



**The Regional Municipality of Halton**

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| Report To:       | Regional Chair and Members of Regional Council               |
| From:            | Art Zuidema, Commissioner, Legislative and Planning Services |
| Date:            | March 27, 2019   |
| Report No. - Re: | LPS13-19 - Reid Road Quarry Proposal Status Update           |

**RECOMMENDATION**

1. THAT Report No. LPS13-19 re: "Reid Road Quarry Proposal Status Update" be received for information.
2. THAT the Regional Clerk forward a copy of Report No. LPS13-19 re: "Reid Road Quarry Proposal Status Update" to the Town of Milton and Conservation Halton for their information.

**REPORT**

**Executive Summary**

- In early August 2018, staff became aware of an application by James Dick Construction Limited (James Dick or "the applicant") under the *Aggregate Resources Act* to establish a new aggregate extraction operation at the western terminus of Reid Side Road in Milton. No advance notice was provided and no pre-consultation occurred with the Region, Town of Milton, or Conservation Halton on the application.
- The subject lands formerly known as the Woodlawn Guelph Campbellville Pit had its licence revoked in 2008. At present, portions of the site are zoned to permit extractive uses. However, the entire site is not designated for such uses in both the Regional Official Plan and Town of Milton Official Plan.
- Halton Region filed a Letter of Objection with the Ministry of Natural Resources and Forestry (MNRF) on September 17, 2018. The letter is included as Attachment #2 to this report. Town of Milton and Conservation Halton, among others, also filed letters of objection.
- The intent of this report is to outline the MNRF aggregate licence application review process, and advise on actions undertaken by Regional staff to identify and address technical concerns with James Dick and MNRF.

## **Background**

James Dick has applied for a licence to operate a pit or quarry with respect to approximately 29.4 hectares (73 acres) for the entire operation, of which 25.7 hectares (63.5 acres) will be the site of actual extraction. The maximum annual tonnage is proposed to be 990,000 tonnes. James Dick identifies the lands as containing approximately 12.54 million tonnes of limestone and 500,000 tonnes of sand and gravel resources.

The site has had a long history of aggregate extraction. The subject lands were formerly known as the Woodlawn Guelph Campbellville Pit. A licence for the property existed in various forms from 1976 to 2008, when the licence was revoked by the Ministry of Natural Resources and Forestry (MNR) due to non-payment of annual *Aggregate Resources Act* licencing fees. The site is currently used for construction vehicle storage (associated with ongoing Highway 401 works), conservation uses, and generic rural/open space uses. A key map of the subject lands is found in Attachment #1 to this report.

Dewatering is not proposed as part of this operation; rather, extraction would occur through underwater blasting. James Dick indicates this method is used at the Do-Lime Quarry just outside of Guelph. The applicant is also proposing the same technology for its proposed Hidden Quarry in the Township of Guelph/Eramosa. That application will be the subject of a hearing before the Local Planning Appeal Tribunal in 2019 in which the Region is a party opposing approval. Staff are not presently aware of any other operations in Ontario using underwater blasting and have minimal information regarding the record of accomplishment of this technology and its impacts.

## **Discussion**

### *Aggregate Resources Act* Review Process

Licences to operate a pit or quarry are issued by the MNR under the *Aggregate Resources Act*. Public consultation is required pursuant to the "Aggregate Resources of Ontario Provincial Standards, Version 1.0", a set of standards published by MNR that establish the process and criteria for pit and quarry licence applications under the *Aggregate Resources Act*. The Standards require a 45-day notification period, which begins with notice being published in a local newspaper, signage being posted on the boundary of the site, and written notice being delivered to landowners within 120 metres of the proposed licence boundary. The applicant is also required to host a public information session during the 45-day notice period. Any person or agency objecting to the application must serve written notice of objection, including reasons for objecting, on the applicant and identified staff contact with the MNR within the 45-day notification period. The aggregate applicant is required to respond to issues raised by objectors. During this period, the MNR also posts notice on the Environmental Registry in accordance with Ontario's Environmental Bill of Rights.

During the consultation process, the aggregate applicant must attempt to resolve all objections raised. If objections are not resolved, the aggregate applicant must submit to the MNRF and remaining objectors a list of unresolved objections, documentation of attempts to resolve objections, the applicant's recommendations to resolve objections, and notice to objectors of a 20-day response period to this submission. Objectors need to respond within this 20-day period by submitting to MNRF and the applicant recommendations that may resolve the objections. Not replying will result in the MNRF deeming there to be no further objection. Aggregate applicants are given two years to complete this process. Failure to do so results in MNRF considering the application withdrawn.

Pursuant to Section 11 of the *Aggregate Resources Act*, the MNRF can refer the application and any objections arising out of the notification and consultation procedures to the Local Planning Appeal Tribunal for a hearing.

### Zoning Compliance and the Land Use Planning Framework

In most cases, *Aggregate Resources Act* applications for aggregate extraction operations will be accompanied by applications (for official plan amendments and/or a re-zoning) under the *Planning Act*. Section 10 of the *Aggregate Resources Act* requires, “[an] applicant for a licence [to] furnish information satisfactory to the Minister describing the zoning by-laws applicable to the site and adjacent lands.” Lands proposed for aggregate extraction are typically not zoned as-of-right to permit these uses, requiring at a minimum a zoning by-law amendment to permit the use. Zoning by-law amendments also need to conform to an official plan as well as Provincial and Regional policy. *Planning Act* applications follow the typical process for development applications, and include rights of appeal to the Local Planning Appeal Tribunal for a Council decision or non-decision.

Staff have indicated in the Region's Letter of Objection and in discussions with James Dick's planning consultant that this proposed use is not permitted by, and does not conform with, the Region's Official Plan. The Region's Official Plan permits aggregate extraction on lands designated Mineral Resource Extraction Area. The subject lands are designated Agricultural Area; mineral aggregate operations are not permitted within this designation. The Regional Official Plan provides a basic principle of use issue with the quarry proposal.

The Greenbelt Natural Heritage System Overlay applies on these lands, which provides development criteria and a framework for permitting aggregate extraction (Section 4.3.2 of the Greenbelt Plan). Map 1G of the Regional Official Plan identifies key features and enhancement areas, linkages, and buffers on the subject lands. Studies provided to MNRF by James Dick do not provide a sufficient assessment of these features and the potential impacts from this proposal. Staff has made MNRF aware of the issue through the Letter of Objection.

The Town of Milton's Zoning By-law 144-2003 zones portions of the subject lands Extractive Industrial (MX), which permits "extractive uses". Extractive uses are defined as, "A pit or excavation, made for the removal of consolidated and unconsolidated soil, earth, clay, marl, sand, gravel, or rock for commercial purposes, and shall include facilities for the crushing, washing and screening of such materials. An extractive use shall not include an excavation incidental to the erection of a building or structure." Forestry uses, conservation uses, agricultural operations, and aggregate recycling facilities are also permitted in the applicable zone.

Other portions of the subject lands are zoned Greenlands A (GA) and Greenlands B (GB), zones where extraction is not permitted and lands cannot be used as part of the buffers required between the Region's Natural Heritage System and development.

It is staff's opinion that, until these issues are addressed, James Dick has not yet demonstrated neither consistency with the Provincial Policy Statement nor conformity with the Greenbelt Plan and Regional Official Plan. Reports submitted by James Dick's consultants rely upon the zoning already being in place to permit the use. Questions remain as to whether or not the proposed quarry complies with zoning.

#### Regional Staff Work Completed to Date

Prior to submitting applications for *Planning Act* approvals, applicants are required to pre-consult with the Town, Region, and other agencies such as Conservation Halton. Along with their *Planning Act* applications, applicants are also required to submit relevant planning and technical studies and pay application fees to cover the costs of review of the technical aspects of the application (staff and outside consultants' peer review time). For aggregate applications in Halton Region, this technical review normally takes place with support from a Joint Agency Review Team (JART) that would include an applicant, the Region, the local municipality, the applicable conservation authority, and the Niagara Escarpment Commission, where applicable.

In this case, the applicant has not submitted any *Planning Act* applications. It is the applicant's position that given the current zoning, no *Planning Act* applications are required. Therefore, the applicant has not pre-consulted with the Region, given advance notice of its proposal, or submitted any application fees. The only application submitted to date by the applicant is an application to the MNRF for a licence under the *Aggregate Resources Act*.

Regional staff attended the public meetings held in August 2018, reviewed the technical reports in support of the application under the *Aggregate Resources Act*, retained consulting expertise to review technical studies, and issued a Letter of Objection to James Dick and MNRF dated September 17, 2018. The letter is included as Attachment #2 to this report. The Town of Milton and Conservation Halton also issued Letters of Objection.

The Region's Letter of Objection raised twenty-four distinct issues, which were categorized under six thematic groupings:

- The potential effects of the operation of the proposed pit and quarry on the natural environment have not been adequately addressed, including effects upon key natural features and functions on the subject lands.
- The potential effects of the operation of the proposed pit and quarry on nearby communities have not been adequately addressed, including noise and vibration effects as well as hydrogeological concerns.
- The suitability of the progressive rehabilitation and final rehabilitation plans for the Site have not been adequately addressed.
- The potential effects on ground and surface water resources including on drinking water sources and private wells have not been adequately addressed.
- Detailed consideration should be given to planning and land use matters, including conformity with Regional and Provincial plans and policies.
- Other, miscellaneous concerns related to fees and the *Aggregate Resources Act* review process.

James Dick responded to Halton Region's Letters of Objection in a letter dated December 11, 2018. The letter offered preliminary responses to some (though not all) of the issues raised, and requested a complete list of any further comments, "in the near future if Halton Region wishes to have its comments considered in the ongoing [*Aggregate Resources Act*] process." This letter is included as Attachment #3 to this report.

An applicant has up to two years to attempt to resolve all objections. As of the date of writing this report, James Dick's consultants have reached out to Region, Town, and Conservation Halton staff to begin a dialogue on the issues raised in each agency's Letter of Objection. The Region, the Town, and Conservation Halton are working to elaborate on technical issues raised in each agency's Letter of Objection and evaluate James Dick's responses thereto. The agencies held an initial discussion with a representative of James Dick in January 2019. Staff will convene further meetings as required prior to submitting the detailed comments requested by James Dick.

James Dick has not yet submitted documentation to the MNRF and objectors that will trigger the final 20-day response period in which the agencies will be required to submit recommendations that may resolve outstanding objections.

## **Conclusion**

Staff are ensuring the Region is participating fully in the MNRF licence application process, and are working in a JART setup with Town and Conservation Halton staff to resolve technical concerns raised by the agencies. Staff continue to consult with MNRF staff and James Dick's consultant team to ensure that the objections raised in the Region's Letter of Objection are adequately addressed.

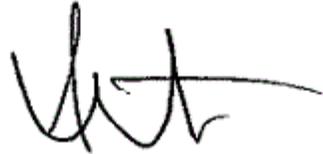
FINANCIAL/PROGRAM IMPLICATIONS

No planning applications have been filed with Halton Region and no corresponding application fees have been received. The application fee normally serves to cover the cost of reviewing these applications. Absent the payment of fees, or reimbursement of review costs by the applicant, those costs will come from existing resources within the approved Planning Services operating budget.

Respectfully submitted,



Curt Benson  
Director, Planning Services and  
Planning Official



Art Zuidema  
Chief Commissioner, Legislative and Planning  
Services

Approved by



Jane MacCaskill  
Chief Administrative Officer

If you have any questions on the content of this report,  
please contact:

Curt Benson

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Attachments: Attachment #1 – Locational Map, Proposed Reid Road Quarry  
Attachment #2 – Halton Region's Letter of Objection  
Attachment #3 – James Dick Response to Halton Region