



## MUNICIPALITY OF **West Elgin**

### Staff Report

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**Report To:** Council Meeting

**From:** Heather James, Planner

**Date:** 2021-02-25

**Subject:** Update Report on Zoning By-law Amendment 24801 Pioneer Line

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#### **Recommendation:**

That West Elgin Council hereby receives the report from Heather James regarding an update report on the zoning by-law amendment for 24801 Pioneer Line; and,

That West Elgin Council hereby directs staff on the next steps to complete the planning process.

#### **Purpose:**

The purpose of this report is to provide Council with an update on the zoning by-law amendment for 24801 Pioneer Line and seek direction on the next steps to complete the planning process.

#### **Background:**

A public meeting was held on November 12, 2020 for a zoning by-law amendment for 24801 Pioneer Line. The zoning by-law amendment proposed to 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 (see attached Key Map). The subject lands are vacant and have a Provincially Significant Wetland located in the southern portion of the lands. Comments submitted by the adjacent property owners, Jeremy, and Magda Badura at 24793 Pioneer Line identified the following concerns:

1. There are several lots on Pioneer Line and Catherine Road that drain onto this property without legal protection or legal outlets to the Miller Drain which is location on the subject lands.
2. Their own property has a drainage tile that is located on the subject lands before the tile outlets to the Miller Drain, which is located on the subject lands. Unfortunately, the lot known as 24793 Pioneer Line was created in 2018 and a mutual drain agreement, which would provide a legal drainage outlet for the lot was not required.
3. It was also identified that the lot known as 24803 Pioneer Line (undeveloped at this time), which was created at the same time as 24793 Pioneer Line also has a drainage tile that crosses over the subject lands before the tile outlets to the Miller Drain and is also not protected through a mutual drain agreement.

Also at the public meeting, C. Blair, owner of a property on Catherine Road stated there are already a fair amount of drainage concerns with properties in this area and the property in question where the majority of the surface water runs. Ms. Blair expressed concern that the existing drain is not large enough to handle more water. Mayor McPhail stated that it seems that a drainage plan needs to be worked out for this area, which is separate from the issue of the missing mutual drain

agreement. Mayor McPhail asked Drainage Superintendent Tom Mohan to speak with the concerned residents and see what can be done to alleviate concerns.

West Elgin Council deferred their decision on the zoning by-law amendment and directed staff to pursue a mutual drain agreement with both lots on Pioneer Line and the current owner of 24801 Pioneer Line in a timely fashion so that development can move ahead.

### Update

Since the November 12, 2020 Council meeting, the municipal drainage superintendent has met with property owners along Pioneer Line and Catherine Road on-site to discuss their drainage concerns. The property owner on Catherine St., C. Blair that identified drainage issues at the public meeting is prone to occasional flooding in their backyard. The drainage superintendent stated that the area for years was drained by an old clay tile that also ran across 24801 Pioneer Line. That tile has failed in recent years and no longer functions. The drainage superintendent has identified that the best option to remedy this is to have that property owner connect a tile into the new drain serving the Pioneer Line lots. Since these are all private drains it will require cooperation of all of the owners. At the end of the on-site meeting it was decided to wait until an agreement was achieved for the two lots on Pioneer Line before anything else was decided.

In email from Amy Dale, solicitor, Gunn & Associates, who represents the purchaser of the subject lands and agent for the zoning by-law amendment, dated February 21, 2021, Ms. Dale indicated that there is a signed mutual drain agreement between the owners of 24793 Pioneer Line and the owner of the subject lands, 24801 Pioneer Line to provide a legal drainage outlet.

Unfortunately, the owners of 24803 Pioneer Line are not willing to sign the mutual drain agreement with the owners of 24783 Pioneer Line and 24801 Pioneer Line until a clause is added to the agreement confirming that the owner of the 24801 Pioneer Line will not build any structures on top of the drain and until the drain is better located, i.e. surveyed or GPS located. Ms. Dale's clients (purchasers of 24801 Pioneer Line) are agreeable to the clause being added to the agreement and are willing to cooperate, but do not feel that they should be the party responsible for bearing the cost to obtain these locates. Ms. Dale is inquiring if Council will proceed on the basis of the agreement signed by the owners of 24793 Pioneer Line (Badura's) or whether they want both lot owners to sign before they will agree to proceed with the application. Ms. Dale also notes that her clients wish to be as cooperative as possible in this matter and have instructed her to proceed on that basis.

### **Financial Implications:**

The costs to locate the drain are unknown at this time and may also be delayed due to weather conditions.

### **Policies/Legislation:**

Provincial Policy Statement 2020, County of Elgin Official Plan, and the Municipality of West Elgin Official Plan

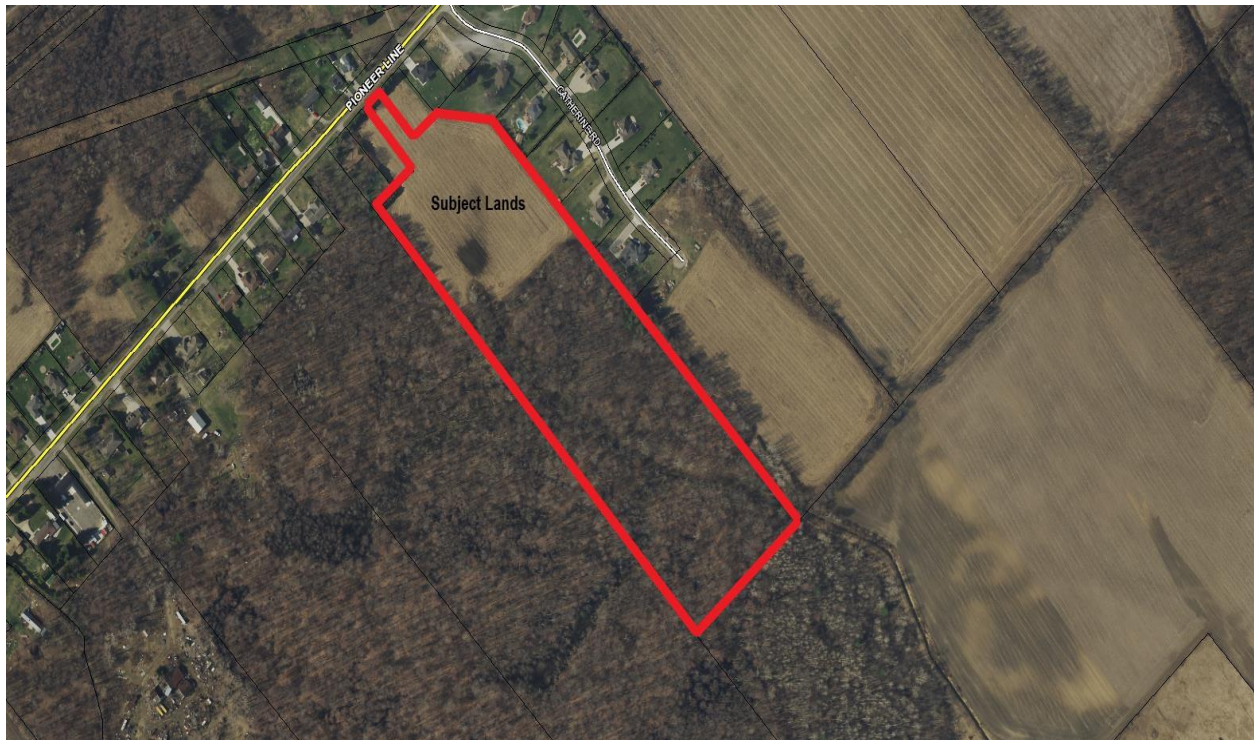
At this time, consistency with the Provincial Policy Statement 2020 and conformity with the County of Elgin Official Plan and the Municipality of West Elgin Official still cannot be determined as the existing drainage concerns that arose at the public meeting have not been completely resolved.

**Summary/Conclusion:**

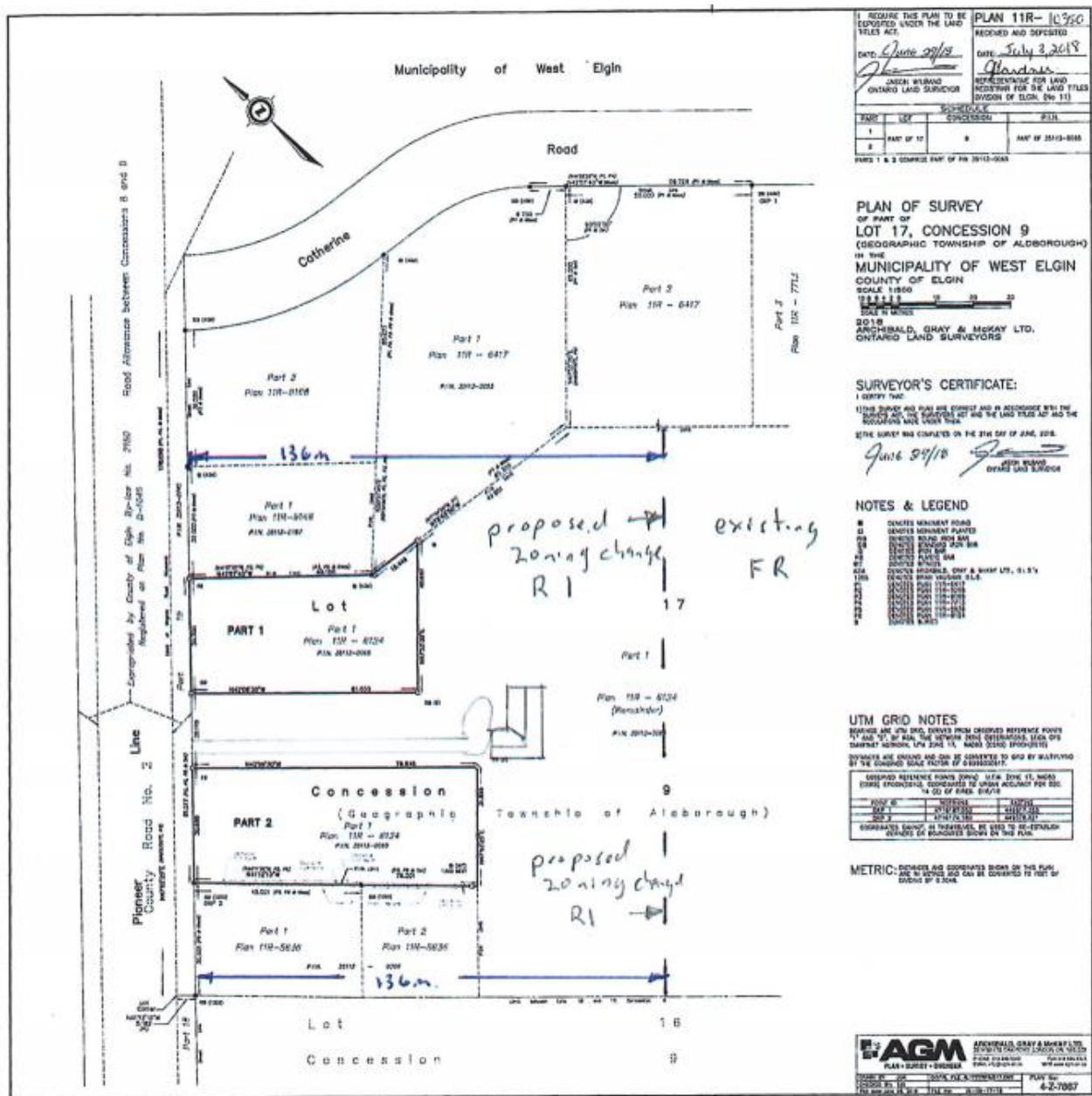
Unfortunately at this time, the owner of 24803 Pioneer Line is not agreeable to signing the mutual drain agreement until a clause is added to the agreement confirming that the owner of the 24801 Pioneer Line will not build any structures on top of the drain and until the drain is better located, i.e. surveyed or GPS located. The original concerns regarding drainage were raised by the owners of 24793 Pioneer Line and have been resolved through the signing of the agreement. At this time, as there are still outstanding drainage issues on the subject lands, I cannot state the zoning by-law amendment application is consistent with the Provincial Policy Statement and I cannot determine conformity with the County of Elgin Official Plan and the Municipality of West Elgin Official Plan.

However, should Council wish to see this proposed zoning by-law amendment move forward, a proposed by-law for zoning by-law amendment and zoning by-law amendment schedule are attached to this report for Council's consideration.

## Key Map



## Sketch



## Report Approval Details

Document Title:	Update Report on Zoning By-law Amendment 24801 Pioneer Line - 2021-09-Planning.docx
Attachments:	<ul style="list-style-type: none"><li>- 2021-xx - Zoning By-law Amendment - 24801 Pioneer Line.docx</li><li>- 24801 Pioneer Line.pdf</li></ul>
Final Approval Date:	Feb 23, 2021

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

Jana Nethercott