

P & L LIVESTOCK LIMITED

4450 Paletta Court
Burlington, ON
L7L 5R2

January 20, 2022

Planning Committee Clerk
City of Hamilton
71 Main Street West, 1st Floor
Hamilton, Ontario
L8P 4Y5

*** Submitted via email to clerk@hamilton.ca ***

Dear Clerk:

Re: Site Alteration Permit Application for 2330 Guyatt Road, File 2001 144589 000 00 PF

We are in receipt of the letter dated December 24, 2021 from Alvin Chan within which he advised that our Site Alteration Permit Application for this property has been denied. Please accept this letter as written notice that we wish to appeal this refusal to Planning Committee.

This 214 acre farm property is actively farmed by Vanderwoude Sod, and while they unquestionably make every effort to protect the topsoil supply, the reality of sod farming is that with each harvest a thin layer of topsoil is removed. For not only the success of this existing farming operation but also to maintain the long-term agricultural viability of this property, periodic topsoil replenishment is needed. The alternative is the eventual sterilization of this property, making it unfarmable.

Under the development arm of our company, we had a construction project located just 7km away with 1750 cubic meters of clean topsoil (as tested and certified by a qualified laboratory and geotechnical firm) available. Rather than simply dump it at a landfill, we consulted with the farmer and seized the opportunity to make better use of this topsoil and benefit of the long-term agricultural operations at 2330 Guyatt Road.

1750 cubic meters of topsoil spread over 214 acres has practically no impact to the topography, but it's better than nothing. Topsoil management and replenishment is part of normal farming practice, and in accordance with the Farming and Food Protection Act, 1998 "No municipal by-law applies to restrict a normal farm practice carried out as part of an agricultural operation." A Site Alteration Permit was therefore not required, or so we thought. The City of Hamilton By-Law Enforcement staff felt otherwise, and even though the topsoil importing had already been completed, issued an Order to Comply on June 25, 2021 requiring us to submit a Site Alteration Permit application.

What constitutes normal farm practice is often open to interpretation, so instead of arguing or challenging the Order, we gathered the required information and submitted a Site Alteration Permit application on July 8, 2021, thereby complying with the Order.

Shockingly on Christmas Eve, the City of Hamilton issued denial of the Site Alteration Permit application and instructed that the topsoil be removed.

It appears that the City's primary point of contention was the fact that we had stockpiled the topsoil for the sod farmer's use rather than immediately spreading the material over the 214 acres. As we had indicated to staff at the time, immediately spreading the topsoil was not possible given that the sod farm was in active production and most of the 214 acres had an active sod crop growing. We couldn't bury the sod crop. By stockpiling the topsoil and having it readily available, upon harvesting the sod crop the farmer would then be able to spread the topsoil as needed. We acknowledged to staff that the timing of the spreading may take longer than the 6 month timeframe identified in the by-law, but the complex realities of farming must sometimes take precedence.

City staff have also taken the position that topsoil rehabilitation is not required, and not normal farm practice. Perhaps for typical cash cropping (beans, corn, wheat) where an inch or more of topsoil is not removed with each harvest, topsoil rehabilitation/replenishment is less of a concern. Sod farming is different. Respectfully, is the determination of what is and isn't required to improve topsoil quality and supply not better left to the actual farmer who physically works the land and is trying to maintain a viable agricultural operation?

We do not understand why City of Hamilton staff are expending great effort in this particular instance to frustrate agricultural operations in the rural area. Given the importance that Council places upon the rural area and agriculture in general, it is extremely disappointing to be in this position. We are therefore appealing staff's denial of our Site Alteration Permit application to Planning Committee for reconsideration.

Yours truly,

P & L LIVESTOCK LIMITED



Dave Pitblado

Cc: Lisa Kelsey (lisa.kelsey@hamilton.ca)
Alvin Chan (alvin.chan@hamilton.ca)
Councillor Brenda Johnson (brenda.johnson@hamilton.ca)
Mayor Fred Eisenberger (mayor@hamilton.ca)
Scott Snider (ssnider@tmalaw.ca)