



CITY OF HAMILTON
PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT
Planning Division

TO:	Chair and Members Planning Committee
COMMITTEE DATE:	October 20, 2015
SUBJECT/REPORT NO:	Comments on Application for a Licence under the Aggregate Resources Act by Waterford Sand and Gravel Limited – Vinemount Quarry Extension, Part of Lot 6, Concession 5, Stoney Creek (PED15170) (Ward 11)
WARD(S) AFFECTED:	Ward 11
PREPARED BY:	Heather Travis Senior Project Manager (905) 546-2424 Ext. 4168 Steve Robichaud Director of Planning and Chief Planner
SUBMITTED BY:	Jason Thorne General Manager Planning and Economic Development Department
SIGNATURE:	

RECOMMENDATION

- (a) That the City of Hamilton advise the Ministry of Natural Resources (MNR) that it objects to the Licence Application under the *Aggregate Resources Act*, by Waterford Sand and Gravel Limited - Vinemount Quarry Extension, proposed for Part of Lot 6 Concession 5, Stoney Creek, being municipal addresses 1051 Green Mountain Road and 451 Tenth Road East, as shown on Appendix “A” to Report PED15170, on the following basis:
- (i) Consideration of the application is premature at this time as the proposed extractive land use is not a permitted use under the Rural Hamilton Official Plan, the City of Stoney Creek Zoning By-law 3692-92, or the City of Hamilton Zoning By-law 05-200;
 - (ii) Review of the submitted Official Plan Amendment and Zoning By-law Amendment applications have not been completed by the City or relevant commenting agencies, or considered by Council;

SUBJECT: Comments on Application for a Licence under the Aggregate Resources Act by Waterford Sand & Gravel Limited – Vinemount Quarry Extension, Part of Lot 6, Concession 5, Stoney Creek (PED15170) (Ward 11) - Page 2 of 9

- (iii) The City and the Combined Aggregate Review Team (CART) have not completed peer reviews of the various component studies submitted by the proponent;
 - (iv) It would be premature for the Ministry of Natural Resources (MNR) to finalize the Aggregate Licence requirements until detailed site requirements, as identified through the review of the required Official Plan Amendment and Zoning By-law Amendment applications and submitted technical studies, have been provided by the City to be considered for incorporation as conditions to the Licence, if granted by the MNR; and,
 - (v) That Hydrogeology, Noise, Vibration, Blasting, Dust, and impacts to the Natural Heritage System have initially been identified as areas of concern to the City.
- (b) That a copy of Report PED15170, being the City of Hamilton's formal comments, be forwarded and filed with the Guelph District Office of the Ministry of Natural Resources and Waterford Sand and Gravel Limited, as required under the *Aggregate Resources Act* for a Licence.

EXECUTIVE SUMMARY

Waterford Sand and Gravel Limited has made an application to the Ministry of Natural Resources (MNR) for a licence under the *Aggregate Resources Act* to permit an extension to the existing Vinemount Quarry. Under the *Aggregate Resources Act*, the City must notify the MNR of any objections to the licence application within a prescribed timeframe. It is recommended that the City file an objection to the proposed licence application on the basis of prematurity, as the City has not had sufficient time to review the application and the extensive technical studies submitted in support of the application. Due to the large volume of supporting material submitted and the need for peer reviews of several of the studies, it is not possible for the City to provide an informed opinion on the merits of the application at the present time.

Alternatives for Consideration – See Page 8

FINANCIAL – STAFFING – LEGAL IMPLICATIONS

Financial: N/A

Staffing: N/A

Legal: N/A

HISTORICAL BACKGROUND

On September 16, 2015, Waterford Sand and Gravel Limited submitted an application for a Category 2, Class A Licence under the *Aggregate Resources Act* to the MNR. The application is for a 45.1 ha extension to the existing Vinemount Quarry operation, to be referred to as the Vinemount Quarry Extension, as shown on Appendix “A” to this Report. The existing Vinemount Quarry is located immediately east of the proposed expansion area. The proposed area of extraction is approximately 37.7 ha, and the maximum tonnage of extraction is proposed at 900,000 tonnes annually. The proposed quarry extension would operate below the water table, meaning that dewatering activities would occur, which is consistent with the operations of the existing quarry. Processing of extracted material will occur on the quarry floor, including crushing, washing, screening and blending of material. The currently approved haul route for the existing quarry shall be utilized for the extension lands. The extension is proposed to operate in three phases, from north to south, as indicated on Appendix “B” to this Report.

Under the *Aggregate Resources Act*, the applicant (Waterford Sand and Gravel) is required to provide notice of the licence application to the local municipality as well as other prescribed agencies. The licence application was received by the City on September 21, 2015.

Waterford Sand and Gravel Limited placed a public notice advertisement in the Stoney Creek News on September 17, 2015 and in the Hamilton Spectator on September 21, 2015 advising of the *Aggregate Resources Act* licence application for the Vinemount Quarry Extension. This is a requirement under the *Aggregate Resources Act*. The placement of the advertisement in the newspaper marks the beginning of a 45-day commenting period prescribed under the *Aggregate Resources Act*. All objections to the application must be provided to the applicant and the MNR within this 45 day period. As such, the City of Hamilton is required to submit a response to the MNR outlining any objections to the proposed quarry extension by November 5, 2015.

As per *Aggregate Resources Act* requirements, Waterford Sand and Gravel is also required to notify the public of the licence application through the posting of a sign on the subject lands, notification to surrounding property owners within 120 m of the subject property, and through the hosting of a public information session which will take place on October 20, 2015.

Related Planning Act Applications

In addition to the Licence application under the *Aggregate Resources Act*, Waterford has also submitted, to the City of Hamilton, applications for a Rural Hamilton Official Plan Amendment and Zoning By-law Amendments to both the City of Stoney Creek

SUBJECT: Comments on Application for a Licence under the Aggregate Resources Act by Waterford Sand & Gravel Limited – Vinemount Quarry Extension, Part of Lot 6, Concession 5, Stoney Creek (PED15170) (Ward 11) - Page 4 of 9

Zoning By-law and the Rural Hamilton Zoning By-law (Zoning By-law 05-200) to permit the proposed Vinemount Quarry Extension. These applications were received by the City on September 16, 2015.

It is important to note that a licence under the *Aggregate Resources Act* cannot be issued if the zoning on the lands does not permit the proposed use.

The lands are currently designated “Specialty Crop” in the Rural Hamilton Official Plan (RHOP). The proposed Official Plan Amendment would redesignate the subject lands to “Mineral Aggregate Resource Extraction Area”.

The applicant has applied for an amendment to both the City of Stoney Creek Zoning By-law and the City of Hamilton Zoning By-law (new Rural Zoning By-law). The new Rural Zoning By-law was passed by Council on July 10, 2015, but is not yet final and binding. Until such time that it is final and binding, both the City of Stoney Zoning By-law 3692-92 and the Rural Zones of the City of Hamilton Zoning By-law 05-200 are in force and effect, with the most restrictive provisions of the two By-laws applying to the property.

Under the City of Stoney Creek Zoning By-law, the lands are zoned Agricultural “A” Zone. The proposed Zoning By-law Amendment would rezone the lands from the Agricultural “A” Zone to the Extractive Industrial “ME” Zone to permit the proposed extension.

Under City of Hamilton Zoning By-law 05-200 (new Rural Zoning By-law), the lands are zoned Agriculture (A1) Zone. The proposed Zoning By-law Amendment would rezone the lands to the Extractive Industrial (M12) Zone.

In accordance with the *Planning Act*, a sign will be posted on the subject lands to inform the public of the Official Plan Amendment and Zoning By-law Amendment applications, and further, in accordance with City policies, notice of the applications will be circulated to all property owners within 120 m of the subject lands.

POLICY IMPLICATIONS AND LEGISLATED REQUIREMENTS

Provincial Policy Statement (PPS)

Section 2.5 of the PPS addresses Mineral Aggregate Resources, including policies related to extraction in Prime Agricultural Areas (which includes Specialty Crop lands) and Rehabilitation. The proposed Vinemount Extension application will be reviewed against these policies. Other relevant PPS policies including, but not limited to, policies related to natural heritage, cultural heritage, water, and agricultural and rural areas, will also be evaluated.

SUBJECT: Comments on Application for a Licence under the Aggregate Resources Act by Waterford Sand & Gravel Limited – Vinemount Quarry Extension, Part of Lot 6, Concession 5, Stoney Creek (PED15170) (Ward 11) - Page 5 of 9

Greenbelt Plan

Section 4.3.2 of the Greenbelt Plan contains policies related to Non-Renewable Resources. The policies address issues related to the location of mineral aggregate resources and the natural system, maximum disturbed areas of mineral aggregate operations, and rehabilitation requirements for both natural features and agricultural lands. Of note, the applicant will be required to address Policy 4.3.2.8 c) regarding the approval of a new or expanded mineral aggregate operation in the Specialty Crop Area, and requirements related to rehabilitation of the lands. The policies will be reviewed in the evaluation of the Official Plan Amendment and Zoning By-law Amendment applications. Greenbelt policies regarding the natural heritage system, cultural heritage resources, and rural and agricultural areas, among others, will also be reviewed and evaluated.

Rural Hamilton Official Plan (RHOP)

The subject lands are designated Specialty Crop on Schedule “D” of the RHOP. The Official Plan Amendment application submitted by Waterford Sand and Gravel proposes to redesignate the subject lands to Mineral Aggregate Resource Extraction Area. Section D.6.0 of the RHOP addresses Mineral Resource Extraction Areas, and contains extensive policies regarding the uses which are permitted within the Mineral Aggregate Resource Extraction Area designation, factors to consider in the establishment of a new or expanded aggregate operation, studies required as part of any application for a new or expanded operation, and requirements related to rehabilitation. Policy D.6.22 contains policies specific to an application for a new or expanded mineral aggregate operation on lands designated Specialty Crop, including requirements for rehabilitation. These policies will be evaluated in the review of the Vinemount Quarry Extension applications. The RHOP also contains extensive policies related to the Natural Heritage System (Section C.2.0), among others, which will be reviewed as part of the application process.

City of Stoney Creek Zoning By-law and Rural Hamilton Zoning By-law

The subject lands are zoned Agriculture “A” Zone in the City of Stoney Creek Zoning By-law No. 3692-92 and Agriculture (A1) Zone in City of Hamilton Zoning By-law 05-200 (new Rural Zones). The new Rural Zoning By-law has been approved by Council but appealed to the Ontario Municipal Board (OMB). Until such time as the new Zoning By-law is final and binding, the application must be reviewed against both the City of Stoney Creek and the City of Hamilton Zoning By-laws. As such, the proposed Zoning By-law Amendment proposes to rezone the subject lands to the Extractive Industrial “ME” Zone (Stoney Creek Zoning By-law) or the Extractive Industrial (M12) Zone (Hamilton Zoning By-law). Review of the proposed Zoning By-law Amendment will consider the proposal against the regulations in the ME and M12 Zones to determine

SUBJECT: Comments on Application for a Licence under the Aggregate Resources Act by Waterford Sand & Gravel Limited – Vinemount Quarry Extension, Part of Lot 6, Concession 5, Stoney Creek (PED15170) (Ward 11) - Page 6 of 9

compliance with the zone requirements, and should the application be approved, the lands will be rezoned to the appropriate zone of the Zoning By-law in effect at the time the decision is rendered.

Aggregate Resources Act

The *Aggregate Resources Act* outlines extensive requirements related to both Application and Operational Standards for quarry licences. There are different categories of licence applications. The proposed Vinemount Quarry Extension application is for a Category 2, Class A Licence, which is for a quarry below the water table.

The Application Standards provide specifics regarding submission requirements for quarry operations for each category of licence, including site plan and report standards, conditions applicable to the licence, and notification and consultation standards related to the licence application. The requirement for the City to respond to Waterford's licence within 45 days is outlined in these Application Standards.

The Operational Standards identified in the *Aggregate Resources Act* for quarry licences provide details related to site plan requirements for quarry operations, including fencing and berming requirements, setback requirements for excavation and processing, outdoor storage of topsoil and overburden, limitation on hours of operation for blasting, and rehabilitation.

Annual compliance reporting for all mineral aggregate operations is also required by the *Aggregate Resources Act*.

RELEVANT CONSULTATION

The Official Plan Amendment and Zoning By-law Amendment applications will be circulated for comment both internally to relevant City Departments and externally to required agencies.

Further, staff will initiate the development of a Combined Agency Review Team (CART) to assist in the review of the applications. The CART process has been successfully used in previous quarry applications that the City has reviewed. The CART will be comprised of staff from several City Departments and outside agencies, which may include the Niagara Peninsula Conservation Authority and Ministry of Environment. Rather than have each agency with an interest in the proposed quarry conduct its own technical reviews, the process provides an opportunity for the agencies to be represented on a team that retains expert peer reviews, at the proponent's expense. The CART approach provides a forum for the agencies to share views and perspectives on the applications, and a shared technical resource in the peer review team that they

SUBJECT: Comments on Application for a Licence under the Aggregate Resources Act by Waterford Sand & Gravel Limited – Vinemount Quarry Extension, Part of Lot 6, Concession 5, Stoney Creek (PED15170) (Ward 11) - Page 7 of 9

can draw from in reaching their independent positions and decisions. At the time of writing of this report, the CART process has not yet been initiated by staff, and therefore the membership of the group has not been determined.

ANALYSIS AND RATIONALE FOR RECOMMENDATION

1. Under the *Aggregate Resources Act*, the City is required to respond to the licence application by Waterford Sand and Gravel by November 5, 2015. As such, staff recommend that the City file an objection to the proposed Vinemount Quarry Extension on the basis of prematurity for the following reasons:
 - (i) Consideration of the application is premature at this time as the proposed extractive land use is not a permitted use under the Rural Hamilton Official Plan, the City of Stoney Creek Zoning By-law 3692-92, or the City of Hamilton Zoning By-law 05-200;
 - (ii) Review of the submitted Official Plan Amendment and Zoning By-law Amendment applications have not been completed by the City or relevant commenting agencies, or considered by Council;
 - (iii) The City and the Combined Aggregate Review Team (CART) has not completed peer reviews of the various component studies submitted by the proponent;
 - (iv) It would be premature for the Ministry of Natural Resources to finalize the Aggregate Licence requirements until detailed site requirements, as identified through the review of the required Official Plan Amendment and Zoning By-law Amendment applications and submitted technical studies, have been provided by the City to be considered for incorporation as conditions to the Licence, if granted by the MNR; and,
 - (v) That Hydrogeology, Noise, Vibration, Blasting, Dust, and impacts to the Natural Heritage System have initially been identified as areas of concern to the City.
2. The following studies and plans were submitted with the Official Plan Amendment and Zoning By-law Amendment applications:
 - Planning Summary Report;
 - Agricultural Survey and CLI Inventory Evaluation;
 - Hydrogeology Study (Level 2);
 - Environmental Impact Study and Natural Environment Technical Reports (Levels 1 and 2);

SUBJECT: Comments on Application for a Licence under the Aggregate Resources Act by Waterford Sand & Gravel Limited – Vinemount Quarry Extension, Part of Lot 6, Concession 5, Stoney Creek (PED15170) (Ward 11) - Page 8 of 9

- Fish / Aquatic Resource Inventory;
- Tree Preservation Plan;
- Archaeological Study;
- Noise Study;
- Dust / Air Quality Study;
- Vibration / Blasting Impact Assessment;
- Visual Impact Assessment; and,
- *Aggregate Resources Act* Site Plans.

Due to the large volume of supporting material submitted with the applications and the need for peer reviews of several of the above studies, it is not possible for the City to provide an informed opinion on the merits of the application at the present time.

It is known, at this time, that due to the technical nature of the documents and the level of expertise required to provide a comprehensive review, the following studies will require peer review: Hydrogeology Study; Noise Study; Air Quality Study; and Blasting Impact Assessment. Additional studies may also require peer review, which will be determined through the CART process. The City will be entering into an agreement with the proponent to require the peer reviews to be funded entirely by proponent. At the time of writing of this report, this agreement has not been negotiated, though the applicant has been made aware of the requirement.

3. In terms of next steps, the City will be contacting relevant City departments and outside agencies to determine the membership of CART, identify studies requiring peer review, and commence the peer review process. The goal is to establish the peer review team and enter into the necessary agreements with the proponent in a timely manner in order that the peer review process will be commenced expeditiously. The peer reviews will be entirely paid for by the applicant. Review of the technical reports and peer reviews will be ongoing by City staff and members of CART. When the review of the studies has been completed, and prior to bringing forward a recommendation on the *Planning Act* applications, a CART report will be prepared jointly by CART members to highlight the findings of the studies and peer reviews. Staff recommendations on the Official Plan Amendment and Zoning By-law Amendment applications will be made following the conclusion of the CART process.

ALTERNATIVES FOR CONSIDERATION

If the City does not file an objection to the proposed *Aggregate Resources Act* licence application by Waterford Sand and Gravel by the November 5, 2015 deadline, the City will be deemed to have no objection to the quarry licence application.

SUBJECT: Comments on Application for a Licence under the Aggregate Resources Act by Waterford Sand & Gravel Limited – Vinemount Quarry Extension, Part of Lot 6, Concession 5, Stoney Creek (PED15170) (Ward 11) - Page 9 of 9

However, as the City is the approval authority for the *Planning Act* applications (Official Plan Amendment and Zoning By-law Amendment), the City would continue to have the opportunity to review and comment on the proposed Vinemount Quarry Extension as part of the *Planning Act* review.

ALIGNMENT TO THE 2012 – 2015 STRATEGIC PLAN

Strategic Priority #1

A Prosperous and Healthy Community

WE enhance our image, economy and well-being by demonstrating that Hamilton is a great place to live, work, play and learn.

Strategic Objective

1.6 Enhance Overall Sustainability (financial, economic, social and environmental).

APPENDICES AND SCHEDULES ATTACHED:

Appendix “A” – Location Map

Appendix “B” – Sequence of Operations (Phasing Plan)

HT/th