



CITY OF HAMILTON
PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT
Planning Division

TO:	Chair and Members Planning Committee
COMMITTEE DATE:	May 14, 2019
SUBJECT/REPORT NO:	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 1633, 1649 and 1653 Highway No. 6 North, Flamborough (PED19076) (Ward 13)
WARD(S) AFFECTED:	Ward 13
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

- (a) That **Amended Rural Hamilton Official Plan Amendment Application RHOPA-17-038 by 1685486 Ontario Inc. (Owner)**, to establish a Site Specific Policy to permit the expansion of a Cannabis Growing and Harvesting Facility having a maximum gross floor area of 9,505 sq m consisting of 6,305 sq m of growing and harvesting, 600 sq m of agricultural related uses and 2,600 sq m of accessory uses, for portions of the lands located at 1633 and 1649 Highway No. 6 North, Flamborough, as shown on Appendix "A" to Report PED19076, be **APPROVED** on the following basis:
- (i) That the draft Official Plan Amendment, attached as Appendix "B" to Report PED19076, 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);
 - (iii) That in the event that RHOPA 21 comes into force and effect prior to the adoption of the draft Official Plan Amendment, attached as Appendix "B" to

Report PED19076, the definition of a Cannabis Growing and Harvesting Facility shall be removed.

- (b) That **Amended Zoning By-law Amendment Application ZAC-17-081 by 1685486 Ontario Inc. (Owner)**, for a modification to the Rural (A2) Zone to permit the expansion of a Cannabis Growing and Harvesting Facility having a maximum gross floor area of 9,505 sq m consisting of 6,305 sq m of growing, 600 sq m of agricultural related uses and 2,600 sq m of accessory uses, and a modification to the Conservation / Hazard Lands – Rural (P7) Zone to permit an office use in conjunction with the Cannabis Growing and Harvesting Facility and to prohibit a Cannabis Growing and Harvesting Facility, a Single Detached Dwelling, a Residential Care Facility, a Farm Labour Residence and an Agricultural Processing Establishment – Secondary within the existing building and prohibit expansions of the existing single detached dwelling, for portions of the lands located at 1633, 1649 and 1653 Highway No. 6 North, Flamborough, as shown on Appendix “A” to Report PED19076, be **APPROVED** on the following basis:

- (i) That the draft By-law, attached as Appendix “C” to Report PED19076, which has been prepared in a form satisfactory to the City Solicitor, be enacted by City Council;
- (ii) That in the event that By-law 18-266 comes into effect prior to the passing of the draft By-law, attached as Appendix “C” to Report PED19076, the definition of the Cannabis Growing and Harvesting Facility shall be removed;
- (iii) That the amending By-law apply the Holding Provisions of Section 36(1) of the *Planning Act*, R.S.O. 1990 to the subject property by introducing the Holding symbol ‘H111’ to the proposed Rural (A2, 691) Zone.

The Holding Provision “H111” is to be removed to allow the development of the Cannabis Growing and Harvesting Facility, conditional upon:

- 1. The Owner submitting and receiving approval of an Odour Impact Assessment and Light Impact Assessment, to the satisfaction of the Director of Planning and Chief Planner.
- (iv) 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 the City of Hamilton Zoning By-law No. 05-200 for lands located at 1633, 1649 and 1653 Highway No. 6 North to permit the expansion of the existing Cannabis Growing and Harvesting Facility.

The purpose of the RHOP Amendment application, as amended, is to expand the existing Cannabis Growing and Harvesting Facility to a maximum gross floor area of 9,505 sq. m, consisting of 6,305 sq m of growing, 600 sq m of agricultural related uses and 2,600 sq m of accessory uses and to define a Cannabis Growing and Harvesting Facility, on a portion of the lands, as shown on Appendix “A” to Report PED19076.

The purpose of the Zoning By-law Amendment application, as amended, is to rezone a portion of the subject lands to a modified Rural (A2) Zone and a modified Conservation / Hazard Land – Rural (P7) Zone to permit the expansion of the Cannabis Growing and Harvesting Facility to a maximum gross floor area of 9,505 sq m and to recognize an existing single detached dwelling. The site specific Rural (A2) Zone will include the following provisions:

- An expansion to the existing facility within a new greenhouse structure with a maximum gross floor area of 9,505 sq. m, containing 6,305 sq m of growing, 600 sq m for an Agricultural Processing Establishment – Secondary and 2,600 sq m of accessory uses (office, packaging, testing, storage, internal corridors and shipping and loading);
- A minimum setback of 125 m from the existing single detached dwelling (1653 Highway No. 6 North);
- A maximum lot coverage of 37% for all buildings and structures on portions of the subject lands;
- A maximum gross floor area of 600 sq m for the all buildings and areas devoted to an Agricultural Processing Establishment – Secondary;
- A minimum 1.4 m setback from the (P7) and (P8) Zone Boundary; and,
- Prohibit any expansions to the existing single detached dwelling located at 1653 Highway No. 6 North.

The site specific Conservation / Hazard Land - Rural (P7) Zone will include the following provisions:

- Permit an accessory office use in conjunction with the Cannabis Growing and Harvesting Facility for the existing building located at 1633 Highway No. 6 North;
- Add the permitted uses of the Rural (A2) Zone for the existing building located at 1633 Highway No. 6 North;
- Prohibit a Cannabis Growing and Harvesting Facility a Single Detached Dwelling, a Residential Care Facility, a Farm Labour Residence and an Agricultural Processing Establishment – Secondary within the existing building located at 1633 Highway No. 6 North; and,
- Prohibit any expansions to the existing building (formerly the single detached dwelling) located at 1633 Highway No. 6 North.

The lands were subject to a recent RHOPA and Zoning By-law Amendment (CI-18-H) which changed medical marihuana to cannabis, required a 150 m separation distance from a sensitive land use and updated the requirements of a complete application to include an Odour Impact Assessment, Light Impact Assessment and Traffic Impact Study. The By-laws are currently under appeal. Since the applications predated the new regulations and it is unknown at the time of writing this report when the appeals will be resolved, additional amendments are required including a 125 m setback from a sensitive land use and to recognize the definition of a Cannabis Growing and Harvesting Facility.

A Holding Provision will also be applied to the subject lands until such time as the applicant has submitted and received approval of an Odour Impact Assessment and Light Impact Assessment.

In light of the appeal, the Applicant has submitted a request to revise their proposal from a Medical Marihuana Growing and Harvesting Facility to a Cannabis Growing and Harvesting Facility to reflect the changes adopted by Council. As the applications are now for a Cannabis Growing and Harvesting Facility, this term will be used throughout the report.

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

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

Alternatives for Consideration – See Page 36

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

1.0 Former Use of Site

No. 1649 (previously 1647) Highway No. 6 North was previously used as an automotive salvage yard with PCB storage on site and is currently used as a solar generation site and a Cannabis Growing and Harvesting Facility. In March, 2008, a Provincial Officers Order was issued by the Ministry of Environment Conservation and Parks (MOECP) to remove waste materials, tires and demolition waste and was complied with in late 2008. On October 16, 2009 the MOCEP issued a decommissioning letter for the PCB storage and removed the site from the Provincial PCB inventory. Although, extensive remediation has occurred on site, the previous use of the property has degraded the soil and rendered it infertile.

The former salvage yard was owned by Bulk Steel and Salvage Limited and the associated warehouse and office building was constructed in 1979. In 2008, the warehouse and office building suffered fire damage and was rebuilt. A two storey addition to the existing warehouse and office building was added in 2014 and was converted to the growing and harvesting for medical marihuana.

No. 1633 Highway No. 6 North was a residential dwelling built in the 1940s and remains a residential use. Records indicate that the single detached dwelling at No. 1653 Highway No. 6 North was built prior to 1989 and was the original house associated with the salvage yard operation.

2.0 Subject Lands

The subject lands are located on the west side of Highway No. 6 North, at the intersection of Highway No. 6 North and Concession 10 Road East, Flamborough, and are municipally known as 1633, 1649 and 1653 Highway No. 6 North (see Location Map attached as Appendix “A” to Report PED19076). Through Site Plan Control Application (DAR-17-182), the proposed Cannabis Growing and Harvesting Facility will be assigned the address of 1649 Highway No. 6 North. The subject lands are approximately 7.2 ha in size, however due to significant natural heritage constraints and existing structures on site the total developable area for the proposal is limited to 2.5 ha.

The site is bounded by Highway No. 6 North to the east with a Significant Woodland as a buffer, agricultural uses and Bronte Creek to the south, a kennel, agricultural uses and wetlands to the north and wetlands and woodlands to the west. Regional Tractor Sales and Servicing Limited is located adjacent to the property, across Highway No. 6 North.

The subject lands contain areas of the Beverly Swamp Significant Wetland Complex, the Strabane North Wetlands Environmentally Sensitive Area (ESA), Significant Woodlands and is traversed by a tributary of Grindstone Creek. Therefore, the entirety of the property is regulated by Conservation Halton.

1633, 1649 and 1653 Highway No. 6 North have become merged on title, and are currently in agricultural use by the owner, who is a federally licensed medical marihuana producer. Table 1 summarizes the existing uses for each address on the subject lands.

Table 1: Existing Uses on Site

Address	Use
1633 Highway No. 6 North	Existing 210 sq m single detached dwelling
1649 Highway No. 6 North	Existing 880 sq m Cannabis Growing and Harvesting Facility
	33 Standalone solar panels
1653 Highway No. 6 North	Existing 290 sq m single detached dwelling
	Existing access off of Highway No. 6 North to the single detached dwelling and facility

3.0 Proposed Development

The proposal is to permit an 8,625 sq m expansion to the existing 880 sq m facility for the growing and harvesting of cannabis. The new expansion will be attached to the existing Cannabis Growing and Harvesting Facility and contain a combined total of

5,570 sq m of growing, 650 sq m of enclosed walkways which join the two buildings, 415 sq m devoted to the processing of cannabis oil and 2,160 sq m of accessory uses. The building area statistics for the existing Cannabis Growing and Harvesting Facility and the proposed Cannabis Growing and Harvesting Greenhouse can be found below in Tables 2 and 3.

Table 2: Building Area Statistics for the Existing Cannabis Growing and Harvesting Facility

Existing Cannabis Growing and Harvesting Facility		
Type of Use	Existing Use	Existing Size
Growing	Growing	555 m ²
Agriculture Related	Oil Production	185 m ²
Accessory	Office	140 m ²
TOTAL:		880 m ²

Table 3: Building Area Statistics for the Proposed Cannabis Growing and Harvesting Facility

Proposed Cannabis Growing and Harvesting Facility		
Type of Use	Proposed Use	Proposed Size
Growing	Growing	5,750 m ²
Agriculture Related	Oil Production (Agricultural Processing)	415 m ²
Accessory	Office (within the facility)	100 m ²
	Office (1633 Hwy 6)	210 m ²
	Packaging	200 m ²
	Testing (Agricultural Research)	200 m ²
	Storage	200 m ²
	Shipping and Loading	900 m ²
	Internal Corridors	650 m ²
TOTAL:		8,625 m ²

3.1 Original Applications and Staff Recommendations

The submitted RHOP Amendment and Zoning By-law Amendment applications proposed to continue the Salvage Yard operation use, the addition of a Private Power Generation Facility on the property, several accessory uses to the Cannabis Growing and Harvesting Facility and amendments to the RHOP and the Rural (A2) Zone regulations. Many of the requested uses and accessory uses are already permitted, including:

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- Agricultural Processing Establishment, Standalone;
- Agricultural Processing Establishment, Secondary;
- Service and office buildings accessory to cannabis growing and harvesting operations; and,
- Agricultural Research Operation.

Staff amended the applications by limiting the total lot coverage to 37% and permitting a total gross floor area of 9,505 sq m for the Cannabis Growing and Harvesting Facility. Table 4 provides a summary of the requested uses from the original applications and Table 5 provides a summary of the original requested amendments and additional amendments recommended by staff. These amendments will be discussed in greater detail in the Analysis and Rationale section of the Report.

Table 4: Proposed Uses Requested by the Applicant and Staff Recommendations

Proposed Uses Requested by the Applicant	Staff Recommendations
Salvage Yard	Not supportive of proposed use
Medical Clinic	Not supportive of proposed use
Education Establishment	Uses are not permitted in the Rural Hamilton Official Plan, but are recognized and permitted through an Agricultural Research Operation.
Biotechnical Establishment	
Science and Technology Establishment	
Research and Technology Establishment	
Laboratory	

Table 5: Proposed Amendments Requested by the Applicant and Staff Recommendations

Proposed Amendments Requested by the Applicant	Staff Recommendations
Permit a 10,000 sq m Cannabis Growing and Harvesting Facility	Permit a 9,505 sq m Cannabis Growing and Harvesting Facility, including accessory and agricultural processing – secondary uses.
Two dwellings on one lot	One dwelling on the property and one dwelling converted to an office
A 1.0 m setback for all buildings and structures to the boundary of a (P7)	A 1.4 m setback for all buildings and structures related to the Cannabis Growing and

and (P8) Zone	Harvesting Facility to the boundary of a (P7) and (P8) Zone.
A minimum lot size of 7.2 ha	Approved through Committee of Adjustment application FL/A-18:291.
Additional Staff Recommendations	A minimum setback of 125 m from a sensitive land use.
	Maximum lot coverage of 37%.
	Maximum gross floor area of 600 sq m for an Agricultural Processing Establishment – Secondary (included in overall GFA of site).
	Prohibit the expansion of the existing single detached dwelling located at 1653 Highway No. 6 North.
	Permit an office use in conjunction with the Cannabis Growing and Harvesting Facility for the existing building located at 1633 Highway No. 6 North.
	Prohibit a Cannabis Growing and Harvesting Facility and a Dwelling Unit within the existing building located at 1633 Highway No. 6 North.

3.1 City Initiative CI-18-H to the Official Plans and Zoning By-law No. 05-200 relating to Cannabis Growing and Harvesting Facilities, Aquaponics and Greenhouses

In September, 2018, City Council adopted Urban Hamilton Official Plan Amendment 112 (By-law No. 18-264), Rural Hamilton Official Plan Amendment 21 (By-law No. 18-265) and Zoning By-law No. 18-266 to rename a Medical Marihuana Growing and Harvesting facility to a Cannabis Growing and Harvesting Facility, require the submission of odour, light, and traffic studies and establish a 150 m setback from a sensitive land use to a Cannabis Growing and Harvesting Facility. The amendments to the Rural Hamilton Official Plan and Zoning By-law No. 05-200 were appealed to the Local Planning Appeal Tribunal (LPAT), and accordingly, are not final and binding.

3.2 Site Plan Application

The Applicant has also submitted a Site Plan Control application (DAR-17-182) to construct one greenhouse with a gross floor area of 8,364 sq m. On April 23, 2018, Conservation Halton informed staff, that the Applicant had started constructing the facility without a building permit from the City of Hamilton or a fill permit from Conservation Halton. On April 25, 2018, the City of Hamilton issued a stop work order and Conservation Halton issued a Compliance Agreement. Through this process, the

Applicant also submitted a Minor Variance application (FL/A-18:291) on November 15, 2018 to permit a minimum lot size of 7.2 hectares and a minimum 1.4 m setback from a (P7) and (P8) Zone for a greenhouse, which became final and binding on December 5, 2018.

3.3 Required Information

Staff, MTO and Conservation Halton reviewed the Official Plan Amendment, Zoning By-law Amendment and Site Plan Control applications and identified all the required materials needed for their review. The Site Plan Control application was reviewed simultaneously with the Official Plan Amendment and Zoning By-law Amendment applications as they contained the same information. Table 6 provides a summary of all the materials reviewed for the Official Plan Amendment, Zoning By-law Amendment and Site Plan Control applications and their status.

Table 6: Official Plan Amendment, Zoning By-law Amendment and Site Plan Control Application Materials

Department / Agency	Materials Requested	Status
MTO	Traffic Impact Study	Approved February 4, 2019 through the RHOPA and ZBA applications
	Drainage Report	
	Grading Plan	
	MTO Land Use Permit	Required through Site Plan; still outstanding
Conservation Halton and Natural Heritage	Environmental Impact Study	Approved through the RHOPA and ZBA applications, mitigation measures required through Site Plan
	Hydrogeological Study	Approved through the RHOPA and ZBA applications
	Grading and Drainage Plan	Approved through the RHOPA and ZBA applications; still outstanding for the Site Plan
	Erosion and Siltation Control Plan	Approved August 14, 2018 through Site Plan
	Stormwater Management Plan	Approved through the RHOPA and ZBA applications; still outstanding for the Site Plan
	Tree Protection Plan	Approved July 17, 2018 through the Site Plan
	Landscape Plan	Approved through the RHOPA and ZBA applications; still outstanding for the Site

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		Plan
Conservation Halton	Compliance Agreement	Approved July 24, 2018 through the Site Plan
Natural Heritage	Invasive Species Control Plan	Remains outstanding, will be implemented through the Landscape Plan
Source Water Protection	Hydrogeological Study	Approved through the RHOPA and ZBA applications; will be approved once Monitoring Agreement is finalized through the Site Plan
Development Engineering	Grading and Drainage Plan	Approved October 5, 2018 through the Site Plan
	Erosion and Siltation Control Plan	Approved August 8, 2018 through the Site Plan
	Stormwater Management Report	Approved October 5, 2018 through the Site Plan
Development Planning	Elevations	Approved June 3, 2018 through the Site Plan
	Site Lighting Design	Approved June 3, 2018 through the Site Plan
	Site Plan	Remains outstanding
	Archaeological Study	No longer required
	Planning Justification Report	Reviewed by staff for application
	Public Consultation Strategy	
	Survey	
	Odour and Dust Assessment	Required through RHOPA 21
	Light Impact Assessment	
	Traffic Impact Study	Not required as site is located within the MTO regulated area

The requirements for an Odour Impact Assessment and Light Impact Assessment will be discussed in greater detail in the Analysis and Rationale section of the Report.

4.0 Chronology

<u>November 9, 2017:</u>	Rural Hamilton Official Plan Amendment RHOPA-17-038 and Zoning By-law Amendment ZAC-17-081 applications received.
<u>December 8, 2017:</u>	Rural Hamilton Official Plan Amendment RHOPA-17-038 and Zoning By-law Amendment ZAC-17-081 applications deemed incomplete.
<u>February 1, 2018:</u>	Rural Hamilton Official Plan Amendment RHOPA-17-038 and Zoning By-law Amendment ZAC-17-081 applications deemed complete.
<u>February 8, 2018:</u>	Notice of Complete Application and Preliminary Circulation sent to 29 property owners within 120 m of the subject lands.
<u>February 17, 2018:</u>	Public Notice sign installed on subject lands.
<u>April 17, 2019:</u>	Public Notice Sign updated with Public Meeting date.
<u>April 26, 2019:</u>	Notice of Public Meeting sent to 29 property owners within 120 m of the subject lands.

5.0 Details of Submitted Applications

<u>Agent:</u>	Bennett Jones LLP (c/o Andrew Jeanrie)
<u>Owner / Applicant:</u>	1685486 Ontario Inc.
<u>Location:</u>	1633, 1649 and 1653 Highway No. 6 North
<u>Property Size:</u>	<u>Frontage:</u> +/- 299.68 m <u>Depth:</u> +/- 137.45 m <u>Area:</u> +/- 71,629.36 sq m (7.16 ha)
<u>Services:</u>	Private Services

6.0 EXISTING LAND USE AND ZONING

	<u>Existing Land Use</u>	<u>Existing Zoning</u>
<u>Subject Property:</u>	Agriculture (Cannabis Facility)	Rural (A2) Zone, Conservation / Hazard Land - Rural (P7) Zone and Conservation / Hazard Land – Rural (P8) Zone
<u>Surrounding Land Uses:</u>		
North	Agriculture	Rural (A2) Zone
South	Agriculture	Rural (A2) Zone, Conservation / Hazard Land – Rural (P7) Zone and Conservation / Hazard Land – Rural (P8) Zone
East	Agriculture, Tractor Dealership	Rural (A2) Zone and Existing Rural Commercial (E1) Zone
West	Vacant Land, Provincially Significant Woodlot and Provincially Significant Wetland	Conservation / Hazard Land – Rural (P7) Zone and Conservation / Hazard Land – Rural (P8) Zone

POLICY IMPLICATIONS AND LEGISLATED REQUIREMENTS

1.0 Greenbelt Plan (2017)

The subject lands are designated 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*, *agricultural-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.”

The growing and harvesting of cannabis is recognized as an agricultural use, which is permitted and promoted within 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 600 sq m contained entirely within the proposed development and is secondary to the primary agricultural use. Therefore, the use is compatible with and will not hinder the surrounding agricultural and commercial uses.

- “3.2.2.1 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.
- 3.2.2.2 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 For lands within a key natural heritage feature or a key hydrologic feature in the Protected Countryside, the following policies shall apply:
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 m measured from the outside boundary of the key natural heritage feature or key hydrologic feature.
 5. A proposal for new development or site alteration within 120 m of a key natural heritage feature within the Natural Heritage System or a key hydrologic feature anywhere within the Protected Countryside requires a natural heritage evaluation or a hydrological evaluation which identifies a vegetation protection zone which:
 - a) Is of sufficient width to protect the key natural heritage feature or key hydrologic feature and its functions from the impacts of the proposed change and associated activities that may occur before, during and after construction and, where possible, restore or enhance the feature and / or its functions; and,
 - b) Is established to achieve and be maintained as natural self-sustaining vegetation.”

The subject lands contain areas of the Beverly Swamp Significant Wetland Complex, the Strabane North Wetlands Environmentally Sensitive Area (ESA), Significant Woodlands and is traversed by a tributary of Grindstone Creek. An Environmental Impact Study was submitted with the applications recommending reduced vegetation

protection zones to the Provincially Significant Wetland and Significant Woodlands. Conservation Halton and staff have reviewed the EIS and are supportive of the reduced vegetation protection zones for the Provincially Significant Wetland and Significant Woodlands. These matters will be discussed in greater detail in the Natural Heritage Policy Analysis section of the Report.

The proposal conforms 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 the rural area of Hamilton.

The proposal conforms to the Greenbelt Plan (2017).

1.1 Provincial Policy Statement (2014)

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.

“1.1.4.1 Healthy, integrated and viable *rural areas* should be supported by:

- (a) building upon rural character, and leveraging rural amenities and assets; and,
- (f) promoting diversification of the economic base and employment opportunities through goods and services, including value-added products and the sustainable management of resources.

1.1.5.4 Development that is compatible with the rural landscape and can be sustained by rural service levels should be promoted.

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.”

As cannabis is considered a crop and an agricultural use and the proposal is for the growing and harvesting of cannabis within a greenhouse structure, the applications are consistent with the 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 cannabis into oils is a value-added agricultural product. These applications propose that the area for the processing of cannabis into cannabis oil will be 600 sq. m, and can be considered secondary, and related to the primary agricultural use of growing and harvesting cannabis. Secondary agricultural related processing uses are permitted as-of-right in the RHOP and Rural (A2) Zone in Zoning By-law No. 05-200, with a size limit of 500 sq. m.

“3.2.2 Sites with contaminants in land or water shall be assessed and remediated as necessary prior to any activity on the site associated with the proposed use such that there will be no *adverse effects*.”

Through the Ministry of Environment Conservation and Parks (MOECP), Ontario Regulation 153/04 requires property owners who want to change the use of a property to a new use that is more sensitive than the previous use, to file a Record of Site Condition on the Environmental Site Registry. The subject lands previously operated as a salvage yard under the former Town of Flamborough and were rezoned in 2015 as part of the Citywide Rural Rezoning.

Currently the site contains an existing 880 sq m Cannabis Growing and Harvesting Facility, 33 standalone solar panels and two single detached dwellings; the northern house is currently vacant and the southern house will be used as an office for the facility. As the applications will not be changing the use of the subject property and the cannabis facility is a permitted use in the Rural (A2) Zone, a Record of Site Condition is not required.

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

2.0 Rural Hamilton Official Plan (RHOP)

These lands are designated as “Rural” on Schedule ‘D’ – Rural Land Use Designations of the RHOP. The following policies, among others, are applicable to the proposal.

“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.2.1.1.4 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 2000 square metres;
- 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, setbacks, drainage and any other matters.”

The RHOP 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 a cannabis growing and harvesting facility. Cannabis has been recognized as an agricultural product by staff and consider it appropriate to give consideration to a limited increase of the maximum gross floor area for cannabis growing and harvesting on portions of the subject lands. The increased gross floor area will be discussed in greater detail in the Analysis and Rationale section of the Report.

“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.”

As discussed in the Greenbelt Plan analysis, the processing into cannabis oil is considered an agricultural related use. The area for the processing of cannabis oil will be 600 sq m and will be integrated within the new and existing buildings and structures, minimizing the land removed from agricultural production.

The proposed 8,625 sq m structure is adjoined to the existing 880 sq m cannabis facility. The building or structure for growing and harvesting of cannabis is located closest to the public right of way at a distance of 100 m and surrounded by woodlands. The processing of cannabis into cannabis oil is permitted as an agricultural related 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.

Natural Heritage

Based on mapping within Volume 1 of the RHOP (Schedule B Natural Heritage System), the majority of the property contains natural heritage features (Core Area, Greenbelt Protected Countryside and Greenbelt Natural Heritage System). Schedule B-2, B-4, B-6 and B-8 further classify these features as Provincially Significant Woodlands, Provincially Significant Wetlands, Key Hydrologic Feature – Stream and a Local Natural Area - Environmentally Significant Area. There are two Significant Woodlands surrounding the proposed development at the northeast portion of the subject lands, bordering Highway No. 6 North, and the southwest portion of the subject lands. There is a Provincially Significant Wetland, known as Beverly Swamp at the northwest of the subject lands and Schedule B-8 identifies a tributary of Grindstone Creek.

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

Natural Heritage System – Core Areas

- “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.2.3.4 New development or site alteration shall not be permitted within provincially significant wetlands, significant coastal wetlands, or significant habitat of threatened or endangered species, except in accordance with applicable provincial and federal regulations with respect to significant habitat of threatened or endangered species.

- C.2.4.2 New development or site alteration shall not be permitted within a key natural heritage feature within the Greenbelt Natural Heritage System or a key hydrologic feature anywhere in the Protected Countryside, including any associated vegetation protection zone. However, new development or site alteration proposed adjacent to (within 120 m of) a key natural heritage feature within the Greenbelt Natural Heritage System or a key hydrologic feature anywhere in the Protected Countryside requires an Environmental Impact Study which identifies a vegetation protection zone, according to the requirements in Sections C.2.4.10, C.2.4.11, C.2.4.12, C.2.4.13 and C.2.4.14.
- C.2.4.3 New buildings or structures for agriculture, agriculture-related and secondary uses are subject to policies in Sections C.2.4.1, C.2.4.2, C.2.4.10 and C.2.4.13.
- C.2.4.6 New development or site alteration subject to Sections C.2.4.1, C.2.4.2, C.2.4.3, C.2.4.5, C.2.4.7, C.2.4.8 and C.2.4.9 requires, prior to approval, the submission and acceptance of an Environmental Impact Statement, which demonstrates to the satisfaction of the City in consultation with the relevant Conservation Authority that:
- a) there shall be no negative impacts on the Core Areas of their ecological functions;
 - b) connectivity between Core Areas shall be maintained, or where possible, enhanced for the movement of surface and ground water, plants and wildlife across the landscape;
 - c) the removal of other natural features shall be avoided or minimized by the planning and design of the proposed use or site alteration wherever possible; and,
 - d) the disturbed area of a site shall not exceed 25 percent of the total developable area, except for golf courses, where permitted, for which the disturbed area shall not exceed 40 percent of the site. Impervious surfaces to be established in such disturbed areas shall not exceed 10 percent of the total developable area.
- C.2.4.9 New development and site alteration within the Protected Countryside of the Greenbelt Area that is proposed to take place within or adjacent to any other Core Area identified on Schedule B – Natural Heritage System, through a consent, Plan of Subdivision, Zoning By-law, Site Plan approval, Official Plan

amendment or Site Alteration By-law permit shall require an Environmental Impact Statement in accordance with Sections C.2.4.6 of this Plan.

Vegetation Protection Zones

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.2.4.11 Where vegetation protection zones have not been specified by watershed and sub-watershed plans, Secondary or Rural Settlement Area Plan policies, Environmental Assessments and other studies, the following minimum vegetation protection zone width objective shall be evaluated and addressed by Environmental Impact Statements:

- a) Permanent and intermittent streams: 30 m vegetation protection zone on each side of the watercourse, measured from beyond the stable top of bank;
- b) Wetlands: 30-m vegetation protection zone. The Environmental Impact Statement shall also take into consideration adjacent upland habitat that is required by wetland species for breeding, foraging, dispersal, and other life processes; and,
- c) Significant Woodlands: a minimum 30-m vegetation protection zone measured from the drip line of trees at the woodlands edge;

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-m 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-m vegetation protection zone from a key natural 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-sustaining vegetation, if the land is, and will continue to be, used for agricultural purposes.”

The subject lands contain areas of the Beverly Swamp Significant Wetland Complex, the Strabane North Wetlands Environmentally Sensitive Area (ESA), Significant Woodlands and is traversed by a tributary of Grindstone Creek. Together with Conservation Halton, the City of Hamilton undertook a refinement of the boundaries related to the unevaluated wetlands and the dripline of the Significant Woodlands. This work informed the Environmental Impact Study submitted with the applications, entitled Scoped Environmental Impact Study (November 2, 2017) and the Hydrogeological Study entitled Hydrogeological Study – 2017 Update (December 15, 2017).

Policy C.2.4.2 requires the submission of an environmental evaluation or hydrogeological evaluation for new development or site alteration within 120 m of a key natural heritage feature within the Natural Heritage System or key hydrologic feature anywhere within the Protected Countryside to identify a sufficient vegetation protection zone (VPZ). Furthermore, policy C.2.4.11b) c) requires a minimum VPZ of 30 m from a Provincially Significant Wetland (PSW) and Significant Woodlands, unless a reduced buffer can be adequately justified through an environmental evaluation. The western portion of the proposed development maintains a varying 20-30 m VPZ from the Provincially Significant Wetland and Significant Woodland, which staff support as the site has been significantly disturbed from previous and existing uses of the property and naturalized plantings are proposed within the VPZ to mitigate impacts from the proposed development. On the eastern portion of the proposed development, by the conifer plantation, the proposed VPZs range from 1.44 to 10 m wide as shown on Appendix “E” to Report PED19076. Conservation Halton and staff have reviewed the Scoped Environmental Impact Study and are supportive of the reduced VPZs for the Provincially Significant Wetland and Woodland for the following reasons:

- The site contains significant areas of disturbance from the previous and existing uses of the property;
- The proposed vegetation protection zones contain potentially contaminated fill and materials; Conservation Halton and staff have recommended that the VPZs not be widened to accommodate the larger VPZs, as the area should not be disturbed and is not capable of growing naturalized vegetation;
- The habitat surrounding the dripline of the woodlands does not contain any species at risk or sensitive natural features; and,

- The following mitigation measures will be implemented through the Site Plan application to protect the sensitive natural features on site:
 - Bird Friendly Design to reduce bird collisions with the glass of the greenhouses;
 - Black-out curtains for all greenhouses, that will remain closed overnight to reduce light trespass;
 - Exterior lights to be pointed away from the natural areas, mounted at low heights and will be motion censored;
 - An Invasive Species Plan, which includes a monitoring and adaptive management plan to control invasive plants;
 - Silt fencing and bollards along the VPZs boundaries of the Provincially Significant Wetland and Provincially Significant Woodlot to protect the features and prevent the encroachment of materials, snow, fill and other debris from entering the areas; and,
 - 1 to 1 tree compensation for the 23 trees to be removed on site.

Therefore, the proposed development complies with the natural heritage policies of the RHOP.

Source Water Protection

C 5.0 Infrastructure

Private Water and Wastewater Services

- “C.5.1.1 No draft, conditional, or final approval of development proposals shall be granted by the City for any development in the rural area that could impact existing private services or involves proposed private services until the development proposal has complied with all of the following:
- a) Prior to or at the time of application for a proposal that could impact existing private services or involves proposed private services, development proponents shall submit complete information regarding existing or proposed private water and wastewater services. This information shall be complete to the satisfaction of the City. Where sufficient information is not available to enable a full assessment of on-site and off-site water supply and/or sewage disposal impacts or if the

proponent does not agree with the City's calculations, the proponent shall be required to submit a hydrogeological study report completed in accordance with Section F.3.2.2 – Hydrogeological Studies of this Plan and Hydrogeological Study Guidelines as may be approved or amended from time to time.

- d) Development of a new land use or a new or replacement building on an existing lot that require(s) water and/or sewage servicing, may only be permitted where it has been determined by the requirements of Policies C.5.1.1 a) and b) that the soils and size of the lot size are sufficient to accommodate the water system and sewage disposal system within acceptable levels of on-site or off-site impacts including nitrate impact, and shall include sufficient land for a reserve discharge site or leaching bed. The maximum lot size shall be in accordance with F.1.14.2.1 g).
- e) The private water supply and sewage disposal systems shall be capable of sustaining the proposed and existing uses within acceptable levels of on-site and off-site water quantity and quality impacts, including nitrate impact."

A Hydrogeological Study was required as part of the Rural Hamilton Official Plan and Zoning By-law Amendment applications. The Hydrogeological Study evaluated the water quantity, water quality and impact assessment of wastewater for the site. A monitoring and reporting agreement is required as part of the Site Plan Control application. Additionally, Conservation Halton has reviewed the submitted Hydrogeological Study and are supportive of the evaluation because the development and site alteration will have no adverse effects on the hydrologically sensitive feature or the related hydrological function for the feature. The monitoring and reporting agreement will be discussed in greater detail in the Analysis and Rationale section of this report.

2.1 Rural Hamilton Official Plan Amendment 21 (CI-18-H)

The purpose of Official Plan Amendment 21 to the Rural Hamilton Official Plan was to amend the definition and associated regulations for a cannabis growing and harvesting facility to incorporate non-medical cannabis (recreational marijuana) production facilities. Several changes were proposed to the Rural Hamilton Official Plan including:

- Deleting the definition of a Medical Marijuana Growing and Harvesting Facility and replacing it with the following new definition:

Cannabis Growing and Harvesting Facility: shall mean a wholly enclosed building or structure used for growing, harvesting, testing, destroying, packaging and shipping of cannabis, for a facility where a licence, permit or authorization has been issued under applicable federal law.

- Incorporating the testing, packaging, and shipping of cannabis as accessory uses to the cannabis growing and harvesting facility;
- Establishing an appropriate setback between a Cannabis Growing and Harvesting Facility and a sensitive land use through the Zoning By-law; and,
- Updating the submission requirements of a Complete Application and Formal Consultation as part of official plan amendment, zoning by-law amendment and site plan applications by adding an Odour and Dust Impact Study and Light Impact Assessment Study.

RHOPA 21 was appealed to the LPAT and is currently not final and binding.

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

The subject lands contain three separate zones. The majority of the property is zoned Conservation/Hazard Land – Rural (P7) Zone on the eastern and western portion of the site and Conservation/Hazard Land – Rural (P8) Zone on the western and northern portion of the site, whereas the interior of the site and north east corner is zoned Rural (A2) Zone. The proposal will modify the Rural (A2) Zone and Conservation / Hazard Land – Rural (P7) Zone; there are no modifications to the Conservation / Hazard Land – Rural (P8) Zone.

3.1 Rural (A2) Zone

The Rural (A2) Zone permits, among other things:

- A maximum lot coverage of 20% for all agricultural buildings and structures;
- A total gross floor area of 2,000 sq m for a cannabis growing and harvesting facility;
- No outdoor storage;
- No retail sales;
- A single detached dwelling on a lot; and,

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

The subject property contains two single detached dwellings, which as a result of the merger on title became a single lot containing two single detached dwellings as legal non-conforming. The Rural (A2) Zone permits one single detached dwelling for a residential use and accessory uses for the Cannabis Growing and Harvesting Facility. The single detached dwelling located at 1633 Highway No. 6 North will remain and be used as an office in conjunction with the facility. The single detached dwelling located at 1653 Highway No. 6 North will remain as a residential use.

An amendment is required to modify the subject lands to a site specific Rural (A2) Zone to permit the proposed use for a 9,505 sq m Cannabis Growing and Harvesting Facility. The specific provisions will permit:

- An expansion to the existing facility within a new greenhouse structure with a maximum gross floor area of 9,505 sq. m, containing 6,305 sq m of growing, 600 sq m of agricultural related uses and 2,600 sq m of accessory uses;
- A minimum setback of 125 m from the existing sensitive land use located at 1653 Highway No. 6 North;
- A maximum lot coverage of 37% for all buildings and structures on portions of the subject lands;
- A maximum gross floor area of 600 sq m for all buildings and areas devoted to an Agricultural Processing Establishment – Secondary; and,
- A minimum 1.4 m setback from the P7 and P8 Zone Boundary.

The specific provisions will prohibit:

- Any expansions to the existing single detached dwelling located at 1653 Highway No. 6 North.

3.2 Conservation / Hazard Land – Rural (P7) Zone and Conservation / Hazard Land – Rural (P8) Zone

The Conservation / Hazard Land – Rural (P7) and Conservation / Hazard Land – Rural (P8) Zones permit agriculture, conservation, existing single detached dwelling, flood and erosion control facilities and passive recreation. The Zones do not permit the development of new buildings or structures.

An amendment is required to modify the subject lands to a site specific Conservation / Hazard Land – Rural (P7) Zone to:

- Permit an accessory office use in conjunction with the Cannabis Growing and Harvesting Facility for the existing building located at 1633 Highway No. 6 North;
- Add the permitted uses of the Rural (A2) Zone for the existing building located at 1633 Highway No. 6 North;
- Prohibit a Cannabis Growing and Harvesting Facility a Single Detached Dwelling, a Residential Care Facility, a Farm Labour Residence and an Agricultural Processing Establishment – Secondary within the existing building located at 1633 Highway No. 6 North; and,
- Prohibit any expansions to the existing building (formerly the single detached dwelling) located at 1633 Highway No. 6 North

The proposed zoning modifications are discussed in greater detail in the Zone Chart included in Appendix “D” to Report PED19076 and the Analysis and Rationale Section of the Report.

3.3 Zoning By-law No. 18-266 (CI-18-H)

The purpose of Zoning By-law No. 18-266 was to amend the definition and associated regulations for a medical marihuana growing and harvesting facility in Zoning By-law No. 05-200 for the Agriculture (A1) Zone and Rural (A2) Zone to incorporate non-medical cannabis (medical marihuana) production facilities. The changes to Zoning By-law No. 05-200 include:

- Deleting the definition of a Medical Marihuana Growing and Harvesting Facility and replacing it with the following new definition:

Cannabis Growing and Harvesting Facility: shall mean a wholly enclosed building or structure used for growing, harvesting, testing, destroying, packaging and shipping of cannabis, for a facility where a licence, permit or authorization has been issued under applicable federal law.

- Updating the Agricultural Processing Establishment – Stand Alone definition to include cannabis products as agricultural processing;
- Requiring a 150 m setback from the Cannabis Production Facility to an existing sensitive land use or to a specific zone boundary;

- Increase the setback from any lot line from 20 m to 30 m in the A1 (Agricultural) and A2 (Rural) Zones; and,
- Incorporating the testing, packaging, and shipping of cannabis as accessory uses to the cannabis growing and harvesting facility.

RELEVANT CONSULTATION

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

- Forestry and Horticulture, Public Works Department.

The following Departments and Agencies submitted the following comments:

Transportation Planning (Planning and Economic Development) has advised that the Ministry of Transportation needs to comment on the application as the subject lands are located within their regulated limits and is to be completed through the Site Plan.

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.

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

The Ministry of Environment Parks and Conservation (MOECP) 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.

Conservation Halton have reviewed the Environmental Impact Study, Hydrological Study, Stormwater Management Report, Landscape Plan, Wetland Impact Assessment, Grading and Drainage Plan and Erosion and Siltation Control Plan. Conservation Halton has advised that the reviewed reports are satisfactory for the Official Plan Amendment

and Zoning By-law Amendment Stage, but revisions and mitigation measures will be required at the Site Plan Control Stage.

The Ministry of Transportation (MTO) advised that the following be resolved before approving the Rural Official Plan Amendment and Zoning By-law Amendments:

- Close the existing access and align the new access with Concession 10 East;
- Upgrade the proposed access to MTO standards;
- Upgrade the existing access to the house at 1633 Highway No. 6 North to MTO standards;
- Close the southern access to the house at 1633 Highway No. 6 North;
- Submit and receive approval of a Traffic Impact Study;
- Submit and receive approval of a Stormwater Management Report;
- Obtain a Ministry entrance permit for the solar panels on site;
- Obtain a Building and Land Use permit for the proposed development; and,
- Provide clarification from the City of Hamilton as to why there are two houses and three addresses on one lot of record.

At the time of writing this report, all MTO comments have been addressed with regards to the Rural Hamilton Official Plan and Zoning By-law Amendment Applications. All outstanding concerns, including obtaining a Building and Land Use permit for the proposed development, will be addressed at the Site Plan Control Stage.

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 April 17, 2019 with the Public Meeting date. Finally, Notice of the Public Meeting was circulated to 24 property owners on April 26, 2019 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 the owner has been working with the City of Hamilton to educate all residents interested in ongoing development of the cannabis industry in general and the agricultural nature of the proposal and the proposal facility in particular. The owner canvassed the residences within 120 m of the subject lands and provided information regarding the proposal. The owner also met with the Ward Councillor to determine whether a Neighbourhood Information Meeting would be required, and if so, an implementation and follow-up strategy that would be taken. At a March 2018 meeting, it was determined that a Neighbourhood Information Meeting would not be required.

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) It is an adaptive reuse of a former salvage yard and is a more appropriate use for the site as traditional agricultural practices would not be sustainable on the property;
 - (ii) They comply with the general intent of the RHOP in that they preserve Rural Designated lands for agricultural use, while protecting natural heritage features;
 - (iii) The proposed development maintains the subject lands in agricultural use within a greenhouse, and includes small scale processing, which is representative of value-added agricultural products and on-farm diversification; and,
 - (iv) They are consistent with the Provincial Policy Statement (2014) and conform to the Greenbelt Plan (2017).
2. The subject lands are located on the west side of Highway No. 6 North, at the intersection of Highway No. 6 North and Concession 10 Road East, Flamborough. The property currently contains two single detached dwellings located at 1633 and 1653 Highway No. 6 North and an existing 880 sq m Cannabis Growing and Harvesting Facility located at 1649 Highway No. 6 North. The applications purpose to permit the expansion of a Cannabis Growing and Harvesting Facility having a maximum gross floor area of 9,505 sq m consisting

of 6,305 sq m of growing and harvesting, 600 sq m of agricultural related uses and 2,600 sq m of accessory uses.

Official Plan Amendment

In accordance with the policies of the RHOP, a Cannabis Growing and Harvesting Facility is limited to a maximum gross floor area of 2,000 sq. m. The proposal is for a 9,505 sq m Cannabis Growing and Harvesting Facility. On this basis, an amendment to the RHOP is required in order to permit the proposed Cannabis Growing and Harvesting Facility.

The property was previously used as an automotive salvage yard with PCB storage on site. The previous use has left the soil derelict and contaminated, preventing traditional agricultural practices on the property. Further, the site is severely constrained by natural features and existing structures, limiting the total developable area to 2.5 hectares. The proposal is for a Cannabis Growing and Harvesting Facility which is a permitted use in the Rural Designation. Staff are supportive of the RHOP amendment as it is an adaptive reuse of a former salvage yard, there are no other options for development on the site due to significant constraints and it preserves the property for agricultural and agricultural related uses.

Zoning By-law Amendment

The subject property is currently zoned Rural (A2) Zone, Conservation / Hazard Land – Rural (P7) Zone and Conservation / Hazard Land – Rural (P8) Zone in the City of Hamilton Zoning By-law No. 05-200.

An amendment is required to modify the subject lands to a site specific Rural (A2) Zone to permit the proposed use for a 9,505 sq m Cannabis Growing and Harvesting Facility. The specific provisions will permit:

- An expansion to the existing facility within a new greenhouse structure with a maximum gross floor area of 9,505 sq. m, containing 6,305 sq m of growing, 600 sq m of agricultural related uses and 2,600 sq m of accessory uses;
- A minimum setback of 125 m from the existing sensitive land use located at 1653 Highway No. 6 North;
- A maximum lot coverage of 37% for all buildings and structures on portions of the subject lands;

- A maximum gross floor area of 600 sq m for all buildings and areas devoted to an Agricultural Processing Establishment – Secondary; and,
- A minimum 1.4 m setback from the (P7) and (P8) Zone Boundary.

The specific provisions will prohibit:

- Any expansions to the existing single detached dwelling located at 1653 Highway No. 6 North.

An amendment is also required to modify the subject lands to a site specific Conservation / Hazard Land – Rural (P7) Zone to:

- Permit an accessory office use in conjunction with the Cannabis Growing and Harvesting Facility for the existing building located at 1633 Highway No. 6 North;
- Add the permitted uses of the Rural (A2) Zone for the existing building located at 1633 Highway No. 6 North;
- Prohibit a Cannabis Growing and Harvesting Facility a Single Detached Dwelling, a Residential Care Facility, a Farm Labour Residence and an Agricultural Processing Establishment – Secondary within the existing building located at 1633 Highway No. 6 North; and,
- Prohibit any expansions to the existing buildings (formerly the single detached dwelling) located at 1633 Highway No. 6 North

The proposed expansion of the existing Cannabis Growing and Harvesting Facility can be supported as it is an adaptive reuse of a former salvage yard, promotes agricultural uses on property where traditional agricultural practices are not sustainable and supports on farm diversification through small scale processing. Further, the proposal will preserve Rural Designated lands for agriculture and complies with the intent of the RHOP. Therefore, staff support the Zoning By-law Amendment.

Staff's analysis and recommendation of the requested modifications are provided below and within Appendix "D" to Report PED19076.

(i) Setback to a Sensitive Land Use

RHOPA 21 and By-law No. 18-266 (CI-18-H) included a 150 m setback requirement from a Cannabis Production Facility to an existing sensitive land use or to a specific zone boundary. The Applicant has requested a reduction to the 150 m setback to 125 m from the proposed Cannabis Growing and Harvesting Facility to recognize the existing single detached dwelling located at 1653 Highway No. 6 North. Staff are supportive of the reduced setback for the following reasons:

- The Applicant initiated the Planning process in November 2017, by way of these applications (RHOPA-17-038 and ZAC-17-081), which predates the Council adoption of the changes to the Official Plans and Zoning By-law No. 05-200 relating to Cannabis Growing and Harvesting Facilities, Aquaponics and Greenhouses;
- The existing Cannabis Growing and Harvesting Facility is setback back 128.8 m from the existing single detached dwelling located at 1653 Highway No. 6 North and 136.1 m from the proposed facility. Staff recognize this as an existing situation, dating back prior to 1989 and acknowledge that the existing single detached dwelling would not be able to be severed from the property, leaving no other options for the house;
- The amending Zoning By-law will prohibit the expansion of the existing single detached dwelling located at 1653 Highway No. 6 North. This will discourage further non-compliance with the 150 m setback from a sensitive land use regulation;
- The proposed facility is setback 114.0 m from the existing southern single detached dwelling located at 1633 Highway No. 6 North; however it will be utilized as an office use in conjunction with the Cannabis Growing and Harvesting Facility. Therefore this building will cease to be a sensitive land use;
- The amending Zoning By-law will prohibit a Cannabis Growing and Harvesting Facility and Dwelling Unit within the existing building located at 1633 Highway No. 6 North to ensure that a sensitive land use will not be located within 150 m of the facility and that the existing building will not be used for the growing and harvesting of cannabis, as it would be located closer than 150 m to the adjacent single detached dwelling located at 1625 Highway No. 6 North;

- The amending By-law will prohibit the expansion of the existing building located at 1633 Highway No. 6 North and the development of any new buildings;
- The proposed Cannabis Growing and Harvesting Facility is setback 150.4 m from an existing single detached dwelling located on adjacent lot at 1625 Highway No. 6 North and 174.5 m from the adjacent single detached dwelling located at 1659 Highway No. 6 North, maintaining the 150 m setback from a sensitive land use;
- The site is severely constrained by both existing structures and natural heritage features on site, limiting the total developable area to a small portion of property within the interior of the site. For the facility to function efficiently, the proposed development will be attached the existing facility that was built in 1979 and has functioned as a Medical Marihuana Growing and Harvesting Facility since 2014; and,
- The table lands are the most appropriate location for the development based on the vegetation protection zones established through the Environmental Impact Statement and for compliance to the 150 m setback. If the proposal were moved from its current state, it runs the risk of encroaching further into the Provincially Significant Wetland and Significant Woodlands and closer to the existing single detached dwelling located at 1625 Highway No. 6 North.

(ii) Development Constraints

The property contains areas of the Beverly Swamp Significant Wetland Complex, the Strabane North Wetlands Environmentally Sensitive Area (ESA), Significant Woodlands, is traversed by a tributary of Grindstone Creek, two single detached dwellings, an existing 880 sq m Cannabis Growing and Harvesting Facility and 33 standalone solar panels. The site is surrounded by Provincially Significant Wetlands to the west and north of the proposal and Significant Woodlands to the east. The south of the site contains 33 standalone solar panels, which further restricts the developable area of the site. The subject property is approximately 7.2 hectares in size, however due to the significant natural heritage constraints and existing structures on site; the total developable area for the proposal is limited to 2.5 hectares, which is considerably smaller than the majority of agricultural properties in the City of Hamilton. Given that the site has numerous constraints, staff are supportive of the expansion and increase in lot coverage, as there is no other options for development on the site.

4. RHOPA 21 updated the requirements of a complete application to include the submission of an Odour Impact Assessment and Light Impact Assessment. Although, the applicant initiated the Planning process in November 2017, by way of these applications (RHOPA-17-038 and ZAC-17-081), which predates the Council adoption of the changes to the Official Plans and Zoning By-law No. 05-200 relating to Cannabis Growing and Harvesting Facilities, Aquaponics and Greenhouses staff are requiring the submission of an Odour Impact Assessment and Light Impact Assessment.

The Odour Impact Assessment and the Light Impact Assessment will determine the amount of nuisance to the surrounding areas and staff will use the information to determine the necessary mitigation measures for the site. These requirements will be implemented by adding a Holding Provision to the amending Zoning By-law, as shown on Appendix “C” to Report PED19076.

5. The subject lands were included in the new City Initiated CI-18-H changes to the Official Plans and Zoning By-law No. 05-200 relating to Cannabis Growing and Harvesting Facilities, Aquaponics and Greenhouses, which was passed on September 12, 2018 by Council (By-law No.18-264 and By-law No. 18-266). The amendments to the Rural Hamilton Official Plan and Zoning By-law No. 05-200 were appealed to the Local Planning Appeal Tribunal (LPAT). A Case Management Conference is scheduled for May 2, 2019. The amendment was appealed in its entirety and therefore the following regulations are not in force and effect:

- The new definition of a Cannabis Growing and Harvesting Facility;
- The recognition of the new term cannabis as opposed to medical marihuana;
- The requirement of a 150 m setback from a sensitive land use; and,
- The submission requirements of an Odour and Dust Impact Assessment and Light Impact Assessment.

As the Official Plan and Zoning By-law are currently under appeal, the new definition of a Cannabis Growing and Harvesting Facility was included in the Official Plan Amendment and Zoning By-law Amendment of this Report (Appendix “B” and Appendix “C”). If the new definition comes into force and effect, between the completion of the report and these applications being considered by Planning Committee and Council the definition of a Cannabis Growing and Harvesting Facility should be removed prior to the adoption of the Official Plan Amendment and the passage of the Zoning By-law Amendment.

This recommendation was added to both the Official Plan and Zoning By-law Amendment applications to address this matter.

6. Through the review of the Hydrogeological Study it was determined that a monitoring and reporting agreement was required. The monitoring and reporting agreement will be dealt with through the Site Plan Control Application and include the following requirements:
- Daily estimates of the pumped water volume from the supply well at 1653 Hwy 6 as well as daily calculations of total water use to better determine effectiveness of water recycling rates. Water use should be calculated on a daily basis and calibration records of water meters shall be regularly provided;
 - Metered wastewater flows for both process wastewater and domestic sewage and provision of records and volumes of process water treated/hailed by external third party. Design of the industrial wastewater holding tank shall be provided to ensure potential overflows can be appropriately managed;
 - Continuous (one-hour frequency) groundwater level monitoring at the residential well at 1633 Hwy 6, with quarterly datalogger downloads;
 - Continuous (one-hour frequency) groundwater level measurements for all monitoring wells and, quarterly manual measurements for wetland drivepoint piezometers;
 - Annual spring water quality sampling of raw groundwater at 1653 Hwy 6 for historical parameters of concern – heavy metals, pH, DO, EC, turbidity, temperature, plus all nitrogen species, e. coli, total coliforms; and,
 - Biannual (spring/fall) water quality sampling of monitoring well(s) at downgradient property boundary – general chemistry, heavy metals, all nitrogen species, all phosphorus species.

The Applicant will be required to monitor and provide annual reports on the quality and quantity of water and wastewater to the City of Hamilton for a period of five years. As part of the agreement, staff reserves the right to modify, request additional information and extend the monitoring and reporting agreement past the required five years, if warranted. Staff are satisfied that the monitoring and reporting agreement has addressed all water and wastewater concerns on site.

7. A Landscape Plan, Tree Protection Plan and Habitat Restoration Plan were submitted with the Applications. Staff have advised that the plans are satisfactory for the purposes of the Official Plan Amendment and Zoning By-law Amendment applications; however, a revised Landscape Plan will be required at the Site Plan Control Stage.
8. As part of the Application submission, the Applicant submitted a Stormwater Management Report, Grading and Drainage Plan and Erosion and Siltation Control Plan. Development Engineering staff have advised that the all submitted information is satisfactory for the purposes of the Official Plan Amendment and Zoning By-law Amendment Applications, and have been approved through Site Plan Control Application DAR-17-182.

ALTERNATIVES FOR CONSIDERATION

Should the applications be denied, the subject lands would remain as the current Rural (A2) Zone and Conservation/Hazard Land – Rural (P7) and (P8) Zones in the City of Hamilton Zoning By-law 05-200, which permits, among other things:

- Maximum lot coverage of 20%;
- A maximum gross floor area for all new buildings and structures devoted to a Cannabis Growing and Harvesting Facility of 2,000 sq m;
- 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.

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" – Zoning By-law No. 05-200 Amendment Rural (A2) Zone

Appendix "D" – Zoning Modification Chart

Appendix "E" – Proposed Site Plan