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Date: June 18, 2021

To: Mayor and Council

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Manager, Planning Services

RE: Application for Zoning By-law Amendment by
Mastron Enterprises Limited
2123 Road 5 E
Part of Lots 23 & 24, Concession 4 ED, Part 2, RP 12R 9769,
Part 2, RP 12R 5151 & Part 2, RP 12R 16582

Report No.: PS 2021-035

RECOMMENDED ACTION

That Council:

Approve zoning by-law amendment application ZBA/11/21 to change the zoning on the subject parcel, Part of Lots 23 and 24, Concession 4 ED, Part 2, RP 12R 9769, Part 2, RP 12R 5151 & Part 2, RP 12R 16582 and known as 2123 Road 5 E from 'Extractive Industrial, (M4)' to a site-specific 'Agriculture Exception 84, (A1-84)' and adopt the implementing by-law.

BACKGROUND

The subject parcel is a 61.74 ha (153 ac.) former gravel pit (Appendix A). Extraction operations have been concluded, the rehabilitation plan has been completed and the pit license has been surrendered to MNRF. The parcel has been returned to farm use and as such the applicant would like to remove the extractive industrial zoning from the property and return it to agricultural. The frontage of the parcel is less than the minimum requirement so as part of the amendment the reduced frontage will be recognized.

DISCUSSION

1) Provincial Policy Statement

When reviewing a planning application to determine if it represents sound planning, it is imperative that the proposed development is consistent with the Provincial Policy Statement (PPS): "The Provincial Policy Statement provides for appropriate

development while protecting resources of provincial interest, public health and safety, and the quality of the natural and built environment.”

Section 2.3.1 states that “Prime agricultural areas shall be protected for long-term use for agriculture”.

Comment: The long-term goal for all extraction operations is for the eventual rehabilitation and return of the lands to their former use. In this case the former use was productive agricultural. As part of the pit licensing process operators must prepare a rehabilitation plan once the approved activities have concluded. The rehabilitation works are inspected by the Ministry of Natural Resources and Forestry (MNR) which oversee the licensing of aggregate operations. The applicant has included copies of the site inspection reports from MNR. The property was subject to two extraction licenses and both inspection reports outline that rehabilitation has been completed to the satisfaction of the Ministry. The lands are now being actively farmed and the pit licenses have been surrendered to the Ministry. Therefore, the application is consistent with the Provincial Policy Statement.

2) Town of Kingsville Official Plan

The Official Plan for the Town of Kingsville designates the subject property as ‘Agriculture’.

Comment: Aggregate resource extraction is a permitted use within the Agriculture designation. It is now standard practice that such operations remain within the agriculture designation to better facilitate a return to productive use consistent with the rehabilitation plans. This is also done to limit potential reuse to non-agricultural use as has been done in many cases around the province and evident to the east of this location where former pits were repurposed for recreational use. As such the application to rezone the lands back to agriculture conforms to the goals and policies outlined in the Town’s Official Plan.

3) Town of Kingsville Comprehensive Zoning By-law

The subject parcel is currently zoned ‘Extractive Industrial (M4)’ which permits the former extraction activities. The proposed zoning would return the lands to a site-specific Agriculture Exception 84, (A1-84)’. The exception is required to recognize the limited frontage of the property on Road 5 E. The requirement in the Zoning By-law is 30 m (98.4 ft.) the subject parcel has a frontage of 29.48 m (96.7 ft.).

Comment: In the public comment, noted later in the report, there was concern regarding the reduction of the frontage and a better understanding of it. The frontage of this lot has not changed since the bulk of the frontage was subdivided off for the creation of several rural residential lots. The amendment is only recognizing the existing frontage as part of the change from M4 to A1 not further reducing it. All other requirements in the zoning will remain unchanged from the standard ‘Agriculture, (A1)’

Comment: The lands were purchased for future agricultural use, which would include potential development of greenhouses. At present the lands do not have sufficient water capacity to support such development. Any development of such a use in the future will require site plan approval at which time the necessary review will address any Town requirements. Therefore, the proposed amendment has been determined to be good planning.

LINK TO STRATEGIC PLAN

Manage growth through sustainable planning.

Link to Council 2021-2022 Priorities

- COVID-19 and the health and safety of the community
- Customer Service: Training, Technology, Staff, Review Standards/Level of service
- Housing: Affordability (lot sizes, developer incentives, second dwellings, density, etc.)
- Greenhouse: lights & dark sky, odours (site plan compliance, bylaws, other tools)
- Programming Increase: Youth and Seniors
- A development plan for Downtown Kingsville / Main Street
- Financial savings: Schools closings, Migration Hall
- Economic Development: strengthen tourism/hospitality
- COVID - economic recovery
- Communications: Strategy – Policy (social media), Website refresh and other tools, Public engagement
- Housing: Migrant Worker Housing – Inspections (Building/Fire), regulate, reduce, or increase
- Committees / Boards: Review and Report
- Policy Update: Procedural Bylaw
- Economic Development: diversify the economy, create local jobs, industrial, Cottam
- Infrastructure (non-Municipal): Union Water expansion & governance
- Infrastructure (Municipal): Asset Management Plan update, the infrastructure funding deficit
- No direct link to Council priorities

FINANCIAL CONSIDERATIONS

There will be a nominal change in the assessment value of the property as a result of the change in use.

CONSULTATIONS

In accordance to O. Reg 545/06 of the *Planning Act*, property owners within 120m of the subject site boundaries are required to receive the Notice of Open House/ Public Meeting by mail. Comment has been received from neighbouring residents and included

as Appendix B. The main concern that has been expressed by the abutting landowners is the potential development of a greenhouse on the lands once the zoning is returned to an agricultural zone. This type of development then leads to potential for odour, traffic and light impacts.

Comment: It was anticipated that this would be a concern related to the application. The lighting issue is one that has and continues to be actively addressed through the site plan approval process on new applications, when made. As odour is related primarily to cannabis production it is worth noting that this would require an additional approval which is not being requested as part of this application. Truck traffic is a side effect of greenhouse development however, that traffic should be directed east away from the bulk of the residents similar to the former gravel pit truck traffic. The limited frontage of the property will necessitate additional attention at the time of site plan approval to mitigate impact to the abutting resident at 2119 Road 5 E. The bulk of the items noted in the comment are regulated through the existing zoning regulations for greenhouses and the site plan approval process.

Agency & Administrative Consultation

In accordance with O. Reg 545/06 of the Planning Act, Agencies and Town Administration received the Notice of Public Meeting by mail and/or email. At the time of writing, the following comments have been received.

1) Essex Region Conservation Authority (ERCA)

ERCA has no objection to the proposed zoning amendment. See Appendix C for full comment.

2) Technical Advisory Committee (TAC)

Legislative Services has indicated that a dwelling at 2043 Road 5 E is include on the Town's interest list of heritage properties but is not designated.

Comment: The heritage interest of the property has not been impacted by the extraction operations that have been on the site for at least the last twenty years in increasing intensity. The development of several rural residential lots on either side of the residential have also not impacted it. With the proposed zoning the use is moving away from an active use to one of a more passive nature. Should that change in the future and require additional planning approval the need for impact assessment will be determined at that time.

The Technical Advisory Committee had no other comment on the proposed zoning amendment.

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