

TO:	CHAIR AND MEMBERS CORPORATE SERVICES COMMITTEE MEETING ON DECEMBER 11, 2018
FROM:	KELLY SCHERR, P.ENG., MBA, FEC MANAGING DIRECTOR - ENVIRONMENTAL & ENGINEERING SERVICES & CITY ENGINEER
SUBJECT:	OVERVIEW OF THE W12A LANDFILL MITIGATIVE MEASURES AND COMMUNITY ENHANCEMENT PROGRAM

RECOMMENDATION

That, on the recommendation of the Managing Director - Environmental & Engineering Services & City Engineer, this report **BE RECEIVED** for information.

PREVIOUS REPORTS PERTINENT TO THIS MATTER

Relevant reports that can be found at www.london.ca under City Hall (Meetings) include:

- Minor Revisions to W12A Landfill Site Community Enhancement and Mitigative Measures Program, Civic Works Committee (CWC) Meeting on October 6, 2014, Agenda Item #10
- W12A Landfill Community Enhancement and Mitigative Measures Program, Environment and Transportation Committee (ETC) Meeting on May 11, 2009, Agenda Item #12
- City of London W12A Landfill Area Plan Study Meeting on Official Plan & Zoning By-Law Amendment, Planning Committee (PC) Meeting on Monday, February 9, 2009, Agenda Item #15

BACKGROUND

PURPOSE

The purpose of this report is to update Committee and Council on the W12A Landfill Community Enhancement and Mitigative Measures Program.


CONTEXT

W12A Landfill and Waste Management & Resource Recovery Area

Municipal Council adopted the W12A Landfill Area Plan and the Official Plan and Zoning By-law amendments required to implement the W12A Landfill Area Plan in 2009. The purpose of the W12A Landfill Area Plan is to plan for the continued evolution of the W12A Landfill as an integrated waste management centre that utilizes environmentally responsible and sustainable operations and practices in achieving a high standard of compatibility with its environs and neighbours.

The W12A Area Plan included the establishment of a new designation in the Official Plan and carried forward in the London Plan, for the W12A Landfill and surrounding land called the Waste Management and Resource Recovery Area (WMRRA). The WMRRA is shown on Map 1.

Land within the WMRRA could be used for the expansion of the W12A Landfill as well as any future recycling, composting and/or resource recovery facilities required by the City. The first resource recovery facility to be sited on these lands was the City's Regional Material Recovery Facility built in 2011.



not to scale
Key Map

W12A LANDFILL LAND STRATEGY

Map 1

Properties Eligible for Property Value Protection Plan

Legend


- City property
- Eligible property
- Eligible property subject to visual impact assessment
- Former eligible property, sold privately after 2005
- Former eligible property, severed from larger parcel bought by City
- Waste Management Resource Recovery Area
- Non-Agricultural, Non-Residential Properties

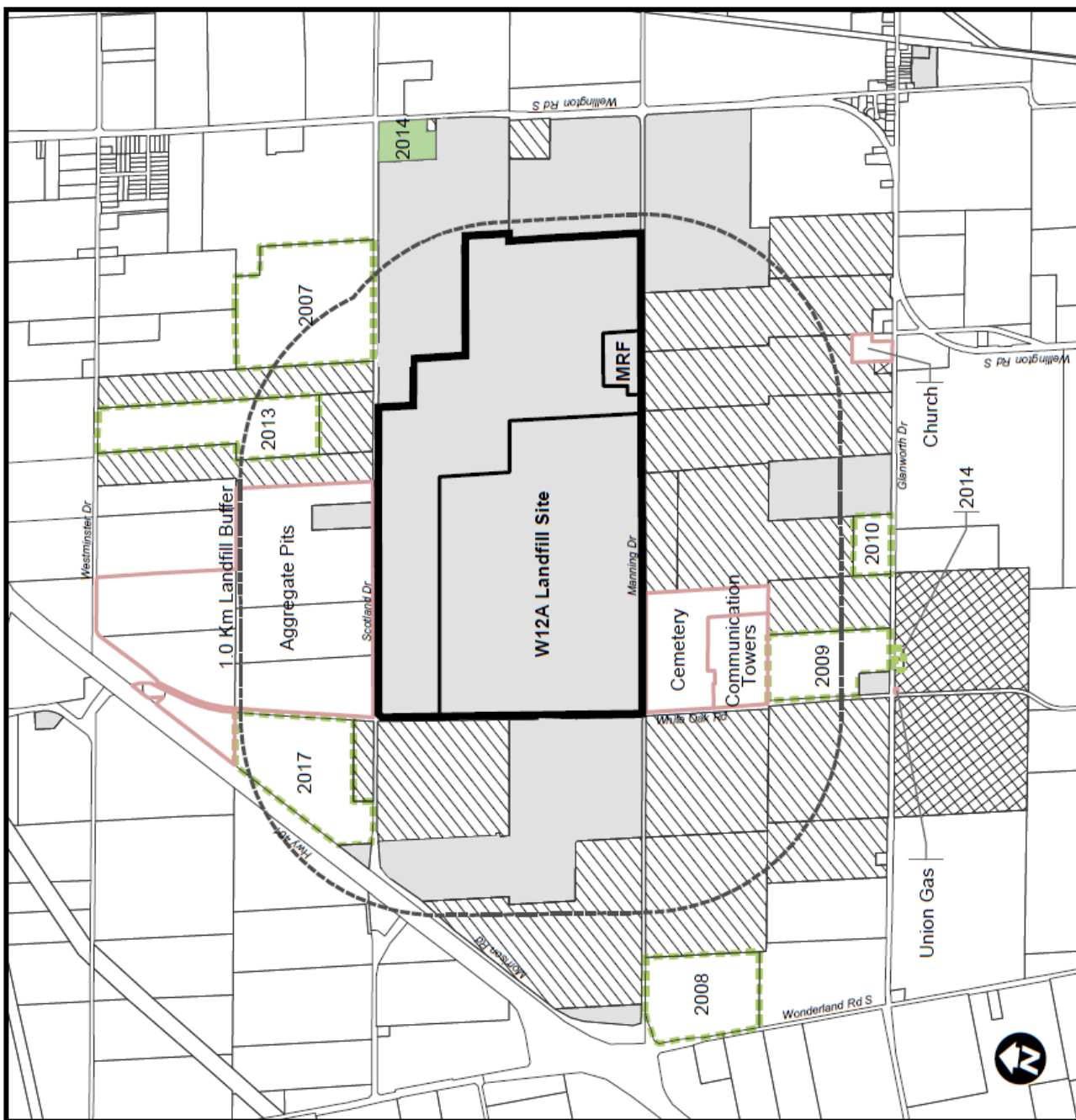
Date: November 25, 2018

Scale: 0 250 500 750 Metres

1:27,500

Prepared by: Strategic Planning
City of London
Production: L2M/June 17/MAD/MSK
Date: 11/2018
Scale: 1:27,500





The London Plan expanded the list of approved land uses to industries “*involved in the processing, fabricating, or manufacturing of products using materials available from the Waste Management Resource Recovery Area, including alternative energy sources.*” This allows for the possibility of an eco-industrial park to be established on these lands.

The Individual Environmental Assessment (EA) for long-term solid waste resource recovery and waste disposal plans will have a major influence over the current and future use of these lands.

DISCUSSION

W12A Landfill Community Enhancement and Mitigative Measures Program

In conjunction with the W12A Landfill Area Plan, the W12A Landfill Community Enhancement and Mitigative Measures Program was also approved by Council in 2009. This program is part of the City’s overall efforts to reduce and address the negative effects of the W12A Landfill on neighbouring properties and consists of a:

- property value protection plan;
- “right of first refusal” program;
- community mitigative measures fund; and,
- public liaison committee.

Property Value Protection Plan

Properties eligible for the property value protection plan are shown on Map 1. The property value protection plan requires the City to buy these properties at fair market value inclusive of a hypothetical assumption that the property is not in proximity to the W12A Landfill or alternatively pay the difference between the fair market value and a bona fide offer. The City has purchased sixteen of these properties under the property value protection plan. A copy of the property value protection plan is contained in Appendix A. Six properties near the landfill were purchased prior to the establishment of the Community Enhancement and Mitigative Measures Program.

Purchasing land in the vicinity of the landfill has several benefits to the City including:

- acting as a buffer for the existing landfill;
- protecting against short and long-term encroachment around the landfill site;
- reducing potential opposition to any long term plans that are developed for the WMRRA including future facilities and/or possible expansion the W12A Landfill; and,
- being seen as a “good neighbour” by residents in the area by dealing with the challenges that are posed by a landfill site.

“Right of First Refusal” Program

Property owners who are part of the “right of first refusal” program are obligated to allow the City to match any offers received for the property from others. In return these property owners receive an annual payment from the City which varies depending on the distance of their home from the landfill and the amount of garbage received in the previous year. About 35 properties are currently eligible for the program and the majority have joined (See Table 1 below). The current annual payments total approximately \$80,000.

Table 1 – “Right of First Refusal” Program

Group	Eligible Properties		Properties Currently Participating	Approximate Annual Payment
	Program Start	Currently Eligible		
House within 500 m	10	5	4	\$7,000
House between 500 & 1,000 m	3	0	0	\$4,700
House between 1,000 & 1,500 m	46	30	22	\$2,300
Total	59	35	26	

Community Mitigative Measures Fund

The Community Mitigative Measures Fund is used to address special circumstances in the broader community that are not covered by the other sections of the Community Enhancement and Mitigative Measures Program.

The fund started with an initial balance of \$350,000 in 2009. This represents the amount of money (including inflation and interest) the City would have had paid to the former Town of Westminster between 1993 and 2008 had the City not amalgamated the Town less funds already spent on community initiatives from the Sanitary Landfill Reverse Fund (i.e., funding connection to the municipal water system in Glanworth). Beginning in 2009, the fund received \$0.25 per tonne (adjusted for inflation annually) for each new tonne of waste buried at the landfill. The fund currently has a balance of approximately \$700,000.

Funds in the Community Mitigative Measures Fund can be used to cover the expenses of the W12A Public Liaison Committee (PLC) and on projects recommended by the W12A Landfill PLC.

Public Liaison Committee (PLC)

The W12A Landfill PLC serves as a focal point for dissemination, review and exchange of information and monitoring results relevant to the operation of the landfill. The majority of PLC members is made up of persons living near the landfill. The PLC meets regularly and meetings are open to the public.

The PLC is responsible for recommending projects or undertakings to the City that are paid for from the Community Mitigative Measures Fund. The Public Liaison Committee may disburse up to \$15,000 per year from the fund without Council approval on certain items (technical consultants related to landfill matters or community projects that enhance local social and/or recreational facilities or programs). Projects over \$15,000 must be approved by Council.

Long Term Waste Management Planning and Individual Environmental Assessment for the Expansion of the W12A Landfill Site

To plan for the future, the City is developing a long term Resource Recovery Strategy and a long term Residual Waste Disposal Strategy. The Resource Recovery Strategy involves the development of a plan to maximize waste reduction, reuse, recycling and resource recovery in an economically viable and environmentally responsible manner. The Resource Recovery Strategy includes the recently approved 60% Waste Diversion Action Plan.

The Residual Waste Disposal Strategy includes the completion of an Individual Environmental Assessment (EA) for the expansion of the W12A Landfill. An Environmental Assessment (EA) under the EA Act is a planning study that assesses environmental effects and advantages and disadvantages of a proposed project.

The first phase of the Individual EA process is the development of a Terms of Reference (ToR) for approval by the Minister of Environment, Conservation and Parks. The ToR becomes the framework or work plan for the preparation and review of the individual EA. The ToR allows the proponent (the City) to produce an EA that is more direct and easier to be reviewed by interested persons.

The City submitted its ToR for the expansion of the W12A Landfill to the Minister of Environment, Conservation and Parks for approval on October 12, 2018. Approval is expected in the spring 2019.

It is expected the W12A Landfill Community Enhancement and Mitigative Measures Program will be updated as part of the EA process.

ACKNOWLEDGEMENTS

This report was prepared with assistance from Mike Losee, Division Manager - Solid Waste Management and Bryan Baar, Manager - Realty Operations.

PREPARED AND SUBMITTED BY:	RECOMMENDED BY:
JAY STANFORD, M.A., M.P.A. DIRECTOR, ENVIRONMENT, FLEET & SOLID WASTE	KELLY SCHEER, P.ENG., MBA, FEC MANAGING DIRECTOR , ENVIRONMENTAL & ENGINEERING SERVICES & CITY ENGINEER

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Appendix A (Sample of the) W12A Landfill Property Value Protection Plan

- c: Anna Lisa Barbon Managing Director, Corporate Services and City Treasurer,
Chief Financial Officer
Bill Warner, Division Manager, Realty Services

APPENDIX A



W12A Landfill Property Value Protection Plan

This agreement is between:

The Corporation of the City of London (“City”)

and the owner(s) of _____, London, Ontario -Schedule “A”

(the “Owner(s)”)

The owners acknowledge that they wish to sell their property according to the procedures set forth in the W12A Landfill Property Value Protection Plan. These procedures are:

- a) The City will retain a qualified appraiser to estimate the value of the property as if there is no landfill nearby. Added value to the property by the presence of the landfill such as improved water supply or “right of first refusal” payments under this program shall not be reflected in the appraised value. The value of the property shall be determined as at the date of the notice.
- b) The property owner has the right to hire a qualified property appraiser of their choice and at their cost should there be disagreement the appraisal obtained by the City.
- c) If the difference between the two values is less than 10%, the City will accept the higher value as the appraised value of the property and guarantee this value.
- d) The Civic Administration will create a pool of qualified appraisers acceptable to the Manager of Realty Services. If the difference between the City’s and the Owner’s appraisals is more than 10% higher than the lower appraisal, the City and the Owner shall select a mutually agreed upon third appraiser from the pre-qualified pool who will conduct a peer review of the original appraisals and determine the fair market value of the property based on the information contained in the original appraisals. If the parties cannot agree on the choice of the third appraiser, either party may, in its sole and absolute discretion, opt out of this Property Value Protection Plan, and thereafter the Owner is at liberty to sell the property on the open market. The City and the Owner will share equally in the cost of the third appraiser.

If the difference between the City’s and the Owner’s appraisals is more than 20% higher than the lower appraisal, either party may, in its sole and absolute discretion, opt out of this Property Value Protection Plan, and thereafter the Owner is at liberty to sell the property on the open market.

- e) The values determined by the appraisers shall govern the determination of the value of the property for the purposes of the Property Value Protection Plan for a period of at least twelve months following the date of the written notice from the property owner. If an owner wishes to invoke the Property Value Protection Plan again after this twelve month period, the owner may do so subject to paragraph (j) following.
- f) Following the establishment of the appraised value of the property, the City may offer to purchase the property at the appraised value. If the City does not make such an offer, the owner will list the property with a realtor who will actively promote the property by advertising and by use of the Multiple Listing Service.
- g) If the owner does not receive a bona fide Offer to Purchase within six months of the date of listing with a realtor who has actively promoted the property by advertising and use of the Multiple Listing Service, then the owner may require the City to purchase it at the appraised value.

- h) If the owner receives a bona fide Offer to Purchase within six months which is less than the appraised value, then the owner may require the City to pay the difference between the purchased price and the appraised value qualified by a right of first refusal in any sale as per paragraph i).
- i) The Property Value Protection Plan is qualified by the retention by the City of a right of first refusal in any sale. In other words, rather than paying the difference between the offered price and the appraised value, the City may elect to purchase the land at the appraised value. The right of first refusal will be exercised by the City within twenty business days of receipt of the offer, where a business day is Monday through Friday inclusive and does not include a Statutory Holiday. The owner shall notify prospective third party purchasers of the existence of the City's right of first refusal.
- j) The following governs the cost of the appraisals if an owner invokes the plan more than once.
- In the event an owner invokes the Property Value Protection Plan after twelve months but prior to thirty-six months of having previously invoked the plan, the owner shall pay the full cost of all appraisals.
 - If the owner invokes the Plan between three to six years after last invoking the Plan, the cost of all of the appraisals shall be paid 50% by the owner.
 - If the owner invokes the Plan after six years of having previously invoked the Plan, paragraphs a), b) and d) would govern with respect to the cost of appraisals.
- k) Nothing in paragraphs j) shall prevent an application to the City by the owner to waive these subsections on compassionate grounds in extenuating circumstances.
- l) The Property Value Protection Plan will not apply to subsequent purchasers of the land.
- m) The Property Value Protection Plan will apply to sales by the estate of a deceased owner who would have been eligible if they were still alive. Subsequent owners who acquire the land by inheritance from an eligible owner are eligible.
- n) A subsequent owner who acquires land without application of the Property Value Protection Plan from a parent, spouse or person with who he or she has cohabited, as defined in the Family Law Act, is also an eligible owner under the Plan.

Signed:

Date:

The Corporation of the City of London

Mayor, Ed Holder

City Clerk, Catharine Saunders

Owners
