

DATE: May 8, 2023

REPORT NO: PD-22-2023

SUBJECT: **Technical Report – Application for Zoning Bylaw Amendment
5623 Twenty Mile Road (File No. 1601-01-23)**

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OVERVIEW:

- An application for a zoning bylaw amendment has been submitted by Mr. Steven Rivers of South Coast Planning Consultants and by Mr. Raf Cervo, the owner of the subject property being 5623 Twenty Mile Road.
- 5623 Twenty Mile Road is located on the north side of Twenty Mile Road/ Regional Road 69, west of the hamlet of St Anns and south of the CP rail line.
- The subject property is approximately 0.27 hectares in area and appears to have been historically used as salvage yard. Currently there are no structures on the site with exception of a small remnant portion of a former building. The property is zoned Agricultural 'A'.
- The application for zoning bylaw amendment has been submitted to permit an agriculture-related use specifically being an agricultural service and supply establishment providing tractor tire sales and service whereas the Township's Zoning By-Law does not permit agriculture related uses within an Agriculture zone. The application requests to change the zone to Agriculture-related 'AR' to allow the agriculture service and supply establishment on the subject property.
- Further in the application, a reduction in the minimum lot area in the AR zone is from 0.40 ha to 0.25 ha and reduction in minimum front yard from 15 m to 10 m is requested.
- At the time of writing this report, two public comment submissions have been made, and can be found in Attachment 3 to this report.
- A Recommendation Report will be prepared and presented at a future Planning/ Building/Environmental Committee Meeting once all agency and public comments have been received and staff have completed their full review, to maintain the legislated 90-day review and approval timeline applicable in the Planning Act and Bill 109.
- From the date of complete application, being April 3rd, 2023, 90 days would result in a decision having to be made by July 3rd, 2023.

RECOMMENDATION:

1. That Information Report PD-22-2023, regarding “Technical Report – Application for Zoning Bylaw Amendment 5623 Twenty Mile Road (File No. 1601-01-23)”, May 8, 2023, be RECEIVED; and,
2. That, a Recommendation Report be presented at a future Planning/Building/Environmental Committee Meeting following the review of all agency and public comments and a full review of the planning application.

ALIGNMENT TO STRATEGIC PLAN:

Theme #2 & #3

- **Strategic Responsible Growth**
- **Support for Business and Employment Opportunities for Residents**

BACKGROUND:

An application for a zoning bylaw amendment has been submitted by Mr. Steven Rivers of South Coast Planning Consultants on behalf of the property owner of 5623 Twenty Mile Road, Mr. Raf Cervo. 5623 Twenty Mile Road, which is a 0.27-hectare property located on the north side of Twenty Mile Road/ Regional Road 69, west of the hamlet of St Anns and south of the CP rail line.

The property appears to have been historically used as a salvage yard, currently the structures on the site have been demolished and the site has been gravelled. There remains a small portion of remnant building still standing from the former building.

The subject property is currently zoned Agricultural ‘A’ which permits only agriculture uses and a single detached dwelling but does not permit agriculturally related uses or an agricultural service and supply service establishment. The proposed use is not agriculture and has elements of service and sale of tractor tires which is agriculturally related.

The owner and the agent, Mr. Steven Rivers have submitted an application for zoning bylaw amendment and site plan to permit an agricultural service and supply establishment to sell farm tractor tires on the subject property, which would be used for farm equipment–tire sales and repair.

The zoning amendment application also requests that the agriculture related use, be permitted on a lot with reduced lot area of 0.25 hectares and the existing lot area is 0.27 hectares whereas zoning by-law requires a minimum lot area of 0.40 hectares. Additionally, they have requested a reduction in the front yard setback to 10 meters from the required 30 meters for AR zone.

CURRENT SITUATION:

Provincial Policy Statement 2020 and Guidelines on Permitted Uses in Ontario’s Prime Agricultural Area

The Provincial Policy Statement provides policy direction on matters of provincial interest related to land use planning and development. The Provincial Policy Statement (PPS) provides the policy foundation for regulating the development and use of land with the goal of enhancing the quality of life for all Ontarians.

Section 2.3 of the PPS provides specific policy in regards to agriculture and lands designated as Prime Agricultural areas within the Province. The subject lands fall within the Prime Agricultural area designation and are to be protected for long-term agricultural use.

Agricultural uses and normal farm practices shall be promoted within this designation and any new uses in the prime agricultural area shall comply with the minimum distance separation formulae. Non-agricultural uses in Prime Agricultural Areas shall generally not be permitted, only for a limited number of non-residential uses. Impacts from non-agricultural uses shall be mitigated to the extent feasible.

In order to provide more direction on what is and is not permitted in Ontario's Prime Agricultural Areas, the Ontario Ministry of Agriculture, Food and Rural Affairs have created a document entitled *Guidelines on Permitted Uses in Ontario's Prime Agricultural Areas*.

Agricultural Related Use – means those farm-related commercial and farm-related industrial uses that are directly related to farm operations in the area, support agriculture, benefit from being in close proximity to farm operations and provide direct products and/or services to farm operations as a primary activity.

The zoning bylaw application is requesting to permit an agriculture–related use, specifically an agricultural service and supply establishment for sale and service of the farm equipment.

Examples of *Agricultural Related Uses shown in the guidelines include Agricultural research centre, Farm equipment repair shop, grain dryer farm operations, winery, farm input supplier, farmers market, livestock assembly yard.*

The key criteria for agricultural related uses are as follows:

1. Farm-related commercial and farm-related industrial use.

Agriculture-related uses or farm-related commercial uses may include uses such as retailing of agriculture-related products (e.g., farm supply co-ops, farmers' markets and retailers of value-added products like wine or cider made from produce grown in the area), livestock assembly yards and farm equipment repair shops if they meet all the criteria for this category of uses intended on the subject property. Residential, recreational and institutional uses do not fit the definition of agriculture-related uses

2. Shall be compatible with, and shall not hinder, surrounding agricultural operations.

Agriculture related uses impacts the surrounding agricultural operations which includes both property on which the use is located and the surrounding area of potential impact which depends on the intended use. Following criteria to be compatible with and not hinder agricultural operations and agriculture-related uses are:

- a. Ensure surrounding agricultural operations are able to pursue their agricultural practices without impairment or inconvenience.
- b. Uses should be appropriate to available rural services (e.g. do not require the level of road access, water and wastewater servicing, utilities, fire protection and other public services typically found in settlement areas).

- c. Maintain the agricultural/rural character of the area (in keeping with the principles of these guidelines and PPS Policy 1.1.4).
- d. Meet all applicable provincial air emission, noise, water and wastewater standards and receive all relevant environmental approvals.
- e. The cumulative impact of multiple uses in prime agricultural areas should be limited and not undermine the agricultural nature of the area

3. Directly related to farm operations in the area.

Agricultural-related uses intended on the subject property must be directly related to farms in the area, which primarily provides products or services that are associated with or enhance the agricultural operations in the area. Some examples which reflect the direct relation to agricultural related uses include:

- ✓ vegetable processing around the Holland Marsh
- ✓ processing tomatoes in the Leamington and Chatham-Kent areas
- ✓ farm equipment repair, farm input suppliers and grain drying in major cash crop areas
- ✓ ginseng drying and distributing in Ontario's Sand Plain area

Uses that provide products or services beyond the immediate agricultural area such as cold storage facilities near airports or other transportation hubs, or meat packing plants that process meat from a long distance, often shipped by transport truck or shipping container, are not agriculture-related uses.

4. Supports agriculture

This criteria limit uses to those primarily focused on supporting agriculture. It aims to support growers in the area and increase family farm revenue by encouraging local farms to diversify into higher-value fruits and vegetables.

5. Provides direct products and/or services to farm operations as a primary activity

Agriculture-related uses require direct service farm operation as a primary activity which refers to uses that serve an agricultural need or create an opportunity for agriculture at any stage of the supply chain. Serving farm operations must be a primary function or main activity of the business. As a rule, general purpose commercial and industrial uses should be located outside of prime agricultural areas.

PPS policy emphasizes the need for agricultural-related uses to provide direct products and/or services to farm operations as a primary activity, a farm equipment dealership or farm equipment repair shop might be justified as an agriculture-related use in a prime agricultural area if servicing farm operations in the area is a primary focus of the business and all other agriculture-related uses criteria are met. However, businesses that sell or repair farm implements, along with items catering to a broad customer base such as lawn mowers, snow blowers, other machinery, parts, toys and clothing, should be directed to settlement areas, rural lands or lower priority agricultural lands as discussed in Section 3.2.

Staff are still reviewing this application to understand if the proposed agriculture related use i.e. sale of tractor tires and repairs, meets the criteria for an agriculture-related use. Staff are requesting that the applicant provides some examples of other tractor tire service uses which this use could be compared to.

6. Benefits from being in close proximity to farm operations.

Agriculture-related uses must benefit from or need to be located near the farm operations they serve which include more effective or efficient operations due to access to feedstock, roads suited to slow-moving farm vehicles, reduced transportation distance and risk of spoilage and marketing opportunities associated with being part of an agricultural cluster.

Staff is still reviewing the application to understand if the intended use will be useful for the farm operations nearby. The applicant will be required to provide more details in this respect to the benefits of the close proximity to farm operations would be recommended.

A Place to Grow, Growth Plan for the Greater Golden Horseshoe – 2020 Consolidation

The A Place to Grow – Growth Plan for the Greater Golden Horseshoe (Growth Plan) builds on the Provincial Policy Statement to establish a unique land use planning framework for the Greater Golden Horseshoe that supports the achievement of complete communities, a thriving economy, a clean and healthy environment and social equality. The policy document specifically guides how and where to grow communities, how to support growth while protecting what is valuable, such as the natural environment and agricultural lands.

Section 4.2.6 of the plan provides policy direction concerning the Agricultural System. Prime Agricultural Areas, as this property is designated, falls within the Agricultural System. The Growth Plan requires that any new non-agricultural land uses within the Prime Agricultural Area need to be compatible with, and/or minimize and mitigate and adverse impacts on the Agricultural System. The PPS and Guidelines on Permitted Uses in Ontario's Prime Agricultural Lands provide more significant policy direction regarding the agricultural area.

Greenbelt Plan

The subject property is not located within lands designated as being within the Greenbelt and therefore the PPS and Growth Plan are the only provincial policy plans that apply.

Niagara Official Plan, 2022

On November 4, 2022 the Ministry of Municipal Affairs and Housing approved the Niagara Official Plan. The plan provides a framework of policies to guide growth and development within the Niagara Region to the year 2051.

The new Niagara Official Plan has the subject lands designated as being within the Prime Agricultural Area. Policies with respect to the Prime Agricultural Area and the Agricultural System are found within Chapter 4.1 of the new plan.

The Niagara Official Plan permits agricultural uses, agriculture-related use and on-farm diversified uses within prime agricultural areas (4.1.7.4), provided they are compatible with, and do not hinder surrounding agricultural operations. Agriculture-related uses and

on-farm diversified uses shall be consistent with the provisions of the Provincial Policy Statement, and conform to the Growth Plan, Greenbelt Plan, and Niagara Escarpment Plan (4.1.7.5).

Table 4-1 in the Official Plan indicates that Agriculture-related uses may or may not be on a farm; farm-related commercial or industrial use; compatible with surrounding agricultural operations; directly related to farms in the area; supports agriculture, provides products or services to farms; benefits from proximity to farms. The examples which include the agriculture-related uses but are not limited to area

- a. Processing of agricultural products
- b. Farm equipment repair shop
- c. Agriculture research centre

The following criteria shall be considered when reviewing applications for proposed agriculture-related uses (4.1.7.8):

- a. whether the proposed activity is more appropriately located in a nearby settlement area or on rural lands;
- b. whether the use is required for or in close proximity to the agricultural operation for it to support and complement the agricultural activity;
- c. the extent to which the use is compatible with the existing farming operation and surrounding farming operations;
- d. whether the scale of the activity is appropriate to the site and farming operation;
- e. whether the use is consistent with and maintains the character of the agricultural area;
- f. the use does not generate potentially conflicting off-site impacts;
- g. the activity does not include a new residential use;
- h. the use is limited to low water and low effluent producing uses and the site is capable of accommodating the use on private water and private sewage treatment systems;
- i. the use does not require significant improvements to infrastructure; and
- j. the use complies with all other applicable provisions of this Plan.

Staff is still reviewing the application, with respect to the above criteria. The applicant explains that the proposed intended use is related to a farm related commercial use compatible with surrounding agricultural operations which is directly related to farms in the area, supporting agriculture, providing service to farms, benefitting from proximity to farms in a prime agricultural area. The applicant further explains the proposed use does not hinder surrounding agricultural operations.

Township of West Lincoln Official Plan

The subject property is designated Good General Agriculture in the Township's Official Plan. Agricultural lands within the Township consist of Unique Agricultural Lands, Good General Agricultural Lands, and Rural Lands. The Agricultural Lands shall be protected in accordance with their level of agricultural viability with the Unique Agricultural Lands receiving the highest level of protection and the Rural Lands receiving the lowest level of protection.

The applicant addresses each of the policies stated in the Section 4.6 as below:

- The location of the use on the subject property imposes no operating constraints and results in no reduction of the efficiency of any existing farm.
- An adequate and potable cistern water supply is available.
- Soils are suitable or made suitable to support an individual waste disposal system subject to the approval of the authority having jurisdiction.
- Adequate drainage and outlets are available for stormwater run-off.
- Adequate entrances and exits to roads are located to minimize travel hazards.
- Adequate off-street loading, parking spaces and access points will be provided.
- Access points will be clearly defined by landscaping and /or other acceptable means.
- There is no outside storage.
- The municipality may impose appropriate controls through available legislation to ensure that the hours of operation of a use do not conflict with adjacent land uses.
- The land will be appropriately zoned and, if necessary, a development agreement will be required.
- The development is not on treed areas, steep slopes, ravines, watercourses and any other natural or cultural heritage resource.
- Development may be subject to site plan control.

The policies in the Section 4.6.1 in the Township's Official Plan states that uses must be small scale, related directly to and be required in close proximity to farm operation. The policy mentions that to sustain a market and allow for efficient operation of agriculture-related uses, products processed and/or sold by these businesses may be obtained from surrounding local farm operations or from further away provided the majority of product is from farm operations in the area. To assess whether a proposed agriculture-related use meets the test of providing direct products and/or services to farm operations as a primary activity, the Township may require evidence demonstrating that the use will service the local agricultural industry as the sole or main business activity.

The applicant proposes agriculture related use which would support the agricultural farm operations in proximity to farm areas. Staff again would request an example of a similar type of operation that operates within an agricultural area to understand how this proposal meets the requirements of Policy 4.6.1.

Township of West Lincoln Zoning Bylaw

The subject property is zoned Agricultural 'A'. Below is an image of the zoning on the subject property:



The Agricultural zone does not permit an agriculture related storage and service facility use (sale and service of tractor tires) on the subject property; however, the intended use is agriculturally related use.

The Agricultural 'A' zone only permits a single detached dwelling and accessory uses; however, that requires a minimum lot area of 10 hectares, whereas the property is undersized and does not meet the criteria of minimum lot size.

The applicants have submitted a zoning bylaw amendment to change the zone from Agriculture 'A' to Agriculture-related 'AR' request to permit the tractor tire agricultural service and supply establishment facility, on the subject property.

The applicants have also requested additional modifications to the zoning bylaw Section 5.3, Table 12 includes:

1. The application also requests that the agriculture related use, be permitted on a lot with reduced lot area of 0.25 hectares and the existing lot area is 0.4 hectares whereas the zoning by-law requires a minimum lot area of 0.4 hectares. Staff note that according to the information available the lot size currently is 0.27 hectares.
2. Additionally, the applicant has requested a reduction in the front yard setback to 10 meters from the required 30 meters for AR zone.

The existing property is currently underutilized as per the current zoning as Agriculture 'A' and the change in zoning to 'AR' will reduce the lot size requirement to 0.40 ha automatically.

Additionally, the applicant has requested a minor reduction from 0.40 ha to 0.25 ha in the lot area which will not have any negative impact to the property and the surrounding areas. This is to recognize the existing size of the lot. The request for reduction in front yard to 10 metres whereas zoning by-law requires minimum front yard setback of 30 meters.

In summary staff request that the applicant provide to the Township some additional information on comparable tractor tire uses to assist staff in understanding the viability of the proposed use on the subject property.

FINANCIAL IMPLICATIONS:

There are no financial implications associated with this report except for the potential implications associated with Bill 109, the *More Homes for Everyone Act, 2022*. Bill 109 requires municipalities, starting on July 1st, 2023, to provide fee refunds for planning act applications if decisions are not made within the required Planning Act timelines.

The timelines for approval and required fee returns associated with this will require Township Staff to prepare recommendations on a quicker timeline for Council's decisions. Council must make a decision within 90 days of complete application or they will be required to refund.

	Zoning and Official Plan Combined	Zoning Bylaw Amendment	Site Plan
No refund	Decision is made within 120 days	Decision is made within 90 days	Plans are approve within 60 days
50%	Decision made within 121-179 days	Decision made within 91-149 days	Plans are approved between 61-89 days
75%	Decision made within 180 – 239 days	Decision made within 150 – 209 days	Plans are approved 90 – 119 days
100%	Decision made 240 days and later	Decision made 210 days and later	Plans are approved 120 days and beyond

The current 2023 fee for a standard zoning bylaw amendment is \$9,630.00. If not approved within 90 days, starting on July 1st, 2023 the Township would be required to refund the applicant \$4,815.00, at 149 days, \$7,222.50 and after 209 days, the entire fee. A final note for consideration are the Planning Act changes that have been made through Bill 109, the *More Homes for Everyone Act, 2022* requiring zoning amendments be decided upon within 90 days or face punitive costs back to the applicant starting on July 1st, 2023. In order to avoid these fee returns, staff will be required to prepare recommendation reports within the required timeframe that potentially recommend:

1. Approval, subject to a holding provision,
2. Approval of application as submitted,
3. Approval of staff modified application
4. Denial

Staff will continue to work with the applicants, members of the public and Committee and Council while meeting these tight timelines for decisions.

INTER-DEPARTMENTAL AND PUBLIC COMMENTS:

The notice and application for zoning bylaw amendment was circulated to agencies and the public on April 11th, 2023. A notice sign was also placed on the property on April 12th, 2023. At the time of writing this report, the Township has received comments from one member of the public.

Comments were received by property owners who live 100 meters from the subject property. The property owner is concerned there was not full disclosure of the intended use in the notice with farm equipment the service use for the property. They have concerns with increase in farm equipment traffic noise and fumes and that it might affect their property value.

In a preliminary response to the comments received from the nearby owner, due to the Planning Act requirements, the Township has only 90 days from complete application submission to review and decide upon a zoning bylaw application. Staff also note that the applicants have additional time to submit comments up to the time a decision is made on the application.

The Township of West Lincoln Public Works Department has also provided comments on the application. They state that they have no objection to the application, but recommend they look into the distance provided from the proposed entrance to CP Rail's property to ensure it meets any required setbacks to the tracks. Since Twenty Mile Road is a Regional Road, Regional staff will provide comment on the work in the right-of-way for the entrances and drainage to the roadside ditch.

The Township has received comments from Niagara Region on the application. They state they do not have any objection to the proposed application to rezone the property to an agriculture-related use for the construction of an agricultural service establishment subject to the conditions provided in the detailed comment document attached.

Planning staff are still awaiting comments from the Township's Building and Septic Department on the proposed private servicing plan.

CONCLUSION:

An application for zoning bylaw amendment has been submitted by Mr. Steven Rivers on behalf of the sole property owner, Raf Cervo, for the property located at 5623 Twenty Mile Road. The application has been submitted to permit the sale of tractor tire agricultural service and supply establishment agriculture-related use. As this use is not permitted in the Agriculture 'A' zone, a zoning amendment is required.

The applicant requests a minimum reduction in existing lot area of 0.40 ha to 0.25 ha, whereas zoning by-law requires a minimum lot area of 0.40 ha for Agriculture related 'AR' zone. The applicant additionally requests to decrease the front yard to 10 metres whereas zoning by-law requires minimum front yard as 30 meters.

The Township has received a number of public and agency comments and will review those comments as well as any additional comments that are received.

Staff will bring a recommendation report forward at a future Planning Building and Environment Committee Meeting.

ATTACHMENTS:

1. Draft site plan
2. Planning Justification Report
3. Agency and Public Comments

Prepared & Submitted by:



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Approved by:



**Bev Hendry,
CAO**



**Dave Heyworth,
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