



LandPro Planning Solutions Inc.
204-110 James St. St. Catharines, ON L2R
7E8
St. Catharines Simcoe Waterloo

January 30, 2025 (**UPDATED**)

Township of West Lincoln
Canborough Road
Smithville, ON

Planning Addendum – Extension of Temporary Use Agreement
9127 Regional Road 20
Rain Barrel Storage Business

Susan Smyth
ssmyth@westlincoln.ca

This letter is to supplement LandPro Planning Solutions Inc. (LandPro) Planning Opinion, dated January 2025, regarding the suitability of seeking an extension of the Temporary Use Agreement for the open storage of rain barrels at 9127 Regional Road 20 in Smithville, ON.

1 BACKGROUND

LandPro was retained in mid December 2024 to assist Mr. Pomerantz with a request to extend a Temporary Site Plan Use Agreement (TUA) prior to its expiry in February 2025. As you know, this TUA is between the Township of West Lincoln, Mr. Giovanni DiFlavio (property owner), and Mr. Larry Pomerantz (tenant).

Mr. Pomerantz is committed to fulfilling all the requirements as stated in the Agreement. While several public comments were directed towards our client, our goal is to focus on the facts towards generating a positive outcome in the extension of this TUA for all parties.

We understand that Mr. Pomerantz is within his rights to store rain barrels on the property so long as he complies with the following items. At issue is the degree to which he is complying with the terms of the TUA, namely:

1. **Grading and Drainage Plan** – A site grading and erosion control plan was done by Luban Engineering Ltd. in March 2024, which was submitted to the Township.
2. **Stormwater Management System** – A stormwater and sediment control basin was designed and constructed in accordance with the Luban Engineering report.
3. **Security Deposits** – We cannot confirm the status of these deposits.

After learning about some of the requirements yet to be completed, namely the planting of trees and sod around the berm, we have advised Mr. Pomerantz to complete these items in order to comply with all Township requirements as stated in the TUA. We look forward to working with the Township so that we can bring this matter to an amicable resolution.

2 PRELIMINARY PLANNING OPINION

LandPro submitted a Preliminary Planning Opinion, dated January 9, 2025, which was based on information provided to us by the applicant and was therefore of a limited scope. The focus of this opinion is on the suitability of the rain barrel storage to be considered an agriculture-related or on-farm diversified use.

Based on the information received at the public meeting, this preliminary opinion was insufficient for the Township to consider our rationale towards the extension of the TUA.

This Addendum addresses our updated opinion on this matter.

3 PUBLIC COMMENTS

During the public meeting held on January 13, 2025, several members of the public provided comments on this application. Their concerns included:

1. Localized Flooding
2. Toxicity of Barrels
3. Truck Traffic
4. Dumping Activities
5. Height of Barrels
6. Fire Hazard

We will address each comment directly below.

3.1 LOCALIZED FLOODING

The TUA requires that a Stormwater Management Plan be created and implemented to manage surface water flow. Luban Engineering, a professional civil engineer, completed a Grading & Erosion Control Plan on March 24, 2024, which was submitted to the Township to address this.

We understand that the property was graded to implement the requirements of this Plan. Luban Engineering has confirmed by letter, refer to **Appendix A**, that the grading was conducted properly.

Based on our site visit of January 17, 2025, no standing water was present, aside from local pooling from snow/ice melt. The stormwater pond was constructed, and no standing water was visible due to it being covered in snow. The outlet from the SWM pond, which followed a route between berms, showed no moving water.

1. Erosion and Sedimentation

Any erosion throughout the majority of the 2.5 acres is captured by the sediment pond.

All lands north of the spillway are covered by the sediment pond.

There is already a grass and naturalized buffer all the way around the exterior base of the berm to prevent erosion.

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Only clean water is discharged from the pond.

The area on the far side of the berms was not altered, so they remain naturalized. During our site visit, there was no visible evidence of local erosion. Any exposed areas should be covered by geotextile, or a natural grass mixture.

A letter from Luban Engineer detailing stormwater management efforts is forthcoming that will provide a more detailed explanation of works completed. This letter is provided as **Appendix A**.

3.2 TOXICITY OF BARRELS

Our understanding is that Mr. Pomerantz is only storing BPA-free, food grade barrels. The barrels are used to store pickles, emptied, and rinsed before being brought onto the property. As a result, the barrels delivered to the site are empty and suitable for outdoor storage.

The applicant has confirmed to LandPro that the barrels are rinsed off-site. They are inverted and when emptied, they arrive on-site free from any liquid or other contaminants. The barrels are sourced directly from food processors and manufacturers and meet all applicable regulations.

It should be noted that Mr. Pomerantz supplies his barrels to cities and municipalities throughout Canada and the United States, who then provide them to residents as a way to store/recycle rainwater and reduce the burden on local infrastructure. He also works with not-for-profit partners involved with animal rescues, schools, community and church groups, environmental organizations, healthcare, and local youth groups.

To address public comments, we recommend the Township contact the Ministry of the Environment, Climate and Parks (MECP) for further guidance on this matter, if desired.

During our site visit, the barrels were observed to be empty. Lids are manually applied to each barrel to permit safe storage. All barrels observed were sealed by lids. Photographic evidence of this is attached as **Appendix B**.

3.3 TRUCK TRAFFIC

We understand that truck traffic varies daily and seasonally with most deliveries occurring in the fall and winter at an average of about two truckloads per day, and most pick-ups occurring in the spring and early summer.

The trucks travel along the existing driveway, pass to the west of the barn, and park in a cleared space some 20m from the barn.

During LandPro's site visit earlier this month, we witnessed two transport trucks delivering barrels to the site. We understand that this is unusually high activity for January, yet it is possible. While both trucks were unloading, we were able to converse without raised voices at a distance of ~30m from the trucks. This suggests that the unloading of barrels does not generate significant noise.

Members of the public noted significant concern with truck traffic to and from the site. LandPro saw no evidence of this being a major issue, other than the two transport trucks during our visit. We do understand that truck traffic varies by day and season but noted that the 2.4 acre area was fully occupied during our visit. This

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suggests that potential traffic will be minimal until spring when the barrels begin to move off-site. Site photos demonstrating this are provided in **Appendix B**.

3.4 DUMPING ACTIVITIES

A total of 2.5 acres of land is being used for the storage of barrels. During our site visit, which was photographed extensively, there was no evidence of dumping activities witnessed.

In addition, the lands adjacent to the east and west of the site were visually reviewed and no evidence of dumping was observed. We do understand that the remaining part of this property may have been active with the importation of fill, which normally requires trucks to deliver. This activity is not related to the application by Mr. Pomerantz.

We note that the adjacent lands are not used for, or proposed to be used for, the storage of rain barrels. Photographs of the site are attached in **Appendix B**.

3.5 HEIGHT OF BARRELS

The rain barrel storage piles were measured at approximately 5m (16 feet), which is less than the 15m (49 feet) permitted by Section 5.3 of the Township's Zoning By-law. Also noted is that the Zoning By-law limits outside storage to 15% (AR zone).

In our original opinion report, we calculated the area used for the storage of rain barrels to be ~ 5.0%, which is significantly below the 15% permitted. The Zoning By-law regulates "*Maximum Height*" and "*Maximum Outside Storage*", both of which inform this application. **Table 1** (below) demonstrates these regulations.

Table 1 - Agricultural zoning requirements

Regulation		Zone Requirements		
		A	APO	AR
Minimum rear yard	<i>Dwelling</i>	15m	-	-
	<i>Greenhouse</i>	15m ⁽²⁾		
	<i>Mushroom farm building</i>	75m ⁽¹⁾		-
	<i>Other main building</i>	20m		7.5m
Maximum lot coverage	<i>Greenhouses</i>	70%		40%
	<i>Dwelling⁽⁴⁾</i>	10%		
	<i>Other buildings or structures</i>	10%		
Maximum height		15m		15m
Minimum landscaped open space		No minimum		10%
Maximum outside storage		5% of lot area ⁽³⁾		10% of lot area ⁽³⁾
Maximum distance from an accessory building or main building		The nearest point of a wall of any building must be located within 50 metres of all other related residential or agricultural building respectively.		

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While the A zone limits the height of buildings to 15m (49ft), there are no specific restrictions on the height of outside storage. That said, the rain barrels are not themselves considered a use. Rather, the storage of rain barrels is zoned based on them being outside.

We have taken a conservative approach here, using the AR zone provisions, which arguably no longer apply to this site. In our view, this property and those that have been included in the Hamlet have neither OP designations, nor Zoning, until the Township Amendments are complete.

As a result, Zoning provisions arguably don't apply to this matter. That said, we have demonstrated that this application does comply with the requirements of the AR zone.

Public comments noted the visual impact from the height of the barrel storage piles. Guidance will be required from the Township as to their preference for reduced footprints, or minimal heights for the storage. If reduced footprints are desired, the height of the piles will need to increase.

From our perspective, the storage of the barrels complies with the outdoor storage requirements in the Township's Zoning By-law and complies with the TUA as it is no more than 2.4 acres in area. It is our opinion that the storage piles currently comply with the provisions of the AR zone.

3.6 FIRE HAZARD

We understand that the applicant has worked with the Township Fire Department, which directed Mr. Pomerantz to maintain a distance of at least 16 feet from any existing building or structure, to act as a fire buffer.

We confirmed visually that the barrels are indeed placed at the required distance from existing buildings and structures. While we were unable to confirm exact measurements, it appeared to be at least 16 feet.

Further, we note that the materials used in the rain barrels are food grade and thus likely require exposure to intense flame or other sources of heat, such as a lightning bolt, to ignite.

In consultation with the Fire Department, the applicant has incorporated their recommendations into the functionality of the property.

Based on our visual review of the site, all matters raised by the Township Fire Department have been implemented and are being maintained.

4 ANALYSIS

4.1 PUBLIC COMMENTS

Several points were raised by the public. In reviewing these comments and when considering LandPro's site visit and discussions with Township staff and the applicant, LandPro has recommended mitigation measures be put in place to address certain issues, including:

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1. Erosion & Sedimentation
2. Truck Traffic
3. Height of barrel storage
4. Dumping activities

We believe that Mr. Pomerantz is complying with the Zoning By-law; that his barrels are non-toxic and not causing any adverse effects to the surrounding environment or community; public disturbances related to his operation are minor in nature; and that he has put the necessary engineering controls in place to mitigate sediment runoff from his property. Furthermore, Mr. Pomerantz is eager and willing to satisfy all Township requirements concerning his TUA and any fire prevention measures.

4.2 FULTON EMPLOYMENT STUDY

We understand this study is in progress, with WSP Global leading the initiative. The outcome of this contract is to amend both the Official Plan and Zoning By-law, which will facilitate the transition of the study area from an agricultural/residential area, to one likely focused on employment uses (commercial/industrial).

Awarded recently, we understand the Township intends to have this study completed in calendar 2025. This normally would require Council adoption of the changes, which would then require a Township Amendment to be successfully implemented.

Given Niagara's Regional Planning function will cease on March 31, 2025, Regional approval is not required for an Official Plan Amendment. This shortens the time period required for implementation.

Township staff, we understand, are recommending an 18 month extension to the TUA. Ideally, the TUA would be tied to Council approval of the Amendments, rather than a specific timeline.

LandPro will be working actively with WSP on this project to ensure that the applicant's position is known and addressed, as appropriate.

4.3 PROPOSED USE – GARDEN CENTRE/OTHER

As per the West Lincoln Zoning By-law 2017-70, a garden centre means "a premises used for the display and retail sale of goods related to gardening and landscaping."

Based on our understanding of the applicant's business, it is currently limited to the outdoor storage of rain barrels. The sale of rain barrels is directly related to gardening and landscaping. The applicant's customers include municipalities, and charities, with limited direct sales to the public. As the Township's definition includes the term "retail," it is difficult to determine how this word is defined and how this business would meet such a definition.

Once Mr. Pomerantz has successfully established his business at this location, he intends to purchase the property. At that time, further discussions with the Township would occur where a longer term vision for the property would be initiated. This might include a garden centre. Ownership of the property is required before a fulsome vision can be considered. Legally establishing the existing business on the site is a necessary first step.

We are of the opinion that the storage of rain barrels is a temporary and unique use which is difficult to link to traditional zoning definitions. Working with WSP and the Township, a new definition for this and related uses may be required in forthcoming Amendments.

4.4 SUMMARY

In analyzing the above, most public and Township comments can be mitigated or eliminated. Current Township zoning (AR) was used in reviewing the height of the barrel piles, which is actually not applicable to this matter, as the property is not presently zoned.

We believe that working with WSP and the Township through the Fulton Employment Study will yield positive results for both parties.

5 RECOMMENDED MITIGATION

Based on the issues identified above and our work to date on this project, additional mitigation measures may be appropriate to minimize visual impacts of this operation, and reduce the opportunity for negative impacts to the community:

1. Any exposed (non-vegetated) areas should be covered by geotextile fabric, and ideally a natural grass mixture to prevent erosion.
2. Planting of native grasses (annual rye grass) or hydro-seeding should occur as soon as possible, to stabilize all berms and minimize spring run-off the stormwater pond.
3. Native tree species should be used for all visual screening. The caliper size of such plantings needs to be confirmed by the Township.
4. Create a definition for the proposed rain barrel use in forthcoming Amendments.
5. Fire protection measures as directed by the Township Fire Department should be implemented.
6. Delivery and pick-up of barrels are restricted to daylight hours, ideally between 8am and 5pm, where possible, to minimize noise pollution to adjacent and nearby properties.

We believe that implementation of the above mitigation measures will reduce or eliminate many of the concerns addressed by the public and Committee at the February meeting.

Ideally, these mitigation measures would be implemented as part of a formal Site Plan Agreement. However, given that an extension to the Temporary Use Agreement is currently being requested, we recommend the following measures be considered for immediate implementation:

1. Any exposed (non-vegetated) areas should be covered by geotextile fabric, and ideally a natural grass mixture to prevent erosion.
2. Planting of native grasses (annual rye grass) or hydro-seeding should begin as soon as possible, to stabilize all berms and minimize spring run-off from the stormwater pond.
3. Fire protection measures as directed by the Township Fire Department will be implemented.

Extension of Temporary Use Agreement (TUA)

January 31, 2025

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Mr. Larry Pomerantz

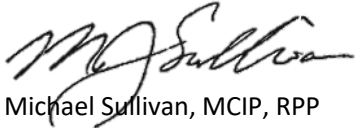
6 CLOSING

We trust the above demonstrates an understanding of the issues raised by the public and Committee, as well as a willingness to reduce/eliminate significant issues in the short term, and to comply with the terms of an extended Temporary Use Agreement.

We welcome further discussion on this matter and can be available to discuss this application further at the February Council meeting, if desired. Please advise if an updated presentation is deemed necessary by Council. We can be reached at mike@landproplan.ca and by phone at 289-687-3730.

Sincerely,

LANDPRO PLANNING SOLUTIONS Inc.



Michael Sullivan, MCIP, RPP
President | Founder

Michael Black, C.Tech
Planning Assistant

Gerrit Boerema

From: Mike Sullivan <mike@landproplan.ca>
Sent: February 3, 2025 11:06 AM
To: Susan Smyth
Cc: Gerrit Boerema; info@rainbarrel.ca; Michael Black
Subject: Re: Updated Engineer's Letter - Highway 20, Fulton property

Good morning Susan,

Thanks to Michael for forwarding the updated letter.

I wanted to note that we have collectively been struggling to determine Larry's business and how its use fits with Township Zoning and Official Plan policy. In short, we tried to explain this in our report, though a bit more detailed understanding of his business might be helpful.

My understanding is that Recycling Service, Larry's company, deals in recycling food grade quality barrels, originally used for pickles, transforming them into residential rain barrels. Larry has kindly confirmed the nature of this transformation. It is a unique and easily misunderstood business to many, likely including Council.

Larry's customers are both municipalities and charities. For example, the City of Hamilton is a large customer. They buy rain barrels from Larry's company and distribute them to taxpayers for use at the property level. Likewise, charities may use the rain barrels for fundraising purposes. Some other clients of Larry's include the City of Guelph and City of Chicago.

I trust this provides some additional clarity on this matter.

Kind Regards,

Mike Sullivan, MPlan RPP MCIP

Founder

Principal Planner



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On Mon, Feb 3, 2025 at 9:59 AM Michael Black <mblack@landproplan.ca> wrote:
Good Morning Susan,

I have attached the latest version of the Luban Engineering letter regarding 9127 Highway 20 (Pomerantz), as the one you have may not be the updated version. Apologies for any confusion.

--

Kind Regards,

Michael Black



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January 31, 2025

Via: Email

Mrs. Susan Smyth, Senior Planner
Township of West Lincoln
318 Canborough St. Box 400
Smithville, ON L0R 2A0

CC: Mr. Larry Pomerantz

Re: Site Grading & Erosion Control Insepction
Temporary Use Agreement - Highway 20, Fulton property
9127 Highway 20, Smithville, ON L0R 2A0

A Luban Ltd. engineer conducted a site inspection on January 26, 2025, regarding the Site Grading & Erosion Control construction at 9127 Highway 20.

The site has been generally graded, and the temporary sediment control pond has been constructed in accordance with the Grading & Erosion Control Plan designed by Luban Ltd. However, the east-side swale was obstructed by rain barrels, and the berm slope is too steep, requiring slope protection.

We spoke with the owner, Mr. Larry Pomerantz, who confirmed that due to snow cover, the remaining work will be completed in spring 2025. The planned work includes:

- Remove the rain barrels from the east side swale and place straw bales at 20m intervals.
- Install geo-textile cloth on the south-end berm slope, beyond the spillway.
- Extend the riprap by an additional 5m along the outlet channel of the temporary sediment control pond.

Yours Truly

A handwritten signature in black ink, appearing to read "Feng Shi".

Feng Shi, P.Eng.
Princial Engineer