



Staff Report

Meeting Date: PLA-32-2019
Submitted by: Kelly Henderson, Planner
Number: PLA-32-2019
Subject: Official Plan Amendment and Zoning By-law Amendment
Source Water Protection Policies and Regulatory Framework

Recommendation:

THAT Official Plan Amendment No. 44 to the Middlesex Centre Official Plan be approved and that the implementing by-law be adopted by Council and be submitted to the County of Middlesex for consideration of approval.

AND FURTHER THAT Zoning By-law Amendment No. 2019-052 to the Middlesex Centre Comprehensive Zoning By-law to establish a new source water protection regulatory framework and to introduce related mapping amendments, be approved and that the implementing by-law be forwarded to Council for consideration once the Official Plan Amendment is approved by the County of Middlesex.

Purpose:

To seek Council approval of Official Plan Amendment No. 44 to the Middlesex Centre Official Plan and Zoning By-law Amendment No. 2019-052 of the Middlesex Centre Comprehensive Zoning By-law to implement policies and provide a regulatory framework related to the protection of water resources and ground water features, as required by *The Clean Water Act*.

Background:

The *Clean Water Act* is intended to ensure the protection of municipal drinking water sources from rivers, lakes and groundwater, and subsequently human health and the environment for current and future generations. The *Act* sets out a risk-based process, on a watershed basis, to identify vulnerable areas and associated drinking water threats and issues through the preparation of Assessment reports, and the subsequent development of policies and programs to eliminate or reduce the risks posed by identified drinking water threats through the preparation of Source Protection Plans.

The Assessment Reports and Source Protection Plans were created with a substantial public consultation process and in the end, were approved by the then Minister of the Environment and Climate Change. For Middlesex Centre, two source protection plans have jurisdiction: the Thames, Sydenham and Region Source Protection Plan and the Ausable Bayfield Source Protection Plan.

Section 40 of the *Clean Water Act* directs that the Council of a municipality is required to amend its Official Plan and Zoning By-law to conform with the relevant policies and map schedules of applicable Source Protection Plans.

MacNaughton Hermsen Britton Clarkson Planning Limited (MHBC) was retained by Middlesex County and prepared a background report for source water protection plan policy implementation. This led to amendments required to the County Official Plan and the applicable lower-tier Official Plans and Zoning By-laws.

The Municipality of Middlesex Centre, as a key partner in Source Protection Planning, was identified as a lower-tier municipality having two municipal drinking water systems (Melrose and Birr) regulated by the Thames, Sydenham and Region Source Protection Plan.

To provide policies for drinking water source protection within the Municipality, MHBC has proposed implementing Official Plan Amendment No. 44 which establishes a new policy section related to source water protection, provides additional source water protection terminology to the glossary, and includes new schedules outlining Source Protection Plan Areas and Wellhead Protection Areas.

In addition, MHBC has provided a regulatory framework for source water protection through the proposed Zoning By-law Amendment. The Amendment identifies vulnerable areas and their vulnerability score, details prescribed drinking water threats, prohibits threatening land uses, and implements policies and definitions contained within the Thames, Sydenham and Region Source Protection Plan. The Amendment also revises Schedule 'A' mapping by including overlays that identify the limits of the Melrose and Birr Wellhead Protection Areas and associated vulnerability scores.

The proposed Amendments take into consideration the requirements of the *Clean Water Act*; the existing policy framework of the County Official Plan; the existing policy and regulatory framework of the Middlesex Centre Official Plan and Zoning By-law; and a review of best practices of other municipalities that have implemented Source Protection Planning.

The supporting background report and draft amendments to the Municipality's Official Plan and Zoning By-law prepared by MHBC were developed in consultation with County and Municipal Staff, as well as the Conservation Authorities.

As required under Part IV of the *Clean Water Act*, the Municipality has identified Chief Building Official Arnie Marsman as the Municipality's Risk Management Officer. The Risk

Management Official is responsible for the issuance of a Notice under the *Clean Water Act* prior to the approval of planning or building permits. It is important to note that the CBO worked with MHBC throughout the preparation of the background report and draft amendments.

Pursuant to the Ontario Building Code, Source Protection Plans are applicable law under the Code. Regardless of the proposed Amendments, the requirements that apply under the Plans must be satisfied for any building permit submission. Recognizing that the Zoning By-law is also applicable law under the Code, the proposed Zoning By-law Amendment provides more public awareness to the requirements that apply and would ensure that the two documents are consistent.

Analysis:

Official Plan Amendment No. 44 will bring the Municipality of Middlesex Centre into conformity with the relevant policies and map schedules of the Thames, Sydenham and Region Source Protection Plan with respect to the applicable significant threat and land use policies contained within.

Zoning By-law Amendment No. 2019-052 will provide a regulatory framework and mapping to implement Official Plan Amendment No. 44 as the Comprehensive Zoning By-law is currently silent on matters related to source water protection.

The *Clean Water Act* is intended to ensure the protection of municipal drinking water sources from rivers, lakes and groundwater, and subsequently human health and the environment. Sections 40 and 42 of the *Clean Water Act* requires that municipal official plans and zoning by-laws be amended to conform to the significant threat and designated Great Lakes policies set out in the Source Protection Plan.

Section 3 of the *Planning Act* requires all decisions made under *the Act* “be consistent with” the *Provincial Policy Statement* (PPS). Section 2.2.1 of the PPS speaks to the role of municipalities to protect, improve and restore the quality and quantity of water resources by implementing necessary development restrictions to ensure that municipal drinking water supplies, designated vulnerable areas, and other sensitive water features and their hydrological functions are protected.

The County of Middlesex Official Plan establishes an upper-tier land use policy framework that provides guidance to local municipalities. As part of the 5-Year Review of the County Official Plan, the Plan will add mapping that identifies Source Protection Plan Areas within the County and provide a general policy framework related to source water protection. Official Plan Amendment No. 44 will complement the drafted changes to the County Official Plan with respect to source water protection by providing more detailed strategies, policies and land use designations for planning and development at the local level.

The existing Official Plan of the Municipality of Middlesex Centre does not contain a specific policy section or any specific mapping related to the protection of source water

or ground water features. Official Plan Amendment No. 44 will address this deficiency, as required by *The Clean Water Act*.

The Middlesex Centre Comprehensive Zoning By-law does not contain any zoning schedules, regulations or appendices related to the protection of source water or ground water features. Zoning By-law Amendment No. 2019-052 will implement the policies contained within Official Plan Amendment No. 44 and provide a regulatory framework and mapping overlays for Wellhead Protection Areas.

Financial Implications:

N.A.

Strategic Plans:

The Municipality of Middlesex Centre 2012-2017 Strategic Plan identifies a strategic theme of Planning and Positioning which promotes sustainable planning and development within the Municipality as a priority. The Strategic Plan also identifies Quality of Life as a strategic theme with a strategic priority of promoting environmental initiatives.