



**CITY OF HAMILTON**  
**PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT**  
Planning Division

<b>TO:</b>	Chair and Members Planning Committee
<b>COMMITTEE DATE:</b>	June 5, 2018
<b>SUBJECT/REPORT NO:</b>	Applications for an Amendment to the Rural Hamilton Official Plan and the City of Hamilton Zoning By-law No. 05-200 for Lands Located at 1915, 1995, and 1997 Jerseyville Road West, Ancaster (PED18118) (Ward 14)
<b>WARD(S) AFFECTED:</b>	Ward 14
<b>PREPARED BY:</b>	Brynn Nheiley (905) 546-2424 Ext. 4283
<b>SUBMITTED BY:</b>	Steve Robichaud Director, Planning and Chief Planner Planning and Economic Development Department
<b>SIGNATURE:</b>	

**RECOMMENDATION**

- (a) That **Amended Rural Hamilton Official Plan Amendment Application RHOPA-17-037 by The Green Organic Dutchman Holdings Limited (Owner)**, to establish a Site Specific Policy to permit a medical marihuana growing and harvesting facility within a new greenhouse with a maximum area of 13,000 sq m, and medical marihuana growing and harvesting facilities within new buildings with a maximum area of 2,000 sq m per building for portions of the lands located at 1915, 1995, and 1997 Jerseyville Road West, Ancaster, as shown on Appendix “A” to Report PED18118, be **APPROVED** on the following basis:
- (i) That the draft Official Plan Amendment, attached as Appendix “B” to Report PED18118, be adopted by City Council;
  - (ii) That the proposed Official Plan Amendment is consistent with the Provincial Policy Statement (2014) and conforms to the Greenbelt Plan (2017).
- (b) That **Amended Zoning By-law Amendment Application ZAC-17-080 by The Green Organic Dutchman Holdings Limited (Owner)**, for a modification to the Agriculture (A1) Zone to permit a medical marihuana growing and harvesting facility within one new greenhouse with a maximum area of 13,000 sq m and medical marihuana growing and harvesting facilities within new buildings with a maximum area of 2,000 sq m per building, to a maximum lot coverage of 20%

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including all buildings and structures on the combined lots, for portions of the lands located at 1915, 1995, and 1997 Jerseyville Road West, Ancaster, as shown on Appendix “A” to Report PED18118, be **APPROVED** on the following basis:

- (i) That the draft By-law, attached as Appendix “C” to Report PED18118, which has been prepared in a form satisfactory to the City Solicitor, be enacted by City Council;
- (ii) That the proposed change in zoning is consistent with the Provincial Policy Statement (2014), conforms to the Greenbelt Plan (2017), and will comply with the Rural Hamilton Official Plan upon approval of Official Plan Amendment No. \_\_\_.

### **EXECUTIVE SUMMARY**

The applicant has applied for an Amendment to the Rural Hamilton Official Plan (RHOP) and City of Hamilton Zoning By-law No. 05-200 for lands located at 1915, 1995 and 1997 Jerseyville Road West, Ancaster, to permit the development of a commercial greenhouse and the use of multiple agriculture buildings for growing and harvesting medical marihuana.

The purpose of the RHOP Amendment Application, as amended, is to permit the growing and harvesting of medical marihuana in the Agriculture Designation within a greenhouse having a maximum gross floor area of 13,000 sq m, and to permit new buildings for medical marihuana having a maximum gross floor area of 2,000 sq m per building, on a portion of the subject lands, as shown on Appendix “A” to Report PED18118.

The purpose of the Zoning By-law Amendment, as amended, is to rezone a portion of the subject lands to a modified Agriculture (A1) Zone. The specific provisions will permit a maximum of one greenhouse having a maximum gross floor area of 13,000 sq m, and to allow additional new buildings for the growing and harvesting of medical marihuana having a maximum gross floor area of 2,000 sq m per building, to a maximum lot coverage of 20% for all buildings and structures on portions of the combined subject lands, as shown on Appendix “A” to Report PED18118.

The applications, as amended, have merit and can be supported as they are consistent with the Provincial Policy Statement (2014) and conform to the Greenbelt Plan (2017). The proposal is considered to be compatible with existing and planned agricultural uses/development in the area and represents good planning by preserving the

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Protected Countryside for agricultural use while providing for diversified agricultural economic opportunities.

***Alternatives for Consideration – Page 24***

**FINANCIAL – STAFFING – LEGAL IMPLICATIONS**

Financial: N/A

Staffing: N/A

Legal: As required by the *Planning Act*, Council shall hold at least one public meeting to consider applications for an Official Plan Amendment and Zoning By-law Amendment.

**HISTORICAL BACKGROUND**

The subject lands are located on the north side of Jerseyville Road West, at the intersection of Jerseyville Road West and Alberton Road. Combined, the subject lands are rectangular in shape, bisected by a hydro corridor, and are approximately 26.92 ha in size. The properties are municipally known as 1915, 1995, and 1997 Jerseyville Road West.

1915 and 1997 Jerseyville Road West, the northern property of the subject lands, have become merged on title, and are currently in agricultural use by the owner, who is a federally licensed medical marihuana producer. Additionally, these lands contain the following:

- Single detached dwelling;
- Medical marihuana growing and harvesting facility established in 2015, having a gross floor area of 575 sq m;
- Agricultural accessory structure, having a gross floor area of 191 sq m;
- Access from paved private road to the east and from Jerseyville Road West via crossing of the hydro corridor and 1995 Jerseyville Road West; and,
- Agricultural field crops.

1995 Jerseyville Road West – southern property, triangular in shape, contains the following:

- Single detached dwelling to remain;
- Access from Jerseyville Road West; and,

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- Agricultural field crops.

These properties are surrounded to the east by the Mystic Golf Club, and to the north, south and west by agricultural uses.

### **Proposal**

The purpose of the RHOP Amendment Application, as submitted, was to permit:

- the growing and harvesting of medical marihuana in the Agriculture Designation within a greenhouse having a maximum lot coverage of 70%;
- new buildings for medical marihuana having a maximum gross floor area of 2,000 sq m per building; and,
- processing of cannabis oil in conjunction with growing and harvesting medical marihuana.

The purpose of the Zoning By-law Amendment Application, as submitted, was to rezone the subject lands to a modified Agriculture (A1) Zone to permit:

- the growing and harvesting of medical marihuana in the Agriculture Designation within a greenhouse having a maximum lot coverage of 70%;
- new buildings for medical marihuana having a maximum gross floor area of 2,000 sq m per building; and,
- processing of cannabis oil in conjunction with growing and harvesting medical marihuana.

The applications indicate that all new structures are targeting achievement of Leadership of Energy and Environmental Design – Silver rating. The Applicant proposes that this development will lead to the employment of 70 individuals. The facilities are proposed to be accessed via the public road access of 1995 Jerseyville Road West, with an easement to cross the hydro corridor that bisects the properties, and to contain 67 parking spaces.

In the original applications, the Applicant submitted a request that the definitions within the Urban and Rural Official Plans and the City of Hamilton Zoning By-law 05-200, related to Marihuana, be amended such that the growing, harvesting and processing of marihuana be “as permitted by the Government of Canada”, within a greenhouse in accordance with Section 12.1.3.1 (e) ii) of the Zoning By-law. This section allows for a greenhouse with a maximum lot coverage of 70%, whereas these Applications are for a greenhouse having a lot coverage of approximately 3.6% of the subject lands, to be located to the south of areas which are regulated by the Grand River Conservation Authority. The Applicant has indicated that they do not agree with the proposed Official

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Plan Amendment and Zoning By-law Amendment as recommended by Planning staff. Specifically, the applicant does not concur with retention of the reference to specific federal regulation, currently identified in the Urban and Rural Official Plans and the City of Hamilton Zoning By-law 05-200 as Marijuana for Medical Purposes regulations (MMPR) SOR/2013-119 in the proposed Official Plan Amendment.

Staff have amended the applications by limiting the amendment to a portion of the subject lands and reducing the maximum lot coverage. The applicant has indicated that they do not support the regulations recommended by staff with respect to limiting the maximum gross floor area of a greenhouse for growing and harvesting medical marijuana to 13,000 sq m.

The original application also requested to have processing into cannabis oil added as a permitted use. Staff did not carry through this item of the application because the use is currently permitted by both the Official Plan and Zoning By-law and therefore, additional permissions are not required.

The Applicant has also submitted a Site Plan Amendment Application (DA-17-082) to construct a 1,955 sq m building, and a 12,400 sq m greenhouse. Agricultural processing into cannabis oil as a secondary use is proposed to have a gross floor area of 32.79 sq m.

**Chronology**

- November 4, 2017: Rural Hamilton Official Plan Amendment RHOPA-17-037 and Zoning By-law Amendment ZAC-17-080 Applications received.
- November 20, 2017: Rural Hamilton Official Plan Amendment RHOPA-17-037 and Zoning By-law Amendment ZAC-17-080 Applications deemed complete.
- November 28, 2017: Notice of Complete Application and Preliminary Circulation sent to 24 property owners within 120 m of the subject lands.
- December 19, 2017: Public Notice sign installed on subject lands.
- May 9, 2018: Public Notice Sign updated with Public Meeting date.
- May 18, 2018: Notice of Public Meeting sent to 24 property owners within 120 m of the subject lands.

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**Details of Submitted Applications**

**Agent:** IBI Group (c/o John Ariens)

**Owner / Applicant:** The Green Organic Dutchman Holdings Limited

**Location:** 1915, 1995, and 1997 Jerseyville Road West

**Property Size:**

**Frontage:** +/- 842.73 m, combined

**Depth:** +/- 988.61 m

**Area:** +/- 269,200 sq m (26.92 ha)

**Services:** Private Services

**EXISTING LAND USE AND ZONING**

	<b><u>Existing Land use</u></b>	<b><u>Existing Zoning</u></b>
<b><u>Subject Lands:</u></b>		
<b>1915 and 1997 Jerseyville Road West</b>	Agriculture	Agriculture (A1) Zone;  Conservation / Hazard Land – Rural (P7) Zone;  Agriculture (A1, 116) Zone;
<b>1995 Jerseyville Road West</b>	Agriculture	Agriculture (A1) Zone.
<b><u>Surrounding Lands:</u></b>		
<b>North</b>	Agriculture	Agriculture (A1) Zone; Conservation / Hazard Land – Rural (P7) Zone; Conservation / Hazard Land – Rural (P8) Zone.
<b>East</b>	Commercial Golf Course	Open Space (P4) Zone; Open Space (P4, 253) Zone; Open Space (P4, 285) Zone; Conservation / Hazard Land –

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		Rural (P7) Zone; Conservation / Hazard Land – Rural (P8) Zone.
<b>South</b>	Agriculture	Agriculture (A1) Zone.
<b>West</b>	Agriculture	Agriculture (A1) Zone.

## **POLICY IMPLICATIONS AND LEGISLATED REQUIREMENTS**

### **Provincial Policy Statement (2014)**

The applications have been reviewed with respect to the Provincial Policy Statement (PPS). The PPS provides policy direction on matters of provincial interest related to land use planning and development.

The following policies, among others, are applicable to the proposal.

- “1.1.4.1 Healthy, integrated and viable rural areas should be supported by:
- f. promoting diversification of the economic base and employment opportunities through goods and services, including value added products and the sustainable management of resources; and,
  - i. providing opportunities for economic activities in *prime agricultural areas*, in accordance with policy 2.3.
- 1.1.5.7 Opportunities to support a diversified rural economy should be promoted by protecting agricultural and other resource-related uses and directing non-related development to areas where it will minimize constraints on these uses.
- 1.1.5.8 *Agricultural uses, agriculture-related uses, on-farm diversified uses and normal farm practices* should be promoted and protected in accordance with provincial standards.
- 2.3.1 *Prime agricultural areas* shall be protected for long-term use for agriculture.
- Prime agricultural areas* are areas where *prime agricultural lands* predominate. *Specialty crop areas* shall be given the highest priority for protection, followed by Canada Land Inventory Class 1, 2, and 3 lands,

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and any associated Class 4 through 7 lands within the *prime agricultural area*, in this order of priority.

2.3.3.1 In *prime agricultural areas*, permitted uses and activities are: *agricultural uses, agriculture-related uses and on-farm diversified uses*.

2.3.3.2 In *prime agricultural areas*, all types, sizes and intensities of *agricultural uses and normal farm practices* shall be promoted and protected in accordance with provincial standards.

## 6.0 Definitions

On-farm diversified uses:

means uses that are secondary to the principal agricultural use of the property, and are limited in area. On-farm diversified uses include, but are not limited to, home occupations, home industries, agri-tourism uses, and uses that produce value-added agricultural products.”

The Ontario Ministry of Agriculture, Food and Rural Affairs (OMAFRA) has identified medical marihuana as an agricultural crop (see Appendix “F” to Report PED18118). These applications propose to grow medical marihuana primarily within a greenhouse. Therefore, the applications are consistent with policies that promote and protect areas for agricultural use.

These applications are consistent with the policies that focus on diversifying the activity of on-farm uses as processing medical marihuana into cannabis oils is a value-added agricultural product. These applications propose that the area for the processing of medical marihuana into cannabis oil will be 32.79 sq m, and can therefore be considered secondary, and related to the primary agricultural use of growing and harvesting medical marihuana. Secondary agricultural related processing uses are permitted as-of-right in the RHOP and the Agricultural Zone in Zoning By-law 05-200.

“2.6.2 Development and site alteration shall not be permitted on lands containing archaeological resources or areas of archaeological potential unless significant archaeological resources have been conserved.”

City staff identified that the subject lands meet five of the 10 criteria for determining archaeological potential:

- Within 250 m of known archaeological sites;

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- Within 300 m of a primary watercourse or permanent waterbody, 200 m of a secondary watercourse or seasonal waterbody, or 300 m of a prehistoric watercourse or permanent waterbody;
- Local knowledge associates areas with historic events / activities / occupations;
- In an area of elevated topography; and,
- Along historic transportation routes.

In addition, the subject lands are adjacent to 2042 Jerseyville Road West, which is designated as “protected heritage property” under the Provincial Policy Statement, and 1911 Jerseyville Road West and 1868 Jerseyville Road West, which are included in the City’s Inventory of Buildings of Architectural and/or Historical Interest. The Applicant has completed a Stage 1 and 2 Archaeological Assessment and submitted a report on the results. The Ministry of Tourism, Culture and Sport have reviewed the Stage 1 and 2 Archaeological Assessment and consider the site to be sufficiently documented. They recommend no further archaeological assessment, have deemed these applications compliant and have entered the assessment report into the Ontario Public Register of Archaeological Reports. They instruct that any deeply buried archaeological resources that are identified during ground disturbance activity be reported to the Ministry.

Based on the Stage 1 and 2 Archaeological Assessment, staff are of the opinion that the heritage value of the area will be conserved.

Therefore, the proposal is consistent with the Provincial Policy Statement (2014).

**Greenbelt Plan (2017)**

The Greenbelt Plan designates the subject lands as “Protected Countryside” and they are within the “Natural Heritage” system.

The following policies, among others, are applicable to the proposal.

- “3.1.2.1. All types, sizes and intensities of *agricultural uses* and *normal farm practices* shall be promoted and protected and a full range of *agricultural uses*, *agriculture-related uses* and *on-farm diversified uses* are permitted based on the provincial Guidelines on Permitted Uses in Ontario’s Prime Agricultural Areas. Proposed *agriculture-related uses* and *on-farm diversified uses* shall be compatible with and shall not hinder surrounding agricultural operations.

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7. Definitions

Agriculture-related Uses

Farm-related commercial and farm-related industrial uses that are directly related to the farm operations in the area, support agriculture, benefit from being in close proximity to farm operations, and provide direct products and/or services to farm operations as a primary activity.

On-farm Diversified Uses

Uses that are secondary to the principal *agricultural use* of the property, and are limited in area. *On-farm diversified uses* include, but are not limited to, home occupations, home industries, agri-tourism uses, and uses that produce value-added agricultural products.”

OMAFRA has recognized the growing and harvesting of medical marihuana as an agricultural use which is permitted and promoted in the Greenbelt Plan. The processing of cannabis oil is considered to be a value-added agricultural product, diversifying the on-farm use of the subject lands. The processing into cannabis oil is conducted within a gross floor area of 32.79 sq m contained entirely within the proposed development and is secondary to the principal agricultural use. Therefore, the use is compatible with and will not hinder the surrounding agricultural uses.

“3.2.2.1. For lands within the Natural Heritage System of the Protected Countryside, the full range of existing and new *agricultural, agriculture-related* and *on-farm diversified uses* and *normal farm practices* are permitted subject to the policies of section 3.2.2.2.

3.2.2 For lands within the Natural Heritage System of the Protected Countryside, the following policies shall apply:

2. New buildings or structures for *agriculture, agriculture-related* and *on-farm diversified uses* are not subject to the policies of section 3.2.2.3, but are subject to the policies of section 3.2.5.

3.2.5 *Key natural heritage features* include:

- *Significant woodlands;*

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3.2.5 *Key hydrologic features* include:

- Permanent *and* intermittent streams;
- Wetlands.

3.2.5 For lands within a *key natural heritage feature* or a *key hydrologic feature* in the Protected Countryside, the following policies shall apply:

2. Beyond the Natural Heritage System within the Protected Countryside, *key hydrologic features* are defined by and subject to the policies of section 3.2.5.
3. Beyond the Natural Heritage System within the Protected Countryside, *key natural heritage features* are not subject to the policies of section 3.2.5, but are to be defined pursuant to, and subject to the policies of, the PPS.
4. In the case of wetlands, seepage areas and springs, fish habitat, permanent and *intermittent streams*, *lakes* and *significant woodlands*, the minimum *vegetation protection zone* shall be a minimum of 30 metres measured from the outside boundary of the *key natural heritage feature* or *key hydrologic feature*.”

Significant woodlands and provincially significant wetlands exist along the property boundary and on properties to the north and east of the subject lands. Together with the Grand River Conservation Authority, the City of Hamilton undertook a refinement of boundaries related to unevaluated wetlands. This work informed the Environmental Impact Statement (EIS), submitted with the applications entitled Environmental Impact Study, Jerseyville Road Agricultural Greenhouse Development (October 2017), which also provided evaluation of permanent and intermittent streams and significant woodlands.

The proposed development is located south of, and does not encroach into Key Natural Heritage and Hydrologic features, and protective fencing is proposed to ensure that vegetation outside of the planned construction area is not disturbed. Further, the applications comply with policies related to key natural heritage and hydrologic features by supporting the 30 m vegetation protection zone, providing adequate, self-sustaining vegetated buffers to protect these features within the subject lands such that there are no anticipated negative impacts on the ecological functions of these features. The proposal includes ongoing monitoring of any potential impacts to ground water sources.

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These applications conform to the vision and goals of the Greenbelt Plan by continuing to utilize agricultural lands for the growing of crops while adding to the diversity of rural economic activity. The applications propose best management practices for protecting the Natural Heritage Systems on the subject lands, and as they have been proposed, the structures will be resilient to and mitigate climate change.

These applications conform with the policies of protecting the Natural Heritage System of the Protected Countryside, while introducing a greater on-farm diversity of agriculture and agriculture-related uses to rural City of Hamilton.

Therefore, the proposal conforms to the Greenbelt Plan (2017).

**Rural Hamilton Official Plan (RHOP)**

These lands are designated as “Agriculture” on Schedule ‘D’ – Rural Land Use Designations of the RHOP. Portions of the subject lands contain areas that have been identified as “Core Areas” and “Greenbelt Protected Countryside” on Schedule ‘B’ – Natural Heritage System.

The following policies, among others, are applicable to the proposal.

**Energy and Environmental Design**

“B.3.7.1 The city shall support energy efficient, low impact, and environmental designed *development* through:

- b) the use of environmental building rating systems such as certification under the Leadership in Energy and Environmental Design (LEED) program or an equivalent rating system for upgrading/retrofitting of existing development and new development;
- j) water and storm water conservation/management practices such as green roofs, water recycling systems, etc.;

The applications support Chapter B - Community policies focused on preserving the environment in that the applicants are intending to achieve a LEED Silver rating and by proposing to recycle water in the operation of the proposed facility.

**Natural Heritage System**

“C.2.2.3 The boundaries of *Core Areas* are shown on Schedule B - Natural Heritage System and *key natural heritage features, key hydrologic features* and any associated *vegetation protection zones*, provincially significant and *local*

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*natural areas* are shown on Schedules B-1 to B-8 - Detailed Natural Heritage Features. Minor refinements to such boundaries may occur through Environmental Impact Statements, *watershed* studies or other appropriate studies accepted by the City without an amendment to this Plan. Major changes to boundaries, the removal or addition of Core Areas identified on Schedule B - Natural Heritage System, and Schedules B-1 to B-8 – Detailed Natural Heritage Features require an amendment to this Plan.

- C.2.3.3 Any *development* or *site alteration* within or adjacent to *Core Areas* shall not negatively impact their environmental features or *ecological functions*.
- C.2.4.8 Beyond the Greenbelt Natural Heritage System within the Protected Countryside new development and site alteration shall not be permitted within or adjacent to *key natural heritage* features in the Greenbelt Protected Countryside unless it has been evaluated through an Environmental Impact Statement and has been demonstrated that there shall be no *negative impacts* on the natural features or their *ecological functions*.
- C.2.4.10 An Environmental Impact Statement shall also propose a *vegetation protection zone* which:
- a) Has sufficient width to protect the Core Area and its *ecological functions* from impacts of the proposed land use or *site alteration* occurring during and after construction, and where possible, restores or enhances the *Core Area* and/or its *ecological functions*; and
  - b) Is established to achieve, and be maintained as *natural self-sustaining vegetation*.
- C.2.4.13 Within the Protected Countryside of the Greenbelt Plan area, new *development* and *site alteration* adjacent to *wetlands, seepage areas, springs, fish habitat, lakes, permanent and intermittent streams* and *significant woodlands* shall maintain a minimum 30-metre *vegetation protection zone* as measured from the outside boundary of the feature. Such a *vegetation protection zone* shall be established with natural, self-sustaining vegetation where the land within the *vegetation protection zone* is not used for agricultural purposes. New agricultural buildings and structures for *agricultural uses* are required to provide a 30-metre *vegetation protection zone* from a *key natural heritage feature* within the Greenbelt Natural Heritage System or a *key hydrologic feature* anywhere in the Protected Countryside but may not be required to establish a condition of *natural self-*

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*sustaining vegetation*, if the land is, and will continue to be, used for agricultural purposes.

C.2.4.14 Permitted uses in a *vegetation protection zone* shall be limited to low impact uses, such as *passive recreation*, trails, boardwalks, landscaping, vegetation restoration, and resource management and open space. Within the Protected Countryside of the Greenbelt Plan Area permitted uses within *vegetation protection zones* are specified in Section C.2.4.1. New *development* or *site alteration areas* shall be located outside of the vegetation protection zone. Private sewage disposal systems and new impervious surfaces associated with the *development* shall not be permitted within the *vegetation protection zone*.”

The subject lands are identified as “Greenbelt Protected Countryside” on Schedule B – Natural Heritage System. Portions of the site and on properties to the north and east of the subject lands contain Greenbelt Natural Heritage System, and some Core Areas, including significant woodlands and provincially significant wetlands. The proposed development will be limited to portions of the subject lands which are located south of the stream which runs through the subject lands, and includes a 30 m vegetation protection zone and ongoing monitoring of any potential impacts to ground water sources.

During construction, the EIS indicates that timing of activities will avoid removal of vegetation unless a nesting survey has been conducted, and also avoids major noise and vibration levels during the sensitive breeding seasons. A mitigation plan has been developed for the removal and compensation of Barn Swallow habitat, including timing of the removal of a structure to avoid breeding season, and a planned compensation habitat to be constructed within 200 m of the previous location. Construction materials will not be stored near significant woodlands. These measures will be implemented through conditions of Site Plan Approval.

The proposed lighting of the site will be directed so as to avoid glare into adjacent natural features, and sensors will be implemented to limit the use of exterior lighting.

Chapter D – Rural Systems, Designations and Resources of the RHOP speaks of the right-to-farm principle to provide a secure land base for agricultural activities.

### Goals

“D.1.1 Reinforce and support the significant contribution agriculture makes to the lifestyle, environment and economy of the City.

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D.1.6 Recognize the diverse and innovative nature of agriculture by providing opportunities for on-farm diversification.

Agriculture Designation

D.2.1.1.3 Farm greenhouses are greenhouses used primarily for the growing of crops for off-site wholesale. Farm greenhouses may be permitted provided the following conditions are met:

- b) The gross floor area for a new medical marihuana growing and harvesting facility shall not exceed 2,000 sq m;
- e) The establishment of a new medical marihuana growing and harvesting facility or the expansion of an existing facility shall be subject to Site Plan approval to address the appropriate building size and location, set-backs, drainage and any other matters.

D.2.1.1.4 Medical marihuana growing and harvesting facilities are permitted in accordance with the regulations set out in the Zoning By-law and provided that the following conditions are met:

- a) A medical marihuana growing and harvesting facility is permitted in buildings existing at the date of the passing of the Zoning By-law;
- b) The gross floor area for a new medical marihuana growing and harvesting facility shall not exceed 2,000 sq m;
- c) No retail sales are permitted;
- d) No outdoor storage is permitted; and,
- e) The establishment of a new medical marihuana growing and harvesting facility or the expansion of an existing facility shall be subject to Site Plan approval to address the appropriate building size and location, set-backs, drainage and any other matters.”

OMAFRA has recognized medical marihuana as an agricultural product, and staff consider it appropriate to give consideration to a limited increase of the maximum gross floor area for medical marihuana growing and harvesting on portions of the subject lands. This will be discussed in greater detail in the Analysis and Rationale section of the Report.

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“D.2.1.2 *Agricultural-related uses* are farm-related commercial and farm-related industrial uses that are *small scale*, producing products and services, wholly and directly related to a farming operation and which are required in close proximity to an *agricultural use*. They are uses necessary to support *agricultural uses* and are permitted provided the following conditions are met:

- a) The use must produce products or services directly related to a *farming operation*, and requires a location in close proximity to a *farm operation*. Permitted uses shall be limited to grain dryers, feed mills, grain and seed storage facilities, primary farm produce bulk storage and agricultural processing facilities, farm product supply dealers, livestock assembly points, agricultural research operations, and veterinary services for farm animals;
- b) The use shall be located to minimize the amount of land removed from agricultural production; and,
- d) The use shall not negatively affect environmental features in accordance with section C.2.0, Natural Heritage System of this Plan.

D.2.1.3 To encourage on-farm economic diversification as a means of reinforcing the agricultural economy, limited secondary uses are permitted. On-farm secondary uses are secondary to the primary agricultural use and are limited to agri-tourism uses, farm vacation homes, home industries, kennels, and small scale retailing of agricultural products. On-farm secondary uses shall be permitted provided the following conditions are met in all cases:

- a) The use shall be clearly secondary to the primary agricultural use maintained on the lot;
- b) Any buildings or structures associated with an on-farm secondary use shall allow for ease of conversion to a future agricultural use and be located to form an integral part of the primary farm cluster;
- c) Appropriate development standards shall be established in the Zoning By-law regarding the maximum floor area for such uses, access, parking, outside storage, and any other requirements; and
- d) Site Plan approval may be required.”

As discussed in the Greenbelt Plan analysis, the processing into cannabis oil is related to the farm operation of growing and harvesting medical marihuana. The area for the

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processing of cannabis oil will be 32.79 sq m and will be integrated within the new and existing buildings and structures, minimizing land removed from agricultural production. As previously discussed, the Applicant has conducted an EIS that proposes measures to further avoid negatively affecting environmental features of the subject lands, and which staff are satisfied with.

The proposed 1,955 sq m structure which is adjoined to the greenhouse is in addition to the existing medical marihuana facility that is 575 sq m. The building or structure for growing and harvesting medical marihuana located closest to the public right of way is at a distance of 160 m. The proposed development is consistent with multiple farm structures and the range of uses on other agricultural properties in the region. The processing of medical marihuana into cannabis oil is permitted as an on-farm secondary use as described in the RHOP. The proposed development can therefore be supported by staff in that it is supportive of the character of the agricultural landscape in its limited size, in that it is consistent in use and is discretely located from the public right of way.

**City of Hamilton Zoning By-law No. 05-200**

The subject lands are currently zoned Agriculture (A1) and (A1, 116) Zones. Portions of the subject lands are also zoned Conservation/Hazard Land – Rural (P7) Zone, however, these areas are not impacted by the proposed development. The (A1) Zone permits, among other things:

- Maximum lot coverage of 20% for all agricultural buildings and structures;
- Notwithstanding the maximum lot coverage, Agriculture uses including medical marihuana in new buildings with a total gross floor area not to exceed 2,000 sq m, and in existing buildings;
- Notwithstanding the maximum lot coverage, Greenhouses not used for medical marihuana growing and harvesting to the maximum lot coverage of 70%;
- No outdoor storage of medical marihuana;
- No retail sales;
- A single detached dwelling on a lot;
- Agricultural Research Operation secondary to agriculture; and,

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- Agricultural Processing Establishment - Secondary to agriculture and limited to 500 sq m.

The current zoning (A1, 116) recognizes a lot which has no frontage on a public right of way. However, this modification has become obsolete as 1915 and 1997 Jerseyville Road West have become merged on title. Therefore, the subject lands will be removed from the list of properties subject to this site specific By-law.

Both 1915 and 1997 Jerseyville Road West did have single detached dwellings. As a result of the merger on title these subject lands became a single lot containing two single detached dwellings as legal non-conforming. However, applications to develop on the site have required that a minimum of one of the dwellings be demolished. Demolition has occurred since the date that these applications were submitted.

The subject applications require the Agriculture (A1) Zone be modified on portions of the subject lands in order to permit a medical marijuana growing and harvesting facility in a greenhouse with a maximum gross floor area of 13,000 sq m, new buildings with a gross floor area that do not exceed 2,000 sq m per building, a maximum combined lot coverage of 20% for all buildings and structures on the lot. Further, these applications require that the term greenhouse be defined so as to avoid the use taking place in large buildings which are more characteristic of industrial areas.

The modifications to the Zoning By-law are discussed further in the Analysis and Rationale section.

## **RELEVANT CONSULTATION**

The following Internal Departments and Agencies had no comments or objections to the applications:

- Corridor Management, Public Works Department;
- Hamilton Police Service;
- Public Health Services, Healthy Environments Division;
- Recycling & Waste Disposal, Environmental Services Division; and,
- Transportation Management, Public Works Department.

The following Departments and Agencies submitted the following comments:

**Transportation Planning (Planning and Economic Development)** has advised that Jerseyville Road West is subject to be widened to 26.213 m. They advise that daylight triangles, 1.5 m internal sidewalks and trees within the public boulevard are requirements to be addressed through the Site Plan Application.

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**Hamilton Water (Public Works Department)** has approved the water and wastewater report that has been submitted, with the condition that an ongoing monitoring and reporting agreement is to be established through the Site Plan Application.

**Forestry and Horticulture Section (Public Works Department)** has approved the Environmental Impact Statement in relation to municipal tree assets on site, and does not require a Landscape Plan nor a Street Tree Planting Plan.

**Grand River Conservation Authority (GRCA)** require permits for the development due to the slope of the land, and proximity to nearby watercourse, floodplain, wetlands and adjacent allowances. The Conservation Authority has no objections to the proposed RHOPA and Zoning By-law Amendments as these issues are being addressed through the Site Plan Application.

**The Ministry of Environment and Climate Change (MOECC)** provides instruction related to stormwater management and rainwater reserve systems, including greenhouses. They indicate the necessity to seek permits if water taking is to exceed 50,000 L/day. These matters are being addressed through the Site Plan Application.

## **PUBLIC CONSULTATION**

In accordance with the provisions of the *Planning Act* and the Council Approved Public Participation Policy, a Notice of Complete Application and Preliminary Circulation was circulated to 24 property owners within 120 m of the subject lands on November 28, 2017. A Public Notice sign was posted on the subject lands on December 19, 2017 and updated on May 9, 2018 with the Public Meeting date. Finally, Notice of the Public Meeting was circulated to 24 property owners on May 18, 2018 in accordance with the requirements of the *Planning Act*. To date, no comments or concerns have been received by staff from the public regarding the proposal.

### **Public Consultation Strategy**

The Applicant submitted a Public Consultation Strategy which noted that a meeting was to take place with the Ward Councillor to determine whether a Neighbourhood Information Meeting would be required, and if so, the implementation and follow-up strategy that would be taken. It was determined at a meeting on March 21, 2018 that a special open house was not warranted.

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The Applicant has undertaken other efforts to consult with the public. These include the following:

- An information meeting for local neighbours took place in August, 2017 to discuss local wells and water concerns;
- Tours were held in November and December, 2017, attended by City staff;
- Hamilton Wentworth Federation of Agriculture and the Ontario Federation of Agriculture Board attended a tour in January, 2018;
- The Applicant presented to the Agricultural and Rural Affairs Advisory Committee on January 29, 2018;
- Members of the Agriculture and Rural Affairs Advisory Committee attended a tour in February, 2018; and,
- The Applicant maintained an open invitation for additional tours and ongoing liaison with local community members, and has continued with meetings occurring as recently as February, 2018.

**ANALYSIS AND RATIONALE FOR RECOMMENDATION**

1. The proposed Rural Hamilton Official Plan Amendment and Zoning By-law Amendment, as amended by staff, have merit and can be supported for the following reasons:
  - (i) They are consistent with the Provincial Policy Statement and conform to the Greenbelt Plan (2017);
  - (ii) They comply with the general intent of the RHOP in that they preserve Agriculture Designated lands for agricultural use, while protecting natural heritage features; and,
  - (iii) The proposed development maintains the subject lands in agricultural use within a greenhouse and in small scale structures, and includes small scale processing, all of which is representative features of the agricultural landscape.
2. The Ministry of Municipal Affairs (MMA) and OMAFRA have concluded that the growing of medical cannabis crops qualifies as an agricultural use as per the Greenbelt Plan (see Appendix “F” to Report PED18118). These applications are

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consistent with the PPS and Greenbelt Plan because they propose to protect the continued use of the lands for agriculture and produce value-added agricultural product, diversifying the on-farm use of the subject lands. They propose best management practices for protecting the Natural Heritage Systems and for preservation of resources that have archaeological and heritage value.

The growing and harvesting of medical marihuana is a recognized agricultural use, permitted on the subject lands, as identified on Schedule 'D'. As discussed in the policy section of this Report, a Rural Hamilton Official Plan Amendment is required to permit, on portions of the subject lands, one greenhouse having a maximum gross floor area of 13,000 sq m, to permit new buildings for the growing and harvesting of medical marihuana to a maximum gross floor area of 2,000 sq m and a combined maximum lot coverage of 20% for all buildings and structures on the lot.

The processing of medical marihuana into cannabis oil is a secondary process to the agricultural use of Growing and Harvesting Medical Marihuana and is permitted by the RHOP. Additionally, processing medical marihuana into cannabis oil as a secondary use aligns with the processing as described in Health Canada's *Access to Cannabis for Medical Purposes Regulations (ACMPR)*, which licenses producers of medical marihuana.

Staff are supportive of the Official Plan Amendment as the amended proposal complies with policies of Chapter D – Rural Systems, Designations and Resources. Further, the proposal complies with policies of Chapter B – Communities of the RHOP, in that they propose to construct buildings that are targeting Silver under the Leadership in Energy and Environmental Development (LEED) rating system, and are proposing innovative systems for recycling water used within the facilities. The proposal satisfies the Natural Heritage policies of the RHOP in that they include measures to preserve and protect natural heritage features of the site, avoiding Core Areas on the subject lands, timing work that might cause noise and vibration so as to avoid sensitive breeding seasons, compensating Barn Swallow habitat, establishing 30 m vegetated protection zones, erecting protective fencing to ensure the vegetation outside the planned construction area is not disturbed and storing construction materials away from natural heritage features.

For these reasons staff support the requested RHOPA Amendment, as amended.

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3. Zoning By-law Amendment

The current zoning does not permit multiple new buildings for medical marihuana, or buildings greater than 2,000 sq m. The current zoning does permit a Secondary Agricultural Processing Establishment to a maximum gross floor area of 500 sq m. The application, as amended, is to further modify the Agricultural (A1) Zone to facilitate one new greenhouse having a maximum gross floor area of 13,000 sq m and multiple new buildings having a maximum gross floor area of 2,000 sq m to a maximum combined lot coverage of 20% including all buildings and structures on the combined lot. The rezoning will include defining the term 'Greenhouse', so as to ensure that the proposed larger structure is consistent with other commercial greenhouses that contribute to the rural character, and so as to avoid large buildings which are more characteristic of industrial lands negatively impacting the rural landscape.

The following site specific modifications to the City of Hamilton Zoning By-law No. 05-200 are required to implement the proposal (see Appendix "C" to Report PED18118).

Definition of 'Greenhouse'

Existing regulation for growing and harvesting medical marihuana in rural areas includes a cap of 2,000 sq m for all new buildings. The rationale for the cap is to avoid new structures which are an industrial building type and scale, and are not consistent with the rural area. The greenhouse structure that is proposed with these applications is consistent with the rural area in that it propose the use within a greenhouse. However, where this building type is not currently defined in the Zoning By-law, including a definition in the amendment will provide clarity and certainty in the outcome of the proposed development. It will ensure that a greenhouse structure will be climatically controlled and constructed primarily of translucent material. On this basis, the modification can be supported.

Maximum Gross Floor Area for New Buildings

The Agriculture (A1) Zone permits a maximum total gross floor area of 2,000 sq m for new medical marihuana buildings and structures. The Zoning By-law currently permits greenhouses not used for medical marihuana to have a lot coverage of 70%, without otherwise limiting the total gross floor area.

The proposed site specific amendment is to permit one new medical marihuana greenhouse with a maximum gross floor area of 13,000 sq m, and new buildings and structures with a maximum gross floor area of 2,000 sq m per building to a

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maximum lot coverage of 20% for all buildings and structures on the lot for a portion of the combined subject lands.

Large greenhouses for the use of growing, harvesting and processing other agricultural crops have become typical. Additionally, multiple small-scale buildings for agricultural processing establishments on the same rural lot, each having a gross floor area of 2,000 sq m or less, is a common feature of the agricultural landscape.

Unlike other agricultural products grown in greenhouses and agriculture buildings, medical marihuana continues to be a controlled substance under Health Canada's *ACMPR*, with regulations including separation distances, handling, and security provisions. Further, Health Canada is in the process of amending regulations pertaining to marihuana. Therefore, to permit on portions of the subject lands a medical marihuana facility which has a gross floor area that does not exceed 13,000 sq m meets the objectives of the proposal, while preserving the intent of the City's policies. It is consistent with other larger greenhouses in the region, while maintaining the limitation of a maximum size that does not conflict with the existing *ACMPR*, nor presuppose the evolving federal, provincial and City of Hamilton regulation. Therefore, staff support the modification.

4. Development Engineering and Transportation Planning have provided detailed comments with respect to matters such as the public right of way, and access onto the site. Infrastructure Planning requires more detailed information regarding stormwater management on the site. Hamilton Water requires more detailed information on water taking and discharge of the private systems that have been proposed, and the MOECC will require permits if water taking is to exceed 50,000 L/day.

Staff require that greater diversity in the species be planted, revising of the location of the proposed access driveway to retain a number of mature trees, and that proposed measures of the EIS be implemented through the Site Plan and during construction. The Grand River Conservation Authority is seeking permits due to the slope of the lands and proximity to nearby watercourse, floodplain, wetland and adjacent allowances.

In addition, adjustments to the Site Plan are required, including relocating the parking and loading areas to have a greater visual buffer from public views. Additional detail regarding building materials and a landscape plan will be necessary at the Site Plan Application stage.

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The Applicant has submitted a Site Plan Amendment Application (DA-17-082) to construct a 1,955 sq m building, and a 12,400 sq m greenhouse. These matters will be reviewed in accordance with that application.

## **ALTERNATIVES FOR CONSIDERATION**

Should the applications be denied, the subject lands would remain as the current Agriculture (A1), (A1, 116) Zones and Conservation/Hazard Land – Rural (P7), (P7, 116) Zones in the City of Hamilton Zoning By-law 05-200, which permits, among other things:

- Maximum lot coverage of 20%;
- Agriculture uses including medical marijuana in buildings with a gross floor area not to exceed 2,000 sq m, and in existing buildings;
- Greenhouses not used for medical marijuana growing and harvesting to the maximum lot coverage of 70%;
- A single detached dwelling on a lot;
- Agricultural Research Operation secondary to agriculture; and,
- Agricultural Processing Establishment - Secondary to agriculture and limited to 500 sq m.

## **ALIGNMENT TO THE 2016 – 2025 STRATEGIC PLAN**

### **Community Engagement & Participation**

*Hamilton has an open, transparent and accessible approach to City government that engages with and empowers all citizens to be involved in their community.*

### **Economic Prosperity and Growth**

*Hamilton has a prosperous and diverse local economy where people have opportunities to grow and develop.*

### **Healthy and Safe Communities**

*Hamilton is a safe and supportive city where people are active, healthy, and have a high quality of life.*

### **Clean and Green**

*Hamilton is environmentally sustainable with a healthy balance of natural and urban spaces.*

### **Built Environment and Infrastructure**

*Hamilton is supported by state of the art infrastructure, transportation options, buildings and public spaces that create a dynamic City.*

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**Culture and Diversity**

*Hamilton is a thriving, vibrant place for arts, culture, and heritage where diversity and inclusivity are embraced and celebrated.*

**Our People and Performance**

*Hamiltonians have a high level of trust and confidence in their City government.*

**APPENDICES AND SCHEDULES ATTACHED**

Appendix “A” – Location Map

Appendix “B” – Draft Official Plan Amendment

Appendix “C” – Draft Zoning By-law Amendment

Appendix “D” – Proposed Site Plan

Appendix “E” – Proposed Building Elevations

Appendix “F” – Interpretation of Medical Marihuana Facilities in the Greenbelt Plan

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