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File No: H-8524
Planner: Mike Davis

TO:	CHAIR AND MEMBERS – PLANNING & ENVIRONMENT COMMITTEE
FROM:	JOHN M. FLEMING MANAGING DIRECTOR, PLANNING AND CITY PLANNER
SUBJECT:	APPLICATION BY: JOHNSTON BROTHERS (BOTHWELL) LTD. A PORTION OF 120 GIDEON DRIVE MEETING ON MAY 30, 2016

RECOMMENDATION

That, on the recommendation of the Managing Director, Planning and City Planner, based on the application of Johnston Brothers (Bothwell) Ltd. relating to a portion of the property located at 120 Gideon Drive, the attached proposed by-law **BE INTRODUCED** at the Municipal Council meeting on May 31st, 2016 to amend Zoning By-law No. Z.-1, in conformity with the Official Plan, to change the zoning of the subject lands **FROM** a Holding Resource Extraction (h-194•EX) Zone **TO** a Resource Extraction (EX) Zone.

PREVIOUS REPORTS PERTINENT TO THIS MATTER
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December 15, 2014 Report to Planning and Environment Committee – 120 Gideon Drive (OZ-8365) – This report recommended approval of an Official Plan and Zoning By-law amendment application received from Johnston Brothers (Bothwell) Ltd. intended to facilitate, in part, the issuance a license under the *Aggregate Resources Act* which would permit the establishment of a Category 7, Class B pit allowing for the extraction of up to 20,000 tonnes of aggregate material annually, to a depth of 1.5 metres above the established ground water table, across a proposed 2.7 hectare extraction site. The total aggregate material available for extraction over the lifetime of the pit is estimated to be 250,000 tonnes. The recommended amendments also serve to ensure the protection of significant natural heritage features in proximity to the proposed pit through zoning amendments which provide for appropriate setbacks and open space buffers.

PURPOSE AND EFFECT OF RECOMMENDED ACTION

The purpose of the recommended Zoning By-law amendment is to remove a holding provision from the subject lands which requires that the pit operator enter into an agreement with the City to complete necessary haul route upgrades to Tote Road.

RATIONALE

- i) The geotechnical report and engineered drawings related to required upgrades to Tote Road have been reviewed and accepted by the City of London and a Permit of Approved Works has been issued for the required road upgrades with site-specific conditions to ensure required upgrades are carried out according to the approved specifications.
- ii) The removal of the (h-194) holding provision will allow the Resource Extraction (EX) Zone to come into effect and thereby facilitate, in part, the issuance of a Class 'B' pit license under the *Aggregate Resources Act* for the subject site and implement the intent of the City's Official Plan that these lands be made available for aggregate extraction.

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LOCATION MAP

Subject Site : 120 Gideon Drive

Applicant: Johnston Bros. (Bothwell) Ltd.


File Number : OZ-8365

Prepared by : Graphics & Information Services , Planning Division
Corporation of the City of London
File=planning/projects/p_locationmaps/MXD

Planner : MD
Created By : TT
Date : 2014/11/25
Scale : 1:7,500



Legend

 Subject Site

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BACKGROUND

Date Application Accepted: October 3, 2015	Agent: Lloyd Johnston
REQUESTED ACTION: Change to Zoning By-law Z.-1 by deleting the Holding (h-194) Provision from the subject lands.	

SITE CHARACTERISTICS:
<ul style="list-style-type: none"> • Current Land Use – Agricultural • Frontage – 360 metres • Depth – 162 metres • Area – 5.0 hectares • Shape – Rectangular

SURROUNDING LAND USES:
<ul style="list-style-type: none"> • North – Agricultural and Rural-Residential • South – Agricultural • East – Agricultural and Rural-Residential • West – Agricultural

OFFICIAL PLAN DESIGNATION: (refer to Official Plan map)
<ul style="list-style-type: none"> • Extractive Resource Area
EXISTING ZONING: (refer to Zoning map)
<ul style="list-style-type: none"> • Holding Resource Extraction (h-194●EX) Zone

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SIGNIFICANT DEPARTMENT/AGENCY COMMENTS

City of London – Transportation Planning and Design:

Transportation has reviewed and accepted the recommendations outlined in the geotechnical report prepared by LVM Engineering Ltd. Transportation is satisfied that the road upgrades reflected by the AGM Engineering Ltd. drawings submitted by Johnston Brothers Ltd. and attached to the Permit of Approved Works are appropriate to accommodate the anticipated truck traffic from the proposed pit.

PUBLIC LIAISON:	On October 16 th , 2015, Notice of Application was sent to three (3) property owners in the surrounding area. Notice of Application was also published in the <i>Public Notices and Bidding Opportunities</i> section of <i>The Londoner</i> on October 16 th , 2015.	One (1) reply was received
<p>Nature of Liaison: The purpose and effect of this Zoning By-law amendment is to remove the holding (h-194) symbol that was put in place to ensure that the owner has entered into an agreement with the City of London to require that, if determined necessary through the completion of a geotechnical subsurface analysis, appropriate municipal roadway upgrades are completed to accommodate truck traffic from the proposed pit operation to the satisfaction of the City Engineer. Possible change to Zoning By-law Z.-1 by deleting the Holding (h-194) Provision from the subject lands. The removal of the holding symbol is contingent on the owner entering into an agreement with the City of London to complete necessary municipal roadway upgrades.</p>		
Response:		Staff Comment:
<ul style="list-style-type: none"> • Concern regarding the location of the proposed pit entrance. 		<ul style="list-style-type: none"> • The location of the pit entrance is regulated by the pit site plans administered by the Ministry of Natural Resources (MNR) through the Aggregate Resources Act license application process. The Aggregate Resources Act has a separate application process wherein public concerns are vetted and changes to the site plan can be achieved. Staff have advised this member of the public that their concerns can most appropriately be addressed through the MNR's licensing process.

ANALYSIS

During the original Official Plan and Zoning By-law amendment process for the proposed pit which culminated in January of 2015, the City's Transportation Planning and Design Staff noted concerns about the age and condition of Tote Road relating to its suitability to be used by tri-axle trucks hauling aggregate material. As a result of this concern, Planning Staff recommended that a holding provision be applied to the lands which reads as follows:

The removal of the h-194 shall not occur until such time as the Owner has entered into an agreement with the City of London to ensure that, if determined necessary through the completion of a geotechnical subsurface analysis, appropriate municipal roadway upgrades are completed to accommodate truck traffic from the proposed pit operation to the satisfaction of the City Engineer.

Since the approval of the Official Plan and Zoning By-law amendments in January of 2015, LVM Engineering has completed a geotechnical analysis of the roadway structure of Tote Road on behalf of Johnston Brothers Ltd. Through this subsurface analysis, it was determined that a

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portion of Tote Road should be reconstructed. The LVM report specifies recommendations for the type of subsurface and surface treatments required to suitably accommodate the level of truck traffic anticipated from the pit. These recommendations have been reviewed and accepted by the City's Transportation Planning and Design Staff.

Subsequent to the City's review and acceptance of the geotechnical report, Staff and the applicant have worked to execute a Permit of Approved Works for the required roadway upgrades. The Permit of Approved Works (PAW) includes a number of conditions that serve to form the agreement between the City and the Applicant as it relates to the road upgrades. Conditions of the PAW include:

- Johnston Brothers agree to construct Tote Road as per the parameters/specifications of the City-approved AGM Engineering Ltd. drawings and the LVM Geotechnical Engineering Report.
- Construction will not proceed until Johnston Brothers acquires the license from the MNR to conduct operation of the gravel pit at 120 Gideon Drive.
- Extraction (with a limited exception noted in following condition) will not commence until all prior requirements/commitments have been met and new road construction has been completed.
- Limited aggregate extraction may be permitted prior to the finalization of the road upgrades provided such materials are only used in the construction of Tote Road.

As part of the execution of the PAW, Johnston Brothers Ltd. has provided securities to the City of London which the City may draw upon to rectify errors and omissions should Johnston Brothers Ltd. fail to achieve the terms of the PAW to the satisfaction of the City.

CONCLUSION

Johnston Brothers Ltd. has recently received a Permit of Approved Works to carry out necessary roadway improvements to Tote Road, which serves as part of the local haul route for aggregate material extracted from the pit. The Permit of Approved Works contains site-specific conditions, as noted previously in this report, that form an agreement between the applicant and the City of London relating to the required road upgrades. Given the acceptance of the scope, parameters and specifications of the required road upgrades by the City's Engineering Staff, and the execution of the PAW with site-specific conditions, it is appropriate to remove the holding provision from the subject property such that the Resource Extraction (EX) Zone may come into effect.

PREPARED BY:	SUBMITTED BY:
MIKE DAVIS, B.U.R.PI. PLANNER II, CURRENT PLANNING	MICHAEL TOMAZINCIC, MCIP, RPP MANAGER, CURRENT PLANNING
RECOMMENDED BY:	
JOHN M. FLEMING, MCIP, RPP MANAGING DIRECTOR, PLANNING AND CITY PLANNER	

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Bill No. (Number to be inserted by Clerk's Office)
2016

By-law No. Z.-1-16 _____

A by-law to amend By-law No. Z.-1 to remove the holding provision from the zoning for an area of land located at 120 Gideon Drive.

WHEREAS Johnston Brothers (Bothwell) Ltd. has applied to remove the holding provision from the zoning for an area of land located at 120 Gideon Drive, as shown on the map attached to this by-law, as set out below;

AND WHEREAS it is deemed appropriate to remove the holding provision from the zoning of the said land;

THEREFORE the Municipal Council of The Corporation of the City of London enacts as follows:

1. Schedule "A" to By-law No. Z.-1 is amended by changing the zoning applicable to a portion of the lands located at 120 Gideon Drive, as shown on the attached map comprising part of Key Map No. A105 to remove the holding provision so that the zoning of the lands as a Resource Extraction (EX) Zone comes into effect.
2. This By-law shall come into force and effect on the date of passage.

PASSED in Open Council on May 31, 2016.

Matt Brown
Mayor

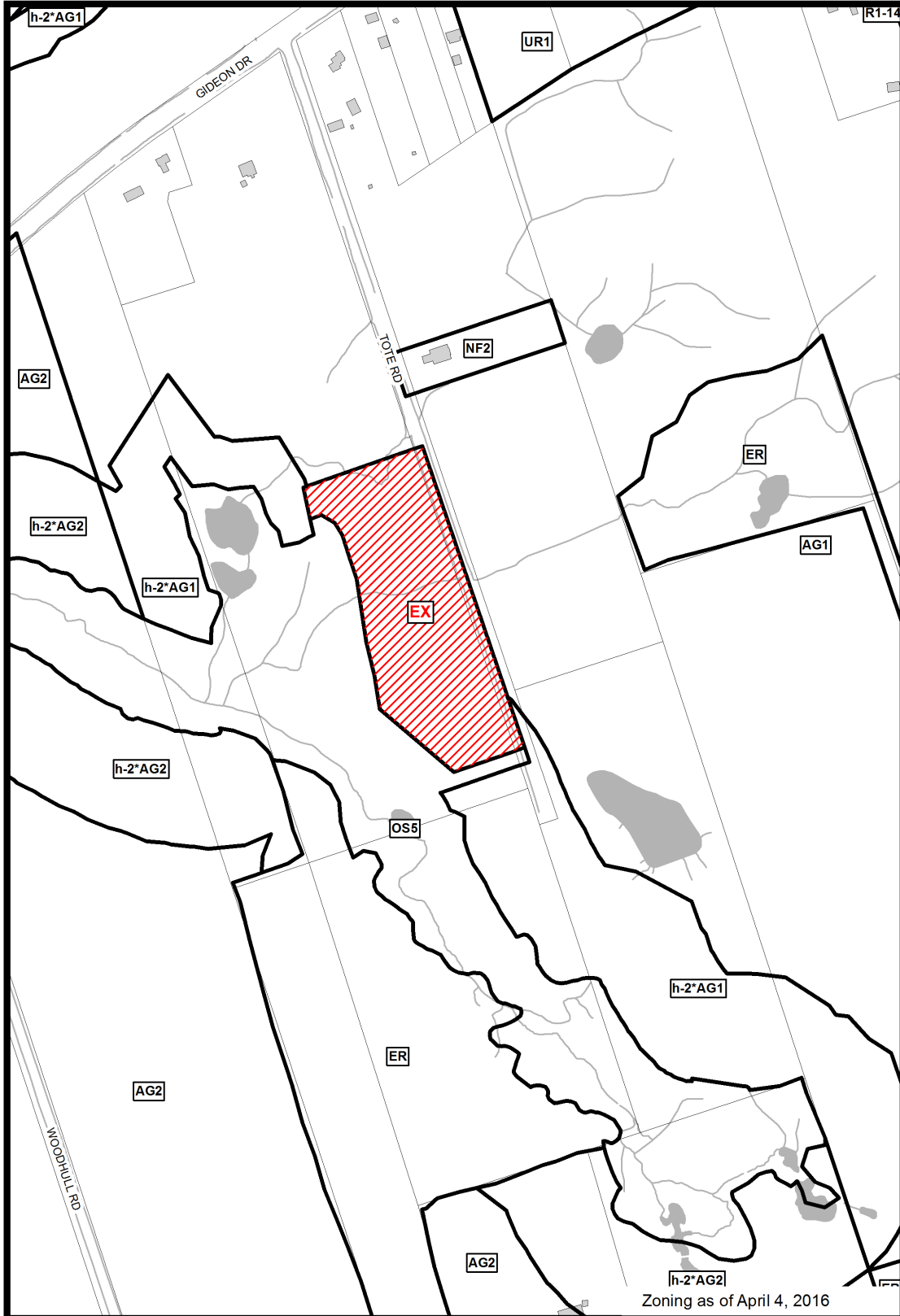
Catharine Saunders
City Clerk

First Reading – May 31, 2016
Second Reading – May 31, 2016
Third Reading – May 31, 2016


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AMENDMENT TO SCHEDULE "A" (BY-LAW NO. Z.-1)




File Number: H-8524
Planner: MD
Date Prepared: 2016/05/16
Technician: MB
By-Law No: Z.-1-

SUBJECT SITE 

1:5,000

0 25 50 100 150 200 Meters



Geodatabase