

Staff Report

Report To: City Council
Report From: Sabine Robart, Manager of Planning & Heritage
Meeting Date: November 4, 2024
Report Code: CS-24-095
Subject: Proposed Niagara Escarpment Development Permit
Application at 318087 Highway 6 & 10 in the Municipality of
Meaford and City Policy CS81

Recommendations:

THAT in consideration of Staff Report CS-24-095 respecting a proposed Niagara Escarpment Development Permit Application at 318087 Highway 6 & 10 in the Municipality of Meaford and City Policy CS81, City Council:

1. Endorse the comments within this report, including that:
 - a. The PPS and City OP policies do not support the extension of municipal water or sanitary services outside of settlement areas; and
 - b. The City does not consent to the upgrading or extension of municipal services (water or sanitary infrastructure) to service the proposed development;
2. Direct staff to provide a copy of this report, together with Council's resolution on the matter, to the Niagara Escarpment Commission, the Municipality of Meaford, and the County of Grey as the City's comment on the application;
3. Request a copy of the County of Grey's and the Municipality of Meaford's comments on the application;
4. Request a copy of any further notice on the matter from the Niagara Escarpment Commission; and

5. Request the Niagara Escarpment Commission to clarify the interpretation of the Niagara Escarpment Plan with respect to the proposed development.

Highlights:

- In accordance with City Policy CS81, a staff report has been triggered for the Development Permit Application, as the subject lands are within eight (8) kilometres of the City limits, and the lands are currently serviced by City water services.
- The Development Permit application proposes to demolish the existing 76-unit multi-dwelling unit building and construct three (3) four-story apartment buildings with a total of 258 dwelling units serviced by municipal (City) water and sanitary services.
- The subject lands are currently serviced by a private City water service and are subject to a Water Use Agreement dated December 4, 1962.
- The proposal for urban, high-density residential development outside of a Settlement Area is not consistent with the policy direction provided by the PPS.
- City OP policies only support the extension of municipal water and/or sanitary services outside of settlement areas to address failed individual on-site sewage services and individual on-site water services in existing development at the request of the adjacent municipality.
- Staff recommend that the City does not consent to the upgrading or extension of any municipal services (water or sanitary infrastructure) to service the proposed development.

Strategic Plan Alignment:

[Strategic Plan](#) Priority: This report supports the delivery of Core Service.

Climate and Environmental Implications:

This supports the objectives of the City's Corporate Climate Change Adaptation Plan by strengthening the resiliency of City infrastructure or services.

Previous Report/Authority:

City Policy CS81

Background:

Purpose of this Report:

In accordance with City Policy CS81, a staff report has been triggered for the Development Permit Application, as the subject lands are within eight (8) kilometres of the City limits, and the lands are currently serviced by City water services.

This report is intended to inform City Council of the application and identify areas where the proposal may impact the interests of the City.

The Niagara Escarpment Planning and Development Act requires that a person or public body who requests to receive notice of decision on a development permit application may, within 14 days after receiving notice, appeal the decision to the Minister. Providing comments during the early stage of the planning process is the best way to ensure all levels of approval consider the position of the City. In this case, it also provides an opportunity for the NEC to respond to the City's comments before considering granting the proposed development permit.

The comments are provided in consideration of the key areas identified in Policy CS81 where Planning Act applications in neighbouring municipalities could impact the interests of the City.

Issues specific to this site include:

1. Ability to optimize the use of existing water and wastewater infrastructure in Owen Sound.
2. Controlling the integrity of the municipal water distribution system (i.e., ensuring proper precautionary measures are taken on new connections).
3. Cumulative environmental impacts of incremental growth.
4. Ability to optimize the use of public service facilities.
5. Achieving the residential intensification target set by the County of Grey.
6. Traffic impact on the City of Owen Sound.
7. Lack of infrastructure to support this type of development.

Subject lands and Surrounding Land Uses

The subject lands are municipally known as 318087 Highway 6 & 10 in the Municipality of Meaford. The lands are located 350 m south of the City's south limit, on the east side of Highway 6/10. The lands are sized 3.18 hectares (7.86 acres) with approximately 75 m of frontage along the provincial Highway 6/10 (under the jurisdiction of the Ministry of Transportation) and currently contain an existing 76-unit multi-dwelling unit building serviced by City water and a private on-site septic system. The lands were originally developed as a motel (Bay Motor Inn). The Stone Tree Golf Course exists to the immediate south and the lands appear to have arrangements in place with the Stone Tree lands for mutual shared access via Highway 6/10.

An Orthophoto of the lands is provided in Schedule 'B'.

Surrounding land uses to the subject lands include:

- North: agricultural land uses within the Municipality of Meaford on the east side of the highway,
- East: recreational (Stone Tree Golf Course) & agricultural uses (Escarpment Rural Area, Escarpment Protection Area, Escarpment Natural Area)
- South: recreational (Stone Tree Golf Course), agricultural land uses within the Municipality of Meaford on the east side of the highway and within the Township of Georgian Bluffs on the west side.
- West: highway commercial/industrial uses within the Township of Georgian Bluffs (Escarpment Natural Area)

The lands are within the Niagara Escarpment Plan Area and are designated 'Escarpment Rural Area'. The policies of the County of Grey Official Plan and the policies and provisions of the Township of Meaford Official Plan and Zoning By-law do not apply within the area of the NEP.

The Proposal

The NEC has circulated a request for comments regarding a proposed Development Permit Application (Schedule 'A'). An addendum to the request was provided on September 24, 2024, with a revised commenting due date of November 11, 2024.

The application proposes to:

- Demolish the existing, one-storey, 2,510 sq. m. 76-unit multiple dwelling, which is serviced by municipal (City) water and a private septic system.
- Demolish the existing 8,610 sq. m. surface parking area.
- Construct three (3) four-story apartment buildings with a total of 258 dwelling units, serviced by municipal (City) water and sewer.
- Construct a new, 11,175 sq. m. surface parking area.
- Undertake site entrance upgrades/driveway alterations via Highway 6/10.

The proposed Site Plan is attached as Schedule 'C'.

Sanitary Services

There are no City sanitary services fronting the property. The nearest municipal (City) sanitary service connection is located approximately 1.2 km north, at the bottom of the 9th Avenue East hill, fronting #485 9th Avenue East.

Water Services

The subject lands are currently serviced by a City water service and are subject to a Water Use Agreement dated December 4, 1962. The agreement allowed the extension of a 150 mm diameter water main 335 m south of the City limits. The line was constructed with the understanding that it is a private line and was to remain a private water to supply to the Bay Motor Hotel on the east side of the highway within the Municipality of Meaford.

The watermain was further extended 214 m southerly to provide a water supply to Grey & Bruce Motor Parts Ltd on the west side of the highway, within the Township of Georgian Bluffs. A Water Use Agreement between the City of Owen Sound Public Utilities Commission (PUC) and Saul Podnik dated July 9, 1963 is in place for the extension of this main.

Between October 1969 and October 1983, seven additional properties were approved for connection to the "private" water main owned by either Louis Georgas (Bay Motor Inn) or Saul Podnick (Grey & Bruce Motor Parts). Documentation indicates that the property owner and/ or the Township would make a request to the PUC, followed by a request for approval by the PUC from the City and subsequent City Council approval.

Engineering Services Division (ESD) notes that:

Staff Report CS-24-095: Comments re NEC Request for Comments for 318087
Highway 6 and 10, Meaford (Taylor)

- The property is outside City limits, and ESD is not in a position to offer comments regarding proposed upgrading and expanding municipal services (water/sanitary) outside existing City boundaries due to City policy.
- The ownership of the existing watermain is unclear, and appears to be private, however, City Water staff continue to perform maintenance and repair (i.e. breaks).
- The existing watermain is in poor condition and has been identified as requiring capital replacement. There is no plan for the City to own or replace this watermain at this time. Changes to the existing watermain would require the Municipality of Meaford and Township of Georgian Bluffs to enter into an agreement for the replacement/upgrading, ownership and ongoing maintenance of this watermain.
- The existing water pressures at the end of the watermain do not meet MECP minimum pressures, and there is no fire flow available on the line. As such, any expansion/changes to the existing line will would require upgrades to meet the minimum MECP requirements for current standards.

Niagara Escarpment Plan

The subject lands are designated 'Escarpment Rural Area' by the Niagara Escarpment Plan. The objectives of the Escarpment Rural Area are:

1. To maintain the scenic resources of lands in the vicinity of the Escarpment and the open landscape character of the Escarpment.
2. To conserve cultural heritage resources, including features of interest to First Nation and Métis communities.
3. To encourage forest management and recreation.
4. To provide for compatible rural land uses.
5. To encourage agriculture and protect agricultural lands and prime agricultural areas.
6. To provide a buffer for ecologically sensitive areas of the Escarpment.
7. To provide for the consideration of new Mineral Resource Extraction Areas which can be accommodated by an amendment to this Plan.

Permitted uses within this designation include:

- Agricultural uses, agriculture-related uses and on-farm diversified uses.
- Existing uses.
- Single detached dwellings and secondary dwelling units.
- Mobile or portable dwelling unit's accessory to agriculture.
- Recreational uses, outside of prime agricultural areas.
- Forest, wildlife and fisheries management.
- Licensed archaeological fieldwork.
- Infrastructure.
- Accessory uses (e.g., a garage, swimming pool, tennis court, ponds, or signs).
- Institutional uses, outside of prime agricultural areas.
- Uses permitted in the Parks and Open Space System Master/Management Plan that are not in conflict with the Niagara Escarpment Plan.
- Home occupations and home industries.
- Watershed management and flood and erosion control projects carried out or supervised by a public body.
- The Bruce Trail corridor.
- New licensed mineral aggregate operations producing up to 20,000 tonnes annually and wayside pits and quarries.
- Bed and breakfast.
- Nature preserves owned and management by an approved conservation organization.
- Agricultural purposes only (APO) lot.

Multi-unit residential development is not among the uses permitted within the Escarpment Rural Area.

City Planning Staff reached out to NEC Staff via email on September 19, 2024, for further information. The NEC provided an addendum request for comments on September 24, 2024, which notes that the "Existing Uses" (i.e., 76-unit motel) are recognized as a permitted use in the Escarpment Rural Area. Existing Uses are nonconforming uses (uses that would not be permitted by the existing Niagara Escarpment Plan) but that were established prior to the original Niagara Escarpment Plan taking effect.

Part 2 Development Criteria of the NEP includes Section 2.3 which provides that 'Existing Uses' are subject to further development criteria, specifically:

“1. An existing use may change to a similar use, or a more compatible use only if it can be sufficiently demonstrated that the objectives of the applicable designation of this Plan are met.”

“4. An expansion or enlargement of a building, structure or facility associated with an existing use shall be minor in proportion to the size and scale of the use, building or structure, including its related buildings and structures at the time it became an existing use as defined by this plan. An expansion or enlargement of a building, structure or facility associated with an existing use will be considered minor where the expansion or enlargement is no more than 25 per cent of the original development footprint, unless it can be demonstrated that a greater expansion or enlargement is compatible with the site and the surrounding landscape.”

In the addendum, NEC staff note that at this time, it is unclear if:

- the proposed development would represent a similar use to the current use on the property; and,
- whether the proposal for three (3) 4-storey buildings with a total of 258 full apartment units and parking for 323 vehicles would represent an expansion and enlargement of no more than 25% of the current use.

The existing development is a 76-unit motel that, over time, has become a long-term residence for many of its residents. The application proposes a high-density residential development with 258 dwelling units. The change in the number of dwelling units represents a 239% increase in dwelling units on the subject property. The development is an expansion/enlargement that is significantly more than 25% of the current use. Planning staff recommend that the proposed development does not conform the NEP policies regarding the expansion/enlargement of existing uses.

The addendum clarified that “at this time, NEC is seeking partner agency input on the preliminary application to inform the next steps and potential studies that would be required to support the application.”

Analysis

This section provides an analysis of the proposed Development Permit Application in consideration of Provincial and upper-tier planning policy and the key areas identified in City Policy CS81, as described above.

Provincial Planning Statement (PPS), 2024

The PPS notes that provincial plans, such as the Niagara Escarpment Plan, are to be read in conjunction with the Provincial Planning Statement. They take precedence over the policies of the Provincial Planning Statement to the extent of any conflict, except where the relevant legislation provides otherwise. Land use planning decisions made by municipalities, planning boards, the Province, or a commission or agency of the government must be consistent with the Provincial Planning Statement. Where provincial plans are in effect, planning decisions must conform or not conflict with them, as the case may be.

The Provincial Policy Statement provides overall policy direction on matters of provincial interest related to land use and development in Ontario and applies through the Niagara Escarpment Plan Area. Decisions made by municipalities, planning boards, the Province, or a commission or agency of the government, including the Niagara Escarpment Commission, must be consistent with the PPS.

In August of 2024, the Province issued a new 2024 PPS under Section 3 of the Planning Act, which came into force and effect on October 20, 2024. The 2024 PPS replaces the 2020 PPS and the Growth Plan for the Greater Golden Horseshoe. The following provincial policy direction under the 2024 PPS is relevant to the proposed Development Permit Application:

Provincial Direction on Growth

The policies of the 2024 PPS require that settlement areas be the focus of growth and development and that land use patterns within settlement areas be based on densities and a mix of land uses which efficiently use land and resources, optimize existing and planned infrastructure and public service facilities, support active transportation, and are transit and freight supportive.

Settlement areas are built-up areas where development is concentrated and where there is a mix of land uses. They are lands that have been designated in an official plan for long-term development. The City of Owen Sound is a

settlement area because it is an area of concentrated and mixed land uses and is designated in the County of Grey Official Plan as a primary settlement area.

The subject lands are not located within a designated Settlement Area. Surrounding lands are designated as Escarpment Rural Area. The nearest designated settlement areas are Owen Sound to the north (approximately 1.2 km) and Rockford to the south (approximately 2.5 km).

The development is proposing 258 dwelling units on 3.18 hectares of land, equating to 81 units per hectare. Within the context of the City's Official Plan, this would be considered high-density residential development.

The proposal for urban, high-density residential development outside of a Settlement Area is not consistent with the policy direction provided by the PPS.

While in proximity to the southern limits of the City, the subject lands have no access to active transportation infrastructure, such as sidewalks, or public transit required to support the proposed density of development. The development would rely on the use of and access to City parks, roads and public service facilities. The use of these types of City services by regional residents has significant negative implications for the City to optimize the use of these services in the absence of being able to collect property taxes and development charges for the proposed development.

Provincial Direction on Servicing

Section 3.6 Sewage, Water and Stormwater of the PPS requires planning for sewage and water services to accommodate forecasted growth in a timely manner that promotes the efficient use and optimization of existing municipal sewage and water services and existing private communal sewage and water services and ensures that the services are provided in a manner that can be sustained by the water resources upon which such services rely, is feasible and financially viable over their life cycle, protects human health and safety, and the natural environment, including the quality and quantity of water, and aligned with comprehensive municipal planning for these services, where applicable.

In accordance with policy 3.6.2 of the PPS, municipal sewage services and municipal water services are the preferred form of servicing for settlement

areas to support the protection of the environment and minimize potential risks to human health and safety.

As per the PPS:

Municipal sewage services means a sewage works within the meaning of section 1 of the Ontario Water Resources Act that is owned or operated by a municipality.

Municipal water services means a municipal drinking-water system within the meaning of section 2 of the Safe Drinking Water Act, 2002.

Given that the proposed development is not located in a settlement area, it cannot be serviced with the preferred form of services, i.e., municipal sewage and water services.

Policy 3.6.5 permits partial services (one municipal or private communal service in combination with an individual on-site service) only in the following circumstances:

- a) where they are necessary to address failed individual on-site sewage services and individual on-site water services in existing development.
- b) within settlement areas, to allow for infilling and minor rounding out of existing development on partial services provided that site conditions are suitable for the long-term provision of such services, with no negative impacts; or,
- c) within rural settlement areas, where new development will be serviced by individual on-site water services, in combination with municipal sewage services or private communal sewage services.

The PPS policies do not support the extension of municipal water or sanitary services outside of settlement areas. The proposal does not address failed on-site services and, given that it is not located in a rural settlement area, is not subject to the PPS's rural settlement area servicing policies.

The PPS would encourage municipal sewage in combination with private water if full services can not be provided.

As such, the proposal is not consistent with the Provincial Planning Statement, 2024.

City of Owen Sound 2021 Official Plan (Section 5.2 Municipal Services)

One of the objectives of the City’s OP is to develop and improve the necessary public services and utilities, including water, sanitary, storm infrastructure, and telecommunication required for existing and future development in a cost-effective and efficient manner to support the objectives and policies of this Plan (2.2.8 a).

The OP acknowledges that “the municipal potable water supply and wastewater treatment system for the City also serves a limited number of people outside the City limits to address areas of failed service under agreement with the City” subject to the policies of Section 5.2.2.5.

Policy 5.2.2.5 of the City’s 2021 Official Plan provides policy direction where the existing municipal potable water supply and wastewater treatment system for the City services lands outside the municipal boundary as follows:

5.2.2.5 Where the existing municipal potable water supply and wastewater treatment system for the City serves lands outside the municipal boundary, the City shall not permit new connections to the said municipal water and wastewater systems except in accordance with an agreement between the City and any or all of the property owner(s) and municipality within which the property is located, establishing appropriate conditions which may include, but are not limited to the following:

- a. Where municipal water and sewer services are to be extended beyond the City’s current limits, boundary adjustments shall be encouraged that correspond with the area that can be serviced by the capacity of these services.
- b. Partial services shall not be extended beyond the limits of the City except to address failed services identified in a formal proposal from the adjacent municipality. Where partial service is extended at the sole discretion of the City, boundary adjustments and other payments and fees shall be coordinated between affected municipalities, but in principle, the user of the partial service shall be required to pay full cost of installing and maintaining that services including a proportionate share of trunk systems and facilities. Overall capacity within the City system must be maintained. Further connections shall not be permitted on services extended pursuant to this subsection.

- c. In considering whether to permit new connections to the City's water or wastewater system, development and land use patterns that would hinder the efficient expansion or development on the City shall not be permitted.

The request for comments notes that the development is proposed to be serviced with both municipal water and sanitary services. It is noteworthy that the developer has not contacted City staff to discuss the proposal and that the only communication received in regard to the proposal at this time is the request for comments from the NEC.

As noted above, a private water line provides municipal water services to the property; however, municipal sanitary services end at the municipal boundary approximately 1.2 km to the north of the subject property.

In general, the policies provide for the extension of services beyond City limits only where an adjacent municipality has made a request because of failed services subject to boundary adjustments that correspond with the area that can be serviced by the capacity of these services and the user of the partial service paying the full cost of installing and maintaining that services including a proportionate share of trunk systems and facilities.

The request for comments from the NEC is neither a formal request from an adjacent municipality nor have services at the subject property failed.

Water

If the proposed development is to be serviced with municipal water services, the existing line will need to be upgraded to conform to current standards and to provide both domestic water and fire protection flows. Subject to a legal opinion on the water agreement, staff would recommend that the upgrades required to service the proposed development (i.e., a high-density residential development vs a motel) would require a new agreement subject to current OP policies. Specifically, the agreement will be required to be between the City, the property owner and the municipality within which the property is located, that is, the Municipality of Meaford.

In the situation where services are extended beyond City limits, OP policies require that boundary adjustments shall be encouraged that correspond with the area that can be serviced by the capacity of these services. Given the distance between the City boundary along Superior Street and the subject property, a boundary adjustment to include the lands south of Superior

Street up to and including the subject property is unlikely to be supported by the Municipality of Meaford.

Nonetheless, if the City were to proceed with the request, given that an existing line and agreement are in place, any upgrade to the line would require the property owner to pay the full cost of installing and maintaining that service, including a proportionate share of trunk systems and facilities. Furthermore, supporting information provided by the property owner would need to demonstrate that the overall capacity within the City system can be maintained.

Sanitary Sewer

As noted above, the policies of the City's Official Plan do not permit the extension of municipal services outside the municipal boundary without boundary adjustments or the payment of other capital contributions and fees.

Summary

The application is proposing a high-density residential development outside of a designated settlement area.

The policies of the PPS and City OP only support the extension of municipal water or sanitary services outside of settlement areas to address failed individual on-site sewage services and individual on-site water services in existing development at the request of the adjacent municipality.

The proposed development does not meet the requirements of the PPS and City OP to allow the extension of municipal services beyond the settlement area boundary.

Fundamentally, the proposal proposes high-density residential development that cannot be appropriately serviced by hard services such as sanitary and water services and therefore constitutes "bad planning" in that:

- it encourages urban sprawl, i.e., the uncontrolled expansion of urban areas into rural and agricultural land, leading to increased car dependency and the loss of those spaces;
- Creates inaccessible development by failing to provide adequate active and public transportation infrastructure as well as access to essential institutional, recreational and social services; and
- Hard and soft servicing infrastructure is not in place to support this type of development in the location proposed.

Financial/Budget Implications:

None at this time.

Communication Strategy:

A copy of these comments is proposed to be provided to the County, the Municipality of Meaford, and the NEC as the City's comments on the application.

Consultation:

The City's Development Team, including the Engineering Services Division, were consulted in the writing of this report.

Attachments:

Schedule 'A': Niagara Escarpment Commission Request for Comments & Addendum

Schedule 'B': Orthophoto with Servicing Infrastructure & City Boundary

Recommended by:

Sabine Robart, M.SC. (PL), MCIP, RPP, Manager of Planning & Heritage

Pam Coulter, BA, RPP, Director of Community Services

Submission approved by:

Tim Simmonds, City Manager

For more information on this report, please contact Sabine Robart, Manager of Planning & Heritage at planning@owensound.ca or 519-376-4440 Ext. 1236.