



Meeting Date: March 24, 2021

Submitted by: Marion-Frances Cabral, Planner

Report No: PLA-29-2021

Subject: Application for Official Plan Amendment (OPA 53) and Zoning By-law Amendment (ZBA-29/20); filed by Melanie Horton on behalf of Kenneth Maes

Recommendation:

THAT Report PLA-29-2021 regarding OPA 53 and ZBA-29/20 be received for INFORMATION.

Purpose:

The purpose of this report is to provide Council with background information for the requested official plan amendment and zoning by-law amendment for the properties known municipally as 9548 and 9584 Glendon Drive and known legally as Concession 2 S Part Lot 1 and Concession 2 S Part Lot 1 S Part Lot 2, former Township of Lobo, Municipality of Middlesex Centre.

A location map of the subject lands is found in Attachment 1 to this report.

Proposal:

The applicant is requesting an Official Plan Amendment to apply the 'Aggregate Resource' overlay to a portion of the lands that is subject to the proposed *Aggregate Resources Act* Class 'A', Category '1' Licence.

The applicant is also requesting a Zoning By-law Amendment to rezone a portion of the lands from the current 'Agricultural (A1)' zone to 'Extractive Industrial (M4)'. The rezoning would apply to a portion of the lands that is subject to the proposed *Aggregate Resources Act* Class 'A', Category '1' Licence.

The effect of the amendments would permit a new aggregate (sand and gravel) extraction pit with extraction below the established water table. The site for the entire operation (licence area) is approximately 24.7 ha (61 ac) in area and the extraction site is proposed to be approximately 21.3 ha (52.63). The operations area will have an entrance onto Amiens Road only. A site plan of the proposed operation is found in Attachment 2 to this report.

The proposed annual tonnage limit is 200,000 tonnes with a total estimate resource volume of 3.7 million tonnes. The life span of the pit is expected to be 15-20 years. Once resources are extracted, rehabilitation will be undertaken leaving the final land use consisting of a large pond and shoreline areas.

In support of the application, the applicant has provided the following supporting materials:

1. Planning Report (Attachment 3)
2. Summary Statement & Consultant Report (Attachment 4)
3. Hydrogeological Report (Attachment 5)
4. Natural Environment Level 1 & 2 Report (Attachment 6)
5. Noise Feasibility Study (Attachment 7)
6. Aggregate Assessment Report (Attachment 8)
7. Stage 1 & 2 Archaeological Assessment (Attachment 9)

Background:

The subject lands are located on the north corner of Glendon Drive (County Road 14) and Amiens Road in Komoka. The subject properties have a combined area of approximately 56.32 (139.16 ac) in area, and the lands subject to the application are approximately 24.7 ha (61 ac) in area with frontage onto Amiens Road. The subject lands are currently used for agricultural uses (crops) and contains two (2) single detached dwellings and accessory buildings including a pool house, shed, and storage barn.

The subject lands also abut the Canadian National Railway located to the north-west and immediately to the west of Amiens Road is the Municipality of Strathroy-Caradoc. Agricultural lands with farm residences surround the property. Within proximity of the subject lands are the existing Oriole Park Resort community to the west and residential neighbourhoods in Komoka to the east.

In addition to the official plan and zoning by-law amendment applications, in 2018 the applicant has also applied for a Class “A” licence, pit below water (Category 1), to excavate aggregate from a pit of 24.7 ha (61 ac) in size (ERO Number: 013-3156). This application is for the establishment of a new pit. The annual tonnage condition applied for is 200,000 tonnes. The license application is reviewed by the Ministry of Natural Resources and Forestry and was open for public consultation in August 2018. As of October 29, 2020 there has been no change to the status of the proposal and it is still being considered.

Policy Regulation:

The County Official Plan identifies the lands within the Komoka settlement area. Additionally, the County Plan identifies Significant Woodland and Wetlands on the subject lands.

The majority of the lands are designated 'Settlement Employment' and 'Strategic Settlement Employment' in the Middlesex Centre Official Plan. The northwestern portion of the subject lands that abut the railway is also designated 'Parks and Recreation', 'Natural Heritage Enhancement Area', 'Natural Environment' and 'Hazard Lands'.

The lands are currently zoned 'Agricultural (A1)' and Key Map: 67 shows some hazard lands (shaded area) in the Comprehensive Zoning By-law.

Provincial Policy Statement, 2020 (PPS):

The Planning Act states that all decisions made by planning authorities "shall be consistent with the policy statements issued" under subsection 3. The Provincial Policy Statement, 2020 (PPS) document is comprised of several policy statements. The PPS should be read in its entirety and does not preclude a municipality from going above and beyond the policies stated.

The subject lands are located within the Komoka-Kilworth settlement area. As such, the following policies of the PPS are applicable.

Section 1.1.3 – Settlement Areas state that settlement areas shall be the focus for growth and development. Land use patterns within settlement areas shall be based on densities and a mix of land uses which (a) efficient use land resources; (b) are appropriate for, and efficiently use, the infrastructure and public service facilities which are planned or available, and avoid the need for their unjustified and/or uneconomical expansion; (c) minimum negative impacts to air quality and climate change, and promote energy efficiency; (d) prepare for the impacts of a changing climate; (e) support active transportation; (f) are transit-supportive, where transit is planned, exists or may be developed; and, (g) are freight-supportive.

Section 1.2.6 – Land Use Compatibility states that major facilities, including resource extraction activities, and sensitive land uses shall be planned and developed to avoid, or if avoidance is not possible, minimize and mitigate any potential adverse effects from odour, noise and other contaminants, minimize risk to public health and safety, and to ensure the long-term operations and economic viability of major facilities in accordance with provincial guidelines, standards and procedures.

Where avoidance is not possible in accordance with policy subsection 1.2.6.1 described above, municipalities shall protect the long-term viability of existing or planned industrial, manufacturing or other uses that are vulnerable to encroachment by ensuring that the planning and development of proposed adjacent sensitive land uses are only permitted if the following are demonstrated in accordance with provincial guidelines, standards and procedures: (a) there is an identified need for the proposed use; (b) alternative locations

for the proposed use have been evaluated and there are no reasonable alternative locations; (c) adverse effects to the proposed sensitive land use are minimized and mitigated; and (d) potential impacts to industrial, manufacturing or other uses are minimized and mitigated.

Section 1.3 – Employment states that municipalities shall promote economic development and competitiveness by: a) providing for an appropriate mix and range of employment, institutional, and broader mixed uses to meet long-term needs; b) providing opportunities for a diversified economic base, including maintaining a range and choice of suitable sites for employment uses which support a wide range of economic activities and ancillary uses, and take into account the needs of existing and future businesses; c) facilitating the conditions for economic investment by identifying strategic sites for investment, monitoring the availability and suitability of employment sites, including market-ready sites, and seeking to address potential barriers to investment; d) encouraging compact, mixed-use development that incorporates compatible employment uses to support liveable and resilient communities, with consideration of housing policy 1.4; and, e) ensuring the necessary infrastructure is provided to support current and projected needs.

Further, Section 1.3.2 – Employment Areas requires municipalities to protect and preserve employment areas for current and future uses and ensure that the necessary infrastructure is provided to support current and projected needs.

At the time of the official plan review, municipalities should assess employment areas identified in local official plans to ensure that this designation is appropriate to the planned function of the employment area.

Municipalities 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.

Section 2.1 – Natural Heritage requires that natural features and areas be protected for the long term. Development and site alteration shall not be permitted on significant wetlands. However, development and site alteration may be permitted in natural heritage features such as significant woodlands where it has been demonstrated that there will be no negative impacts on the natural features or their ecological functions.

Additionally, development and site alteration shall not be permitted on adjacent lands to the natural heritage features and areas, including significant wetlands and significant woodlands, unless the ecological function of the adjacent lands has been evaluated and it has been demonstrated that there will be no negative impacts on the natural features or on their ecological functions.

Section 2.5 – Mineral Aggregate Resources provides direction for the protection of long-term supply and extraction of mineral aggregate resources. Specifically as much of the mineral aggregate resources as is realistically possible shall be made available as close to markets as possible. Demonstration of need for mineral aggregate resources such as

a supply/demand analysis, shall not be required for consideration, notwithstanding the availability, designation or licensing for extraction of the resources.

Any extraction shall be undertaken in a manner, which minimizes social, economic and environmental impacts.

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.

Where the *Aggregate Resources Act* applies, only processes under the *Aggregate Resources Act* shall address the depth of extraction or new mineral aggregate operations.

When a license for extraction or operation ceases to exist, subsection 2.5.2.5 will continue to apply. Section 2.5.2.5 outlines that in known deposits of mineral aggregate resources and on adjacent lands, development and activities which would preclude or hinder the establishment of new operations or access to the resources shall only be permitted if (a) the resource use would not be feasible; or (b) the proposed land use or development serves a greater long-term public interest; and (c) issues of public health, public safety and environmental impact are addressed.

Subsection 2.5.3 – Rehabilitation states that progressive and final rehabilitation shall be required to accommodate subsequent land uses to promote land use compatibility, to recognize the interim nature of extraction, and to mitigate negative impacts to the extent possible. Final rehabilitation shall take surrounding land use and approved land use designations into consideration.

Section 3.1 – Natural Hazards states that development shall generally be directed to areas outside of hazardous lands adjacent to river, stream and small inland lake systems which are impacted by flooding hazards and/or erosion hazards, and hazardous sites.

Development and site alteration shall not be permitted within areas that would be rendered inaccessible to people and vehicles during times of flooding hazards or erosion hazards unless it has been demonstrated that the site has safe access appropriate for the nature of the development and the natural hazard. Additionally development and site alteration shall not be permitted within a floodway regardless of whether the area of inundation contains high points or land not subject to flooding.

Despite the policies stated immediately above, a Special Policy Area, approved by the Ministers of Municipal Affairs and Housing and Natural Resources and Forestry, may be considered for development and site alteration in certain areas associated with flooding hazard along river, stream and small inland lake systems.

Municipalities shall also prepare for the impacts of a changing climate that may increase the risks associate with natural hazards.

Section 3.2 – Human-Made Hazards identifies policies for development on, abutting or adjacent to lands affected by former resource and extraction sites including mineral

aggregate operations. Development may be permitted only if rehabilitation or other measures to address the mitigate known or suspected hazards are under way or have been completed.

Sites with contaminants in land or water shall be assessed and remediated as necessary prior to any activity on the site associated with the proposed use such that there will be no adverse effects.

County of Middlesex Official Plan:

The County Official Plan identifies the lands within the Komoka settlement area. Additionally, the County Plan identifies Significant Woodland on Schedule C and Wetlands on Schedule A on the subject lands. As such, the following policies apply:

Section 3.2 – Settlement Areas of the County Plan identifies urban areas such as Komoka are to direct a significant portion of the County's future growth in order to protect Agricultural Areas and Natural Systems, and promote deficient use of water and sewage services.

Settlement Areas shall develop in a manner that is phased, compact and does not result in a strip pattern of development.

Every effort shall be made to preserve the historic character of Settlement Areas by requiring new development to complement the positive elements of the existing built-form.

Development shall minimize negative affects on the Natural System or sites of historical, geological or archaeological significance.

Local official plans are directed to provide detailed land use policies that permit a variety of uses in urban areas including: a) a variety of housing types; b) commercial uses; c) industrial uses; d) community facilities; e) natural system elements; f) recreation and open space, including active and passive recreation activities; and g) other specific land use designations necessary to reflect the unique needs and character of each Urban Area.

Section 2.3.4 – Economic Development acknowledges that economic development is an important component to the County's Growth Management policy framework. Policies of the County Plan are intended to promote communities that are diverse and have a sense of place. Lands designated in the Middlesex Centre Official Plan are anticipate to be adequate to meet the growth projections for the planning period. Prior to the expansion of the limits of an existing Settlement Area, the local municipality shall prepare a Comprehensive Review including, the appropriate background information necessary to justify the expansion.

The subject lands front onto Glendon Drive (County Road 14), abuts a railway and is within proximity to a 400-series highway. Section 2.4.2 – Transportation Network details policies of a network of roads, highways and railways within the County. The County Road

system provides inter-municipal service moving people and goods through the County. There is a need to plan the transportation network and the County Road system in order to protect rights-of-way for future improvements and to recognize that there is a strong relationship between transportation and urban form.

The County shall consider a number of policies to minimize or avoid conflicts between land uses and the transportation network such as limiting direct access to County Roads where access is available by local roads, and ensuring that development proposals that are likely to generate significant traffic are accompanied by a transportation study to address potential impact on the transportation network.

If access is proposed onto a County Road, it shall require the approval of the County Roads department and subject to County by-law #5783 for access permits.

Additionally, the County shall ensure where possible, compatible land uses adjacent to railway corridors. New development may be required to provide appropriate safety measures such as setbacks, intervening berms, security fencing and noise and vibration studies satisfactory to the local municipality and in consultation with the railway company.

Section 2.2.1 – Natural System identifies that County’s Natural System includes natural hazards, natural environment areas (e.g. wetlands), natural heritage features (e.g. significant woodlands), and groundwater features. New development shall be directed away from the Natural System wherever possible.

Development applications within or adjacent to Natural Heritage Features shown on Schedule C of the County Plan shall require submission of a Development Assessment Report (DAR). Where the DAR indicates that there will be a negative impact on the natural system or ecological processes that cannot be adequately mitigated, the development application shall not be approved.

Certain parts of the County’s Natural System preclude development and are designated as Natural Environment Areas on Schedule A of the County Plan. The Natural Environment Areas include wetlands, floodplains and flood regulated watercourses.

Section 3.4 – Natural Environment Areas details policies to generally discourage any form of development in the Natural Environment Areas designation that would detract from the wise management and stewardship of the Natural System or would cause a risk of property damage or create a potential for loss of life.

It is expected that areas designated as Natural Environment Areas will generally remain as such over the long term. Lands designated Natural Environment Areas may be considered for other uses based upon an amendment to the County Plan, and the Middlesex Centre Official Plan and zoning by-law.

Additionally, this subsection 3.4.4 – Wetlands Development Policies states that development shall not be permitted within a wetland.

Adjacent lands are those within 120m of an individual wetland area or is land connecting individual wetlands within a wetland complex. Development may be permitted adjacent lands if it does not result in any of the following: i) a loss of the wetland function; ii) subsequent demand for future development which will negatively impact the existing wetland functions; iii) conflict with existing site specific wetland management practices; and iv) loss of contiguous wetland areas.

A development proposal on lands adjacent to a wetland will be subject to a Development Assessment Report (DAR), prepared in accordance with Section 2.2.1.2 – Natural System-General Policies and should be carried out by the proponent. The DAR shall be subject to review and comment by the Province, the local Conservation Authority and other public authorities having jurisdiction

The County Official Plan does not identify the subject lands within the ‘Aggregate Resource’ area overlay, however, Section 2.2.3 – Aggregate Resources does provide direction for the establishment of new aggregate extraction sites.

The County Plan recognizes the need to balance competing priorities for the protection of aggregate resources for future extraction and the need to provide agricultural land, the Natural System and other sensitive land uses.

The County Plan states that the County shall ensure that: as much of the mineral aggregate resources as is realistically possible is made available to supply the need, as close to market as possible; extraction is undertaken and completed in an orderly fashion; and, extraction does not have a permanent adverse impact on the Natural System or the agricultural land base.

Consideration of new aggregate extraction areas shall include an evaluation of the impact on area residents, sensitive land uses, and on the Natural System including ground and surface waters. Additionally, extraction and processing operations shall be located in such a way to minimize the impact on the natural and social environments.

Wayside pits and quarries, and temporary asphalt plans shall be permitted through the County except in Settlement Areas and in the Natural Environment Areas, as shown in Schedule A of the county Plan, and only as permitted in local official plans.

In areas of significant aggregate resources, uses which do not preclude future resource extraction may be permitted in accordance with the underlying land use designation. All uses which would preclude resource extraction shall be discouraged until such time as the resource has been substantially depleted.

The County Plan also requires that all pit and quarry operations be subject to a program of progressive rehabilitation as specified in the *Aggregate Resources Act* and its regulations, and in the license for the property.

Section 2.2.3.3 – New Pits and Quarries provides additional direction prior to making a decision on official plan and zoning by-law amendments to permit a new extractive use.

The local conservation authority and the Province shall be consulted with to ensure the effects on any Natural System Elements are properly considered. Consultation may include studies related to ground and surface water impacts, noise and dust impacts and other matters that may affect the natural environment and adjacent residents.

When considering applications to permit new pits and quarries, the Municipality shall be satisfied that the following are addressed:

- a) The impact on adjacent land uses and residents;
- b) The impact on the natural environment;
- c) The capabilities of the subject land for agriculture and other land uses;
- d) The impact on the road network;
- e) The impact on any existing or potential municipal water supply resource areas;
- f) The manner in which the operation will be carried out;
- g) The nature of rehabilitation work that is proposed; and
- h) Any other matters deemed necessary by the local municipality or the County.

Lastly, Section 2.2.3.4 – Site Plan Requirements requires that an application for a permit under the *Aggregate Resources Act* to operate a sand or gravel pit, or quarry shall be accompanied by a Site Development Plan be submitted to the County, local municipality and the Ministry of Natural Resources. The Site Development Plan shall deal with those matters specified by the Province.

Middlesex Centre Official Plan:

The subject lands are located within the Komoka-Kilworth Urban Settlement Area and Secondary Plan on Schedule A-2 of the Official Plan. The majority of the lands are designated 'Settlement Employment' and 'Strategic Settlement Employment' in the Middlesex Centre Official Plan. The northwestern portion of the subject lands that abut the railway is also designated 'Parks and Recreation', 'Natural Heritage Enhancement Area', 'Natural Environment' and 'Hazard Lands'. As such the following policies apply:

Section 5.1.1 – Urban Settlement Areas identifies Komoka-Kilworth as one of the Urban Settlement Areas in the municipality. Urban Settlement Areas provide or have the potential to provide full municipal services and are expected to have the highest concentration and intensity of land uses. These are will be the focus for future growth by accommodate a significant portion of expected growth over the Official Plan's planning period.

Section 5.7 – Komoka-Kilworth Secondary Plan also establishes policies for the area to accommodate urban growth in Middlesex Centre. Section 5.7.2 – Land Use Plan contains policies for future land use and development proposals to establish a balanced mix of land uses to create a complete and vibrant community. Policies also speak to transportation and connectivity, public spaces, parks and open spaces, and integration of sustainability measures.

The policies in Section 5.5 – Settlement Employment Areas encourage the development of industrial and business uses within settlement areas on full municipal services where possible, and development is subject to the municipality's site plan manual and urban design guidelines. Within urban settlement areas industrial land uses shall have access to public roads of reasonable construction and year round maintenance. Industrial uses shall be adequately buffered where adjacent to residential uses or other sensitive land uses.

New industrial operations that produce significant amounts of noise, dust, odours, particulate emissions or heavy truck movements shall not be permitted to locate in proximity to existing residential areas or in locations within settlement areas that would negatively affect the quality of life or character of the settlement area. These types of uses are encouraged to be located within existing 'Rural Industrial' designations outside of settlement areas.

Section 5.7.6 – Komoka-Kilworth Settlement Employment Areas Policies are also applied to the subject lands if they are designated 'Settlement Employment' within the Komoka-Kilworth secondary plan. Land located north of Glendon Drive and west of Komoka Road and designated as 'Settlement Employment' shall be protected as Strategic Employment Area as per Section 5.6 of the Official Plan. Additional policies within this section pertain to increasing connectivity to surrounding land uses to encourage active transportation, and for appropriate building orientation and screening of parking, storage and loading areas.

In addition to the 'Employment Area' policies of Sections 5.5 and 5.7.6, Section 5.6 – Protection of Employment Lands identifies that Municipal Council will support the protection of designated 'Settlement Employment – Strategic Employment Areas' in the Municipality, including lands that are designated for clusters of business and economic activities. Proposals to permit the conversion of lands within the 'Settlement Employment – Strategic Employment Areas' to non-employment uses may only be permitted through a Comprehensive Review, only where it has been demonstrated that the land is not required for employment purposes over the long term and, there is a need for conversion.

Section 9.4 – Transportation establishes policies to facilitate the efficient movement of people and goods to and from the Municipality, and within the municipality. This includes limiting direct access to County Roads where access is available by a local road. Additionally, subsection 9.4.4 – Policies Relating to Railway Operations may require a noise study for all proposed development within 300 m of an active railway, and may require a vibration study for all proposed development within 75 m of an active railway.

All proposed development adjacent to active railways shall ensure that appropriate safety measures such as setbacks, berms and security fencing are provided.

Section 5.7.12 – Komoka-Kilworth Transportation Policies further direct that access will generally be limited to public roads intersections to preserve the through-traffic function of Glendon Drive (County Road 14). Within the planning period of the Official Plan, it is envisaged that Glendon Drive may be upgraded to a four lane urban arterial road standard. To achieve this, the Municipality will work with the County to determine the implementation and related requirements as a condition of development.

Section 3.0 – Policies for Natural Areas and Natural Hazard Areas state that it is a policy of the Official Plan to conserve natural features and functions throughout the Municipality wherever possible. The Official Plan separates natural features into those where development is prohibited within their boundaries, those where development and site alteration may be permitted within their boundaries subject to findings of a development assessment report, and those where preservation is generally encouraged.

The Official Plan contains policies that separates Natural Hazard areas into floodplain areas (designations on Schedule A) and additional Natural Hazard areas (policy overlay on Schedule C). Additionally, the Official Plan contains policies for Greenland Features (policy overlay on Schedule B).

Lands within the 'Natural Environment' areas designation include wetlands and floodplains. Development or site alteration shall be prohibited, save and except for uses permitted and identified in Section 3.5 of the Official Plan. Development may be permitted on adjacent lands where they do not result in negative impacts on the natural areas and functions or ecological functions.

Greenland Features, including significant woodlands, were identified as part of the Middlesex Natural Heritage Study. Features identified are not a land use designation but are included as part of the Official Plan as a means of raising public awareness of the important of the natural environment. Lands identified on Schedule B will still be subject to the policies associated with the applicable land use designation on Schedule A and the natural area policies of Section 3.0.

Section 3.5 – Permitted User Within Municipal Natural Environment Areas and Greenland Features identifies uses permitted within or adjacent to lands designated as Natural Environment Areas or Greenland Features. Permitted uses include forest or wildlife management, maple syrup production, natural heritage appreciation, existing recreational trails, existing agricultural uses, and watercourse improvements as approved by the local conservation authority.

Section 3.6 – Floodplain Areas contains policies apply a one-zone floodplain system for areas that are designated on Schedule A of the Official Plan. In settlement areas, alternative developments may be permitted subject to the completion of a development assessment report that will explicitly evaluate the floodplain area and establish a two-zone distinction to delineate the floodway and flood fringe. This report must be prepared

to the satisfaction of the Municipality and local conservation authority, and will identify the development of amenity uses that may be appropriate within the flood fringe. The report must also established that there are not alternatives available to locate amenity uses on portions of land outside of the flood fringe.

Section 3.7 – Additional Natural Hazard Areas identify natural hazards on Schedule C. These natural hazard lands related to either slope hazards or fill line conditions. Uses specifically permitted in the floodplain areas are also permitted within areas defined as Natural Hazard Lands on Schedule C. Alternative development or site alteration proposed within the lands are subject to a development assessment report which will evaluate the proposed development on the basis of appropriate risk assessment and management relative to the natural hazard feature.

The applicant has requested that the ‘Aggregate Overlay’ apply to the lands to permit a new aggregate exaction operation. Section 4.0 – Policies for Aggregate and Petroleum Resource Areas provides policy direction for the appropriate protection for long term extraction of mineral aggregate and petroleum resources.

It is a goal of the Middlesex Centre Official Plan to ensure that as much of the mineral aggregate resource as is realistically possible is made available to supply the need for aggregate, as close to market as possible. Another goal is to balance competing priorities for the protection of aggregate resources for future extraction, with the need to protect agricultural land, natural heritage areas and water resources identified in the Official Plan.

The Official Plan also seeks to ensure that aggregate extraction sites are rehabilitated to leave the sites amenable for uses that are compatible and consistent with surrounding land uses, and encourages the continuance of compatible land uses on lands having deposits of aggregate materials and on licensed areas until such a time as aggregate extraction occurs.

Section 4.2 – Areas of Aggregate Resource Deposits provides additional direction to lands subject to the ‘Aggregate Overlay’.

Where the proposed new extractive site is outside of an Aggregate Resource Area delineated by the Official Plan, an amendment to this Plan will be required.

Where new extractive sites or expansions of existing sites are proposed, applications for rezoning will be required if the lands in question are not already zoned for aggregate extraction. Rezoning applications for new extractive sites will be assessed by the Municipality, with consideration of the following criteria as a minimum:

- a) The impact on adjacent land uses and residents including visual impacts.
- b) The impact on any components of the Municipality’s Natural Areas or Greenlands system.
- c) The impact on significant cultural heritage sites or features as designated under the Heritage Act.

- d) The impact on the existing road network.
- e) The impact on existing groundwater resources.
- f) The manner in which the operation would be carried out.
- g) The nature of the progressive and final rehabilitation that is proposed.
- h) The capabilities of the site for agriculture and other land uses.

This Plan further encourages applicants to undertake public consultation in a manner that co-ordinates public requirements under the Planning Act and the Aggregate Resources Act. Applicants are encouraged to ensure reports required in support of an Aggregate Resources Act licence simultaneously address municipal concerns and are used to support required rezoning applications and, if required, applications to amend this Plan.

Section 4.3 – Permitted Uses Within Extractive Resource Areas or Licenced Operations states that lands within or adjacent to Extractive Resource Area delineations or a licensed pit or quarry, the uses permitted are those of the designations underlying the Extractive Resource Areas overlay, so long as the use would not preclude or hinder extraction. The uses permitted may include, but are not limited to, agriculture, forestry, conservation and recreation. The specific uses permitted will be in the zoning by-law.

Within licensed operations, the permitted uses will be governed by the site plans approved under the Aggregate Resources Act licence application process. Council, in reviewing applications for aggregate extraction operations, shall require that uses permitted prior to licencing are allowed to continue within the portions of the licenced area not under active extraction and within portions of the licenced area that have been rehabilitated. For the purposes of this section, adjacent lands are defined as within 300m of the limit of an existing licenced pit or delineated resource area.

Middlesex Centre Comprehensive Zoning By-law:

The current lands are zoned 'Agricultural (A1)' in the zoning by-law. The applicant has requested that the lands subject to the *Aggregate Resources Act* license be rezoned to 'Extractive Industrial (M4)' to permit the extractive operation.

The provisions of the 'Extractive Industrial (M4)' zone shall generally apply to aggregate extraction related development generally located in the rural areas of the Municipality. Permitted uses include the following: *aggregate storage, aggregate use, agricultural use, asphalt plant (portable), concrete batching plant, forestry use, pit, quarry, wayside pit, and accessory use.*

The 'Extractive Industrial (M4)' zone has zoning standards related to setbacks and lot coverage. Additionally, there are specific minimum separation distance for a pit or product

stockpile from property lines, edge of a road allowance and 'Agricultural (A1)' zone used solely for single detached dwelling or an 'Institutional (I)' zone.

The standards for the 'Extractive Industrial (M4)' zone are as follows:

	Extractive Industrial (M4) Zone
<p>Minimum Front Yard Setback</p> <p>(a) In accordance with Section 4.18 of this By-law</p> <p>(b) All other roads</p>	<p>20.0 m (66 ft)</p>
<p>Minimum Side Yard Setback</p> <p>(a) Corner lot</p> <p>(b) Where the yard abuts any Agricultural Zone used solely for the purpose of a single detached dwelling or an institutional zone</p> <p>(c) All other cases</p>	<p>20.0 m (66 ft) on the side abutting the road and 6.0 m (20 ft) on the other side</p> <p>15.0 m (49 ft)</p> <p>10.0 m (33 ft)</p>
<p>Minimum Rear Yard Setback</p> <p>(a) Where the yard abuts any Agricultural Zone used solely for the purpose of a single detached dwelling or an Institutional Zone</p> <p>(b) All other cases</p>	<p>12.0 m (39 ft)</p> <p>6.0 m (20 ft)</p>
<p>Maximum Height</p>	<p>15.0 (49 ft)</p>
<p>Special Use Regulations - Agricultural Use</p>	<p>Notwithstanding any previous provisions of Section 21.0 () of this By-law, the minimum lot area, lot frontage, setbacks, maximum lot coverage, front yard depth, side yard width, and rear yard depth for buildings and structures for an agricultural</p>

	Extractive Industrial (M4) Zone
	use shall be in accordance with the zone requirements of Section 5.0 ().
<p>Special Use Regulations - Asphalt Plants and Concrete Batching Plans</p> <p>(a) Minimum Lot Area</p> <p>(b) Maximum Lot Coverage</p> <p>(c) Minimum Side Yard and Rear Yard Setbacks</p> <p style="padding-left: 40px;">i. An Agricultural Zone used solely for purpose of a single detached dwelling or an Institutional Zone</p> <p style="padding-left: 40px;">ii. All other cases</p>	<p>In addition to previous provisions of Section 21.0 () of this By-law, the following provisions shall also apply to asphalt plants and concrete batching plans in the 'Extractive Industrial (M4)' Zone:</p> <p>5.0 ha (12 ac)</p> <p>20%</p> <p>90.0 m (295 ft)</p> <p>30.0 m (98 ft)</p>
<p>Special Use Regulations - Minimum Separation Distance for a Pit or Product Stockpile</p> <p>(a) An Agricultural Zone used solely for the purpose of a single detached dwelling or an Institutional Zone</p> <p>(b) The edge of a road allowance</p> <p>(c) A lot line</p>	<p>90.0 m (295 ft)</p> <p>30.0 m (98 ft)</p> <p>15.0 m (49 ft)</p>

Consultation:

Notice of the application was circulated to agencies, as well as property owners in accordance with the Planning Act and Ontario Regulation 544/06.

Public Comments:

The Municipality received correspondence from area residents related to the *Aggregate Resources Act* license ahead of the Municipality receiving the *Planning Act* applications. The letters of objection were directed to the Ministry of Natural Resources and Forestry and outline concerns related to long-term land use considerations and land use compatibility, traffic, noise, and hydrogeology.

As a result of the Notice of Complete Application and Public Meeting related to the Official Plan and Zoning By-law amendments, staff had a discussion about the proposal with an area resident. Concerns with the proposed use relate to increased noise and dust, compatibility with existing residential areas, and future use of the lands.

Agency Comments:

At the time of writing the subject report, the following comments were received:

The Public Works and Engineering Department has identified concerns with future development potential in Komoka. The municipality has limited lands without the municipal boundary west of Komoka. The subject lands are prime employment lands within proximity to Highway 402 to the west, and the potential extension of servicing from Komoka. It is expected it will be easier to find another aggregate location than find such well suited employment lands within the municipality.

There is also concern that if the pit is approved, a future application will come in for the lands to the south adjacent to Glendon Drive. It is understood that the majority of the granular material to be removed is below the water table which makes this site more difficult to rehabilitate to appoint that it could still be useful for employment lands in the future.

If the pit is approved, the municipality will request for the applicant to fully reconstruct Amiens Road from the site entrance to Glendon Drive, and possible add turning lanes onto Glendon Drive.

The Chief Building Official is concerned with the noise and dust that could be generated for the operations, and its impact on the Komoka settlement area. It is recommended that a development assessment report (DAR) be provided to look at the impact from the proposed operations onto the adjacent natural areas.

Concerning economic development, the subject lands are located very strategically at the limits of the services urban settlement area and within proximity to the 400-series highway. Approval of the use would eliminate the long-term potential of these lands for employment.

The Middlesex County Engineer has not provided comments at the time of writing this report. However, during pre-consultation with the municipality and applicant it was understood that the proposed operation does not require direct access onto Glendon

Drive. The County Engineer is satisfied that the proposed direct access onto Amiens Road.

The Municipality of Strathroy-Caradoc provided the Municipality of Middlesex Centre with correspondence stating their satisfaction with the response from the applicant. In July 2018, the Municipality of Strathroy-Caradoc raised the following concerns related to the *Aggregate Resources Act* license:

- Amiens Road south of the rail bridge to Glendon Drive (County Road 14) should be rebuilt to handle the truck traffic to and from the pit.
- The proposed pit entrance should be 500 ft. from the rail bridge.
- The roadway/rail bridge should be well signed as being a single-lane, low bridge.
- No right turn from the pit onto Amiens Road.
- Amiens Road should be re-graded at Glendon Drive (County Road 14) to have less of a grade so that trucks can exit better onto the County Road.
- County requested improvements to the intersection (left turn around lane) off Amiens Road and Glendon Drive.

The applicant has agreed to the suggestions such as signage, turning restrictions and location of the access to the site. Additionally, the applicant is willing to enter into an agreement with the County and local municipalities to address road improvements.

The applicant's response, dated September 18, 2020, is attached to this report as Attachment 10.

The Upper Thames River Conservation Authority (UTRCA) provided comments, dated March 15, 2021, and is attached to this report as Attachment 11.

The UTRCA has provided comments on the technical reports through the review of the *Aggregate Resources Act* process for a new license. These comments focused on the Natural Environment Report and Hydrogeological Assessment to determine impacts to the adjacent natural hazard and natural heritage features. A final response was not provide to the UTRCA's third set of comments relating to initiation of extraction area and monitoring.

The UTRCA acknowledge that the subject lands are regulated by the UTRCA in accordance with the *Conservation Authorities Act*. The regulated are is comprised of local and Provincially Significant Wetlands, and their surrounding area of interference, and an adjacent watercourse known as the Crow Creek Drain/Komoka Creek. Per Section 28(1)) of the *Conservation Authorities Act*, written approval from the UTRCA is not required for applications under the *Aggregate Resources Act*. The comments provided by UTRCA are to inform and advise the Municipality and County of any potential concerns relating to the natural hazard and natural heritage features.

The UTRCA also addressed relevant sections from their Environmental Planning Policy Manual related to natural hazard features (section 2.2.4), wetland policies (sections 3.2.6 and 3.3.2), and woodland policies (section 3.3.3). Development and work on the subject lands would need to demonstrate that there will be no negative impact on the wetland and woodland features, and that the relocation of natural hazard features will not negatively impact neighbouring property owners.

The subject lands are within a vulnerable area within the Thames - Sydenham & Region Drinking Water Source Protection Plan. Applicable policies pertaining to drinking water source protection can be found within the Source Protection Plan.

Generally, the UTRCA has no objections to the Official Plan or Zoning By-law amendment applications, and is satisfied with the information that was provided by the applicant during their review of the associated technical reports through the *Aggregate Resources Act* process. However, The UTRCA previously requested that extraction be initiated from the west to monitor potential impacts on the adjacent features. As this has not been accommodated by the applicant, the UTRCA requests implementation of the following to ensure long term protection of the surrounding features:

1. Install a hobo data logger within the stream, at SG1, annually from April to November recording temperatures once an hour. This data shall be used to calculate thermal regime and track stream temperatures. This monitoring shall continue until below water extraction has ceased.
2. Provide further information on the mitigative measures that will be undertaken should an increase in stream temperature occur as a result of increasing pond or groundwater temperatures. Hydrogeological recommendation #11 states that a 5 degrees Celsius change will be the trigger point for such analysis. Can this change be reversed through actions by the pit operator? Please provide additional information.

Lastly, the UTRCA is authorized to collect fee for the review of applications submitted under the *Planning Act*. The applicant will be invoiced separately.

Planning Staff have reviewed the applications and the below commentary expresses the concern in a policy context. Planning staff will provide a full analysis in a subsequent report once consultation input has been received.

The proposed development seeks to establish a new aggregate extraction operation within the settlement area of Komoka. The operation is proposed on lands that are designated 'Settlement Employment' and 'Strategic Employment Area'.

The requested official plan amendment seeks to retain the existing designations for employment, and, add the 'Aggregate Area' overlay to permit the operation for a period of 15-20 years. The operation proposes a rehabilitation plan that returns the extraction area of 21.3 ha (52.63) to the natural environment in the form of a pond, and surrounding areas to agricultural uses for future development.

Staff recognize the importance and need of aggregate resources, and making supply available as close to market as possible. However, planning staff is concerned with the impacts of a new aggregate extraction operation to future development on the lands and surrounding lands, and on natural heritage features and resources.

Staff note that new aggregate extraction operations are generally located outside of settlement areas to minimize the impact of operations (e.g. noise, dust, haul routes) on sensitive land uses, and allow settlement areas to be the focus for growth and a variety of land uses. To understand the full effects of aggregate extraction operations within settlement areas there are examples of existing operations within or nearby settlement areas including the Byron Pit in London, and Dolime Quarry in Guelph. The applicant has also advised of existing examples in Brant County, Wellington County, Town of St. Marys, and the City of Ottawa. However, planning staff have not been able to identify examples of new aggregate extraction operations within identified settlement areas.

While aggregate extraction operations are generally considered interim uses, planning staff are concerned if there is a need for any future expansions of the operation that may extend south towards Glendon Drive utilizing additional employment lands during the planning period of the Official Plan. It should be acknowledged that the Municipality is undertaking an Official Plan review which is reviewing land needs for the next 25 year period and beyond. The Municipality is to designate suitable and strategic lands for a variety of employment uses that facilitate economic investment. The subject lands have been designated as such as a result of their proximity and access to a major County roadway, railway network, provincial highway, and markets in Strathroy and London. Planning staff is concerned that the removal of lands from the strategic employment area will not be able to be replicated in another area of the municipality.

Additionally, given the increase in population of Middlesex Centre and Komoka-Kilworth over the last ten years, there is an increased importance to protect employment lands to fulfill a 'complete community' vision for the Municipality. Planning staff are concerned that investment in new uses and associated infrastructure in the employment area and western portion of Komoka may be reduced or avoided if incompatible with the proposed extraction operation.

Further, the proposed rehabilitation plan may restrict the types and intensities of employment land uses on or adjacent to the operation area. Similar to former extraction operations in Komoka, the aggregate extraction operation and rehabilitation plan to leave the pit unfilled may effectively reduce or remove the functional lands for future development and limit larger employment uses from establishing on the subject lands and within the area. Planning staff is concerned that the removal of lands from the strategic employment area may have an impact on the viability of the remaining lands.

Planning staff is also concerned with the extraction operation that proposes extraction below the water table. All new development within the Kilworth-Komoka settlement area is to be on full municipal services, however, there are existing uses within and outside of the settlement area that use private well water and may be affected.

Additionally, consideration of the impact on abutting natural heritage features should be undertaken. The applicant is working with the Upper Thames River Conservation Authority to ensure impact is avoided or limited. The proposed aggregate extraction operation is not proposed within areas that contain natural heritage features, however, it is within proximity and may negatively impact without appropriate mitigation measures.

As noted the preceding commentary is provided prior to the public meeting and without the benefit of potentially receiving all comments from agencies or members of the public.

Financial Implications:

None.

Strategic Plan:

This matter aligns with following strategic priorities:

- 2a. Economic Development: Realizing economic development opportunities.
- 2e. Economic Development: Expanding local employment options.
- 1c. Planning & Positioning: Realizing development potential.

Attachments:

Attachment 1 – Location Map

Attachment 2 – Site Plan

Attachment 3 – Planning Report

Attachment 4 – Summary Statement & Consultant Report

Attachment 5 – Hydrogeological Report

Attachment 6 – Natural Environment Level 1 & 2 Report

Attachment 7 – Noise Feasibility Study

Attachment 8 – Aggregate Assessment Report

Attachment 9 – Stage 1 & 2 Archaeological Assessment

Attachment 10 – Letter to Municipality of Strathroy-Caradoc, dated September 18, 2020

Attachment 11 – Comments from Upper Thames River Conservation Authority, dated March 15, 2021