



Development Services Staff Report

Report Number: DS07-2023
Report Title: OPA 2/2022 and ZC 5/2022 (39A Holdings Ltd.)
Author: Jeremy Vink, Manager of Planning
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Reviewed By: Deanne Friess, Director of Development Services
Final Review: Senior Management Team

Recommendation:

That the Council of the Township of Woolwich, considering Report DS07-2023 respecting OPA 2/2022 and ZC 5/2022 (39A Holdings Ltd.):

1. Recommends approval of Official Plan Amendment 2/2022, to the Region of Waterloo, in accordance with Attachment '5', concerning a property located at 39 Arthur St N in Elmira to redesignate a portion of the lands from Open Space to Industrial; and
2. Approve Zone Change Application 5/2022, concerning the property located at 39 Arthur St N in Elmira, to:
 - a. amend the General Dry Industrial (M-1(F)) with site specific provisions to have the Floodplain line (F-suffix) align with the Floodplain;
 - b. change the rear portion of the parcel from Open Space (O-1) to General Dry Industrial (M-1) with site specific provisions, consistent with the Industrial designation of the lands as per OPA 2/2022; and
 - c. amend the site-specific provisions on the parcel to allow the rear of the site to develop as a gravel parking lot for the storage of transport trucks and trailers, and to delete the existing site-specific provisions allowing the auto recycling, subject to:
 - i) The amending By-law being in accordance with the proposed By-law attached as Attachment 6 to this report; and
 - ii) Official Plan Amendment 2/2022 coming into effect.

Background:

GSP Group on behalf of the property owners, 39A Holdings Ltd., submitted applications to amend the Official Plan and the Zoning By-law with regards to the lands at 39 Arthur St N, in Elmira and legally described as Plan 1301 Part Lots 20 & 21. A public meeting was held on April 11, 2022, in regards to this application and the corresponding minutes of the meeting are attached.

The 4.7ha property has frontage on Arthur St N and High St and is adjacent to the Kissing Bridge Trail to the north, and the Canagagigue Creek and Bolender Park to the south. The lands are designated and zoned in the following manner:

- Approximately 1.6ha of the property along Arthur Street North is designated Industrial Area in the Township's Official Plan and is zoned General Industrial – Dry (M-1 (F)) with floodplain regulations and Site-Specific zoning (Section 26.1.156). The site-specific zoning permits the dismantling, storage, and salvage of motor vehicles. This portion of the property is developed with an industrial building and gravel parking area for the storage of trucks and trailers associated with a transportation operation.
- The balance of the lands, 3.1ha, are designated Open Space Area in the Township's Official Plan and are zoned Open Space (O-1). This portion of the property is a naturalized area. (see existing OP and Zoning – Attachment)

The applicants are proposing to amend the Township's Official Plan and Zoning By-law to facilitate the expansion of the existing gravel parking lot to the east to permit additional storage and parking of transport trucks and trailers. Specifically, the applicants are proposing the following applications:

1. An Official Plan amendment to redesignate an approximately 1.95ha portion of the property to align the area with the lands in use at the front of the site and more specifically to change the lands at the rear of the site from Open Space to Industrial.
2. A Zoning amendment to rezone portions of the site as follows:
 - to align the site-specific General Industrial – Dry (M-1) zone with the current developed area;
 - to expand the site specific General Industrial – Dry (M-1) zone to the east of the property to permit the gravel parking lot for the parking of trucks and trailers;
 - to remove the existing site-specific zoning that allows for the auto recycling yard; and
 - to align the Open Space (O-1) zone with the delineated natural features and / or buffers established by the Environmental Impact Study.

The proposed zoning result will be an General Industrial M-1(F) zoning that will align with the Floodplain, the lands to be used for industrial purposes to be Zoned M-1 with site specific provisions, that the Floodplain overlay (to be zoned M-1(F) with site specific provisions) will align with the Grand River Conservation Authority floodplain mapping, and that the remaining natural features will be zoned Open Space (O-1) which do not permit development. (see proposed zoning in Attachment 6)

The applicant has submitted the following studies in support of their planning applications:

- Planning Justification Report
- Archaeological Assessment
- Functional Servicing and Stormwater Management Report
- Geotechnical Report
- Guideline D-6 Compatibility Study
- Guideline D-4 Study
- Phase One Environmental Site Assessment
- Phase Two Environmental Site Assessment
- Opinion Letter on Environmental Conditions and Records of Site Conditions Requirements
- Environmental Impact Study
- Tree Preservation Plan

From a site perspective the property will remain with access from Arthur St N, currently proposing an estimate of 1 transport truck per hour during normal business hours or 8 trucks per day. The operations are proposed during regular daytime hours.

It is also proposed to convey a 12.25-metre-wide strip across the rear of the lands (by High Street) to the Township, giving the Township ownership of the existing watermain that is currently located in an easement.

In the late 1940's a portion of the site along the rail line was zoned Industrial. By 1972 the entire property was zoned Industrial. Then in 1983 when the Official Plan as approved, only the northwest corner was designated as Industrial, while the remaining lands were designated Open Space. No rationalization was found as to why the Industrial designation in the Official Plan was reduced in size compared to the zoning that affected the lands under By-law 1617. There is no clear indication that the Open Space designation was due to environmental constraints (i.e., floodplain, wetland, etc.). However, the reduction may have resulted by the fact that these lands contained the old municipal dump and Open Space. The former salvage yard operation used the front portion of the site but was not legalized until 1986 and has enjoy site specific zoning since that time.

The subject lands, and especially the portion to be rezoned, contain a former private landfill. The landfill closed in 1969 and likely only operated for a few years, potentially only from 1962 to 1969.

Comments:

Provincial Policy Statement (PPS) and A Place to Grow (P2G)

The provincial policies, being the PPS and P2G support development in settlement areas with policies that speak to promoting efficient development and land use patterns, encouraging intensification, the redevelopment of brownfield sites, but also avoiding development that may cause environmental or public health and safety concerns.

Specifically, the relevant PPS policies speak to:

- supporting development that promotes efficient development and land use patterns which sustain the financial wellbeing over the long term and cost-effective development patterns and standards to minimize land consumption and servicing costs. (Section 1.1.1)
- permitting growth in a settlement where the policies establishes that settlement areas shall be the focus of growth and development, and their vitality and regeneration shall be promoted. (Section 1.1.3.1)
- providing a land use pattern based on providing a mix of land uses, which efficiently use land and resources, are appropriate for, and efficiently use, the infrastructure available, as well as a range of uses and opportunities for intensification and redevelopment. (Section 1.1.3.2)
- promoting economic development and competitiveness and protect and preserve employment areas. (Sections 1.3.1 and 1.3.2)
- providing for separation or mitigation from sensitive land uses to maintain the long-term operational and economic viability of the planned uses and function of these areas. (Section 1.3.2.2.)
- ensuring natural heritage features and areas will be protected for the long term (Section 2.1.) where development has been directed outside of natural hazards, including flood hazards (Section 3.1).

The P2G has many similar and consistent policies with the PPS in terms of directing growth to built-up areas within Settlement Areas, promoting economic development will be promoted by making efficient use of employment areas, addressing land use compatibility and protection of natural heritage. It is staff's opinion that the proposed Official Plan Amendment and Zoning Bylaw Amendment are consistent with the Provincial policies.

Regional Official Plan (ROP)

The Region of Waterloo staff have reviewed the application in accordance with the Regional Official Plan, and Provincial policies.

The Region was satisfied with the reports and studies as originally submitted, including the D-4 study.

As a site within a defined Township Urban Area and within a built-up area on full municipal services the proposed development needs to conform to various sections of the ROP. Compatibility as per Section 2.G.10 of the ROP and Section 2.I.1 of the new Council approved ROP chapter 2 are to be addressed. As per these policies, the development will minimize and mitigate any potential adverse impacts (2.I.1.1). Noise and dust issues can be addressed and attenuated as per the studies provided. By limiting the uses it helps to reduce any compatibility issues, combined with the proposed landscaping and fencing.

The archaeological resources have been reviewed and addressed, with no concerns noted.

The Natural Hazards, Section 7.H, require that lands be appropriately designated and zoned to prohibit development and minimize hazards. The Canagagui Creek and the associated floodplain have been identified and are to be zoned appropriately as part of this application. The natural area along the south end of the site will remain designated and zoned appropriately to prohibit development and the remainder of the lands subject to the zoning are almost entirely out of any natural hazard area and as such do not require any special designation or zoning related to the same.

The lands are also part of the designated Employment Area of the Regional Council approved Regional Official Plan, as such the lands are encouraged to be used for employment-based uses. Regional staff and Township staff are of the opinion that the proposed Official Plan Amendment and Zoning Bylaw Amendment conform to the ROP.

Township Official Plan (OP)

The current Township Official Plan designates the front portion of the site as Industrial and the rear portion, along with the surrounding Bolender Park, as Open Space.

The Open Space designation either represents areas such as major parks or golf courses and are meant to be used for public and quasi-public uses, or lands that present some potential form of hazard, where no other form of development is deemed appropriate.

Industrial designations are used to delineate areas for uses such as manufacturing, processing, assembly and storage.

The Official Plan also speaks to Natural Hazards, which includes lands subject to flooding, slopes, and organic soils. To protect such features, the boundaries of the Natural Hazard may be implemented through the zoning by-law.

Appropriateness of the development

As noted above, the applicant has provided a number of studies to support and address the appropriateness of the development. The applicant, in the Planning Justification provided a summary of the recommendations from the various reports, staff have provided that summary in Attachment 3 as it is an accurate summary of these various reports.

The reports note that:

- There are no Archeological concerns.
- Functional Servicing reviewed storm water management issues and identified how grading and storm water can be properly addressed. A small portion of the additional lands will drain to the ditch along the trail to the north. Most of the rear lands will grade and drain to the creek, but first passing through a bio-retention facility for storm water quality and quantity. This retention facility will be located within the Open Space Zone.
- Geotechnical report assessed the existing soil and groundwater conditions encountered on the Site. The report identified the plans to remove the topsoil, vegetation and unsuitable soils followed by the placement of structural fill (as required) and site grading to achieve the proposed grade.
- D-6 Compatibility Study assessed potential noise, dust, odour, and vibration impacts of the proposed development on surrounding residential uses. Based on the operations the development was considered a Class 1 operation and will not produce any vibrations or odour and will produce limited dust and noise. Noise was further reviewed and predicted sound levels at the mutual property line for the closest residence to a truck accessible area on the site is 49 decibels, which is below the Ministry's limit. As a result, there is not expected to be a significant noise issue for surrounding residents. Dust was also further studied and as the site will be a parking lot, speed and volume will be limited and thus dust generation will be minimal. The separation distance between the parking area and the mutual property lines will allow dust plumes to dilute, making it unlikely that the proposed development will exceed the limits.
- D-4 Guidelines (for landfills), the studies submitted indicate that:
 - Groundwater, surface water, and nuisance impacts from the closed Bolender Landfill are present, however, unlikely to affect the proposed expansion of the existing gravel parking lot over the east portion of the closed landfill site;
 - Landfill gas (primarily methane) is above the Lower Explosive Limit (LEL) in the underlying waste and soil at several locations across the Site;
 - Monitoring of methane by GHD Group on behalf of the Township has been ongoing for decades and recent verbal discussions indicate that the current program has determined there is no significant potential for an off-site

impact, and further, that no further monitoring on behalf of the Township is required;

- Methane gas is not expected to impact the proposed use of the surface as a gravel parking lot for truck and trailer parking with no on-ground storage as it will allow methane to vent naturally. This should be confirmed with one year of quarterly gas monitoring following the construction of the parking lot. The study provides the following recommendations as a result of the investigation the proposed expansion of the gravel parking lot can be undertaken with conditions to ensure the health and safety of surface users and the protection of the environment. These conditions should include:
 - The parking lot can be constructed of gravel;
 - The parking lot is only to be used for parking of trucks and trailers with no buildings or on-ground storage; and,
 - Quarterly monitoring of the gas probes, monitoring wells, and surficial soils (approximately 50 points) for the presence of methane after the parking lot construction. The results should be reviewed after each sampling event and the monitoring program amended, if required, based on criteria outlined in the report; and
- Comments from the Ministry of Environment Conservation and Parks (MECP) following their review of the draft D-4 report and related environmental assessment reports should be taken into consideration during construction of the parking lot extension.

The Township had the applicant's D-4 study peer reviewed to ensure the study was complete properly. In summary the revised study is acceptable as it demonstrates that the use can be accommodated on the site. The removal of the trees and the gravelling of the parking lot will not impact the landfill, and regular monitoring will need to continue to verify methane levels.

As noted in the study, methane levels near the existing building, in the area already zoned for industrial uses, is higher. The study suggests this is not a result of the landfill but more likely attributed to the former auto recycling operation. However, this has no impact on the proposed operation.

It is proposed to require in the site plan agreement that the applicant complete regular (quarterly) monitoring of methane levels for two years. If levels increase monitoring would need to be continued for an additional two years, the applicant would need to notify the Township of the same, and if levels in the air are noted to be unsafe to operate in the area, and then to immediately cease activities. The site plan agreement would be registered on the title of the property.

With respect to the change in the Open Space and Industrial designations, although such a change is not common, the question is whether the change is appropriate based on the policies in place. Regarding the Provincial policies, the policies speak to ensuring that lands in settlement areas are used efficiently and as well as a range of uses and

opportunities for intensification and redevelopment are considered. Having the lands designated Open Space is also not consistent with the policy as the lands do not represent any major parks or golf courses nor are the lands meant to be used for public and quasi-public uses, they do not present some potential form of hazard or where no other form of development is deemed appropriate. The proposed Industrial designation is more consistent with the past use and with the policies and ROP designation.

From a Township Official Plan perspective, the lands to remain designated as Open Space are the lands adjacent to the creek and the buffer strip along High St as identified in the studies as lands that contain environmental features or are buffers to the same. The buffer strip are lands that are proposed for public purposes. The Open Space designation is then appropriate to these lands and conforms to all the policies. Being adjacent to the creek a portion of the lands are within the floodplain (natural hazard lands) and will be appropriately zoned with the (F) suffix to identify the same. The lands subject to hazards (the flood plain), have been reviewed and the flood line appropriately identified, demonstrating that the lands can be developed. This conforms to the policies in the Official Plan.

Part of considering the Industrial designation is the appropriateness of the use in proximity to any other sensitive uses (i.e., compatibility). This requirement is addressed in the Planning Justification Study and the D-6 Compatibility Study. The study was reviewed and accepted by the Region.

Trees

As per the report, the majority of the trees are either in fair to poor shape, and/or a poor-quality tree species. The Township guidelines seek a one-to-one replacement for any lost trees, meaning that in the long term there will be the same number of trees, but better trees as the poor-quality trees will be replaced.

The trees along the park will either be maintained, or poor trees replaced with new trees, as well as adding the additional trees. As such a large number of trees will be maintained between the park and the fenced yard, resulting in no substantial visual impact from the park.

By approving this application, it will actually protect all of these trees as part of a future site plan agreement. The subject trees are not part of any site plan if the application was denied, the owner could remove all the trees if they so desired with no requirement to replace them.

Removal of Automotive salvage yard

By removing the salvage use it will remove a use that was likely adding more pollutants directly into the soil and the creek. It is also the likely cause of higher methane levels in that area of the site.

Traffic

The subject lands front onto Arthur St N and are under the jurisdiction of the Region of Waterloo. Given the low volumes of traffic, the use and that Arthur St is a Regional Road is meant to move area traffic. The Region has no concern with regards to traffic nor the need for a traffic study. The applicants suggest that the traffic volumes are about one truck per hour and therefore minimal. Township Planning staff questioned the number of trips provided and suggest that actual movements for a site with about 115 parking spaces for trailers would be higher, however, even if it was three to four trucks an hour it would still be minimal traffic. The amount of traffic is also likely similar to the previous uses. Staff have reviewed the report with regard to compatibility and are satisfied that the traffic will be minimal and as such it is staff's opinion that the traffic will not result in unacceptable noise or dust impacts to the nearby residential uses and park. The subject site-specific by-law will limit the use to truck and trailer storage to be consistent with the study provided.

Comparatively, the former use as a gas station, landfill, and auto recycling likely had as much or more traffic to the site.

To encourage a 15-minute community, to promote sustainability, reduce using more farmland than necessary, as community we need to maximize the use of the lands within our settlement areas. These lands, already compromised by a historic use remain vacant and under utilized and can be used for some limited development.

The GRCA reviewed the various environmental studies, geotechnical studies and functional servicing study and reviewed the floodplain. The Region reviewed the compatibility studies and the archeological. Township staff reviewed the geotechnical and functional servicing studies.

Based on the above, the proposed development of the subject lands will utilize under utilized lands in the settlement and is a development that is consistent with the PPS, P2G, and Regional Official Plan. The use conforms to the applicable policies and generally consistent with the Township Official Plan as it can develop in an appropriate manner without impacting the natural heritage features, impacting the landfill, creating any land use compatibility concerns and overall would better utilize the lands that are currently underutilized. The application and development of the lands would also allow the Township to see the replacement of any lost trees and improve the tree canopy as a result. It is staff's opinion that the application to designate the already developed lands and the lands to the rear as Industrial Land use while retaining the Open Space Designation on the remainder of the lands is consistent with the Provincial Policies, Regional and Township policies and is appropriate development of the land.

Zoning

The proposed zoning is intended to implement the proposed Official Plan amendment. The lands being redesignated from Open Space to Industrial are proposed to be zoned

Industrial (M-1), being the same underlying zoning as the front portion of the parcel. However, to recognize that the rear of the site does have limitations in that it must be gravel and compatibility only considered truck and trailer parking, the site-specific zoning will only permit the rear portion to be used as a gravel parking area.

Staff support the requirement that the site-specific zoning require that the lands be gravel and not hard surfaced with any asphalt or concrete. This is in the best interest of the site to address any settling from the landfill, to be consistent with and support the water balance and functional servicing, and it may assist in dealing with any methane.

The applicant is also proposing to delete the current site-specific zoning that allows the auto recycling operation. Given the location of the nearby creek and potential for flooding in the front portion where the auto recycling was permitted, the removal of the use is supported.

As part of the zoning process, the intent is to properly identify and align the Floodplain overlay on the M-1 zoned portion of the lands. The GRCA has reviewed the flood line and is satisfied in this regard.

The lands designated Open Space will be zoned Open Space accordingly to limit development of these lands.

Site Plan Approval

Prior to the development of the site for the gravel parking, the applicant will need to enter into a site plan agreement. The agreement will address the issues of fencing, tree planting, stormwater management, grading and drainage works, monitoring and any other recommendations from the various studies as applicable.

Land Acquisition

As part of the proposed plan, the applicant will be dedicating land to the Township along the easterly boundary. These lands will provide a buffer strip between the residential and parking lot use, but also give ownership to the Township for the lands which contain a municipal watermain. This strip will also provide a trail connection from the park to the trail.

Staff have also worked with the applicant to have the lands along the creek, from Arthur St to the park conveyed to the Township. These lands will provide lands that will help to support a potential walking trail link from Arthur St and the park as identified in the recently approved Elmira Core Urban Design Study. The final dimensions and area of these lands will be addressed at site plan and conveyed at that time.

Agency/ Staff Comments

The Region of Waterloo provided comments stating they are supportive of the original D-4 study recommendations and the functional servicing study. The Region has no objections to the amendments. The Region will also comment to the site plan application.

The GRCA reviewed the application and their issues with the floodplain have been addressed. The GRCA has no objection to the approval of the applications and recommended the portion of the site subject to the floodplain (f-suffix) be revised to match the flood line. They also note that the areas on the property that are designated as Open Space and within the floodplain should remain as such. The GRCA has a number of elements that will be addressed in the site plan process.

Township Building Division and Fire Department have no concerns.

Development Engineering staff have reviewed the proposed applications and have no concerns with the proposed Official Plan and Zoning Amendments. As part of the future site plan process the Township will implement the appropriate development approvals.

Public Comments

A number of comments were received from various people in regard to the proposed development. The applicant did provide a response to many of these items. The issues raised were:

- i) Compatibility – This is related to the use and any noise, dust or odour relative to surrounding uses. On two sides the site are bordered by industrial uses and other two sides are residential and a public park. There are no odour issues, and dust issues can be mitigated with the landscaping and are minor.
- ii) Noise is part of compatibility and can be addressed through the separation maintained along with the landscaping buffer and fencing as was detailed in the Noise Study.
- iii) Air degradation (diesel fumes) with trucks moving and idling on this expanded site – There are no anticipated impact of the trucks to nearby homes in terms of dust or air contaminates. The trucking operations are likely less impactful than the previous uses on the site. There would be greater air issues from local road traffic than this site.
- iv) Dust – With the gravel surface there will be some dust from the movement of trucks. However, as they are in the yard moving at a slow rate of speed the dust should be minimal. Also, the number of trucks on site is low. These factors, combined with the trees around the perimeter do not suggest that there should be any dust concerns as a result of the operations.
- v) Lighting – Lighting is to be addressed at site plan, where the standard is the lighting should not project beyond the site.

- vi) Fencing – Fencing around the site is proposed. At site plan review a solid fence, about 10 feet in height will be required to screen the site from surrounding uses and help in security for the site.
- vii) Trees and shrubs will be removed to accommodate the expanded truck parking. The loss of trees, mostly invasive and poor condition, will be replaced at a 1:1 ratio but with native or more appropriate species. The tree replacements will help screen the site and reduce dust and air pollution issues.
- viii) Property Values - It is difficult to comment on the impact that a proposed development may have on nearby homes with regard to property values. MPAC assess properties based on as many as 200 different factors. Five major factors usually account for 85% of a properties value, including: 1) location, 2) lot size / dimension 3) living area 4) age of the house and 5) quality of construction. Property taxes are not calculated based on the market value of the property but rather the assessed value of the property. Market values depend on a host of different factors including the state of economy and the individual purchaser's preferences. While planning staff recognize that the property value may be important consideration for some individual residents, it is not a land use planning matter. Planning staff focus on whether the development is good planning with respect to the community and the Township as a whole.
- ix) Concerns were raised that the loss of these Open Space lands is damaging an environmental area. As per the reports, it is not an environmental feature, it is a former landfill that has been left in a "natural" state. The Township must also weigh the impacts of using such lands in a settlement area, that have been used for urban purposes (i.e., industrial and landfill) to their maximum to reduce the need to expand urban boundaries and impacting agricultural or other more natural areas. It is staff's opinion that there is more damage to the environment by expanding urban boundaries than using existing sites. There will be no loss of parkland as result of this application but an actual increase in public lands with the trail connections.
- x) It has also been suggested that having trailer parking will result in tractor trailers leaking liquids (i.e., fuel) and contaminating the creek. With the rezoning removing the auto recycling as a permitted use the risk of contamination to the creek is significantly reduced. Further, as it is not a repair yard and only a trailer storage area, there is likely limited risk of and fuel leaks from trucks related to trailer storage.
- xi) The methane issue has been commented to elsewhere in this report, noting that there are minimal issues and monitoring will be ongoing. Monitoring will form part of the site plan.
- xii) There is no destruction of sidewalks or roads, and the increased truck traffic is minimal such that it will not impact taxes for road maintenance.

Interdepartmental Impacts:

With approval of this development, Infrastructure Services department will acquire 12.25m of land over the existing water line.

Also with the approval of this development the same 12.25m will allow for a trail access between the park and the Kissing Bridge Trail and additional lands for future trail along the creek between Bolender Park and Arthur St as per the Elmira Core Design Study will be acquired and form lands to be maintained by Recreation and Community Services.

Financial Impacts:

None.

Strategic Plan Impacts:

The proposal aligns with the strategic plan direction of planning for growth and exploring economic development opportunities. The development ensures managed and sustainable growth and development within the settlement area. It will allow for the continuation of a business in a manner consistent with Township policies.

Conclusion:

That the Council of the Township of Woolwich support the Official Plan and Zoning amendments as proposed and attached to this report. The development conforms to the policies, better utilizes these underdeveloped lands within the settlement boundary, and it is consistent with the Elmira Core Design Study.

Attachments:

1. Location Map and Site Plan
2. Existing Official Plan and Zoning mapping
3. Minutes of the Public Meeting April 11, 2022
4. Applicant Summary of Reports
5. Proposed Official Plan Amendment
6. Proposed Zoning By-law