



MUNICIPALITY OF THAMES CENTRE

REPORT NO. PW-DR-014-24

TO: Mayor and Members of Council
FROM: Drainage Superintendent
MEETING DATE: December 9, 2024
SUBJECT: Thorndale Industrial Drain

RECOMMENDATION:

THAT Report No. PW-DR-011-24 Thorndale Industrial Drain - information **BE RECEIVED** for information;

AND THAT Council **ENDORSE** an application to the Middlesex County Loan Program to assist in funding the Thorndale Industrial Drain Project, as outlined in this report;

AND THAT staff **BE DIRECTED** to prepare a By-law, for Council to consider, under Part 12, *Municipal Act, 2001*, for charging future developed lands within the Thorndale Industrial Lands to become part of the existing stormwater management system;

AND THAT staff **REPORT BACK** to Council upon the confirmation of its County Loan application status.

PURPOSE:

To provide Council with background information and options relating to a drainage project.

BACKGROUND:

The Thorndale Business Park (also known as Thorndale Employment Lands) was established in 2010 with funding from CIF and BCF grants, which facilitated the design and construction of Ideal Drive and Gerald Parkway. Below is a chronological overview of the development of industrial properties within the Business Park. (Note: the coloured roll numbers below correspond with the attached Watershed Plan)

- **July 2004:** Universal Forest Products Inc. (Roll #031-020-167-00) received design approval from Thames Centre, allowing construction to begin. The site was designed with internal stormwater management, including a stormwater management (SWM) pond. A Mutual Agreement was established to discharge stormwater onto Thames Centre lands (Roll #031-020-166-01). However, a sufficient legal outlet was never

obtained, resulting in water being directed to naturally low-lying lands via an open channel.

- **November 2010:** The Municipality received a Stantec report titled "Thorndale Business Park – Conceptual SWM Report." This report served as a guide for future stormwater infrastructure development in the Thames Centre industrial lands. It proposed two SWM ponds: one on Thames Centre-owned land (Roll #031-020-166-01) and another on privately owned land (Roll #031-020-164-15). A large channel was also proposed to convey water to the South Pond, capturing runoff from several lots (Roll #031-020-164-24, Roll #031-020-164-23, Roll #031-020-164-20, Roll #031-020-164-00), as well as Gerald Parkway, a portion of Nissouri Road, and a small area east of Nissouri Road. The North Pond on Thames Centre land was intended to receive flows from privately owned land, County-owned land, and Ideal Drive.
- **March 2011:** The Thorndale wastewater treatment plant was approved for construction. The discharge pipe for treated wastewater under Rebecca Road into the Thames River was oversized to allow for a stormwater connection, which has never been utilized.
- **November 2011:** Construction of Gerald Parkway was completed, with stormwater from the parkway discharging into the south channel on private lands (Roll# 031-020-164-15).
- **February 2012:** The Municipality approved the site plan for Ideal Pipe (Roll #031-020-164-00), allowing stormwater to run directly under Gerald Parkway and discharge into the south channel on private lands (Roll# 031-020-164-15). No stormwater management controls were implemented.
- **March 2015:** The Municipality approved the site plan for G. Randall Holdings (Roll #031-020-164-20), permitting stormwater to flow through private land (Roll #031-020-164-23) and discharge into the south channel (Roll #031-020-164-15) without stormwater management controls.
- **June 2016:** The Municipality approved the relocation of the south channel (Roll #031-020-164-15), which deviated slightly from the Conceptual SWM Report. No easements or formal agreements for external flows were established, and the channel was directed to low-lying lands where the South Pond is proposed but not yet constructed. The drawing provided a plan view of the south channel's location without profiles.
- **Subsequent Approvals:** Site plans for Forest City Models and Patterns Ltd. (Roll #031-020-164-23) and AIL Group of Companies (Roll #031-020-164-24) were approved, allowing stormwater to discharge directly into the south channel (Roll #031-020-164-15) without stormwater management controls.

Recent Developments:

- January 2019: Implementation of a stormwater charge for landowners within the Dorchester and Thorndale urban boundaries.
- December 2019: Petition for Drainage Works under the *Drainage Act* to formalize existing drainage infrastructure.
- January 2020: Approval of the site plan for ProGrow Farms Ltd. with onsite stormwater management.
- September 2020: Pattyn Landscaping Services purchased lands containing the South Pond and channel.
- June 2022: Approval of drawings for the Rosewood Subdivision, including stormwater controls.
- September 2022: Meeting with UTRCA staff regarding erosion concerns along the Thames River.

Ongoing Efforts:

A hydrological report is underway, with preliminary data indicating seepage from low-lying lands inside the Thorndale industrial watershed. Numerous meetings have been held to discuss a comprehensive solution for the Thorndale Industrial Drain, which includes detailed plans for piped infrastructure, open channels, and two large SWM ponds.

COMMENTS:

In 2019, development proposals impacting the Thorndale Industrial Lands were presented to staff. During this time, some current staff became aware of the absence of a legal outlet servicing the entire Thorndale Industrial watershed. With the endorsement of the Council at that time, staff decided to pursue a solution, opting to utilize the *Drainage Act* as the most viable means to move forward.

After conducting research and holding several meetings with current and former staff, as well as various landowners involved from approximately 2008 to the present, we have identified the factors contributing to our current situation.

When the Thorndale Industrial Lands began to develop in 2004, the area was predominantly under single ownership. During this period, the Municipality approved the severance and development of several lots, based on a non-legal agreement that some lands would accept stormwater runoff from neighboring properties. Several site plans were approved without implementing stormwater management controls.

The Municipality now faces a complex situation where multiple owners within the Thorndale Industrial lands have varying levels of stormwater management but all lack a legal outlet. Some owners are accepting runoff without any formal agreements, and the

Municipality has continued to approve these designs for many years. Typically, the Municipality requires that lands being developed secure a legal outlet before any development can proceed.

The challenge we now confront as a Municipality is the financial burden associated with designing and constructing a comprehensive stormwater solution for the Thorndale Industrial lands.

There are several concerns regarding the traditional method of assessing all owners within the watershed for benefit and outlet to fund the construction of stormwater infrastructure. Many sites received approvals for their stormwater designs and have since changed ownership, with the understanding that they were purchasing fully serviced lots. While some sites have implemented certain stormwater management controls, they were never required to secure an ultimate outlet for their stormwater runoff. Additionally, the owner of the land designated for the South Pond and channel has expressed concerns about liabilities associated with allowing uncontrolled discharges from industrial lots onto their property, claiming that they are experiencing increased runoff each year.

Given the findings of the hydrological report and the seepage occurring in this area, it is recommended for safety reasons that we no longer allow this infiltration into the ground. Instead, we propose to line the South Pond with clay, connect it to the North Pond via piping, and direct the entire stormwater system to the Thames Centre wastewater outflow pipe, which was designed to accommodate this additional water.

Funding Options

Staff have identified four (4) potential funding methods for this project:

RECOMMENDED OPTION – Bylaw under Part XII of the *Municipal Act, 2001*

The Municipality can pass a Bylaw under Part XII, of the *Municipal Act, 2001* charging newly developed lands within the Thorndale Industrial Lands to be part of the existing stormwater management system. This predetermined charge would be triggered by each development.

ADVANTAGES

The implementation of Part XII Bylaw is generally quicker than a development charge by-law, as it does not require extensive background studies or public consultations. The Municipality has discretion in determining the fees and charges, allowing for tailored solutions. Unlike development charges by-law, which can be appealed to the Ontario Land Tribunal, a Part XII Bylaw can only be challenged in court on jurisdictional grounds, potentially reducing the risk of delays from appeals. With assistance from the drainage engineer, we can ensure a fair and well-considered process for determining the cost recovery from each undeveloped lot.

DISADVANTAGES

Although appeals are limited, there is still a risk of legal challenges based on jurisdictional issues, which could create uncertainty. The municipality must ensure that the fees are reasonable and directly related to the services provided, which can complicate the fee-setting process.

* Given the complexities surrounding stormwater management in the Thorndale Industrial Lands and the financial implications of various funding methods, staff is recommending this option as it offers a structured mechanism for newly developed lands to contribute financially to the stormwater management system. Additionally, it minimizes the risk of appeals and potential financial liabilities for the Municipality, ensuring a more sustainable and effective management of stormwater in the area.

OPTION #2 - Traditional Drainage Act Method

The traditional method of assessing benefit and outlet under the *Drainage Act* applies to all property owners in the watershed, regardless of whether their properties are developed or undeveloped.

ADVANTAGES

Every property is assessed as a portion of the total project cost charge relating to their property size. Considerations are given to any existing onsite stormwater management.

DISADVANTAGES

This method carries a significant risk of appeal from affected properties. The developed properties have already received final site plan approvals from the Municipality, this includes stormwater management. In some instances, these properties have been sold to new owners with the understanding that they were purchasing sites that already had an approved stormwater outlet. Furthermore, the risk of appeal is heightened because in the past 5 years, all developments on Ideal Drive and Gerald Parkway include a stormwater charge in their bi-monthly water bills. Assessing a portion of the future drain construction costs would be perceived as a double charge.

OPTION #3 – Site Specific SWM Development Charge

The Municipality could fund the entire cost of the project, create a Site-Specific Stormwater Development Charge, recover some costs as development occurs, allowing new development to utilize the stormwater infrastructure. Site-specific development charges offer a structured and predictable way to fund infrastructure related to new developments, but they come with challenges related to implementation time, potential appeals.

ADVANTAGES

Site-specific development charges can be tailored to specific projects or areas, ensuring that the costs are directly related to the infrastructure needed for new developments. This encourages responsible development by linking charges to the costs of infrastructure needed for new developments. Development charges are governed by the Development



Charges Act, which provides a clear legal framework for their implementation, including requirements for background studies and public consultation.

DISADVANTAGES

Implementing a site-specific development charge requires conducting background studies and public consultations, which can be time-consuming and delay the recovery of costs. Development charges can be appealed to the Ontario Land Tribunal, which may lead to uncertainty and potential delays in the implementation of the charges.

OPTION #4 – Do Nothing

Maintain the current situation.

ADVANTAGES

The costs associated with this project will be deferred to a later date, allowing the Municipality to prepare financially.

DISADVANTAGES

Delaying the project may result in current estimates expiring, as construction costs are expected to rise year after year. The Upper Thames River Conservation Authority has raised concerns about seepage under Rebecca Road, which contributes to erosion issues along the Thames River. Recent hydrological reports confirm this issue, and inaction is likely to exacerbate the situation.

Development within the Thorndale Business Park could be hindered if a comprehensive stormwater plan is not implemented. Some of these lands are currently managing runoff from already developed areas and roads. Halting the project now could potentially lead to legal complications for the Municipality.

FINANCIAL IMPLICATIONS:

Given the total project cost of approximately \$1,860,000, staff is seeking Council endorsement of its application to the Middlesex County Loan Program in early 2025. This Loan Program allows a lower-tier municipality to apply for up to 50% of the project costs. The Loan Program funding is interest free and to be repaid over fifteen (15) years.

The potential funding sources and estimated amounts are outlined in the table below:

Funding Source	Funding Amount	Notes
Municipal Contribution	\$930,000	Amount to be funded through Ontario Community Infrastructure Fund (OCIF) grant
Middlesex County Loan Program	\$930,000	Up to 50% of total municipal portion funded from Middlesex County Loan Program, if successful.
Total Project Cost	\$1,860,000	

As noted above, this project could be funded through a combination of Ontario Community Infrastructure Funding (OCIF) and debt financing. The debt financing amount will be paid back through the implementation of a Bylaw under Part XII of the *Municipal Act, 2001*. In other words, as the undeveloped parcels of property are developed a portion of this cost would be recovered.

Approximately \$1,089,070 of the total project costs can be recovered through the implementation of a Part XII Bylaw once these undeveloped (vacant) lands are developed. As these lands become developed, it will further drive economic growth, increase employment and revenue for the Municipality (i.e. property taxation, utility billing, etc.).

This project has not been included in the Draft 2025 Capital Budget as it is pending the loan application with Middlesex County. If the loan is approved, a budget amendment could be brought forward for Council's consideration to allocate the remaining funding source from the Municipality's annual OCIF allocation.

STRATEGIC PLAN LINK

Pillar: *Economic Development*

Goal: *Retain and attract businesses into the community to enhance availability of local amenities and accessibility by active transportation*

CONSULTATION:

J. Craven, Director of Public Works

E. Fairhurst, Director of Financial Services

REFERENCES:

None.

ATTACHMENTS:

- Thorndale Industrial Drain - Watershed Plan
- Schedule C - Thorndale Industrial Drain - Recoverable Cost Breakdown

Prepared by: T. Pitt, Drainage Superintendent

Reviewed by: J. Craven, Director of Public Works

Reviewed by: D. Barrick, Chief Administrative Officer