
HALDIMAND COUNTY

Report PDD-04-2020 Revised Official Plan and Zoning By-law Amendment to Consider an Asphalt Storage Facility



For Consideration by Council in Committee on January 14, 2020

OBJECTIVE:

To consider additional project details pertaining to maximum building height that relate to matters originally presented in Report PDD-43-2019.

RECOMMENDATIONS:

1. THAT Report PDD-04-2020 Revised Official Plan and Zoning By-law Amendment to Consider an Asphalt Storage Facility be received;
2. AND THAT application PLOP-2019-164 to amend the Haldimand County Official Plan designation of the subject lands to a site-specific 'Agricultural' designation to facilitate the establishment of an asphalt storage facility, be approved for the reasons outlined in Reports PDD-43-2019 and PDD-04-2020;
3. AND THAT the By-law attached to Report PDD-04-2020 to adopt the Official Plan Amendment to the Haldimand County Official Plan be presented for enactment;
4. AND THAT application PLZ-HA-2019-165 to amend the City of Nanticoke Zoning By-law NE 1-2000 to add the asphalt storage facility use with customized height provision to the permitted uses on the subject property through a site specific zoning provision be approved subject to a "Holding (H)" provision, for reasons outlined in Reports PDD-43-2019 and PDD-04-2020;
5. AND THAT the Zoning By-law Amendment attached to Report PDD-04-2020 to amend the City of Nanticoke Zoning By-law NE 1-2000 be presented for enactment;
6. AND THAT the Holding Provision Removal By-law attached to Report PDD-04-2020 be presented for enactment, and the General Manager of Community and Development Services be granted authority to remove the holding provision when all conditions relating to the matter are satisfactorily addressed;
7. AND THAT the subject lands be placed under site plan control for reasons outlined in Reports PDD-43-2019 and PDD-04-2020 and the attached Site Plan Control By-law be presented for enactment;
8. AND THAT the application is considered to be consistent with the Provincial Policy Statement 2014, Provincial Growth Plan 2019 or other matters of provincial interest.

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Approved: Craig Manley, MCIP, RPP, Chief Administrative Officer

EXECUTIVE SUMMARY:

A joint Official Plan and Zoning Amendment application has been received from Suit Kote and has been previously reviewed under Report PDD-43-2019, presented at the December 10, 2019 Council in Committee meeting. The review contained in this report centres around the necessary relief for building height that was brought to staff's attention near the end of the initial review and subsequent to the Public Notice being circulated. This report is intended to review the suitability of the additional height of the storage tanks, with the principle of land use being reviewed through report PDD-43-2019. The proposed height of the storage tanks is 18 metres (59 feet), whereas the Zoning By-law permits a maximum height of 11 metres (36 feet). Staff were made aware of a neighbour's concerns that had not been addressed prior to the public meeting held on December 10, 2019, a summary of the concerns and responses is provided in this report.

BACKGROUND:

During the original review of these applications, the proposed building height was not identified as exceeding the maximum provision of the Agriculture (A) zone in the City of Nanticoke Zoning By-law NE 1-2000. As such, the proposal has been recirculated to ensure that proper review has been conducted pertaining to this element of the project and appropriate public notice is provided such that all aspects of the proposal are understood.

The proponents are requesting an amendment to the Haldimand County Official Plan and the City of Nanticoke Zoning By-law NE 1-2000 to permit the construction and use of an asphalt storage facility. The subject lands are located on the south side of Walpole Concession 3, and are located in the proximity of Imperial Oil and existing rail lines. The lands are designated 'Agriculture', and zoned 'Agricultural (A)'. Currently, the subject lands are vacant from structures and have been used for agricultural purposes. The lands have direct access from Walpole Concession 3, and will be serviced by private on-site water and sanitary services. There is a rural residential use situated to the north of the subject lands, and the balance of the adjacent surrounding properties are vacant and used for agricultural purposes.

Suit Kote is a company that operates primarily in the United States, and receives asphalt products from oil refineries that is then used in the road construction and maintenance industry. Suit Kote has been using the subject property since the land was used as a staging area for green energy projects, approximately 9 years ago. To date the company has been working with Imperial Oil located in Nanticoke, which has been sending asphalt products from the refinery to Suit Kote (at the subject lands) via rail tankers which are then off loaded to truck trailers for shipment elsewhere. In order to increase storage of asphalt, Suit Kote has proposed the subject Official Plan and Zoning By-law Amendments. It is worth noting, that with an increase in available storage for asphalt which is an output of the refinement process, Imperial Oil would be able to increase production at the refinement facility.

The site is projected to have intermittent use, and is anticipated to have infrequent traffic entering or leaving twenty-four hours a day, essentially on an as-needed basis. Tanker trucks would be the main mode of transportation in terms of road traffic, and expansions to the network of rail lines will allow for space to be provided to transfer the product from rail-tankers. The propose development for the site will result in the construction of four tanks that are 28 metres (90 feet) in diameter and 18 metres (59 feet) tall, these tanks will be designed to meet Fire Code requirements, and will be located in engineered features that will provide containment if a spill was to occur. As stated above, the purpose of this report is two-fold:

1. Assess the request for customized height provision to accommodate the storage tanks; and
2. Provide response to the public comments that were raised at the December 10, 2019 public meeting.

ANALYSIS:

A more thorough review of the relevant matters pertaining to the Provincial Policy Statement and Growth Plan was completed as part of report PDD-43-2019. For the matter at hand, the review in this section directly relates to the height of the storage tanks.

The review provided in report PDD-43-2019 included the analysis of the Provincial Policy Statement, Growth Plan and Haldimand County Official Plan policies that are relevant to the principle of land use. The issue of the policy review pertaining to the proposed use has not changed, and as such Planning staff are not reintroducing this review, but are focussing on the relief that has been requested for the maximum height provision.

Provincial Policy Statement (2014), Growth Plan for the Greater Golden Horseshoe (2019), Haldimand County Official Plan

Planning staff have provided a review of the PPS, Growth Plan and the County's Official Plan covering how they apply to the principle of land use. Planning staff are satisfied that these levels of policy are satisfied by the justification and supplementary documents that the proponents have provided to staff.

Zoning By-law

The zoning on the subject property is currently zoned 'Agricultural' (A) in the City of Nanticoke Zoning By-law NE 1-2000, and the proponent is seeking to create an additional special provision that will apply to the subject lands—i.e. Special Provision A.54 Part 2. This special provision would establish the relief for the additional height of the storage tanks that will be apart of the asphalt storage facility on the subject lands. The proponents are not seeking relief for any other zoning provisions relating to lot area, frontage, or yard setbacks and thus are requesting the amendment specific to the uses noted throughout.

The requested height of the storage tanks is 18 metres (59 feet), which exceeds the as-of-right permissions of 11 metres (36 feet) for structure permitted in the Agricultural Zone. Planning staff have reviewed the relief that has been requested and considered factors such as the setback from neighbouring properties, the use of landscaping or buffering to provide additional setbacks and similarity to development in surrounding area.

There is a dwelling that has been constructed within 70 metres (230 feet) to the proposed property boundaries that will house the subject land use. The proposed development of the asphalt facility will be set back approximately 110 metres (361 feet) from this residence. As such, in order to reduce the potential for incompatibility, the proponents have indicated that they will use landscaped screening to provide buffering from the nearby receptor.

To address the height of the storage tanks, landscape features such as vegetation plantings and fencing will be included in the final designs of the site. At this time, formal landscape designs have not been finalized, but will be determined where necessary through the site plan approval process to further act as both a visual and sound buffer. The neighbouring dwelling is situated on the opposite side of the property, which will result in a spatial buffer.

With regard to similar development in the area, there is a more extensive use that is similar in nature that is located approximately 3 kilometres to the east of the subject land where a number of storage tanks that have dimensions similar to what is proposed in these applications. The scale and appearance of these tanks will be similar in nature to what exists for industrial uses in the neighbouring area. These tanks are set back slightly further from the road, but staff are confident that the visual appearance of the storage tanks on the subject lands will be similar.

The use proposed is located as far away as possible from the neighbouring lot, in an effort to provide the greatest setback distance available. To reduce the visual impact of these structures that proponents

have indicated that they will paint the exterior of the tanks so that they blend in better with the landscape and do not command as much attention.

This overage has been reviewed through the applicable policies from the Province (Provincial Policy Statement and Growth Plan), and the County (Official Plan), and staff are of the opinion that the requested relief is appropriate.

In addition to the above noted amendments to permit the proposed development, staff is recommending that a 'Holding (H)' provision be applied to the subject lands. The H-provision (Attachment 5) will require that the site plan review is completed, a site plan agreement is registered for the subject lands and Ministry approval is obtained for any required Environmental Compliance Approval (ECA). Also, the Holding provision will be removed by the General Manager of Community and Development Services once the noted requirements have been satisfied.

Site Plan Control

Site Plan Control is applied to a variety of zones throughout Haldimand County to regulate development and is identified as Attachment 6. Traditionally, the 'Agricultural (A)' zone is not subject to site plan control, however due to the scale of the proposed development staff is recommending that this project be subject to a site plan review.

This review will allow staff to have input into issues such as: stormwater management, ingress/egress, parking layout, site lighting and buffering between land uses. This review is tailored to suit each project, the proponent has recently submitted a complete site plan application package and the review has commenced.

Additionally, as part of the development review process all developments are required to be reviewed as part of the pre-consultation process. The ability to review preliminary development proposals allows staff an opportunity to gain insight into the range of issues and provides mechanisms to ensure that the County's interests are appropriately considered.

In this case, the review identified the need for road upgrades to ensure that the 1.2 kilometre portion of Concession 3 was constructed to the appropriate axle weight of the proposed trucks that would carry materials to and from the property. On a subsequent meeting date of October 21, 2019, staff from Engineering and Capital Works, Planning and Development, and Economic Development & Tourism discussed the issue together with the development proponent and provided preliminary estimate of \$900,000 for the required roadway improvements. These estimates are subject to refinement given the information that will be required to ascertain existing base material and compaction characteristics of Concession 3 that will be done as part of the detailed design/investigation stage associated with the site plan application. The proponent is aware of these obligations and prepared to undertake the necessary upgrades in order to facilitate the project development. Staff can confirm that the site plan agreement would be the appropriate mechanism through which to apply the condition to ensure that the County's interests are fully addressed. This will set out a legal obligation by the developer and allows for collection of the appropriate development security to ensure the required works are completed and done in a manner that meets the County's standards.

Planning staff acknowledge that there is potential for land-use conflicts to arise between the proposed use and the neighbouring residential use. To ensure that the potential for issues are mitigated, staff will recommend that there be buffering installed on the site between the proposed use and the nearby residence. Lastly, as part of the site plan process, a site plan agreement will be required.

Draft Amendments

Copies of the proposed draft Official Plan amendment (Attachment 3), and a Zoning By-law amendment (Attachment 4) have been prepared and attached to this report. With the approval of the requested Official Plan and Zoning amendment, the proposed development on the subject lands will have a site

specific policy added to the site and the Zoning By-law will have a site specific zoning provision added as well. These planning instruments will permit the use, and require that the proponents receive site plan approval prior to beginning construction.

Planning Opinion: Planning Staff has reviewed the proposal in relation to Provincial and County policy frameworks and are of the opinion that the proposed amendments are consistent with and generally maintain the intent and purpose of the Provincial Policy Statement (2014), the Places to Grow Plan (2019) and the Haldimand County Official Plan. Additionally, the proposed amendment to the Zoning By-law maintains the intent and purpose of the City of Nanticoke Zoning By-law NE 1-2000. Therefore, Planning staff is supportive of the subject applications.

FINANCIAL/LEGAL IMPLICATIONS:

Not applicable.

STAKEHOLDER IMPACTS:

A neighbour has brought concerns forward as part of the previous public meeting (December 10, 2019). Staff and the proponents have had an opportunity to engage with these concerns further and have met with the concerned individual to address the comments. The summary goes as follows (with concerned individual's comments as bullets):

- How come we were not notified by mail?

Staff Comment: The County is required by the *Planning Act* to notify landowners within 120 m of the subject property. The landowner is out of the notification circumference, being located approximately 3 km away.

- Why is the sign on the ground?

Staff Comment: The Zoning Notification sign is installed to notify passers-by. Without there being a structure tall enough to raise the sign higher, the sign was set up as a best effort. If it had blown down this is an unfortunate event that is beyond anyone's control.

- Why is it facing west only?

Staff Comment: When the sign was set up it was a particularly windy day, and the orientation was quartered into the wind in an effort to not have it blown down.

- I don't believe the road is built for truck traffic and has only limited time of use for truck traffic yet trucks are going there continuously, there is all already some sort of fill stations on site and both my wife and I have witnessed it in use.

Staff Comment: Concession 3 is designed for truck traffic, however there are seasonal limitations in the spring for heavy trucks, imposed and enforced by the County, to address frost and thawing conditions. A Traffic Impact review has been submitted in conjunction with the Site Plan application to review the technical components of the development, including vehicular movement. Through preliminary discussions between County staff and the proponents, the potential for road upgrades has been identified and will be addressed through the Site Plan Agreement.

- Environment impact study done?

Staff Comment: An initial field survey and Natural Environment Overview was completed and does not warrant further study. The proposed development will not negatively impact the adjacent woodlots located on adjacent properties. A "Containment Area" is designed with berms based on tank size to protect from spills and contaminating soil and groundwater systems. Permits are required from Ministry

of the Environment Climate and Parks (MECP), as well as Environmental Compliance Approval which is determined by the type and scale of the project that has been proposed. MECP will review documentation and determine if any further justification or mitigation is required.

- River or creek in close proximity.

Staff Comment: Nanticoke Creek is located further west of the subject site. Containment structures are proposed that will keep spills from reaching the natural feature. Design elements such as clay-linings are proposed to keep spills from leaching into soil.

- Farmland.

Staff Comment: The site is currently zoned for agricultural and will continue to be zoned for agricultural should the facility not proceed with development. The subject site is also subject to a severance to limit the area for the asphalt storage and distribution facility. The proposed use is appropriate on agricultural lands that are adjacent to an existing railway and within the Industrial Influence Area. The majority of the subject lands have been removed from agricultural production for use as a staging area for wind-turbine transportation and construction.

The portion of the property where the proposed amendments apply would become subject to a special provision which is scoped to permit only those activities that are necessary to support the proposed use. The agricultural zoning and designation would remain in place so that if the use is not established or is removed, anything else that is proposed for the site would need to be reviewed appropriately.

- Is fire and hazmat on site as we do not see anything in case fire and or spills, no security?

Staff Comment: Emergency Response Services have been and will be involved in the site planning process. Facility staff will be trained to respond to emergencies in the event they occur. Spill prevention, containment, and response procedures have been developed and are acceptable for the asphalt facility. A private stormwater facility will be designed to maintain water that will be pumped to provide fire protection, if needed. Asphalt products are solid at room temperature and is unlikely to create an explosive or hazardous situation. Smaller diesel/fuel containers will be located on site but are consistent with commercial operations.

REPORT IMPACTS:

Agreement: No

By-law: Yes

Budget Amendment: No

Policy: No

ATTACHMENTS:

1. Location Map.
2. Owners Sketch.
3. Official Plan Amendment.
4. Zoning By-law Amendment.
5. Removal of Holding By-law.
6. Site Plan Control By-law.