

Report PDR-CW-12-17

To: Warden Barfoot and Members of Grey County Council
From: Scott Taylor, Senior Planner
Meeting Date: February 23, 2017
Subject: Proposed Official Plan Amendment 134 Final Report
Status: Recommendation adopted by Committee as presented per Resolution CW35-17; Endorsed by County Council March 9, 2017 per Resolution CC11-17;

Recommendation

- 1. Whereas no public comments were received on proposed Official Plan Amendment 134, although the public was provided the opportunity to comment; however agency comments were received and resulted in further study of the servicing on-site, and the proposed permitted uses on-site;**
- 2. Now Therefore Be It Resolved That Report PDR-CW-12-17 be received and the proposed Official Plan Amendment Number 134 to the County of Grey Official Plan to re-designate the subject lands from the 'Space Extensive Commercial' designation to the 'Space Extensive Commercial with Exceptions' designation for lands described as Plan 535, Lots 72 and 73, RP16 R1488, Parts 1 and 2, Geographic Township of Derby, Township of Georgian Bluffs, be supported and a by-law to adopt County Official Plan Amendment Number 134 be prepared for consideration by County Council.**

Background

Grey County received an application from Skyline Retail Real Estate Holdings Inc. to amend the County of Grey Official Plan for the purpose of permitting an exception to the 'Space Extensive Commercial' designation to allow for the re-development of an existing commercial lot. The subject lands are located at Plan 535, Lots 72 & 73, RP16 R1488, Parts 1 & 2, Geographic Township of Derby, Township of Georgian Bluffs (202466 Highway 6 and 21). This exception would contemplate some additional permitted uses, beyond what is currently permitted in the Space Extensive Commercial designation, and allow the existing retail store to be divided into an additional retail unit

(for a total of two retail units). The lands currently contain the Staples store, formerly occupied by the Canadian Tire store.

This proposed amendment would re-designate approximately 2.52 hectares (6.23 acres) of land to the 'Space Extensive Commercial with Exceptions' designation. The existing tenant of the large commercial building (Staples) does not need all of the existing building area. Based on this oversized building, the owner wishes to consider adding an additional commercial tenant. The space to be occupied by the new commercial tenant would largely be within the existing building (507 m²), but would also include a small addition (200 m²) to the building. Existing private services on-site will not be expanded and will service both the existing and future commercial tenants. Should the development applications be approved the two commercial spaces would be approximately 1798 m² and 707m².

The County Plan identifies some 'Significant Woodlands' at the rear of the subject lands, but these woodlands are outside of the areas contemplated for development.



Map 1: Airphoto of the Subject Property and Surrounding Lands

The proposed development also requires zoning by-law amendment and site plan applications from the Township of Georgian Bluffs.

The subject property is west of the City of Owen Sound on the Sunset Strip. Access to Provincial Highways 6 and 21 is provided via permanent easement via the abutting McDonald's lands. The subject lands are mostly paved, with the exception of the woodlands and the existing Staples store. The proposed addition to the building would be within a small portion of the paved parking area. Surrounding the subject lands are a mixture of commercial properties, including the Giant Tiger / Galaxy Theatres / Joe Tomatoes plaza, Home Hardware, McDonalds, and the Beer Store.

Clinton Stredwick of Pioneer Planning Solutions has submitted a Planning Report in support of the proposal. In addition, WSP Canada Inc. has submitted a Scoped Servicing Report as appendix to the Pioneer Planning Report. Addendum submissions to these reports were also received. Copies of all reports, background materials and plans can be found at the below link.

[Link to Skyline Retail Holdings Background Materials](#)

A joint public meeting for these applications was held on June 8, 2016.

Public/Agency Comments Received

As part of the development process County staff received no comments from the public. A summary of the agency comments has been included below.

Grey Sauble Conservation Authority (GSCA)

In correspondence dated April 8, 2016, GSCA noted;

"We generally have no objection to the approval of the subject applications in principle. We recommend that specific details of the proposal, including the recommended stormwater controls be provided with the circulated site plan control application and/or GSCA permit application."

Historic Saugeen Metis (HSM)

In correspondence dated May 24, 2016, the HSM noted that they have no objection or opposition to the proposed official plan or zoning by-law amendments.

Niagara Escarpment Commission (NEC)

The NEC noted in comments dated April 7, 2016 that Development Control is not in effect for the 'Urban Area' portion of the subject property, where the development is proposed. Development Control is in effect for the rear portion of the subject lands that are designated as Escarpment Natural Area. The NEC further highlighted the fact that

the development needs to conform to the policies of the Niagara Escarpment Plan. The NEC concluded that provided;

- *“there is no development within the Escarpment Natural Area, including any site alterations (e.g. grading) associated with the addition to the building;*
- *the addition to the existing building does not exceed the maximum height of 10 m (33 ft.) permitted under the C4 zone of the Township’s By-law; and,*
- *the County and Township are satisfied that adequate servicing is available to accommodate the new uses, we have no objection to the applications.”*

Grey County Forests and Trails

In an email dated March 18, 2016, County staff noted no concerns with the development applications with respect to any impacts on County-owned forests or trails.

Ministry of the Environment and Climate Change (MOECC)

The MOECC initially submitted comments through the Ministry of Municipal Affairs (MMA). Following a discussion on their initial comments, the MOECC submitted further comments in an email dated January 4, 2017, which noted the following;

“Ministry of Environment and Climate Change (MOECC) staff have reviewed the additional materials provided by means of your December 14, 2016 e-mail and offer the following supplementary comments on the above-noted proposal.

WSP has indicated that the proposal will not exceed the design capacity of the existing sanitary sewage system and the proposal is not increasing the size of the system. Based upon the reported design capacity, sewage system compliance appears to fall under the Building Code Act / Ontario Building Code and enforced by the municipal building department.

The existing dug well water supply may be regulated by the Grey Bruce Health Unit under the Health Protection and Promotion Act O. Reg. 319/08. However, Ontario Water Resources Act O. Reg. 903 is applicable to the on-site well. Issues including, but not limited to, well location in proximity to pollution sources, well maintenance and well abandonment shall meet applicable regulatory requirements. The water supply well must be in compliance with Ontario Water Resources Act O. Reg. 903.”

Ministry of Transportation (MTO)

In correspondence dated June 3, 2016, MTO noted ‘that they have no concerns with the official plan or zoning by-law amendments; however activities on the subject lands will

require a future permit from the MTO. As a condition of the future MTO permits, detailed grading, site, or signing plans may be required for their review and approval.'

Ministry of Municipal Affairs (MMA)

In correspondence dated June 3, 2016 MMA noted;

"It is understood that the subject lands are, and are proposed to continue to be, serviced by individual on-site water (well) and wastewater (septic holding tank). The proposed amendments, if approved, would permit uses such as a veterinary clinic, barber shop, hairdressing / beauty salon, coin operated laundry depot and spa etc. that may require more water and wastewater capacity than the uses currently permitted. The permitted uses in the application may, subject to County Council's prerogative, be scoped to only permit 'dry' uses, but as currently proposed the application does not limit the permitted uses to 'dry' uses only.

Based on MOECC's comments below with respect to water and wastewater, it appears it would be appropriate that the proposed uses be scoped to only permit those uses that are 'dry' in nature, as set out in Section 2.10 (3) (a) of the County of Grey Official Plan."

City of Owen Sound

In April 18, 2016 staff report City of Owen Sound staff raised some questions with respect to the proposed development. Following the receipt of additional information, City staff prepared an additional staff report with the following recommendation.

"That in consideration of Staff Report CS-17-008 respecting County of Grey Official Plan Amendment 42-03-540-OPA-134, City Council:

- 1) That the City Clerk provide a copy of this report together with Council's resolution on the matter to the Township of Georgian Bluffs and the County of Grey as the City's additional comment on the applications;*
- 2) That the County of Grey ensure that the policy reflects uses that are 'dry' in accordance with the definition in the County of Grey Official Plan.*
- 3) That the City request a copy of the County of Grey staff report evaluation of the Provincial Policy Statement and County of Grey Official Plan and decision."*

Township of Georgian Bluffs

County and Township staff have had numerous conversations before and during the development application process. Most recently in comments regarding the servicing of the proposed development, dated January 20, 2017, Georgian Bluffs staff noted that

they have 'no issue with the water situation for Staples, and that it could be posted, similar to the situation in the Township office. Township staff have also noted that the existing holding tank on-site is sufficient to service the building, but noted that installing a separate tank for each individual commercial tenant may be easier to control pumping costs and schedules.'

County and Township staff have also had discussions on appropriately scoping the range of permitted uses on the subject lands to dry commercial uses that can fit the development parameters of the site.

Following a decision on the County official plan amendment, Township Council will be required to render a decision on the local planning applications.

Analysis of Planning Issues

In rendering decisions, planning authorities must have regard to matters of Provincial interest and be consistent with the Provincial Policy Statement (PPS). Decisions within the County must also conform to the County of Grey Official Plan and any local official plans or Provincial plans in force and effect. In this case both the Niagara Escarpment Plan and the Township of Georgian Bluffs Official Plan would apply to this development. An in depth analysis of the Niagara Escarpment Plan and the Georgian Bluffs Official Plan has not been provided below, and County staff have instead relied upon the staff comments from the Township and the Niagara Escarpment Commission.

General Planning Framework and Comments

Prior to an in depth analysis of planning legislation and policy it is worth first clarifying a few general matters applicable to this application. This particular official plan amendment application has brought about some challenges and considerations, which are worth clarifying before a more standard policy analysis.

- 1) The subject lands are currently developed for a retail use. The proposed addition to the building is minor in nature, would facilitate a second retail unit on-site. The proposed amendment would consider a wider range of dry commercial uses, than is currently permitted by the County Official Plan. The existing servicing will be used to accommodate the new use on-site.
- 2) The subject lands are designated as Space Extensive Commercial in the County Official Plan and comprise part of the Sunset Strip. Planning legislation and policy documents tend to categorize the Province into two broad policy areas (a) settlement areas, and (b) rural areas which are comprised of rural, agricultural, and some recreational lands. The subject lands are not located within a designated settlement area in the County Plan, though that being said the

subject lands also do not function in the same manner as a 'rural area'. Surrounding the subject lands are a mixture of large format commercial uses, with some retail plazas, and a few residual residential uses.

The long-term vision for these lands, envisioned by both the County and Township Official Plans is for commercial uses. However, the subject lands and the Sunset Strip as a whole, also do not function like a traditional downtown either. If one were to draw comparisons to other commercial areas across the County, the subject lands would be most akin to portions of 10th Street in Hanover and 16th Street East in Owen Sound. The notable difference between the commercial strip lands in Hanover and Owen Sound, and the Sunset Strip lands, is the servicing (i.e. full municipal services in Hanover and Owen Sound versus a mixture of private and partial services in this section of Georgian Bluffs). Within communities there is a purpose served by both downtowns and larger commercial strips, and there needs to be a balance maintained between the two.

From a policy interpretation perspective, it becomes difficult to interpret planning policy for these 'in between lands' which are neither settlement area nor true rural lands.

- 3) The Sunset Strip is generally serviced by private on-site services and there has historically been some servicing issues in this area. Some properties along the Sunset Strip have a connection to the Owen Sound municipal water supply; however along with those connections come restrictions on re-development of those properties. The existing Staples property does not have a connection to City water.

From a planning policy standpoint, the most appropriate form of servicing for the Sunset Strip would likely be full municipal water and sewer services. While County Planning staff would generally seek to recommend that development on the Sunset Strip be serviced by municipal water and sewer; staff also have to be cognizant of financial and political/municipal realities associated with these lands. At this stage the Township of Georgian Bluffs and the City of Owen Sound have not reached an agreement to extend City water and sewer to the Sunset Strip to facilitate new and existing development. Neither has it proven to be within the financial capacity of the Township to install municipal water and wastewater treatment systems for these lands.

From a political boundary perspective, a municipality may argue that it generally behooves them to consider development within their own boundaries, on their

own infrastructure, before considering extending infrastructure outside of their boundaries in a neighbouring municipality. There are however some examples across the County where services are successfully shared across municipal boundaries, to facilitate development on both sides of the municipal border.

Staff are also cognizant of the fact that generally speaking, members of the public, and in some cases business owners, have little regard for municipal boundaries. Retail patrons of either 16th Street East in Owen Sound, or of the Sunset Strip, may not know or consider where the existing municipal boundaries are, so long as they can find the products they are looking for in close proximity to their homes. Furthermore, owners and employees of a business may also choose to live in either municipality.

County Planning staff are tasked with a difficult job when rendering a professional planning recommendation on applications such as this. One could argue that the role of a County planner is to look at what is best for the County as a whole, and to think beyond individual municipal boundaries. In this sense if the County can foster a positive business environment across the entire County, would it not benefit us all (i.e. owners, employees, and patrons will all likely cross municipal boundaries to earn and spend their money)? The reality is however that although County staff are meant to be examining a matter from a County perspective, we also need to be cognizant of municipal boundaries and the services provided within each municipality. County staff must consider all of these factors, along with Provincial legislation/policy and local planning policies.

As a result of the servicing issues, the County and Township Official Plans are restrictive on the new uses which can be sited within the Space Extensive Commercial lands. The practical application of these policies is that new uses are generally large in nature, such as automotive dealerships, building supply outlets, and nurseries, and uses which are supposed to be 'dry' in nature beyond the use of employee bathrooms. It should be noted however, both nurseries and car dealerships have water uses that extend beyond employee bathrooms. Existing shopping centres and smaller retail operations within those shopping centres are also permitted.

- 4) In addition to municipal boundaries, staff also need to consider existing development and changing retail conditions on the Sunset Strip. The existing Staples property is a single tenant 'big-box' store. With the increased use of on-line shopping, the need for large 'bricks and mortar' retail spaces is declining in some marketplaces. Some retail operations are seeing a decrease in floor area of their stores, with the remaining floor areas used more so for display purposes, which facilitates a mixture of on-line and in-store purchases. In this changing

marketplace, it may not always be feasible to have one commercial tenant occupy the entirety of the existing commercial building. For these reasons, the owner is seeking some flexibility to allow one large tenant, and one smaller tenant on the property. County and Township policies should be permissive of changes in the retail landscape, provided downtown commercial areas are still protected.

Provincial Legislation - The Planning Act

Section 2 of the *Planning Act* provides matters of provincial interest which planning authorities must have regard for in rendering any decision under the Act. Most notable to this proposed official plan amendment are the following clauses, with some staff comments below.

(a) the protection of ecological systems, including natural areas, features and functions,

The subject property is primarily paved and developed; with some woodlands at the rear. The proposed re-development will not be located any closer to the woodlands, and should not have any additional impacts beyond the existing use of the property.

(f) the adequate provision and efficient use of communication, transportation, sewage and water services and waste management systems;

The provision of effective transportation, communication and waste management systems has not been questioned for this application. The subject property is located on a Provincial highway and comments have been received from the MTO. A municipal public transit operator does not serve the subject lands, but there are sidewalks across the street and a signalized intersection at the entrance to this retail site. This property is serviced by existing utility services.

The crucial planning issue for the proposed development has been with respect to sewage and water services. Development on the subject lands will be serviced by individual on-site private services. In the servicing work prepared for this application, it was noted that no additional fixtures will be added, and that the servicing is sufficient for the current operation. Therefore, as long as the existing fixtures are reallocated, and the proposed new uses are dry; the existing system including the holding tank and well will be adequate for the redevelopment.

While municipal water and sewer services would be preferable for development on-site, it has been demonstrated that such services are not feasible at this time. Based on the individual on-site services being proposed, the development will be restricted to dry

uses, which have very little water and septic needs. Further discussion on the restriction of uses on-site will be included in the County Official Plan analysis section of this report.

(h) the orderly development of safe and healthy communities,

The subject lands are considered an infill opportunity, based on the level of development surrounding the site, and the re-use of the existing space. The retail development proposed on the subject lands would generally fit within the character of the area, based on the existence of a number of these uses already on the Sunset Strip. Development on the subject lands would be oriented towards the existing parking area and is setback significantly from the road.

(k) the adequate provision of employment opportunities,

The proposed commercial development would provide some new employment, but based on the size of the new uses being proposed, it would not be considered a major employment generator.

(o) the protection of public health and safety,

There are no direct imminent threats to public health and safety as a result of this proposed development. It should however be noted that commercial strip development of this nature generally tends to favour automobile usage, rather than pedestrian access to the businesses, which can influence users exercise and fitness levels in a negative manner.

(p) the appropriate location of growth and development.

As noted above the subject lands are within an established commercial strip, where the long-term vision is further commercial development. That said the subject commercial strip is also outside of a settlement area and generally serviced by private on-site services. However, the subject lands also represent an infill opportunity on a developed lot, on lands designated for commercial uses. County staff could not support the extension or enlargement of the Sunset Strip at this time, but do see merit for infill development within the Sunset Strip on existing lots.

(q) the promotion of development that is designed to be sustainable, to support public transit and to be oriented to pedestrians,

As noted above the subject development is not pedestrian-oriented and is not serviced by public transit. This commercial strip would however be a possible candidate for a

future transit expansion at the municipal or private level, based on the level and range of development within it.

Subject to appropriately restricting the range of uses on the subject lands, the proposed official plan amendment has regard for matters of Provincial interest under the *Planning Act*.

Provincial Policy Statement (PPS 2014)

The subject lands are outside of current settlement area boundaries, but are within an existing designated commercial strip. These two factors make it difficult to apply the policies of the PPS to this proposed development.

Sections 1.1.4 and 1.1.5 of the PPS provide policy direction on rural areas and lands within municipalities. Rural economic opportunities should be promoted where rural service levels are sufficient to sustain such opportunities. As discussed earlier in the report, the subject lands, and the rest of the Sunset Strip, do not function in a manner similar to other rural areas of the County. A number of the uses normally permitted in a rural area would be wholly inappropriate for the development of the subject lands, including residential or farm uses, based on the commercial nature of the Sunset Strip.

Section 1.3 of the PPS speaks to promoting economic development and competitiveness. The proposed development would generally represent a small infill opportunity on commercial lands.

Within section 1.6.6 of the PPS, guidance on hierarchical servicing and stormwater management is provided. At the top of the hierarchy is full municipal water and sewer services, which for reasons discussed above are not feasible for this property at this time. At the bottom of the hierarchy the PPS does contemplate individual on-site services, and through the servicing work completed on this application it has been demonstrated that the uses proposed can be serviced in this manner. As noted above stormwater management details will come at the time of the site plan application, but a preliminary opinion on the existing stormwater management has been provided.

Section 2.1 of the PPS contains policies for the protection of significant natural heritage features. In the review of the *Planning Act*, the impacts on the natural environment have been addressed.

The proposed official plan amendment is generally consistent with the PPS, provided the range of permitted commercial uses on the property is adequately restricted.

County of Grey Official Plan

All new development proposals within the County must conform to the purposes and policies of the Official Plan. The requirements for official plan amendments are outlined in section 6.3 of the County Plan, while the detailed Space Extensive Commercial policies are found at section 2.10 of the Plan.

As noted above, the subject lands are currently designated as Space Extensive Commercial on Schedule A to the County Plan. This land use designation affords the property a number of commercial development opportunities, including; a building supply outlet, horticultural nurseries, automobile sales and services, and recreational vehicle sales and services, without the need for an amendment to the Plan. Additional small retail uses can also be contemplated within existing shopping centres in this designation. In this case however, an amendment is required for the proposed development, as the subject property is a single big-box tenant, and not an existing shopping centre, and thus smaller retail uses are not permitted as-of-right.

Section 2.10(2)(b) of the County Plan also states;

“In addition to the uses permitted in (a), new uses would be permitted subject to satisfying all of the following criteria:

- I. The uses require accessible sites to serve their market area;*
- II. The uses serve demands from highway traffic;*
- III. The uses require a large parking or outdoor storage area or require a large volume single purpose building;*
- IV. The location of the proposed use in a general retail block in an urban centre is not feasible due to its storage area or building volume requirements.”*

Of the four above-noted tests for new uses in the Sunset Strip, the proposed uses on the subject property could meet the first two criteria, but would generally fail the second two. With respect to criterion one above, all commercial uses require accessible sites to meet their market area. With respect to serving demands from highway traffic, this test becomes tough to define, unless one is siting a service station along a major highway. The proposed uses would serve highway traffic in a similar manner to existing commercial/retail uses within the Sunset Strip. Criterion three above cannot be met simply based on the unit sizes proposed to be added to the existing building. However, the uses proposed would be similar to those uses already found within the shopping centres on the Sunset Strip. Criterion four also cannot be met by the proposed application, as any of the proposed uses could also be sited within a general retail block in an urban centre, as could a number of existing uses on the Sunset Strip.

As demonstrated above, the proposed application does not completely conform to the tests set out in the County Plan for new development in the Space Extensive Commercial designation. However, the questions County staff have been struggling with are twofold;

1. If the County and Township were to refuse to allow an additional tenant on-site, what would happen if the existing business were to go out of business based on carrying costs of the building? In this instance, it could be very difficult to find a new commercial tenant for the entire building, and the County/Township could be missing employment and left with an empty building.
2. Are there any 'downsides' to allowing a smaller retail tenant provided it did not functionally compete with downtown retail uses, and can be serviced appropriately?

Based on the commercial nature of the surrounding lands, and the existing commercial designation/use on the property, new infill commercial development would appear to be most appropriate for the subject lands. The location and configuration of the subject lands do not lend themselves to an open space, municipal park, or institutional use on the lands. New residential development would not be encouraged based on the potential for further conflict with the surrounding commercial uses. Although there are some existing detached residential dwellings on the Sunset Strip, this is not the long term vision for these lands. There could be a potential for dry industry on the subject lands, but this may not fit within a smaller unit on-site.

Furthermore, allowing some flexibility in the commercial policies to 'weather' the changing retail marketplace would appear to be reasonable. Said flexibility is considered in other sectors based on changing technology and market demands (e.g. agriculture). Allowing an additional unit, in order to utilize and maximize the existing investment on-site would appear to be suitable in this regard.

Section 2.10(3)(a) of the County Plan requires that uses in the Space Extensive Commercial designation be 'dry' in nature, where dry is generally defined to mean that the only waste water discharges are from employee bathrooms. The County Plan is somewhat duplicitous in this regard, as both horticultural nurseries and automobile sales and services require additional water beyond simply employee bathrooms.

The permitted uses being requested by the applicant for the subject property have been edited slightly to ensure that said uses are truly dry in nature. County staff are recommending the following permitted uses be considered via Official Plan Amendment 134.

- a) auto parts and supplies shop,
- b) banks,

- c) convenience stores,
- d) pet food and pet supplies store, which does not include the sale or grooming of pets,
- e) business/professional office,
- f) discount warehouse/store,
- g) retail stores, which does not include any facility where wine or beer is made or brewed on-site,
- h) personal service shop, but not to include barber shops, hairdressing shops, beauty parlors, dry cleaning where the cleaning is done on-site, or a coin operated laundry or similar use, and
- i) warehousing or storage uses.

Staff are also recommending a provision which requires the smaller of the two commercial units on-site to contain a minimum floor area of 371.6 m². Having this minimum unit size would help ensure the units do not compete with traditional downtown commercial unit sizes.

Staff would also note that the above list is very similar to what was approved for Official Plan Amendment 126 for Mr. Raco.

As noted earlier in the report, site plan control would be necessary here to ensure appropriate servicing related to such uses.

The appendices to the County Plan also identify a pocket of 'Significant Woodlands' on the subject property. The proposed development would be outside of the Significant Woodlands.

The County Plan also contains servicing policies similar to the PPS, but these have generally already been reviewed in the *Planning Act* and PPS analysis.

Provided the permitted uses on-site are scoped as per above, the proposed uses would generally conform to the goals and objectives of the County Official Plan.

Financial/Staffing/Legal/Information Technology Considerations

There are no anticipated financial, staffing or legal considerations associated with the proposed official plan amendment, beyond those normally encountered in processing an amendment. The County has collected the requisite application fee and peer review deposit for this application.

Should the application be appealed to the Ontario Municipal Board additional financial, legal, or staff resources may be required. It should be noted however that should

Council approve the amendment, and the amendment be appealed, that the County by default would not attend the hearing.

Link to Strategic Goals/Priorities

Action 2.10, under Goal 2 of the County's Strategic Plan, requires the continued management of development and the application of sound land use planning principles. Based on the permitted uses recommended by County staff, and based on the surrounding commercial uses, the subject application;

1. has regard for matters of Provincial Interest under the *Planning Act*,
2. is consistent with the Provincial Policy Statement, and
3. conforms to the goals and objectives of the County Official Plan.

Attachments

[Official Plan Amendment 134 Draft By-law](#)

[Draft Official Plan Amendment 134 Land Use Schedule](#)

Respectfully submitted by,

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Senior Planner

Director Sign Off: *Randy Scherzer*