

THE MUNICIPALITY OF LAMBTON SHORES

CL Report No. 05-2005 **Date:** Tuesday, January 18, 2005
To: Mayor Cam Ivey and Members of Council
From: Carol McKenzie, Clerk
Re: Stewart Webb and Sons Ltd. – 9967 Lakeshore Road
Southwest Corner – Cold Storage Road and Highway 21

Recommendation:

That the request from the agent for the owner of property located at 9967 Lakeshore Road to continue building on the property be denied until the zoning, site plan and building issues are resolved.

Report:

Attached is a request from Richard Webb to discuss with Council several issues pertaining to property located within Lambton Shores. The following is some of the background information pertaining to the issues:

In April of 2004, Stewart Webb and Sons Limited purchased property located at the corner of Cold Storage Road and Highway 21. This company is associated with the landscaping and excavating business, and began to use this property for similar uses. In late summer of 2004, By-law Enforcement Officer Glenn Bell noted that the use of the property as an aggregate/landscaping business was not permitted in the C3 zone and the owner was asked to contact the Municipality and make an application for a zone amendment if this use was to continue. (Copy of permitted uses in the C3 zone attached).

In October of 2004, the Building Official noted that construction/alterations to an existing structure were taking place on site without a building permit or a site plan agreement, and that the use was not permitted in the C3 zone. A stop work order and order to comply were issued to the agent for the property owner – Richard Webb. Subsequent inspections noted that work had continued on the property without the necessary permits, zoning and site plan and the agent was requested on December 13 and 21 to stop all construction. A further order to comply was issued on December 21. In addition, a letter from Planner Patti Scherer was sent on December 15, 2004 again stating that the owner had not dealt with the zoning issue, or the order to comply, and had continued to work in contravention of the Municipal requirements.

On several occasions, Mr. Webb called or met with staff concerning his property, and on December 24, submitted an application for a zone amendment. At that time he was advised that the property would require an Official Plan amendment as well. As a result of the January 7 letter, Ms. Scherer reviewed the Official Plan designation for the property, and as noted in PL Report No. 03-2005, (copy attached) concurs that an Official Plan amendment is not required.

68.

Mr. Webb is asking for permission to continue the siding of the building and finish installing and replacing doors for security purposes. Jeff Jilek, County C.B.O. has advised that a building permit has not been issued for this work, and would not be issued until the zoning and site plan issues have been resolved.

Respectfully submitted,

A handwritten signature in cursive script, appearing to read 'cmckenzie', written in black ink.

Carol McKenzie
Clerk

Stewart Webb & Sons Limited

R.R. #1 ~ Dashwood, Ontario, N0M 1N0
Phone 519-238-2167
Landscaping and Excavating

January 7, 2005

Municipality of Lambton Shores Shores

Carol McKenzie
Clerk

Dear Carol

Thank you for sending the information I requested regarding my property on Lakeshore Road.

I have requested a meeting with council regarding the property and requirement the planner has made on the property.

1. I have ask that a contracting yard be add as a accessory use on the property and would like council comment on this request.
2. I would like to ask council that we be allowed to finish applying the siding on the building and continue with finishing with work that was started.
3. Ask council if it would be needed to make a change to the official plan or if a spot re zoning would be satisfactory.

I hope that you are able to schedule me as soon as possible.


Richard Webb

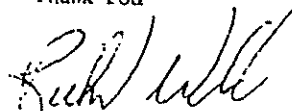
Building Services

Building Official

Dear Sir

I would let be know that it is necessary for us to install and replace a number of doors on the property at 9967 Lake shore Road as by leaving them in the state they are it causes us concern over break-ins and safe for our property. I hope you understand our concerns.

Thank You


Richard Webb

26.

THE MUNICIPALITY OF LAMBTON SHORES

PL Report No. 03-2005

Date: January 18, 2005

TO: Mayor J.C. Ivey and Members of Council
Municipality of Lambton Shores

FROM: Patti Scherer
Senior Planner

RE: Richard Webb - 9967 Lakeshore Road
Southwest Corner Cold Storage Road and Highway 21

In response to Mr. Richard Webb's letter of January 7, 2005 I provide the following information.

A contracting yard cannot be added as an accessory use on the property, when it is the primary use on the property. Mr. Webb believes that the contractor's yard is accessory to a future farmer's market he intends to establish on the site. By definition an accessory use is subordinate, incidental and secondary to the main permitted use. I would not consider a contractor yard to be accessory to a farmer's market. The two are totally unrelated. A contractor's yard is a separate use and in my opinion the primary use presently existing on the lands. The present Commercial 3 zoning on the lands does not permit a contractor's yard as a permitted use. Therefore a zoning by-law amendment is required.

In review, I believed I erred in advising Mr. Webb that he needed an Official Plan amendment. My notes to file indicate that he requires a zoning amendment and a site plan approval. The lands are designated Mixed Commercial and Residential in the Official Plan. This designation permits commercial uses catering to the tourist trade, the traveling public and the local market. I believe a contracting yard is a commercial use which serves the local market. Mr. Webb has submitted the Official Plan Amendment Application, but has not paid the fee. I apologize for the confusion.


Patti L. Scherer
Senior Planner

SECTION 22 - COMMERCIAL – 3 (C3) ZONE

22.1 PERMITTED USES

No land, Building, or Structure shall be used or erected in the Commercial – 3 (C3) Zone except for one or more of the following Uses:

- a) Abattoir
 - Agricultural Service Establishment
 - Agricultural Supply Establishment
 - Farm Implement Sales Establishment
 - Farmers Market
 - Veterinary Clinic
 - Stock Yard
- c) Buildings, Structures and Uses Accessory to a Permitted Use

22.2 SITE PROVISIONS

- a) Minimum Lot Area 1,850 sq. m
- b) Minimum Lot Frontage 30 m.
- c) Minimum Front Yard Setback 7.5 m.
- d) Minimum Interior Side Yard Setback 7.5 m.
- e) Minimum Exterior Side Yard Setback 7.5 m.
- f) Minimum Rear Yard Setback 7.5 m.
- g) Maximum Building Height 12 m.
- h) Maximum Lot Coverage 30 %
- i) Minimum Landscaped Open Space 10 %

22.3 SPECIAL PROVISIONS

The following Zones apply to unique or existing situations and are not the standard C3 Zone. If a regulation or Use is not specified, the list of Permitted Uses in Section 22.1 and/or the regulations of Section 22.2 shall apply.

a) Exception 1 to the Rural Commercial Zone

Notwithstanding any provisions of this section, a Commercial Greenhouse will also be Permitted on lands Zoned Commercial Rural 3.1 (C3-1) on Schedule "A" to this By-law.

THE MUNICIPALITY OF LAMBTON SHORES

PL Report No. 14-2005

Date: March 7, 2005

TO: Mayor J.C. Ivey and Members of Council
Municipality of Lambton Shores

FROM: Patti Scherer
Senior Planner

RE: ZONING BY-LAW AMENDMENT APPLICATION ZO-03/05
LOCATION: 9967 Lakeshore Road (Grand Bend)
APPLICANT: Stewart Webb & Sons
AGENT: Richard Webb

1. RECOMMENDATION

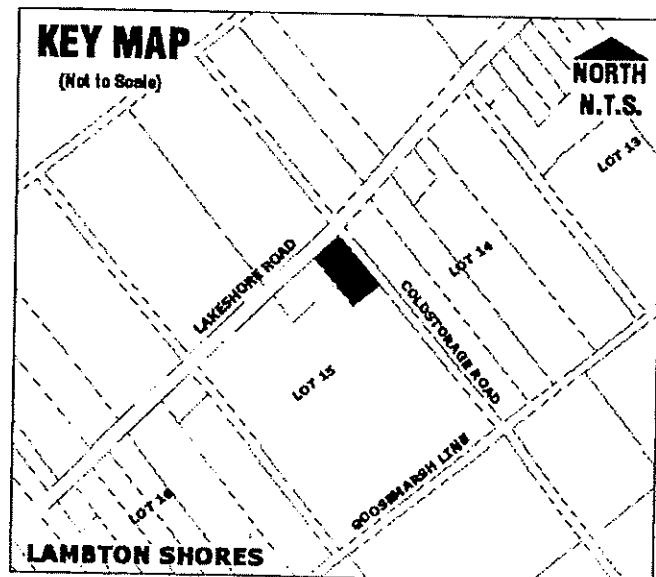
That Zoning By-law Amendment Application ZO-03/2005 submitted by **Stewart Webb & Sons** requesting an amendment to the Lambton Shores Zoning By-law 1 of 2003, as it affects lands known as 9967 Lakeshore Road, to amend the current Commercial-3 (C3) Zoning on the lands to allow a "**Building and Contracting Establishment**" including open storage, as a permitted use, be **APPROVED**, subject to the applicant entering into an acceptable site plan agreement with the Municipality, which addresses noise and outdoor storage concerns, prior to the implementing by-law being brought forward to Council. The implementing by-law should limit the amount, height and location of any outdoor storage areas and introduce some landscape buffers adjacent to the campground.

2. SUMMARY OF THE APPLICATION

The applicant, **Stewart Webb & Sons** is requesting an amendment to the Lambton Shores Zoning By-law 1 of 2003, as it affects lands known as 9967 Lakeshore Road, which is south of Grand Bend, to amend the current Commercial-3 (C3) Zoning on the lands to allow a "**Building and Contracting Establishment**" including open storage, as a permitted use on the subject lands.

3. LOCATION, AREA DEVELOPMENT

The subject lands comprise an area of 1.05 hectares (2.58 acres) and are located on the southeast corner of Lakeshore Road and Cold Storage Road. The property is occupied by a large warehouse and 2 storage buildings. The site was previously an agricultural product distribution depot (potato packaging plant and produce



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sales). Lands south are occupied by a campground and vacant residential property. Lands to the east comprise agricultural uses and lands to the west and north are occupied by a pit and vacant residential property.

4. CORRESPONDENCE

A number of letters have been received in response to the public notice.

Letters have been received from:

E. John Walker of London, who owns a trailer in the adjacent Klondyke Trailer Park, who objects to the proposed use. He is concerned about heavy truck and machinery traffic making turns on Highway 21. He is also concerned about noise, pollution, dust and dirt.

Tim and Jackie Swiech, who own a trailer in the adjacent Klondyke Trailer Park indicate that there is a significant number of heavy trucks operating from the subject lands which will only deteriorate the trailer park communities in the area and reduce their interest in participating in the economy of Grand Bend. This may result in seasonal residents seeking recreational properties elsewhere.

Jim and Mary Ellen Meadows, of Arkona, who are owners of a trailer at the Klondyke Trailer Park advise that there should be restrictions placed on the times the equipment and trucks can run on the subject lands to protect the residents of the trailer park from noise. They suggest a start time of 9:00 on weekends.

Don and Nina Sutherland of Alvinston, who are owners of a trailer in the Klondyke Trailer Park, object to the proposed rezoning as it will interfere with their enjoyment of their trailer. They indicate that Highway 21 is already busy enough and does not need any more tie ups and slow downs caused by truck accessing the subject lands.

Allan Brown strongly opposes the application as it will allow large trucks to track dirt onto Highway 21 creating dust. The use of large machinery on the site will also create dust. The large trucks and machinery will create much more noise. This will create undue hardship for the owners of Klondyke Trailer Park in trying to keep their pool clean. It will create a safety hazard for children in the area. He indicates that Highway 21 is already heavily traveled in the summer months and overloaded and dangerous, the proposed use will only make this worse.

Richard and Joanne LaChapelle of Tecumseh, who own a trailer in the Klondyke Trailer Park, indicate that the noise and machinery operation will interfere with their enjoyment and relaxation.

Reg and Sally Rabideau, owners of a trailer in the Klondyke Trailer Park, indicate objection to the application. The noise from the trucks, loader and other equipment was extreme this summer. They also indicate their will be negative impacts from the dust and dirt blowing off the dirt piles and from traffic at the corner of Cold Storage Road and Highway 21.

Tom and Susan Hawes, owner of a trailer in the Klondyke Trailer Park, request that Council not approve the application as it will impact on their enjoyment of their trailer due to increased noise and traffic congestion created by the proposed use. Highway 21 will become much busier and create a traffic hazard for children crossing the street and walking along the highway.

Margaret Plouffe of Kitchener, an owner of a trailer in the Klondyke Trailer Park, strongly objects to the application as it will create noise levels which will be intolerable and interfere with her rest and relaxation.

D. Young of Sarnia, an owner of a trailer in the Klondyke Trailer Park asked that Council not approve this application as it will interfere with the peace and quite of the park and drive residents from the park.

John Kelders of 9991 Lakeshore Road, **Joe Kelders**, **Andy Kelders** of 9981 Lakeshore Road and **Mary Vincent** of 9925 Lakeshore Road, object to the application due to excessive noise that the proposed use will cause. They experienced the constant running of soil screening equipment and the dumping of dirt all day, during road construction last year. They indicate concern respecting the attraction of the dirt piles on the site to children and the potential danger.

Ronald and Barbara Hockin of London, **Barbara & Norman Moore** and **Roy Kivinen**, all owners of trailers in the Klondyke Trailer Park, object to the application.

5. DISCUSSION

The site is designated "Mixed Commercial Residential" in the Lambton Shores Official Plan. Permitted Uses include:

- (a) agriculture, including accessory dwellings and facilities such as greenhouses, produce storage and sales and similar activities;
- (b) commercial uses catering to the tourist trade, the traveling public and the local market;
- (c) single detached dwellings;
- (d) Public and private parks including campgrounds and trailer parks;
- (e) Small scale institutional uses including churches, schools, day care centres, works or facilities of the Municipality, County or Province.

The introduction of a Building and Contracting Establishment on the subject lands is considered to be a commercial use catering to the needs of the local market and thus complies with the permitted use policies of the Mixed Residential Commercial designation.

Additional policies in the Official Plan state that buffering shall be provided between any commercial use and an adjoining residential use, in a manner that protects the residential use from the intrusive effects of such adjoining non-residential development. Many

seasonal residents of the adjacent Klondyke Trailer Park have expressed concern respecting noise from the trucks and machinery and dust associated with the proposed use. Staff suggest that some of these concerns can be mitigated through site plan control. Further, the amount and height of open storage on the site can be regulated. The stock pile of soil existing on the site is excessive in height and quantity and needs to be altered. The storage of equipment can be directed to a location on site which may be less impactful. Some buffering in the form of fencing and landscaping may be required and to be installed.

The lands are presently zoned Commercial 3 (C3) which allows the following uses; abattoir, agricultural service establishment, agricultural supply establishment, farm implement sales establishment, farmers market, veterinary clinic and stock yard. The site has supported a commercial use for many years and most recently was used as a potato package plant. Truck and machinery used in that business was stored on the site. It is also the applicant's intent to establish a farmer's market on the site.

With respect to the concerns expressed by area residents regarding increased traffic on Highway 21; Highway 21 is a provincial highway designed to accommodate large quantities of both local and through traffic. The minimal amount of traffic generated from the site should not adversely affect the functioning of this highway. The Ministry of Transportation has been circulated notice of this application and to date, we have not received any comments from them.

Staff have no objection to approval of this application, subject to the applicant entering into a site plan agreement which addresses on site storage of material and noise issues. The implementing By-law should restrict the amount, location and height of open storage on the site. As Council is aware Mr. Webb has already established the use on this site, without any thought for appropriate site layout and site storage issued. The entering into of site plan agreement before the implementing By-law is brought forward to Council is necessary to ensure that concerns of the area residents are addressed.

2. SUMMARY

In my opinion the introduction of a Building and Contracting Establishment on the site complies with the Official Plan and represents a use similar to those already permitted by the current zoning. Any implementing by-law should contain provisions limiting the amount and height of any outdoor material storage and restrict its location to areas which will limit disruption to the adjacent campground. Staff can therefore recommend the application be approved, subject to the applicant entering into an acceptable site plan agreement with the Municipality which addresses noise and outdoor storage concerns, prior to the implementing by-law being brought forward to Council. The implementing by-law should limit the amount, height and location of any outdoor storage areas and introduce some landscape buffers adjacent to the campground.



Patti L. Scherer

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AUGUST 11, 2005

TO: CAROL MCKENZIE
COUNCIL

FROM: RICHARD WEBB

I AM REQUESTING A MEETING WITH COUNCIL IN REGARDS TO AN ISSUE WITH THE PREPARATION OF A SITE PLAN FOR THE PROPERTY LOCATED AT 9967 LAKE SHORE ROAD.

I FEEL THAT IT IS A WASTE OF TIME AND MONEY HAVING AN ENGINEERING DRAIN AND GRADE PLAN PREPARED FOR PROPERTY WHEN IT IS NOT NECESSARY

D. CULBERT SURVEYORS PREPARED A PLAN (AT A COST OF \$780.00) WHICH SHOWS THAT WATER DRAINS FROM LAKE SHORE ROAD (HIGHWAY 21) AND COLD STORAGE ROAD ONTO OUR PROPERTY AND ANY WATER THAT DRAINS FROM THE PROPERTY DRAINS INTO THE MUNICIPAL DRAIN ALONG THE EDGE OF COLD STORAGE ROAD.

WE HAVE NO PROBLEM ENTERING INTO A SITE PLAN AGREEMENT BUT FEEL IT IS A WASTE OF MONEY HAVING AN ENGINEER REVIEW AN ENGINEERS DRAWING. THIS IS A WASTE OF TIME AND MONEY

IF THE PLANNING STAFF ARE UNABLE TO SEE MY POINT, THAN COUNCIL MAY UNDERSTAND MY POSITION

CONTINUED

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WE HOPE TO OBTAIN A LETTER FROM KLONDYKE
TRAILER PARK (THE KELDERS) APPROVING OF
OUR PLAN FOR THE PROPERTY

I HOPE THIS EXPLAINS MY POSITION AND
THAT WE MAY BE ABLE TO PROCEED.

I WILL BE ATTENDING THE MEETING
ON MONDAY AUGUST 15, 2005 AT
8:00 PM

THANKING YOU IN ADVANCE.

RICHARD WEBB

Richard Webb.