

Overview of Process and Land Use Planning Considerations Related to Municipal Boundary Adjustments for Settlement Expansion Purposes

October, 2021

Background/Purpose

The purpose of this memo is to provide a brief overview of the land use planning process and related considerations associated with a municipal boundary adjustment for the purposes of an urban settlement expansion (e.g. for development purposes) in the County of Oxford. This memo does not address the various other issues and considerations that may be part of the boundary adjustment discussion process, such as impacts on municipal assessment, compensation and service agreements etc.

Overview of the Settlement Expansion Process

a) Municipal Act Framework

Locally initiated municipal boundary adjustments are subject to the relevant provisions of Part V of the Municipal Act, 2001 that address a negotiated settlement between municipalities and the approval of the annexation by the Minister of Municipal Affairs and Housing.

There is no Provincial requirement to justify the proposed location, configuration and/or extent of the lands to be incorporated into the corporate boundary of an urban municipality as part of the boundary adjustment process under the Municipal Act. However, such matters are still essential to consider if the annexed lands are intended for settlement expansion purposes, as the permitted use of such lands is determined by their Official Plan designation and zoning, not by the location of the corporate boundary. Development of any annexed lands for non-agricultural (e.g. settlement) purposes would require an Official Plan amendment to re-designate the lands from 'agricultural reserve' to 'settlement'. Such amendments must be consistent with the policy requirements of the 2020 Provincial Policy Statement and the County Official Plan, both of which require justification of need and location for any settlement expansion. These types of Official Plan amendments tend to be closely monitored by the Province to ensure they have been justified in accordance with Provincial policy.

Therefore, if the intent of a municipal boundary adjustment/annexation is to incorporate lands for settlement expansion/development purposes, planning staff generally advise that the relevant land use planning considerations be considered (at least preliminarily) as part of the boundary adjustment process. This will help to ensure that municipalities involved in the boundary adjustment process have a general understanding of whether the location and extent of any lands to be annexed can be reasonably justified for re-designation to 'settlement', before the boundary adjustment is finalized. Planning staff are available to assist in this regard by providing planning related information and advice, including the preparation of preliminary land use screening mapping for any proposed annexation areas, where requested.

b) Land Use Planning Considerations - Provincial Policy

The Planning Act requires that all municipal land use planning decisions be 'consistent with' the Provincial Policy Statement (PPS). The current 2020 Provincial Policy Statement contains a range of policies that apply to proposed settlement expansions including, but not limited to:

i) 25 Year Planning Horizon

Section 1.1.2 of the PPS directs that sufficient land shall be made available to accommodate an appropriate range and mix of land uses to meet projected land needs for a time horizon of up to 25 years. The projected growth is to be accommodated through intensification and re-development and, if necessary, designated growth areas.

However, the PPS does not limit planning for infrastructure and public service facilities or long term protection of employment areas beyond a 25 year planning horizon, provided that no lands are designated for growth beyond the 25 year planning horizon. Further, the PPS does not prevent municipalities from undertaking planning (e.g. secondary planning and servicing strategies) for a longer time frame or larger area, provided that no lands are designated for growth beyond the 25 year planning horizon.

Given the considerable lead time often required to complete municipal boundary adjustments and the secondary planning required to expand a settlement area designation and to provide the level of certainty necessary to undertake the comprehensive, longer term planning required to ensure the development of complete communities and associated infrastructure and public services, municipalities may wish to consider looking beyond the 25 year planning period for the purposes of adjusting their corporate boundaries. The designation of any additional growth lands in accordance with such longer term plan could then be phased-in (e.g. through Official Plan amendment) as required to ensure a consistent 25 year supply of land is maintained.

ii) Coordination

Section 1.2 of the PPS indicates that the Upper Tier Municipality (in consultation with Area Municipalities) is responsible for matters such as:

- Identifying and allocating population, housing and employment projections to the Area Municipalities;
- Identifying where growth or development will be directed;

- Identifying targets for intensification and redevelopment; and
- Providing policy direction to the Area Municipalities on matters that cross municipal boundaries.

In Oxford, this PPS requirement is largely addressed through Official Plan policy and the County Growth Forecasts and Land Needs Study (e.g. Phase 1 Comprehensive Review, 2020), which is updated in consultation with the Area Municipalities approximately every 5 years.

iii) Providing for Appropriate Range and Mix of Housing

Section 1.4.1 of the PPS requires that planning authorities maintain at all times the ability to accommodate projected residential growth for a minimum of 15 years through residential intensification and redevelopment and, if necessary, lands which are designated and available for development. Further, a minimum 3 year supply of residential units in draft approved or registered plans and/or on lands suitably zoned to facilitate residential intensification is to be maintained together with adequate servicing capacity.

iv) Settlement Expansions

Section 1.1.3.8 and of the PPS indicates that the designation of lands for settlement purposes can only occur through a 'comprehensive review'. A comprehensive review is defined by the PPS as an Official Plan review initiated or adopted by a planning authority, which is based on a review of population and employment projections and reflects allocations by an upper tier municipality and which demonstrates that:

- Physical constraints to accommodating growth within the existing settlement boundary have been considered and that sufficient opportunities for growth are not available through intensification, redevelopment and existing designated growth areas to accommodate projected needs over the 25 year planning horizon;
- Infrastructure and public services which are planned or available are suitable for the development and financially viable over their life cycle and that planning for infrastructure and public services is integrated with planning for growth;
- Alternative directions for growth or development have been evaluated and it has been determined how best to accommodate growth while protecting provincial interests. For example, impact on natural resources (e.g. woodlands, wetlands, water, agriculture land/operations, minerals and petroleum, cultural heritage and archeological resources) and protecting public health and safety by avoiding natural and/or human made hazards);
- There are no reasonable alternatives that avoid prime agricultural lands or are on lower priority agricultural lands, the proposed expansion complies with the minimum distance separation formula, and impacts on agricultural operations which are adjacent or close to the settlement area are mitigated to the extent feasible; and
- Cross jurisdictional issues have been considered.

The recently completed County of Oxford Phase 1 Comprehensive Review study (Hemson, March 2020) provides the current basis for addressing the PPS comprehensive review requirements

related to population and employment forecasts and allocations and associated land need. Further, the estimated land need for each Area Municipality is generally updated by the County planning office on an annual basis.

With respect to the comprehensive review requirements related to the evaluation of alternative directions for growth, following is an overview of some of the key land use planning considerations that must typically be reviewed and addressed in Oxford:

- Prime Agricultural Lands – Virtually all lands located outside of designated settlements in Oxford are considered to be prime agricultural land. Therefore, assessment of agricultural impacts is typically a key consideration when evaluating the most appropriate direction for any proposed settlement expansion. Such an assessment typically involves, but is not necessarily limited to, consideration of soil capability, size of parcels, degree of land fragmentation, prevalence of existing non-agricultural uses, size and type of livestock facilities, level of investment in farm infrastructure, and impacts on the broader agricultural system (e.g. support services, agricultural related industries etc.).
- Minimum Distance Separation Formulae (MDS) – MDS is a land use planning tool that determines a recommended separation distance between a livestock barn and/or manure storage facility and a potentially sensitive land use (i.e. a settlement area or other non-agricultural use). The objective is to prevent land use conflicts and minimize nuisance complaints related to odour. Given the size and number of livestock operations in the County, most settlement expansion proposals tend to be impacted, at least to some extent, by the presence of existing livestock operations/facilities. The required MDS setbacks from such facilities may limit the use of lands for settlement expansion purposes in certain locations.

The application of MDS is optional for a livestock operations are located within a designated settlement area in an Official Plan. In Oxford, MDS is not typically applied to livestock operations that have been incorporated into a designated settlement area through settlement expansion. However, it is important to note that the setback requirements from livestock operations located outside of a proposed settlement expansion area can often significantly limit which lands within a proposed expansion area can be designated for settlement purposes (e.g. as settlement expansions are required to comply with MDS). These potential MDS impacts can result from livestock facilities located as far as 1.5 km beyond the limits of a proposed settlement.

- Limestone and Sand and Gravel Resources – The PPS states that, in areas adjacent to or within known deposits of mineral aggregate resources, development and activities which would preclude or hinder new aggregate operations or access to the resource (e.g. settlement expansions) shall only be permitted if the resource extraction would not be feasible, the proposed land use serves a greater long-term public interest and if issues of public health, public safety and environmental impact are addressed. For this reason, it is typically difficult to justify including lands containing such resources in a proposed settlement expansion area.
- Natural Features and Areas – Open watercourses are generally considered to be potential fish habitat and any associated valleyland/floodplain areas are identified as both significant environmental features and natural hazard areas. Most wetlands and larger wooded areas are also considered to be significant natural heritage features.

Development and site alteration are not generally permitted within such features and any proposed development on any adjacent lands is generally required to undertake an environmental impact study to demonstrate that there will be no negative impact on such features or their ecological functions. As such, although lands occupied by and immediately adjacent to such features are often located within proposed areas of settlement expansion, they are not generally included in the determination of the developable land area.

- Natural and Man-Made Hazards – Development is not generally permitted on lands subject to natural (e.g. flooding, erosion, unstable soils etc.) and/or man-made (e.g. contaminated sites, oils and gas wells etc.) hazards. As such, although such lands are often located within proposed areas of settlement expansion, they are generally not included in the determination of the developable land area.
- Wellhead Protection Areas – Lands located within a Wellhead Protection Areas may be subject to certain restrictions on uses/activities. For instance, certain activities prescribed under the Clean Water Act are considered to be significant drinking water threats in these areas and, as such, may be prohibited, restricted or otherwise regulated by the policies in an approved Source Protection Plan. Although the vast majority of activities can only be a significant threat within a WHPA-A (e.g. 100 m around the well), Dense Non-Aqueous Phase Liquids (DNAPLS), which may be used in certain industrial type processes/operations, can be significant threats in WHPAs A to C. As such, the WHPAs may be a consideration in determining the most appropriate location for future employment lands.
- Efficient Use of Infrastructure and Public Service Facilities – The PPS requires that any infrastructure (roads, transit, water and wastewater, storm drainage, utilities etc.) and public service facilities (e.g. libraries, emergency services, recreation facilities etc.) are suitable for the proposed development and financially viable over their life cycle. Provincial Highway crossings, environmental features, topography, location and capacity of existing services, and type, extent and timing of development are just some of the considerations that may affect the cost and/or feasibility of servicing a potential annexation area. These considerations are typically addressed, at least at a functional level, through the Servicing Strategy that is part of the Comprehensive Review/Secondary Planning exercise required to consider any proposed settlement expansion. However, in the case of infrastructure, any Environmental Assessment requirements will also need to be considered. Any specific questions with respect to planning for Water and Wastewater Servicing infrastructure should be directed to County Public Works.

c) Official Plan Policies and Zoning

The lands located outside of existing settlement areas in the County are designated primarily as 'Agricultural Reserve' in the County Official Plan. Therefore, if any such lands were to be annexed, an Official Plan Amendment would be required to change the land use designation from 'Agricultural Reserve' to 'Settlement', before any of the lands could be used for settlement purposes. Such an amendment would need to be consistent with the relevant policies of the PPS and Official Plan.

The Official Plan policies require the municipality to undertake a secondary planning study and a servicing strategy prior to the re-designation of any annexed lands for settlement purposes. The

primary purpose of these studies is to justify the extent and location/direction of the proposed settlement expansion and to identify appropriate land use designations, urban design standards, major road alignments, public service and infrastructure locations and requirements, pedestrian and transit routes, development phasing, how natural resources (e.g. environmental features and aggregates) are to be protected and environmental hazards avoided etc.

If more than one area is being proposed for annexation, it is possible that each area could be studied separately, particularly if they are intended for different purposes (e.g. employment vs. residential). Normally, the County and Area Municipality would oversee the preparation of such studies, with qualified consultants retained to assist staff in addressing the complex technical issues. The studies would result in recommendations for appropriate land use designations, and provide directions on which servicing approaches best suit the potential future development of the annexed lands. Following completion of the secondary planning and servicing studies, an amendment to the Official Plan would generally be initiated by the Area Municipality/County to implement the findings and recommendations of the studies. However, in some circumstances (e.g. where the lands are in one ownership and intended primarily for residential development or a single use) the County and Area Municipality may potentially allow a development proponent to prepare and submit the required studies and planning applications for Council's review and approval.

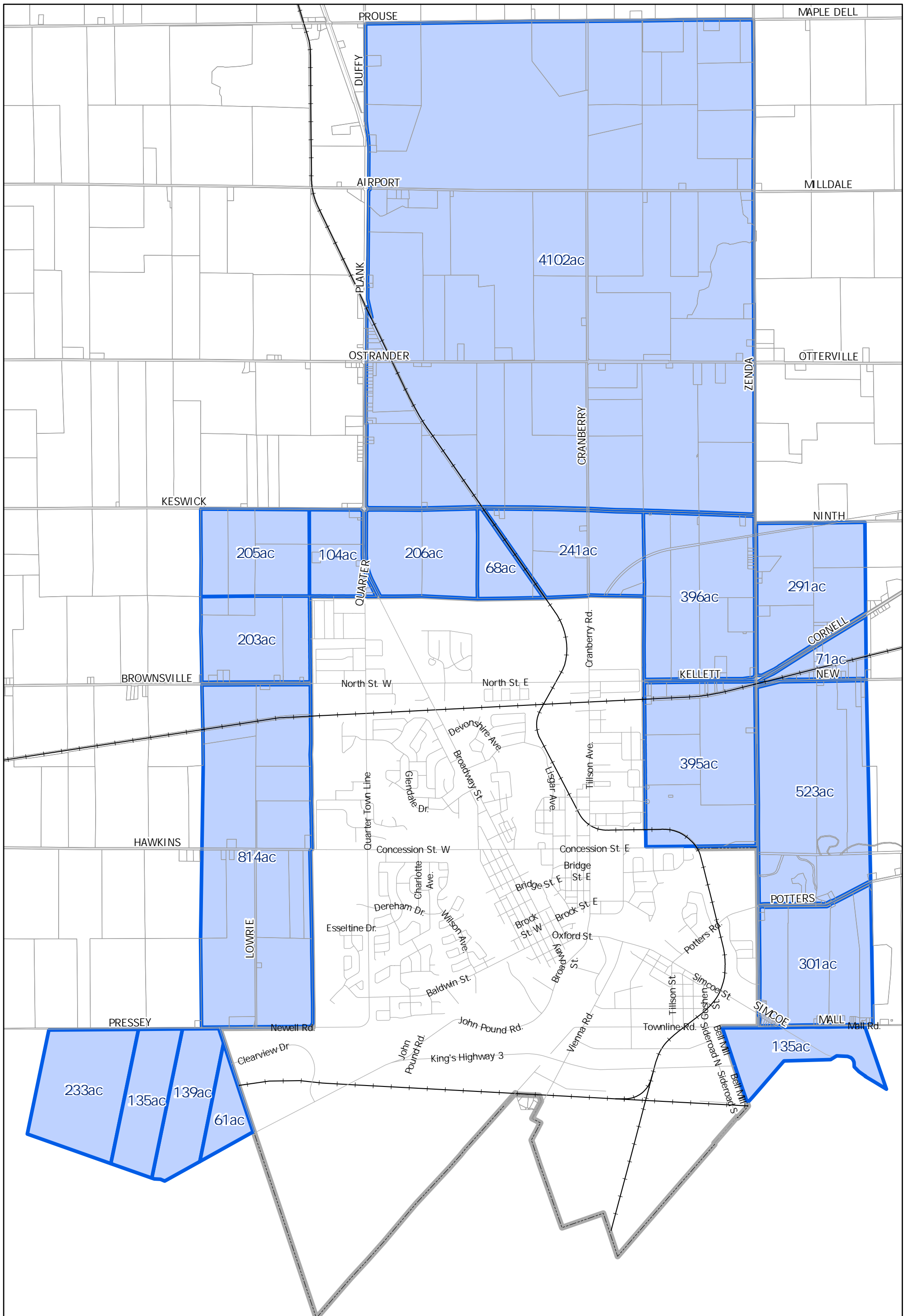
In Oxford, the majority of the land surrounding most existing settlements is zoned for agricultural purposes. Therefore, following the adoption of any Official Plan amendment to establish policies and land use designations for any settlement expansion on such lands, the Area Municipality within which they are contained would need to adopt zoning to accommodate and regulate the intended type and forms of urban development. Post-annexation, two (2) approaches are commonly used to establish new zoning:

- i) In annexed areas that have not been re-designated for settlement purposes (e.g. remain designated for agriculture), or that are within a settlement designation for which new comprehensive zoning has not yet been established, lands may be rezoned on a site-specific or case-by-case basis in accordance with the applicable Official Plan designation; or,
- ii) In the case of annexed lands that have been re-designated for settlement purposes, the Area Municipality can pre-zone all of or parts of such lands in anticipation of intended growth.

It should be noted that the Zoning By-law provisions of the Area Municipality from which the lands were annexed will generally continue to apply until such time as the municipality that annexed the lands has amended their comprehensive zoning by-law to incorporate said lands.

Questions?

As a starting point, any questions regarding the information contained in this memo should be directed to the County planner assigned to the Area Municipality(ies) involved and they can then consult with and/or involve other County staff (i.e. PW, policy planners, GIS etc.) as may be necessary to respond.



**TOWN OF TILLSONBURG
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0 1250 500 750 1,000

Meters

Lands Outside of Tillsonburg Boundaries

- Lands Outside of Tillsonburg Boundaries
- Non Tillsonburg Parcels (Nov. 2021)
- Railway Line
- Tillsonburg Limits

