



## MUNICIPALITY OF **West Elgin**

### Staff Report

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**Report To:** Council Meeting  
**From:** Heather James, Planner  
**Date:** 2020-11-12  
**Subject:** Zoning Report 24801 Pioneer Line

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#### **Recommendation:**

That West Elgin Council hereby receives the report from Heather James regarding the application to amend the Zoning By-law for 24801 Pioneer Line, File No. D14 07-2020; and,

That West Elgin Council consider deferral of the by-law to amend the Zoning By-law until the current owner of the subject lands and the owners of 24793 Pioneer Line enter into a mutual agreement drain and have such agreement registered on title for both parties to provide a legal drainage outlet for 24793 Pioneer Line with a timeframe of one month for completion.

#### **Purpose:**

The proposed Zoning By-law Amendment will rezone a portion of the lands, +/- 1.20 ha (2.97 ac.) in area with a frontage of 20.11 m (66.0 ft.) and an irregular depth from Future Residential (FR) Zone to Residential First Density (R1) Zone to permit the construction of a single unit dwelling. The application was submitted by the agent, Amy Dale, solicitor from Gunn & Associates on behalf of the owner Tony Santos.

The subject lands are situated on the south side of Pioneer Line, in the former Township of Aldborough. The lands are legally described as Concession 9, Part of Lot 17, in the geographic Township of Aldborough, and known municipally as 24801 Pioneer Line (as shown on the attached Key Map).

The subject lands were subject to a severance from a larger land holding, which has frontage on Catherine Road in 2018. Two residential parcels were also severed from the subject lands in 2018.

#### **Background:**

The proposed Zoning By-law Amendment will rezone a portion of the lands, +/- 1.20 ha (2.97 ac.) in area with a frontage of 20.11 m (66.0 ft.) and an irregular depth from Future Residential (FR) Zone to Residential First Density (R1) Zone to permit the construction of a single unit dwelling (as shown on the attached Sketch). The lands will be serviced with municipal water and private septic system with driveway access to Pioneer Line. The balance of the lands, 6.96 ha (17.2 ac.) will remain zoned Future Residential (FR) and will continue to be used for non-livestock agricultural and woodlot and wetland uses. The Miller Municipal Drain runs through the subject lands.

The zoning by-law amendment application was circulated to municipal staff for comment. No comments of concern were received.

The application was also circulated to public agencies for comments. One comment was received from Lower Thames Valley Conservation Authority with the following comments:

*'Please be advised that this application has been reviewed by this office and we have no objections to the proposal as submitted. The Authority is responsible for addressing the Natural Hazard Section of the Provincial Policy Statement as well as O. Reg. 152/06, Development, Interference with Wetlands and Alterations to Shorelines and Watercourses Regulation under the Conservation Authorities Act, R.S.O. 1990, c. C.27. After reviewing our files and mapping, staff determined that the property in question is subject to the Authority's Development, Interference with Wetlands and Alterations to Watercourses portion of the regulations. The issue of concern in this area is the Provincially Significant Wetland known as the Buttinger Swamp PSW and its adjacent lands, the Miller Drain and its tributary, the McCallum Award Drain and erosion.'*

*An application from this office is required prior to any works/construction taking place within the regulated area. The lands are not subject to flooding of a general nature and as such structures are not required to be flood proofed. However, the flood proofing of structures for the purposes of prevention of flood damage from local groundwater and overland drainage waters is recommended. Setbacks from the waterways and the wetland will be required to any proposed structure(s) including farm tile drainage.'*

**Comment:** The agent has been provided the comments from Lower Thames Valley Conservation Authority and is aware of the requirement for a development permit.

One comment of concern was submitted by neighbouring property owner, Magda Badura who resides at 24793 Pioneer Line. Below are the submitted comments:

*'I have a few concerns regarding Zoning By-law Amendment File: D14 07-2020. There are several residential homes on Pioneer Line and Catherine St. that have natural drainage and drainage tile that either hook-up or flow into the Miller Drain and/or creek on proposed lands. If you look at the grade from both Pioneer Line and Catherine St. toward the lot/lands in question, you can clearly see the land slopes downward on said lot toward the proposed build site of home. Not to mention the field in its current state is always very wet with a year-round swamp like puddles in the field. Our concern is if building activity takes place on said land, how will that impact the drainage from the residential properties that currently perimeter said lot/lands in question?'*

*The said lot/land where home build is suggested are in a very low land/wet land type environment. Being that the lot/land in question is very low and wet. I am surprised the Lower Thames is approving the building of a home in said location. Our concern and the concern of the neighbors is mainly the drainage aspect and if developing the said property will impact the drainage of the surrounding properties.'*

*We built our home about a year ago and we had to raise our home out of the ground by 2.5 feet as the water table is very high in this area. We are concerned that any impacts to drainage will adversely affect the already high-water table in this area. Hence or concern about drainage of said lot/lands.'*

**Comment:** The comments from Ms. Badura were circulated to the Chief Building Official, Drainage Superintendent and Lower Thames Valley Conservation Authority for review. Below are the responses:

Chief Building Official

*'If the lots that have been developed to drain to the Miller Drain, perhaps there should be an easement or drainage plan that permits the residential lots to have their drainage connected to a drain that is not accessible by their own properties alone. A new dwelling on this property would have to provide a grading plan for the development as part of the building permit but unless there is a municipally owned drain tile from these other properties to the Miller drain, the new owner could disconnect any tile that is on their land that is not protected by a right of way or easement.'*

Drainage Superintendent

*'Talk to the new owner first, if they are ok with it something may have to be drawn up by a lawyer so it can be registered with the property in perpetuity.'*

**Comment:** Unfortunately it would be too difficult to require all owners who have lots in this area that drain on to this property enter into individual mutual drainage agreements with the owner of the subject lands as this should have been done when those lots were created. In speaking with Ms. Dale, she indicated that the new owners of the lots would be willing to enter into mutual agreement drain with the owners of 24793 Pioneer Line which would be registered on title with the lands. At this time, no other property owners have raised concerns about drainage. It would be advisable that the mutual drain agreement be entered into and registered on title with the current owner, Tony Santos and the owners of 24793 Pioneer Line.

Lot grading and lot drainage plans will be a requirement of development on the subject lands at the building permit stage.

Lower Thames Valley Conservation Authority

*'The natural flow of water through the lot will need to be a consideration when obtaining a building / CA regulation permit. The new homeowners will not want flows directed at their new structure. The residence's location can be shifted accordingly further to the NE if the ground is higher, or fill brought in to raise the ground around the structure to accommodate for overland flows.'*

*A review of the groundwater table may be a requirement of our permit process given the high groundwater in this area. That would result in any proposed structure having to be built above the highwater table with their footings / foundation having to be engineered. They would also be required to stay a set distance away from the municipal tile drain. You can check with your Drainage Superintendent to confirm that requirement / distance.'*

*You must keep in mind that our regulation is permissive. If a landowner can meet our requirements to build in certain areas that have restrictions, then we must provide a permit for the work so long as all the hazards have been addressed. There may be challenges with building on this lot in the area proposed, but they would not be insurmountable. Further back into the lot then the challenges would result in CA staff not being able to support an application due to the PSW and its impacts. A proponent would still have the opportunity to go before the Authority's Executive Committee for a hearing. The Committee would either approve, approve with conditions, or deny the permission.'*

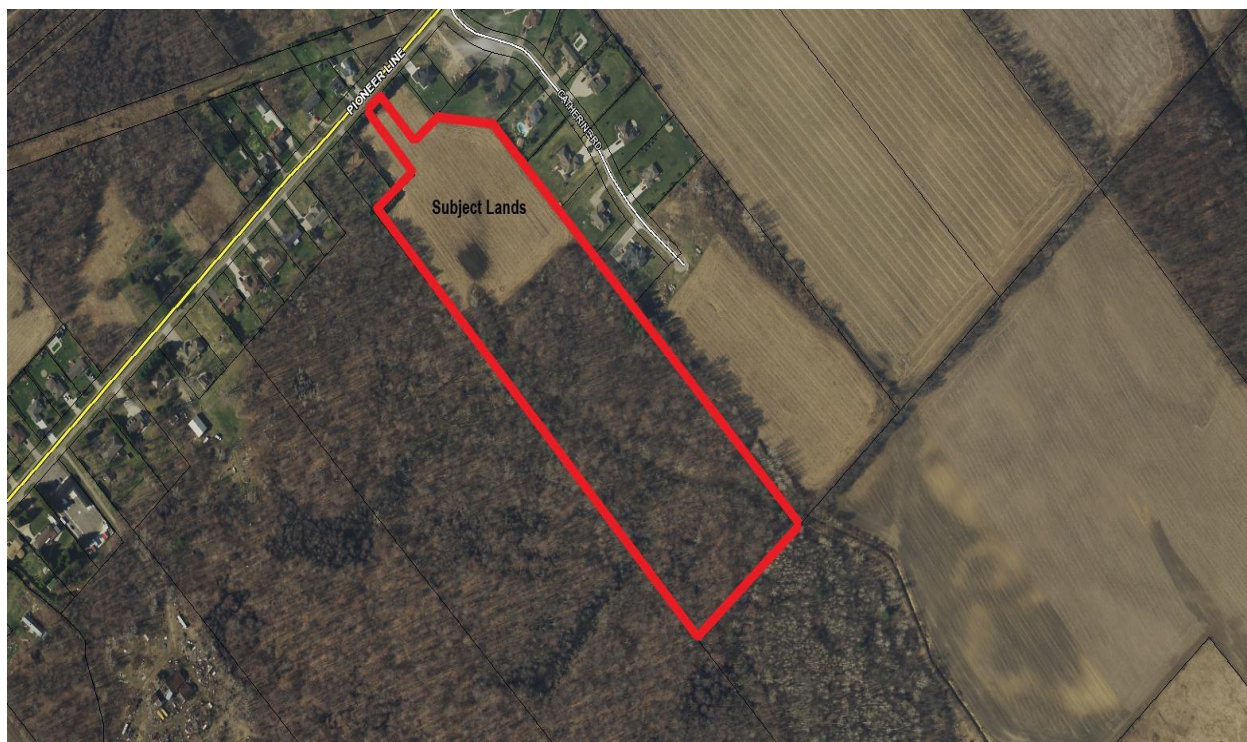
*I guess one question I had after the fact of sending my letter in is why is the back woodlot/wetland portion still designated as potential residential development and not revert it to agricultural or environmental protection?'*

**Comment:** Since the lands are within an urban settlement area, they cannot be zoned General Agricultural (A1) nor does the municipality have an Environmental Protection (EP) zone in the zoning by-law. For the balance of the lands, the new owners intend to use for agricultural purposes.

**Summary/Conclusion:**

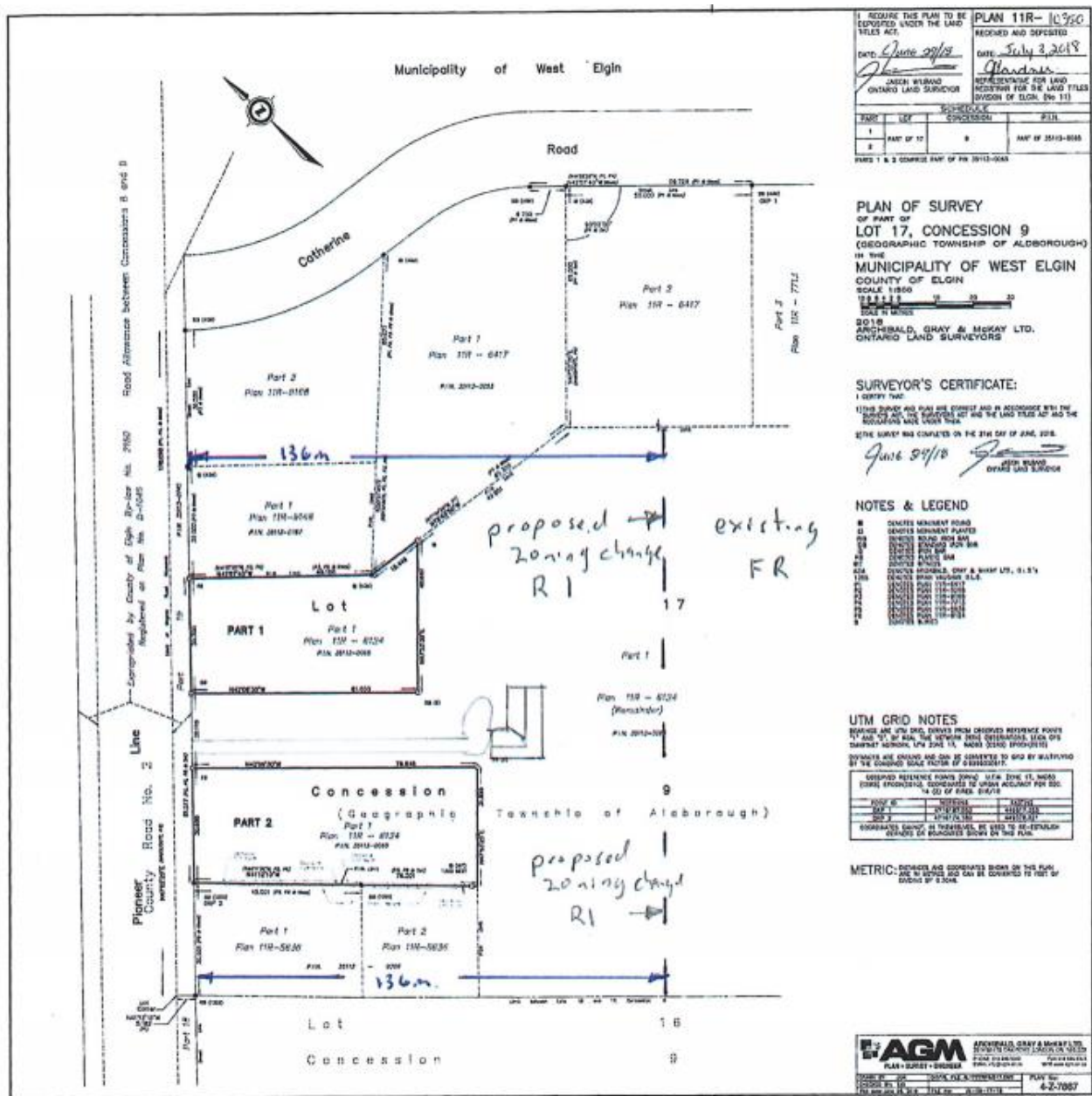
There are concerns that have been raised by the adjacent property owners at 24793 Pioneer Line regarding private drainage on to the subject lands. Unfortunately, a mutual drainage agreement was not a condition of the severance for the two residential lots that were created in 2018. The owner of It is my professional planning opinion that the passage of the by-law for the zoning by-law amendment application be deferred until the current owner of the subject lands and the owners of 24793 Pioneer Line enter into a mutual agreement drain and have such agreement registered on title for both parties to provide a legal drainage outlet for 24793 Pioneer Line.

**Key Map**





## Sketch



**Report Approval Details**

Document Title:	Zoning Report 24801 Pioneer Line - 2020-30-Planning.docx
Attachments:	<ul style="list-style-type: none"><li>- 2020-xx - Zoning By-law Amendment - 24801 Pioneer Line.docx</li><li>- 24801 Pioneer Line.pdf</li></ul>
Final Approval Date:	Nov 10, 2020

This report and all of its attachments were approved and signed as outlined below:

Jana Nethercott