

THE MUNICIPALITY OF LAMBTON SHORES

Report PL 07-2022

Council Meeting Date: April 26, 2022

TO: Mayor Weber and Members of Council
FROM: Will Nywening, Senior Planner
RE: ZBA Application ZO-04/2022
Concession Lake Road East, Part Lot 14 (BO)
9981 Lakeshore Road

RECOMMENDATION:

THAT Report PL 07-2022, relating to a ZBA Application, submitted by MR Engineering and Design Ltd., be received;

THAT ZBA Application ZO-04/2022, submitted by MR Engineering and Design Ltd., requesting an amendment to Zoning By-Law 1 of 2003 to rezone a portion of 9981 Lakeshore Road to permit motor vehicle (small engine) repair, motor vehicle (small engine) sales, and a retail store, be approved, using the existing Commercial-2 (C2) Zone; and

THAT By-Law 26 of 2022 be approved.

SUMMARY

This report relates to the Zoning Amendment Application submitted by MR Engineering and Design Ltd. as agent for the owner, Westland Holdings GB Inc., affecting a portion of the parcel known as 9981 Lakeshore Road. The applicant seeks to amend Zoning By-law 1 of 2003 by changing the zone designation on the front portion of the parcel from the "Agriculture-2 (A2) Zone" to a zone that would permit the operation of a business known as HV Powersports. Specifically, the business would include motor vehicle (small engine) repairs, motor vehicle (small engine) sales, and a retail store for related and accessory parts and product.

BACKGROUND

Planning Documents: In the Lambton Shores Official Plan, the front portion of the subject lands, where the rezoning is proposed, and also properties to either side, are designated North Bosanquet Future Residential. Rear portions of the lands, not subject to the rezoning application, are designated "Agriculture" and "Thedford Bog" and include a "General Regulation Area" designation, representing areas regulated by the Ausable Bayfield Conservation Authority.

In Zoning By-law 1 of 2003, most of the property is zoned in the “Agriculture-2 (A2) Zone”. The rear of the property, corresponding generally with ABCA regulated areas, is zoned “Agriculture-2 Exception 1 (A2-1) Zone”.

Abutting Uses: It is Staff’s understanding that the subject lands and 9991 Lakeshore Road, the parcel abutting to the northeast, were originally under the same ownership and were both recently sold to new, separate owners. 9991 Lakeshore Road contains a house, a detached building that straddles the lot line with the subject lands, and a large shed, and has been used to store campers. It is classified by MPAC as a farm with a commercial or industrial use.

9967 Lakeshore Road is the parcel on the opposite corner of Cold Storage Road, to the southwest. It is zoned “Commercial (C3) Zone”, a rural commercial zone, contains a landscaping and excavating company, Stewart Webb and Sons, and is classified “industrial” by MPAC.

Immediately southwest of that is Klondyke Park, including a campground, park model home sales, a camp store, and food retail uses.

DISCUSSION

Proposed Development: The application proposes to change the zone designation on the front portion of the property to a depth including the existing driveshed, as per the applicant’s sketch below, and area of approximately 2.2 acres or 0.9 hectares. As part of the proposed development, the owner would demolish the existing house and their half of the building that straddles the lot line. The existing driveshed would be retained.

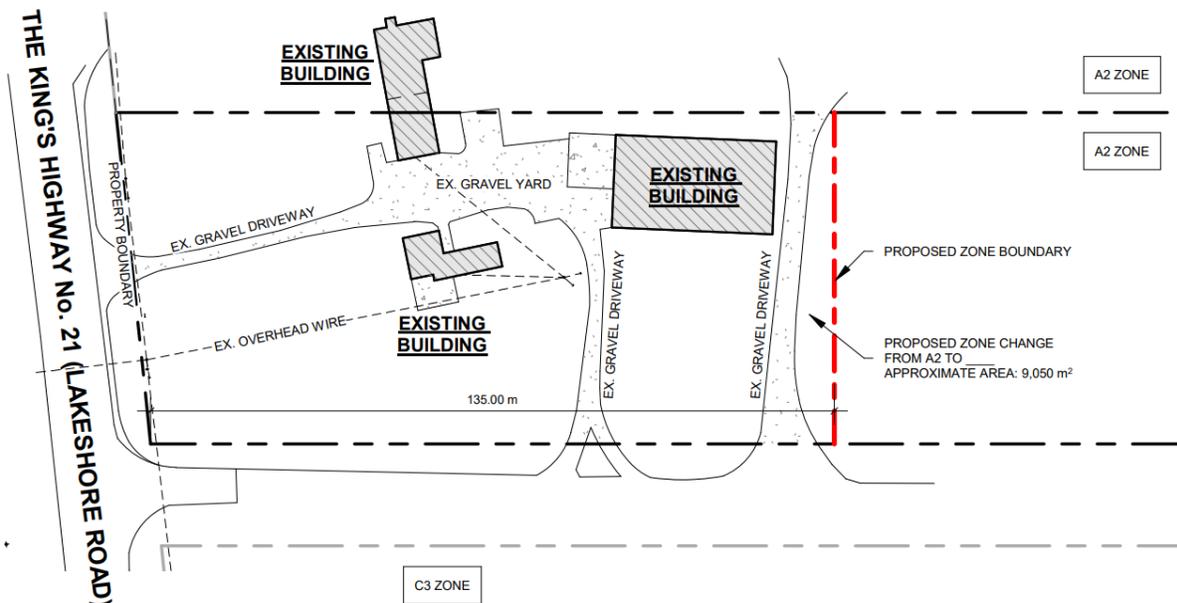


Image Source: MR Engineering and Design Ltd. HP Powersports Zoning Plan 03/10/22.

The applicant proposes to construct a building measuring 60 by 180 feet and containing a repair shop, showroom, offices, storage, and washrooms. The initial site plan concept is shown below. More detailed building and site plans are attached to the agenda. The general concept is appropriate in Staff's opinion.

The proposed development will be subject to site plan control, which will determine the final layout and address items such as parking, servicing, access, and stormwater control. Changes will however be required to the concept shown below to address Ministry of Transportation requirements, as noted later in this report.

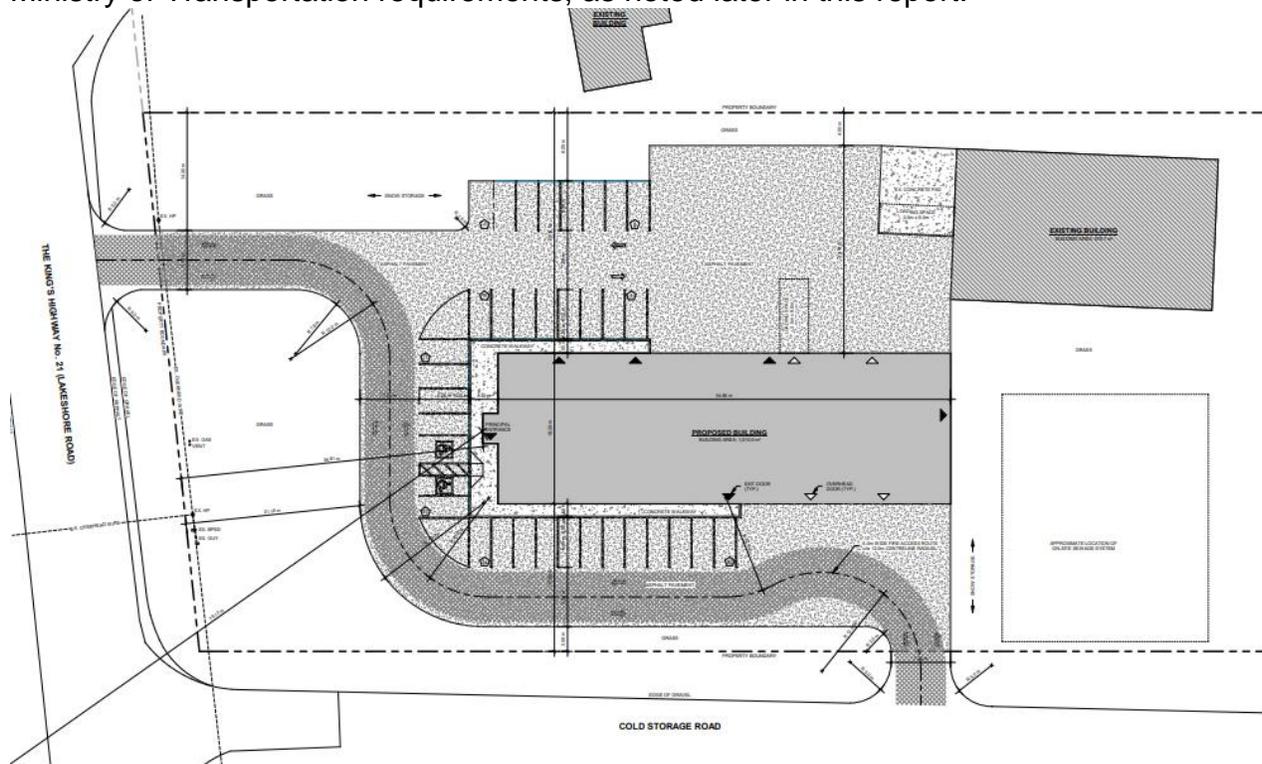


Image Source: MR Engineering and Design Ltd. HP Powersports Site Plan 02/17/22.

Compatibility: The North Bosanquet Future Residential policies indicate that the lands in this designation are not needed for growth over the 20 year planning horizon. In the meantime, the policies recognize existing residential and commercial uses and also allow minor infilling with the same types of uses. The proposed commercial use therefore conforms to the Official Plan in this respect.

In Staff's opinion, the proposed commercial use is compatible with the area uses: the landscaping and excavating business on the opposite corner, Klondyke Park Inc. further to the southwest, and the quasi-commercial use abutting on the northeast side. It's location at an intersection, along an arterial road, grouped with other commercial uses, is appropriate for a commercial use. The lot is large and the conceptual layout provides adequate opportunity for separation and screening from the house on the adjacent lot.

Services: Municipal water services are available along Lakeshore Road. A water hydrant is located nearby. The lot will require a private sewage disposal system. At the

time of writing, Staff has not received comments from County Building Services in this respect, but does not anticipate any concerns meeting Ministry reasonable use guidelines and Ontario Building Code for private sewage disposal given the large lot area and sandy soils.

Natural Hazards & Heritage: The rear of the property, outside the proposed rezoning area, is part of the Thedford Bog designation. Likewise, the portions of the lot identified as “General Regulation Area” and regulated by the ABCA under the *Conservation Authorities Act* include only the rear edge of the property, well outside of the proposed area of rezoning. ABCA has commented indicating it has no concerns from a natural heritage or natural hazards perspective.

MTO: Lakeshore Road is a provincial highway at this location. The Ministry of Transportation has communicate to Staff that it has no opposition to the proposed land use or rezoning, but will need to be involved in the site plan approval process. Also an MTO Land Use permit will be required in addition to a building permit. As a condition of approval, MTO has stated that it will require that the existing access to Lakeshore Road be removed and all access be from the municipal side road, Cold Storage Road. MTO will also require a Traffic Impact Study to determine if any road or intersection improvements are warranted. The applicant wishes to carry forward with the rezoning knowing these (potential) site plan requirements.

Zone Designation: As Staff understands it, the proposed use’s primary business would be repairing and servicing small engines. Sale of small engines and related parts and accessories would also be a major component. The specific components of the proposed land use as listed in the zoning application are motor vehicle (small engine) repair, motor vehicle (small engine) sales, and retail store.

In Staff’s opinion the existing “Commercial-2 (C2) Zone” is appropriate for the proposed rezoning. The C2 Zone’s permitted uses include a “motor vehicle repair establishment” and a “motor vehicle sales establishment”. The definition of “motor vehicles” includes small engines:

"MOTOR VEHICLE" means an automobile, motorcycle, all-terrain vehicle and any other vehicle propelled or driven otherwise than by muscular power; but does not include other Motor Vehicles running only upon rails, or a farm tractor, self-propelled implement of husbandry or road-building machine.

“Motor vehicle repair establishment” and “motor vehicle sales establishment” are defined as follows, and include a retail aspect:

"MOTOR VEHICLE REPAIR ESTABLISHMENT" means a Building and/or land used for the servicing, repair, cleaning, polishing, lubricating and greasing of Motor Vehicles and may include vehicular body repair and re-painting, but shall not include any other Motor Vehicle Use defined in this By-law.

"MOTOR VEHICLE SALES ESTABLISHMENT" means a Building and/or land used for the display and sale of new and/or second-hand Motor Vehicles and may include the

servicing, repair, cleaning, polishing and greasing of Motor Vehicles, the sale of auto accessories and related products and the leasing or renting of Motor Vehicles, but shall not include any other Motor Vehicle Use defined in this By-law.

The C2 Zone would not permit a standalone, generic “retail store” such as a clothing store on this property, however Staff’s understanding is that the proposed retail aspect of HV Powersports would be primarily parts and accessories, which would be permitted under the umbrella of “motor vehicle sales establishment”. This approach is consistent with the Official Plan commercial policies, which discourage such uses outside of core urban areas (notwithstanding that there are some historic zone designations in this area – e.g. C5 – that do list “retail store” as a permitted use).

In addition to the uses requested by the applicant, the C2 Zone would allow automobile repair and sale (not just small engines) and a range of other highway commercial-type uses. Staff could create a new site-specific zone for this property that only permits the specific business proposed, but Staff thinks this is an appropriate site for highway commercial uses more generally and that it would be short-sighted not to provide flexibility for potential changes in use or added uses over time. Permitted uses in the C2 Zone include: agricultural implement sales, agricultural service establishment, animal hospital, auction hall, bake shop, bakeries, building or contracting establishment, building supply establishment, church, clinic, commercial recreation establishment, commercial storage, convenience store, day nursery, dry cleaning establishment, funeral home, garden centre, gas bar, health club, health/recreational facility, hotel, kennel, laundromat, marine sales and service establishment, motel, motor vehicle sales establishment, motor vehicle service establishment, motor vehicle repair establishment, motor vehicle washing establishment, office, parking lot, personal service establishment, place of entertainment, private club, restaurant, restaurant drive-in, restaurant drive through service facility, restaurant fast food, retail food store, service and repair shop, travel trailer sales establishment, and veterinary establishment. Permitted residential uses are: bed & breakfast establishment in an existing single detached dwelling, dwelling unit above a permitted use, and accessory single detached dwelling unit.

The C2 Zone’s site regulations will allow the new building proposed in the conceptual site plan shown earlier in this report and ample flexibility to adjust the location as needed to address site plan layout needs. The existing driveshed sits at an angle and is 4.0m from the side lot line at one corner. That corner of the driveshed will be legal non-conforming since the minimum required interior side yard in the C2 Zone is 4.5m. This will not prevent the building from being used and maintained (in fact, the building is already legal non-conforming, as the current A2 Zone side yard requirement is 5.0m). The owner just won’t be able to add on to the building towards that lot line.

Draft Amending By-law: Staff has drafted an amending by-law included in the by-laws section of Council’s agenda. As drafted, the amendment would change the zoning on the front portion of the subject lands to the “Commercial-2 (C2) Zone”, a zone that already exists in the Zoning By-law. The rear of the lot would remain in the current “Agriculture-2 (A2) Zone” and “Agriculture-2 Zone Exception 1 (A2-1)”.

Planning Opinion: Based on the foregoing, it is Staff's opinion that the specific uses proposed by the applicant and additional highway commercial-type uses are appropriate on the subject lands, conform to the Official Plan, and represent good planning. Staff has no objection to approval of the application and adoption of the amending by-law as presented in the by-laws section of Council's agenda.

ALTERNATIVES TO CONSIDER

None at this time.

RECOMMENDED ACTIONS

That Council:

- Receive Report PL 07-2022;
- Approve ZBA Application ZO-04/2022 with use of the "Commercial-2 (C2) Zone"; and
- Approve implementing By-law 26 of 2021.

FINANCIAL IMPACT

The applicant has paid the Municipality a \$1200 application fee.

CONSULTATION

The applicant and owner
Ryan Mentley, Ministry of Transportation
Nick Verhoeven, Director of Public Works, Municipality of Lambton Shores

Attachment 1: Subject Lands



SUBJECT PROPERTY