

**AFFECTS
WARD 15**

CITY OF HAMILTON

PLANNING AND DEVELOPMENT DEPARTMENT
Development and Real Estate Division

 Report to: Chairman and Members Planning & Economic Development Committee	 Submitted by: Lee Ann Coveyduck General Manager
 Date: September 3, 2004	 Prepared by: Stan Holiday – Ext. 4280 Simon Deiaco – Ext. 2634

 **SUBJECT:** Information Report on Proposed Quarry in Former Flamborough, 11th
Concession Road East (Ward 15) (PD04244)

 **COMMENDATION:**

- (a) That this report be received for information purposes.
- (b) That the Planning and Development Department report back to the Planning and Economic Development Committee with recommendations related to the anticipated development applications, following completion of public consultation and the review of the necessary supporting documentation by concerned departments, agencies and peer reviewers.
- (c) That Council request the proponent to pay all costs for retaining peer review consultants to provide expert advice to City staff in the review of applications and supporting documentation/studies, including the retention of an Aggregate Planning Advisor.
- (d) That the matter, Item 23 of the Planning and Economic Development Committee Minutes 04-012 (Item 9.1), be removed from the Outstanding Business List.

Lee Ann Coveyduck
General Manager
Planning and Development Department

 **EXECUTIVE SUMMARY:**

In response to Council's resolution of June 30, 2004, staff has prepared this Information Report summarizing the policy framework to which a formal response to any Official Plan Amendment, Zoning By-law Amendment and request for comments on any mineral aggregate license from the Ministry of Natural Resources will be evaluated for the subject lands. City staff will be in a position to assess the impacts of a quarry at this location and its anticipated impact on existing development, the environment and infrastructure after a formal review of the required supporting documentation by all stakeholders has occurred.

Lowndes Holdings has advised City of Hamilton staff that they have acquired Lots 2, 3 and Part of Lot 1 Concession 11, (former Township of East Flamborough) within the City of Hamilton. The proponent is proposing an open-pit, stone quarry on 154 ha (380 acres), as shown on Appendix "A". The subject lands are bounded to the south by the 11th Concession Road East, to the east by Milborough Line/Town of Milton, to the north by the unopened 12th Concession Road Allowance and the Timberrun Court subdivision and to the west by Bronte Creek Condominium Estates residential development and Phase 2, still to be developed.

The proponent will be required to submit applications for an Official Plan Amendment and an Amendment to the Zoning By-law, as the subject lands are not designated or appropriately zoned for a mineral extraction purposes. No applications have been submitted as of the date of preparing this report.

The proponent has also indicated to City staff that they have purchase agreements for an additional 62 hectares (154 acres), directly adjacent to the west of the subject lands, for a future expansion/phase of the quarry.

 **BACKGROUND:**

On June 30, 2004, Council directed that a report be prepared, as indicated in the following resolution:

"That staff report back on the compatibility of the proposed aggregate extraction land use north of Carlisle, including, but not limited to, its impact on the surrounding residential and rural land uses, its impact on current infrastructure and local roads, and its conformity with existing and proposed municipal and provincial policies."

Existing Land Use

The subject lands contain lands from three former property holdings on the north side of the 11th Concession Road East. These lands have uses including: residential homes; barns; fields that have been used for agricultural purposes; watercourses and heavily wooded/vegetated areas.

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Appendix "A" to this report identifies the existing land fragmentation and lot division in the vicinity of the proposed quarry. There are rural estate subdivision developments on Glenron Road (13 lots) and Timberrun Court (19 lots), abutting and adjacent to the subject lands. In addition, directly adjacent to the subject lands a rural estate residential condominium exists, known as Bronte Creek Estates - Sierra Lane, which has been draft approved for 76 residential units with 31 residential units currently registered. There are residential developments, not only adjacent to the subject lands, but in the immediate rural neighbourhood.

Official Plan

The subject lands are subject to the policies of both the Hamilton-Wentworth Official Plan (HWOP) and the Flamborough Official Plan.

The Hamilton-Wentworth Official Plan (HWOP) designates the subject lands as "Rural Area". The Flamborough Official Plan designates the subject lands as "Rural".

Zoning

The Flamborough Zoning By-law No. 90-145-Z zones the subject lands as both "A" Agricultural Zone and "CM" Conservation Management Zone.

Process and Policy Framework

The following is a summary of the existing legislation and planning documents staff will consider in the review of the various applications required for the consideration of an open-pit quarry on the subject lands.

Minister's Golden Horseshoe Zoning Order (Ontario Regulation 432/03 and Ontario Regulation 205/04)

On July 20, 2004, The Minister of Municipal Affairs and Housing filed an order (Ontario Regulation 205/04) to revoke the Minister's Golden Horseshoe Zoning Order, published in the Ontario Gazette on August 7, 2004. This was possible with the passing of The Greenbelt Protection Act, 2004, which was given Royal Assent in June 2004.

The revoking of the Minister's Zoning Order by the Province now allows the City to process a rezoning application for the quarry in the rural area that was not permitted during the interim period. A quarry is considered a rural land use under the Greenbelt Protection Act.

Provincial Policy Statement

The Provincial Policy Statement (PPS) provides policy direction on matters of provincial interest related to land use planning and development, as outlined in Section 2 of the Planning Act. It recognizes that there are complex inter-relationships among

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environmental, economic and social factors in land use planning. It identifies the Province's resources including: its agricultural land base; mineral resources; water supply and cultural heritage resources, which provide economic, environmental and social benefits. The PPS states that the wise use and protection of these resources over the long term is a key provincial interest. Also, it provides equal importance in protecting the long term health and safety of the population, and the financial and economic well-being of the Province and municipalities. Natural heritage features and areas are identified for protection from incompatible development.

All of the applicable PPS policies will be evaluated in the context of any development applications submitted.

Hamilton-Wentworth Official Plan

This 1995 approved Hamilton-Wentworth Official Plan (HWOP) was developed to direct and guide municipal government, public and private decisions, and actions, in a consistent and logical manner to manage change and growth within its boundaries to the year 2020. It relies on a developed 2020 Vision of people living in compact urban core areas, surrounded by a rural landscape that includes productive family farms, hamlets and a continuous network of natural areas. Environmental consciousness is of importance along with the development of economically, socially and diverse communities. The notion of the importance of support for all members of the community to promote long and healthy lives is envisioned. One goal is to create vibrant, vigorous communities, which build on existing strengths and attract wealth producing businesses that work in partnership with government and the community to create a diverse, sustainable economy.

The HWOP includes specific policies for the rural area and mineral aggregates resources. The Rural Area contains a variety of existing land uses and activities including residential, commercial, rural industrial and the primary activity of farming. Areas for mineral aggregates are identified as essential, non-renewable resources that should be available with minimal environmental and social disruption. The Plan also includes policies to designate Mineral Aggregate Resource areas on Map 5, to protect these areas for future mineral aggregate extraction. The location of these areas may be refined, without amendment, to the HWOP and requires that mineral aggregate resources be identified in Area Municipal Official Plans.

The HWOP has policies to protect natural features, including Environmental Significant Areas (ESA), and policies to maintain and improve groundwater in the rural area.

Conformity with the policies of HWOP will be evaluated in the consideration of any development applications submitted.

Town of Flamborough Official Plan

As directed by the Hamilton-Wentworth Official Plan, Area municipal plans are to provide policies in their Official Plans for the establishment of new, and expansion of existing pits and quarries. The Flamborough Official Plan has very detailed and specific policies in Sections B.7.4 and B.7.5. These key Extractive Industrial policies are as follows:

Section B.7.4

When considering amendments to the Plan for the establishment of new pits and quarries or the expansion of existing operations, the following matters will be evaluated by Council:

- (i) compatibility with adjacent existing and planned land uses.
- (ii) demonstration of the need for, and benefit of, additional aggregate resource extraction.
- (iii) potential impacts on the environment, including measures required to minimize any adverse impacts.
- (iv) potential impacts on the transportation system.
- (v) the capability of the land for agricultural uses and for the rehabilitation to a use which conforms to this Official Plan, or back to an agricultural use where Soil Classes 1 to 4 have been defined. Such lands shall be rehabilitated back to substantially the same acreage and average soil capability for agriculture.
- (vi) other such matters as Council deems necessary.

Section B.7.5

All applications for amendments to the Plan shall include the following:

- (i) the location, dimensions, topography, size and description of the site proposed for a Mineral Resource Extraction Area.
- (ii) the location, height, dimensions and use of all buildings or structures existing or proposed to be erected on the site.
- (iii) the location, quality and estimated quantity of the mineral resource.
- (iv) the use of all land, and the location and use of all buildings and structures lying within a distance of 150 metres (500 feet) of the boundaries of the site.

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- (v) existing and anticipated final grades of all lands and excavation and the limits of excavation within the site.
- (vi) surface water diversion, storage and drainage provisions.
- (vii) all entrances, exits and proposed routes to be used by associated transport.
- (viii) locations of stockpiles for overburden stripping and mineral resources.
- (ix) proposed tree screening and berming.
- (x) sequential and final rehabilitation plans.
- (xi) extent of adjacent property holdings, which may be intended for future mineral resource extraction operations, where appropriate.
- (xii) hydrology, soil, wildlife or vegetation studies, which may be required by Council due to specific site concerns.
- (xiii) other information, as Council deems necessary.

This is a comprehensive list of the matters that any proponent for a quarry would be required to address in their submission to the City. Upon submission of any supporting documentation, City staff, in consultation with a City retained Aggregate Planning Advisor for this project, as discussed later in this report, will be requested to comment on the adequacy of the supporting documentation and the need for additional information/studies.

Aggregate Resources Act

It is City staff's understanding from meeting with the proponent that they intend to first proceed with the required Official Plan and Zoning By-law Amendment applications under the Planning Act and, at an appropriate time in the planning process, then submit an application to the Province (Ministry of Natural Resources) for a quarry license under the Aggregate Resources Act. The reasons given to delay the license application submission include: to first establish the proposed land use in the required planning documents; the planning process is a longer time line process; the Provincial quarry license requires finalized supporting documentation, which may change throughout the planning process; and that the quarry license includes site plan details that may not be able to be finalized at this time.

The proponent is required to submit an application for a license for an open-pit quarry under the Aggregate Resources Act. This Act is very specific on what matters are to be addressed by the proponent and the type of studies that are likely needed to be submitted with the license application. The City has the role as a commenting agency on the license application, while the Province is the approval authority. The Province also

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requires that a site plan be completed for the subject lands, which the City would provide comments on. The site plan (based on the information available provided at this point is anticipated to be a Class "A" licence, Category 2) is required to provide details of existing features, operations, progressive rehabilitation, final rehabilitation and cross-sections of the operation. It should be noted that the City has no approval authority for a site plan for a pit and quarry under Section 41 of The Planning Act, including imposing conditions and entering into development agreements.

Section 12. (1) of the Aggregate Resources Act outlines the following:

In considering whether a license should be issued or refused, the Minister or Board, as the case may be, shall have regard to:

- (a) the effect of the operation of the pit or quarry on the environment.
- (b) the effect of the operation of the pit or quarry on nearby communities.
- (c) any comments provided by a municipality in which the site is located.
- (d) the suitability of the progressive rehabilitation and final rehabilitation plans for the site.
- (e) any possible effects on ground and surface water resources.
- (f) any possible effects of the operation of the pit or quarry on agricultural resources.
- (g) any planning and land use considerations.
- (h) the main haulage routes and proposed truck traffic to and from the site.
- (i) the quality and quantity of the aggregate on the site.
- (j) the applicant's history of compliance with this Act and the regulations, if a license or permit has previously been issued to the applicant under this Act or a predecessor of this Act.
- (k) such other matters, as are considered appropriate. R.S.O 1990, c.A.8,s. 12; 1996, c.30, s.9 (1,2); 2002, c. 17, Schedule. F, Table.

Public Consultation Process

It is anticipated that significant input will be sought from the Public throughout the application review process. Staff anticipates working with the Ward Councillor in ensuring that appropriate and timely input from all stakeholders is considered. It will be necessary to develop a public consultation process that would include all or some of the following elements: information meetings; focus and working groups; stakeholder group

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meetings; boundary municipal/regional input; provincial ministries involvement; various agency meetings; and any other consultation recommended by the City's Aggregate Planning Advisor.

ANALYSIS OF ALTERNATIVES:

It is premature to consider any alternatives at this time because, at the time of the writing of this report, there were no development applications submitted for an open-pit quarry; and any supporting documentation must first be reviewed by concerned departments, agencies and/or peer reviewers.

FINANCIAL/STAFFING/LLEGAL IMPLICATIONS:

Financial

There are no financial implications to the City resulting from this recommendation at this time. However, the cost implications can more appropriately be addressed upon a formal submission of the required applications. The proponent will be requested to provide all funding for peer reviewers retained by the City to review specific supporting consultant studies (i.e. transportation, hydrogeologic etc.) and including the hiring of Aggregate Planning Advisor.

Staffing

Significant staff resources are anticipated to be required, given the public consultation process required and anticipated involvement of staff from the various departments to review or coordinate anticipated peer reviews of supporting studies to be submitted by the proponent.

Staff intends to retain a consultant having expertise with mineral aggregates to provide an advisory role to City staff. The role of this Aggregate Planning Advisor is to ensure completeness of any application supporting documentation, provide recommendations for necessary enhancements to the submission, provide advice on the public consultation process and assist staff in the evaluation of the application/studies.

Legal

There are no legal implications identified at this time, as related to the report's recommendations.

POLICIES AFFECTING PROPOSAL:

The extent of the policies affecting an anticipated proposal for a quarry are discussed in this report. The evaluation of the policy details will be part a future report to Planning and Economic Development Committee.

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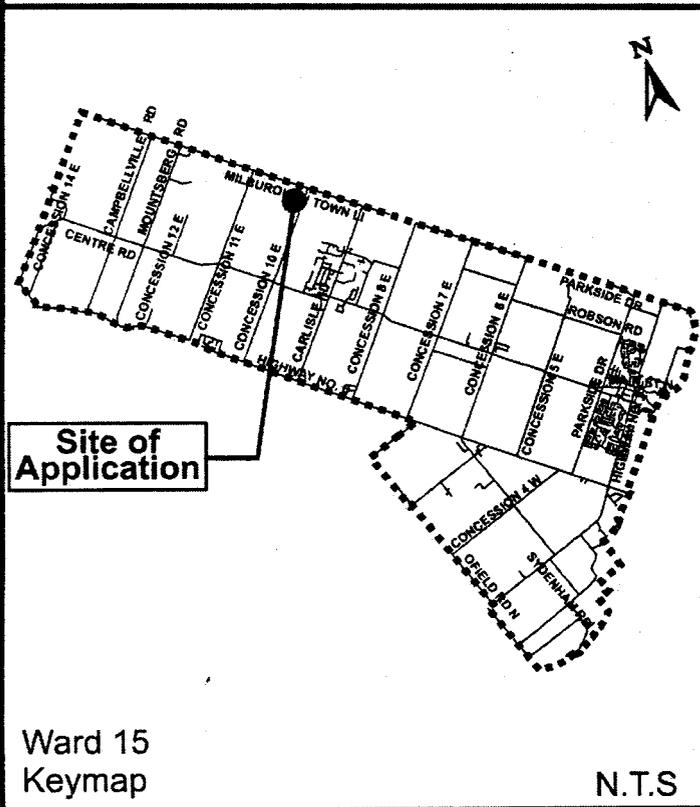
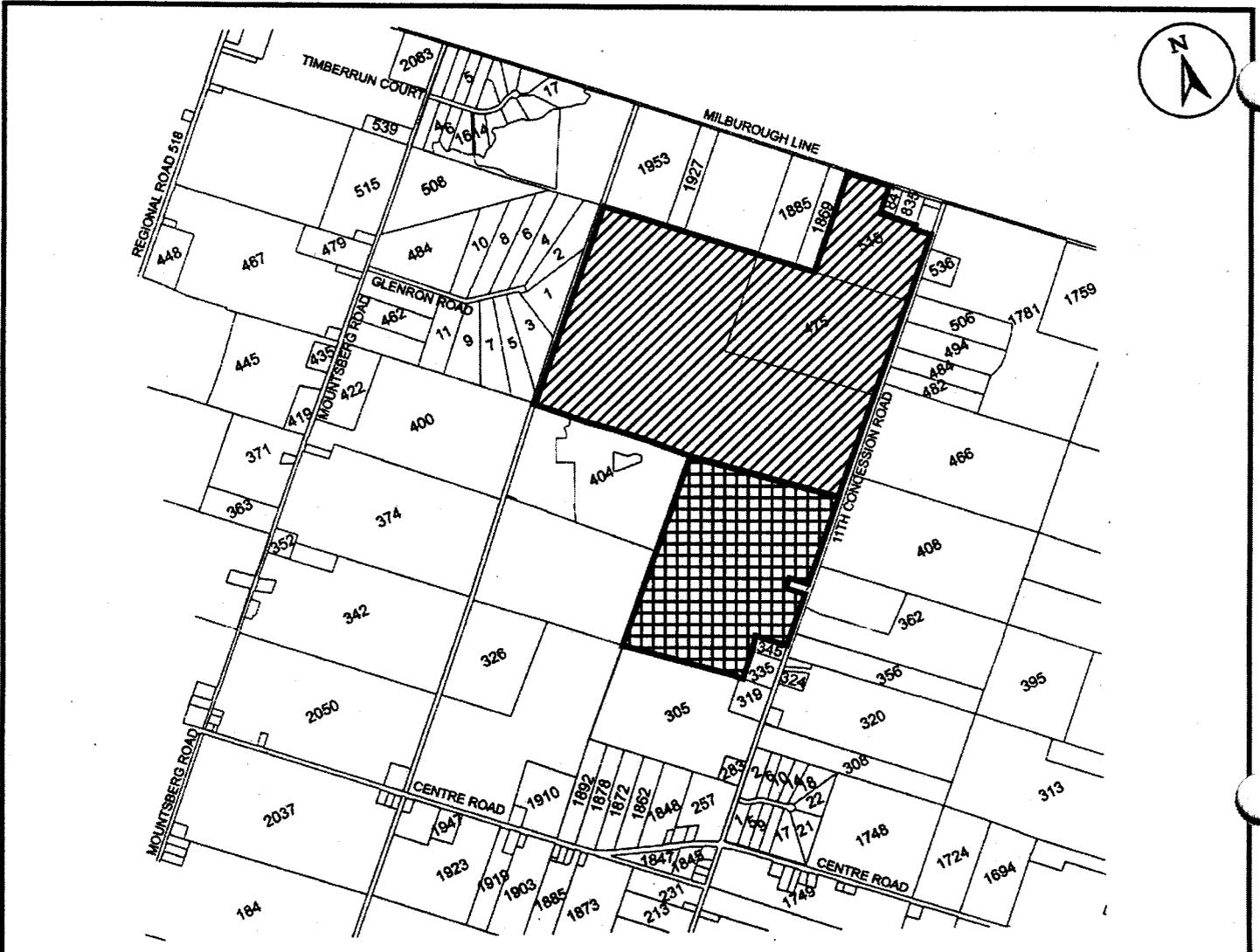
CONSULTATION WITH RELEVANT DEPARTMENTS/AGENCIES:

The Planning and Development Department will consult with all concerned departments, agencies, (i.e. Conservation Halton), and boundary municipalities including; the Town of Milton, City of Burlington and the Region of Halton in its review of the various applications.

KEY STRATEGIC COMMITMENT:

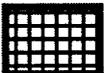
Any development applications submitted will be reviewed in a future report with regard to their compliance with the goals and strategies of Vision 2020.

:SH/SD
Attach. (1)




 Planning and Development Department
Location Map

File Name/Number: FlamquaryCon11East		Date: August 10, 2004
Appendix "A"	Scale: N.T.S	Technician: A.F.

 Subject Property
 Future Lands

T&C File Name: