

Michael Connell
9 Norwich Street West
Guelph, ON N1H 2G8
Telephone: 519-837-0500
Fax: 519-763-2204
connell@garrodpickfield.ca
File No. 11742

VIA ELECTRONIC MAIL

July 6, 2015

Chair Judi Partridge and Members
Planning Committee
c/o Ms. Ida Bedioui, Legislative Coordinator
Hamilton City Hall, 71 Main Street West
Hamilton, ON L8P 4Y5

Dear Chair Partridge and Committee Members,

Re: By-law No. 05-200, Special Exception 253 - Landscape Contracting Establishments

Our firm was retained by the Coalition for Rural Ontario Environmental Protection (“CROP”) to provide a legal review of the proposed Special Exception 253, which seeks to recognize currently existing illegal landscape contracting establishments in Ancaster and Flamborough in the Draft Rural Zoning By-law No. 05-200.

Consistent with the Staff Report, PED13167(c), section 5.1, which notes that the “Special Exception is not in conformity with the Greenbelt Plan”, it is our opinion that this Exception contravenes the *Planning Act*, R.S.O. 1990, c. P.14, (“*Planning Act*”) and, as such, Council has no authority to approve it.

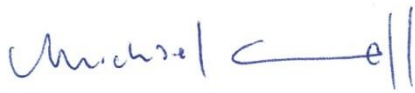
Section 3(5)(b) of the *Planning Act* dictates that all decisions of municipal councils that affect a “planning matter” shall conform with Provincial Plans, which includes the Greenbelt Plan. Special Exemption 253 does not. Policy 3.1.3(1.) of the Greenbelt Plan establishes that only *agricultural*, *agriculture-related* and *secondary uses* are permitted within Prime Agricultural Areas. Exemption 253 applies to Ancaster and Flamborough, which are predominantly Prime Agricultural Areas (designated “Agriculture” in the Rural Hamilton Official Plan). Stand-alone landscape contracting establishments, i.e. establishments that are unrelated to the principle use of the property, do not meet the definition of *agricultural*, *agriculture-related* or *secondary uses*. Therefore, Council has no authority to permit them within Prime Agricultural Areas.

The only authority Council has to permit landscape contracting establishments in the Agricultural designations in Flamborough and Ancaster is where these establishments are agriculture-related, secondary to the primary use, or where, in accordance with Policy 4.5 of the Greenbelt Plan, the landscape contracting establishments already legally exist. Exception 253

attempts to apply to all existing landscape contracting establishments, legal and illegal. The Greenbelt Plan does not allow this and Council has no authority to pass a by-law to create an exception from the Greenbelt's prohibitions.

For this reason, we are of the opinion that Special Exception 253 contravenes the *Planning Act* and Council has no authority to approve it.

Yours truly,

A handwritten signature in blue ink, appearing to read "Michael Connell". The signature is written in a cursive, flowing style with a long horizontal stroke at the end.

Michael Connell
/ljp

Cc: John Bennett, CROP