

THE MUNICIPALITY OF LAMBTON SHORES

Report PL 05-2022

Council Meeting Date: April 5, 2022

TO: Mayor Weber and Members of Council
FROM: Will Nywening, Senior Planner
RE: Request to Import and Stockpile Fill
Part Lots 6 to 10, Concession Lake Road East (BO)
South Bend Development

RECOMMENDATION:

THAT Report PL 05-2022 respecting a request to enter into an agreement permitting the import and stockpiling of fill on lands described as Part Lots 6 to 10, Con LRE (BO), be received; and

THAT the Agreement between the Corporation of the Municipality of Lambton Shores and Drewlo Holdings Inc. be approved; and

THAT By-Law 22 of 2022 be approved to execute an Agreement between the Corporation of the Municipality of Lambton Shores and Drewlo Holdings Inc.

SUMMARY

This report relates to a request by Drewlo Holdings Inc. for permission to import and stockpile fill on lands known as the South Bend development on Part Lots 6 to 10, Concession Lake Road East (BO). The fill is required in anticipation of the eventual construction of a plan of subdivision.

BACKGROUND

In the Lambton Shores Official Plan, the subject property is designated "Residential" except for a relatively small area of "Commercial" along the northerly extent of is Lakeshore Road Frontage. "Significant Woodlot" and "General Regulation Area (ABCA regulation limits)" are also identified on portions. In Zoning By-law 1 of 2003, the property has a variety of commercial, residential, open space, and hazard zone designations, which are laid out to coincide with a specific plan of subdivision design including a golf course.

The South Bend development has been proposed for some decades. A draft approved plan of subdivision was approved in 2004. The Municipality constructed sanitary sewer force

mains in approximately 2009 through a portion of the property to the benefit of this development and other properties. A subdivision agreement was executed in 2011.

Staff met recently with the current owner, Drewlo Holdings Inc, who is working towards commencing the development. The proponent advises that portions of the development in the wooded areas adjacent to Lakeshore Road need to be modified (e.g. elimination of the commercial component and portions of the golf course) to address requirements of the *Endangered Species Act*. The current owner therefore proposes changes to the proposed subdivision layout and will need to resubmit an application for draft approval of a plan of subdivision and will also need to enter into a new subdivision agreement with the municipality. The proponent is in the process of redrafting the engineering plans.

In the interim, the proponent knows that the site will require a significant volume of fill to meet the final grading plans and seeks permission to begin to import and stockpile fill for this purpose. The proponent advises that being able to accept fill as it becomes available will assist in the feasibility and timeliness of commencing construction of the proposed subdivision. They advise that there are a number of projects going on in the area that present an opportunity to acquire clean fill that will benefit both them and the proponents of those other construction projects by reducing trucking costs.

Staff prefers that this permission be in the form of a formal agreement with Council's endorsement, so Staff has developed a draft agreement in consultation with the proponent. The agreement identifies an area adjacent to the site's existing Parkview Crescent access, where imported fill may be stockpiled. This location is selected as a location relatively central to the area where fill will be needed and not interfering with ABCA regulated areas, archaeological sites, natural heritage features, and future construction activity.

The draft agreement is included in the by-laws section of Council's agenda and is based on the Municipality's standard subdivision agreement with clauses deleted and inserted as applicable. Unique and notable provisions include:

- Installation of silt fencing to control erosion and protect adjacent vegetation communities that require further evaluation before any disturbance (Section 7).
- Requirements to address drainage and remediate any standing water (Section 8).
- Fees, deposits and securities as outlined in the "Financial Impact" section of this report (Section 13).
- As Staff understands it, the identified stockpile area provides room for upwards of 100,000m³ of soil. The agreement however (Section 32 a) allows only 50,000m³ with the ability for Staff to approve additional quantities if work towards a formal subdivision agreement is progressing and no significant concerns have resulted from the stockpiling. Staff understands that closer to 200,000m³ of fill will be required altogether. Staff would like however to see a formal subdivision agreement in place by that time, dealing more comprehensively with the matters addressed in this interim agreement and the subdivision development as a whole.
- The province has implemented a new regulation (O. Reg. 406/19) that regulates the quality, movement, placement (maximum size of piles), storage, and duration of

storage of stockpiled fill. The agreement requires compliance with this regulation. There is discussion at the provincial level about suspending this regulation until next January in which case the agreement would require that the proponent follow the regulation as if they continue to apply, to the extent required by the Municipality (Section 32 b).

- The agreement addresses half-load road limits, dust control, and noise by-law requirements (Section 32 c, d, e).
- Top soil berms are required to screen neighbours' view of stockpiles and control dust. They must be seeded with grass (Section 32 g). Staff had the proponents move the berm back from the property line further than originally proposed. Existing natural vegetative areas also serve as screening and are to be preserved (Section 32 h).
- This agreement is only intended to serve as a bridge to a formal subdivision agreement. Securities required under this agreement will be returned or rolled into those required under the subdivision agreement, once it is completed (Section 32 m). The developer must resubmit an application for draft approval of a plan of subdivision by June 1, 2022 and revised servicing plans by October 1, 2022. Rezoning applications are also required to address the changes to the proposed subdivision as a result of the *Endangered Species Act*. The proponent can request and Staff may approve extensions to these dates if satisfied work towards a formal subdivision agreement is progressing (Section 32 i, j, k and l).

Further to the financial matters contained in Section 13, the Municipality constructed force mains that benefit this property. Council passed the following resolution on May 3, 2010:

That the Planner be instructed to ascertain the share of costs for the installation of the sanitary sewers attributable to Southbend Estates, and that Council authorizes the payment to be phased, with the golf course and river crossing being paid for upfront and the Tradition Road sewer cost being deferred with carrying charges until they are utilized and that Development Charges apply to this development, unless there is a legal agreement to the contrary.

The South Bend development's share was determined (at the time of the previous owner) to be \$375,774.65, with \$200,882.06 payable up front and \$174,892.59 payable when the latter, southerly phases of the subdivision (Tradition Drive) are commenced. None of these amounts were paid by the previous owner. Under the present agreement, the current owner would pay the \$200,882.06 now, before importing any fill to the property. The agreement acknowledges \$174,892.59 will be payable at a future time as noted in the Council resolution, with the details to be determined when a formal subdivision agreement is completed.

The intent of this agreement is that it act as an interim agreement until the necessary work can be completed to enter into a formal subdivision agreement. It contains securities and deadlines to encourage the proponent to continue to work towards that goal or alternatively to remediate the site. Staff supports Council's approval of the agreement as drafted.

ALTERNATIVES TO CONSIDER

None at this time.

RECOMMENDED ACTIONS

That Council, receive Report PL 05-2022, approve the draft agreement, and approve a By-law to authorize the execution of the agreement.

FINANCIAL IMPACT

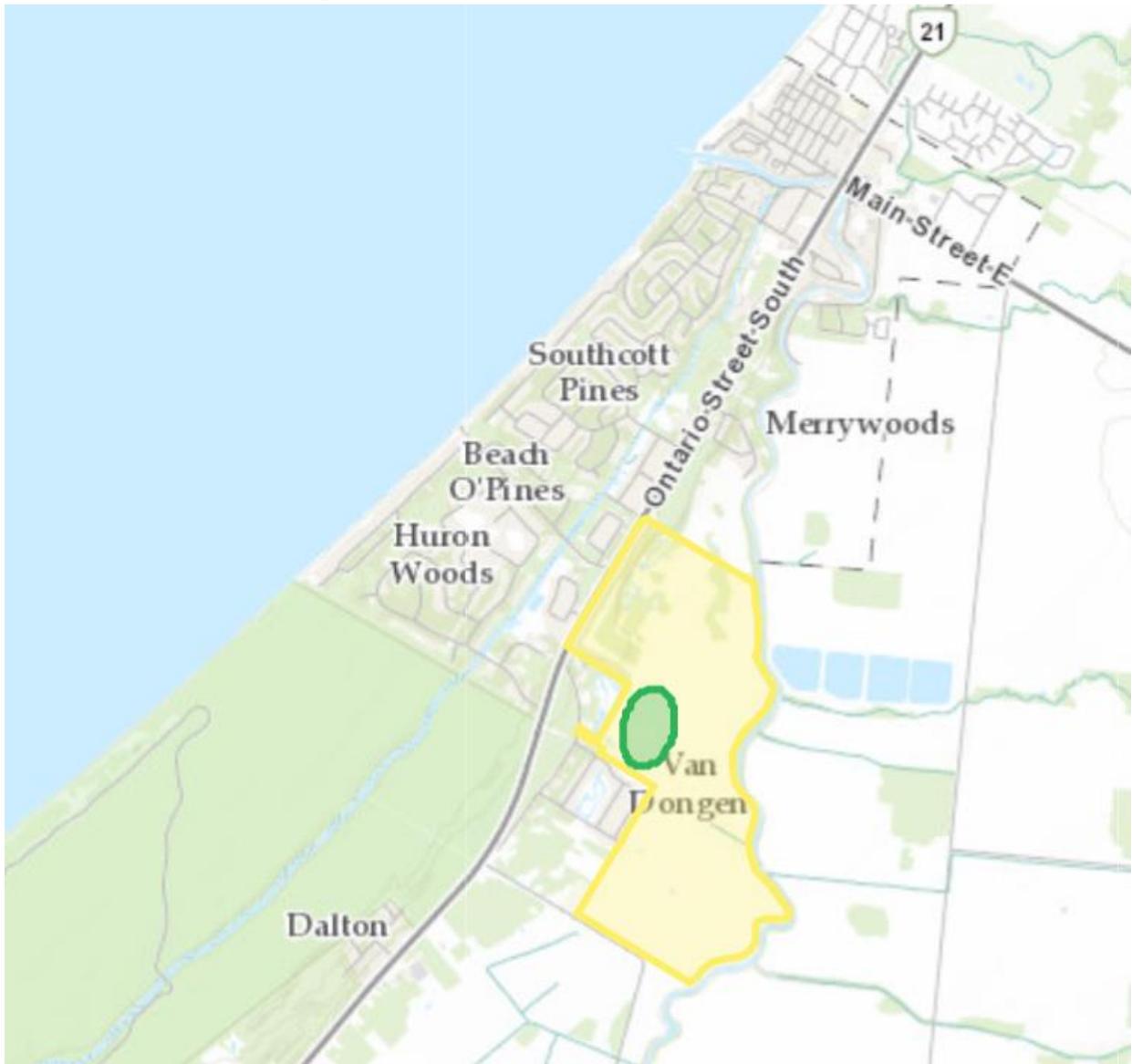
The agreement would require the following from the property owner to the Municipality (Section 13):

- Payment of a \$500 administrative fee
- Deposits of \$1000 and \$3000 for legal and engineering costs
- Payment of \$10,502.72 in engineering review fees still owing to the Municipality
- Payment of \$200,882.06 towards costs incurred by the Municipality in installing a sanitary force main to the benefit of the development
- Provision of a letter of credit for \$100,000 as security against road damage, and \$150,000 as security for site restoration in case of default
- Provision of additional securities for any volume of soil over 50,000m³ that Staff may permit, at a rate of \$3.00 per cubic meter.

CONSULTATION

George Bikas, Manager, Land Development, Drewlo Holdings Inc.
Nick Verhoeven, Director of Public Works, Municipality of Lambton Shores
Janet Ferguson, Director of Finance, Municipality of Lambton Shores
Steve McAuley, CAO, Municipality of Lambton Shores

Attachment 1 – Subject Lands



Subject Lands



Fill Stockpile – General Location