

Attachment 4 – Previous Staff Report (without attachments)

THE MUNICIPALITY OF LAMBTON SHORES

Report PL 25-2020

Council Meeting Date: September 8, 2020

TO: Mayor Weber and Members of Council
FROM: Will Nywening, Senior Planner
RE: Report PL 25-2020 - Parkbridge Rezoning.docx

RECOMMENDATION:

THAT Report PL 25-2020, relating to a Zoning By-Law Amendment Application submitted by Parkbridge Lifestyle Communities Inc. be received;

THAT Zoning By-Law Amendment Application ZO-08/2020 requesting an amendment to Zoning By-Law 1 of 2003 to rezone a portion of lands known as 9338 West Ipperwash Road to recognize existing portions of a campground and to also allow its expansion, **be deferred**, to allow the applicant, staff, and Conservation Authority to address concerns related to recent further encroachments.

SUMMARY

This report relates to the Zoning Amendment application submitted by Parkbridge Lifestyle Communities Inc. (Agent: Jay McGuffin, Monteith Brown Planning Consultants) affecting portions of lands known as 9338 West Ipperwash Road in Ipperwash (Attachment 1). The applicants propose to rezone portions of the property from “Future Development (FD) Zone” to “Commercial-14 (C14) Zone” (some with a “Holding” provision) and “Environmental Protection – Natural Conservation (EP-NC) Zone”.

In this respect, the property contains an existing campground – Our Ponderosa. The majority of the existing campground sites are located within the C14 Zone, which permits a campground. First, the applicant seeks to expand the C14 Zone in an easterly direction to recognize existing sites developed outside the C14 Zone boundary. Second, the applicant seeks to extend the C14 Zone in a southerly direction to allow additional campground sites on southerly portions of the lands. The applicant proposes to make this second area subject to a Holding provision that would require the completion of archaeological assessment prior to development. Finally, the applicant seeks to rezone areas to the EP-NC Zone along the southern property boundary. These areas outside the proposed campground expansion would be preserved or developed as natural heritage features. The proposed zone boundaries, as requested by the applicant, are shown in Attachment 2.

COMMENTS

Staff does not have an amending by-law drafted for Council's approval. Review of the application has raised a number of issues that Staff believes need to be addressed and possibly incorporated into the draft by-law before it can be passed.

Review of the application has shown ongoing encroachment within natural heritage designations of the Official Plan and St Clair Region Conservation Authority regulated areas without building permits or SCRCA approvals. The SCRCA, in their comments (Attachment 5), has made some suggestions for how to address the issue and prevent further encroachment. Before the zoning amendments can be passed, Municipal Staff, SCRCA Staff, and the applicant need to have further discussions for how to resolve these issues. Staff anticipates that any resolution will require the completion of some kind of agreement between parties before the zoning amendments are approved, and also that the provisions of the zoning amendment and the zone boundaries may need to be modified to accommodate such resolution.

Also, a consultant's report identified traffic concerns raised by Kettle and Stony Point First Nation that the report recommended be given further examination. It is unclear how these concerns have been or will be addressed.

BACKGROUND

Supporting Materials: The agent for the application has submitted a number of materials in support of the application that Municipal and St Clair Region Conservation Authority Staff have reviewed:

- Planning Justification Report by Monteith Brown Planning Consultants, May 2020
- Community Engagement Strategy by Incite Planning, March 2020
- Environmental Impact Study by Dougan & Associates, June 2019
 - Includes Encroachment Study
- Functional Servicing Report by C.C. Tatham & Associates, March 2019
- Stormwater Management Report by C.C. Tatham & Associates, March 2019

Excerpts from the Encroachment Study included as Appendix B to the EIS are included as Attachment 3 to this report. The Planning Justification Report is Attachment 4. SCRCA comments are Attachment 5.

Existing Conditions: the property is occupied by the Our Ponderosa Resort, a campground and trailer park consisting of 418 existing sites (337 seasonal, 73 transient, 7 rental, and one cottage) and office, administration, and recreational facilities, all located on the front portion of the "lower level" (in elevation) of the property. The seasonal sites are a mix of campers and park model homes. Also on the lower elevation, but to the rear of the property, is a golf course and natural treed area.

Approximately 25 existing seasonal sites in the northeast area of the campground are noted in this report as a particular point of concern. They are more recently created with a large portion of these sites developed with the placement of park model homes in the last several years.

The southern part of the property is elevated above the rest of the property. The portion of the elevated area nearest West Ipperwash Road consists of farmed land, meadow and some woodlot and a pond (unevaluated wetland). Further back the elevated area includes a wooded ravine and woodlot. Even further back, in the southeast corner, is the resort's communal sewage treatment facility. The Fuller-Campbell drain runs in a northerly direction through the middle of the property and then turns sharply east before the northerly extent of the property and adjacent to the 25 sites notes as being of special concern.

Proposed Development: The applicants propose to develop an additional 106 sites in the front portion of the elevated area at the south boundary of the property. Development would be subject to further site plan approvals from the Municipality. The development would maintain a 15m setback from the unevaluated wetland and a 30m buffer from the woodlot on the property to the south. These areas would be separated from the camp sites by a fence and preserved and enhanced as a meadow area. The development would include a new entrance to West Ipperwash Road at the crest of the hill and two internal roads down the side of the bank to connect with the existing park.

Planning Documents: For Council's reference, the applicant's Planning Justification Report (Attachment 4) includes copies of the Official Plan and Zoning maps.

In the Lambton Shores Official Plan, the front (west) portions of the lot are designated "Campground & Trailer Park", which is appropriate for the proposed use. The back (east) part of the property is "Natural Environment", a designation that prohibits development and requires that existing natural heritage features be left as they are. The OP also identifies portions of the property as being within an "Area of Natural and Scientific Interest", an "Environmentally Sensitive Area", a "Significant Woodlot", and the SCRCA's "General Regulation Area" as regulated under the *Conservation Authorities Act*.

The existing campground sites are located within the "Campground and Trailer Park" designation except some of the 25 lots of particular concern are in the "Natural Environment" designation. The campground also includes a golf course at the rear, the majority of which is in the "Natural Environment" designation. The other natural heritage features identified by the OP and portions of the SCRCA Regulated Area also overlap with some of the campground sites.

In Zoning By-law 1 of 2003, the lands include three separate Zone designations: "Commercial-14 (C14) Zone", "Future Development (FD) Zone", and "Environmental Protection – Natural Conservation (EP-NC) Zone". The majority of the existing campground sites are in the C14 Zone. The FD Zone is a zone that only permits what already exists and serves as a sort of holding zone. The FD Zone includes the southerly

area of the lands where additional campsites are proposed and also a considerable number of existing campsites at the rear of the campground. The balance of the property, including the golf course and communal sewage treatment facility in the southeast corner is zoned either FD or EP-NC. Refer to existing and proposed Zone boundaries in Attachment 2.

Consultation: Kettle and Stoney Point First Nation lands are located directly across West Ipperwash Road from the subject lands. The applicant engaged a consultant to engage with a number of Indigenous communities. Consultation with K&SPFN occurred from April 2019 to February 2020. K&SPFN identified concerns with traffic, the need for archaeological assessment, and nuisances associated with park operations/residents.

Servicing: The applicants have completed a stormwater management report and functional servicing report for the additional 106 proposed sites. Community Services Staff have reviewed the reports and find them acceptable from an engineering perspective. Stormwater quality and quantity controls will be provided. Stormwater overland flows will continue to flow towards the north but be collected by swales to depressed areas with underground infiltration trenches, ultimately out-letting to the West Ipperwash Road roadside ditch and/or the Fuller-Campbell Drain. The site has a 200mm connection to the municipal water supply system. Each site is serviced by an internal, private water distribution system. Each site also has a sanitary sewer connection. Sanitary effluent is collected by a private collection system with a combination of gravity sewers and forcemains, conveying the effluent to a private communal sewage treatment system located in the southeast portion of the property. The communal facility was constructed in 2012 and was to be upgraded in 2019 to include sufficient capacity for the 106 new sites.

Roads: The functional services report addressed roads. Community Services Staff had no concerns with this aspect of the report either. The consultant used traffic counts taken at West Ipperwash Road's connection with Lakeshore Road, adjusted for seasonal peaks and yearly increases in area traffic volumes, and industry guidelines for predicted traffic volumes generated by Our Ponderosa. Using what the consultant considered conservative assumptions, the report concluded that even with the traffic volumes added by the additional 106 lots, peak traffic on West Ipperwash Road will be at only 40% of its design capacity. The consultant also determined that a 110m sight line is needed for cars to make a safe stop for the design speed of West Ipperwash Road and that the proposed second entrance at the brow of the hill provides a 150m sight line back towards Lakeshore Road to the south and more than 300m to the north.

The traffic analysis concludes that West Ipperwash Road will function adequately without the need for any alterations and would suggest that K&SPFN traffic concerns are addressed. Notwithstanding, the subsequent K&SPFN engagement recommended further assessment of traffic concerns. As the traffic study predates K&SPFN consultation, clarification is needed for how K&SPFN concerns are/will be addressed.

Archaeological Resources: the proposed expansion area sits on the ridge of a former glacial lake and is identified in the Official Plan as an area of extremely high archaeological potential. K&SPFN has asked for the completion of archaeological assessments before any development proceeds. The applicants propose that this be required through the imposition of a Holding provision on the C14 Zone as it applies to the area of the proposed 106 site expansion. The holding provision would prohibit any development until archaeological investigations have been satisfactorily completed.

Environmental Impact Study: the elevated area of the proposed additional 106 sites currently contains an agricultural field, a meadow, and savannah and is close to a forest and a pond (unevaluated wetland). Plant, amphibian, bird, snake and turtle inventories/surveys were conducted from October 2016 through August 2017. The area was also assessed for suitable habitat for Eastern Hog-Nosed Snake, significant wildlife habitat, and habitat of Species at Risk under the *Endangered Species Act* that are common to the area. The applicants have a "Letter to Proponent" dated June 2018 from the Ministry regarding the *Endangered Species Act*. In order to avoid having to complete an "Overall Benefit Permit" with the Ministry, the applicants have modified the proposed expansion. The development concept originally proposed more sites but will now maintain a 15m setback from the unevaluated wetland and a 30m setback from the forested area to the south. These areas are to be fenced and maintained as meadow and enhanced for improvement as habitat, particularly for Eastern Hog-Nosed Snake. The studies identified a number of species of concern in the area, but concluded that no negative impact will result to natural heritage features and functions if the development is carried out as presented and with the mitigation measures recommended. The SCRCA has reviewed the EIS and has some comments for how to implement some of the EIS's mitigation recommendations (relevant to site plan approvals), but it can support the proposed expansion with the mitigation measures that are proposed.

Encroachment Study: The campground includes sites that are located outside the C14 Zone. About 25 of more recent creation are of particular concern (see the maps in Attachment 3) and in some cases are encroaching on natural heritage and hazard areas/features and SCRCA regulated areas. At the request of SCRCA and Municipal Staff, the EIS included an assessment of the impacts of those lots of particular concern. The study (Section 5 of Attachment 3) includes options for dealing with the encroachments that range from doing nothing to requiring the removal of park model homes and campers from these areas. Unfortunately, review of the present zoning amendment application has shown that additional encroachment has continued in these areas even subsequent to the commencement of the technical studies. Some encroachment is by individual residents in the form of things like lawns, gardens, fences, retaining walls, and dumping. Other encroachment includes the placement of park model homes without building permits or SCRCA approvals, even after the SCRCA provided notice that development is subject to SCRCA approvals.

The SCRCA has provided a report in which it details its review of the EIS and Encroachment Study and its concerns with respect to natural hazards, natural heritage, and its Regulations. Their report outlines their reasons for believing that violations of their

regulations (O. Reg. 171/06) have occurred with respect to sites in the northeast area of the campground. Attachment 3 includes air photos over time that show the progression of development of this area (the current owners acquired the property in 2006). Staff's site visit suggests the sites in this area of concern have now all been developed with permanent seasonal use structures. The SCRCA requests time to review the apparent violations and ensure appropriate mitigation measures are incorporated into the approval. The SCRCA report outlines a number of recommendations proposed in the technical studies that it believes should be implemented to mitigate concerns.

SUMMARY

Expansion: Municipal and SCRCA Staff have reviewed the proposed 106 site expansion on the elevated portion at the southerly portion of the property and the supporting materials. Further approvals will be required in the form of site plan approval by which the recommendations of the various background studies will be implemented. A Holding provision will be imposed to ensure archaeological assessments are completed. Other than a question with respect to how Kettle and Stony Point First Nation concerns regarding traffic have been/will be addressed, there are no concerns with respect to the proposed expansion. The traffic question is more of a site plan issue, so there are really no objections to the proposed rezoning of this area to C14 with a Holding provision, provided the adjacent natural heritage features and buffers are zoned appropriately for conservation. It is therefore Staff's opinion that the rezoning of the southerly portion conforms to applicable Official Plan policies and represents good planning. Staff's only objection to approval of the zoning amendment in that respect is that the issues elsewhere on the property need to be dealt with before this area is rezoned.

Existing Development: The second aspect of the rezoning is with respect to recognizing existing development that encroaches outside of the C14 Zone. Some of this encroachment (about 25 sites) is very recent and encroaches on natural heritage features, natural hazard areas, and SCRCA Regulated Areas. In this respect, Staff agrees with SCRCA comments, that natural heritage and hazard policies in the Provincial Policy Statement and the Official Plan have not yet been adequately addressed. It is Staff's opinion that, before any zoning can be approved to recognize these areas, it is necessary to come to an agreement with the SCRCA and applicants for how to address these issues and mitigate impacts. This may require formal approvals under the CA Act and/or a development agreement with the Municipality.

Staff recommends that Council defer a decision on the proposed zoning amendment.

ALTERNATIVES TO CONSIDER

None at this time. Based on the issues identified in its review process and the SCRCA recommendations regarding zone boundaries, Staff has not prepared a draft by-law at this time.

RECOMMENDED ACTIONS

That Council:

- Receive Report PL 25-2020;
- Defer Zoning By-law Amendment Application ZO-08/2020 to allow the applicant, SCRCA, and Municipal Staff time to address recent encroachments on natural heritage and natural hazards features and SCRCA regulated areas.

FINANCIAL IMPACT

An application fee of \$1200 was paid by the applicant.

CONSULTATION

Jay McGuffin, Monteith Brown Planning Consultants
Sarah Hodgkiss, St Clair Region Conservation Authority
Nick Verhoeven, Engineering Specialist, Municipality of Lambton Shores
Randy Lovie, Chief Building Official, Municipality of Lambton Shores