



Public Meeting

March 14, 2023

Staff Report: #PLN-2023-07

REPORT BY: Forbes Symon, Senior Planner, Jp2g Consultants Inc.

REPORT SUBJECT: Thomas Cavanagh Construction Ltd.
Dalhousie Con 10 Pt Lot 5, Geographic township of Dalhousie
(Highland Line)
Township of Lanark Highlands Amendment to Township's
Official Plan and Zoning By-law

DEPARTMENT: Planning

1. LOCATION AND DESCRIPTION

The subject property is located on Part Lot 5, Concession 10, geographic Township of Dalhousie, now in the Township of Lanark Highlands (Appendix A – Key Map) . The property is not identified with a civic address as there are no buildings on the property. The OPA/ZBA applications identify the subject property as being 50.6 ha (125 ac) in size, all of which will be licensed Aggregate Resources Act (ARA) lands. The applications also indicate that the 35.1 (86.7 ac) is proposed to be subject to aggregate extraction.

It is important to appreciate that this new proposed pit is to be a Class 'A' Licence to operate a pit **below the water table**, with a maximum annual tonnage to be extracted at 1,000,000 tonnes. The pit is proposed to operate on a 24-hour basis with limitations on what equipment can operate between the hours of 7 pm and 7 am.

In order for this proposed pit to proceed, there is a need for the proponent to obtain an amendment to the Lanark County Sustainable Communities Official Plan (SCOP), an amendment to the Township of Lanark Highlands Official Plan and Zoning By-law and obtain an Aggregate Resource Act (ARA) licence from the Ministry of Natural Resources and Forestry.

The amendment to the SCOP is required to permit any new mineral aggregate operations within the County by adding them to the Licensed Aggregate Extraction Operation Designation. The proposed SCOP Official Plan Amendment (OPA) will amend the current designation from "Rural" to "Licensed Aggregate Extraction Operation".

The amendment to the Lanark Highlands Official Plan as submitted is to change the land use designation from "Rural Communities" to "Mineral Aggregate Resource Policy Area – Pit". The amendment to the Lanark Highlands Zoning By-law 2003-451 to amend the zoning from "Rural (RU)" and "Mineral Aggregate Reserve – Holding (MAR-h)" to "Mineral Aggregate Resources Pit (MXP)" (Appendix B, C, D).

Concurrent to amendments to the County and Township planning documents, the proponent has initiated an ARA site plan license request with the Ministry of Natural Resources and

Forestry. It is important to appreciate that the County and Township planning approvals focus on land uses, while the ARA site plan license focuses on site extraction details, pit operations, and rehabilitation (Appendix E). The ARA application has been deemed complete by the MNRF and is filed as ARA application #626599 (Appendix F).

The applicant's Planning Justification Report describes the site as being comprised of two parcels separated by Anderson Lane. Anderson Lane is a Township road which provides access to a dwelling located adjacent to the property on Lot 4, Con 10. The entire subject property and proposed pit will have frontage on Highland Line, a Township year-round maintained road.

The proposed pit operation is expected to generate approximately 60 two-way truck trips per day at maximum production. The proposed operation will extract aggregate using an on-site mobile screening plant and will also require the occasional crushing. Both of these operations will only operate between 7:00 am and 7:00 pm.

The subject property can be best described as rolling hilled landscape, with tree cover on high lands and hay and pasture fields on flatter and lower lands. A large portion of the tree cover on the property was removed in the spring of 2020. The most significant feature of the property is that it drains to and abuts Barbers Lake. Barbers Lake is part of the Long Sault Creek Subwatershed which is known to be a cold-water stream with a documented native brook trout population (Watershed Canada). In addition to the subject property, approximately 6 other properties abut Barbers Lake, with six dwellings abutting the lake.

It is worth noting that on a site inspection following the submission of the applications, it was confirmed that a large portion of the subject lands visible from Highland Line has been deforested.

One of the region's most significant rural economic development attractions, Wheelers Pancake House is located directly to the west of the subject property. The proponents Planning Justification Report suggested that the main structures of the Pancake House are located 500-600 m from the subject property and that visual and acoustic berms will be used to mitigate potential impacts from the proposed pit.

There are currently no buildings located on the subject property.

2. APPLICANT SUBMISSIONS

On behalf of Thomas Cavanagh Construction Ltd., MHBC Planning Urban Design & Landscape Architecture submitted the following information in support of their applications:

- Stage 1 through 4 Archaeological Assessments (WSP Golder);
- Traffic Impact Study (Castleglenn Consultants)
- Acoustic Assessment (Freefield Ltd.);
- Level 1 and Level 2 Water Report (WSP Golder);
- Natural Environment Level 1 and 2 Technical Report (WSP Golder);
- Planning Report and ARA Summary Statement (MHBC);
- Site Plan (WSP Golder).

At the time of the writing of this report, the peer review of the above noted reports have not been finalized. Future comments on the reports will be forthcoming at a future meeting.

3. ARA PROPOSED SITE PLAN SUBMISSION

The proposal involves Thomas Cavanagh Construction Ltd. making a Class A Licence to operate a pit below the water table. The maximum annual tonnage is proposed to be 1,000,000 tonnes. The ARA License application has been deemed complete and has been assigned #626599. The ARA site plan is attached as Appendix E. Correspondence from MNRF indicate that MECP will review the proposal in terms of the hydrogeological report. The ARA circulation/commenting period is 60 days from January 31, 2023 (Appendix F).

It is worth noting that within 7 kilometres of the subject property there are 9 other ongoing aggregate pit licenses. These licenses combine for a total maximum annual extraction of 900,000 tonnes. Only one of these 9 surrounding pits is below water (Pit ID 4239). All of the operating pits within close proximity to the subject property are pits which operate 1.5 m above ground water levels.

It is also worth noting that of the 9 pits within 7 km of the site, four have frontage on Highland Line. The existing Highland Line pits have a combined annual tonnage of 690,000 tonnes and cover approximately 144 ha of land. All of the existing pits that front on Highland Line Road use the existing/proposed haul route east along Highland Line Road to County Road #12 (Watsons Corners Road).

The most recent approved pit on Highland Line Road, referred to as the McKinnon Pit, operated by Arnott Brothers, resulted in an agreement between the Township and the proponent for upgrades to the Highland Line Road and limits on pit operation. Of particular interest are the limits to heavy truck travel from 6:00 am to 6:00 pm, Monday to Friday with no truck traffic on weekends or public holidays. During half-load season, no truck travel is permitted along Highland Line Road, except for a case of emergency. The agreement also identified the times of year when on-site crushing would take place. This pit covers approximately 34.3 ha of land and has a maximum annual extraction of 150,000 tonnes.

4. PLANNING ANALYSIS

4.1 Provincial Policy Statement (PPS) 2020

The Provincial Policy Statement provides policy direction on matters of provincial interest related to land use planning that provides for appropriate development, while protecting resources of provincial interest, public health and safety, and the quality of the natural and built environment. As per Section 3(5) (a) of the Planning Act, R.S.O. 1990, all planning decisions must be consistent with the PPS.

The applicant's Planning Report provides a very detailed assessment of consistency with the PPS (2020) and concludes that the "proposed Highland Line Pit operation has been designed to ensure that social, economic and environmental impacts are minimized. The proposal will make available close to market aggregate which will serve local eastern Ontario markets". It also concludes that the proposed pit is consistent with the PPS (2020).

There are a number of points which should be stressed about the PPS. First, Section 2.5.2 deals with Mineral Aggregate Resources. It clearly states that “as much of the mineral aggregate resources as is realistically possible shall be made available as close to markets as possible.” It also states that “demonstration of need for mineral aggregate resources, including any type of supply/demand analysis, shall not be required”.

Section 2.5.2.2 states that extraction shall be undertaken in a manner which minimizes social, economic and environmental impacts. The policies also state that the aggregate resource should be protected from non-compatible uses.

4.2 Lanark County Sustainable Communities Official Plan (SCOP)

The subject lands are designated “Rural” in the Lanark County SCOP and as such there is a need to amend the SCOP in order to permit the proposed Highland Line Pit. The SCOP Official Plan Amendment (OPA) is intended to amend the designation from ‘Rural’ to ‘Licensed Aggregate Extraction Operation’.

The applicant’s Planning Report confirms that the proposed Highland Line Pit requires an amendment to Schedule A of the SCOP from Rural to Licensed Aggregate Extraction Operation.

The SCOP policies in Section 6.2, Mineral Aggregate Resources identifies the economic importance of aggregate and the need to protect the resource from non-compatible land uses. It identifies a broad range of permitted uses including portable asphalt and concrete plants. It also creates a 300 m buffer around all aggregate operations to limit non-compatible uses to be established.

4.3 Lanark Highlands Official Plan

The applicant’s Planning Justification Report identifies the lands as being designated “Rural Communities” on Schedule ‘A’ of the Official Plan. As such there is a need to amend the Township OP to permit the proposed pit. The Township Official Plan Amendment (OPA) is intended to amend the designation from ‘Rural Communities’ to ‘Mineral Aggregate Resource Policy Area – Pit’. A portion of the proposed pit is currently identified as “Mineral Aggregate Reserve”, consistent with provincial mapping of aggregate resources.

The applicant’s Planning Justification Report assessed the relevant policies of the Lanark Highlands Official Plan and concludes that the proposed pit conforms to the Township’s Official Plan.

Section 4.1 of the OP contains the Mineral Aggregate policies. It recognizes the range of permitted uses highlighted in the PPS, including pits and quarries and portable asphalt and concrete plants. Section 4.1.3 sets out the policies for new or expanded mineral aggregate resource policy areas. It clearly states that provided all applicable policies of the OP are met, the establishment of a new licensed operation shall be permitted subject to the lands being within the appropriate designation.

Where new pits are proposed within 300 m of a residential, institutional or commercial use the proponent is required to provide information related to hydrogeological impacts and

demonstrate that the extraction operation will not result in negative impacts on the existing non-extraction development's water and sewer services. They are also required to provide information on traffic impact, noise and vibration impact assessments and "demonstrate conclusively that the proposed extraction operation can proceed without negative impacts on the existing non-extraction development.

As noted earlier, the subject property and the proposed mineral aggregate extraction is proposed within 30 m of Barbers Lake. What the Planning Justification Report for the proposed development failed to recognize was that a portion of the property is within the Waterfront Communities designation. Section 3.1 of the Official Plan states that "Waterfront Communities is defined as those lands generally extending inland 150.0 metres from any lake or watercourse as shown on Schedule A, except that:

1. lands which ecologically, physically, visually or functionally relate to the water body, although extending beyond 150.0 metres from the waterbody shall be deemed to be within the Waterfront Communities;
2. lands which do not ecologically, physically or functionally relate to the water body, although within 150.0 metres of the waterbody shall be deemed not to be within the Waterfront Communities; and,
3. lands within the Village and Hamlet Communities designation on Schedule A to this Plan shall be deemed not to be in the Waterfront Communities."

The OP acknowledges that "the extent of the Waterfront Communities is not shown graphically on Schedule A." It states that "in considering the precise location of where the Waterfront policies apply, the following matters shall be considered:

1. the extent to which the lands or the existing or proposed use of the lands are associated with or impact upon the waterfront;
2. the existence of topographic features or other terrain constraints which would limit or orient the proposed use of the land toward or away from the waterbody; and,
3. the presence of man-made features which would orient the proposed use of the land toward or away from the waterbody."

Section 3.1.2 sets out the Waterfront Objectives which include:

1. "To protect the visual qualities of the lakes and rivers and to protect or enhance the natural shoreline character.
2. To protect wetlands, wildlife habitat areas and fish habitat from incompatible development.
3. To maintain or improve the ecological, scenic or recreational character of the Township's lakes and rivers and those lands that are visually connected to the shoreline.
4. To ensure that shoreline development does not have an adverse impact on the quality of lake water and, wherever possible, to rehabilitate and naturalize shoreline areas that are currently developed.
5. To encourage an increased awareness of the sensitivity of the environment and environmental stewardship of lands in the Waterfront Communities.
6. To ensure that development, redevelopment and the increasing use of shoreline properties does not result in additional environmental impacts or increase municipal servicing costs.

7. To promote the maintenance and enhancement of native vegetation buffer areas in all shoreline areas of the Township.
8. To promote the use of septic systems and tile beds that utilize phosphorous retaining soils. To encourage and support the development of lake management plans that identify and protect the unique social, cultural and ecological values of different lakes in the Township.
9. To protect areas of archaeological potential.
10. To preserve the dark sky through sensitive lighting design and installation.”

It would appear that the policies of Section 3.1 have not yet been addressed by the proposed mineral aggregate pit applications.

4.4 Lanark Highlands Zoning By-law

The Schedule A to the Lanark Highlands Zoning By-Law 2003-451 identifies the subject property as being covered by two zones: ‘Mineral Aggregate Reserve - Holding (MAR-h)’ and ‘Rural’ (RU). Neither of these zones permit the proposed pit operation and, as a result, a Zoning By-law Amendment (ZBA) is required to place the property within the ‘Mineral Aggregate Resources Pit’ (MXP) zone, which is designed to permit a pit.

The Planning Report identified that Section 4.32.3 states that “the minimum setback distances for pits and quarries from property lines shall be as set out in the Aggregate Resources Act”. This provision recognizes that extraction setbacks are outlined on the site plan approved under the Aggregate Resources Act and that the site plan prevails to the extent of any conflicts with a municipal by-law.

The proposed pit zoning by-law amendment application does not include any special provisions or setbacks.

4.4 Mississippi-Rideau Source Protection Plan

One of the issues that was identified through the preliminary review of the proposed pit application was that the Government of Ontario Pits and Quarries web site identified the entire subject property as being a vulnerable aquifer and a large portion of the western half of the subject property as being a “significant groundwater recharge area”. The highly vulnerable aquifers represent 89% of the region, while significant groundwater recharge areas represent 13% of the region’s land base. The MECP describes drinking water threats under the Clean Water Act to include “an activity that reduces the recharge of an aquifer.”

5. COMMENTS

Notice of the proposed Official Plan Amendment and Zoning By-law Amendment to permit the proposed pit were issued on January 30, 2023 to all property owners within 120 m of the subject lands, posted on the subject lands, mailed to all prescribed ministries and agencies and posted on the Township’s website.

At the time of the writing of this report, there were no comments received from any of the circulated agencies.

Similarly, there were no peer review comments received at the time of the writing of this report.

There has been a high volume of comments received from the public and surrounding property owners. All comments from the public that have been received at the time of the writing of this report are found in Appendix G and are deemed to form part of the public record for this file. At the time of the writing of this report there were 46 individual submissions from the public. The cut off for comments included in this report was March 8th, 2023 at 12:45 p.m. Those who have provided comment include:

Patrick Clarke – 273 Leo Jay Lane
Sylvia MacKenzie – 203 Leo Jay Lane
George MacKenzie – 203 Leo Jay Lane
Cal Wallis – 526 Highland Line
Alani Galbraith-Kuzma – 264 Con 9A Dalhousie
Kristen Roy – 6111 McDonalds Corners Road
Jeremy & Zoe Adam – 483 Highland Line
Lynn Ann Reside – 264 Con 9A Dalhousie
Nathan Wheeler – 172 Trembleau Rd, NY
Vernon Wheeler – 1001 Highland Line
Judy Wheeler – 1001 Highland Line
Dan & Tami Hunton – 2144 Bathurst Line W
Tim Schruder – 626 Highland Line
Geoff Mason – 101 Leo Jay Lane
Caitlin Mason – 101 Leo Jay Lane
Linda Grenier – 104 McCulloch Rd
Jenna & Doug Deforge – 134 Eldreds Road
Gary Glover & Cindy McCall – 100 Milton's Road
Trecia Jones – 626 Highland Line
Judith Long – 100 Shelby Lane
Dale Moulton – 127 Leo Jay Lane
Angela Wheeler – 1001 Highland Line
Mark & Shannon Wheeler – 1001 Highland Line
Bill Bak – 926 Con 9A Dalhousie
Ken Hillis & Michael Petit – 291 McCulloch Road
Trevor Fisher – no address
Tim Wheeler – 1001 Highland Line
Cindy & Ian Preville – 4557 Watson Corners Road
Joel Smith – 1121 Highland Line
Isla Smith – 1121 Highland Line
Dan McRae – 133 Karen Lane
Charles Temple & Susan Snyder – Lot 7 Con 8, Lanark Highlands
Arnott Construction – Dalhousie Concession 10
Tracy Smith - 1121 Highland Line
Caleb Smith - 1121 Highland Line
Gary Scrafano, Glynnis Brushett and Corbeau Scrafano – 983 9th Concession A Dalhousie
Chuck Kozo – 160 Ferguson Side Rd.
Norah & Douglas Frobel – 255 Leo Jay Lane
Clair & George Fisher – 332 McCulloch Road

Sheila MacDonald – McDonald's Corners
Larry Deforge – Dalhousie Concession 10
Bobbi & Alex Puharich – 105 Maple St.
Donna Marie & Robbie Adam – 872 Dalhousie Con 9A
Erica Riley & Keith Johnson – 949 11th Concession Dalhousie
William Barrett – 4439 Watson's Corners Road
Carolee Mason - 101 Leo Jay Lane

The following is a summary of the range of topics and concerns that have been submitted:

1. The below water table pit is a great concern regarding protection of drinking water and environmental impacts on Barbers Lake and Long Sault Creek.
2. Overall disregard of the impact on those who live/own lands on Barbers Lake and the environmental impact on the Lake
3. Overall loss of habitat and impact, 2020 deforestation.
4. The 24hr operation and noise throughout the night, impact on natural environment with lighting, light pollution
5. Economic impact on a significant regional business (Wheelers Pancake House & Museum).
6. Traffic impact related 24hr operation, ability of the road to withstand high use
7. General quality of life impacts, noise, air pollution, visual impact.
8. Concerns with enforcement of terms and conditions of ARA site plan – past infractions by applicant

Most if not all comments received are well documented and have merit. It will be the proponent's responsibility to address these comments prior to Council making a decision on the OPA and ZBA.

6. SUMMARY AND RECOMMENDATIONS

The proposal before Council is to permit a below water pit to be operated 24hr per day on lands described as Part Lot 5, Concession 10, geographic Township of Dalhousie, now in the Township of Lanark Highlands. The proposed maximum annual extraction is proposed to be 1,000,000 tonnes. This proposal requires an amendment to the Lanark Highlands Official Plan, Lanark Highlands Zoning By-law, Lanark County Sustainable Communities Official Plan, and a license from the MNRF under the Aggregate Resources Act. Typically, the ARA site license contains all the operational and design details of the pit operation.

There have been numerous studies which have been submitted in support of the various applications. At this time, the peer review of the various studies is ongoing and not yet finalized.

From a land use planning perspective, the proposed pit is in an area of known aggregate deposit and the surrounding neighbourhood understands and has experience with aggregate extraction and the four (4) other pits located along the Highland Line. However, the scale of proposed extraction will 30% greater than the combined extraction of the four (4) existing pits along highland line. It will also be the first pit to operate below the water table and 24hr per day on the Highland Line.

The preliminary review of the proposal has generated Township questions and concerns regarding the 24 hr operation of the pit, impact on the surrounding property owners, impact on the cold-water creek, and impact on Highland Line Road. There is also the concern that a portion of the lands are located within Waterfront Communities designation which has not been addressed.


This development proposal has generated a tremendous amount of public interest, as reflected in the 42 comments attached as Appendix G to this report. These comments have merit and should be addressed by the proponent prior to Council making a decision on the merits of the OPA and ZBA.

It is the recommendation of this report that the public meeting be suspended and reconvened at a future date once the applicant has had an opportunity to address comments from the public, provide more information on the impacts on Long Sault Creek/Barbers Lake, to allow the Township to open discussions with the proponent regarding the 24hr pit operations plan and potential impacts on neighbouring properties and the Highland Line Road and to allow for the completion of the peer review of the various studies. It is recommended that Council not make a decision on the merits of the OPA and ZBA at this time.

It is anticipated once the applicant has addressed these matters that the public meeting would be reconvened and all those who provided comments would be notified of the future public meeting date. The members of the public should be aware that it may take a number of months before this matter would come back before Council.

All of which is respectfully submitted.

Sincerely,
Jp2g Consultants Inc.
ENGINEERS ▪ PLANNERS ▪ PROJECT MANAGERS



Forbes Symon, MCIP, RPP
Senior Planner

7. **ATTACHMENTS**

Appendix "A" – Key Map
Appendix "B" – Official Plan Schedule A
Appendix "C" – Official Plan Schedule B
Appendix "D" – Zoning Schedule
Appendix "E" – Proposed Site Plan
Appendix "F" – ARA Complete Application
Appendix "G" – Public Comments

Prepared By: Forbes Symon, Senior Planner, Jp2g Consultants Inc.

Approved By: Darlene Plumley, CAO/Deputy Clerk