally all considered prime agricultural lands. By utilizing existing built-up areas on parcels such as the subject site for businesses such as this, it in affect does avoid, at the very least, utilizing new or greenfield sites in prime agricultural areas.

- ii. there are no reasonable alternative locations in prime agricultural areas with lower priority agricultural lands.

Comment: Since much of Middlesex County is prime agricultural lands, it is difficult to locate on lands of a lower priority. The goal on the subject site is to not increase the footprint but to continue to utilize a similar amount of area that has not been actively farmed for many years. The location is also central to a large service area reduce travel distances.

2. Impacts from any new or expanding non-agricultural uses on the agricultural system are to be avoided, or where avoidance is not possible, minimized and mitigated as determined through an agricultural impact assessment (AIA) or equivalent analysis, based on provincial guidance.

Comment: The Municipality has indicated that an AIA is not required however will require site plan approval for the development and ongoing use of the property for the business. As noted earlier in the report the hydrovac industries' largest challenge is the ability to process and manage the slurry created by its operations. This has often lead to improper disposal and impact on both agricultural and non-agricultural lands. By providing a facility to both process the slurry and reuse the aggregate, soil and water impacts on all areas can be greatly reduced.

Section 4.1 Natural Heritage

1. Natural features and areas shall be protected for the long term.

Comment: The subject lands are not within a regulated area of the Kettle Creek Conservation Authority and there are no natural heritage features such as woodlands or wetlands within close proximity to the subject property.

Section 4.6 Cultural Heritage and Archaeology

The Municipality requested that an archaeological assessment be undertaken on the site in part due to the proximity of several First Nations

Communities and the historical background of the area. A Stage I and II assessment was completed, found no evidence of archaeological potential and concluded that no further assessment is required. As a result, a letter of clearance will be forthcoming from the Ministry. The report is included as Appendix C.

2) Official Plan – County of Middlesex, Municipality of Middlesex Centre

Both the County and Middlesex Centre Official Plan list an on-farm diversified use as permitted in accordance with the 2016 Guidelines on Permitted Uses in Ontario's Prime Agricultural Areas.

The County Plan under Section 2.2.2.2 notes that a contractor's yard is a use often considered as a non-agricultural use in the agricultural area and subject to the same considerations outlined and discussed under the PPS section of this report.

The current Middlesex Centre Official Plan prohibits non-agricultural uses unless they are specifically permitted under Section 2.0 of the Plan. The proposed use is not listed as a permitted use. However, as noted above the Municipality would consider the use as an on-farm diversified use through consideration of an amendment to the Plan. This is based on the new Official Plan which now outlines criteria for the assessment of on-farm diversified uses.

2.5 ON-FARM DIVERSIFIED USES

Non-agricultural uses may be permitted in the form of On-Farm Diversified Uses within the Agricultural Area, subject to the policies below and provided they satisfy the PPS definition of On Farm Diversified Uses and the OMAFRA guidelines on permitted uses in Ontario's Prime Agricultural Areas. The intent is to allow farm operators to supplement their income through a secondary use or activity provided it does not become the primary use of the property.

a) On-Farm Diversified Uses may include the following, provided the criteria set out below are met.:

- Home occupations;
- Home industries (e.g. sawmill, welding or woodworking shop, manufacturing/fabrication, equipment repair, seasonal storage of boats or trailers);
- Small-scale retail, café, or bakery;
- Agri-tourism uses such as bed and breakfast establishments, seasonal attractions (e.g. corn maze, pick-your-own, hay rides), but not including permanent event facilities;.
- Value-added agricultural uses;
- Farm market; and,

- Farm Winery, cidery, brewery or distillery.
- b) Any other non-agricultural use located on a farm that meets the criteria set out below in Section 2.5.1 may be permitted.
- c) All On-Farm Diversified Uses shall be subject to applicable policies related to that use elsewhere in this Plan.
- d) Certain On-Farm Diversified Uses (such as Home Occupations) may be permitted as-of right by the Zoning By-law, however a Zoning By-law Amendment may be required to permit uses that are not generally permitted within, or accessory to, a residential dwelling.
- e) All On-Farm Diversified Uses shall be subject to site plan control.
- f) Proponents may be required to enter into an agreement with the Municipality to ensure the use adheres to the requirements of this plan.
- g) Examples of uses that would not be considered On-Farm Diversified Uses include: equipment or vehicle dealerships, hotels, landscape businesses, manufacturing plants, trucking yards, full-scale restaurants, banquet halls and permanent wedding venues, recurring events with permanent structures, large scale active-recreational uses or spectator sports facilities, among others.

2.5.1 CRITERIA FOR ASSESSING ON-FARM DIVERSIFIED USES

A proposed On-Farm Diversified Use must demonstrate that it will:

- a) Be secondary to the principal agricultural use of the property;

Comment: The balance of the lot is actively cropped and includes a house and small outbuilding that are not part of the business.
- b) Be limited in area to a maximum of 2% of the property on which the uses are located, to a maximum of 1 ha;

Comment: The area used by the business at present is approximately 2 ha total however much of this area was not actively farmed in the past or was part of the non-farmed area. The additional lands are used for the storage of the hydrovac slurry however once the plant is operational this material can be processed and reused by the business on its job sites.
- c) Not prevent or preclude the on-going agricultural use of the property.

Comment: The use has not prevented the balance of the farm parcel from being actively cropped.

Agriculture related tourism or recreational uses may also be permitted, subject to the policies of Section 2.0 of this Plan, and further subject to consideration of issues including the proposed scale of the use; a determination that no negative impacts on nearby agricultural operations will result; and a determination that the use is well removed from potential land use conflicts.

Comment: N/A

Site specific zoning and Site Plan Control may be required to establish limits to the proposed use, location and time periods of operation, or other elements to ensure the proposed use meets the policies of this plan.

Comment: Both zoning and site plan approval have been noted as approval requirements.

In addition to the above the municipality has requested or suggested that the following be provided as part of the background material in support of the applications:

- i) Confirmation of consultation with area First Nation Communities which are located to the west of the subject lands.
- ii) An open house be held for those abutting landowners that would be receiving public notice for the required planning approvals.

Comment: This will be pursued as the application process moves forward.

The plan amendment specific to the subject site would include permission to operate an on-farm-diversified use (contractor's yard including the slurry processing plant- subject to applicable ECA approval), limited to a maximum 2 ha (4.9 ac.) footprint (this does not include the existing dwelling, yard and driveway area).

3) Comprehensive Zoning By-law

The subject property is located within the Agricultural (A1) Zone. The zone permits a range of uses. The majority are agriculture or agriculture related. The business on the subject parcel would be classed as non-agricultural however in review of the provincial guidelines could be considered an on-farm diversified industrial use as the balance of the property remains in active agricultural use. A zoning amendment is required to add a contractor's yard, specific to the hydrovac business, along with the proposed processing plant for the hydrovac

slurry. On-farm diversified uses are intended to be limited in scale. The proposed site would not occupy more than 2 ha total. This includes the processing plant, material storage areas, equipment storage and parking as well as the necessary berming, screening and/or landscaping. This would not include the existing house and yard area or the shared driveway to the house as it is necessary regardless of the business.

The specific amendment that would be required for the property would be a site-specific A1 zone to address the following:

- i) Permit a contractor's yard including the existing concrete finishing and hydrovac business;
- ii) Permit the hydrovac slurry processing plant (subject to the applicable ECA approval from MECP);
- iii) Establish appropriate regulations related to scale and location of the business and location of the processing works;
 - a) Total footprint of the business not to exceed 2 ha including processing & material storage area, parking/equipment storage and berms & applicable screening/landscaping.
 - b) Location on the site is limited as per approved site plan
- iv) Add any addition definition(s) in the zoning by-law specific to the proposed uses on the site.
 - a) Slurry Processing is to be added as a required definition to the Middlesex Centre Zoning By-law as follows:

“Slurry Processing – means the separation and dewatering of non-contaminated solids (aggregate material including sand, clay, gravel, silt or stone) produced as the result of hydro-excavation activities undertaken by a hydrovac contracting business as detailed under a valid ECA issued by the MECP or other applicable ministry.

4) Site Plan Approval

Site plan control is the primary method of addressing on-farm diversified uses to outline the specific requirements and expectation to address and mitigate any impacts from a given use.

Business & Operational Overview

Hours of operation – 7 am to 6 pm

100% of the processed material is reusable i.e. sand for landscaping or backfill on hydrovac excavation sites, stone for landscaping, clay can be used for pond

lining or in manufacture of other building materials off-site. For the proposed business the expectation is to reuse the materials on-site for required berming or at job sites for prep and restoration. Material will not be sold to third parties. Water from the processing of the slurry along with stormwater can be reused to refill trucks which use water in the excavation process and to rinse out trucks when unloading into the plant. The separation process, based on information provided by the processing plant manufacturer is as follows:

“Terex Washing Systems uses a flocculant to treat water. It's common in city owned and operated water treatment plants, even toothpaste. The process works by premixing a powdered flocculant with water and adding to the tank where the water starts its treatment to be separated from the solids. The liquified flocculant is stirred into the tank, then the positive charge from the flocculant adheres to the negative charge solid, densifying solids, causing them to drop quicker. The dense slurry is gravity fed to one tank and the clear water weirs off to the water tank for re-use. The flocculant does not contain any contamination. I have attached a flocculant information sheet for you. Flocculant is relatively unknown but used in everyday life.”

Existing berms on the site will continue to be used for screening and noise mitigation. Dust from the process will be minimal as the slurry is wet. Noise from the plant can be mitigated by both setbacks and use of berming. As part of the site plan approval process the municipality has noted that a noise study will be required including confirmation that the berming provided will effectively mitigate noise on the site. The plant is electrically powered rather than operating with a gas or diesel motor.

The applicant has prepared a preliminary site plan outlining the existing buildings and uses as well as the location of the processed processing plant. (Figure Two) An overview of the processing plant is also included. (Appendix D) The plant itself is a module, portable unit with no permanent foundations required.

Conclusions

The rationale in PPS and Official Plans for limiting all development in prime agricultural areas is clearly understood. It protects these areas from the loss of productive lands and mitigates or reduces the impact of both on-farm diversified and non-agricultural uses. Establishment of the existing business on a greenfield site would clearly not be and shouldn't be permitted. Allowing limited on-farm diversified or non-agricultural use such as the business in question can be considered case-by-case and established with proper controls and regulations in place such as zoning and site plan control.

The proposal for the subject site will not result in added traffic on Westdel Bourne but may increase activity on the subject site with the addition of the slurry processing plant. Although the business could potentially be located on an industrial site within a settlement area there are certain advantages to having it located on the subject site, such as:

- i) More centrally located to service a larger area
- ii) Provides a site that can be away from potential sensitive uses
- iii) Does provide services in both the rural and urban areas
- iv) Provides a much needed facility to properly process hydrovac slurry and avoid the dumping and wasting of value aggregate which is contained in the slurry

Through the approval process the business can be limited in scale (footprint) to that which is currently being used to minimize any additional active farmland being lost.

With this in mind, I believe that continuation of the existing business via the required official plan and zoning by-law amendment coupled with site plan control can be permitted and does represent good land use planning.

Prepared by:



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