

**STAFF REPORT: PLANNING & BUILDING COMMITTEE**



**REPORT TO:** Planning & Building Committee  
**MEETING DATE:** December 7, 2009  
**REPORT NO.:** SPS.09.07  
**SUBJECT:** Community Improvement and Contaminated Sites – Official Plan Amendment No. 19  
**PREPARED BY:** Peter Tollefsen, Director of Special Projects (Sustainability)

**A. Recommendations**

THAT Council receive the Staff Report SPS.09.07 titled “Community Improvement and Contaminated Sites – Official Plan Amendment No. 19” and;

THAT Council authorize staff to advertise and schedule a statutory public meeting in accordance with *The Planning Act* for Official Plan Amendment No 19.

**B. Background**

A staff report was forwarded to Council in May 2007, titled “Downtown Revitalization” proposing a Community Improvement Plan (CIP) for Thornbury, Clarksburg and Craigeith. Council requested that two sources of funding be applied for; one through the Federation of Canadian Municipalities, Green Municipal Fund (GMF) and the other through the Ministry of Agriculture, Food and Rural Affairs, Rural Economic Development (RED) program.

The grant applications were successful with the Town signing Funding Agreements in May 2008. Together with a Town 2008, Capital Budget item approval and contribution commitments from the Blue Mountain Chamber of Commerce, the Business Improvement Area and the Clarksburg Business Association work commenced with the preparation of a (Request for Proposal) Terms of Reference.

In November 2008 RCI Consulting was retained and work commenced on the CIP in January of 2009. A Steering Committee was setup as well as a staff technical team to oversee the project. A Visioning Workshop with the public was held June 3, 2009, and a Planning Urban Design and Sustainability Workshop was held Oct. 13, 2009.

The consultants have produced a Background Report in June and an Interim Report in October, 2009. Based on the public input received at the October 13<sup>th</sup> Workshop, the consultants are preparing a draft Planning, Urban Design and Sustainability Strategy

At meetings with our consultants, working on the CIP, they suggested that our current Section 10 – Community Improvement of the existing Town **Official Plan** was outdated in light of recent revisions to Section 28 of *The Planning Act* and that the policies should be enhanced to enable the Municipality to prepare a more comprehensive and effective CIP. They suggested that this update be done now before the CIP is approved by Council, in order to have the policies in place to support and implement the CIP that will be considered for adoption by Council in 2010.

Similarly the consultants noted the current Town Official Plan contained no policies pertaining to contaminated sites. Such policies should be included in the Official Plan to ensure the Municipality can request certain types of environmental information and certification, and thereby exercise an appropriate level of environmental due diligence as part of its planning review function. This is explained in more detail in the Background Report.

A draft Official Plan Amendment (OPA) No 19 has been prepared to establish policies for community improvement and contaminated sites within the Town of The Blue Mountains Official Plan and is attached for Council's information. It is recommended that Council authorize a Statutory Public Meeting to present OPA No. 19 for public input, with staff reporting back to Council for adoption of the OPA.

### **C. The Blue Mountains' Strategic Plan**

These Community Improvement policies for the Official Plan will encourage downtown revitalization that will help with Goal 5 "*ensuring long-term financial sustainability*".

### **D. Environmental Impacts**

Official Plan policies that help ensure the Town is exercising an appropriate level of environmental due diligence as part of its planning review function, not only to help protect and improve the environment, but help to protect the Municipality from any potential liability associated with its plan review function.

### **E. Budget Impact**

Not significant. Staff time preparing the Official Plan Amendment.

## **F. Attached**

Appendix A – Amendment No. 19 to the Official Plan of The Town of The Blue Mountains.

Respectfully submitted,

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Peter Tollefsen, Director of Special Projects (Sustainability)

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**Appendix A**

**AMENDMENT NO. 19  
TO THE  
OFFICIAL PLAN  
OF THE  
TOWN OF THE BLUE MOUNTAINS**

**Community Improvement and Contaminated Sites**

November 25, 2009

**AMENDMENT NO. 19 TO THE  
OFFICIAL PLAN OF THE  
TOWN OF THE BLUE MOUNTAINS**

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**AMENDMENT NO. 19 TO THE  
TOWN OF THE BLUE MOUNTAINS  
OFFICIAL PLAN**

**THE CONSTITUTIONAL STATEMENT**

**PART A - THE PREAMBLE** does not constitute a part of this Amendment.

**PART B - THE AMENDMENT** consisting of the following text constitutes Amendment No. 19 to the Official Plan for the Town of The Blue Mountains.

## **PART A - THE PREAMBLE**

### **1. PURPOSE**

The purpose of this Amendment is to establish policies for community improvement and contaminated sites within the Town of The Blue Mountains Official Plan.

### **2. LOCATION**

The policies of this Amendment are general in nature and apply to the entire Town of The Blue Mountains. A key map has not been provided due to the broad scope of the Official Plan Amendment.

### **3. BASIS**

#### Overview

This Amendment is based on the need to make revisions to a number of The Blue Mountains' Official Plan policies that will allow the Town to;

- a) Prepare a more comprehensive, effective and flexible Community Improvement Plan; and
- b) Ensure it is exercising an appropriate level of environmental due diligence as part of its planning review function.

#### Community Improvement

Section 28 of the *Planning Act* allows municipalities with provisions in their official plans relating to community improvement to designate by by-law a "community improvement project area" and prepare and adopt a community improvement plan for the community improvement project area.

Section 28 (1) of the *Planning Act* defines "community improvement" as "the planning or replanning, design or redesign, resubdivision, clearance, development or redevelopment, construction, reconstruction and rehabilitation, improvement of energy efficiency, or any of them, of a community improvement project area, and the provision of such residential, commercial, industrial, public, recreational, institutional, religious, charitable, or other uses, buildings, structures, works, improvements or facilities, or spaces therefore, as may be appropriate or necessary". This represents a wide range of municipal actions that a municipality can take. Therefore, it is important for the Town of The Blue Mountains to ensure that it has in place the appropriate enabling official plan policies to take advantage of this wide range of actions.

The policies on Community Improvement in Section 10 of the Town of The Blue Mountains Official Plan are revised to:

- a) Include proper terminology throughout;
- b) Include a sub-section on the goals and objectives of community improvement;
- c) Expand the criteria for to designation of a community improvement project area;
- d) More clearly specify the priority for designation of community improvement project areas and preparation of community improvement plans;
- e) Directly reference the Town's ability to offer grants and loans to owners and their assignees as per Section 28 of the *Planning Act*; and,
- f) Specify the types of activities that can be undertaken by the Town to encourage community improvement, including the full range of municipal actions permitted under Section 28 of the *Planning Act*.

### Contaminated Sites

The Province of Ontario has introduced a number of legislative amendments (and associated regulations) since 2001 designed to promote brownfield redevelopment. Most significant of these was stand alone legislation known as the Brownfields Statute Law Amendment Act (BFSLAA) which received Royal Assent in November of 2001. The purpose of the BFSLAA is to encourage the revitalization of contaminated land (brownfields) by way of limiting liability and providing financial assistance.

The BFSLAA was implemented in phases through the introduction of various regulations. The first set of regulations (Ontario Regulation 298/02), passed on December 1, 2002, governs protected municipal actions under the EPA and changes to the Municipal Tax Sales Act and the Planning Act to make it easier for municipalities to deal with tax delinquent brownfield properties and provide grants and loans to promote brownfield redevelopment. A second set of regulations (Ontario Regulation 153/04), known as the proposed Record of Site Condition (RSC) regulation took effect under the EPA on October 1, 2004. This regulation provides limited regulatory protection to property owners, developers, lenders and receivers. O. Reg 153/04 governs the record of site condition (RSC), environmental site registry and risk-assessments.

A municipality should have a strong foundation of planning policies in place to ensure that contaminated and potentially contaminated sites have been adequately identified, assessed and remediated prior to being developed. This includes clearly worded Official Plan policies on potentially contaminated sites and an Environmental Due Diligence Procedure to ensure that this policy is properly implemented. Such policies and procedures form the basis for any program of financial incentives to promote brownfield redevelopment. They also clarify for developers and owners of brownfield sites, the site assessment and clean up requirements of the municipality. Finally, they reduce the municipality's liability risk and demonstrate due diligence in its role as a plan review and approval authority under the Planning Act.

Section 3.2.2 of the PPS (Provincial Policy Statement) states that "Contaminated sites shall be remediated as necessary prior to any activity on the site associated with the proposed use such that there will be no adverse effects ." Therefore, there is support in provincial policy for municipal planning policies that ensure contaminated sites are properly remediated prior to being developed. This policy directs municipalities to make planning decisions that ensure identified contaminated sites are assessed and remediated to an appropriate level prior to use or reuse.

Policies are included in a new Section 11 called Potentially Contaminated Sites that address the identification of potentially contaminated sites through the planning application process that allow the Town to require verification that a site is environmentally suitable or has been made environmentally suitable for the proposed use. Therefore a new section includes policies that:

- a) identify general conditions which would indicate the potential for soil contamination;
- b) require information to be compiled by a landowner prior to approval of development on lands where contamination may have occurred;
- c) outline any conditions which must be satisfied before development may proceed in areas where environmental contamination is known or suspected;
- d) permit the use of holding provisions to ensure contaminated or potentially contaminated sites have been properly remediated prior to development;
- e) require verification by a qualified person that a site is suitable or has been made suitable for the proposed use in accordance with provincial legislation and regulations; and,
- f) incorporate any requirements as per Ontario Regulation 153/04.

Finally an amendment to the Holding Zone policies is required to introduce the new Potentially Contaminated sites policies and revise the holding zone policies.

## **PART B - THE AMENDMENT**

All of this part of the document entitled “Part B - The Amendment” consisting of the following text constitutes Amendment No. 19 to the Official Plan of The Town of The Blue Mountains.

### **DETAILS OF THE AMENDMENT**

The Town of The Blue Mountains Official Plan is hereby amended as follows:

- Item 1:**        **Section 10 Community Improvement** is hereby deleted and replaced by the following new Sections.

## **SECTION 10**

### **COMMUNITY IMPROVEMENT**

#### **10.1 Purpose**

- (1) *Community Improvement within the Town is intended to provide for the maintenance, rehabilitation, redevelopment and revitalization of the existing built environment to improve the safety and quality of buildings, structures and facilities, maximize the efficient use of existing services and facilities, create attractive and safe pedestrian-oriented streetscapes and public spaces, and improve infrastructure where deficiencies or deteriorating conditions exist.*
- (2) *The Community Improvement provisions of the Planning Act allow municipalities to prepare community improvement plans for designated community improvement project areas that require community improvement as the result of age, dilapidation, overcrowding, faulty arrangement, unsuitability of buildings or for any other environmental, social or community economic development reason. Once a community improvement plan has been adopted by a municipality and has come into effect, the municipality may offer grants and loans in conformity with the community improvement plan, to registered owners, assessed owners and tenants of lands and buildings within the community improvement project area, and to any person to whom such an owner or tenant has assigned the right to receive a grant or loan, to pay for the whole or any part of the eligible costs of the community improvement plan. The municipality may also undertake a wide range of actions for the purpose of carrying out the community improvement plan.*

#### **10.2 Goals**

The goals of community improvement are to:

- (a) To preserve, rehabilitate and redevelop the existing built environment.
- (b) To maximize the use of existing public infrastructure, facilities and amenities.
- (c) To coordinate private and public community improvement activities.
- (d) To promote development and redevelopment that is sustainable in nature.
- (e) To guide the Town in setting priorities for municipal expenditure respecting community improvement projects.

- (f) To participate, wherever possible, in Federal and/or Provincial programs to facilitate community improvement.
- (g) To reconcile existing land use conflicts and minimize future land use conflicts.

### **10.3 Objectives**

Community Improvement Plans may be prepared and adopted by the Town to:

- (a) Encourage the renovation, repair, rehabilitation, redevelopment or other improvement of lands and/or buildings, including environmental remediation, development, redevelopment, construction and reconstruction of lands and buildings for rehabilitation purposes, or for the provision of energy efficient uses, buildings, structures, works, improvements or facilities;
- (b) Encourage the preservation, restoration, adaptive reuse and improvement of historical or architecturally significant buildings;
- (c) Encourage the restoration, maintenance, improvement and protection of natural habitat, parks, open space, recreational and heritage facilities and amenities, and to establish new facilities where deficiencies exist to meet the needs of the citizens of the community;
- (d) Encourage residential and other types of infill and intensification on lands which are already serviced with municipal services;
- (e) Improve and maintain the transportation network to ensure an adequate traffic flow, pedestrian circulation and parking facilities;
- (f) Maintain and improve municipal services including the water distribution system, the sanitary and storm sewer systems, roads, sidewalks, street lighting, and to provide a safe health standard for the citizens of the community;
- (g) Improve and maintain the physical and aesthetic amenities of the streetscape, especially in the commercial core areas of Thornbury, Clarksburg and Craigleith;
- (h) Encourage the eventual elimination and/or relocation of incompatible land uses, and where this is not feasible, to encourage physical improvements to minimize the incompatibility;
- (i) Encourage, support and co-ordinate both public and private investment opportunities in the rehabilitation and improvement of property and facilities which will result in stability in the community;
- (j) Establish an atmosphere through revitalization and improvements within the commercial core areas of Thornbury, Clarksburg and Craigleith that will encourage existing business and property owners to make improvements to their facilities and new business to locate in these areas.
- (k) Encourage improvement activities which contribute to a strong economic base including commercial, industrial, recreational and tourism activity and job creation.
- (l) Improve environmental conditions;
- (m) Improve social conditions;
- (n) Promote cultural and tourism development;

- (o) Facilitate and promote community economic development; and,
- (p) Improve community quality, safety and stability.

#### **10.4 Criteria for Selection of Community Improvement Project Areas**

- (1) The Town may designate by by-law one or more Community Improvement Project Area(s), the boundary of which may be part or all of the municipality.
- (2) For an area to be identified as a Community Improvement Project Area, one or more of the following conditions must be present:
  - (a) Buildings, building facades, and/or property, are in need of maintenance preservation, restoration, repair, rehabilitation, energy efficiency or renewable energy improvements, or redevelopment;
  - (b) Deficiencies in physical infrastructure including but not limited to the sanitary sewer system, storm sewer system, and/or watermain system, roadways, sidewalks, curbs, streetscapes and/or street lighting, and municipal parking facilities;
  - (c) Vacant lots and/or underutilized properties and buildings which have potential for infill, redevelopment or expansion to better utilize the land base;
  - (d) Commercial areas with high vacancy rates and/or poor overall visual quality of the built environment, including but not limited to, building facades, streetscapes, public amenity areas and urban design;
  - (e) Presence of buildings and/or lands of architectural or heritage significance;
  - (f) Known or suspected environmental contamination;
  - (g) Deterioration or deficiencies in the level of community and social services such as public open space, municipal parks, neighbourhood parks, indoor/outdoor recreational facilities, and public social facilities;
  - (h) Non-conforming, conflicting, encroaching or incompatible land uses or activities threaten to disrupt the predominant land use and lifestyle of the citizens of the area;
  - (i) Demonstrated deficiency in the condition or provision of accessible parking;
  - (j) Demonstrated problem or deficiency associated with the circulation and/or access of traffic;
  - (k) A shortage of land to accommodate widening of existing rights-of-way, building expansion, parking and/or loading facilities;
  - (l) Other significant barriers to the repair, rehabilitation or redevelopment of underutilized land and/or buildings; and,
  - (m) Other significant environmental, social or community economic development reasons for community improvement.
- (3) Priority for the designation of Community Improvement Project Areas and the preparation and adoption of Community Improvement Plans shall be given to:

- (a) The Thornbury, Clarksburg and Craigleith commercial core areas;
  - (b) Existing built up areas;
  - (c) Those areas where the greatest number of criteria for selection of Community Improvement Project Areas are present; and/or,
  - (d) Those areas where one or more of the criteria for selection of Community Improvement Project Areas is particularly acute; and/or,
  - (e) Those areas where one or more of the criteria for selection of Community Improvement Project Areas exists across the entire municipality or a large part of the municipality.
- (4) Community improvement plans will be prepared and public comment sought in accordance with the provisions of the *Planning Act*.

### **10.5 Phasing**

The phasing of community improvements shall be prioritized to:

- (a) Permit a logical sequence of improvements to occur without unnecessary hardship on area residents and the business community;
- (b) Implement those improvements that will most substantially improve the aesthetic, environmental and service qualities of a community improvement project area;
- (c) Reflect the financial capability of the Town to fund community improvement projects;
- (d) Take advantage of available senior government programs that offer financial assistance for community improvement efforts; and,
- (e) Coordinate the timing of related capital expenditures from various municipal departments with departmental priorities.

### **10.6 Implementation**

- (1) In order to implement a Community Improvement Plan in effect within a designated Community Improvement Project Area, the Town may undertake a range of actions, including:
- (a) Municipal acquisition of land and/or buildings, and the subsequent;
    - i) Clearance, grading, or environmental remediation of these properties;
    - ii) Repair, rehabilitation, construction or improvement of these properties;
    - iii) Sale, lease, or other disposition of these properties to any person or governmental authority;
    - iv) Other preparation of land or buildings for community improvement.
  - (b) *Provision of public funds such as grants and loans to owners of land and their assignees;*
  - (c) Programs and measures to promote energy efficient development, redevelopment and retrofit projects;
  - (d) Application for financial assistance from and participation in senior level government programs that provide assistance to municipalities and/or private landowners for the purposes of community improvement;

- (e) Coordination of public and private redevelopment and rehabilitation by providing administrative and liaison assistance;
  - (f) Support of heritage conservation and improvement through means available under the *Ontario Heritage Act*;
  - (g) Provision of information on municipal initiatives, financial assistance programs, and other government assistance programs;
  - (h) Continued support of existing Business Improvement Areas, and the encouragement of the establishment of new Business Improvement Areas and the expansion of existing Business Improvement Areas in an effort to maintain strong and vital commercial areas;
  - (i) Continued enforcement of the Town's Zoning By-law, Property Standards By-law and Sign By-law, and other related municipal by-laws and policies;
  - (j) Preparation of Design Plans for commercial core areas that include streetscape improvements, parkettes, public parking areas, lookouts and trail development; and,
  - (k) Coordinate streetscaping improvements with the installation/upgrading of municipal services, e.g., sewer installation, road and sidewalk reconstruction.
- (2) Council shall be satisfied that its participation in community improvement activities will be within the financial capabilities of the Town.

**Item 2:** The following new section, **Section 11 Potentially Contaminated Sites** be added to the Official Plan:

## **SECTION 11**

### **POTENTIALLY CONTAMINATED SITES**

#### 11.1 Purpose

- (1) Potentially contaminated sites are sites where the environmental condition of the property or properties may have potential for adverse effects on human health, ecological health or the natural environment. In order to prevent these adverse effects, prior to permitting development on these properties, it is important to identify these properties and ensure that they are suitable or have been made suitable for the proposed land use(s) in accordance with provincial legislation, regulations and standards.
- (2) While the identification of potentially contaminated sites is important in the planning application review process, the policies in this section should not be interpreted as a commitment on the part of the Town to identify all contaminated sites. Rather, these policies should be regarded as an effort by the municipality to responsibly utilize available information in the planning application review process to help ensure that development takes place only on sites where the environmental conditions are suitable for the proposed use of the site.

#### **11.2 Policies**

- (1) The following list of general uses represents current or past activities on a property that may be causing or may have caused environmental contamination:

- (a) activities involved with the elimination of waste and other residues, including, but not limited to landfill sites and waste disposal areas;
  - (b) industrial and commercial activities involving the storage and/or use of hazardous substances, including but not limited to fuels, oils, chemicals, paints or solvents;
  - (c) railway lands.
- (2) The Town will utilize available information in the planning application review process to help ensure that development takes place only on sites where the environmental conditions are suitable for the proposed use of the site.
- (3) The Town will require development proponents to document previous uses of a property or properties that are subject of a planning application and/or properties that may be adversely impacting a property or properties that are subject of a planning application in order to assist in the determination of the potential for site contamination.
- (4) Where the Town determines that there is a proposed change in land use to a more sensitive use on a property or properties that have been identified through the Town's planning application review process as "potentially contaminated", the Town will:
- (a) require as a condition of planning approval, written verification to the satisfaction of the Town from a Qualified Person as defined by provincial legislation and regulations, that the property or properties in question are suitable or have been made suitable for the proposed use in accordance with provincial legislation, regulations and standards, including where required by the Town or provincial legislation and/or regulations, filing by the property owner of a Record of Site Condition (RSC) signed by a Qualified Person in the Environmental Site Registry, and submission to the Town of written acknowledgement from the Ministry of Environment specifying the date that the RSC was filed in the Environmental Site Registry;
  - (b) establish conditions of approval for planning applications to ensure that satisfactory verification of suitable environmental site condition is received as per (4)(a);
  - (c) where applicable, utilize the holding provisions of the *Planning Act* to ensure that satisfactory verification of suitable environmental site condition is received as per (4)(a).
- (5) Where the Town is deeded land for public highways, road widenings, parks, stormwater management, easements, or for any other purpose, the Town may require, as a condition of transfer, satisfactory verification of environmental site condition as per (4)(a).

**Item 3:**

Renumbering "**Section 11 Implementation**" and all references to Section 11 Implementation to "**Section 12 Implementation**".

**Item 4:**

That the following complementary revisions as shown in underline format be made to the policies in Section 11.4 , **Holding Zones** :

Specific provisions for the use of Holding Zones may also be contained elsewhere under this Plan, including the specific land use designations under Section 4, the servicing policies under Section 5, the Master Development Agreement provisions of Section 9, the Potentially Contaminated Sites Policies under Section 11, and the Exceptions provisions under Section 13.

**Item 5:**

Renumbering “Section 12 Interpretation” and all references to Section 12 Interpretation to “**Section 13 Implementation**”.

**Item 6:**

Renumbering “**Section 13 Exceptions**” and all references to Section 13 Exceptions to “**Section 14 Exceptions**”.

**Item 7:**

Renumbering “**Section 14 Niagara Escarpment Plan**” and all references to **Section 14 Niagara Escarpment Plan** to “**Section Niagara Escarpment Plan**”.

**IMPLEMENTATION AND INTERPRETATION**

The implementation and interpretation of this Amendment shall be in accordance with the respective policies of the Town of The Blue Mountains Official Plan.