

REPORT TO COUNCIL TOWNSHIP OF MELANCTHON

STRADA AGGREGATES PLANNING APPLICATIONS

MINISTRY OF MUNICIPAL AFFAIRS AND HOUSING PROPOSED MODIFICATIONS TO OFFICIAL PLAN AMENDMENT NO. 17

DATE: August 16, 2011

APPLICANT: Strada Aggregates Inc.

APPLICATIONS: Amendments to the Official Plan and Zoning By-law

LOCATION: Part W½ Lots 11 & 12, Concession 3, O. S.

Purpose

This report provides an update on the discussions at the staff level concerning the three modifications to Official Plan Amendment No. 17 (OPA 17) proposed by the Ministry of Municipal Affairs and Housing (Ministry) in Mr. Doersam's email of July 13th to Ms. Holmes. It also proposes alternative wording which avoids the complete deletion of the policy in OPA 17 concerning the prohibition of aggregate recycling and accessory industrial uses.

Background

On July 13th, the Ministry proposed three modifications to OPA 17, including one which would delete the policy prohibiting "aggregate recycling" and "a concrete batching plant or other industrial or similar use" whether as "a principal use or an accessory use". A July 14th reporting letter went to Council at its meeting on July 21st and Council verbally referred the matter to staff to pursue with Ministry staff. There was a strong indication of support for retaining the referenced policy in the Amendment.

Subsequent to the July 21st Council meeting, there have been two telephone discussions or message exchanges with Mr. Doersam, an August 8th letter to Mr. Doersam, one telephone conversation with Mr. Doersam and Mr. Mark Christie, also with the Ministry, and two telephone conference calls involving all of the above plus Mr. James Parkin and Mr. Dave Barrett, planning consultants to Strada Aggregates on this proposal. These discussions have resulted in a potential resolution concerning the Ministry's original proposal to delete the industrial use related prohibition policies.

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Proposed Revised Modification

It has been clear from the outset of the discussions outlined above that staff at the Central Municipal Services Office of the Ministry would not agree to a policy that would prohibit aggregate recycling and aggregate related uses, even on a site specific amendment such as OPA 17. The Ministry's position is based on the terminology used in the Provincial Policy Statement (PPS) to define a "mineral aggregate operation". A strict interpretation of that definition alone with no consideration of other PPS policies leads to the conclusion that such uses must be permitted as part of all such operations. Ministry staff is of the opinion that to prohibit these uses would contravene the PPS.

In view of this interpretation of the PPS, the undersigned has proposed an alternative approach to the related modification and staff at the Ministry's Central Municipal Services Office agree with this proposal. Strada's planning consultants have also advised that their client supports the revised wording.

The Zoning By-law amendment implementing OPA 17, as passed by Council, also contains a prohibition on these uses. That prohibition would remain in the By-law and subsection 4(d)(iii)(b) on page 9 of OPA 17, the subsection containing the prohibition on aggregate recycling and industrial uses, would be modified to include two new and important related policies stating that:

1. such uses are permitted only through a Zoning By-law amendment; and,
2. such uses require an amendment to the approved site plan under the Aggregate Resources Act and must comply with the policies of the Official Plan.

In addition, the modified policies would retain the OPA's proposed prohibition on any such uses operating as principal uses. This would include such uses operating after the aggregate use has ceased.

The Specific Proposed Wording Change

Subsection (b) on page 9 of OPA 17 currently reads as follows:

"No aggregate recycling processes are permitted as part of an extractive industrial use. No concrete batching plant or other industrial or similar use is permitted as either a principal or an accessory use."

The proposed modification would change the policies in subsection (b) so that they would read as follows:

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“Concrete batching plants or other industrial or similar uses are not permitted as a principal use on the subject property. Additional accessory uses, such as mineral aggregate recycling, may be considered, but only through a site-specific Zoning By-law amendment, an amendment to the approved site plan under the Aggregate Resources Act, and subject to the policies in this Plan.”

This wording represents a reasonable alternative to the Ministry’s proposed removal of the policy prohibiting these uses. All such freestanding non-accessory uses would remain prohibited and any such uses developed as accessory facilities would have to proceed by rezoning and would be subject to all of the applicable OPA policies including those relating to the protection of environmental and water resources.

It should also be noted that the other two modifications as originally proposed by the Ministry will no longer be required. All of the archeological work has been completed and the Ministry approvals issued so no change is needed to the related policies in OPA 17. Also, if the above wording is implemented, no change in the numbering of the subsections in OPA 17 is required.

Recommendation

There are three principal options available to the Township in this matter:

1. Agree to the deletion of the subject policy prohibiting these uses, as originally proposed by the Ministry;
2. Do not agree to the Ministry’s deletion of this policy and appeal the Ministry’s decision to the Ontario Municipal Board; or,
3. Endorse the proposed modification to the wording of the subject policy as proposed in this report.

On the basis of the analysis provided herein, the third option is recommended.

All of which is respectfully submitted.



G. W. Jorden, RPP