



Appendix B

PLANNING JUSTIFICATION REPORT

Town of Kingsville, Ontario

Abstract

This Planning Justification Report is in support of:

-A Town of Kingsville Zoning By-law Amendment application.

To support the operation of an On-Site Excess Soils and Liquid Soils Management/Processing Facility on the Mc Donald Pit lands located at 2170 Talbot Road in the Town of Kingsville, Ontario.

Date: May 22, 2025

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Description of the Proposal

Erie Sand & Gravel Limited own and operate an approximately 18.95 hectare licenced, and operating sand pit known as the Mc Donald that has its main access/egress at County Road 31 (Albuna Townline Road) in the Town of Kingsville, refer to Figure 1 Location Plan.

The owners of the McDonald Pit are seeking municipal approvals to operate an excess soils and liquid soils processing facility on their lands in accordance with the *Onsite and Excess Soil Management Regulation* (o.Reg 406/19) and related *Rules for Soil Management Soil Management and Excess Soil Quality Standards* requirements made under the *Environmental Protection Act*, R.S.O 1990, c. E. 19 (EPA) and the Ministry of the Environment, Conservation and Parks (MECP) Excess Soil Guideline providing guidance on the requirements and best management practices in managing excess soil resulting from excavation and construction activities.

This Planning Justification Report is in support of an application to the Town of Kingsville to approve a Zoning By-law Amendment to add excess soil processing (both solid and liquid) as an additional permitted use on the McDonald Pit lands.

Figure 1 – General Location Plan

The application subject to this Planning Justification Report are those lands outlined on the following Location Plan located west of County Road 31 (Albuna Townline Road), north of County Road 34 (Talbot Road).



Land Ownership

The lands are described as: Part of Lot 13, Concession 2, Eastern Division (Geographic Township of Gosfield South), now in the Town of Kingsville, being Property Identification Number 75146-0112 (LT). The lands are owned by Erie Sand and Gravel Limited who acquired the property on April 30, 1987.

History of the Property

The McDonald Pit lands have been licensed as an active mineral extraction use for over thirty-five (35) years. The McDonald Pit operates within the terms of its license (ALPS ID:5412) and is subject to on-going operations, regulations, and inspections.

Physical Features of Subject Property

Structures

There are no operations structures on the property.

Vegetation

There is no natural or planted vegetation on the property other than the manicured lawns adjacent to the public rights-of-ways.

Topography

The McDonald Pit lands are generally at a lower elevation than surrounding lands and has a significant surface water pond at the north end of the property that receives rainwater runoff.

Surrounding Land Uses

North

The Essex-Windsor Solid Waste Authority operates Transfer Station No. 2 immediately north of the Subject Property.

South

There is a cemetery property on the south side of the property at the northwest corner of the intersection of County Road 31 (Albuna Townline Road) and County Road 34 (Talbot Road).

There is a mix of residential hobby farm and agricultural use operations located on the south side of County Road 34 (Talbot Road).

East

County Road 31 (Albuna Townline Road) is located to the immediate east of the Subject Property. There are primarily industrial uses located on the east side of County Road 31.

West

There are greenhouse operations to the west of the Subject Lands, with an assortment of residential uses fronting on the north side of County Road 34 (Talbot Road).

Planning Policy Documents

Provincial Planning Statement 2024

The Provincial Planning Statement (PPS) provides policy direction on matters of a provincial interest related to land use planning and development. The PPS provides for appropriate development while protecting resources of a provincial interest, public health and safety, and the quality of the natural and built environments. The PPS supports improved land use planning and management, which contributes to a more effective and efficient land use planning system.

The policies of the PPS are complemented by locally generated policies regarding matters of municipal interest. Provincial plans and municipal official plans provide a framework for comprehensive, integrated, place based and long-term planning that supports and integrates the principles of strong communities, a clean and healthy environment and economic growth, for the long term.

The PPS requires that land use planning decisions made by municipalities, planning boards, the province, or a commission or agency must be consistent with the Provincial Planning Statement. The vision of the PPS is long term prosperity and social well-being of Ontario that depends on planning for strong, sustainable and resilient communities for people of all ages, a clean and healthy environment, and a strong and competitive economy.

PPS Subsection 3.3.1. provides that transportation systems should be provided which are safe, energy efficient, facilitate the movement of people and goods, and are appropriate to address projected needs.

The McDonald Pit has good connectivity to area County roads that provide efficient movement of materials to and from the facility.

3.5 Land Use Compatibility

Major facilities and sensitive land uses shall be planned and developed to avoid, minimize and mitigate any potential adverse effects from odour, noise and other contaminants, minimize risk to public health and safety, and to ensure the long-term operational and economic viability of major facilities in accordance with provincial guidelines, standards and procedures.

There is no better location for processing excess soils and liquid soils than within the McDonald Pit lands that already meet stringent compatibility requirements imposed by the province.

Approval of development applications to facilitate excess soil and liquid soil processing on the McDonald Pit lands is consistent with the PPS (2024).

Subsection 4.2.2 provides that *Development* and *site alteration* shall be restricted in or near *sensitive surface water features* and *sensitive ground water features* such that these features and their related *hydrologic functions* will be protected, improved or restored, which may require mitigative measures and/or alternative development approaches.

Note that the owners of the McDonald Pit lands have undertaken and documented continuous regular surface and groundwater monitoring within the property for over 20 years without finding any negative impacts from operations and will continue to rigorously test water quality to monitor impacts from operations.

4.4 Minerals and Petroleum

4.4.1.1 Minerals and petroleum resources shall be protected for the long term.

Subsection 4.4.2.1 provides that mineral mining operations shall be identified and protected from development and activities that would preclude or hinder their expansion or continued use or which would be incompatible for reasons of public health, public safety or environmental impact.

Subsection 4.4.2.2 provides Known *mineral deposits*, known *petroleum resources* and *significant areas of mineral potential* shall be identified, and *development* and activities in these resources or on *adjacent lands* which would preclude or hinder the establishment of new operations or access to the resources shall only be permitted if:

1. resource use would not be feasible; or
2. the proposed land use or development serves a greater long-term public interest; and
3. issues of public health, public safety and environmental impact are addressed.

Subsection 2.4.3.1 requires that rehabilitation to accommodate subsequent land uses shall be required after extraction activities have ceased. The owner of the McDonald Pit plans to rehabilitate the lands for possible greenhouse operations after extracting the desired minerals from the site.

Given that soils are required to facilitate the rehabilitation plan for the McDonald Pit it is logical to permit the processing of excess soils and liquid soils on the site as much of the material brought in for processing will be used in accordance with the rehabilitation plan.

Processing excess soil and liquid soil on the McDonald Pit lands is a wise use of minerals and resources as soils will be processed for reuse at a facility where the infrastructure for the use is already in place.

Approval of development applications by the Town of Kingsville for excess soils and liquid soils processing on the McDonald Pit is consistent with the Provincial Planning Statement 2024 as it is a wise use and management of resources.

County of Essex Official Plan

The County of Essex is the upper tier municipality to the Town of Kingsville. The County of Essex Official Plan sets out overriding planning policy for Essex County municipalities outside of the City of Windsor. Thus, the Town of Kingsville more detailed and specific planning policy must be consistent with County planning policy.

The Subject Lands are all within the “Agricultural” designation according to Schedule A1 Land Use Plan attached to the Official Plan for the County of Essex.

Given the significant similarities between mineral extraction and processing soils and liquid soils an Official Plan Amendment is not required to process excess soils and liquid soils on the McDonald Pit as the proposed use can be deemed ancillary to mineral extraction activities.

Subsection 2.3.2 Mineral Aggregate Resources of the County Official Plan states in part: “It is the policy of this Plan that as much of the mineral aggregate resources as is realistically possible will be made available to supply mineral resource needs as close to markets as possible.

Processing excess soil and liquid soils on the McDonald Pit complies with the County’s policy to have mineral resources as close to markets as possible.

The applicant of the proposed excess soils and liquid soils processing operation at the McDonald Pit is of the opinion that County Official Plan policies respecting public health, public safety and environmental impact that apply to mineral extraction should also apply to excess soils and liquid soils processing.

A portion of the Subject Lands are shown as having Highly Vulnerable Aquifers on Schedule C4 Highly Vulnerable Aquifers plan attached to the Official Plan for the County of Essex.

The Subject Lands are shown as having “High” vulnerability for Significant Ground Water Recharge Areas as shown on Schedule C5 Significant Ground Water Recharge Areas plan attached to the Official Plan for the County of Essex.

County of Essex official Plan subsection 2.5.2 Groundwater provides: the protection, conservation and careful management of groundwater resources is necessary to meet both the present and future needs of residents, businesses and the natural environment. As groundwater and aquifer contamination is extremely difficult and costly to rectify, prevention of contamination is the most realistic strategy. Aquifers need to be protected across the County to ensure a clean groundwater supply for private water systems, as well as to provide baseflow for creeks and streams, and water sources for ponds and wetlands.

For areas designated Highly Vulnerable Aquifers (HVA) and Significant Groundwater Recharge Areas (SGRA) within the County the following policies apply:

a) The County will support initiatives of the Ministry of the Environment, the Conservation Authorities, the City of Windsor, the Municipality of Chatham-Kent, and other agencies, including the implementation of the Essex Region/Chatham-Kent Regional Groundwater Study in identifying strategies to protect groundwater resources.

b) Development and site alteration that may be a significant threat will only be permitted within an HVA or SGRA where it has been demonstrated by way of the preparation of a groundwater impact assessment that there will be no negative impact on the HVA or SGRA.

c) Where a local municipality contains Highly Vulnerable Aquifers or Significant Groundwater Recharge Areas, as part of the update of their Official Plan, an assessment of the appropriate list of permitted uses shall be undertaken to ensure that no negative impact will occur on a HVA or SGRA.

In accordance with the licence on the McDonald Pit, the operator is required to monitor a number of water monitoring wells both on and off-site on a monthly basis. Water samples are taken and analyzed with findings provided in a report prepared by a qualified hydrogeological consultant and the report is filed with the Ministry of Environment, Conservation and Parks as well as the Ministry of Natural Resources and Forestry. The proposed processing of excess soils and liquid soils is to be undertaken all above the water table and measures will be in place to protect surface and groundwater in the area.

Subsection 3.3.3.6 Mineral Resources in the County of Essex Official Plan provides: the extraction of mineral resources (including non-metallic mineral resources, petroleum resources and mineral aggregate resources) is also permitted on lands within the “Agricultural” designation, in the general locations shown on Schedule “E1”, as an interim land use provided rehabilitation of the site will be carried out whereby substantially the same area and the same average soil quality for agriculture are restored.

The McDonald Pit lands are within the designated Mineral Aggregate Resources Overlay area. Excess soils and liquid soils processed on the McDonald Pit will be used in part to achieve the ultimate restoration plan for the pit once mined out.

Given that the extraction of mineral resources is permitted on the Subject Lands and the processing of excess soils and liquid soils is an associated land use (material handling) we submit that an amendment to the County of Essex Official Plan is not required for the processing of excess soils and liquid soils on a portion of the McDonald Pit lands.

Town of Kingsville Official Plan

The McDonald Pit lands are designated Agricultural according to Schedule “A” Land Use Plan attached to the Official Plan for the Town of Kingsville.

The Subject Lands are shown to be within the Extractive Industrial Overlay on Schedule “D” Natural Resources plan attached to the Town of Kingsville Official Plan.

This proposal promotes that excess soils and liquid soils processing be permitted on lands within the Extractive Industrial Overlay.

Subsection 4.3 Mineral Aggregate Resources provides that: “It is the policy of this Plan that mineral resources will be protected for long-term use. Lands identified as Extractive Industrial Overlay on Schedule “D” of this Plan are areas that have been identified as having mineral aggregate resources (primary and secondary) with extractive industrial potential. As such, any

proposed development can only occur if it has been demonstrated to the satisfaction of the Town and the Province that the development will not interfere with the future removal of the resource.”

This proposal to permit excess soil processing on the McDonald Pit lands assists in protecting the mineral extraction operation for long-term use. Processing soils will not interfere with the removal of the aggregate at the McDonald Pit.

Schedule “E” Roads, Utilities, Services map attached to the Official Plan shows the lands mostly within a 500 metre Influence Area of a Waste Disposal Site.

The owners of the McDonald Pit have a Containment Attenuation Zone Easement Agreement pertaining to Landfill #2 that is registered on title as Instrument CE102617 on September 13, 2004.

Schedule G Highly Vulnerable Aquifers shows the north portion of the McDonald Pit within a Highly Vulnerable Aquifers area.

All excess soils and liquid soils processing operations within the McDonald Pit lands will be undertaken above ground water elevations thus having no negative impacts within a Highly Vulnerable Aquifers area.

Given the similarities between mineral extraction activities and processing excess soils and liquid soils, we are of the opinion that processing excess soils and liquid soils within the McDonald Pit boundaries does not require a Town of Kingsville Official Plan amendment.

Town of Kingsville Comprehensive Zoning By-law 1-2014, as Amended

The McDonald Pit lands are zoned Industrial Zone (M4) as shown on Map Figure 54 in the Town of Kingsville Comprehensive Zoning By-law 1-2014, as amended.

The McDonald Pit mineral extraction operations are fully compliant with M4 regulations.

We recommend that the Town of Kingsville consider a zoning amendment to permit excess soils and liquid soils processing on the McDonald Pit lands within the M4 zone category.

To facilitate excess soils and liquid soils processing on the McDonald Pit lands the proposed use would need to be added as an additional permitted use in the M4 zone category.

Site Suitability

The McDonald Pit lands are ideally suited for the processing of excess soils as the proposed use is quite similar to the existing mineral aggregate extraction operations.

Compatibility

Processing excess soils and liquid soils is compatible with mineral extraction operations in every way.

The owners have responsibly operated the McDonald Pit for many years and through diligent careful management have fostered good relationships with their neighbours and are regarded as good corporate citizens.

The owners and operators of the McDonald Pit will exercise the same care and attention to processing excess soils and liquid soils on the property that they do with their existing mineral extraction operations.

Good Planning

The proposal to permit excess soils and liquid soils processing on the McDonald Pit lands is in this planner's opinion good planning.

This proposal is supported by the Provincial Planning Statement 2024, the County of Essex Official Plan, and the Town of Kingsville Official Plan.

Natural Environment Impacts

The proposal to permit excess soils and liquid soils processing on the McDonald Pit lands does not have any natural environment impacts.

Municipal Services

The proposal to permit excess soils and liquid soils processing on the McDonald Pit lands will not have any negative impacts on municipal services.

Social and/or Economic Conditions

The subject proposal does not affect the social environment and bolsters the economic conditions in the area by providing additional employment that will assist in supporting local businesses.

Conclusion

For reasons provided in this report, a zoning by-law amendment application to add excess soil processing use in the M4 zone should be approved by the Town of Kingsville Council.

HRK Realty Services Ltd.



Date: May 22, 2025

Harold R. Kersey, RPP
President