

Report PDR-PCD-27-16

To: Chair McQueen and Members of the Planning and Community Development Committee
From: Scott Taylor, Senior Planner
Meeting Date: July 14, 2016
Subject: Proposed West Grey Official Plan Amendment 3 Report
Status: Recommendation adopted by Committee as presented per Resolution PCD89-15; Endorsed by County Council August 2, 2016 per Resolution CC96-16;

Recommendation(s)

THAT proposed Official Plan Amendment Number 3 to the Municipality of West Grey Official Plan to re-designate the subject lands from the 'Industrial' designation to a 'Residential with Exceptions' designation to allow for a future residential development on the lands described as Part of Lots 14 and 15, East of Garafraxa Road; Part of Divisions 2 and 3, Lot 27, Plan 500, Lot 1; Part of Park Lot 9, Part Lot 13, North Side of South Street, Lots 1 to 10; geographic Town of Durham, Municipality of West Grey, be approved;

AND THAT all written and oral submissions received on the application were considered; the effect of which helped to make an informed recommendation and decision;

AND FURTHER THAT the Report PDR-PCD-27-16 regarding proposed West Grey Official Plan Amendment Number 3 be received.

Background

The Municipality of West Grey recently adopted Official Plan Amendment (OPA) # 3 to the West Grey Official Plan to re-designate approximately 10.92 hectares of land from the 'Industrial' designation to a 'Residential with Exceptions' designation. The approval of municipal OPAs at the County level, with the exception of the City of Owen Sound, has generally been delegated to the Director of Planning. For more complex OPAs, including municipal five year official plan reviews, the Planning and Community

Development Committee is still the approval authority. Based on OPA 3 involving a Comprehensive Review for the re-designation of 'employment lands' staff have brought this forward for Committee's consideration.

A zoning by-law amendment application has been received by the Municipality of West Grey, but to date no decision has been rendered on this application. At this stage there are no accompanying County planning applications; although should the OPA application be approved, the County may receive a future plan of subdivision or condominium application.

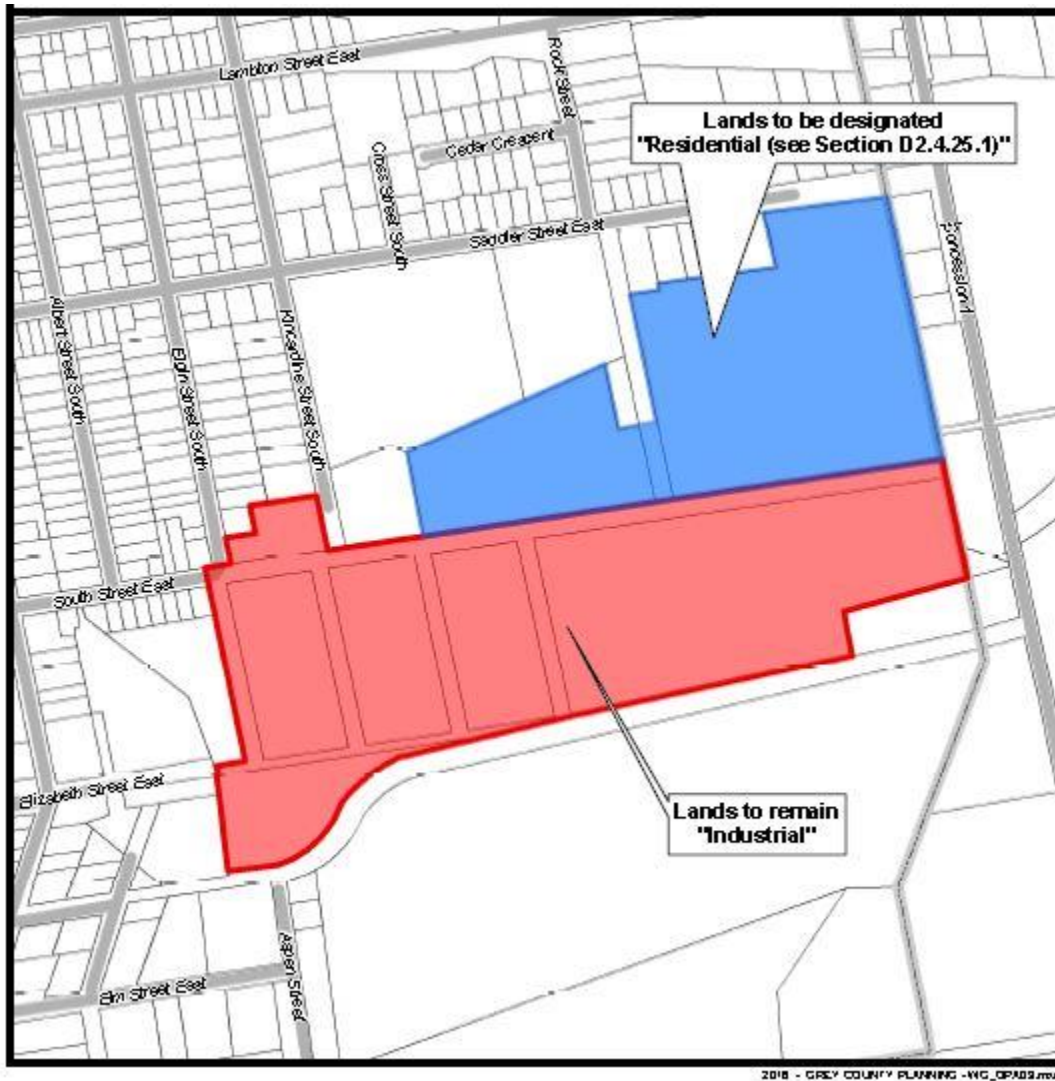
The lands to be re-designated are 10.92 hectares in size. The owner (S & A Equipment Rentals Limited) owns a further 17.02 hectares of land immediately to the south which will remain as Industrial, and another 17.2 hectares of land even further south which are also to remain Industrial. A map showing the subject lands has been included below, while another map showing the lands to be re-designated has been included further on in the report. There are a number of road allowances which span the subject lands which the proponent owns; however the Park Street road allowance is still under the ownership of West Grey.



Map 1 – Location of the Subject Lands

The subject lands are located in the south-east quadrant of Durham, and are legally described as Part of Lots 14 and 15, East of Garafraxa Road; Part of Divisions 2 and 3,

Lot 27, Plan 500, Lot 1; Part of Park Lot 9, Part Lot 13, North Side of South Street, Lots 1 to 10, geographic Town of Durham, Municipality of West Grey. Access to the lands is provided by Saddler Street East and Rock Street (at the north of the property) and South Street East (at the west of the property). The subject lands to be re-designated are generally vacant at present, but in the past have been used for a gravel pit. To the south of the subject lands there is an existing gravel pit operation operated by the proponent of this application.



Map 2 – Proposed Lands to be Re-designated

Surrounding the subject lands are;

1. some existing gravel pits;
 - a. one to the south owned by the proponent of this application, and
 - b. another one to the east owned by a different operator,

2. a public school,
3. a County long term care home (Rockwood Terrace),
4. some residential dwellings,
5. a curling rink,
6. some highway commercial development, and
7. a business park.

Kristine Loft, of Loft Planning Inc. has submitted a Planning Report/Comprehensive Review including numerous addendums in support of this application. Additional technical submissions have also been provided by WSP Canada Inc.

A public meeting for the Municipal Official Plan and Zoning amendments was held on January 12, 2015.

Agency Comments Received

Agency comments were received from the following bodies.

Saugeen Valley Conservation Authority (SVCA)

In comments dated January 9, 2015, the SVCA noted;

“The SVCA has reviewed the proposed Official Plan amendment and Zoning By-law amendment in accordance with the SVCA’s mandate and policies and the agreement between the SVCA and West Grey associated with plan review. The passing of the proposed amendments which would include a holding provision that requires additional development review, including drainage matters prior to future development of the property, is acceptable to the SVCA. Should the proposed holding not require drainage be addressed, then the SVCA would recommend the deferral of the proposed until a drainage report has been produced that indicates how drainage will be addressed for the proposed residential development.”

Ministry of Municipal Affairs (MMA) and Ministry of Natural Resources and Forestry (MNRF)

In an email dated August 26, 2015, the MMA and MNRF submitted the below comments.

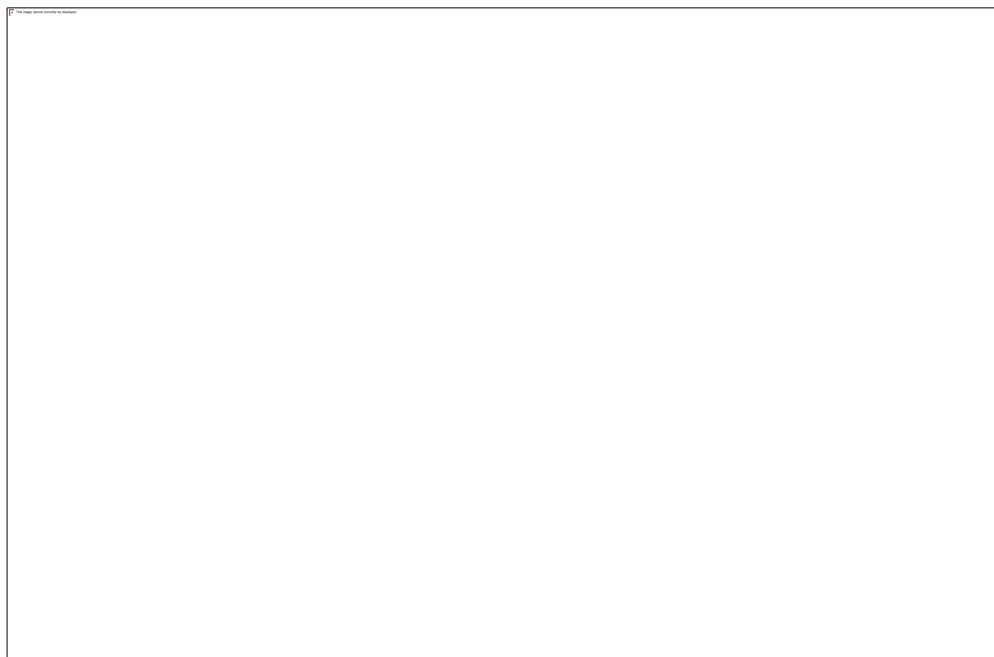
“As you are aware, the Town of West Grey and the County of Grey are the approval authorities for these applications and are responsible for ensuring that their decisions are consistent with the Provincial Policy Statement 2014 (PPS) and conforms to any

applicable provincial plan or legislation. With this considered, we offer the following comments for your consideration.

Technical Comments

It is noted in Section 8.2 of the Planning Justification Report that “the subject lands are currently a licensed pit. The total License/Permit area is 35.7 hectares, with 25.5 hectares of this being extraction area. It will be required as part of this process that the license be removed from the lands subject to the re-designation and re-zoning. The pit is in compliance and is considered dormant at this time.”

MNRF staff have noted that, contrary to Section 8.2 of the report, the lands proposed for future residential use are not part of a licenced pit, as shown on the snapshot below of the licenced boundary taken from the Pits and Quarries On-line website - [Online Pits and Quarries link](#). The south portion of the “Subject Property” and the “Other Lands Owned by the Applicant” (as shown on the proposed schedules in this report) are included within the licenced area which is 35.7 hectares in size.



Map 3 – Gravel Pit Boundaries abutting the Subject Lands

Land Use Compatibility

Policy 2.5.2.4 of the PPS directs that “mineral aggregate operations shall be 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.” In exercising their decision-making authorities with respect to these applications, the Town and County are responsible for ensuring that their decisions are consistent with this and all other applicable policies of the PPS.

It is noted in Section 11 of the Planning Justification Report states that the licenced pit may operate another 15 to 20 years and acknowledges the tendency for incompatibility between residential land uses and aggregate operations. The report continues on to provide that the nature of future non-employment development will allow for buffering, tree planting and the use of stormwater management areas to create additional buffers. No additional details are provided to address land use compatibility issues in the report. In this instance, it is recommended that a site-specific study be undertaken to examine the potential impacts prior to a decision being made on these planning applications.

In the absence of such a study, the Ministry of the Environment and Climate Change’s (MOECC) “Guideline D-6 – Compatibility between Industrial Facilities and Sensitive Land Uses” should be considered. The guidelines apply to pits and quarries where, in the absence of site-specific studies, sensitive land uses (which include residential uses) are proposed near an existing pit and/or quarry. The guidelines recommend applying the following:

- a potential influence area (i.e. area within which adverse effects may be experienced) of 1000 metres from an existing pit or quarry within which potential impacts should be assessed before new approvals are granted; and*
- a recommended minimum separation distance of 300 metres between existing pits and quarries and new sensitive land uses.*

Employment Land Conversion

As previously mentioned, these applications seek to re-designate and re-zone the subject property to facilitate future residential development of the site. Section 1.3.2 of the PPS provides policies supporting the planning, protection and preservation of employment lands for current and future uses. Policy 1.3.2.2 specifically provides that planning authorities may only permit the conversion of employment areas to non-employment uses through a comprehensive review, where it has been demonstrated that the land is not required for employment purposes over the long-term and there is a demonstrated need for the conversion. In considering this application, the Town and County should ensure that their decisions are consistent with these and other applicable policies of the PPS.”

County of Grey (not including County Planning comments)

The proposed development is in proximity to Rockwood Terrace, one of the County's long term care homes. Staff and visitors at Rockwood Terrace currently use the Rock Street 'extension' as parking for the long term care home. County staff would request that in any future development of this site that either this on-street parking can be maintained, or that an acceptable alternative can be found.

County Transportation Services staff noted that a future Traffic Impact Study would likely be required at the future plan of subdivision stage.

County Planning comments submitted during the development review process have not been summarized in this section, as they will be incorporated throughout this report.

Municipality of West Grey

A staff report dated April 11, 2016 by West Grey Planner Ron Davidson concluded;

"The proposed Official Plan Amendment has merit and should be approved. The Amendment should be worded in such a manner that the new 'Residential' lands cannot be severed from the 'Industrial' lands until such time as detailed development plans have been received by the Municipality. This will allow the owner and the Municipality to re-visit the South Street road extension matter and will ensure that any potential land use conflicts between the new residential development and the existing gravel pit operation can be resolved.

The current 'FD' [Future Development] zoning of the subject lands should remain until such a time as a specific development proposal has been brought forward."

Public Comments Received

As part of the development application process the following members of the public spoke at the public meeting (excerpts taken from Planning Advisory Committee minutes dated January 12, 2015);

1. Don Tremble,
"Don Tremble, a local builder, spoke in favour of the proposed amendments, noting there has not been much industrial or commercial development in Durham, and the proposed residential uses would bring in additional development and assessment/taxation to the municipality, and an increase in property values, so it would be a positive to the area."

2. Janice & Matthew Dick,
“Janice Dick expressed concerns that the extension of municipal water and sewer services required for this proposal will also result in those residences in Durham currently without municipal services to connect to municipal services. Mrs. Dick also noted concerns with the potential high density of dwellings for the proposed development.”
3. Don McNaughton,
“Don McNaughton, representing the Durham Curling Club, asked why the South Street portion at the northwesterly boundary was left out of the planning applications. Don McNaughton asked why the area between Kincardine and Elgin Streets is not included in the proposed development.”
4. Joshua Eccles,
“Joshua Eccles questioned the compatibility of the proposed development with existing commercial or industrial businesses.”
5. Dawn Erison,
“Dawn Erison, stated her concerns regarding whether or not an environmental assessment will be done.”

The following individuals attended the public meeting but did not speak;

1. Jennifer Morris,
2. Stan & Darlene Doherty, and
3. Linda MacConnell.

Written comments were also received as follows.

Don McNaughton, President, Durham Curling Club, sent an email dated January 11, 2015, indicating ‘the Durham Curling Club is opposed to the proposed official plan amendment for the Durham Stone and Paving [S & A Equipment Rentals Limited] subject lands because South Street is not included. The Curling Club indicated the closed sections of South Street adjacent to these subject lands and to their property should be included in any official plan amendment to prevent congestion on Rock Street. Opening South Street to Elgin Street could also improve access to the subject lands, provide options for services, and relieve congestion on Kincardine Street at Spruce Ridge School.’

Jim Uram, noted in an email dated May 13, 2016 that; *“As this is a removal of “employment lands” that requires a “comprehensive review”, it would be my opinion that a more fulsome process would be appropriate. But that is up to the County to*

determine. I note that the client I am representing was not in the area during the municipal portion of this review and was unable to participate in any meaningful way, but has valid concerns.”

Paul Gutzke noted in an emailed letter dated June 6, 2016 that; *“Please note that I have recently been in attendance at the Council of West Grey and have been made aware of Official Plan Amendment No. 3 to the Municipality of West Grey which is attempting to re-designate an area of land from Industrial to Residential. It is my understanding that the Provincial Policy Statement of 2014 requires that the Municipality conduct a “comprehensive review” of the need to show that the lands in the current designation are not required for employment purposes in the long term. Having reviewed the information available submitted and compiled in support of this amendment it is my opinion that it does not adequately indicate that these lands are not required for continued to provide potential for future employment use. As such I would ask that you include my name and address on the mailing list of all future decisions regarding this file in accordance with the requirements of the Planning Act.”*

Analysis of Planning Issues

In rendering decisions, planning authorities must have regard to matters of Provincial interest and be consistent with the Provincial Policy Statement (PPS). Decisions within the County must also conform to the County of Grey Official Plan and any local official plans in force and effect. In this case the Municipality of West Grey Official Plan is applicable as it is the policy being amended. An in depth analysis of the West Grey Official Plan has not been provided below as a detailed policy analysis was undertaken in the Municipal staff report dated April 11, 2016.

Provincial Legislation - *The Planning Act*

Section 2 of the *Planning Act* provides matters of provincial interest which planning authorities must have regard for in rendering any decision under the Act. Most notable to this proposed official plan amendment are clauses; (a) the protection of ecological systems, including natural areas, features and functions; (c) the conservation and management of natural resources and the mineral resource base; (f) the adequate provision and efficient use of communication, transportation, sewage and water services and waste management systems; (h) the orderly development of safe and healthy communities, (j) the adequate range of a full range of housing, including affordable housing, (k) the adequate provision of employment opportunities, (o) the protection of public health and safety; and (p) the appropriate location of growth and development.

- a) The subject lands were in part used for a former gravel pit, and have not yet been properly rehabilitated. As a result, the County does not map any significant natural heritage features on the subject lands. At this stage a detailed environmental review has not been undertaken for the subject lands. When future development, via a plan of subdivision or condominium, is triggered further environmental review may be required to (i) ensure that any significant environmental features or species habitat have been protected in accordance with Provincial policy, and/or (ii) ensure that the subject lands are free from any contamination stemming from past industrial use.

- c) The lands to be re-designated were formerly a gravel pit; however the gravel resource on these lands has been depleted. The lands immediately to the south have an existing aggregate license on them, and according to the proponent still have materials worthy of extraction. Extraction rates have been slow out of this pit in recent years. Furthermore, a second pit operation, by a different operator, is located on lands to the east of this site. As a condition of any further residential development on the lands to be re-designated, it will need to be demonstrated that any new residential development does not impede or conflict with aggregate extraction at the licensed sites. The current Future Development 'FD' zoning would not permit any new plans of subdivision or condominiums on the subject lands, and further work will be necessary before the lands can be rezoned.

- f) The proposed residential development will be serviced by municipal services. This method of serving sits atop the Province's recommended servicing hierarchy.

The exact form of the future residential development is not yet known, and as such the transportation routes have not yet been fully determined. Most likely Rock Street would be extended from the north, across Saddler Street East, to provide one point of access into the development. Municipal staff have also flagged South Street East as another point of access to the development, and County staff would concur. At this stage the applicant has questioned the need for the South Street East extension, but this question will not likely be answered until a detailed development plan (via subdivision or condominium) has been drafted, along with an associated Traffic Impact Study (TIS). Future connections may also be needed to Concession 1, though at this stage the proponent's land does not directly abut Concession 1. Within the residential exception policies of OPA 3, adopted by the Municipality of West Grey, there is a requirement that

future development must satisfy whether or not road allowances are needed for future road needs.

- h)* The proposed residential development would result in the rehabilitation of a former industrial site (a gravel pit). It will also be situated in close proximity to a school and a long term care home, both of which would be more compatible with future residential development rather than future industrial development. The subject lands are also mapped as being partially within a municipal Wellhead Protection Area (WHPA). The agent acting on behalf of the proponent and their engineer have speculated that residential development will pose far less of a threat to municipal drinking water supplies, than industrial development in this same location.
- j)* At this stage it is too early to tell what form the future residential development on this site would take. However, both the County and Municipal Official Plans would recommend a range of housing unit types to meet a broad spectrum of housing needs, including affordable housing and rental housing. The Municipality of West Grey currently has some vacant serviced residential lands designated in the north end of Durham and in the village of Neustadt. Maintaining a healthy supply of residential development is crucial to ensuring a healthy housing market in the municipality. The associated zoning by-law amendment for this development has not been passed yet, and is recommended to be deferred until such time as a detailed development plan has been brought forward.
- k)* The adequate provision of employment opportunities will be covered in more detail under the review of the Provincial Policy Statement Comprehensive Review provisions.
- o)* Similar to comments on items (a), (c), and (h) above, some key public safety considerations on this application stem from (i) the former industrial use on the lands, (ii) the current industrial uses on neighbouring lands, and (iii) the proximity to municipal WHPAs. All three of these items will be addressed at the time of a future plan of subdivision/condominium application. Item (i) will most likely be addressed through a Record of Site Condition (RSC) to look at any potential contamination on the subject lands. Item (ii) will be addressed through a Ministry of the Environment and Climate Change Guideline D-6 Study, as per MMA comments quoted above, to assess impacts between industrial uses and residential uses. Item (iii) will be discussed with the Risk Management Official for the Municipality to determine if any future study, risk management plans, or

mitigation measures are required. Within the residential exception policies of OPA 3, adopted by the Municipality of West Grey, there are requirements for the future RSC and Guideline D-6 Study.

- p) As noted in item (h) above the proposed residential lands will be located in proximity to other residential and institutional lands which would be compatible with residential development. Provided the future residential lands can be adequately buffered from the neighbouring industrial lands (and vice versa), the subject location would appear to be appropriate for growth.

At this stage the proposed official plan amendment would appear to have regard for matters of Provincial Interest under the *Planning Act*. Further detail and safeguards will be provided for these matters through subsequent detailed study at the subdivision/condominium stage, based on the exceptions to the Residential designation passed with the amendment.

Provincial Policy Statement (PPS 2014)

A number of the policies of the PPS significantly overlap with the matters of Provincial Interest under the *Planning Act*. Those matters discussed above in the review of the *Planning Act* will not be reiterated in the PPS discussion.

Section 1 of the PPS has policies which speak to the redevelopment of brownfield sites.

Section 1.3 of the PPS speaks to the development of and the protection of employment areas. Specifically section 1.3.2.2 of the PPS states;

“Planning authorities may permit conversion of lands within employment areas to non-employment uses through a comprehensive review, only where it has been demonstrated that the land is not required for employment purposes over the long term and that there is a need for the conversion.”

The Comprehensive Review and addenda submissions which were submitted are heavily focused on the Municipality of West Grey’s supply of employment (or industrial) lands. Employment land needs can be difficult to predict and analysis of building permit data over the past number of years is not always a ‘tell-tale’ indicator. Within the Comprehensive Review it provides an analysis of the Municipality’s current employment land supply, as well as the future employment land needs within the planning horizon (to the year 2026). In addition the submission assesses the County’s more recent Growth Management Strategy (GMS) Update, which looks out to 2036 and 2041. In municipalities which have a mix of rural and urban lands, as West Grey does, it is difficult to determine what the exact threshold of demand for serviced industrial lands

will be based on the proliferation of smaller on-farm industry, and the lack of large-format industrial in traditional business parks. The Comprehensive Review concludes that the Municipality has enough designated employment lands to meet their needs within the planning horizon.

This same level of analysis is not supplied for the 'need for the conversion' i.e. the residential land supply and needs. Rather the Comprehensive Review provides justification on why the subject lands are desirable for residential development, and in some areas may be more appropriate than for residential development than for industrial development.

County staff have struggled with this issue in other parts of the County as well. A similar Comprehensive Review was completed recently in the City of Owen Sound, wherein it was easy to demonstrate that the subject lands were not needed for future industrial needs. Similarly it was also easy to demonstrate that the lands would make for an attractive residential development, based on proximity to the waterfront, trails, and soccer pitches. However what was difficult to demonstrate was the 'need' for more residential lands, based on existing residential supply.

Based on conversations with Provincial staff at the time of the Owen Sound application, County staff were given the impression that the primary test of the Comprehensive Review was to determine whether or not the lands were needed for future employment lands purposes. A secondary and perhaps lesser test is then to determine what the lands would be needed for.

Although it is difficult to determine that the lands in either Durham or Owen Sound are definitively needed for residential needs, in both cases there have been sound arguments made to suggest that they are not needed for industrial purposes. Furthermore in both cases the subject lands would appear to be desirable for residential purposes for a multitude of marketing and planning reasons. Finally, both these examples also have to be considered from a fairness and equity perspective. With respect to the question of fairness, staff have considered the following;

1. whether or not the lands are in a designated settlement area (which they both are),
2. whether or not the lands can be serviced in an efficient manner without an undue servicing expansion (which they can be serviced efficiently), and
3. whether or not the lands are not needed for employment lands (which both have studies to prove they are not).

As such, staff are of the opinion that it would not be fair for the County or Municipality to ask the landowner to 'hold' the lands until they are needed for some other purpose, at some unknown future time.

Finally, County staff have also struggled with the Durham 're-designation of employment lands' for one other reason. The subject lands are a former gravel pit, which at the time of operation did offer some employment. These lands have now sat vacant for many years, and have not developed for any other industrial or employment use. The lands are unique in Grey County in that they are/were a gravel pit within a settlement area. In all other instances across the County, a gravel pit would not be considered as employment lands and would not be required to undertake a Comprehensive Review in order to redevelop the lands. This particular Comprehensive Review was triggered based on the Industrial land use designation in the settlement area.

Section 2.6 of the PPS requires the protection of significant heritage and archaeological resources throughout the Province. At this stage an Archaeological Assessment has not been completed, but one may be required as part of the future subdivision or condominium applications. Should it be determined that the former gravel pit use has already disturbed the subject lands to the point of negating the need for such a study, it may not be necessary.

Section 3.1 directs development away from areas of natural hazard. In this case, the County Plan does not map any hazard lands on the subject property. However, because the former gravel pit lands have not been properly rehabilitated yet, and based on comments from the SVCA, further grading and drainage studies will be required for the subject lands as part of the future development application review.

Section 3.2 directs development away from areas of man-made hazard. As noted above, a RSC will be required as part of the future subdivision or condominium applications.

The proposed official plan amendment is generally consistent with the PPS, subject to detailed review being implemented through the future subdivision or condominium applications, and the exceptions to the Residential designation passed with the amendment.

County of Grey Official Plan

All new development proposals within the County must conform to the goals and objectives of the Official Plan. The policies of the County Plan mimic those discussed above under the PPS and the *Planning Act*. The following review will focus on policies

which are unique to the County Plan, rather than regurgitating the policy review covered above.

The subject lands are designated as 'Primary Settlement Area' on Schedule A to the County Official Plan. The Primary Settlement Area permits a wide range of residential, commercial and industrial land uses. Section 2.6.3(5) of the County Plan requires an average development of 20 units per net hectare for residential development within Durham. At the time of the future residential development applications, this density target will be accommodated as part of the development plans.

Schedule B to the County Plan does map a small portion of the subject lands as being within the 'Mineral Resource Extraction' designation. Based on correspondence from the MNRFB it is clear that this mapping is incorrect, and will be corrected as part of the next County Plan review. Furthermore a County Official Plan Amendment is not required to redevelop a gravel pit which has been rehabilitated and rezoned. Rehabilitation of the subject lands will be done at the time of redevelopment.

Appendix A to the County Plan maps portions of the subject lands as being within municipal WHPAs. This subject matter has been discussed above, and further review may be required as part of the subsequent development applications.

Appendix A to the County Plan also maps an abandoned landfill site in proximity to the lands proposed to be re-designated. Section 5.4.2 of the County Plan requires a Ministry of the Environment and Climate Change Guideline D-4 Study prior to new development within 500 metres of an abandoned landfill site. However based on the County's Historic Landfill Study from 2015, the landfill in question was 'cleared – proven not to exist'; as such no further study is needed.

Within the residential exception policies of OPA 3, adopted by the Municipality of West Grey, there are requirements which prohibit future subdivision of the lands until a number of technical matters have been addressed. These technical matters include land use compatibility, road needs, and a RSC. County staff view these restrictions as appropriate controls on the lands at this time.

The proposed amendment would generally conform to the goals and objectives of the County Official Plan. Additional details and technical requirements can be implemented as part of the future plan of subdivision or condominium application processes.

Financial / Staffing / Legal / Information Technology

Considerations

There are no anticipated financial, staffing or legal considerations associated with the proposed official plan amendment, beyond those normally encountered in processing an amendment. The County has collected the requisite application fee and peer review deposit for this application.

Should the application be appealed to the Ontario Municipal Board additional financial, legal, or staff resources may be required. It should be noted however that should Council approve the amendment, and the amendment be appealed, that the County by default would not attend the hearing.

Link to Strategic Goals / Priorities

Action 2.10, under Goal 2 of the County's Strategic Plan, requires the continued management of development and the application of sound land use planning principles. Based on the justification submitted, and the safeguards in place for future development, the subject application;

1. has regard for matters of Provincial Interest under the *Planning Act*,
2. is consistent with the Provincial Policy Statement, and
3. conforms to the goals and objectives of the County Official Plan.

Attachments

None

Respectfully submitted by,

Scott Taylor, MCIP, RPP
Senior Planner

Director Sign Off: *Randy Scherzer*