

Report from: Planning and Building Services, Director

Report Date: June 14, 2021

Meeting Date: June 28, 2021

Report Number: PBS-111-2021

File: 60.34.65

Subject: Information Report Supplemental to MOECP Presentation Regarding 282 –
285 Ontario Street

Strategic Pillar:

This report aligns with the following St. Catharines Strategic Plan pillars: economic, social, and environmental.



Recommendation

That Council receive the presentation from the Ministry of the Environment, Conservation and Parks regarding the additional Water Monitoring Results, 282 and 285 Ontario Street, for information; and

That Council receive report PBS-111-2021, regarding Information Report Supplemental to MOECP Presentation Regarding 282-285 Ontario Street, for information; and

That staff be directed to continue to work with the Ministry of Environment, Conservation and Parks (MOECP) and the Niagara Peninsula Conservation Authority (NPCA) to ensure that the landowners perform environmental clean-up efforts on the subject lands, in accordance with applicable Provincial legislation; and

Further, that staff report back in Q4 2021 on the Ontario Street Secondary Plan launch including scope, preliminary workplan, public engagement strategy, and study partnership options. FORTHWITH

Summary

Since January 2020, City staff, in concert with the Ministry of the Environment, Conservation, and Parks (MOECP) and the Niagara Peninsula Conservation Authority (NPCA) have been working together collaboratively to achieve the objectives of Council's Action Plan for 282-285 Ontario Street (the subject lands). Surface water samples in the vicinity of the subject lands and from Twelve Mile Creek have indicated that while most of the parameters tested for are consistent with urban stormwater conditions, that polychlorinated biphenyls (PCBs) have been found in a City manhole that exceed acceptable parameters. Council has directed staff to report back on the most expeditious and effective methods for preventing future discharge. Peter's Construction Group has been retained by the landowner to undertake the prevention of further PCB discharge from the subject property and to conduct Phase 1 and Phase 2 Environmental Site Assessments, as well as a Designated Substance Survey.

Relationship to Strategic Plan

This report relates to the Economic Prosperity, Social Well-Being, and Environmental Stewardship pillars of the City's Strategic Plan.

Economic Prosperity.

Strategic Goal: Support the City's commitment to building and growing a diverse and resilient economy through fiscal responsibility, urban regeneration and collaborative partnerships.

- 1.4 Continue to implement the Economic Development Strategy (2017-2022) with particular focus on investments, employment and partnerships to attract, retain, and grow the economy of the City.

Social Well-Being

Strategic Goal: Build and support strong, inclusive neighbourhoods that provide high quality of life for residents of all ages.

- 2.1 Establish area-specific plans for the redevelopment of key sites in the City to promote strong, compatible, connected neighbourhoods that enhance the quality of life.

- 2.2 Improve transportation and overall connectedness (all modes, including GO Rail, VIA Rail, and inter-municipal transit and active transportation), incorporate urban design guidelines and provide complete streets in City neighbourhoods.

Environmental Stewardship

Strategic Goal: Adopt innovative approaches and continue responsible community planning and decision-making that balances growth, enhances quality of life, manages emergencies, and minimizes the environmental impacts of climate change.

Background

In response to concerns from residents related to the former industrial property at 282 – 285 Ontario Street, in January 2020, Council directed staff to undertake a comprehensive Action Plan to mitigate issues related to environmental protection, trespassing, and safety.

On January 27, 2020, Council passed a motion, reproduced below, that has since been referred to as the [Action Plan for 282 and 285 Ontario Street](#).

WHEREAS residents living around the former GM lands have expressed serious concerns on the state of the GM lands, including property standards and unknown environmental hazards; and

WHEREAS the City of St. Catharines has taken steps to prosecute the current landowner over alleged infractions under the Building Code and Fire Code Act, but these court proceedings may take months to resolve and will not guarantee immediate action on issues on the site;

THEREFORE BE IT RESOLVED that the City of St. Catharines allocate \$125,000 from the Civic Project Fund to create a GM-lands specific budget to:

Immediately hire an external legal firm to advise Council and staff on the bylaws and provincial legislation, as well as legal precedents and case law, that would allow for cleanup and demolition of a privately-owned industrial site by the city and the mechanisms available of recouping costs from the current landowner through liens and other tools to ensure taxpayers are protected;

Contact the Canadian Brownfield Network and ask for an expert to provide a presentation to Council and the public on best practices for brownfield management and remediation for municipalities;

Engage a security company on a month-to-month contract to keep people out of the site;

Request an inspection and repair of the fencing on the site that was put up under a previous Emergency Order under the Building Code Act and in a manner that would allow the city to recover costs;

Cover the cost of registration of two Councillors, staff, and a member of the City's Green Advisory Committee to attend the Canadian Brownfield Network conference in June 2020 in Toronto, and to report back to Council on current best practices, technology, financial tools, programs, and funding for brownfield redevelopment; and

BE IT FURTHER RESOLVED that staff contact the Ministry of the Environment, three St. Catharines MPPs, local MPs, Niagara Region Public Health and the NPCA for records and a report on how and when conditions on the site are monitored by their agency; and to request water testing, soil quality testing and air quality testing near residential neighbourhoods to be completed within the next month; and

BE IT FURTHER RESOLVED that staff utilize the waste by-law as applicable in the interim; and

BE IT FURTHER RESOLVED that staff be directed to contact the Ministry of the Environment to request that costs be covered for an immediate air quality test, and if the Ministry of the Environment refuses to cover costs, this come back to Council to move forward; and

BE IT FURTHER RESOLVED that there be the formation of a political action committee composed of the Mayor, Ward Councillors, City staff and residents to develop a strategy to deal with the site and furthermore, to begin meetings with the Minister of the Environment to encourage the Minister to direct his staff to take direct remedial action; and

BE IT FURTHER RESOLVED that the City register an official complaint to the Ministry of the Environment on behalf of residents and those listed on the petition presented.

To date, these items have largely been completed and have been reported on back to Council on [February 24, 2020](#), [March 9, 2020](#), [May 6, 2020](#), [July 22, 2020](#), and [September 25, 2020](#). All of these updates have been posted to the [Action Plan for 282-285 Ontario Street website](#).

Furthermore, correspondence from agency partners such as the Niagara Peninsula Conservation Authority (NPCA) and the Ministry of Environment, Conservation, and Parks (MOECP) have also been received and posted publicly on the [Action Plan for 282-285 Ontario Street website](#).

In response to the Action Plan, the Ministry of the Environment, Conservation, and Parks (MOECP) has undertaken [surface water testing](#) and [air particulate monitoring](#) in the vicinity around the subject property. The results were [presented to Council on December 22, 2020](#) and the results and presentation posted publicly on the [Action Plan for 282-285 Ontario Street website](#).

At the December 22, 2020, meeting, Council passed the following motion:

That Council receive the presentation from the Ministry of the Environment, Conservation and Parks regarding Air and Water Monitoring Results, 282 and 285 Ontario Street; and

That staff be directed to report back on the issues identified by the Ministry of the Environment, Conservation and Parks as part of the presentation and reports from the Ministry of the Environment, Conservation and Parks; and

That the reports from the Ministry of the Environment, Conservation and Parks be submitted to the NPCA for input from the NPCA and that the input be included as part of the report to be prepared by the City; and

That staff be directed to report back on opportunities to improve the stormwater system in the city.

At the time, the Ministry indicated that they were undergoing additional testing and would report back to the City when the results were available. On April 12, 2021, the Ministry provided an [additional addendum](#) which was shared with Council and posted on the [Action Plan website](#).

On May 10, 2021, Council provided the following direction to staff:

The following information was requested to be included as part of Outstanding Report #ORL 2020-27 ("Report back on the issues identified by the Ministry of Environment, Conservation and Parks as part of its presentation to Council on December 22, 2020 and the reports from the Ministry of Environment, Conservation and Parks"):

- Alternatives Council can take to achieve more urgent, effective and appropriate action in stopping toxic chemicals from being released into the Twelve Mile Creek, Martindale Pond and Lake Ontario from the former GM lands and surrounding areas;
- A compliance plan from the landowner;
- Options for higher levels of government to get involved to get action taken on the property; and
- Comments from the Niagara Peninsula Conservation Authority be included in the report.
- That the Ministry of Environment, Conservation, and Parks be requested to present when the report comes to Council;
- That staff develop a plan for members of the public to submit questions to City staff and the Ministry of Environment, Conservation and Parks in advance of the meeting; and
- That the St. Catharines MPs and MPPs be kept informed of when the reports are coming forward to Council.

The purpose of this report is to provide Council and the public with an update on the above items, in conjunction with the Ministry of the Environment, Conservation, and Parks presentation on the [April 12, 2021 Technical Memorandum addendum](#).

Brownfields

Brownfield properties are vacant or underutilized parcels of land where past industrial or commercial activities may have left contamination behind. Brownfields can be redeveloped to meet current environment, health, and safety standards.

It is widely understood that the subject properties, 282 and 285 Ontario Street, have been used for industrial uses dating back 100 years. After World War I, McKinnon Dash and Metal Works manufactured automobiles on the site. The lands were then purchased by General Motors in 1929 and production concluded in 2010. Since that time, it has been purchased by the Bayshore Group (the owner) and demolition of the above ground buildings and structures has commenced and stopped, several times.

The subject lands are a privately-owned brownfield site. Furthermore, brownfield remediation is not a municipal area of responsibility. Brownfield remediation is proponent driven, to be undertaken by a qualified person, in accordance with Provincial regulation.

Once a brownfield property is redeveloped for a new, more sensitive use, the owner must meet the Ministry's requirements, as stipulated by the *Environmental Protection Act*, by:

1. Having a qualified person assess the environmental condition of a property through a Phase 1 and Phase 2 Environmental Site Assessment.
2. Ensuring the concentrations of contaminants in soil and/or ground water meets applicable site condition standards. The owner can remediate the site to ensure that soil and/or groundwater contaminant concentrations meet the applicable site condition standards or complete a Risk Assessment which would propose Property Specific Standards that would result in Risk Management Measures in a Certificate of Public Use; and
3. Submitting a Record of Site Condition to be filed in Ontario's Environmental Site Registry.

A Phase 1 Environmental Site Assessment must be completed for all Records of Site Condition and requires a qualified person to:

- Conduct and evaluate information from records review, interviews, and site reconnaissance and the completion of a Conceptual Site Model;
- Preparation and delivery of Phase 1 ESA report to the landowner;
- Identify any potential contaminating activity in the Phase 1 study area;
- Identify areas of potential environmental concern on the Phase 1 property; and
- Determine if a Phase 2 ESA is necessary.

A Phase 2 Environmental Site Assessment requires a qualified person to:

- Determine the location and concentration of the contaminants in soil and/or groundwater;
- Take actions to reduce the concentration of one or more contaminants if a standard has been exceeded and/or complete a risk assessment to develop property specific standards that are safe for the intended use; and
- Confirm that the site meets the applicable site condition standard or a standard specified in a risk assessment.

Through the Official Plan Amendment 26 (OPA 26) process, the site was re-designated in the Garden City Official Plan from employment to mixed-use. The Regional approval of OPA 26 is currently under appeal to the Ontario Land Tribunal (OLT); however, staff continue to operate under the assumption that 282-285 Ontario Street will be re-developed to a mixed-use site which will necessitate a Phase 1 and Phase 2 Environmental Site Assessment, as outlined above, and a Record of Site Condition (RSC) to be filed to the Environmental Site Registry, once the Ministry confirms that the RSC meets regulatory requirements.

Report

Ministry of the Environment, Conservation, and Parks

The Ministry of the Environment, Conservation, and Parks (MOECP) has been an active partner in monitoring the site and advising Council, staff, and the public as to the results of their testing. For the purposes of the current status of the subject lands, the Ministry's area of authority is to determine if any contaminants are leaving the property and to work with the landowner to stop the leakage and mitigate impacted lands according to approved plans. The Ministry of the Environment, Conservation, and Parks' role is to ensure that landowners retain a qualified person to develop an acceptable workplan to delineate the source of contaminants on the subject property, implement the workplan, and report on the progress. These reports and the progress will be reviewed by the Ministry.

Following approval of Council's Action Plan, the Ministry undertook [surface water sampling of 12 Mile Creek](#) and the storm sewer outfalls during a wet weather event in February 2020. The water samples were analyzed for general chemistry, metals, volatile compounds, acid base neutrals, polycyclic aromatic hydrocarbons, and polychlorinated biphenyls (PCBs). While the results found some exceedances in metal sampling, polycyclic aromatic hydrocarbons, and polychlorinated biphenyls, the downstream Twelve Mile Creek sampling location did not indicate any impact. Furthermore, the Ministry has no concerns with the general chemistry, volatile organic compound, and acid base neutral results. While the results were generally found to be in line with typical urban storm water events, the Ministry recommended further sampling during a dry event to provide future interpretation.

On April 12, 2021, the Ministry of Environment, Conservation and Parks provided a [Technical Memorandum](#) as an Addendum to the 2020 Surface Water Quality Study to provide the results of additional samples collected during a rain event on December 1, 2020 from the west plan and wet (November 23, 2020) and dry (December 9, 2020) events collected from the east plan. The surface water quality samples collected from the former GM west outfall and the City's west outfall were analyzed for solids and polychlorinated biphenyls (PCBs) to compare to the previous two sampling events. Analysis for metals, volatile organic compounds, acid base neutrals, polycyclic aromatic hydrocarbons, and other general chemistry parameters were not repeated as they were within typical range of urban stormwater environments and are not considered a surface water concern.

The PCB results from the City's west outfall are considered to be a non-source site and reflects typical urban area concentrations ([MOECP, page 15](#)).

The PCB results from the subject lands' west outfall were found to exceed the acceptable range in wet weather events ([MOECP, page 16](#)). However, it was also noted that the PCBs from the subject lands into Twelve Mile Creek are a less significant source than Beaver Dams Creek, Clifford Creek, and Carter Creek ([MOECP, Page 16](#)). The Ministry directed that the landowner provide a workplan outlining actions to be taken, along with associated timelines, to stop the source of PCBs from discharging from the subject site.

Upon invitation, the Ministry will be presenting on the [Technical Memorandum Addendum](#) at the June 28, 2021 meeting of Council. Members of the public were invited to submit their questions to their Ward Councillor, City Clerk, or Director of Planning and Building Services before June 4, 2021. Questions were then submitted to the Ministry from several Councillors and the Coalition for a Better St. Catharines.

Landowner's Compliance Plan for Remediation

City staff have been in contact with Peter's Construction Group who advised that they have been retained by the landowner to begin site clean-up efforts. Peter's Construction Group has also retained MTE Consultants Inc. to undertake the Phase 1 and Phase 2 Environmental Site Assessment exercises, as outlined above. These are the integral first steps towards environmental clean-up of the subject lands.

Polychlorinated Biphenyls (PCBs)

Peter's Construction Group has advised that they will be undertaking source identification activities on site to determine where PCBs are entering the stormwater system. These works are anticipated to begin the week of June 21, 2021. Should a source not be immediately apparent, the discharge from the east title plate separator will be stopped and an interim stormwater management system designed and employed to collect stormwater where it can be captured and tested on site. Peter's Construction Group will also be mapping and cameraing all sewers on the subject lands. During the Phase 2 Environmental Site Assessment work, Peter's Construction Group will be also be undertaking sediment sampling. The formal work plan and progress reports will be submitted to, reviewed, and approved by the MOECP.

Furthermore, the Ministry has committed to sampling the site's west outfall after work has been completed to identify any reduction to the PCB concentrations.

Asbestos

In response to Council's Action Plan, the Ministry of the Environment, Conservation, and Parks conducted an [air monitoring survey](#) in downwind and upwind locations in the vicinity of the subject property. Three monitoring stations were set up and samples were analyzed for suspended particulate metals (copper, nickel, cadmium, chromium, lead, iron, manganese, vanadium, and zinc) and asbestos. No exceedances of the suspended particulate metals were found. There was no asbestos detected in any of the samples.

A Designated Substance Survey (DSS) determines the presence of hazardous substances on a property to determine if there is a threat to worker's health and safety during a demolition or construction project. The Ontario *Occupational Health and Safety Act* requires a DSS report prior to any work being carried out. A DSS determines if asbestos, benzene, lead, acrylonitrile, mercury coke oven, silica, arsenic, isocyanates, ethylene oxide, vinyl chloride, or PCBs are on site so that property precautions can be taken.

The Structural Engineering division of MTE Consultants Inc. have been retained by Peter's Construction Group to undertake a Designated Substance Survey (DSS) to determine the location and quantity of any remaining sources of asbestos and other contaminants on the subject property. The DSS is a requirement of the open and future anticipated demolition permits on the subject property.

Public Communication

Peter's Construction Group has committed to hosting an online meeting with neighbourhood residents to keep them apprised of the imminent environmental clean-up process on the subject property. Efforts are underway to schedule this event in concert with the Ward Councillors in the first half of July 2021.

City's Waste By-law

On August 10, 2020, Council enacted [By-law 2020-106](#), being a Waste By-law, for the City of St. Catharines. The purpose of the by-law is to prohibit the use of lands for the disposal and/or storage of waste and to establish standards respecting land maintenance. The Waste By-law seeks to compel property owners to keep their properties clear of surface debris that can cause a nuisance or a health and safety hazard for the public. The Waste By-law does not compel property owners to undertake soil remediation. Soil remediation is under the purview of the MOECP, as outlined in the sections above.

On May 11, 2021, the City laid a charge against the property owner at the Provincial Offences Act court with regards to alleged non-compliance of the City's Waste By-law on the subject properties. The information alleged that the owner of the subject property failed to keep the property clean of waste pursuant to Waste By-law 2020-106, and further failed to comply with an Order issued on October 27, 2020, which directed testing, removal, and disposal of all waste from the property and required submittal of a valid manifest for approval to the City by November 18, 2020.

At this time, a Provincial Offences second court date has been scheduled for September 24, 2021. To date, the owners have not provided the documentation required by the City's October 2020 Order. Peter's Construction Group have advised that the scope of their retainer includes surface debris testing and removal and reports will be forthcoming, once complete.

Niagara Peninsula Conservation Authority (NPCA)

On May 25, 2021, the Niagara Peninsula Conservation Authority (NPCA) sampled Twelve Mile Creek both upstream (at Wellandvale Road) and downstream (at Lakeport Road) of the subject property. PCBs were not detected in either of the samples. These

results are similar to the NPCA's previous sampling results in 2020, which also did not detect PCBs in Twelve Mile Creek. The NPCA will continue to sample Twelve Mile Creek and provide the results to the City as they become available. Further testing is anticipated in June, Summer, and Fall. Once results are provided to the City, they will be shared with Council and the public.

Alternatives / Options

Council had requested additional information on actions the City could take "to achieve more urgent, effective and appropriate action in stopping toxic chemicals from being released into the Twelve Mile Creek, Martindale Pond and Lake Ontario from the former GM lands and surrounding areas." As the contamination is coming from a private property, it needs to be addressed at the source. The City would need cooperation from the landowner and the Ministry to undertake additional investigations and actions on the subject lands. The Phase 1 Environmental Site Assessment, Phase 2 Environmental Site Assessment, Designated Substance Survey and Risk Assessment / Record of Site Condition processes are the responsibility of the landowner. There is no City budget to undertake these works at the taxpayers' expense. Furthermore, having the City enter the lands to undertake the clean-up of surface waste would also interfere with the progress of the Phase 1 and Phase 2 Environmental Site Assessment work on soil remediation.

It is in the public's best interest for the landowner to undertake the appropriate environmental remediation of the site efforts at their own cost, monitored by the Ministry of the Environment, Conservation, and Parks (MOECP), and in accordance with Provincial legislation. As the property owner is already working with the MOECP on preventing further PCB discharge and has begun work on the Phase 1 and Phase 2 Environmental Site Assessments and the Designated Substance Survey, City intervention at this time would not be more expeditious, nor effective and could actually hinder clean-up efforts.

Next Steps

In addition to the landowner's stated efforts to move forward with site clean-up activities discussed above, there are numerous other actions occurring with regards to the subject property.

City staff continue to work through the legislative process on compliance issues at the site with regard to various waste, graffiti, property standards and demolition without a permit infractions, as these are matters within the City's area of responsibility.

Once confirmed, residents in proximity of the subject lands will be able to attend an online information session hosted by Peter's Construction Group to be informed and ask questions about the imminent clean-up activities on the subject lands.

As the MOECP and NPCA continue to undertake sampling work and results are provided, they will be shared with Council and the public.

The landowner will be undertaking further site security efforts by improving the hoarding around the subject property.

In the Fourth Quarter of 2021, Planning staff will be providing Council with a report on the Ontario Street Secondary Plan to endorse the project workplan. The report will include scope, timing, public engagement strategy and study partnership options. While it is unlikely that the OPA 26 appeal will be concluded at this time, the foundational project management work can begin late in 2021.

Financial Implications

There are no financial implications associated with this report.

Environmental Sustainability Implications

It is in the public's best interest that the site be redeveloped into a mixed-use community. This would ensure that appropriate Environmental Site Assessments, Record of Site Condition, and/or Risk Assessments have been undertaken in accordance with Ministry of the Environment, Conservation, and Parks regulations.

Conclusion

It is a strategic goal of Council to see the subject property cleaned up and developed into a mixed-use community. There are two primary areas of concern:

1. **Surface debris:** Surface debris has been the subject of municipal Waste By-law enforcement action and is currently before the Provincial Offences Court; and
2. **Soil Contamination:** The landowners have now retained Peter's Construction Group to locate and stop up the suspected source of the PCB contamination and to prevent further discharge from the site. Following those works, which are anticipated to begin the week of June 21, 2021, Phase 1 and Phase 2 Environmental Site Assessments and a Designated Substance Survey will be undertaken, in accordance with Provincial regulation.

The most expeditious and effective manner for the site to be remediated is by the property owner in accordance with the MOECP regulation. At this time, a workplan is being created by Peter's Construction Group to be provided to the MOECP to achieve Council's and the public's expectations with regards to the primary areas of concern.

Notifications

It would be appropriate to provide a copy of this report to:

- Jennie Stevens, MPP for St. Catharines
- Chris Bittle, MP for St. Catharines

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