



REPORT
TOWNSHIP
PLANNING/BUILDING/ENVIRONMENTAL
COMMITTEE

DATE: February 10th, 2020

REPORT NO: PD-027-20

SUBJECT: Recommendation Report
Zoning By-law Amendment (Temporary Use By-law)
Fred & Beck Vrugteveen (Agent – Upper Canada Consulting)

CONTACT: Alexa Cooper, Planner I
Brian Treble, Director of Planning and Building

OVERVIEW:

- According to past complaint records and aerial imagery, the local business known as Niagara Pallets has been located at 4981 Regional Road 20 without the appropriate planning approvals since 2003.
- In 2006 the Township received a complaint for the property and in 2008 a 1-year temporary use by-law was approved. This was to give the applicant enough time to find a suitable location for the business.
- When the temporary use expired, they had still not found a suitable location for the business and as such applied for a Regional Official Plan Amendment (ROPA), Local Official Plan Amendment and a Zoning By-law Amendment in an attempt to have the use permitted on the subject property.
- Once Niagara Region Planning Staff indicated they would not support Niagara Pallet's ROPA, Niagara Pallet withdrew all three applications.
- Sometime between 2014 and 2015, Niagara Pallets acquired 2906 South Grimsby Road 8 and has been trying to fully relocate the majority of their business to this location. A new site plan was approved in 2018 and Phase 1 of 4 has been constructed to redevelop the site. A certain portion of the business appears to have remained at 4981 Regional Road 20 without the appropriate planning approvals, despite the new business location.
- Niagara Pallets has submitted this temporary use application, requesting a time period of 3 years to permit the business to continue in compliance on the subject property while Niagara Pallets expands their property at 2906 South Grimsby Road 8.
- Township Planning Staff have reviewed the relevant Provincial, Regional and Local planning policy in relation to the proposal.
- Planning Staff recommend the approval of the temporary use application for a time period of 2 years with a condition that the applicant enter into an agreement with the Township to collect securities to ensure the complete removal of the business from the property by the time that the Temporary Use By-law expires.

RECOMMENDATION:

1. That, Report PD-027-20, regarding “Zoning By-law Amendment (Temporary Use By-law) – Fred & Beck Vrugteveen (Agent – Upper Canada Consulting)”, dated February 10th, 2020, be RECEIVED; and,
2. That, Section 34(17) of the Planning Act apply and that no further public meeting is required; and,
3. That, an application for Temporary Zoning By-law Amendment 1601-018-19 submitted by Upper Canada Consultants on behalf of Fred Vrgteveen and a corresponding temporary use bylaw for not more than two years be APPROVED and passed; and,
4. That, Staff be authorized to circulate the Notice of Decision for the Temporary Zoning By-law Amendment with the corresponding 20-day appeal period; and,
5. That, the applicant enters into a temporary use agreement with the Township prior to the by-law being signed to collect securities for the clean-up of the site should the business not be removed once the Temporary Use By-law expires.

ALIGNMENT TO STRATEGIC PLAN:

- **Theme**
 - Support for business and employment opportunities for residents

BACKGROUND:

An application has been submitted to request the temporary use of a part of a local business known as Niagara Pallets on a portion of 4981 Regional Road 20 for the purposes of the ongoing storage of pallets and wood chips.

Niagara Pallets was originally based out of Wellandport until it was determined a more suitable site was required for the business in 2003. The operation relocated and operated from 4981 Regional Road 20 without confirming if the business was a permitted use on the property.

Prior to the existence of Niagara Pallets on the property, the property operated as a beef farm. The beef farm used the 2 of the 5 large buildings on the property, which have now been removed, and the remaining three were used as chicken barns. These uses were permitted under the Township’s Zoning By-law as agricultural uses. When the beef farm vacated the property, it left the five large buildings empty and was what appeared to be the perfect operation site for Niagara Pallets.

Niagara Pallets currently occupies ±1.7ha (±4.3 acres) of the 8.6ha (21.2 acre) property. Approximately 76% of the area occupied by the business is covered by buildings or used for outdoor storage. According to the Township’s 2018 aerial imagery, there appears to be three large outbuildings, 1 small outbuilding and over 10 truck beds on the subject property for business purposes.

The property is surrounded by agricultural lands and small residential holdings to the west, south and east. To the north is more agricultural lands, environmentally protected lands as well as the Silverdale Gun Club.

Following the receipt of a by-law complaint in 2005, the Township advised Niagara Pallet in correspondence that the use was contrary to the Township's Zoning By-law.

In 2008, Niagara Pallets applied for a temporary use zoning, requesting a temporary time period of 3 years for the business to continue to operate on the subject property. This was to provide enough time for the business to find and relocate to a suitable location. A temporary use was granted for the business for 1 year (By-law 2008-147). It was indicated in Staff report PD-142-08 that if they had not relocated at the end of the 1-year time period, Niagara Pallets would have to apply for and be successful in obtaining an approved Regional Official Plan Amendment (ROPA), Local Official Plan Amendment (OPA) and Zoning By-law Amendment (ZBA) to bring the property into compliance. During this time the property was put into the ownership of Fred Vrugteveen.

In 2009, Niagara Pallets applied for a ROPA, OPA and ZBA to make the business permanent at the subject location in conjunction with a proposed switchgrass pelletization facility. The facility was intended to produce bio-fuel pellets to supply to the alternative/renewable energy industry. This application was deemed complete in February of 2010. After further review and discussions with the Niagara Region, the applicants withdrew the application once it was indicated that the Niagara Region was not in support of their ROPA application.

Niagara Pallets relocated the majority of their business to 2906 South Grimsby Road 8 sometime between 2014 and 2015 while appearing to continue to operate part of their business on the subject property.

The Township received further by-law complaints against the property in 2016 and 2017. The by-law complaint issues for this property have been spanning a total of 14 years to date.

The applicant has stated that the property they now operate the majority of their business from (2906 South Grimsby Road 8) is too small to fully accommodate the remainder of the business at 4981 Regional Road 20 and therefore a portion of the business remains at the subject property. They are currently attempting to purchase more land to address this issue. As such, the applicants are requesting a temporary use on the property for a time period of 3 years. This is to accommodate the storage of pallets, wood chips and other materials on the property, which has been operating on the property since 2003. A phasing plan was submitted via e-mail to planning staff stating that it will take approximately 3 years to expand their location at 2906 South Grimsby Road 8 before the site can accommodate the remainder of the business located at 4981 Regional Road 20 (see attachment 1).

The phasing plan is as follows:

- In 2020 Niagara Pallets will acquire and prepare the additional lands needed for outdoor storage abutting 2906 South Grimsby Road 8.
- In 2021, Niagara Pallets will build Phase 2 of their approved site plan (this build will bring their current outdoor storage indoors at 2906 South Grimsby Road 8 and bring the indoor storage from 4981 Regional Road 20 to the South Grimsby Road 8 location).

The applicants have requested a 3-year temporary time period as they have stated their estimated timeline will take up to 2 years to complete and any delays could extend the project by 6 months. The applicant's do not wish to ask for an extension to their temporary use every year.

The applicants have indicated that the grinder formerly used to create wood chips at 4981 Regional Road 20 has been sold and as such is no longer in operation on the subject lands.

CURRENT SITUATION:

Township Staff have reviewed the relevant Provincial, Regional and Local policy that applies to the temporary use application below:

1. Provincial Policy Statement (PPS)

The PPS does not speak to Temporary Uses. However, Section 2.3.6 of the PPS outlines where non-agricultural uses can be established in agricultural areas. It states that extraction of resources is permitted subject to Section 2.4 & 2.5. Limited non-residential uses are also permitted, provided that the use 1) does not compromise the specialty crop area, 2) complies with the Minimum Distance Setback (MDS), 3) is an identified need within the planning horizon for additional land to be designated to accommodate the proposed use, and 4) there are no reasonable alternative locations which avoid or are lower priority agricultural lands in the prime agricultural area.

PJR Analysis:

The submitted Planning Justification Report addresses these policies as follows: 1) the requested temporary use by-law seeks to use an already developed portion of a property, 2) there is no nearby livestock facilities and therefore MDS does not apply, 3) the application is for temporary use and will not require any change in the Official Plan designation of land for any use but agriculture and 4) the lands are owned by an owner of Niagara Pallets and are the most logical location for the storage of materials, as acquiring an additional parcel of land for a limited time is not economically feasible.

Staff Analysis:

The intent of the Temporary Use By-law is to temporarily allow for Niagara Pallets to continue operating from 4981 Regional Road 20 until they have appropriately prepared their main operation site at 2906 South Grimsby Road 8. Once it has been appropriately prepared, Staff have been informed that the remainder of the business operating at the Regional Road 20 property will be moved to the South Grimsby Road 8 property.

- 1) In order to ensure that the agricultural lands will not be compromised, Staff are requesting that the applicants enter into a temporary use agreement with the Township. This agreement will enable to Township to collect securities to ensure that the property is cleaned up to the satisfaction of the Township. If not, it is intended that the Township will use the securities collected to clean up the site.
- 2) There are no livestock facilities near the subject property and as such, MDS does not apply in this situation.
- 3) Staff recognize that there is a need for dry industrial properties for business within the Township of West Lincoln. However, Planning Staff are of the opinion the more appropriate location for Niagara Pallets is on their South Grimsby Road 8 property, which is appropriate zoned and intended for the use. The Temporary Use By-law will provide Niagara Pallets with enough time to relocate the remainder of their business at 4981 Regional Road 20 to 2906 South Grimsby Road 8.
- 4) Staff are of the opinion that there are reasonable alternative locations for the remainder of the business located on Regional Road 20, the most logical being the property the main business is located on South Grimsby Road 8. Staff understand that it will take time to relocate the remainder of the business to this property, and as such are in support of this Temporary Use application.

As such, Planning Staff are of the opinion that the proposed Temporary Use application meets the intent of the Provincial Policy Statement. Planning Staff will be requiring a Temporary Use Agreement to be signed by the applicant with securities collected. The Agreement is to ensure that the site will be cleaned to the Township's satisfaction once the Temporary Use has expired. If the site has been cleaned to the Township's satisfaction, the securities will be released back to the applicant.

2. A Place to Grow – Provincial Growth Plan (P2G)

Applications filed after June 16, 2006 must conform to the A Place to Grow – Provincial Growth Plan. Section 1.2.3 of the P2G provides direction on how to read the Growth Plan, specifically noting that: *This Plan must also be read in conjunction with other provincial plans as defined in the Planning Act that may apply within the same geography.* There are no applicable policies within the P2G that apply to temporary use zoning. However, the P2G does state that upper-tier municipalities will undertake integrated planning to manage forecasted growth to the horizon of this plan which will support the environmental and agricultural protection and conservation objectives of this plan (2.2.1.3.d).

Section 4.2.6 of the P2G contains policies for the Province's Agricultural System. Part of this section's policies note that prime agricultural areas, as identified by the Province, will be protected for long-term agricultural use (4.2.6.2) and that the retention of existing lots of record for agricultural uses is encouraged, and the use of these lots for non-

agricultural uses is discourage (4.2.6.5). Section 4.2.6.3 states that where agricultural uses and non-agricultural uses meet outside of settlement areas, land use compatibility will be achieved by avoidance, or where avoidance is not possible, minimizing and mitigating adverse impacts on the Agricultural System.

Section 2.2.5.1 of the P2G addresses the allocation of employment lands within the Province as follows:

Economic development and competitiveness in the *GGH* will be promoted by:

- a) Making more efficient use of existing *employment areas* and vacant and underutilized employment lands and increasing employment densities;
- b) Ensuring the availability of sufficient land, in appropriate locations, for a variety of employment to accommodate forecasted employment growth to the horizon of this plan;
- c) Planning to better connect areas with high employment densities to transit; and
- d) Integrating and aligning land use planning and economic development goals and strategies to retain and attract investment and employment.

PJR Analysis:

The PJR states that the P2G provides the direction that growth and development is to occur primarily in settlement areas. The PJR's concluding rationale is that the temporary use is considered to have no negative impact on the prime agricultural area and therefore should be permitted on a temporary basis as the temporary use seeks to use an already developed portion of property for the storage of wood materials.

Staff Analysis:

The P2G aims to protect agricultural uses and promote economic development. This temporary use application aims to provide the applicant with enough time to relocate the remaining portion of the Niagara Pallet's business at 4981 Regional Road 20 to its primary location at 2906 South Grimsby Road 8. The approval of this temporary use application will result in both the protection of agricultural land by bringing the agricultural property at 4981 Regional Road 20 back to its original state before or by the time the temporary use is up and promote economic development by aiding in the applicant's plan to intensify the primary location of their business.

The removal of the business by the end of the temporary use will also help promote the long-term use of the agricultural land. The sooner the land is restored to its original condition; the sooner the land can be used for long-term agricultural purposes once more. The removal of the business at the end of the temporary use will also help mitigate/minimize any impacts this business may have on the surrounding area.

As a result, Planning Staff are of the opinion that this application meets the intent of the P2G as the result of the temporary use is to eliminate Niagara Pallets from the agricultural land. To ensure that the use will be eliminated at the time the temporary use

expires, Planning Staff are recommending that the applicant enter into a temporary use agreement with the Township to collect securities for the clean-up of the site should the business still be in operation.

3. Greenbelt Plan

Applications must conform to the Greenbelt Plan if they fall within the mapping provided within the Greenbelt Plan. Since the subject lands are outside the area designated in the Greenbelt Plan, the PPS is the provincial policy that applies in this situation.

4. Regional Policy Plan (RPP)

The RPP designates the property as Good General Agricultural Area. Non-agricultural uses are not permitted in the agricultural areas subject to the following conditions:

- a. Non-agricultural uses are not permitted in Unique Agricultural Areas - Good Tender Fruit and Good Grape Areas.*
- b. Non-farm residential lots and uses are not permitted in Good General Agricultural Areas or in Rural Areas in close proximity to agricultural activity.*
- c. A demonstrated need for additional land to be designated within the municipality and the desirability of the proposed use to the community.*
- d. There are no reasonable alternatives in Rural Areas or in Urban Areas.*
- e. There are no reasonable alternative locations in other Good General Agricultural Areas with lower priority agricultural land.*
- f. The degree of conflict with surrounding agricultural uses. Any conflict should be mitigated to the extent feasible. This would depend on the size and nature of the proposed use, the existing agricultural uses, and on any buffering factors between them. For example, creeks, roadways and other prominent features would be helpful in defining and screening a non-agricultural use from surrounding farms;*
- g. Compliance with policies contained in Chapters 6 and 7, Environmental Policies including the Natural Heritage and Aggregate Resource Policies.*
- h. Applications must be supported by adequate technical assessment to ensure that private water supply and private sewage services can be provided.*
- i. Compliance with other policies contained in the Regional Official Plan.*

The ROP contains strategic objectives in Section 2 (Growing the Economy) to improve regional self-reliance through long-range economic development planning and economic diversification through attracting more employment through existing or new

firms (2.5.a) while providing for the conservation and wise use of Niagara's agricultural resources without compromising the needs of future generations by having preference for urban development on lower quality agricultural land (2.6.d).

The ROP's Employment Section contains policies on Rural Employment lands (areas marked as Rural in a mapped schedule) and Urban Employment lands but does not seem to contemplate employment lands in the agricultural area and as such contains no policies for this submitted application.

Policies around agricultural uses, on farm diversified uses and value-added agricultural uses can be found in Section 5 of the Niagara Region's Official Plan.

The Niagara Region was circulated the temporary use application for comment. The Region's full comments can be found at attachment 3.

PJR Analysis:

The submitted Planning Justification Report (PJR) refers to policy 5.B.8.3 of the Region's Official Plan, stating it provides the direction for the reasonable expansion or change in the use of properties in the Agricultural Areas. It quotes:

...Further, this Plan shall not prohibit the reasonable expansion or change in the use of such facilities provided Urban Area Boundaries are not superseded; the expansion does not involve a major intensification of land use in accordance with Policy 7.B.1.26, the expansion will not have a negative impact on the Core Natural Heritage System; or result in the intrusion of new incompatible uses; and subject to:

- e) The need and desirability of the operation;*
- f) Regard for environmental, agricultural and other policies of this Plan;*
- g) Compatibility with existing surrounding uses;*
- h) Access and servicing requirements being met; and*
- i) No additional municipal services being required.*

The PJR states that "based on the context of the portion of the site being used for temporary storage, consideration from a Regional perspective should be provided to this application. As proposed, the storage will be contained on a developed portion of the site that exhibits industrial characteristics. No urban boundaries are to be superseded (see attachment 2)."

Staff Analysis:

The ROP aims to improve Regional self-reliance through long-range economic planning while preserving agricultural lands for future generations. The intent of the temporary use application is to have the business removed from the agricultural lands located at 4981 Regional Road 20 before or by the time the temporary use has expired. This will improve the agricultural lands the business (Niagara Pallets) resides on by removing it from the property. This will also improve economic development within West Lincoln by locating the remainder of the business to its primary location at 2906 South Grimsby Road 8 and intensifying the existing use of the property.

Therefore, Planning Staff are of the opinion that the proposed temporary use application meets the intent of the Region's Official Plan (ROP).

5. Township of West Lincoln Official Plan (OP)

The Township's Official Plan designates the property as Good General Agricultural and Natural Heritage System. The Good General Agricultural designation does not permit non-agricultural uses to be located within the agricultural area.

One of the objectives for all Agricultural Areas in West Lincoln includes promoting and protecting a viable agricultural industry for the production of crop resources and livestock operations to enhance employment opportunities and strengthen the economic wellbeing of West Lincoln (4.2.a). Section 4.4.2 e) states that small scale commercial and industrial uses which do not require close proximity to agricultural operations shall be located in appropriately designated Settlement Areas.

The Township OP's Temporary Use policies state that Council may pass a by-law to authorize the temporary use of lands, buildings or structures for any purpose set out therein that is otherwise prohibited by this Plan or by the Zoning By-law. Temporary Use By-laws may be in effect for a maximum time period of 3 years (or less) and can be further extended for a maximum additional 3-year term (or less). Temporary Uses in the agricultural areas which are not farm-related are not permitted in the Good General Agricultural Area. It is up to Council to satisfy itself that the proposed use is temporary and will not create detrimental effects on the surrounding area.

PJR Analysis:

The PJR states that no land is being taken out of agricultural production as the business is already existing on the property, and that while the proposal does not meet the strict wording of the policy, the intent is considered to be upheld as there is no impact on agriculture.

It concludes that the overall benefit will be to facilitate the more expedient development of an appropriately located business that yields significant employment benefit to the municipality and that the requested temporary use is not considered to offend the policies or objectives of the OP.

Staff Analysis:

The intent of the Official Plan is to protect agricultural lands for agricultural purposes and to enhance and strengthen the economic wellbeing of West Lincoln. The intent of the proposed temporary use by-law is to do both. Before or once the temporary use expires on the subject lands, the business will be removed from the property and make it available for agricultural purposes once more. The time being provided to relocate Niagara Pallets to its main location at 2906 South Grimsby Road 8 is to allow for a more expedient development of the business. Once completed, the development of the primary location on South Grimsby Road 8 will permit for the remainder of the business to be relocated to these appropriately designated and zoned lands.

As such, Planning Staff are of the opinion the temporary use meets the intent of the Township's Official Plan.

6. Township of West Lincoln Zoning By-Law (ZBL)

The proposed temporary use by-law is requesting to temporarily permit a portion of a business for the storage of wood pallets, wood chips and other materials related to the Niagara Pallets business on the property, which works in conjunction with the primary location of the business at 2906 South Grimsby Road 8.

The Township's Zoning By-law zones the property a mix of Agricultural (A) and Environmental Protection (EP). The proposed location of the temporary use will be outside of the EP zone. The Agricultural zone permits for a single detached house, agricultural uses and a wayside pit or quarry (subject to Section 3.27) along with a number of uses accessory to a principle use.

The applicants have requested a temporary use time period of 3 years on the subject property. However, Staff have seen that their phasing plan requires 2 years to complete the works required. If delays require a third year, Planning Staff can consider a 1-year extension at that time. As such, Staff are recommending the Temporary Use By-law be granted for a time period of 2 years as opposed to the requested 3 years.

If approved, the temporary use by-law will only apply to the portion of the property outlined in the site plan provided with the application submission.

FINANCIAL IMPLICATIONS:

A temporary use agreement will be signed between the applicant and the Township with securities collected in the amount of \$55,000.00. This money will be used to clean up the site should the business still be present on the property once the temporary use by-law has expired.

INTER-DEPARTMENTAL COMMENTS:

Notice was circulated to interested internal department and agencies on November 8th, 2019 via e-mail and regular mail. The Building Department, Septic Inspector, Public Works Department, Drainage Superintendent and Niagara Peninsula Conservation Authority have no objection to the temporary use as proposed.

The Niagara Region submitted comments in relation to the application stating that they do not recommend that the application be approved.

Full inter-departmental and agency comments can be found at attachment 5.

PUBLIC COMMENTS:

Notice was circulated to all property owners within 120m of the subject lands via regular mail on November 8th, 2019. A yellow sign was posted on the property a minimum of 20 days before the hearing, and notice was posted to the Township's website.

A public meeting was held on December 9th, 2019. No written or oral public comments were received by Planning Staff.


CONCLUSION:

In conclusion, Planning Staff are of the opinion that the proposed temporary use application meets the intent of the PPS, P2G, ROP, OP and ZBL. Staff recommend the approval of this application with the condition that a temporary use agreement be signed and securities collected in the amount of \$55,000.00 from the applicant to be used at the expiration of the temporary use should the business not be removed in full from the property. Staff recommend the approval of the temporary use application for a time period of 2 years, as the mentioned phasing plan estimates a 2-year time period for the development of the primary business at 2906 South Grimsby Road 8.


Attachments:

1. Phasing E-Mail
2. Planning Justification Report
3. Location Map
4. Site Sketch
5. Agency Comments
6. Draft By-law

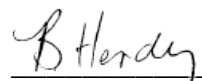
Prepared by:



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Director of Planning and Building



Alexa Cooper
Planner I



Beverly Hendry
CAO

Attachment 3 to PD-79-2022

From: Fred Vrugteveen <fred@niagarapallet.ca>
Date: December 3, 2019 at 9:05:08 AM EST
To: Brian Treble <btreble@westlincoln.ca>
Cc: Craig Rohe <craig@ucc.com>
Subject: Niagara Pallet

Good Morning Brian

Per our conversation regarding the temporary use for 3 years at my farm, I have the following timeline for our expansion at 2906 South Grimsby Rd. 8

2020 acquire and prepare the additional lands required for outdoor storage

2021 build phase 2 (this will displace our current outdoor storage and will provide us the indoor storage required when completed to eliminate the need for indoor storage at our farm)

We are asking for a 3 year as the above timeline takes up 2 years and any delays could extend the completion of these activities by 6 months or more and we don't want to comeback every year

Thanks again, we look forward to your support on Monday night

Fred Vrugteveen
www.niagarapallet.ca

905-386-7543 Ext. 22

Planning Justification Report

4981 Highway 20

West Lincoln, ON

November 2019

**Upper Canada Consultants
3-30 Hannover Drive
St. Catharines, ON L2W 1A3**



PREFACE

Upper Canada Consultants respectfully submits this Planning Justification Report in relation to an application for **Temporary Use By-law** at 4981 Highway 20 in the Township of West Lincoln, within the Regional Municipality of Niagara.

The purpose of the submitted Temporary Use By-law is to allow for the storage of pallets, wood chips and other materials on the property. These materials are being brought to the site from Niagara Pallet facility that is under construction (expansion) at 2906 South Grimsby Road 8.

A mix of existing outdoor and indoor storage space at 4981 Highway 20 will be used on a temporary basis while the new facility is constructed. A temporary use by-law with a validity period of 3-years requested.

This report will illustrate how the application aligns with applicable Provincial, Regional and local land use planning policies.

DESCRIPTION AND LOCATION OF THE SUBJECT LANDS

This application pertains to lands known municipally as 4981 Highway 20 in the Township of West Lincoln, within the Regional Municipality of Niagara. Please see **Figure 1**, below.



Figure 1 - Aerial View of Subject Lands (Cropped from Niagara Navigator)

The subject lands currently contain two single detached dwellings, three (3) metal sided industrial style storage buildings and a pond. There are some small accessory structures on the property as well. The existing dwellings are at the front of the property with the industrial “yard” located to the rear. The balance of the lands are provincially significant wetlands.

Adjacent land uses are agricultural with residential dwellings. The Silverdale Gun Range abuts the rear property line.

Please see **Appendix I** for a copy of an annotated Site Plan.

THE PROPOSED DEVELOPMENT

As outlined in **Figure 2** the owner is proposing to use a portion of his personal property for the temporary storage of materials associated with Niagara Pallet.

Currently, an expansion is under development at the Niagara Pallet facility. Due to construction, there is limited storage space for materials to remain on-site and an alternative, temporary off-site storage location is required. The subject lands have been serving as the site of the temporary storage for these materials, and recently the owner was asked by the Municipality to obtain the required planning approvals.

The portion of the property being used for storage consists of existing industrial style buildings and granular and hard surface area. To allow for the temporary use of the property for storage purposes, a Temporary Use By-law is required from the Township. The desired duration of the by-law is 3-years from issuance.



Figure 2 – Annotated Image Showing Area To Be Used For Storage

Phasing

While the Niagara Pallet facility on South Grimsby Road 8 is being expanded, materials are proposed to be kept at 4981 Highway 20. The expected building period until the expanded facility is able to take back the materials proposed to be stored at 4981 Highway 20 is approximately three years, consistent with the extend of the temporary use by-law.

Once construction is complete, the materials will be moved back to the Niagara Pallet site.

PROVINCIAL PLANS

Land use planning applications within this portion of West Lincoln are subject to the policies of the 2017 Growth Plan for the Greater Golden Horseshoe (Growth Plan/ PTG) 2014 Provincial Policy Statement (PPS).

Both plans provide direction that growth and development is to occur primarily in settlement areas. As this application is being made to facilitate a temporary use outside of a settlement area, regard for the applicable agricultural designation is required, in this case, being in a Prime Agricultural Area.

Prime Agricultural Areas are to be protected for long-term agricultural use (PPS 2.3.1). To facilitate this protection, only agricultural and agriculture-related uses are permitted to be established, however, non-agricultural uses may be permitted subject to the criteria in Policy 2.3.6 of the PPS.

Outside of the extraction of natural resources, limited non-residential uses may be established provided that the lands are not a specialty crop area, that the use complies with the Minimum Distance Formulae (MDS), there is an identified need for lands to be designated to accommodate the use and that there are no reasonable alternative locations.

The requested temporary use by-law seeks to use an already developed portion of a property for the storage of wood materials. As there are no viable livestock facilities nearby, there is no need for an MDS calculation. As noted, this application is for temporary use and will not require any change in the Official Plan designation of land for any use but agriculture. Lastly, the lands are owned by an owner of Niagara Pallet and are the most logical location for the storage of materials, as acquisition of an additional parcel of land for a limited time is not economically feasible.

Based on this rationale, the temporary use is considered to have no negative impact on the prime agricultural area and should be permitted on a temporary basis.

REGIONAL OFFICIAL PLAN (2015 Consolidation)

The Regional Official Plan provides a comprehensive and long range planning vision for the Regional Municipality of Niagara. Its focus is primarily on implementing Provincial Policy (i.e. Growth Plan, PPS, Greenbelt Plan, and Niagara Escarpment Plan) and providing regional-level land use planning direction on attributes and resources unique to Niagara.



Figure 3 - Schedule B of Regional Official Plan (Cropped)

The subject lands are located within the Good General Agricultural Area as shown on Schedule B of the Regional Official Plan (ROP) (see **Figure 3**). The use of Agricultural lands for non-agricultural purposes is generally prohibited, save for those uses that are agriculturally related or legally-established.

Although the proposed temporary use is not agriculturally related, the portion of the property to be used for storage is industrial in character and not in agricultural production.

Policy 5.B.8.3 of the Regional Official Plan provides the direction for the reasonable expansion or change in use of properties in the Agricultural Areas. The policy specifically notes that:

"... Further, this Plan shall not prohibit the reasonable expansion or change in the use of such facilities provided Urban Area Boundaries are not superseded; the expansion does not involve a major intensification of land use in accordance with Policy 7.B.1.26, the expansion will not have

a negative impact on the Core Natural Heritage System; or result in the intrusion of new incompatible uses; and subject to:

- a) the need and desirability of the operation;*
- b) regard for environmental, agricultural, and other policies of this Plan;*
- c) compatibility with existing surrounding uses;*
- d) access and servicing requirements being met; and*
- e) no additional municipal services being required.*

Further policies guiding the continued operation and possible expansion of such existing uses should be included in local official plans. In addition, within the Niagara Escarpment Plan area, the Niagara Escarpment Plan Policies apply to existing uses.”

Based on the context of the portion of the site being used for temporary storage, consideration from a Regional perspective should be provided to this application. As proposed, the storage will be contained on a developed portion of the site that exhibits industrial characteristics. No urban boundaries are to be superseded.

With regard to Policy 7.B.1.26, it states that:

“Subject to other policies in this Plan an expansion to an existing use located within an Environmental Conservation Area or Fish Habitat or adjacent lands to a Core Natural Heritage System Component as identified in Table 7-1 may be permitted if it will have no significant negative impact on the natural feature or its ecological functions. If the expansion involves a substantial intensification in land use or increase in the land area devoted to the use the proponent shall prepare an Environmental Impact Study in accordance with Policies 7.B.2.1 to 7.B.2.5.”

Although the subject lands contain a provincially significant wetland, the proposed storage area does not abut the feature. There is an existing pond on the property that both Niagara Region and Niagara Peninsula Conservation Authority staff have indicated has a ecological linkage to the wetland. To ensure no potential contamination of the pond and subsequently the wetland occurs, a silt fence has been installed along the southern edge of the pond (see **Figure 4**).



Figure 4 - Silt Fence Protection Along Pond

The desirability of the temporary use is rooted in what it facilitates, namely the ability to expeditiously construct the new Niagara Pallet facility. This business is a leading employer in the municipality and is continuing to invest. This temporary relief to permit storage will ensure a more expeditious development of the new Niagara Pallet facility and facilitate job creation.

With regard to compatibility, the proposed use is indoor and storage. Aside from some minimal noise generated by delivery trucks, this is a static use with no odours, vibrations or emissions.

The site is accessed from Highway 20 and the storage area is designed in a manner that can receive transport trucks. No additional accesses are required.

The storage use is best categorized as a dry industrial use as it requires no water or sanitary services to operate.

Based on the above, this temporary use can be considered as a reasonable use of the property as there will be no negative impact on the surrounding agricultural area.

Niagara Peninsula Conservation Authority Policy Document (2018)

The Niagara Peninsula Conservation Authority (NPCA) is the regulatory agency responsible for the administration of Ontario Regulation 155/06 in the Regional Municipality of Niagara. In addition to the Regulation, the NPCA also reviews Planning Act applications.

The subject lands contain a provincially significant wetland and a large pond. Provincially significant wetlands are regulated by the NPCA.

Through pre-consultation, the NPCA has indicated that runoff and silt protection is required to ensure that the storage of materials does not contaminate the on site pond and subsequently the wetland. At the request of the NPCA, the owner has installed a silt fence along the southern boundary of the pond. This fence was been inspected by NPCA staff in October 2019 and they have indicated to the owner that it is an acceptable method of mitigating potential contamination



Figure 5 - Silt Fence Installed at the Request of NPCA and Niagara Region

TOWNSHIP OF WEST LINCOLN OFFICIAL PLAN (2018 Consolidation)

The Township of West Lincoln Official Plan is the long range planning tool that is used to guide growth and development in the municipality.

As shown on “Schedule B1” of the Official Plan, the subject lands are designated as Good General Agricultural (see **Figure 5**).



Figure 6 - Schedule B1 of the Township of West Lincoln Official Plan (Cropped)

Consistent with Provincial and Regional Plans, Agricultural Area are to only be used for Agricultural uses.

As noted, the portion of the property to be used for storage is not in agricultural production and is reflective of a former industrial context. Due to these circumstances, the identified portion of

lands to accommodate the storage should be considered as an appropriate temporary location for the storage of wood products.

Policy 18.4.1 Temporary Uses By-laws

Policy 18.4.1 of the Official Plan outlines the circumstances where a temporary use by-law may be considered. The policy is as follows:

Council may, in a by-law passed under the Planning Act, authorize the temporary use of lands, buildings or structures for any purpose set out therein that is otherwise prohibited by this Plan or by the Zoning By-law. Such a by-law may be in effect for a maximum period of three years for all temporary uses, except garden suites. Garden suites may have by-laws passed to be in effect for up to ten (10) years from the date of passage. Council may extend the term of the by-law, by further by-law amendment, for a maximum additional three (3) year term. Council shall satisfy itself that the proposed use is temporary, and will not create detrimental effects on the surrounding area. Temporary uses not allowed by the applicable policies of this Plan will not be permitted. Temporary uses, buildings and structures that are not farm-related shall not be permitted in the Unique or Good General Agricultural Areas. Upon expiry of a Temporary Use By-law, uses permitted by that By-law must cease and cannot be considered as non-conforming uses. The type of uses envisaged by Council as requiring a temporary use by-law include, but shall not be limited to: temporary use of a mobile home as a dwelling unit, or the existence of two homes on one lot while one of the homes is under construction.

As outlined in the, uses that are not farm-related shall not be permitted in the Unique or Good General Agricultural Area. While this application would be proposing a dry industrial type use in the agricultural area, there is no impact to the farmable portion of the subject lands or adjacent properties.

The prohibition on temporary uses that are not farm related is believed to be in place to ensure that variable agricultural lands are not taken out of production or used in a manner that limits the performance or ability to expand for adjacent agricultural uses. As indicated, the portion of the lands that are to be used for the storage of materials is already industrial in character and not farmed. While the proposal may not meet the strict wording of the policy, the intent is considered to be upheld as there is no impact on agriculture.

The overall benefit of allowing this temporary use to facilitate the more expedient development of an appropriately located business that yields significant employment benefit to the

municipality is in the favour of the Municipality. Council can ultimately set the provisions of the by-law and set appropriate checks to ensure compliance.

Based on the above, the request temporary use by-law is not considered to offend the policies or objectives of the Official Plan.

TOWNSHIP OF WEST LINCOLN ZONING BY-LAW (By-law 2013-283)

Map D8 of the Township of West Lincoln Zoning By-law shows the subject lands as being zoned Agricultural (A) with a portion zoned as Environmental Protection (EP) (see **Figure 7**).

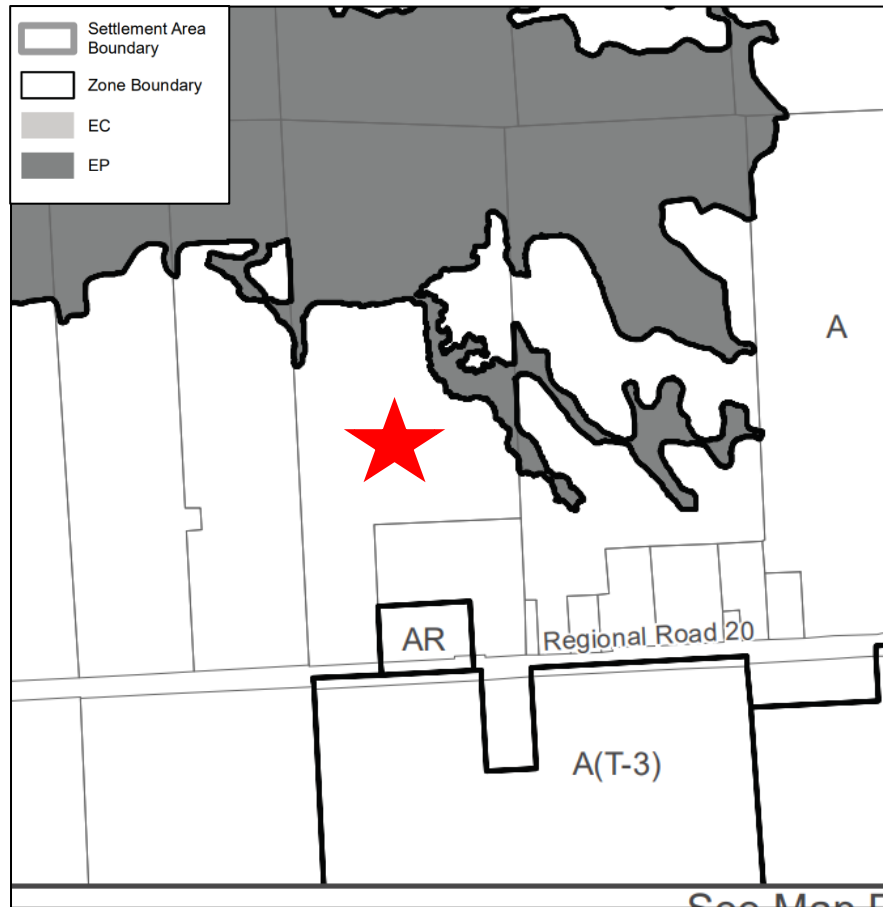


Figure 7 - Map D8 of the Township of West Lincoln Zoning By-law (Cropped)

Consistent with the Official Plan, the subject lands are zoned for Agricultural land uses. Non-agricultural uses are not permitted in Agricultural Zones. Accordingly Councils permission is required to allow for a use not otherwise permitted on these lands.

There is value in noting that outdoor storage on Agricultural properties is permitted, but only in circumstances where it is related to the primary use of the lands.

By virtue of this provision, an argument can be made that the proposed temporary storage use would be no more intrusive than outdoor storage for an agricultural or agricultural related uses. Theoretically, if the use shipped agricultural products, then the storage of pallets or other packing materials could be permitted.

PLANNING POSITION

Based on the submitted analysis, the proposed temporary use will not have any negative impact on the surrounding agricultural area. No additional land, buildings or services are required to facilitate this temporary use. Further, the requested relief will allow for the more expedient construction of a key employer in the municipality.

The requested temporary use by-law is considered appropriate for the property and is appropriate to approve for a three-year period, consistent with Policy 18.4.1 of the Township Official Plan.

Respectfully Submitted,

A handwritten signature in blue ink, appearing to read 'Craig Rohe', is positioned above the printed name.

Craig Rohe M.Pl., MCIP, RPP
Senior Planner
Upper Canada Consultants

Appendix I – Annotated Site Plan



Fifteen-Road

Silverdale-Road

Book-Road

Concession 4-Road

Beamer-Road

4981

Highway 20

Schram-Road

Vaughan-Road

Heaslip-Road



Location Map
4981 Regional Road 20



Legend





4981 HIGHWAY 20

-

**TOWNSHIP OF WEST LINCOLN
TEMPORARY USE PLAN**

DATE	2019-11-08
SCALE	1:1000 m
REF No.	.
DWG No.	1363-TEMP



Application Number:	1601-018-19
Date:	November 8, 2019
Property Address:	4981 Regional Road 20
Project:	Temporary use

Planning Staff,

Please be advised that the information circulated for review with respect to the planning application referenced above has been reviewed by this office. In conclusion of the review, the Building and Enforcement Department has no objection to the application and has no comments to offer at this time.

Be further advised that the right is reserved to make additional comment with regard to this application should any additional information be made available. Any further requests of this office should be directed to the undersigned.

Respectfully,

Building Department



Application Number:	1601-018-19
Date:	November 11, 2019
Property Address:	4981 Regional Road 20
Project:	Niagara Pallets

Planning Staff,

Please be advised that the information circulated for review with respect to the planning application referenced above has been reviewed by this office. In conclusion of the review, the Septic Department has no objection to the application and has no comments to offer at this time.

Be further advised that the right is reserved to make additional comment with regard to this application should any additional information be made available. Any further requests of this office should be directed to the undersigned.

Respectfully,

Lyle Killins, C.P.H.I.(c)
Part 8, O.B.C., Septic System Inspector Manager
Building and Bylaw Enforcement Services Department



318 Canborough St. P.O. Box 400
 Smithville, ON
 L0R 2A0
 T: 905-957-3346
 F: 905-957-3219
www.westlincoln.ca

NOTICE OF PUBLIC MEETING FOR PLANNING MATTERS

Get involved with your input. The Township of West Lincoln Planning/Building/Environmental Committee will hold a Public Meeting in accordance with the Planning Act at an accessible facility where the matter(s) below will be considered. The meeting will take place:

DATE: MONDAY, DECEMBER 9th, 2019

TIME: 6:30PM

Council Chambers, Township Office, 318 Canborough Street, Smithville

About the Planning Application(s) (Location map on back):

File Number and Name: Niagara Pallets (File No. 1601-018-19)

An application to permit a temporary use has been submitted for lands legally described as Concession 4, Part of Lot 16, in the Township of West Lincoln. The property is municipally known as **4981 Regional Road 20**. The property is located on the north side of Regional Road 20, east of Silverdale Road.

An application has been submitted to allow for the temporary use for the ongoing storage of pallets and wood chips associated with a local business known as Niagara Pallet. A temporary use by-law can permit a temporary use for up to 3 years. The applicant has indicated on their application that they are requesting the temporary use for 3 years.

The Planner to contact for this application:

Name: Alexa Cooper, Planner I

Call: 905-957-3346 ext. 5140

How to provide comment

Any person may attend the meeting and/or provide written or verbal representation on the above proposal(s). We ask that any written comments be provided by **THURSDAY NOVEMBER 28, 2019** to the Township Clerk, Joanne Scime so that they may be incorporated into the staff report, however, written comments may be made any time prior to the meeting **MONDAY, DECEMBER 9, 2019**. Please be sure to clarify which file your comments apply to.

Important information about making a submission

If a person or public body does not make oral submissions at a public meeting or make written submissions to the Township of West Lincoln Planning/Building/Environmental Committee before the by-law is passed, the person or public body is not entitled to appeal the decision of the Council of the Township of West Lincoln to the Local Planning Appeal Tribunal.

If a person or public body does not make oral submission at a public meeting, or make written submissions to the Township of West Lincoln Planning/Building/Environmental Committee before the by-law is passed, the person or public body may not be added as a party to the hearing of an appeal before the Local Planning Appeal Tribunal unless, in the opinion of the Tribunal, there are reasonable grounds to do so.

Any written comments received with regard to this application will constitute part of the public record for this particular file, in accordance with the Planning Act.

For more information

Planning documents and background material for any application is available for viewing during regular office hours at:

Planning Department

318 Canborough Street, Smithville

Call: **905-957-3346**

E-mail: planning@westlincoln.com

Website: www.westlincoln.com

Copies of the Staff Report will be available on FRIDAY, DECEMBER 6th, 2019 after 4 PM.

If you would like to be notified of Township Council's decision with respect to any planning application, you must make a written request (specifying which file number) to: **Joanne Scime, Township of West Lincoln, 318 Canborough Street, Smithville, ON L0R 2A0**

PUBLIC WORKS DEPARTMENT

NO OBJECTION

Name: Jennifer Bernard

Sign: J. Bernard

Date: November 12, 2019

Dated: November 8th, 2019

Attachment 3 to PD-79-2022

From: [Mark Jemison](#)
To: [Alexa Cooper](#)
Cc: [Ray Vachon](#); [Mike DiPaola](#)
Date: November 26, 2019 10:54:41 AM
Attachments: [image002.png](#)
[image003.png](#)
[image004.png](#)
[image4e2aa.PNG](#)
[imageab3856.PNG](#)
[image5f91b4.PNG](#)

Good morning Alexa,

File No. 10601-018-19: the subject property is not assessed to a municipal drain. As such I have no concerns or comments.

Thank you,

Mark

Mark Jemison	
	Drainage Superintendent
	Tel: 905-957-3346 ext. 4695
	Email: mjemison@westlincoln.ca
	Web: www.westlincoln.ca
	
	

The information transmitted, including attachments, is intended only for the person(s) or entity to which it is addressed and may contain confidential and/or privileged material. Any review, retransmission, dissemination or other use of, or taking of any action in reliance upon this information by persons or entities other than the intended recipient is prohibited. If you received this in error, please contact the sender and destroy any copies of this information.

November 26, 2019

File: PLZBLA201901009

BY E-MAIL ONLY

Town of West Lincoln
Committee of Adjustment
318 Canborough Street
Smithville, Ontario L0R 2A0
acooper@westlincoln.ca

Attn: Alexa Cooper – Secretary/Treasurer

Subject: Application for Temporary Use: (1601-018-19)
Owner: Fred Vrugteveen
4981 Highway 20, Concession 4, Part of Lot 16
ARN 260202001017100

The Niagara Peninsula Conservation Authority (NPCA) has reviewed Town of West Lincoln Application for a Temporary Use and offers the following comments for your hearing.

The application has been submitted to allow for the temporary use for the ongoing storage of pallets and wood chips associated with a local business known as Niagara Pallet. A temporary use by-law can permit a temporary use for up to 3 years.

The NPCA's Regulation Mapping illustrates that the subject lands contain Provincially Significant Wetland (PSW) associated with the St. Ann's Slough Forest Wetland Complex. The PSW provides for natural flood attenuation during storm events and, as such, it is important to maintain the hydrologic function of wetlands to assist in minimizing flooding impacts downstream. In addition to protecting the natural features and functions of a wetland, development setbacks assist in maintaining the hydrologic regime of the lands adjacent to a wetland, minimize the potential for contamination of the ground water and surface water and provide lands for activities such as nesting, resting, feeding and shelter for wetland species. In accordance with the NPCA's policies and regulations, no development (including lot creation) or site alterations (i.e. grading/fill) are permitted within a wetland and a 30 metre development setback buffer measured from the edge of the wetland is also required for most development and site alterations.

The NPCA has reviewed the Site Plan submitted in support of the subject application and notes that the proposed storage of pallets will be located outside the wetland feature and associated 30 metre buffer. As such, the NPCA has no objection to the Temporary Use Application 1601-018-19.

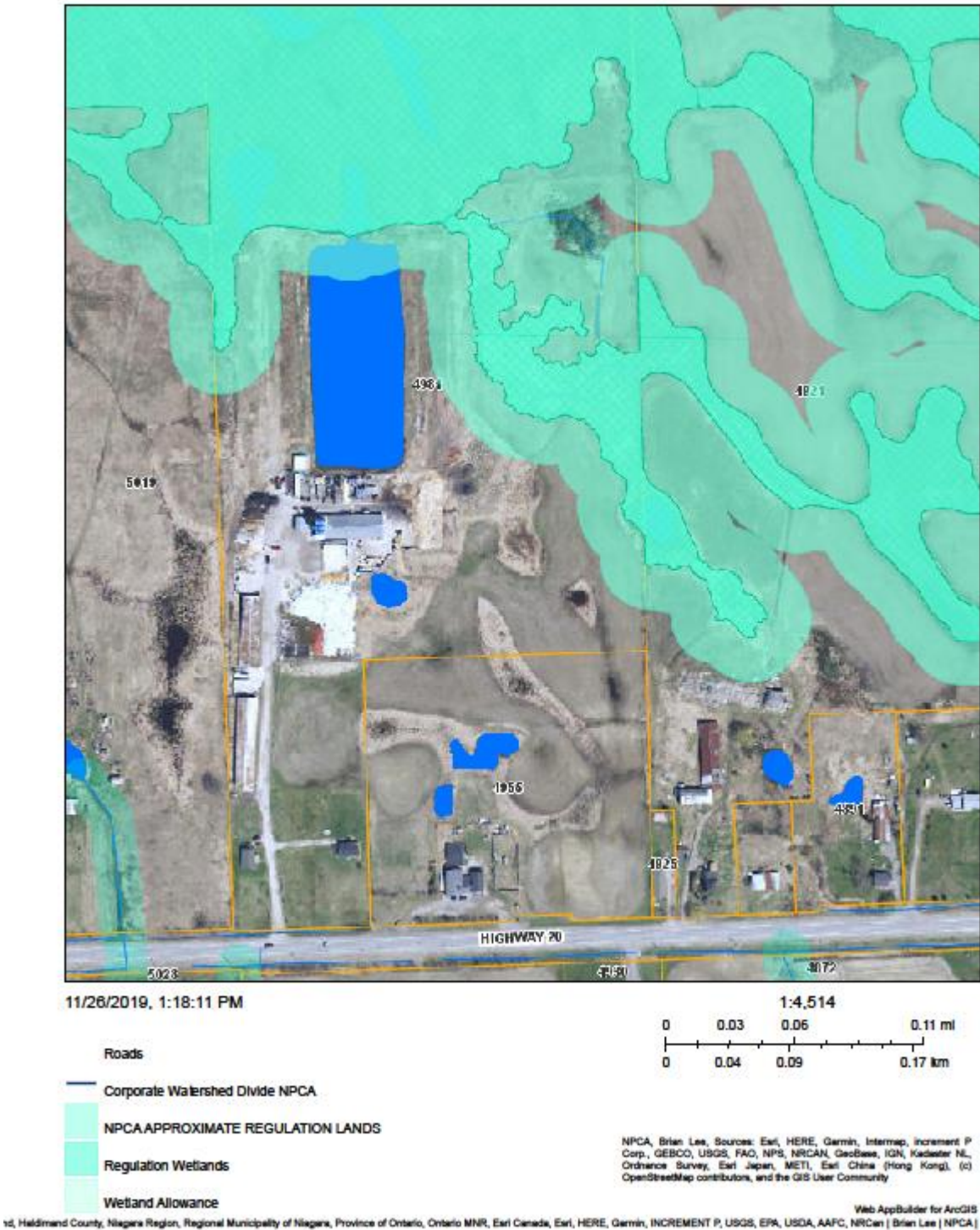
As part of the approval process, The Town of West Lincoln will have the next steps of a technical report and a final recommendation report. The NPCA recommends adding a section requiring erosion and sediment control fencing to be installed along the edge of the pond closest to where pallets will be stored.

Yours truly,
Jessica Abrahamse M.E.S.



Watershed Planner
Niagara Peninsula Conservation Authority
250 Thorold Road West, Welland, On.
Tel: (905) 788-3135 x 235
jabrahamse@npca.ca

4981 Highway 20, West Lincoln



Via Email Only

November 28, 2019

File No.: D.18.12.ZA-19-0129

Alexa Cooper
Planner I
Township of West Lincoln
318 Canborough Street
Smithville, ON L0R 2A0

Dear Ms. Cooper:

**Re: Regional and Provincial Comments
Proposed Temporary Use By-law
Township File No.: 1601-018-19
Applicant: Craig Rohe (Upper Canada Consultants)
Owner: Fred & Beck Vrugteveen
4981 Regional Road 20
Township of West Lincoln**

Regional Planning and Development Services staff has reviewed the proposed Temporary Use By-law for the ongoing storage of pallets and wood chips on the subject property, 4981 Regional Road 20, in association with a local business known as Niagara Pallet. The applicant has requested the temporary use for a period of three (3) years on the subject lands. Niagara Pallet has an approved site plan to expand the existing business located at the corner of Regional Road 20 and South Grimsby Road 8. The temporary use by-law has been requested to assist with the expansion of the business through providing for storage space on a separate property (4981 Regional Road 20) in the interim. A pre-consultation meeting was held at the Township on October 17, 2019, with the owner, applicant/agent, and staff from the Township, Region and Niagara Peninsula Conservation Authority. At the time of the pre-consultation meeting, Regional staff informed the applicant/agent and owner that the proposal did not conform to relevant Provincial or Regional policies. The following Provincial and Regional comments are provided to assist the Township in considering this application.

Provincial and Regional Policies

The subject property is located within the Prime Agricultural Area according to the Provincial Policy Statement (PPS), and designated Good General Agricultural Area in

the Regional Official Plan (ROP). Provincial and Regional policies recognize that agricultural land is a valuable asset that must be properly managed and protected. Generally, non-agricultural uses are directed to the urban area and should not be located in the agricultural area. It is important to note that the proposed temporary use has existed on the subject property for a number of years, without municipal approval; the temporary use by-law is sought to permit the existing illegal use on a temporary basis.

Provincial Policy

The PPS promotes the use of agricultural lands for agriculture, agriculture-related and on-farm diversified uses, and generally directs non-agricultural uses outside of the Prime Agricultural Area. Policy 2.3.6.1 of the PPS provides that non-agricultural uses are only permitted in the Prime Agricultural Area in specific circumstances, including:

- b) limited non-residential uses, provided that all of the following are demonstrated:
 - 1. the land does not comprise a *specialty crop area*;
 - 2. the proposed use complies with the *minimum distance separation formulae*;
 - 3. there is an identified need within the planning horizon provided for in policy 1.1.2 for additional land to be designated to accommodate the proposed use; and
 - 4. alternative locations have been evaluated, and
 - i. there are no reasonable alternative locations which avoid *prime agricultural areas*; and
 - ii. there are no reasonable alternative locations in *prime agricultural areas* with lower priority agricultural lands.

The submitted Planning Justification Report (PJR; prepared by Upper Canada Consultants, dated November 2019) provides some analysis of the above PPS policy. The PJR states that the use has already been existing on the subject property; the use does not require a minimum distance separation calculation; and, since the lands are owned by an owner of Niagara Pallet, the use of these lands are the “most logical location” for the storage of the materials. Regional staff are not satisfied that sufficient information has been provided to permit the non-agricultural use in the Prime Agricultural Area in alignment with PPS policies. Specifically, the subject lands are not intended for inclusion within a rural or settlement area boundary expansion; and alternative locations which avoid prime agricultural areas do not appear to have been given due consideration. While the lands are owned by an owner of Niagara Pallet, and the use has illegally existed on the property for a number of years, this rationale does not satisfy the relevant policies in the PPS to permit such non-agricultural use.

Regional Policy

The ROP, in alignment with the PPS, promotes agricultural, agriculture-related and on-farm diversified uses in the Good General Agricultural Area, and notes that “non-

agricultural uses should not be located in agricultural areas [as]...the introduction of [these uses] has an adverse impact on the agricultural and natural resources and shall be strictly limited.” Policy 5.B.7 continues to provide criteria upon which a non-agricultural use may be considered in the agricultural area, which is to be reviewed through a Regional Official Plan Amendment, and subject to numerous conditions. The conditions listed in Policy 5.B.7 are largely synonymous with the criteria listed in Policy 2.3.6.1 of the PPS, including but not limited to:

- c) A demonstrated need for additional land to be designated within the municipality and the desirability of the proposed use to the community.
- d) There are no reasonable alternatives in *Rural Areas* or urban areas.
- e) There are no reasonable alternative locations in other Good General *Agricultural Areas* with lower priority agricultural land.

The PJR provides that it is desirable to store the pallets and wood chips on this property from a financial perspective (i.e. the business does not need to purchase additional lands); however, consideration for alternative lands in the rural or urban areas do not appear to have been contemplated. Further, there has not been a demonstrated need for the subject lands to be brought into the rural or urban area boundary or redesignated.

The submitted PJR also points to ROP Policy 5.B.8.3, which allows for reasonable expansion or change in use of legally established facilities, subject to a number of criteria. However, it is the understanding of Regional Staff that the on-site facilities were not legally established, therefore Policy 5.B.8.3 is not applicable.

While the proposed temporary use by-law has been submitted to recognize the continued use of the property for the storage of pallets and wood chips, Regional staff are not satisfied that the application meets the intent or direction of Provincial or Regional policies.

Natural Heritage

The subject property contains and is adjacent to portions of the Region’s Core Natural Heritage System (CNHS), including the St. Anns Slough Forest Provincially Significant Wetland (PSW) Complex, Provincially Significant Life Science Area of Natural and Scientific Interest (ANSI) known as the South St. Anns Slough Forest, Significant Woodland, and Important (Type 2) Fish Habitat. The property is also partially mapped as part of the Growth Plan (2019) Provincial Natural Heritage System (PNHS). As such, the CNHS features on and adjacent the property are considered Key Hydrologic and Key Natural Heritage Features (KHF/KNHF) and the natural heritage policies identified in the Growth Plan apply.

Growth Plan policies typically require the completion of a Natural Heritage Evaluation (NHE) to demonstrate no negative impact to KHF/KNHFs. However, given that the application is for temporary storage of pallets and wood chips, and given that the

temporary storage area is greater than 30 metres from the KHF/KNHFs, staff would not require the completion of a NHE should the use be permitted. If the use is approved, Staff would instead require that silt fencing be installed and maintained for the duration of the temporary use around the perimeter of the storage area to prevent sediment/materials from encroaching towards the KHF/KNHFs. Staff understand that this fencing has already been installed and inspected to the satisfaction of the Niagara Peninsula Conservation Authority (NPCA).

Conclusion

Regional Planning and Development Services staff is unable to support the proposed Temporary Use By-law to permit the ongoing storage of pallets and woodchips on the subject property, as it does not conform to or meet the intent of Provincial and Regional policies. It is the understanding of Regional Staff that the property is not afforded legal-non conforming use status, as the existing facilities were established illegally. Further, the proposal fails to meet the requirements for permitting a non-agricultural use in the agricultural area, as listed in the Provincial Policy Statement and Regional Official Plan.

Based on the above comments and conclusion, Regional staff recommends that this application not be approved.

If you have any questions or wish to discuss these comments, please contact the undersigned at extension 3352 or Aaron Butler, MCIP, RPP, Senior Development Planner, at extension 3264.

Please send a copy of the staff report and notice of the Township's decision on this application.

Best regards,

A handwritten signature in black ink, appearing to read 'Aimee Alderman', with a stylized, flowing script.

Aimee Alderman, MCIP, RPP
Development Planner

cc: Mr. A. Butler, MCIP, RPP, Senior Development Planner, Niagara Region
Mr. P. Busnello, MCIP, RPP, Manager, Development Planning, Niagara Region
Mr. R. Alguire, Development Approvals Technician, Niagara Region
Mr. A. Boudens, Senior Environmental Planner/Ecologist, Niagara Region

Attachment 3 to PD-79-2022

From: [Brian Treble](#)
To: [Busnello, Pat](#)
Cc: [Morreale, Diana](#); [Alderman, Aimee](#); [Development Planning Applications](#); [Alexa Cooper](#)
Date: January 29, 2020 6:09:04 PM
Attachments: [image578c0e.PNG](#)
[image17d13e.PNG](#)
[image0ef700.PNG](#)

Pat:



Thank you for this. It is messy and we are trying to achieve enforcement as effectively as possible.....while at the same time supporting business growth in a legal location and manner.

Diana:

Sorry. I was in interviews all afternoon, and am in Examinations of Discovery tomorrow. We can chat on Friday if we need to.

Brian

Sent from my iPhone

Brian Treble	
	Director of Planning & Building
	Tel: 905-957-3346 ext.5138
	Email: btreble@westlincoln.ca
	Web: www.westlincoln.ca
	
	

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On Jan 29, 2020, at 5:28 PM, Busnello, Pat <pat.busnello@niagararegion.ca> wrote:

Good Afternoon Brian,

Following up from our discussion on Friday, and further to our comments dated November 28, 2019 on the proposed Temporary Use By-law, the following additional comments are offered for your consideration.

We are aware of the long-standing, non-complying industrial operation by Niagara Pallet at this property and the Township's many efforts to achieve compliance with the Zoning By-law, which includes By-law enforcement actions to compel the owner to cease the illegal activities as well as the

processing of concurrent OPA and ROPA to permit the pallet use (in addition to a switch grass pelletization facility). Those applications were eventually withdrawn by the owner who advised the Township and Region that they were relocating their operation outside of the Township and Niagara region (i.e. to the Hamilton area); however, the illegal activities continue on this site even after Niagara Pallet acquired and established an operation at Regional Road 20 and South Grimsby Road 8, which is the subject of a site plan application for the expansion of this use for required storage. The Temporary Use By-law is requested to allow Niagara Pallet sufficient time to complete its expansion plans.

The Region is appreciative and fully supportive of the Township's efforts to ensure that illegal non-complying uses cease and, as in this instance, relocate to a site with appropriate zoning permissions to accommodate the use. We understand Niagara Pallet has indicated that their expansion will take approximately two years and has requested a Temporary Use By-law for up to three years to provide for a contingency for any unanticipated delays in order to allow continued storage use until that time.

It is also our understanding from our discussions that Township staff is contemplating recommending up to a two year Temporary Use By-law in conjunction with obtaining financial securities (e.g. Letter of Credit), to be registered on title, to ensure that the Niagara Pallet finalizes its expansion at their main site within a reasonable timeframe and restores this site to the Township's satisfaction.

Regional staff is aware of and appreciates the significant financial burden on the Township budget and limited staffing resources in undertaking By-law enforcement actions, which recently includes illegal soil dumping activities and, previously, the establishment of illegal contractor's yards throughout West Lincoln's agricultural lands. We share the Township's concerns and desire to eliminate illegal activities that adversely impact the agricultural area and can appreciate the approach being contemplated by the Township under these circumstances and in this particular instance.

Accordingly, in this regard the Township should be satisfied that Niagara Pallet's ongoing illegal activities on this site cease in a timely manner in line with the expansion of their use at their other property and that there is an appropriate legal mechanism available to require and implement the required securities (e.g. through registering a development agreement?).

Let me know if you have any questions or wish to discuss this further. I am out of the office tomorrow and Friday morning; however, you can contact Diana if you need to reach us.

Regards,
Pat

Pat Busnello, MCIP, RPP

Manager, Development Planning

Niagara Region

Planning and Development

905-980-6000, ext. 3379

pat.busnello@niagararegion.ca

www.niagararegion.ca

The Regional Municipality of Niagara Confidentiality Notice The information contained in this communication including any attachments may be confidential, is intended only for the use of the recipient(s) named above, and may be legally privileged. If the reader of this message is not the intended recipient, you are hereby notified that any dissemination, distribution, disclosure, or copying of this communication, or any of its contents, is strictly prohibited. If you have received this communication in error, please re-send this communication to the sender and permanently delete the original and any copy of it from your computer system. Thank you.

THE CORPORATION OF THE TOWNSHIP OF WEST LINCOLN

BY-LAW NO. 2020- ##

**A BY-LAW TO AMEND ZONING BY-LAW NO. 2017- 70, AS
AMENDED, OF THE TOWNSHIP OF WEST LINCOLN**

WHEREAS THE TOWNSHIP OF WEST LINCOLN COUNCIL IS EMPOWERED TO ENACT THIS BY-LAW BY VIRTUE OF THE PROVISIONS OF SECTION 34 AND 39 OF THE PLANNING ACT, 1990;

NOW THEREFORE, THE COUNCIL OF THE CORPORATION OF THE TOWNSHIP OF WEST LINCOLN HEREBY enacts as follows:

1. THAT Schedule 'A' Map 'D8' to Zoning By-law No. 2017-70, as amended, is hereby amended by changing the zoning on Concession 4, Part of Lot 16, Township of West Lincoln, municipally known as 4981 Regional Road 20, shown as the subject lands on Schedule 'A', attached hereto and forming part of this By-law.
2. THAT Map 'D8' to Schedule 'A' to Zoning By-law No. 2017- 70, as amended, is hereby amended by changing the zoning on part of the subject lands shown on Schedule 'A', attached hereto and forming part of this By-law from an Agricultural 'A' zone to an Agricultural zone with a site specific temporary use number A(T-9).
3. THAT Part 5 of Zoning By-law 2017- 70, as amended, is hereby amended by adding the following to Part 13.3, Table 30:

Temporary Use Provision #	Map #	Parents Zone(s)	Property Description	Permitted Temporary Use	Regulations	Start Date	Expiry Date
T-9	D8	A	Con8, Pt Lot 14, 30R2809, Pt Part 1	<i>A business for the purpose of storing pallets</i>	As per the parent zone.	February 24 th , 2020	February 29 th , 2022

4. AND THAT this By-law shall become effective from and after the date of passing hereof.

**READ A FIRST, SECOND AND THIRD
TIME AND FINALLY PASSED THIS
XXTH DAY OF FEBRUARY, 2020.**

DAVE BYLSMA, MAYOR

JOANNE SCIME, CLERK

EXPLANATION OF THE PURPOSE AND EFFECT OF BY-LAW NO. 2017-70

Location:

The subject lands are located on the north side of Regional Road 20, legally described as Concession 4, Part of Lot 16, Township of West Lincoln, municipally known as 4981 Regional Road 20.

Purpose & Effect:

This By-law has been enacted to temporarily permit a business for the purpose of storing pallets on the subject property. This By-law provides for such use for a temporary period commencing February 24th, 2020 and expiring February 28th, 2022.

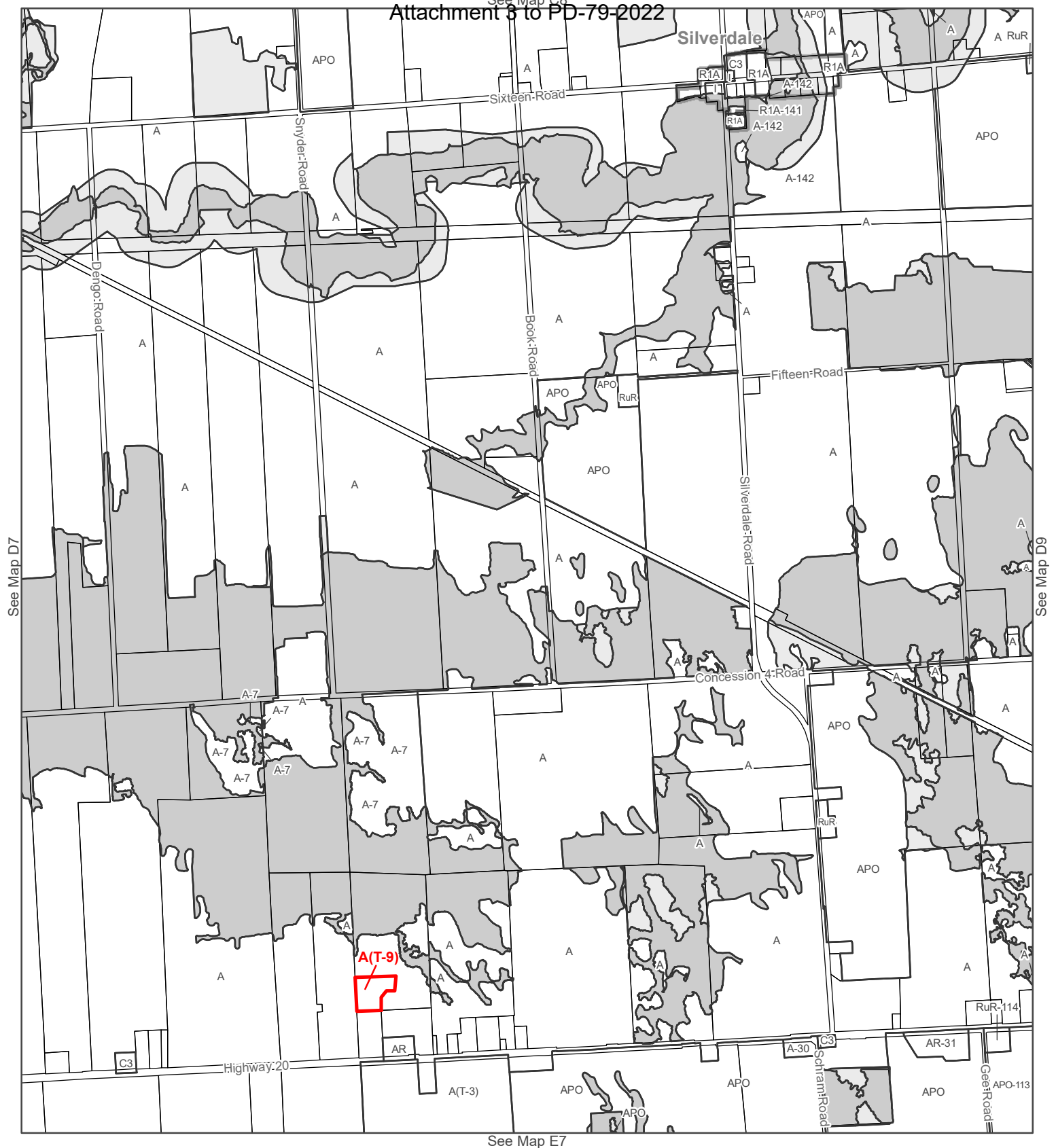
Any extension to the time limit set out in this By-law will require the passage of a further By-law by the Council for the Township of West Lincoln. Such request for an extension must be made in writing to the Township no later than 3 months prior to the expiration of this By-law.

Public Consultation:

The Public Meeting was held on December 9th, 2019. The Township received verbal and written comments from 0 neighbour(s) regarding this application. All written and oral comments were considered in the making of the decision by Council.

File: 1601-018-19

Applicant: Fred & Beck Vrugteveen



Township Key Map

A1	A2	A3	A4	A5					
B1	B2	B3	B4	B5	B6				
C1	C2	C3	C4	C5	C6	C7	C8	C9	C10
D1	D2	D3	D4	D5	D6	D7	D8	D9	D10
E1	E2	E3	E4	E5	E6	E7	E8	E9	
F1	F2	F3	F4	F5	F6	F7			

Smithville Key Map

S1	S2	S3
S4	S5	S6
S7	S8	S9

- Settlement Area Boundary
- Zone Boundary
- EC
- EP
- Waste Management Facility Assessment Area

Township of West Lincoln
Schedule A
Zoning By-law No. 2017-70
Map
D8

1:20,000
0 500 m
Last Updated: July 2019