



SUBJECT: Response to Staff Direction – Meridian Brick Aldershot Quarry (SD-32-19)

TO: Community Planning, Regulation & Mobility Cttee.

FROM: Community Planning Department

Report Number: PL-04-21

Wards Affected: 1

File Numbers: 585-01

Date to Committee: February 2, 2021

Date to Council: February 16, 2021

Recommendation:

Receive and file community planning report PL-04-21 providing a response to staff direction SD-32-19 regarding the Meridian Brick Aldershot Quarry.

PURPOSE:

Vision to Focus Alignment:

- Building more citizen engagement, community health and culture

The purpose of the following Community Planning Department staff report is to respond to a staff direction (SD-32-19) as it relates to the Meridian Brick Aldershot Quarry, including updating Council on the status of approvals for this quarry.

Background and Discussion:

1.0 Staff Direction

On December 3, 2019, Council approved the following staff direction (SD-32-19):

Direct the Executive Director of Community Planning, Regulation and Mobility to investigate the Air Quality By-law for Oakville and report back to Council with a recommendation for a similar by-law for Burlington by Q2 2020; and

Direct the Executive Director of Legal Services and Corporation Counsel to retain an environmental lawyer to advise on the municipal role in the Aldershot Quarry, the potential air quality by-law and other matters arising; and

Direct the Executive Director of Community Planning, Regulation and Mobility to review and report back on the peer reviews of the studies done by Meridian/Aldershot Quarry and requirements for ongoing monitoring and potential impacts on human health. As part of the review, report back on the cost and process to conduct an independent peer review of studies conducted to date; and

Direct the Director of Roads, Parks and Forestry to review the forestry plan for phased removal and replacement of trees at the Aldershot Quarry, and report back with an assessment to Council in Q2 2020.

2.0 ARA Site Plan Process

Additions or expansions to the regulated activities or limits of an existing quarry beyond the current approved limits requires the submission of an application for a new Aggregate License, including the submission of any/all reports, studies and plans required by the Ministry of Natural Resources and Forestry (MNRF) to review a new application. These materials would be circulated to the relevant commenting agencies, including the City of Burlington. There is not an application to expand the Meridian Brick Aldershot Quarry currently being reviewed by MNRF.

The active Aggregate License in place on the Meridian Brick Aldershot Quarry property has no expiry. On October 29, 2020, the MNRF issued a bulletin advising of no change in status to an earlier consultation (ERO No. 010-6155) commencing in 2009. The bulletin advises that no additional comments are being received at this time.

Permit and License holders under the *Aggregate Resources Act* are required to submit Compliance Assessment Reports on an annual basis to the Ministry to provide status updates to monitor the activities permitted under the current license. Inspections are conducted by the licensee (or an agent of the licensee (i.e. Meridian Brick)) or by Ministry audit followed by an inspection report. Current legislation requires that municipalities are circulated on this information.

Should application(s) be submitted to the City of Burlington, pursuant to the *Planning Act* (i.e. Official Plan Amendment, Zoning By-law Amendment) that propose expansions or changes to land use on the quarry property, the development proposal would be received and reviewed by the City in accordance with applicable policy; notably, Regional and City Official Plans. Provincial land use policy, including the Provincial Policy Statement and guidance documents provide authority to review matters of land use appropriateness and compatibility.

The City of Burlington Official Plan (as amended by OPA No. 55) includes a summary of additional information that can be required for submission as part of the receipt of a complete development application. These requirements include, but are not limited to, supplementary technical reports, studies and plans that are to be identified at the pre-consultation phase. The evaluation of these documents is used in conjunction with the fulsome review and consideration of development applications based on their technical merits (i.e. land use compatibility and appropriateness).

The City of Burlington Official Plan also includes policies that may permit the review of these technical studies by a peer review consultant on a full cost recovery basis and/or at the sole cost of a proponent. The use of a peer review approach can be considered in the processing of an active development application requiring a specific technical expertise and may provide clarity on these matters in the course of formulating a recommendation by staff and prior to a decision by the applicable approval authority.

In its Information Memo to Council on May 21, 2020, the Community Planning Department summarized several amendments that were proposed to Ontario Regulation 244/97 and the Aggregate Resources of Ontario Provincial Standards under the *Aggregate Resources Act* (ERO No. 019-1303).

In response to the Provincial request for comments, staff identified and supported the proposed amendment that would increase early municipal engagement in the process of circulating aggregate applications by proponents. While the amendment states that agencies would not be asked to review aspects of applications that are beyond their mandate, the City has requested that regardless of the type of application or amendment being proposed, municipalities should be included in all agency circulations.

The Community Planning Department also provided comments to the Province in response to proposed changes to the Site Plan Amendment process for aggregate applications. To ensure that the interests of municipalities where existing/proposed pits or quarries are located are considered, the City has recommended that local municipalities automatically receive notice of all site plan amendments at the time of agency circulation, providing for opportunities to provide meaningful input, rather than for information purposes upon the approval of the application.

3.0 Meridian Brick Aldershot Quarry Expansion/Application(s)

The MNRF is the approval authority for the review and issuance of Aggregate Licenses and Amendments, pursuant to the *Aggregate Resources Act* (ARA). The Meridian Brick Aldershot Quarry was most recently approved for a Site Plan Amendment to an approved Site Plan (and Rehabilitation Plan) in 2010 as part of an active Aggregate License (License No. 5500) which has been in place on the property since the early 1970's under a prior ownership. The Site Plan Amendment was required for the

operator to act on a previous approved plan. MNRF has advised that updates to previous dust and noise studies were not required as part of the approval of the most recent Site Plan Amendment. An application to expand the quarry operation beyond the current licensed area would require a new ARA License Application. As part of a new ARA License Application, MNRF would require the submission of new reports/plans, which would be circulated to the City as part of that review process. However, there is not currently an application to expand the Aldershot Quarry beyond previous approvals being reviewed by MNRF. Appendix 'A' includes the ARA Site Plan (2010).

Municipalities are circulated on ARA License Applications where it is deemed that the application is considered a major site plan amendment, involving significant changes to the operational and/or rehabilitation aspects of the site requiring external review and comment. All major site plan amendments require circulation to municipalities (i.e. Region and City), providing for a limited commenting period as well as posting to the Environmental Registry, and are approved by the MNRF Area Supervisor. Decisions on Site Plan Amendments for aggregate operations are non-appealable to the Local Planning Appeal Tribunal (LPAT).

A public engagement and information session was previously held by the property owner in 2015 to review site preparation plans and timelines to commence excavation activities in the East Quarry cell of the Meridian Brick Aldershot Quarry and to provide a forum for residents' questions.

The proponents provided additional information regarding a noise study (including noise control measures and procedures) and presented findings of an ambient air quality study and human health assessment study at a community meeting hosted by the property owner in 2017. There is not an application to expand the Meridian Brick Aldershot Quarry currently being reviewed by MNRF.

4.0 Health Protection/Air Quality By-law

Additional discussion regarding this item is provided in Legal Services & Corporation Counsel Report No. L-1-21, which accompanies this Report on the February 2, 2021 CPRM Agenda.

5.0 Jannock Limited ('Tyandaga West') Plan of Subdivision (20M-722)

The Jannock Limited ('Tyandaga West') plan of subdivision was draft approved on June 1, 1998 by Ontario Municipal Board (OMB) Order No. 1333. As part of that approvals process, conditions of draft approval associated with the future development of the plan were approved and were fulfilled prior to final plan approval and execution and registration of a Subdivision Agreement in Land Titles, as required. Registration of the Plan occurred on April 21, 1999 as Plan 20M-722 and construction subsequently

commenced. By-law No. 14-2005 ('A by-law to assume Tyandaga West Subdivision') was passed by Council on February 21, 2005.

Clause 30 of the executed Subdivision Agreement included a condition that required the owner, to the satisfaction of the City, that prior to the issuance of any building permit, amend the site plan prepared under the *Aggregate Resources Act* to implement recommendations of the approved dust study(ies) and related supplemental reports; specifically, the dust suppression program for the internal quarry roads.

A Dust Assessment Study – Supplement, as prepared by AGRA Earth & Environmental Limited (December 1997), and reviewed as part of the Tyandaga West development application, recommended a dust monitoring program during the operation of the East Quarry and noted that the Aggregate License in effect at that time would need to be modified (with conditions) to include dust control restrictions as would be consistent with New Category 4 Licenses.

The Ministry of Natural Resources and Forestry (MNRF) has confirmed that no new dust studies were required as part of the amendments to the ARA Site Plan in 2010.

6.0 Forestry Plan for Phased Removal & Replacement

In accordance with the Municipal Act, 2001, s.o. 2001, c.25, Section 135 (12)(g)(h):

"A by-law passed under this section does not apply to, [...]

(g) the injuring or destruction of trees undertaken on land described in a licence for a pit or quarry or a permit for a wayside pit or wayside quarry issued under the *Aggregate Resources Act*; or

(h) the injuring or destruction of trees undertaken on land in order to lawfully establish and operate or enlarge any pit or quarry on land

Given the exemption of upper- and lower-tier municipal tree protection bylaws under the Municipal Act, the proposal as submitted would not be subject to permitting fees or compensation by either the City of Burlington's tree bylaws (068-2013 "Public Tree Bylaw", 02-2020 "Private Tree Bylaw") or the Halton Region tree bylaw ("121-05 Woodland Protection Bylaw").

The proposed works as submitted will include the removal and replacement of trees within the West, Central, and (predominantly) East Quarries. It is noted the replacements will be planted at a density of 1,600 trees per hectare, comprised of native tree species. Forestry staff supports the chosen tree species and recommends considering the addition of other native tree species to increase biodiversity within the reforested lands. A general rule for tree selection is as follows:

- No more than 30% of the same family
- No more than 20% of the same genus
- No more than 10% of the same species

In addition, upon rehabilitation, approximately 500 mm (50 cm) of overburden (subsoil) and 50 mm (5 cm) of topsoil will be replaced. Forestry has identified that 5 cm of topsoil is insufficient to support tree growth and recommends increasing this value substantially. In addition, it is recommended that soil bulk density values be established and verified through the re-establishment phase to confirm that bulk density values are within acceptable ranges to support tree growth. It is contemplated that these recommendations may be implemented at the time of the submission and review of a future ARA License Application (i.e. Site Plan Amendment), if applicable.

Financial Matters:

Not applicable.

Total Financial Impact

Not applicable.

Source of Funding

Not applicable.

Other Resource Impacts

Not applicable.

Climate Implications

Not applicable.

Engagement Matters:

The MNRF was contacted in the preparation of this report to provide context to some of the previous approval stages, as well as to confirm the status of any applications for the subject lands currently under review by MNRF.

Conclusion:

As a commenting agency for the Ministry of Natural Resources and Forestry, the City of Burlington Community Planning Department will continue to monitor for the circulation of major Site Plan Amendment/Aggregate License Application(s) and/or *Planning Act* applications proposing land use changes to the Meridian Brick Aldershot Quarry property.

Respectfully submitted,

Gordon Dickson, MCIP, RPP
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Appendices:

- A. Approved ARA Site Plan (2010)

Report Approval:

All reports are reviewed and/or approved by Department Director, the Chief Financial Officer and the Executive Director of Legal Services & Corporation Counsel.