TO: Chair and Members
Planning Committee

COMMITTEE DATE: February 4, 2014

SUBJECT/REPORT NO: Comments on Application for a Licence under the Aggregate Resources Act by Lafarge Canada Inc. - Dundas South Quarry Extension, Part of Lots 7, 8, and 9, Concession 3, Flamborough (PED14024) (Ward 14)

WARD(S) AFFECTED: Ward 14

PREPARED BY: Heather Travis
905-546-2424 Ext. 4168

SUBMITTED BY: Joe-Anne Priel
Acting General Manager
Planning and Economic Development Department

SIGNATURE: 

RECOMMENDATION
(a) That the City of Hamilton advise the Ministry of Natural Resources (MNR) that it objects to the Licence Application under the Aggregate Resources Act, by Lafarge Canada Inc. - Dundas South Quarry Extension, proposed for Part of Lots 7, 8, and 9, Concession 3, Flamborough, being municipal addresses 582, 626, 632, 634 and 638 Brock Road, 790, 798, 822, 826 and 832 Concession 4 West, and 520, 526, 532, 536, 540, 542, 546, 550, 554, 559, 564, 565, 568, 580 and 588 Moxley Road, as shown on Appendix “A” to Report PED14024, on the following basis:

(i) Consideration of the application is premature at this time as the proposed extractive land use is not a permitted use under the Rural Hamilton Official Plan (RHOP) or the Town of Flamborough Zoning By-law;

(ii) Review of the submitted Official Plan Amendment and Zoning By-law Amendment applications have not been completed by the City or relevant commenting agencies, or considered by Council;

(iii) The City and the Combined Aggregate Review Team (CART) have not completed peer reviews of the various component studies submitted by the proponent;
(iv) It would be premature for the Ministry of Natural Resources to finalize the Aggregate Licence requirements until detailed site requirements, as identified through the review of the required Official Plan Amendment and Zoning By-law Amendment applications and submitted technical studies, have been provided by the City to be considered for incorporation as conditions to the Licence, if granted by the MNR; and,

(v) That Hydrogeology, Noise, Vibration, Blasting, Dust, and impacts to Natural Heritage have initially been identified as areas of concern to the City.

(b) That a copy of Report PED14024, being the City of Hamilton’s formal comments, be forwarded and filed with the Guelph District Office of the Ministry of Natural Resources and Lafarge Canada Inc. (c/o MHBC Planning), as required under the Aggregate Resources Act for a Licence.

EXECUTIVE SUMMARY

Lafarge Canada Inc. has made an application to the Ministry of Natural Resources (MNR) for a Licence under the Aggregate Resources Act (ARA), to permit an extension to the existing Dundas South Quarry. Under the ARA, the City must notify the MNR of any objections to the Licence application within a prescribed timeframe. It is recommended that the City file an objection to the proposed Licence application on the basis of prematurity, as the City has not had sufficient time to review the application and the extensive technical studies submitted in support of the application. Due to the large volume of supporting material submitted, and the need for peer reviews of several of the studies, it is not possible for the City to provide an informed opinion on the merits of the application at the present time.

Alternatives for Consideration – See Page 7

FINANCIAL – STAFFING – LEGAL IMPLICATIONS

Financial: N/A.
Staffing: N/A.
Legal: N/A.

HISTORICAL BACKGROUND

On January 3, 2014, Lafarge Canada Inc. submitted an application for a Category 2, Class A Licence under the ARA to the MNR. The application is for a 127.2 ha. extension to the existing Lafarge Dundas Quarry operation, to be referred to as the South Quarry Extension. The proposed area of extraction is approximately 108 ha. The proposed quarry extension would operate below the water table, meaning that...
dewatering activities would occur. Processing is not proposed on the extension lands. Extracted material would be transported to the existing South Quarry or to the Lafarge processing area south of Highway 5, via conveyor, for processing. The extension is proposed to operate in 5 phases, as indicated on Appendix “B”.

Under the ARA, the applicant (Lafarge) is required to provide notice of the licence application to the local municipality as well as other prescribed agencies. The licence application was received by the City on January 6, 2014.

On January 9, 2014, Lafarge placed a public notice advertisement in the Flamborough Review, advising of the ARA Licence application for the South Quarry Extension. This is a requirement under the ARA. The placement of the advertisement in the newspaper marks the beginning of a 45-day commenting period, prescribed under the ARA. All objections to the application must be provided to the applicant and the MNR within this 45-day period. As such, the City of Hamilton is required to submit a response to the MNR outlining any objections to the proposed quarry extension by February 24, 2014.

As per ARA requirements, Lafarge is also required to notify the public of the licence application through the posting of a sign on the subject lands, notification to surrounding property owners within 120 m. of the subject property, and through the hosting of a public information session which will take place on February 5, 2014.

Related Planning Act Applications

In addition to the Licence application under the ARA, Lafarge has also submitted, to the City of Hamilton, applications for a RHOP Amendment, and Town of Flamborough, Zoning By-law Amendment, to permit the proposed South Quarry Extension. These applications were received by the City on November 11, 2013, and deemed complete on December 6, 2013.

It is important to note that a Licence under the ARA cannot be issued if the zoning on the lands does not permit the proposed use.

The lands are currently designated “Agriculture” and “Rural” in the RHOP. The proposed Official Plan Amendment would redesignate the subject lands to “Mineral Aggregate Resource Extraction Area”.

The proposed Zoning By-law Amendment would rezone the lands from the Agricultural “A” Zone to the Extractive Industrial “EI” Zone, to permit the proposed extension.

In accordance with the Planning Act, a sign has been posted on the subject lands to inform the public of the Official Plan Amendment and Zoning By-law Amendment
applications, and further, in accordance with City policies, notice of the applications has been circulated to all property owners within 120 m. of the subject lands.

POLICY IMPLICATIONS AND LEGISLATED REQUIREMENTS

Provincial Policy Statement (PPS)

Section 2.5 of the PPS addresses Mineral Aggregate Resources, including policies related to extraction in Prime Agricultural Areas and Rehabilitation. The proposed Lafarge South Quarry Extension application will be reviewed against these policies. Other relevant PPS policies including, but not limited to, policies related to natural heritage, cultural heritage, water, and agricultural and rural areas, will also be evaluated.

Greenbelt Plan

Section 4.3.2 of the Greenbelt Plan contains policies related to Non-Renewable Resources. The policies address issues related to the location of mineral aggregate resources and the natural system, maximum disturbed areas of mineral aggregate operations, and rehabilitation requirements for both natural features and agricultural lands. These policies will be reviewed in the evaluation of the Official Plan Amendment and Zoning By-law Amendment applications. Greenbelt policies regarding the natural heritage system, cultural heritage resources, and rural and agricultural areas, among others, will also be reviewed and evaluated.

Rural Hamilton Official Plan (RHOP)

Section D.6.0 of the RHOP addresses Mineral Resource Extraction Areas. The Official Plan Amendment application submitted by Lafarge proposes to redesignate the subject lands to Mineral Aggregate Resource Extraction Area on Schedule D of the RHOP. Section D.6.0 contains extensive policies regarding the uses which are permitted within the Mineral Aggregate Resource Extraction Area designation, factors to consider in the establishment of a new or expanded aggregate operation, studies required as part of any application for a new or expanded operation, and requirements related to rehabilitation. These policies will be evaluated in the review of the South Quarry Extension applications. The RHOP also contains extensive policies related to the Natural Heritage System (Section C.2.0), among others, which will be reviewed as part of the application process.
Town of Flamborough Zoning By-law

The subject lands are zoned Agriculture “A” Zone in Town of Flamborough Zoning By-law No. 90-145-Z. The proposed Zoning By-law Amendment proposes to rezone the subject lands to the Extractive Industrial “EI” Zone. Review of the proposed Zoning By-law Amendment will consider the proposal against the regulations in the “EI” Zone to determine compliance with the zone requirements.

Aggregate Resources Act (ARA)

The ARA outlines extensive requirements related to both Application and Operational Standards for quarry licences. There are different categories of licence applications. The proposed South Quarry Extension application is for a Category 2, Class A Licence, which is for a quarry below the water table.

The Application Standards provide specifics regarding submission requirements for quarry operations for each category of licence, including site plan and report standards, conditions applicable to the licence, and notification and consultation standards related to the licence application. The requirement for the City to respond to Lafarge’s licence within 45 days is outlined in these Application Standards.

The Operational Standards identified in the ARA for quarry licences provide details related to site plan requirements for quarry operations, including fencing and berming requirements, setback requirements for excavation and processing, outdoor storage of topsoil and overburden, limitation on hours of operation for blasting, and rehabilitation.

Annual compliance reporting for all mineral aggregate operations is also required by the ARA.

RELEVANT CONSULTATION

The Official Plan Amendment and Zoning By-law Amendment applications have been circulated for comment both internally and externally. Staff are awaiting responses to the circulation.

Further, staff have initiated the development of a Combined Agency Review Team (CART) to assist in the review of the applications. The CART process has been successfully used in previous quarry applications that the City has reviewed. The CART will be comprised of staff from several City departments and divisions, as well as outside agencies, including the Hamilton Conservation Authority and Ministry of Environment. Rather than have each agency with an interest in the proposed quarry conduct its own technical reviews, the process provides an opportunity for the agencies to be represented on a team that retains expert peer reviews, at the proponent’s
expense. The CART approach provides a forum for the agencies to share views and perspectives on the applications, and a shared technical resource in the peer review team that they can draw from in reaching their independent positions and decisions.

ANALYSIS AND RATIONALE FOR RECOMMENDATION

1. Under the ARA, the City is required to respond to the Licence application by Lafarge by February 24, 2014. As such, staff recommend that the City file an objection to the proposed South Quarry Extension on the basis of prematurity for the following reasons:

   (i) Consideration of the application is premature at this time as the proposed extractive land use is not a permitted use under the RHOP or the Town of Flamborough Zoning By-law;

   (ii) Review of the submitted Official Plan Amendment and Zoning By-law Amendment applications have not been completed by the City or relevant commenting agencies, or considered by Council;

   (iii) The City and the CART have not completed peer reviews of the various component studies submitted by the proponent;

   (iv) It would be premature for the Ministry of Natural Resources to finalize the Aggregate Licence requirements until detailed site requirements, as identified through the review of the required Official Plan Amendment and Zoning By-law Amendment applications and submitted technical studies, have been provided by the City to be considered for incorporation as conditions to the Licence, if granted by the MNR; and,

   (v) That Hydrogeology, Noise, Vibration, Blasting, Dust, and impacts to Natural Heritage have initially been identified as areas of concern to the City.

2. The following studies and plans were submitted with the Official Plan Amendment and Zoning By-law Amendment applications:

   - Planning Report and ARA Summary Statement;
   - Hydrogeology and Hydrology Technical Report (2 volumes);
   - Natural Environment Technical Report;
   - Archaeological Study;
   - Cultural Heritage Impact Assessment;
   - Noise Study;
   - Air Quality Study;

OUR Vision: To be the best place in Canada to raise a child, promote innovation, engage citizens and provide diverse economic opportunities.

OUR Mission: WE provide quality public service that contribute to a healthy, safe and prosperous community, in a sustainable manner.

OUR Values: Accountability, Cost Consciousness, Equity, Excellence, Honesty, Innovation, Leadership, Respect and Teamwork.
• Blasting Impact Assessment;
• Traffic Study; and,
• ARA Site Plans.

Due to the large volume of supporting material submitted with the applications, and the need for peer reviews of several of the above studies, it is not possible for the City to provide an informed opinion on the merits of the application at the present time.

It is known at this time, that due to the technical nature of the documents and the level of expertise required to provide a comprehensive review, the following studies will require peer review: Hydrogeology and Hydrology Technical Reports; Noise Study; Air Quality Study; and Blasting Impact Assessment. Additional studies may also require peer review, which will be determined through the CART process. The peer reviews will be funded by the proponent.

3. In terms of next steps, at the time of writing of this report, the date of the first CART meeting is not known, but will likely be held in late January or early February. The goal is to establish the peer review team and enter into the necessary agreements with the proponent in a timely manner, in order that the peer review process will be commenced expeditiously. Review of the technical reports and peer reviews will be ongoing by City staff and members of CART. When the review of the studies have been completed, and prior to bringing forward a recommendation on the Planning Act applications, a CART report will be prepared jointly by CART members to highlight the findings of the studies and peer reviews. Staff recommendations on the Official Plan Amendment and Zoning By-law Amendment applications will be made following the conclusion of the CART process.

ALTERNATIVES FOR CONSIDERATION

If the City does not file an objection to the proposed ARA Licence application by Lafarge by the February 24, 2014 deadline, the City will be deemed to have no objection to the quarry licence application.

However, as the City is the approval authority for the Planning Act applications (Official Plan Amendment and Zoning By-law Amendment), the City would continue to have the opportunity to review and comment on the proposed South Quarry Extension as part of the Planning Act review.
ALIGNMENT TO THE 2012 – 2015 STRATEGIC PLAN

Strategic Priority #1
A Prosperous & Healthy Community

*WE enhance our image, economy and well-being by demonstrating that Hamilton is a great place to live, work, play and learn.*

Strategic Objective

1.6 Enhance Overall Sustainability (financial, economic, social and environmental).

APPENDICES AND SCHEDULES ATTACHED

- Appendix “A”: Location Map
- Appendix “B”: Sequence of Operations (Phasing Plan)

:HT
Attaches. (2)
Location Map

Site of the Application

Ward 14 Key Map

Parts of Lots 7, 8, and 9, Concession 3