

CITY OF HAMILTON

PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT
Planning Division

TO: Chair and Members Planning Committee	WARD(S) AFFECTED: Ward 15
COMMITTEE DATE: November 20, 2012	
SUBJECT/REPORT NO: Application to Amend Zoning By-law No. 90-145-Z for the Property Located at 533 Millgrove Side Road (Flamborough) (PED12209) (Ward 15)	
SUBMITTED BY: Tim McCabe General Manager Planning and Economic Development Department	PREPARED BY: Chris Bell (905) 546-2424 Ext.1262
SIGNATURE:	

RECOMMENDATION:

- (a) That **Zoning By-law Amendment Application ZAC 09-036, by Domson Investments Ltd., Owner**, to recognize existing and proposed uses of the Dutch Mill Country Market, 533 Millgrove Side Road (Flamborough), as shown on Appendix "A" to Report PED12209, and as generally presented in the submission by Ed Fothergill to the Economic Development and Planning Committee on October 5, 2010, that were deemed by City Council on October 13, 2010, to be agri-tourism and, accordingly, in conformity with both the Rural policies of the Hamilton-Wentworth Official Plan and the Agricultural policies of the Flamborough Official Plan, be deemed to comply with the land use policies of the Rural Hamilton Official Plan.
- (b) That **Zoning By-law Amendment Application ZAC-09-036, by Domson Investments Ltd., Owner**, for a modification to the "A" (Agricultural) Zone to permit agri-tourism uses, including a tearoom, gift shop, and entertainment uses, on lands located at 533 Millgrove Side Road (Flamborough), as shown on Appendix "A" to Report PED12209, **be approved, in part**, to allow a gift shop

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and/or restaurant of an intensity that will not generate a combined sewage design flow capacity of greater than 10,000 L/day, on the following basis:

- (i) That the draft By-law, attached as Appendix “B” to Report PED12209, which has been prepared in a form satisfactory to the City Solicitor, be enacted by City Council.
- (ii) That the amending By-law be added to Schedule “A-11”, of Zoning By-law No. 90-145-Z.
- (iii) That the proposed change in zoning is deemed by Council to be in conformity with the Rural Hamilton Official Plan.

EXECUTIVE SUMMARY

The purpose of the proposed amendment to the Town of Flamborough Zoning By-law is to provide zoning regulations to permit agri-tourism uses, including a tearoom, restaurant, gift shop, and entertainment uses on the subject property.

The Zoning application was originally considered in Planning Staff Report PED10127, at the Economic Development and Planning Committee meeting of October 5, 2010. At that time, the following resolution was passed by the Economic Development and Planning Committee:

- (a) That Council deems agri-tourism uses to be in conformity with both the Rural policies of the Hamilton-Wentworth Official Plan and the Agricultural policies of the Flamborough Official Plan.
- (b) Further, that Zone Change Application ZAC-09-036, by Domson Investments Ltd., to recognize existing and proposed uses of the Dutch Mill Country Market, 533 Millgrove Side Road (Flamborough), as generally presented in the submission by Ed Fothergill, to the Economic Development and Planning Committee, on October 5, 2010, be deemed to be agri-tourism and, accordingly, in conformity to said Official Plans.
- (c) That staff be directed to process the subject Zoning By-law application, and to advertise for a Public Meeting, pursuant to the terms of the Planning Act.

In light of Committee and Council’s direction, Planning staff circulated the development application to pertinent Departments and Agencies, as well as members of the public, in accordance with the requirements of Planning Act.

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Notwithstanding Council's position that the proposed uses are deemed to be agri-tourism uses, and conform from a policy perspective, Planning staff was still obligated to circulate the application to assess other technical aspects of the application. As a result of the assessment, and subsequent discussions between staff and the proponent, a Zoning By-law Amendment is included as Appendix "B" of this Report. The particular regulations of the implementing Zoning By-law are intended to implement the direction to staff, in Committee's resolution of October 5, 2010, to the extent possible in light of outstanding concerns respecting the lack of information available to confirm adequate private servicing availability for the proposed range of uses.

While Planning staff considers there is technical merit to allow a limited range of uses consisting of an 80-seat restaurant, or a 789.6 sq. m gift shop and 48-seat restaurant, Planning staff is of the opinion that it is premature to consider implementing a Zoning By-law allowing the full range of uses sought by the applicant until sufficient information has been provided demonstrating that the uses can be adequately serviced by private sanitary and water systems.

Alternatives for Consideration - See Page 20.

FINANCIAL / STAFFING / LEGAL IMPLICATIONS

Financial: None.

Staffing: None.

Legal: As required by the Planning Act, Council shall hold at least one (1) Public Meeting to consider an application for approval of a Zoning By-law Amendment.

HISTORICAL BACKGROUND (Chronology of events)

The subject lands are approximately 14.05 ha. (34 acres) in area, with a frontage of approximately 120m onto Highway No. 5, and 852m onto Millgrove Side Road (see Appendix "A"). A portion of the property is occupied by a 1,200 sq. m building that was built following the issuance of a building permit by the former Township of Flamborough in 1997. According to the information provided by the applicant, the building is currently used as a gift shop, tea room, bakery, deli, and assembly area (banquet area) for up to 250 people. In addition, the applicants have advised that the lands surrounding the building are used for a parking lot, open-air market, and petting zoo.

According to Building Department records, no permits have been issued for buildings or structures since amalgamation in 2001.

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Chronology:

- March 30, 2009: A complaint was received that an agricultural storage building on the subject lands was operating as a Public Hall without a license.
- March 31, 2009: A complaint was issued that an agricultural storage building on the subject lands was operating contrary to fire prevention requirements.
- March 31, 2009: An order to comply was issued due to non-compliance with the Ontario Building Code requiring a change of use permit from a storage building to a banquet hall.
- August 12, 2009: A Development Review Committee Meeting was held to review Formal Consultation File No. FC-09-141, wherein the applicant had proposed to expand the existing uses on the property to also include a vermicomposting operation, wind turbines, and entertainment uses.
- August 18, 2009: Correspondence and a Formal Consultation document were sent to the applicants advising of the need for applications to amend the Hamilton-Wentworth Regional Official Plan, Town of Flamborough Official Plan, and Zoning By-law 90-145-Z to consider the proposed additional uses.
- September 28, 2009: A Zoning By-law Amendment application was submitted by the applicants to consider rezoning the lands to “agri-tourism” uses.
- October 13, 2009: A Notice of Incomplete Application was provided by City of Hamilton Planning staff advising of the need for a signed Formal Consultation document, amended application for a Regional Official Plan Amendment, Township of Flamborough Official Plan Amendment, and rezoning before the applications could be deemed complete.
- October 22, 2009: A signed Formal Consultation letter was received from the applicant’s agent.
- October 22, 2009: A letter from the applicant’s agent was provided containing an opinion about why the rezoning application should be accepted and circulated.

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- November 4, 2009: A letter was provided by City of Hamilton Planning staff reconfirming that the application is still considered incomplete.
- November 20, 2009: Correspondence from the applicant's agent was received containing a request to modify the application to include an amendment to the Township of Flamborough Official Plan and Zoning By-law, and clarifying that the specific uses for the property were to be described as "agri-tourism", including a tearoom, restaurant, gift shop, and entertainment uses.
- August 18, 2010: An e-mail letter was received from the applicant's solicitor with a request to appear as a delegation at the Economic Development and Planning Committee meeting of September 21, 2010, and an opinion on the reasons why the application should be deemed complete in its current form.
- August 27, 2010: A letter was sent to the applicant's solicitor advising that staff had reviewed the matter and agreed with their opinion, and it was intended to take a Report to the October 5 Economic Development and Planning Committee Meeting without circulating/notice.
- October 5, 2010: Direction was given at the Economic Development and Planning Committee meeting that the proposed uses were deemed to be considered agri-tourism, and direction was given to Planning staff to conduct a full circulation of the Zoning By-law Amendment application.
- October 13, 2010: City of Hamilton Council ratified the recommendations of the Economic Development and Planning Committee.
- November 11, 2010: A notice of complete application was mailed to all land owners within 120m of the subject property.
- December 2011: A peer review of various Hydrogeological Assessments, undertaken by the owner's consultant, was conducted on behalf of the City by Banks Groundwater Engineering Ltd.
- March 2, 2012: A meeting was held with the owner, the owner's Planning Consultant, the owner's Hydrogeological Consultant, City Planning staff, and Source Water Protection Planning staff.

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November 2, 2012: A notice of Public Meeting was mailed to all land owners within 120m of the subject property.

Details of Submitted Application

Location: 533 Millgrove Side Road (Flamborough)

Owner/Applicant: Domsons Investments Ltd.

Agent: Ed Fothergill, Fothergill Planning & Development

Property Description:

Frontage: 120m (approx.) on Highway No. 5, and 852m (approximately) on Millgrove Side Road

Lot Depth: 194m

Area: 14.05 ha. (approximately 34 ac.)

EXISTING LAND USE AND ZONING:

	<u>Existing Land Use</u>	<u>Existing Zoning</u>
<u>Subject Lands:</u>	Agricultural, Gift Shop, Tea Room and Bakery, Outdoor Open Air Market, Farm Help Apartment	"A" (Agricultural) Zone
<u>Surrounding Lands:</u>		
North	Agricultural Land Uses	"A" (Agricultural) Zone
South	School and Agricultural Uses	"A" (Agricultural) Zone and "I-1" (Institutional) Zone
East	Agricultural Land Uses and Non-Farm Residential along Road Frontage	"A" (Agricultural) Zone
West	Agricultural Land Uses	"A" (Agricultural) Zone

POLICY IMPLICATIONS

A full assessment of the relevant planning policies was undertaken by Planning staff as part of Report PED10127. In light of the decision by Council that the proposed uses are deemed to be compliant with Planning policy on the basis of the uses being 'agri-tourism', the policy assessment undertaken as part of this Report focuses on the policies of the Greenbelt Plan, Provincial Policy Statement, and local Planning instruments that deal with the technical merits of the application.

It should also be noted that the former Hamilton-Wentworth Regional Official Plan and Flamborough Official Plan have been repealed, as they apply to lands outside of Urban Areas, and replaced with the new Rural Hamilton Official Plan. Therefore, analysis of local planning policy will be limited to the policies of the new Rural Hamilton Official Plan.

Greenbelt Plan

The subject property is designated "Protected Countryside" under the Greenbelt Plan.

Within the "Protected Countryside", **Sub-section 4.1.1.2 b)** states that proposals for non-agricultural uses "must demonstrate that the type of water and sewer servicing proposed is appropriate for the type of use".

Subsection **4.2.2 Sewage and Water Infrastructure Policies** of the Greenbelt Plan notes that ... "In addition to the above general infrastructure policies and the Settlement Area policies of Section 3.4, the following policies apply to sewer and water infrastructure proposals:

1. Proposals for infrastructure within or crossing the Protected Countryside shall demonstrate that:
 - a. Sewage and water servicing can be provided in a manner that does not negatively impact ecological features and functions, quality and quantity of ground and surface water, including stream baseflow, and is sufficient to accommodate the proposed use(s);
 - b. Applicable recommendations, standards, or targets within watershed plans and water budgets are reflected; and,
 - c. Any sewage and water servicing installation is planned, designed, and constructed to minimize surface and groundwater disruption."

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Within the Greenbelt Plan, **Infrastructure** is defined to mean “physical structures (facilities or corridors) that form the foundation for development or resource use and includes sewage and water systems, sewage treatment systems, waste management systems, electric power generation and transmission, including renewable energy systems, communications/telecommunications, transit and transportation corridors and facilities, oil and gas pipelines and associated facilities.”

Based on the servicing information provided by the applicant, and MOE comments available at the time of writing of this Report, Planning staff cannot confirm, based on the range of uses proposed, whether or not the proposal is able to provide adequate private on-site services in compliance with the servicing policies of the Greenbelt Plan.

Provincial Policy Statement (PPS)

The subject lands are considered “Prime Agricultural Area” by the Provincial Policy Statement (PPS). The PPS permits agricultural-related uses, which include farm related commercial uses. However, the PPS provides policy direction concerning private servicing. Sub-section 1.6.4.1 of the PPS notes that:

- “1.6.4.1 Planning for sewage and water services shall:
- b. Ensure that these systems are provided in a manner that:
 - 1. Can be sustained by the water resources upon which such services rely;
 - 2. Is financially viable, and complies with all regulatory requirements; and,
 - 3. Protects human health and the natural environment;”

Based on the servicing information provided by the applicant, and MOE comments available at the time of writing of this Report, Planning staff cannot confirm, based on the range of uses proposed, whether or not the proposal is able to provide private on-site services in compliance with the servicing policies of the PPS.

Rural Hamilton Official Plan

In accordance with the recommendations passed by the Economic Development and Planning Committee at its meeting of October 5, 2010, the range of uses sought by the applicant has been deemed by Committee to be agri-tourism. By virtue of the uses being deemed “agri-tourism”, Committee, at the time, similarly deemed the uses to comply with the former Hamilton-Wentworth Official Plan and Flamborough Official Plan.

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Since this recommendation was passed, the former Official Plans have been repealed and replaced with the Rural Hamilton Official Plan, within which the subject lands are designated “**Agriculture**” .

Policy 2.1 states that in the “Agriculture” designation the uses are limited to agricultural uses, agricultural-related commercial uses, and agricultural-related industrial uses and on-farm secondary uses. Specific policies for agricultural, agricultural-related and on-farm secondary uses are found below:

“2.1.1 Agricultural uses are permitted, subject to the policies of this Plan.

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 processing facilities, farm product supply dealers, livestock assembly points, and agricultural research operations;
- (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.

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

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

According to Sub-section 2.1.3 of the Rural Hamilton Official Plan, “agri-tourism” uses are considered a permitted use within the Rural Hamilton Official Plan. For housekeeping purposes, it will be necessary for the Committee to deem the uses sought by the applicant to be in compliance with the land use policies of the Rural Hamilton Official Plan (see Recommendation a)).

In addition to the land use policies, the Rural Hamilton Official Plan also contains policies respecting the provision of services. In particular, these policies include:

“5.1.3 All development requiring approval under the Planning Act and Development Permit required under the Niagara Escarpment Plan that is dependent upon sustainable private services shall comply with the following:

- a) With the exception of applications made under Section 41 of the Planning Act, all development shall ensure that the design and capacity of private water supply and sewage disposal systems are capable of sustaining the land uses permitted by the Zoning By-law in the buildings to be serviced by those systems;
- b) An application for the severance or subdivision of a lot, or an amendment to the Zoning By-law for an existing lot utilizing an existing or proposed private sewage disposal system, shall include sufficient land to accommodate a reserve discharge site or leaching bed for the system effluent in the event of a failure of the primary discharge site or leaching bed;
- c) An application for the severance or subdivision of a lot, or an amendment to the Zoning By-law for an existing lot that includes an existing or proposed sewage disposal system, shall be a minimum, 0.4 hectares (1 acre) in size, or such larger lot area as may be required by environmental or cumulative land use conditions associated with the site

for the discharge and dispersion of sewage system effluent, in accordance with the Ontario Building Code Act;

- d) All applications for severance or subdivision of a new lot or creation of a new land use requiring amendment to this Plan or the Zoning By-law, or any development permits in an area not served by existing municipal water or wastewater systems, shall include a servicing suitability study of groundwater and geotechnical conditions that includes an assessment of water supply and sewage disposal system impacts of existing and proposed development associated with the site, that is prepared by a professional engineer, hydrogeologist, or similarly qualified professional which demonstrates, to the satisfaction of the City, that a private water well and private sewage disposal system, with associated reserve discharge area, can be established, in accordance with the sustainable private service definition of this Plan;
- e) The City may consult with such agencies as deemed advisable, and/or retain the services of an independent consultant, at the expense of the applicant, to peer review the study described in Section C.5.1.3 d) above;
- f) No endorsement, draft, or conditional approval under the Planning Act shall be provided by the City for any development dependent on a new private sewage disposal system until the development has complied with the provisions of Section C.5.1.3 a), b), c), d), and e) above; and,
- g) No final approval under the Planning Act shall be provided by the City for any development dependent upon a new private water supply system until the development has complied with the provisions of Section C.5.1.3 a), d), and e) above.”

Based on the servicing information available at the time of writing of this Report, and the information provided by the MOE, Planning staff cannot confirm that the range of uses proposed by the applicant is able to be serviced by adequate private on-site services that will comply with the servicing policies of the Rural Hamilton Official Plan.

As the proposed daily effluent levels exceed 10,000 L/day, the Ministry of the Environment (MOE) is the approval authority for private on-site sewage disposal systems. Comments from the MOE on this matter are found in the Relevant Consultation section of this Report.

RELEVANT CONSULTATION

The following Departments and Agencies had no comments or objections:

- Traffic Section, Public Works Department.
- Bell Canada.
- Ontario Ministry of Transportation.

Infrastructure and Source Water Planning Section (Public Works Department) had an opportunity to review a number of Hydrogeological Assessments submitted by the proponents. As a result of their review, both internally and by a third-party peer reviewer, ISPS staff remains of the opinion that additional work is required in order to properly characterize the site for the proposed uses and substantiate a Zoning Amendment.

With the Hydrogeological work completed to date, there are two outstanding major tasks to be undertaken:

- (a) The characterization and assessment of the contaminant attenuation zone; and,
- (b) The pump-testing that had previously been committed to by the proponent.

Public Health Department staff advised that:

The existing restaurant and tea room must be in compliance with Food Premises Regulation 562 under the Health Protection and Promotion Act.

The site is to adhere to the “*Recommendations to Prevent Disease and Injury Associated with Petting Zoos in Ontario*” document. These requirements include providing hand washing/sanitizing facilities for patrons and prohibiting food within the animal enclosure, and a number of rabies-related operational recommendations.

The drinking water system should be assessed by Public Health Services and be in compliance with Regulation 319 under the Health Protection Act. The applicant should also verify that the existing sewage system meets the present construction and operating standards that pertain to servicing the existing property. This should be done by a qualified person and with the input and/or review by the Building Department.

Hamilton Conservation Authority (HCA) staff has advised that since no new buildings or structures would be required for either the petting zoo or the outdoor entertainment uses, HCA staff would not have concerns with either of these developments on the subject lot.

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HCA's main concern at this point is the location of the new septic system. Once the location has been determined, then HCA staff can determine if septic system plans/details are required for HCA approval, as well as any other HCA requirements for development. Additionally, the removal of the existing system may also require HCA approvals, depending on the extent of the disturbed area. Finally, HCA staff would like to have indicated on a site plan the exact location of the petting zoo and outdoor entertainment facility for their records.

Hydro One has advised that they have no objection to the proposed rezoning, but noted that there is a registered easement on the easterly portion of the property. Should future development propose to encroach within the easement, Hydro One staff has advised that written approval of the encroachment would be required from their organization.

Union Gas has advised that they have easements across the subject lands that may be impacted by future development.

In the event that future development occurs on the subject property, it will first be necessary for the owners to seek site plan approval from the City. The input of both Hydro One and Union Gas would be sought as part of the review of site plan applications.

This additional information would be sufficient to substantiate the re-zoning application. It would further form the comprehensive technical documentation upon which the ECA (formerly known as CofA) application may be partially based.

Ministry of the Environment: The proponent has provided sufficient information to the MOE to demonstrate that the existing system is functional. As the size of the septic system needed to service the range of uses sought by the owner will exceed 10,000 l/day, a Certificate of Approval (CofA) is required from the Ministry of the Environment (MOE) for any future expansions.

As a condition of legalizing the existing uses, it would be appropriate to require The Dutch Mill to demonstrate the adequacy of these services, both in terms of required capacity and their competency.

MOE staff has had an opportunity to review the technical information that was provided and concluded that:

- Additional Hydrogeological Assessment and field work is necessary to meet the requirements of Chapter 22 of the 2008 MOE Design Guidelines for Sewage Works. The two main areas of additional assessment are:

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- (1) Further assessment of the groundwater flow system and geology at the site to understand what will happen to the sewage effluent after discharge; and,
- (2) An assessment of the current water quality impacts from the existing subsurface sewage system on site, and extrapolation using the existing conditions to predict potential impacts of the proposed system.

This type of assessment is a preferred approach for situations where a system already exists, and where an applicant is seeking to either demonstrate the ability of the existing system to treat additional effluent volumes, or to demonstrate the ability of the site to sustain a larger system. The use of actual data is considered a more reliable approach than an assessment that relies on prediction based on theoretical assumptions.

- There is some discrepancy in the manner in which water use/demand is being addressed. The consultant stated the Stage 3 pump test investigation will not account for the water supply required for the greenhouse operations, and will only address the new expanded facility needs. There is no justification for this approach, and MOE would expect that all activities that require water should be assessed in accordance with accepted estimates to determine the ability of the existing well to meet those demands. The Dutch Mill was advised that if the daily taking would likely be >50,000 L/day (including the greenhouse operations), then a PTTW from MOE would be required.

The additional work described in the first bullet point above is required in order to support a Section 53 Environmental Compliance Approval for a sewage system. The work described in the second bullet point is to determine whether the existing well can supply the proposed uses at this site, and to determine whether the taking is subject to a Permit To Take Water.

While this work is required in order to enable MOE technical review of the required approvals, it is the City's prerogative, and as per the City's Official Plan policies, as to whether the City will require The Dutch Mill to complete this work prior to approving the zoning, or consider a Holding provision on the zoning to recognize that additional work is required to fully meet the technical requirements of MOE approvals and permits.

The MOE D-5 Guideline, entitled "Planning for Sewage and Water Services", is meant to provide guidance with respect to servicing requirements for multi-lot development, predominantly of a residential nature, and recognizing that additional residential development will serve as a catalyst for new non-residential uses.

Public Consultation

In accordance with the Bill 51 changes to the Planning Act and Council's Public Participation Policy, a Notice of Complete Application and Preliminary Circulation of the applications was circulated to 31 property owners within 120m of the subject property on November 11, 2010. A Public Notice Sign was also posted on the subject lands at that time. As a result of preliminary circulation and notice, staff received 4 responses, including 3 separate letters from neighbouring residents, and a fourth letter that included a petition and copies of correspondence from other residents. Copies of the comments received in response to the Preliminary Circulation are found in Appendix "C".

Finally, Notice of the Public Meeting was given in accordance with the requirements of the Planning Act.

ANALYSIS / RATIONALE FOR RECOMMENDATION

1. The Analysis of the relevant planning policy from the former Town of Flamborough and Hamilton-Wentworth Official Plans (FOP and HWOP) is contained in previous Report PED10237, considered by the Economic Development and Planning Committee meeting of October 5, 2010. While the policies of the former FOP and HWOP have been repealed and replaced with the policies of the new Rural Hamilton Official Plan (RHOP), the planning policy environment in the new RHOP relating to the uses proposed on the subject lands does not change Planning staff's position articulated in Report PED10237.

Hydrogeology:

2. The Planning Committee deemed that the range of uses proposed by the applicant complied with Planning policy on the basis that the uses were "agri-tourism" and, accordingly, in conformity with Local and Provincial planning policy in terms of use. On the basis of the further direction given to staff by the Committee, the subject application was processed in accordance with the Planning Act. With the direction of Committee that the fundamental land uses were in conformity with planning policy, the focus of the review of the application focused on technical aspects.
3. According to the Planning Justification Report provided by the proponent, the existing Dutch Mill building has been used in the past for the following uses:

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USE	AREA OF USE	CAPACITY OF USE
Tea Room	134.70m ²	112 people
Gift Shop	789.6m ²	
“Back Area”	411.36m ²	150-200 seated 250 assembly
Office	92.9m ²	-
Farm Help House	139.35m ²	-
Storage	92.9m ²	-

According to Sub-section 8.2.1.3 of the Ontario Building Code, which deals with Sewage Design Flows, this range of uses would generate sewage flows that far exceed 10,000 litres per day (L/day). As a point of reference, the gift shop and tea room uses alone would require a sewage design to accommodate flows of 18,000 L/day.

Given its size, the sewage system required to support these uses would require a Certificate of Approval from the Ministry of the Environment, and would be subject to the procedural requirements of Chapter 22 of the 2008 MOE Design Guidelines, which requires, among other things, the preparation of a Hydrogeological Assessment, including a soils characterization study.

4. While there is an existing septic system servicing the subject lands that has functioned to date without incident, the septic system is currently designed for flows of less than 10,000 L/day. As such, it is evident that the existing septic system has not been designed to accommodate the sewage flows of the complete range of uses proposed by the applicant.
5. The proponents provided a Stage I Hydrogeological Assessment in order to assist staff in confirming that the lands subject to these applications could reasonably be serviced by private water and sanitary services. The Hydrogeological Assessment was reviewed by City staff. Upon review, staff concurred with the recommendations of the Report that additional Hydrogeological analysis was required. As such, staff had requested that the proponent conduct the additional analysis.
6. On January 24, 2011, staff was advised that a Hydrogeological Consultant was retained by the proponent to undertake a scoped Phase 2 Study to provide additional details with respect to the ability of the subject lands to accommodate private water and sewage disposal systems at a scale that would adequately services the proposed list of uses. Subsequently, the proponent's Hydrogeological Consultants and Infrastructure and Source Water Planning Section staff collaborated on a Terms of Reference to conduct the Phase 2 Work Program.

However, the owner's consultant had subsequently advised, via e-mail dated April 4, 2011, that they were reluctant to undertake the additional Phase 2 Study due to the cost of the work, and the fact that there remains uncertainty of the final outcome of their development applications.

7. To date, both the MOE and the City's Infrastructure and Source Water Planning Section staff have identified two main areas of outstanding work, which includes:
 - (1) Further assessment of the groundwater flow system and geology at the site to understand what will happen to the sewage effluent after discharge; and,
 - (2) An assessment of the current water quality impacts from the existing subsurface sewage system on site, and extrapolation using the existing conditions to predict potential impacts of the proposed system.
8. Considering the foregoing, Planning staff remains of the opinion that insufficient Hydrogeological work has been undertaken to demonstrate that the complete range of uses can be serviced by a septic system. Without this additional information, Planning staff cannot confirm that the subject application complies with Sub-section 5.1.3 of the Rural Hamilton Official Plan which, among other things, notes that "*no endorsement, draft, or conditional approval under the Planning Act shall be provided by the City for any development dependant on a new private sewage disposal system until development has complied with the provisions of Section C.5.1.3 a), b), c), d), and e)*" (as noted in the **Policy Implications** section of this Report) .
9. While this work is required in order to enable the MOE to undertake a technical review of the required approvals for large septic systems exceeding 10,000 L/day for the complete range of proposed uses, approval of smaller systems remain within the jurisdiction of the City. In this regard, Planning staff acknowledges that the existing system (designed for flows less than 10,000 L/day) has functioned without incident. As such, Planning staff suggests there is technical merit in considering passing a Zoning By-law Amendment that allows for a reduced range of uses that would, cumulatively, be serviceable by a smaller system that does not exceed 10,000 L/day.

Based on the Sewage Design Flow regulations of the Ontario Building Code, the list of uses that would not exceed 10,000 L/day would include either:

- a) An 80-seat restaurant/tea room, or;
- b) The existing 789.6m² gift shop and a 48-seat restaurant.

A draft Zoning By-law permitting these alternative uses has been included in this Report as Appendix “B”. The By-law also includes additional accessory and subordinate uses sought by the applicant that would not generate additional effluent flows such as a petting zoo and outdoor market selling field produce grown on-site and/or by local farmers.

Due to the limited information available to assess the serviceability of any additional uses or intensity of uses, Planning staff cannot, at this point, support the inclusion of any further additional uses being sought by the applicant.

10. Staff has been advised by the proponent’s Planning Consultant that their preference would be for an implementing Zoning By-law to be passed by Council identifying the complete list of permitted uses, with a “Holding” provision affixed to the By-law requiring that additional Hydrogeological investigation be undertaken to demonstrate how the range of uses may be serviced by private systems. Planning staff is of the opinion that servicing-related Official Plan policies require that it be demonstrated up-front that the existing buildings and sites may reasonably accommodate both the proposed uses and the intensity of those uses prior to the passing of a Zoning By-law Amendment. The up-front analysis would form the basis for creating a list of appropriate uses and limitations of such uses, if necessary.

The results of the Stage 2 Study are necessary to identify the practical intensity-related details of the site. If constraints are identified, they are to be included in the regulations of the draft Zoning By-law. (i.e. list of appropriate uses, maximum floor areas devoted to a use, maximum capacity of restaurants etc.).

11. Planning staff is of the opinion that it is not appropriate to simply permit the uses and affix a “Holding” provision to the zoning until further servicing assessment is completed. According to the Official Plan, ‘H’ provisions are to be affixed to deal with matters of implementation, rather than to undertake further analysis that may impact the fundamental question of appropriate land use and intensity. In addition, it will not give Council the opportunity to place any future capacity-related regulations in the By-law, by way of further limiting the range of uses, or placing floor area or occupancy restrictions of certain uses.

Another consideration in this case is that the building within which the proposed uses are to take place exists and has, in fact, been used as such in the past. Unlike if this proposal was for a Greenfield development, where other approvals would be necessary before the use was to practically take place (i.e building permits, site plan control), the proposed uses could simply occur without the need to construct anything more.

12. **Conservation Authority:**

It is evident from the Stage 1 Hydrogeological Analysis that additional sewage disposal systems would be required. HCA staff has expressed concerns over the potential location of future septic systems, as portions of the subject property are regulated by the HCA in this area due to the presence of headwater tributaries traversing the subject property and the adjacent property to the west.

13. HCA staff had suggested that it was their preference to deal with the location of the septic system, and its potential impact on HCA regulated lands, at the forefront so as to mitigate any unexpected development restrictions in the future. The proponent's Planning Consultant had initially committed to providing this additional information as part of the Stage 2 Hydrogeological Assessment. However, without the additional information intended to be provided by the Stage 2 analysis, it remains unclear what the impacts of a proposed septic system installation would have on HCA regulated features. In addition, should the location and technical specifications of the septic system need to be designed in a manner that would avoid HCA regulated features, it remains unclear if the facilities are capable of being installed on the portion of the lands proposed to be rezoned.

14. **Neighbourhood Input:**

As noted earlier, as a result of the notice of a complete application, Planning staff has received a number of letters from neighbouring residents in opposition to the proposal (see Appendix "C"). In these letters, residents express concerns that the proposed range of uses:

- (a) Do not comply with local and provincial policy;
- (b) Have the potential to negatively impact neighbouring residents due to an increase in traffic, lighting, and noise; and,
- (c) Change the rural character of the area.

The proposed Zoning By-law provisions to implement Council's determination of the use as being in conformity with the applicable policy documents limit the scope and intensity of the uses and would, therefore, address the public comments with respect to after-hour lighting and noise (i.e. uses only permitted in the existing building except for a petting zoo and fruit and vegetable market). As noted in the Relevant Consultation section of the Report, the Traffic Section had no comments or objections regarding the application.

ALTERNATIVES FOR CONSIDERATION:

If the application is refused, the property will remain zoned “A” (Agricultural) and only agricultural uses will be permitted.

If Planning Committee and Council sees merit in approving the application to permit the range of uses in advance of information confirming the suitability of the site to accommodate private sanitary and water systems, it would be prudent to include a Holding ‘H’ provision in the implementing Zoning By-law Amendment. This Holding provision may prohibit the range of uses until all requisite approvals have been received from the relevant jurisdictions for private sanitary and water systems prior to the removal of the Holding provision.

As noted earlier in this Report, Planning staff does not recommend this approach, as ‘H’ Holding provisions are intended to be affixed to deal with matters of implementation rather than to undertake further analysis that may impact the fundamental question of appropriate land use. In addition, this approach will not give Council the opportunity to place any further servicing capacity-related regulations in the By-law, by way of further limitations on the range of uses, or placing floor area or occupancy restrictions on certain uses.

CORPORATE STRATEGIC PLAN

Focus Areas: 1. Skilled, Innovative and Respectful Organization, 2. Financial Sustainability, 3. Intergovernmental Relationships, 4. Growing Our Economy, 5. Social Development, 6. Environmental Stewardship, 7. Healthy Community

Financial Sustainability

- ◆ Effective and sustainable Growth Management.

Intergovernmental Relationships

- ◆ Maintain effective relationships with other public agencies.

Environmental Stewardship

- ◆ Natural resources are protected and enhanced.

Healthy Community

- ◆ Plan and manage the built environment.

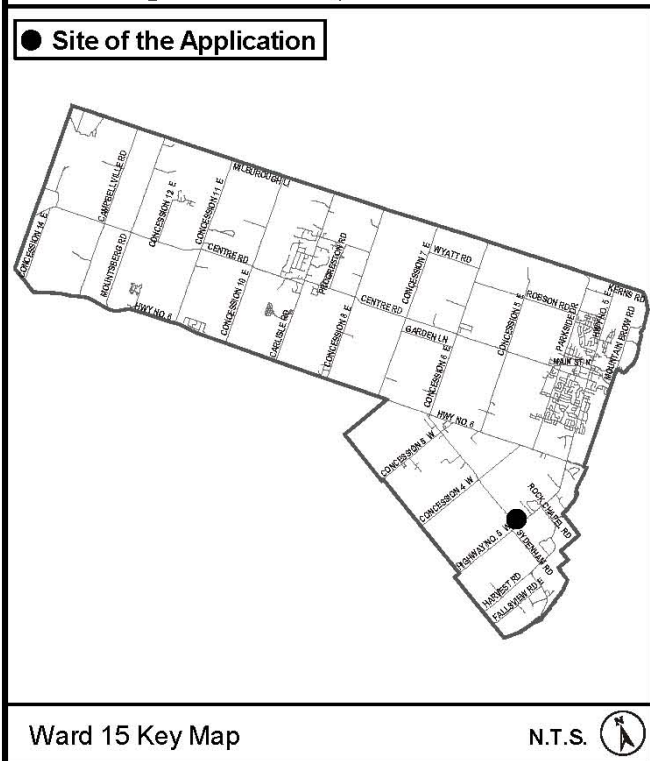
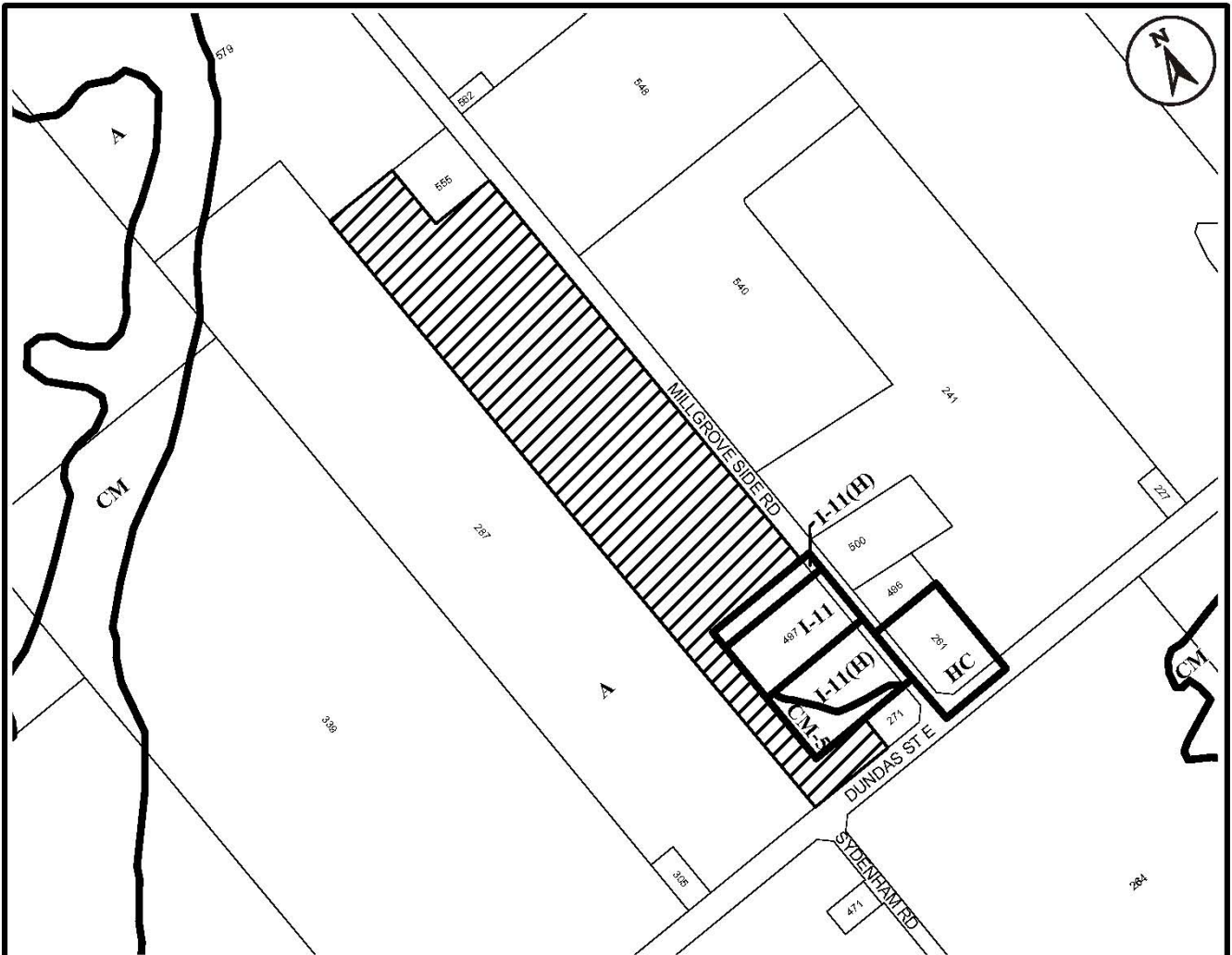
**SUBJECT: Application to Amend Zoning By-law No. 90-145-Z for the Property
Located at 533 Millgrove Side Road (Flamborough) (PED12209)
(Ward 15) - Page 21 of 21**

APPENDICES / SCHEDULES

- Appendix "A": Location Map
- Appendix "B": Draft Zoning By-law Amendment
- Appendix "C": Letters from Neighbouring Residents

:CB

Attachs. (3)



Location Map

PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT

File Name/Number:
ZAR-09-036

Date:
October 3, 2012

Appendix "A"

Scale:
N.T.S.

Planner/Technician:
CB/KA

Subject Property

533 Millgrove Side Road

Change in Zoning from the Agricultural "A" Zone to the Agricultural "A-90" Zone, modified with a special exception.

Authority: Item [REDACTED]
Planning Committee
Report: 12 [REDACTED] (PED12209)
CM: [REDACTED]

Bill No. [REDACTED]

CITY OF HAMILTON

BY-LAW NO. [REDACTED]

To Amend Zoning By-law No. 90-145-Z (Flamborough), as Amended Respecting Lands Located at Part of 533 Millgrove Side Road

WHEREAS the City of Hamilton Act, 1999, Statutes of Ontario, 1999 Chap.14, Sch. C. did incorporate, as of January 1st, 2001, the municipality "City of Hamilton";

AND WHEREAS the City of Hamilton is the successor to certain area municipalities, including the former area municipality known as "The Corporation of the Town of Flamborough" and is the successor to the former regional municipality, namely, The Regional Municipality of Hamilton-Wentworth;

AND WHEREAS the City of Hamilton Act, 1999 provides that the Zoning By-laws of the former area municipalities continue in force in the City of Hamilton until subsequently amended or repealed by the Council of the City of Hamilton;

AND WHEREAS Zoning By-law No. 90-145-Z (Flamborough) was enacted on the 5th day of November 1990, and approved by the Ontario Municipal Board on the 21st day of December, 1992;

AND WHEREAS the Council of the City of Hamilton, in adopting Item [REDACTED] of Report 12-[REDACTED] of the Planning Committee, at its meeting held on the [REDACTED] day of [REDACTED], 2012, recommended that Zoning By-law No. 90-145-Z (Flamborough) be amended as hereinafter provided;

AND WHEREAS the By-law is deemed to be in conformity with the Rural Hamilton Official Plan.

NOW THEREFORE the Council of the City of Hamilton enacts as follows:

1. That Schedule "A-11" of Zoning By-law No. 90-145-Z (Flamborough), as amended, is hereby further amended as follows:

- (a) By changing from the Agricultural "A" Zone to the Site-Specific Agricultural "A-90" Zone;

on the lands the extent and boundaries of which are shown on Schedule "A" annexed hereto and forming part of this By-law.

2. That Section 33 - Agricultural Zone of Zoning By-law No. 90-145-Z (Flamborough), as amended, is hereby further amended by adding a new Sub-section "33.3.90", as follows:

33.3.90 A-90 (See Schedule Number A-11)

Permitted Uses:

- (a) Any use permitted in an A zone.
 - (b) A Gift Shop having a maximum gross floor area of 789m² and a restaurant with a maximum seating capacity of 48 persons only within the building existing on the date of the passing of this By-law, being the [REDACTED] day of [REDACTED], 2012.

or

A Restaurant having a maximum seating capacity of 80 persons only within the building existing on the date of the passing of this By-law, being the [REDACTED] day of [REDACTED], 2012.

- (c) A Fruit or Vegetable Market, selling produce grown on the property and/or local farms.
 - (d) An ancillary petting zoo.

Zone Provisions:

All other zone provisions of Sub-section 33.2 shall apply.

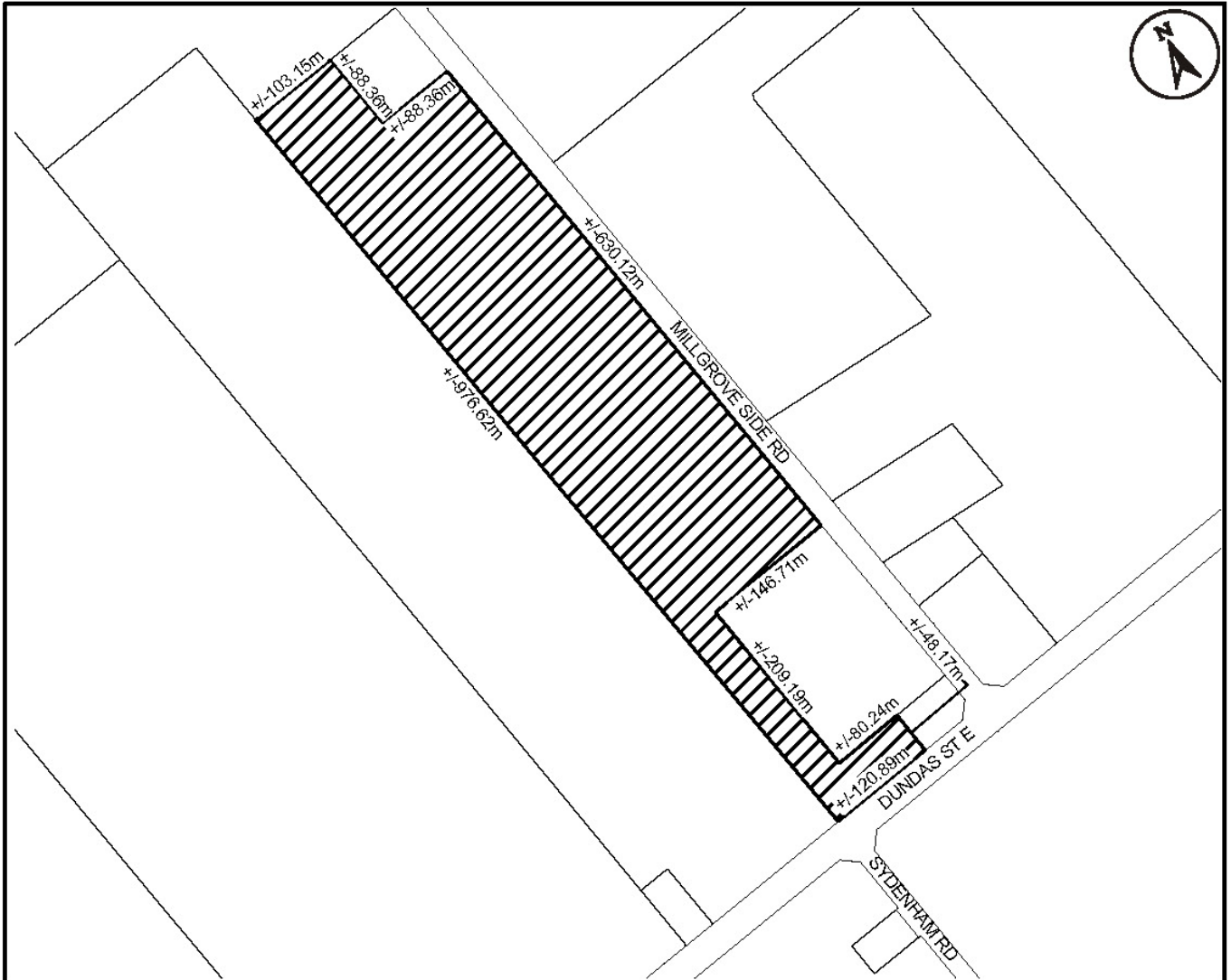
3. That the Clerk is hereby authorized and directed to proceed with the giving of notice of the passing of this By-law, in accordance with the Planning Act.

PASSED and ENACTED this [REDACTED] day of [REDACTED], 2012.

R. Bratina
Mayor

ZAC-09-036

R. Caterini
Clerk



This is Schedule "A" to By-Law No. 12-
 Passed the day of, 2012

 Mayor

 Clerk

Schedule "A"

Map Forming Part of
 By-Law No. 12-_____

to Amend By-law No. 90-145-Z

Subject Property

533 Millgrove Side Road



Change in Zoning from the Agricultural "A" Zone
 to the Agricultural "A-90" Zone

Scale:
 N.T.S.

File Name/Number:
 ZAR-09-036

Date:
 October 3, 2012

Planner/Technician:
 CB/KA



CPB



Evans, Philp LLP
Barristers
and Solicitors
Since 1919

RECEIVED DEC 3 - 2010

December 3, 2010

HAND DELIVERED

City of Hamilton
Planning and Economic Development Department
71 Main Street West, 5th Floor
Hamilton, Ontario
L8P 4Y5

Attention: Chris Bell, Planning Division, Development Planning, West Section

Dear Mr. Bell:

Re: Application for Zoning By-law Amendment
533 Millgrove Side Road – The Dutch Mill Country Market (the "Lands")
Your Application No. ZAR-09-036
Our File No. 6140-2

We act as solicitors to Nicodemo Restagno, owner of 540 Millgrove Side Road situate in a close proximate location to the above Lands. The owner of the Lands, Domsons Investments Ltd., through its agent, has submitted the above zoning by-law amendment application to permit "Agri-tourism" uses on the Lands, namely, an expanded gift shop, restaurant, tea room, entertainment uses, petting zoo and other accessory uses (the "Application"). We are responding to Senior Project Manager, Jason Thompson's letter of November 11, 2010 which requests that we direct to you any comments in respect of the Application in order that same may be included in the staff report to be submitted to the City of Hamilton Economic Development and Planning Committee (the "Committee") on this matter.

Background

We are in receipt of your report to the Committee, dated October 5, 2010 identified as PED10237 (the "Report"). We confirm that City planning staff, by virtue of the Report, does not

support the Application. We note however, from the minutes of that meeting, that the Committee had expressed its support of the Application, deemed it to comply with the City of Hamilton Official Plan, and directed staff to re-circulate the Application to affected parties and prepare a supplementary report to Committee.

Opposition

For reasons that follow, our client opposes the zoning by-law amendment, endorses the conclusions and position of staff reached in the Report and specifically challenges the apparent legal conclusion of the Committee, contrary to the Report, that the Application does not in substance constitute an Official Plan amendment.

Inapplicable Uses and Official Plan

The Lands are not within the urban boundary of the City of Hamilton. If the Application were to be approved and the requested uses permitted on the Lands, Committee and Council will have permitted a number of commercial uses within a rural area of the City. The effect is to spread urban uses to rural areas although existing urban employment lands can accommodate those proposed uses. The Committee and/or Council cannot "pick and choose" which commercial uses are deserving of encroachment into the rural settlement area.

The Committee has deemed the Application compliant with the Official Plan based on the Ministry of Agriculture, Food & Rural Affairs' Fact Sheet 842 dated March 2010 (the "Fact Sheet"). The Fact Sheet uses an American definition of Agricultural Tourism to mean, "the act of visiting a working farm or any agricultural, horticultural or agribusiness operation for the purpose of enjoyment, education or personal involvement in the activities of the farm or operation" (emphasis added). Any such ancillary use requires incorporation within the existing permitted uses of the farm or related operation. The uses proposed under the Application do not logically or sensibly fall within such an ancillary or extended use.

Disguising the requested expanded uses as "Agri-tourism uses" is merely a semantic tool to expand the commercial quality of the Lands. Following the analysis under the Report, it is clear that disguising the proposed uses as "Agri-tourism uses" (which is an undefined term in all relevant planning documents) falls beyond the established definitions of "agricultural use", "agricultural-related uses", and "secondary uses" under the Greenbelt Plan. This definition informs similar terms under the Provincial Policy Statement and is echoed in the various official plan documents for the City of Hamilton.

Moreover, a logical and plain definition (as required under Part VI of the *Legislation Act, 2006*) of "Agri-tourism uses" would include (with reference to the Fact Sheet) sheep shearing, pumpkin picking and sale of goods grown on the farm, but not banquet centres, evening dance parties or tearooms, which are clearly just commercial uses. Simply locating a commercial use, such as a banquet facility, on a farm or near a greenhouse does not convert the additional use. The primary use remains fundamentally commercial and prohibited under the Official Plan.

Further, we note that the relevant Official Plans are exclusionary; unless expressly permitted, unstated uses are exhausted. These expanded uses are not permitted and do not fit within established definitions and uses set out in the official plans and zoning by-law.

Please note that a legal conclusion of Official Plan interpretation and compliance, contrary to established law, would be held to a standard of correctness within the meaning of *Dunsmuir v. New Brunswick* [2008] 1 S.C.R. 190 (SCC).

Staff Report

We concur with the planning analysis set out on page 12 of the Report, which overwhelmingly rejects the proposed use, specifically by referencing the Application's failure to conform to the intent of:

- i) the Provincial Policy Statement;
- ii) the *Greenbelt Act*;
- iii) the Greenbelt Plan;
- iv) the *Places to Grow Act*;
- v) the Greater Golden Horseshoe Growth Plan;
- vi) the Regional Official Plan;
- vii) the former Town of Flamborough Official Plan;
- viii) the Council-adopted City of Hamilton Rural Official Plan; and,
- ix) the Zoning By-law.

The cogent legal and policy considerations articulated in the Report are substantial and imply consequences should the Committee decide to proceed in contravention of these conclusions. The Committee is poised to adopt the Application in light of staff's rejection of the Application on valid planning grounds. In doing so, the Committee is failing to consider, or is outrightly refusing to acknowledge the purposes of the *Planning Act* (section 1.1) as a means of protecting prime agricultural lands in accordance with provincial policies and interests (section 2).

Other Relevant Considerations

The Application also specifically affects our client. His family has lived at 540 Millgrove Sideroad for thirty-five years, enjoying an agricultural quality of the area. When the former owner of the Lands built the existing greenhouses in 1997, they were limited to a specific agricultural use (drying flowers). The new owner seeks to expand the use of these buildings and construct new ones that will bring hundreds of customers to the Lands in furtherance of its use as a banquet centre or dance hall.

These expanded uses, which include entertainment uses (not defined in the Application but understood to be a banquet hall), will necessarily create noise and lighting nuisances for our client who lives in close proximity; several events already occurring on the Lands (likely in contravention of various municipal by-laws (licensing, building permits, zoning, etc.)) have

resulted in excessive noise after midnight in further contravention of municipal by-laws. The flow of traffic is an expected problem, given that the existing driveway on the Lands is too close to our client's property. This is inconsistent with the new City of Hamilton Zoning By-Law. As a result, parking will be an added concern. It is logical to assert that public safety may be at risk in permitting these commercial uses in an agricultural, rural area.

Neighbours in Opposition

Our client has advised us that three additional home owners oppose the Application and we are enclosing those letters for your records and further handling. They allege valid planning and practical grounds to reject the Application. We are also providing you with a petition provided by our client which is endorsed and signed by eighteen (18) residents of Millgrove Side Road, all of whom stand in opposition to the Application.

Please note that all these residents live in close proximity to the Lands and, as such, their objections should be given more weight than those who have spoken in support of the Application (which we note are from Burlington, Cambridge and Sault Ste. Marie).

Request for Notice

We wish to be provided with a copy of the staff report that will be submitted to Committee on this matter and ask that you provide us with direct notice of the upcoming Committee meeting/public meeting to be held in respect of the Application. We further wish to confirm our appearance on behalf of our client as a delegation to Committee to speak to our client's position. We reserve our client's rights to make additional submissions in opposition to this Application at that time.

Appeal

If Committee recommends to City Council, and Council subsequently endorses the Application, please be advised that we have instructions to appeal the decision to the Ontario Municipal Board on all planning and legal grounds. We will be citing the comments and findings in the Report.

We thank you for your consideration in this matter.

Yours very truly,



Randall S. Bocock

RSB/MRG/ar

Encls.

cc. Jason Thompson, Senior Project Manager, Development Planning, West Section
Nicodemo Restagno

WE ARE RESIDENTS OF HILLGROVE
SIDE ROAD
AND OPPOSE

THE RE-ZONING OF LANDS AT 533 HILLGROVE
SIDE ROAD (DUTCH MILL GARDENS.)

① MR. & MRS. NICK PESTANO
540 HILLGROVE SD. RD.

Rose Pestano

N. Pestano

opposed

② MR. & MRS. ROSARIO PERRI
548 HILLGROVE SIDE RD.

Rosario Perri

opposed

③ Mr. & Mrs. Mike Dunn
562 Millgrove sd Rd



oppose

④ MR. William C Mann
227 Hwy #5 RR#2 Dundas

opposed

⑤ Alan Ryck
578 Millgrove sd Rd

opposed

- ⑥ JACKI + DAVE KELLER
597 MILLGROVE SIDEROAD
WATERDOWN
ONTARIO. - OPPOSE
- ⑦ Wayne Yacyshyn
627 Millgrove sideroad
Waterdown - Ont. Oppose
- ⑧ Jim + Shirley Ott.
631 Millgrove Side Rd.
Waterdown, ON. - oppose.
- ⑨ KEN + BARBARA MCKENNA
639 MILLGROVE SIDEROAD
WATERDOWN, ONT - OPPOSE
- ⑩ Amy Lundquist + Chris Fair
555 millgrove side road
Waterdown, ont - oppose
- ⑪ CHIEF BRAMHALL
628 MILLGROVE SD. RD.
WATERDOWN ON. (OPPOSED)
- ⑫ MARJORIE TREGUNNO
744 MILLGROVE SO. RD. (OPPOSED)

- (13) Palmer Neal
737 Millgrove Sd Rd
Millgrove Ont Oppose
- (14) ROBERT EBERT
813 MILLGROVE SD. RD.
MILLGROVE, ONT. OBJECTIONS
- (15) Mary Barton
748 Millgrove Sd. Rd.
Millgrove Ont. oppose!
- (16) Phil & Judy Baker
796 millgrove SR
millgrove ont. oppose
- (17) Dora & BARB ALLEMANG
800 MILLGROVE SIDE ROAD
MILLGROVE LORVO OPPOSE
- (18) BILL & DONNA HOFFNER
~~802~~ 802 MILLGROVE SIDE RD
MILLGROVE LORVO oppose

November 30, 2010

City of Hamilton
Planning and Economic Development Department
71 Main Street West, 5th Floor
Hamilton, Ontario
L8P 4Y5

Attention: Chris Bell, Planning Division, Development Planning, West Section

Dear Mr. Bell:

Re: 533 Millgrove Side Road – The Dutch Mill Country Market
City Application No. ZAR-09-036

We write to confirm that we oppose the application before the City of Hamilton to change the zoning of the Dutch Mill Country Market to permit a gift shop, restaurant, petting zoo and entertainment uses. We believe the suggested uses are broad and could negatively affect the area. The Dutch Mill Country Market currently is used for local events and if these entertainment and commercial uses are allowed, we could see a whole range of new issues confronting the property and neighbours. What if they put a banquet hall in the market? What if the gift shop expands to include a whole range of services? There are too many development opportunities that could be read into this application and for that reason we are opposed to it.

Yours very truly,

Amy Lindquist & Chris FAIR
555 millgroveside road
Waterdown, ontario
LOR HZH

November 30, 2010

City of Hamilton
Planning and Economic Development Department
71 Main Street West, 5th Floor
Hamilton, Ontario
L8P 4Y5

Attention: Chris Bell, Planning Division, Development Planning, West Section

Dear Mr. Bell:

Re: 533 Millgrove Side Road – The Dutch Mill Country Market
City Application No. ZAR-09-036

We understand that the application for a zoning by-law amendment for the Dutch Mill Country Market is with the City for consideration to approve expanded uses which will have the effect of increasing traffic to the area, perhaps creating noise, and otherwise changing the rural quality of the area.

Please note that we oppose this application.

Yours very truly,

Rosario Perri
ROSPARIO PEARO
533 Millgrove Side Road
Dundas Ont.

November 30, 2010

City of Hamilton
Planning and Economic Development Department
71 Main Street West, 5th Floor
Hamilton, Ontario
L8P 4Y5

Attention: Chris Bell, Planning Division, Development Planning, West Section

Dear Mr. Bell:

Re: 533 Millgrove Side Road – The Dutch Mill Country Market
City Application No. ZAR-09-036

Expanding the commercial quality of The Dutch Mill Country Market could change the nature of the area from an agricultural and general rural area to a commercial centre. We have seen this recently with other development in Flamborough, resulting in a loss of our agricultural lands. We do not need to see this happen again. We oppose the zoning application.

Yours very truly,



Michael P Dunn Phone #

562 Millgrove sd Rd
P.O. Box 293 Millgrove, on.

LOR-1V0

Bell, Chris

From:
Sent: Friday, November 26, 2010 2:08 PM
To: Bell, Chris
Subject: Regarding 533 Millgrove side road

Hello

This is Chris Fair i own a house next to 533 i live at 555 Millgrove side road next to the dutch mill.

We appose to any buildings being built and or structures closer to my house already as last year we already had people coming down on our property by our pond taking pics of our house etc due to some car show / outdoor party or whatever they had next year. I am gonna be forced to put a wood fence up down the side and across the back of my property as i would never have purchased here i knew all these changes could happen and ruin our privacy.

Thanks
Chris Fair

555 Millgrove side road
Waterdown On

Bell, Chris

From: Frank Perri
Sent: Monday, November 22, 2010 6:38 PM
To: Bell, Chris
Subject: FILE NO.: ZAR-09-036

Hi Chris,

I am speaking on behalf of my parents Rosario and Sara Perri (548 Millgrove Side Road) who owns the residential property directly across from 533 Millgrove Side Road which is proposing a Zoning Amendment Application to permit Agri-tourism. They have expressed concerns on how this re-zoning of the property will directly impact there residential property such as the increase in noise levels due to outdoor entertainment uses and the increase in traffic due to numerous activities proposed in the area.

My parents had moved from the busy and congested downtown area of Hamilton in 1974 seeking a quieter and more tranquil life out in the country of Flamborough. In those 36 years, they have successfully raised a family of four children and have thoroughly enjoyed the life in a country setting. However, with this proposal, this way of life is now being threatened due to the Re-Zoning By-Law.

Please appreciate that my parents are not against prosperity, however, they feel that the activities that are being proposed on the subject lands are not in there best interests and should be directed in areas that can better accommodate the proposed activities.

In conclusion, please contact me at the number below to provide me further clarification on this matter.

Sincerely,

Frank Perri
H -
B -

11/23/2010

Oct. 18/10

DEAR MR. BEM:

RECEIVED OCT 19 2010

I AM WRITING THIS LETTER TO EXPRESS MY CONCERNS AND FRUSTRATION REGARDING THE APPLICATION SUBMITTED BY DUTCH MILL GARDENS FOR RE-ZONING, THAT THE HAMILTON ECONOMIC COMMITTEE HAS APPROVED.

TO BEGIN WITH, I WANTED TO PROVIDE YOU WITH SOME HISTORY ON THE DUTCH MILL GARDENS PROPERTY. THE ORIGINAL OWNER, ADVISED US, THAT THE INTENT OF USE OF THE BUILDING WAS FOR THE PURPOSE OF HOUSING FARM EMPLOYEES AND STORING DRIED FLOWERS WHEN THIS BUILDING WAS FIRST BUILT. THERE WERE NEVER ANY APPLICATION POSTED OR COMMUNICATED IN ANY FORM TO ADVISE US OF THE REAL INTENT OF USE OF THIS

PROPERTY AS THE MARKET THAT ITS EVOLVED
TO-DAY. THEY BUILT ANOTHER HOUSE ON THE
PROPERTY AND LATER DIVIDED AND SOLD
SEPERATELY FROM THE BUSINESS.

WE APPLIED TO SEPERATE A LOT, AND WHERE
REFUSED BECAUSE IT IS AGRICULTURAL LAND,
RULES SHOULD BE THE SAME FOR ALL NOT
THE FEW.

NOW, THE NEW OWNERS, PLAN TO EXTEND
THE USE OF THIS PROPERTY FURTHER, WICH WILL
FURTHER IMPACT OUR QUALITY OF LIFE.

I WONDER, IF, ONE OF THE MEMBERS OF
THE HAMILTON ECONOMIC COMMITTEE WOULD
LIKE TO LIVE ACROSS DUTCH MILL GARDENS,
THAT IS OPEN 7 DAYS A WEEK, HOLIDAYS,

ALL YEAR ROUND. IF THEY DID, THEY SURELY
WOULD NOT HAVE APPROVED THIS APPLICATION.

WE HAVE LIVED ON MILLGROVE SQ RD. FOR 35 YRS.

BUILT OUR HOUSE AND RAISED OUR 3 BOYS.

OUR CONCERNS ARE THAT WE HAVE LOST
OUR PRIVACY AND PERSONAL ENJOYMENT OF
OUR PROPERTY. OUR QUALITY OF LIFE HAS
BEEN DISRUPTED. THE TRAFFIC IS OUTRAGEOUS,
NOISE FROM OUT DOOR EVENTS, AND CARS COMING
IN AND OUT, 7 DAYS A WEEK. OUR SAFETY
IS COMPROMISED WHEN TRYING TO BACK
VEHICLES OUT OF THE DRIVEWAY. WE ARE
PRISONERS IN OUR OWN HOUSE, THANKS TO
DUTCH MILL GARDENS. WE STRONGLY OPPOSE-RE-ZONING.

MR. & MRS. ROSE RESTAANO

THANK YOU
540 MILLGROVE SQ. RD.