



CITY OF HAMILTON
PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT
Planning Division

TO:	Chair and Members Planning Committee
COMMITTEE DATE:	January 15, 2019
SUBJECT/REPORT NO:	Application to Amend the City of Hamilton Zoning By-law No. 05-200 for Lands Located at 119 Highway No. 5 West, Flamborough (PED19003) (Ward 15)
WARD AFFECTED:	Ward 15
PREPARED BY:	Elyse Meneray 905-546-2424 Ext. 6360
SUBMITTED BY:	Steve Robichaud Director, Planning and Chief Planner Planning and Economic Development Department
SIGNATURE:	

RECOMMENDATION

That **Zoning By-law Amendment Application ZAR-18-043 by Richard Dean Raspberry, Kevin Mitchell Raspberry and Lois Leone Worrod (Owners)**, for a a modification to the Rural (A2) Zone to permit a 3,300 sq m farm product supply building for lands located at 119 Highway No. 5 West (Flamborough), as shown on Appendix “A” to Report PED19003, be **APPROVED** on the following basis:

- a) That the Draft By-law, attached as Appendix “B” to Report PED19003, which has been prepared in a form satisfactory to the City Solicitor, be enacted by City Council;
- b) That the proposed modification in zoning is consistent with the Provincial Policy Statement (PPS), conforms to the Greenbelt Plan (2017), and complies with the Rural Hamilton Official Plan.

EXECUTIVE SUMMARY

The Applicant has applied for a Zoning By-law Amendment Application for a modification to the Rural (A2) Zone to permit a 3,300 sq m farm product supply building for the southern portion of the lands located at 119 Highway No. 5 West as shown on Appendix “A” to Report PED19003. The proposed development conforms to all other regulations of the Rural (A2) Zone and will not require any further modifications.

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The Application has merit and can be supported because it is consistent with the Provincial Policy Statement (2014), conforms to the Greenbelt Plan (2017), and complies with the Rural Hamilton Official Plan. The proposal is considered to be compatible with and complementary to the existing and planned development in the immediate rural area.

Alternatives for Consideration – See Page 12

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 an application for a Zoning By-law Amendment.

HISTORICAL BACKGROUND

The subject property is located on the north side of Highway No. 5 West, north of Millgrove Side Road, south of Highway No. 6 North, adjacent to the Urban Boundary limits and is municipally known as 119 Highway No. 5 West, Flamborough (see Location Map attached as Appendix “A” to Report PED19003). The subject property has a total area of 35.71 ha and is bisected by Borer’s Creek, which separates the property into a northern and southern portion. The northern portion is 24.86 ha in size and the southern portion is 10.85 ha. The southern portion of the property contains an existing single detached dwelling and associated farming buildings. The Zoning By-law Amendment Application applies only to the southern 10.85 hectare portion. The remainder of the southern portion will be used for agriculture, while the entire northern portion will continue to be used for agriculture.

The Application is to modify the Rural (A2) Zone to permit a 3,300 sq m farm product supply building, whereas the Rural (A2) Zone only permits a 500 sq m farm product supply building. The proposal includes a two storey, 1,993 sq m farm product supply building and a 557 sq m storage building. The proposal will have a total of 61 parking spaces consisting of 18 standard parking spaces and 42 angled parking spaces.

The proposal will require a Site Plan Control Application to facilitate the development. The proposed concept plan and building elevations are shown in Appendix “C” to Report PED19003. The existing single detached dwelling and associated farm buildings are to remain on site.

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Chronology:

- August 16, 2018: Zoning By-law Amendment Application (ZAR-18-043) received.
- August 20, 2018: Zoning By-law Amendment Application (ZAR-18-043) deemed complete.
- August 22, 2018: Notice of Complete Application was sent to 29 property owners within 120 m of the subject lands.
- September 6, 2018: Public Notice Sign posted on site.
- November 28, 2018: Applicant held Public Open House for property owners within 150 m of the subject property.
- December 11, 2018: Public Notice Sign updated with date of Public Meeting.
- December 20, 2018: Circulation of the Notice of Public Meeting mailed to 29 property owners within 120 m of the subject property.

Details of Submitted Application:

- Owners:** Richard Dean Raspberry, Kevin Mitchell Raspberry and Lois Leon Worrod
- Applicant:** Vince Borgdorff (c/o WPE Equipment Ltd.)
- Agent:** Ed Fothergill Planning & Development Inc. (c/o Ed Fothergill)
- Location:** 119 Highway No. 5 West, Flamborough (see Appendix "A" to Report PED19003)

- Property Description:**
- Lot Frontage: 409.28 m (Highway No. 5 West)
- Lot Depth: ± 360.3 m
- Lot Area: 10.85 ha
- Servicing: No Municipal Services

EXISTING LAND USE AND ZONING:

	<u>Existing Land Use</u>	<u>Existing Zoning</u>
<u>Subject Property:</u>	Agriculture	Agriculture (A1) Zone and Rural (A2) Zone
<u>Surrounding Land Uses:</u>		
North	Agriculture	Agriculture (A1) Zone
South	Agriculture	Rural (A2) Zone
	Residential (Single Detached Dwellings)	Rural (A2) Zone
East	Industrial (Metrolinx), Vacant Land, Hickory Dickory Decks	General Business Park (M2) Zone, Prestige Business Park (M3) Zone, Prestige Business Park (M3, 431) Zone and General Business Park (M2, 389) Zone
West	Golf Course	Open Space (P4, 80) Zone

POLICY IMPLICATIONS AND LEGISLATED REQUIREMENTS

The Provincial Planning Policy Framework is established through the *Planning Act* (Section 3) and the Provincial Policy Statement (PPS 2014). The *Planning Act* requires that all municipal land use decisions affecting planning matters be consistent with the PPS.

The mechanism for the implementation of the Provincial plans and policies is through the Official Plan. Through the preparation, adoption and subsequent Ontario Municipal Board approval of the City of Hamilton Official Plans, the City of Hamilton has established the local policy framework for the implementation of the Provincial planning policy framework. As such, matters of provincial interest (e.g. efficiency of land use, balanced growth, environmental protection and sensitive land uses) are reviewed and discussed in the Official Plan analysis that follows.

Staff note the Cultural Heritage policies have not been updated within the RHOP in accordance with the PPS (2014). The following Policy of the PPS (2014) also applies:

Archaeology

“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.”

A Stage 1-2 (P389-0323-2018) archaeological report was submitted to the City and the Ministry of Tourism, Culture and Sport as part of the Zoning By-law Amendment Application. Staff have reviewed the report and agree with the report recommendations that temporary fencing or other mitigation measures acceptable to the MTCS be installed around P1 (AhGx-777), P2 (AhGx-779) and H1 (AhGx-778) and their protective buffers. Staff are requesting a copy of the approval letter from the Ministry when available. Staff note that if future development occurs in the areas of P1 (AhGx-777), P2 (AhGx-779), and H1 (AhGx-778) then a Stage 3 archaeological assessment will be required. Staff also caution the Applicant that further development on the site may require further archaeological work, as per the wording of the archaeological assessment.

The following condition will be implemented at the Site Plan Control Stage:

- That the Application erect temporary protectionary fencing around P1 (AhGx-777), P2 (AhGx-779) and H1 (AhGx-778), establishing a 20 m zone in which disturbance cannot take place and a 50 m zone (70 m in total) in which monitoring from a licensed archaeologist must take place prior to or during any soil disturbance. The Applicant must provide confirmation of this step and provide monitoring updates to the City of Hamilton through signed letters by a licensed archaeologist.

As the Application for a change in zoning complies with the Official Plan, and based on staff’s review of the proposal, it is staff’s opinion that the Application is:

- Consistent with Section 3 of the *Planning Act*;
- Consistent with the Provincial Policy Statement; and,
- Conforms to the Greenbelt Plan (2017).

Rural Hamilton Official Plan (RHOP)

The subject lands are identified as “Rural” on Schedule “D” – Rural Land Use Designations.

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

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- “D.4.1 Uses permitted in the Rural designation are limited to the uses permitted in Section D.2.0, Agriculture Designation of this Plan, other resource – based rural uses and institutional uses serving the rural community.
- 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;
 - c) The use shall be located where access is by a road capable of handling the traffic generated. Access to the site shall not create a traffic hazard due to inadequate sight lines or any other traffic hazard;
 - d) The use shall not negatively affect environmental features in accordance with section C.2.0, Natural Heritage System of this Plan; and,
 - e) Agricultural-related uses shall be subject to Site Plan approval to address appropriate setbacks, building size and location, parking, lighting, drainage, buffering, screening and landscaping, and any other matter.”

The Rural Hamilton Official Plan limits the permitted uses in the Rural Designation to the permitted uses in the Agricultural Designation and other resource based rural uses and institutional uses serving the rural community. As such, the Rural Designation permits Agricultural-related uses that are farm-related commercial and farm-related industrial uses that are small scale, produce products and services wholly and directly related to a farming operation, are required in close proximity to an agricultural use and are necessary to support agricultural uses.

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The function of a farm product supply dealer is to provide the necessary goods or materials used in agriculture, such as the storage of seeds and fertilizers and the repair and retail of farm equipment. The proposal is for a 3,300 sq m farm product supply building as part of the farm product supply dealer, which will provide farming equipment, generators, water pumps and tractor retail and repair services to the surrounding and immediate Rural Hamilton Area. The proposed development will produce products and services directly related to a farming use and provide the Hamilton farming community with the necessary supports needed to facilitate their farming operations.

The Rural Hamilton Official Plan defines small scale as a permitted agriculture-related or secondary use that is characterized by a size and intensity of activity that is clearly secondary to and does not negatively impact the predominant use of the lands for agricultural uses, and meets the maximum floor area, site coverage and other provisions of the Rural (A2) Zone. The Applicant is currently in the process of diversifying their business plan by transitioning to the retail and repair of agricultural equipment (tractors). In order to achieve this diversification, the company needs to expand their operations to accommodate the larger size requirements needed for the display, storage, retail and repair of agricultural equipment.

The proposed 3,300 sq m farm product supply building will have a total developable area of 1.97 ha or 0.05% lot coverage while the remaining 33.74 ha of the property will continue to be farmed. As only 0.05% of the subject lands will be developed for a farm product supply building, the proposed use can be considered secondary to the predominant agricultural operation.

The proposed development is situated entirely within the southern portion of the subject lands, contained to the west side of the parcel and will not negatively impact the existing agricultural operation as only 1.97 ha (0.05%) of farmland will be taken out of production. Although, the farm product supply building will be larger than what is permitted in the Rural (A2) Zone, the proposed development can be considered small scale as the development is clearly secondary to the existing agricultural operation, will not negatively affect the existing agricultural operation and conforms to all other regulations of the Rural (A2) Zone, including minimum lot area, front, side and rear yard setbacks, outdoor storage requirements and accessory retail requirements. Additionally, the development will be located in an area which will minimize the amount of farmland being removed from agricultural production and provide a necessary service to the Hamilton farming community.

The proposed development fronts onto Highway No. 5 West and is located adjacent to the Urban Boundary. As per MTO guidelines, the Applicant will be required to close the residential access and amalgamate the remaining accesses into one. MTO has reviewed the submitted Traffic Impact Study and advise that the access will be upgraded to MTO standards and be capable of handling the traffic generated by the

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proposal. Requirements for sight lines and any other traffic hazards will be addressed at the Site Plan Stage.

The proposed building envelope is located more than 30 m away from Borer's Creek. The Functional Servicing Report recommends the implementation of a dry pond for the collection of stormwater. This will control the quality and quantity of storm water outletting into Borer's Creek and establish a preventative measure for erosion and sediment control. As such, the proposed development will not have a negative effect on Borer's Creek.

This is an appropriate location for the proposal as it is for a farm-related commercial and farm-related industrial use that is compatible with the surrounding context and adjacent properties. The proposed building is oriented horizontally along Highway No. 5 West and screens the majority of the open storage and loading areas from the public realm. Additionally, the main entrance and office component are visually prominent from the streetline, including ample fenestration and complementary building materials. The proposal also includes a generous landscape strip along Highway No. 5 West and suitable landscape buffers along all remaining sides of the development. The landscape strips will include naturalized plantings and manicured planting beds with trees. These combined design characteristics will minimize the visual impact of the development on the rural landscape and help maintain the rural character of the area.

Therefore, the proposal complies with the RHOP.

City of Hamilton Zoning By-law 05-200

The subject property is traversed by Borer's Creek, dividing the property into a northern and southern portion. The Zoning By-law Amendment Application applies to the southern 10.85 ha portion of the property. The northern portion of the property is zoned Agriculture (A1) Zone and the southern portion of the property is zoned Rural (A2) Zone. The Rural (A2) Zone permits a range of agricultural uses and agricultural related uses. Permitted uses within the Rural (A2) Zone are abattoir, agriculture, agricultural processing establishment – stand alone, agricultural storage establishment, farm product supply dealer, kennel, livestock assembly point, residential care facility, secondary uses to agriculture, single detached dwelling and veterinary service – farm animal.

The Application is to modify the Rural (A2) Zone to permit a 3,300 sq m farm product supply building, whereas the Rural (A2) Zone only permits a 500 sq m farm product supply building. The Zoning By-law Application is required in order to facilitate the development of a new farm product supply building, which will provide farm equipment, generators, water pumps, tractor retail and repair services and other products for the immediate and surrounding Rural Hamilton Area. The proposed development complies

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with all other regulations of the Rural (A2) Zone and will not require any further modifications.

RELEVANT CONSULTATION

The following Departments / Agencies have no comments or objections:

- Alectra Utilities (formerly Horizon Utilities);
- Forestry and Horticulture, Public Works Department; and,
- Transit Planning & Infrastructure, Public Works Department.

The following Departments / Agencies have provided comments on the Application:

Corporate Assets and Strategic Planning Division (Public Works Department) have noted that the subject lands are ineligible for waste collection services and have provided their standard comments, which will be further reviewed at the Site Plan Control Stage.

Healthy Environments Division staff have advised that any existing well on the property must be properly decommissioned according to Regulation 903 under the *Ontario Water Resources Act* to protect the local aquifer, which is overseen by the Ministry of Environment, Conservation and Parks (MOECP). Additionally, the Healthy Environments Division advises that if a septic tank exists on the property that is decommissioned in the future, then the septic tank should be emptied by an MOECP licensed sewage hauler and then filled with soil to reduce the likelihood of a future safety hazard.

Transportation Planning Section (Planning and Economic Development Department) have reviewed the Traffic Impact Study (TIS) and Transportation Demand Management Study prepared by Paradigm Transportation Solutions Limited, dated June 2018. Transportation Planning have advised that the TIS is satisfactory for the Zoning By-law Amendment Stage, but further review may be required at the Site Plan Control Stage.

Source Water Protection (Public Works Department) have reviewed the Hydrogeological Report prepared by Peto MacCallum Ltd, dated July 2018. Source Water Protection staff have advised that the Hydrogeological Study required revisions to demonstrate that the septic system discharges will constitute an improvement to the property. A revised Hydrogeological Response Letter prepared by Peto MacCallum Ltd, was submitted on November 13, 2018 and reviewed by Source Water Protection. Staff have advised that the revised Hydrogeological Response Letter is satisfactory for the Zoning By-law Amendment Stage as nearby sampling and the change in use will likely

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show improvements to the property. Hamilton Water will require a revised Hydrogeological Report at the Site Plan Control Stage.

Hamilton Conservation Authority have reviewed the functional servicing report, erosion and grading plan, tree protection plan and site servicing plan. HCA have advised that the reviewed reports are satisfactory for the Zoning By-law Amendment Stage, but revisions will be required at the Site Plan Control Stage. They also note that the Applicant will need to obtain a permit and / or a letter of permission for the new development at the Site Plan Control Stage.

The Ministry of Transportation have advised that in principle they do not object to the proposed Zoning By-law Amendment Application; however the following conditions will be required at the Site Plan Control Stage:

1. That the City of Hamilton provide the Ministry of Transportation written confirmation that the proposed development and operation will be allowed on the property within the farmland / residential zoning according to the municipality's policy;
2. That the Owner / Applicant amalgamate both entrances by closure of the Highway No. 5 West existing residential entrance and upgrade the existing filed entrance to the higher usage, to the satisfaction of the Ministry of Transportation; and,
3. That the Owner / Applicant obtain an MTO Building and Land Use Permit prior to any construction, to the satisfaction of the Ministry of Transportation.

For information purposes, MTO has also noted that according to their Highway Access Management Guide the first principle is one lot – one access connection to the ministry highway. The current lot of record has a residential access on the east side of the lot and a field access located in the middle of the existing frontage. MTO will only allow one entrance to the Ministry highway for the entire lot of record. Furthermore, the subject lands are located within the Ministry's permit control area and the future development will require the Ministry's review and approval.

Public Consultation

In accordance with the provisions of the *Planning Act* and Council's Public Participation Policy, a Notice of Complete Application and Preliminary Circulation was circulated to 29 property owners within 120 m of the subject lands on August 22, 2018. A Public Notice sign was also posted on the property on September 6, 2018 and updated on December 11, 2018 with the date of the Public Meeting. Notice of the statutory public meeting was mailed out to 29 property owners on December 20, 2018.

To date, no correspondence has been received for the Application.

Public Consultation Strategy

As per the statutory requirements of the *Planning Act*, the Applicant submitted a Public Consultation Strategy which identified their intention to have a Public Open House. The Public Open House is scheduled for November 28, 2018 and notice will be sent to property owners within 150 m of the subject property.

ANALYSIS AND RATIONALE FOR RECOMMENDATION

1. The proposed Zoning By-law Amendment Application has merit and can be supported for the following reasons:
 - (i) It is consistent with the Provincial Policy Statement and conforms to the Greenbelt Plan (2017);
 - (ii) It complies with the Rural policies of the Rural Hamilton Official Plan; and,
 - (iii) That the proposed change in zoning is compatible with the existing and planned development in the immediate rural area.

2. **Zoning By-law Amendment**

The Application for the Zoning By-law Amendment is to modify the Rural (A2) Zone to permit a maximum 3,300 sq m farm product supply building. A farm product supply building is a permitted use within the Rural (A2) Zone, but is limited to a maximum gross floor area of 500 sq m. The proposed development will provide farm equipment, generators, water pumps, tractor retail and repair services and other products for the immediate and surrounding Rural Hamilton Area. The proposal can be defined as small scale as the development is secondary to the existing agricultural operation with 0.05% of the property being developed for a farm product supply building and 99.95% of the property is being used for agriculture. The proposal will not negatively affect the existing agricultural operation as only 0.05% of farmland is being removed from production and the building will be situated in an area that will minimize the impact on the property. Furthermore, the proposal conforms to all other regulations of the Rural (A2) Zone, including minimum lot area, front, side and rear yard setbacks, outdoor storage requirements and accessory retail requirements. Therefore, staff are supportive of the amendment because the proposal is providing a use that is necessary to support agriculture, is small scale, will be located in an area that will minimize the amount of land being removed from agricultural production and will not negatively impact the existing agricultural operation.

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3. A Tree Protection Plan was submitted as part of the Zoning By-law Amendment Application. Revisions to the Tree Protection Plan will be required as part of the Site Plan Control Application.
4. As part of the Application submission, the Applicant submitted a Functional Servicing Report, site servicing plan and grading plan. Development Engineering staff have advised that the Functional Servicing Report, site servicing plan and grading plan are satisfactory for the purposes of the Zoning By-law Amendment Application, however, a revised Functional Servicing Report, site servicing plan and grading plan will be required at the Site Plan Control Stage.

ALTERNATIVES FOR CONSIDERATION

Should the Application be denied, the subject property would remain Rural (A2) Zone in the City of Hamilton Zoning By-law No. 05-200 and could be developed in accordance with the Rural (A2) Zoning By-law regulations, which permits a 500 sq m farm product supply building.

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.

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.

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” – Zoning By-law Amendment to By-law No. 05-200

Appendix “C” – Concept Plan and Building Elevations

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