SUBJECT: Application for a Modification in Zoning for Lands Located at 383 Dundas Street East, Flamborough (PED07119) (Ward 15)

RECOMMENDATION:

That Zoning Application ZAR-06-102, C. B. Vanderkruk Holdings Ltd., owner, to modify the existing Highway Commercial “HC-2” Zone to add a banquet hall as a permitted use, for lands located at 383 Dundas Street East, as shown on Appendix “A” to Report PED07119, be denied on the following basis:

(a) That the proposed use is incompatible with existing and planned uses in the immediate area.

(b) That the proposal does not represent good planning.

Lee Ann Coveyduck
General Manager
Planning and Economic Development Department

EXECUTIVE SUMMARY:

The purpose of the application is to modify the current zoning of the subject lands to add a banquet hall as an additional permitted use.

The proposal cannot be supported as it is considered to be incompatible with existing and planned land uses in the surrounding area and, as such, does not represent good planning.
BACKGROUND:

Proposal

The application is for a modification in zoning for lands located at 383 Dundas Street East (see Appendix “A”). The purpose of the application is to modify the current Highway Commercial “HC-2” Zone to permit catered functions (a banquet hall) to be conducted within part of the existing garden centre as an additional use. The subject lands currently contain a single storey garden centre, several storage buildings and a paved parking area with 90 spaces (see Appendix “B”). The area within the centre for the proposed banquet hall is at the rear of the property, enclosed by plastic walls, and has a gross floor area of approximately 300m². No additional development has been proposed to accommodate the banquet hall use and no modifications to the existing zoning regulations would be required.

A banquet hall has previously operated on the site, which was brought to the attention of the City’s By-law enforcement team by the Fire Department. On December 6, 2006, the applicant received a letter from staff requiring the owner to cease use of the building as a banquet hall or apply for a rezoning.

Details of Submitted Application:

Owner/ Applicant: C.B. Vanderkruk Holdings Ltd.

Location: North side of Dundas Street East and east of First Street, Waterdown, municipally known as 383 Dundas Street East (see Appendix “A”).

Description: Frontage: 72.4 metres. Depth: 118 metres. Area: 8,415 square metres.

EXISTING LAND USE AND ZONING:

<table>
<thead>
<tr>
<th>Subject Lands:</th>
<th>Existing Land Use</th>
<th>Existing Zoning</th>
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<tbody>
<tr>
<td></td>
<td>Commercial (garden</td>
<td>Highway Commercial “HC-2” Zone</td>
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<td>centre)</td>
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<th>Surrounding Lands:</th>
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<tr>
<td>North</td>
<td>Residential (Single</td>
<td>Urban Residential (Single Detached)</td>
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<td></td>
<td>detached)</td>
<td>“R1” Zone</td>
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ANALYSIS/RATIONALE:

1. The proposal cannot be supported for the following reasons:

   (i) It is incompatible with existing and planned uses in the immediate area.

   (ii) It does not represent good planning.

2. Currently, there is an existing single storey garden centre, storage buildings, and an associated parking area on the subject property (see Appendix “B”). The application proposes to utilize a portion of the existing garden centre which is enclosed by plastic to operate the banquet hall and, as such, no additional buildings or modifications to the existing zoning regulations are proposed.

   The Highway Commercial “HC-2” Zone, which currently applies to the site, prohibits all uses except for a garden centre. Currently, a banquet hall is not defined under Flamborough Zoning By-law No. 90-145-Z and, as such, should consideration be given to approval of this proposal, it is recommended that a definition for this use be incorporated into the amending By-law. In defining this use, the applicant has confirmed that the existing tropical greenhouse (measuring approximately 300 square metres) would be used to host events such as wedding receptions and birthday parties. These events would use outside caterers and, consequently, there would not be any food preparation conducted on site. The applicant has also indicated that this use would be seasonal (September – April, inclusive) and would, therefore, be operated in the off-season to the existing garden centre. Operations would include evenings and weekends, with speaker facilities supplied by the owner. It is expected that some spill-over of the use would occur outside the building at the rear adjacent to the existing single-detached dwellings, as noted by the letters in response to pre-circulation (Comment 4), regarding the previous operation of a banquet hall on-site.

   Staff is of the opinion that the potential for incompatibility with the adjacent residential area is high, particularly due to nuisance factors such as noise and, therefore, do not support the application. Given the lightweight structure proposed to host the events, the structure has minimal sound insulation. Staff also notes that the current zoning has been scoped down to permit only one use, which avoids incompatibilities with the residential area.
3. The current Official Plan policies and zoning that apply to this site recognize a long standing use. The current zoning has been scoped down to permit only one use, to avoid incompatibilities with the residential area. It should be noted that if the proposal was for an Official Plan and/or Zoning By-law Amendment to add the subject lands as additional lands for HIGHWAY COMMERCIAL uses to permit the banquet hall use, the proposal would not conform to the compatibility criteria in Policy A.3.3.4 of the Flamborough Official Plan. However, the lands are already designated Highway Commercial to recognize the greenhouse operation existing for many prior years.

4. Fifteen letters from surrounding residents and two letters from the applicant were received in response to the pre-circulation letter (attached as Appendix “C”). Several concerns were raised in the letters, including the following: noise disturbance (loud music/disorderly conduct/traffic); traffic congestion; general incompatibility with the existing neighbourhood; garbage; lack of parking; increase in intensity of an already over-used site; light pollution; and decreased property values. An analysis of the issues is discussed below.

**Noise**

The subject lands are surrounded predominately by single-family residential properties. These properties back onto the site from First Street, in addition to adjacent residential dwellings to the east on Dundas Street East and to the north-east on Boulding Avenue.

As detailed on the site plan (Appendix “B”), the existing tropical greenhouse, which is to host the proposed events, is located towards the rear of the site. Given the layout of the surrounding properties, a separation of at least 30m would exist between the greenhouse and the existing residential properties outside of the site. The boundary of the site is also landscaped, providing a screening of trees along the north-east and north-west boundaries.

Notwithstanding these site characteristics, concern remains over the ability of the greenhouse, which is constructed of predominately lightweight materials, to adequately mitigate the levels of noise from disturbing the surrounding residential properties. In response to the concerns raised by surrounding residents, the applicant has confirmed that only an in-house sound system would be used for functions and that these levels would be controlled to avoid unacceptable disturbance. This intent, however, cannot be controlled through the rezoning and, as such, the only measure to control any unacceptable levels of noise would be through the City-wide Noise By-law. Staff also notes that it is likely that festivities will spill over outside, which would be difficult to control through zoning regulations.

It is therefore considered that, in the absence of a solid and substantial structure to contain the proposed use and limits on outside activity, and given the proximity of the surrounding residential properties, the addition of a banquet hall would not be compatible with the existing and proposed surrounding land uses and would represent poor planning.
Parking

The availability of on-site parking for the proposed use was also raised as a concern. Residents highlighted a deficiency already experienced with the parking available for the existing garden centre and are of the opinion that adding an additional use would only exacerbate this situation.

In assessing the parking requirements for the banquet hall, it is noted that the zoning regulations would require a minimum of 10 on-site parking spaces (based on a minimum requirement of 1 space per 30m²). The proposed use would be operated during a different season than the existing use and, as such, would not compete for the existing spaces. Although not dimensioned on the provided concept plan, 90 parking spaces are shown to be available and, as such, are considered sufficient to accommodate the proposed use.

With regard to the concerns raised over the existing parking situation, staff notes that the standard parking requirement for a garden centre is a minimum of 1 space per 30m² of gross floor area. The combined gross floor area of all buildings used in connection with the garden centre is 2,900m² (which includes the existing garden centre, warehouse and seasonal store). However, with respect to parking requirements, only the floor areas of the store and greenhouse would be subject to this regulation. This would give a combined total of 2,248m² of applicable floor area. This would require a minimum of 75 parking spaces, which in addition to the proposed use’s requirement of 10 spaces, would require a total of 85 spaces. Given the potential of the site to accommodate 90 parking spaces, the parking provided on-site would be in accordance with zoning regulations.

Given this information, and the understanding that the two uses would be operated at separate times to one another, it is not considered that the proposed use would result in an unacceptable parking situation.

Traffic

In response to concerns over increased traffic, as discussed above, the two uses would be operated at separate times and, as such, it is not considered that the proposal would result in any unacceptable traffic impacts. The Traffic Engineering and Operations Section has raised no objections to the zoning application.

Garbage and Lighting

It is noted that the structure proposed to accommodate the banquet hall is constructed of predominately translucent materials and, as such, there is a potential for internal lighting to ‘spill-out’ of the building and affect surrounding properties. However, given the screening provided by the existing trees and boundary treatment, any potential impact upon residential amenity would be mitigated.
With regard to garbage, it is considered, given the size of the proposed banquet hall and the layout of the site, that any additional garbage could be sufficiently contained and dealt with on-site.

**Decreased Property Value**

Concerns were raised with respect to the negative impacts on property values and taxation of surrounding properties. Staff is unaware of any information or data to support this concern.

5. Staff notes that there is existing water and sanitary services on First Street and Dundas Street East to service the site directly. Currently, the site is on a private septic system and, therefore, given the additional strain on the system from the proposed additional use, if Council wishes to approve the application, staff would recommend that as part of any approval the applicant connect to the municipal sanitary sewer through the requirement of an ‘H’ Holding provision.

**ALTERNATIVES FOR CONSIDERATION:**

If the application is denied, then the applicant has the option of using the property for the current use (garden centre) permitted in the Highway Commercial “HC-2” Zone.

**FINANCIAL/STAFFING/LEGAL IMPLICATIONS:**

- Financial: N/A.
- Staffing: N/A.
- Legal: As required by the Planning Act, Council shall hold at least one (1) Public Meeting to consider an application for a change in Zoning.

**POLICIES AFFECTING PROPOSAL:**

**Provincial Policy Statement**

The application has been reviewed with respect to the Provincial Policy Statement (PPS). Staff recognizes that the application is consistent with the policies that focus growth in settlement areas (Policy 1.1.3.1).

The subject lands are presently on a private septic system and, as such, Policy 1.6.4.5 is applicable. Under Policy 1.6.4.5, partial services are only permitted in limited situations, where necessary, to address failed services within an existing development or for the purposes of infilling and rounding out of existing development. The subject proposal does not meet any of these circumstances and, as such, if the application was approved, staff would recommend the subject lands be placed in an ‘H’ Holding zone due to the additional strain placed on the septic system by the proposed use, until such time as the applicant connects to the existing sanitary main.
Niagara Escarpment Plan

The property is designated by the Niagara Escarpment Plan (NEP) as “Urban Area”. This designation is consistent with the designations applied by the former Hamilton-Wentworth Region and former Town of Flamborough in their respective official plans.

Uses are subject to conformity with the Development Objectives of Part 1.7 of the Niagara Escarpment Plan (Urban Area). As the structure for the proposal is part of an existing building complex, there would be no conflict with the Niagara Escarpment Plan.

Hamilton-Wentworth Official Plan

The subject property is designated “Urban Area” in the Hamilton-Wentworth Official Plan. Policy 3.1 outlines that a wide range of urban uses, defined through Area Municipal Official Plans and based on full municipal services, will be concentrated in the Urban Areas.

As the nature of the application is for a change in zoning to permit the establishment of an additional use (banquet hall), the proposal is, in principle, consistent with the policies of the Hamilton-Wentworth Official Plan.

Town of Flamborough Official Plan

The lands are subject to the following general policies of the Flamborough Official Plan:

“A.1.1 Development in the URBAN AREA shall be permitted on the basis that Municipal sewerage and water can be provided to the development, in compliance with Section ‘D’ of this Plan. Provision, in every development, shall be made for stormwater management in accordance with Section ‘D’ of this Plan.”

The subject property is also designated “Highway Commercial - Urban” on Schedule “A” – Waterdown Urban Area – Land Use Plan. The following policies of the Town of Flamborough Official Plan, among others, are applicable to the proposed development:

“A.3.3.1 Those areas designated on Schedule ‘A’ as HIGHWAY COMMERCIAL-URBAN shall permit uses which are, by the nature of their business, directly related to the travelling public. These uses are reliant on locations readily accessible by vehicles. HIGHWAY COMMERCIAL-URBAN uses are: automobile service uses, fruit and vegetable markets, ice-cream parlours, restaurants, hotels and motels, and similar uses.

A.3.3.4 Council may permit the designation of additional HIGHWAY COMMERCIAL-URBAN lands by amendment to this Plan and the Zoning By-law. When considering proposals to designate additional land HIGHWAY COMMERCIAL-URBAN use(s), Council should be guided by the following:

(ii) The compatibility of the proposed use to surrounding development;”
The nature of the use would continue to be focused on the travelling public, but the proposed use fails to be compatible with the surrounding development by virtue of those issues discussed in the Analysis/Rationale Section of this report. If the proposal was for an Official Plan and/or Zoning By-law Amendment to add the subject lands as additional lands for HIGHWAY COMMERCIAL uses to permit the banquet hall use, the proposal would not conform to the compatibility criteria of the Official Plan. However, the lands are already designated for such uses; however, the zoning only recognizes the greenhouse/nursery business as the only permitted use.

Should the proposal be approved, it is recommended that the site be placed under an ‘H’ – Holding provision to ensure the applicant connects to the municipal sanitary sewer, in accordance with General Policy A.1.1.

**RELEVANT CONSULTATION:**

**Agencies/Departments Having No Comment or Objections**

- Traffic Engineering and Operations Section, Public Works Department.
- Strategic and Environmental Planning, Public Works Department.
- Budget and Fiscal Policy Services, Corporate Services Department.
- Horizons Utility Corporation.
- Niagara Escarpment Commission.

**Parking Services, Hamilton Municipal Parking System**, has reviewed the proposal and has the following comments:

The applicant has not indicated what the on-site parking requirements will be. The applicant must ensure that all required parking is accommodated on-site, as there is almost no opportunity for overflow parking in the area.

**Public Consultation**

In accordance with the Public Participation Policy, approved by Council on May 29, 2003, the application was pre-circulated to 76 property owners within 120 metres of the subject lands.

Fifteen letters from surrounding residents and two letters from the applicant were received in response to the preliminary notice of circulation letter (attached as Appendix “C”). Several concerns were raised in the letters, including the following: noise disturbance (loud music/disorderly conduct/traffic); traffic congestion; general incompatibility with the existing neighbourhood; garbage; lack of parking; increase in intensity on an already over-used site; light pollution; and decreased property values. An analysis of the issues is included in the Analysis/Rationale Section of this report.

Notice of the Public Meeting will be provided to the same property owners and a sign posted on the site will advise of the Public Meeting date in accordance with the requirements of the Planning Act.
CITY STRATEGIC COMMITMENT:

By evaluating the “Triple Bottom Line”, (community, environment, economic implications) we can make choices that create value across all three bottom lines, moving us closer to our vision for a sustainable community, and Provincial interests.

Community Well-Being is enhanced. ☑ Yes ☐ No
The public are involved in the definition and development of local solutions.

Environmental Well-Being is enhanced. ☐ Yes ☑ No
Due to the potential for negative ‘spill-over’ impacts of the proposed use upon surrounding residential properties.

Economic Well-Being is enhanced. ☑ Yes ☐ No
Investment in Hamilton is enhanced and supported.

Does the option you are recommending create value across all three bottom lines? ☐ Yes ☑ No

Do the options you are recommending make Hamilton a City of choice for high performance public servants? ☐ Yes ☑ No

:EJ
Attachs. (3)
Appendix "A" to Report PED07119

Change in Zoning from the "B" (Suburban Agriculture and Residential, etc.) District to the "C" District.

Lands to be rezoned from "AA" (Agricultural District, Modified) to "AA-H" (Agricultural – Holding District, Modified).

Location Map

File Name/Number: ZAR-06-102
Date: January 3, 2007
Appendix "A" Scale: N.T.S.
Planner/Technician: EJ/LC

Subject Property

To be rezoned from “AA” (Suburban Agriculture and Residential, etc.) District to "AA-H" (Agricultural – Holding District, Modified).

Ward 15 key map N.T.S.
Mr. John Edward
City of Hamilton
Planning and Economic Development
Development and Real Estate Division
City Hall, 71 Main Street West, 7th Floor
Hamilton, Ontario
L8P 4Y5

SUBJECT: Rezoning Application ZAR-06-102 @ 383 Dundas Street East

Dear Mr. John,

Thank you for the opportunity to comment on the proposed rezoning for the above-noted property, which is in close proximity to our home and within our view. Not only are we neighbours to this business operation but we are regular customers.

The nursery runs a very active and intensive operation for at least two-thirds of the year, and of course there are nuisances such as noise, traffic and parking that affect the neighbourhood. At the close of the landscaping season in the late fall, we find relief from the constant buzz of the retail operation.

We would ask that you carefully consider the proposed rezoning to allow banquet uses on the site. We do not support any seasonal or permanent banquet use on the property. We have noticed these uses over the past year, and have been disturbed by noise from music and people on the site late at night. A banquet use, in our opinion does not fit within the village residential setting that we have, and it would be highly disruptive to the neighbourhood. There are other considerations such as traffic, waste disposal, rodent issues, risks with heating system (not sure if its propane) that make us very concerned with the proposal. It would be very unfair to impose these additional activities and impacts to the neighbourhood.

Please keep us informed on the status of this application as well as any future meetings or hearings. Thank you for your kind consideration.

Jim and Dana Seferiades
February 3, 2007

Mr. Edward John  
City of Hamilton  
Planning & Economic Development, Development and Real Estate Division  
City Hall, 71 Main Street West  
7th Floor  
Hamilton, Ontario  
L8P 4Y5

Re: Preliminary Circulation for Rezoning Application ZAR-06-102 for lands located at 383 Dundas Street East

Dear Mr. John:

We wish to respond to your letter dated January 18, 2007 regarding the request for rezoning by Connon Nurseries to add a banquet hall to the existing range of permitted uses.

Prior to addressing our concerns and objection to this request, we would like you to know the following:

- We have lived in our current home for the past 19 years
- Our home is located on the adjacent property immediately north of the nursery
- We purchased our home knowing there was a nursery business at 383 Dundas Street
- There have been a number of banquet/party type functions held already at 383 Dundas and although assurances to lessen the noise have been made, we can honestly say, from our point of view, the results have been less than successful.
- We were under the impression that these functions were only temporary in nature and assumed that all proper and necessary permits had been granted and were in place
- Shortly after receiving your letter, we received a hand delivered letter from Connon Nurseries (copy attached) outlining their intentions with respect to the rezoning request.

In addressing our specific concerns with regard to the rezoning, we will highlight our concerns and address some of the points brought up in the Connon letter. The points we would like to make are as follows:

1. The operation would go from being a predominantly day time operation to a day and night operation, operating up to 20 hours per day, assuming the closing time for the banquet hall would be 2 am. Currently the nursery begins anywhere from 6 to 7 am and shuts down usually between 5 to 8 pm Monday to Saturday. This rezoning would not only interfere with outside backyard enjoyment in the evening, but more importantly would, as it has already on a number of occasions interrupt sleep.

2. In addition to the hours of operation, we have concerns about the challenges that we feel are associated with a banquet hall operation. These concerns include:
   - **Smoking** and its inherent negative qualities - smell and potential fire danger to the surrounding homes
   - **Alcohol** consumption and the possible straying and trespassing of banquet hall guests to the neighbouring properties
   - **Garbage** and its food smells and the potential for attracting rats and other vermin
   - **Parking** - currently First Street is used as overflow parking for staff and customers alike. It is a challenge enough during the daytime to get up and down the street. This same situation during night would only make
things more dangerous.

- **Zoning** - as we understand the process, zoning is attached to the land and not the owner, meaning that should there ever be a change in ownership, new owners would be able to operate any uses permitted by the zoning in place. Also, once approved for a banquet operation in the existing facility, what is to prevent the entire property from becoming an enlarged banquet hall with onsite cooking and food preparation.

3. Decreased Property Values - allowing this business to operate up to 20 hours per day and all of the above reasons would do nothing to enhance the value of the surrounding properties.

With the exception of the nursery, this is a predominantly residential area. There are many other areas throughout Hamilton zoned for retail/business commercial where a banquet centre could fit in more appropriately and would be less disruptive to its surrounding neighbours.

We have been good neighbours and are understanding of the nursery operation as it currently operates, however we do not support the rezoning request.

Yours truly,

Rosemary and Mike Hawkrigg
TO: Mr. Edward John  
City of Hamilton  
Planning & Economic Development  
71 Main Street West, 7th Floor  
Hamilton, Ontario L8P 4Y5

FROM: Vince J. Ferraiuolo  
Elizabeth A. Ferraiuolo  
7 Balgownie Crt.  
Waterdown, Ontario L0R 2H3

Re: Preliminary Circulation for Rezoning Application ZAR-06-102 for lands located at 383 Dundas St. East. Your letter dated January 18, 2007 regarding request for rezoning by Connon Nurseries to add a banquet hall to the existing range of permitted uses.

Dear Mr. John:

Our home is located just north of the Nursery and we have lived there for the past 17 years. We were aware that there was a nursery business at 383 Dundas Street and that it was strictly operating as a nursery business from Monday to Saturday during the regular daytime business hours. We have been disrupted in the past months a number of times due to banquet/party type functions already held at 383 Dundas St. We assumed that these were temporary staff functions and that all the necessary permits were in place.

We object to this rezoning and our concerns are as follows;

1. The rezoning would be a significant change to the current use of the property and would severely impact the surrounding residential homes. The operation would go from a current daytime operation (6 days) to a day/night operation (7 day).
2. This rezoning would extend the nuisance levels and interfere with outside peaceful backyard enjoyment and interrupt healthful sleep.
3. The banquet hall would detrimentally affect a number of issues. The alcohol consumption would result in guests straying into the neighbourhood and trespassing. The smoking, smell and health consequences would be damaging to the nearby families. The garbage would smell and attract rats and other rodents. Parking would be a problem. Currently First Street already is being used for extra parking. This causes safety issues in driving up First Street.
4. The zoning would survive the present owners. New owners would be able to operate any uses permitted by any rezoning. They would be able to run the entire site as a banquet hall or other permitted use. They could have onsite cooking and food preparation. Once again the rezoning would be a tremendous change from its current operation.
5. Property values would be decreased. The rezoning would adversely affect the characteristic of the area and the extended hours of business and the related nuisances would adversely affect the surrounding property values.
6. The change of use does not meet the desires of the neighbourhood. The rezoning would be an extensive change to the operation and poses a threat to the health and safety of the neighbourhood.

The area is a residential area occupied by families that would have their peacefulness and health affected. There are numerous other areas in Hamilton/Waterdown that are zoned and planned appropriately for a banquet center. These city-planned areas, which have been professionally selected with the appropriate criteria considered, is the place for banquet hall development.

As good neighbours we have been understanding and tolerant of the current nursery operation, but we do not support the request for rezoning.

Respectfully,

Vince Ferraiulo       Elizabeth Ferraiulo
February 7, 2007

The City of Hamilton
Planning and Economic Development
City Hall, 71 Main Street West
7th Floor
Hamilton, Ontario
L8P 4Y5

Mr. Edward John

Regarding: Rezoning Application ZAR-06-102 --> 383 Dundas Street East.

Dear Mr. John,

After receiving notice of the rezoning application a couple of weeks ago, I’ve taken the time to think about the potential risks of approving such a request. As the owner of the property immediately north of the nursery I have several concerns regarding the rezoning.

To that end, I personally feel it would cause a great deal of physical and financial hardship to my neighbours and myself.

Physically, over the past few years I’ve had to endure the nursery’s constant expansion, creeping closer and closer to the retaining wall that divides our properties. It’s at the point now where they literally conduct their business against this wall making it painfully obvious that they don’t really care about maintaining good relations with their neighbours...after all, business is business! On a financial level, having a “Banquet/Party” facility literally in my backyard will substantially drive down the value of my home, and those of my neighbours and that’s just not acceptable. Beyond that, I don’t want to be worried about the other activities (excessive noise, loud music, alcohol abuse, garbage, personal security...etc) that inherently go along with establishments of this nature.

I respect the fact that they run a garden nursery and understand there will be operational activities that are a little disruptive, however I will not support the request to rezone the above mentioned location.

Kindest Regards,

Frank Snyder
6 Boulding Avenue
Waterdown, Ontario
L0R 2H3
Stewart and Elizabeth White  
2 Boulder Avenue  
Waterdown, Ontario  
L0R 2H3

February 7, 2007

Mr. Edward John  
City of Hamilton  
Planning & Economic Development, Development and Real Estate Division

Re: Preliminary Circulation for Rezoning Application ZAR-06-102 for lands located at 383 Dundas Street East (Ward 15)

Dear Mr. John:

We are writing this letter to officially express our opposition to any rezoning by Connon Nurseries to include banquet facilities at their location on Dundas Street. Our home is directly behind the facility and we have some concerns that we would like to put forth.

First, we wish to state that we have read a letter circulated by the owners of Connon Nurseries and appreciate their fine efforts to keep their seasonal staff employed year round. However it is our fear and understanding that once the land is rezoned, that legal permission is granted and neighbours after such a time would have no recourse of action, should the situation get out of control. The intent today may be to keep events to a minimum and only over the winter months, however what would stop future owners, later generations or even present management from deciding (in a year or two) to expand operations of the banquet facility. It may just prove to be a very lucrative business that exceeds their expectations. They may discover that summer months, with their longer evenings and many weddings, provide the best opportunity for profit. And if property is zoned to include a banquet facility, how hard would it be to then obtain a liquor license?

We wish the owners much success in their business. We have always known Connon’s to be a great family business and enjoy shopping there. However, we feel allowing this change in zoning could open the door to a number of issues both ourselves and other residents wish not to deal with. We are opposed to the rezoning for the following reasons:

- Noise. We can hear the daytime operation of the nursery during the warmer months both from the inside and outside of our home. This starts very early in the summer months and extends into the evening. It seems unreasonable to then have to listen to noise which would be associated with a banquet during the evening. Having three young children, that possible noise may interfere with their sleep and/or any evening backyard relaxation.

- Rodents. We are concerned that a banquet facility with large food waste may encourage mice and rats in the area.

- Alcohol consumption. We feel that banquet halls with a liquor licence and the potential for increased noise and rowdiness do not belong in a residential area. It is not appropriate any night, but if this is a banquet facility, it could be three or four nights per week.

- Parking and increased traffic. Waterdown is already unable to cope with the increased traffic, especially on Dundas Street. Although the parking issue may not affect us directly, it would be a concern for our neighbours on First Street.

- Potential growth of the banquet facility once rezoning is granted. As we mentioned above, what may start as a small side venture, could grow into a much larger catering facility than first anticipated with all the associated problems not suitable for a residential area.

- Impact on property value. The addition of a banquet facility to a business which could then be operating for up to twenty hours a day could only have a negative impact on the value of the surrounding homes.
We believe that the current owners have noble intentions and being local residents themselves understand our concerns. We are a young family whom plan on being here for many years to come. This decision therefore, will affect us (and many other families) greatly.

Yours truly,

Stewart and Elizabeth White
January 31/2007

Edward John
City of Hamilton
Planning & Economic Development Dept.
Development & Real Estate Div.
City Hall
717 Main St. W.
Hamilton, Ont.
L8P 4A5

Re: File # 2RR-06-102
383 Dundas St. E.

Dear Sir;

Your concerns regarding this application, to further modify existing businesses for the purpose of a banquet hall are:

1. There is a home at 4 Sixth St., classed as a residential, not shown on location map.
2. At peak times (May, June, July, August, September) the business that is operating there now, creates parking problems on both sides of Sixth Street, it includes using Sixth Street.

Where is the parking going to be for the banquet hall?
3. If parking is going to be on Sixth Street - this makes it very dangerous, exiting or entering the Sixth Street to Highway 403 to make a left turn - going east - you must pull out onto Highway 403 Island of space planning on part of highway and large buildings.
4. When the banquet hall first began operating?

It has been shortened.

A copy of the staff report would greatly be appreciated.

Sincerely -

[Signature]

[Signature]

[Address]
February 6th, 2007

VIA FACSIMILE:

Mr. Edward John
City Of Hamilton
Planning & Economic Development Dept.,
Development and Real Estate Division
City Hall, 71 Main Street West, 7th Floor
Hamilton, Ontario
L8P 4Y5

Dear Sir:

RE: File No. ZAR-06-102: Lands Located at 383 Dundas Street East (Ward 15)

Further to your recently circulated letter dated January 18th, 2007 requesting written comments about the proposed further modification to the existing “HC-2” Zone we include our comments below:

Interference with peaceful lawful use and enjoyment of our property:

Our family lives on Balgownie Court, which is adjacent to the Connov Nurseries property and we are very concerned that there will be further noise concerns emanating from the Connov lands. During business hours in the summer months the audible pages for staff assistance is ever present. That is something we have come to live with and is not a major source of annoyance. Placing a large number of people under a temporary structure such as a greenhouse for convivial gatherings creates a noise level which will interfere with the lawful use and enjoyment of our property.

Along with the increased numbers of people confined to a reasonably small space in a busy existing quiet residential community, there are other associated activities which will undoubtedly increase the ambient noise in the area. Those are, parking, traffic, food delivery, food disposal, waste disposal, potential necessity for portable washroom facilities etc. The potential for portable washroom facilities (necessary for some gatherings) carries with it not only the noise of setup and removal, but potential noxious odours.

Given that the heated tropical greenhouse is being used for banquet facilities we imagine that there is or will be a liquor licence(s) also for certain events. This in and of itself is not a concern, we are not opposed to the serving of alcoholic beverages, but there is the potential for increased volume of conversations when spirited discussions result from consumption of alcohol.

Given the province's recent stand on smoking in public places, will this location be a smoke free area? If yes, then the patrons should they wish to smoke will of course need
to move outside. This carries with it an inevitable increase in volume. Smoking and drinking are inherently social activities and therefore it is reasonable that if one leaves the confines of the greenhouse to have a smoke, then one could assume the alcoholic beverage would accompany the individual, thereby again increasing the noise and interference with our homes and yards.

Banquets can be rather mundane without entertainment. Anything beyond a string quartet will cause the sound to carry. Speeches, bands, disc jockeys all will have an effect of increasing noise and interfering with our quiet community. Volume of conversations increase as does the ambient volume of music, speeches etc.

Zoning change for the land:

It is our understanding that should a zoning change occur, it would remain with the property if the property were to be sold. Although Connors' indicate that they are not planning to expand the existing facility, we are very concerned that at some point in the future Connors' or a future owner would attempt to further expand the banquet facility resulting in an even greater negative impact on our neighbourhood.

Future Applications:

Despite Connors' protestations that they have no further plans for expanding the size and physical makeup of the structure now used for their purposes, common sense indicates that theirs is a profit making venture and they would not be making such an application were it not in their financial interests to do so. We are in favour of private businesses being successful, but we are also mindful that behind any successful business is a long range business plan. Should this further modification be granted, our concern is that there may be future requests for a more permanent structure, increased size, operating hours, noise by-law exemptions for specific events and so on. This process and application appears to be the thin edge of the wedge.

Good Corporate Citizen:

Let this letter be interpreted as some form of vendetta against Connors' it is not. From all we can see they are good corporate citizens, provide expert nursery/gardening advice and service to many in the area, including ourselves, however we are vehemently opposed to further modifying the existing zoning. Connors' is a nursery and garden centre NOT a banquet facility, and although convenient for their purposes, this property is simply too close to a quiet longstanding neighbourhood. It has not been designed to be a banquet facility, (it is a greenhouse with no noise insulation, permanent fire safety equipment installed) is not set up for proper noise deadening, traffic control, food preparation. While recognizing that it is a greenhouse with a large supply of water, what are the safety concerns for the potential large number of tourists contained under a greenhouse in the event of a fire?
Thank you for the opportunity to advise you of our concerns. Please forward to us a copy of the staff report you refer to in your January 18th, 2007 letter. We would also like to be provided with the history of this application, that is to say how many existing modifications have been made to the existing HC-2 Zone as well as a copy of the by-law itself.

Sincerely,

Cameron & Janine Watson
1 Balgowrie Crt
Waterdown, ON
L0R 2H3
February 2, 2007

Dear Mr. Edward John,

Re: Preliminary Circulation for Rezoning Application ZAR-06-102 for lands located at 383 Dundas Street East, Waterdown

Let it be known with utmost sincerity that I am totally and unequivocally against modifying the existing "HC-2" zone.

A banquet hall, dance hall or burlesque hall is totally unacceptable to adjoining residential properties. We are aware that the project has already begun, and the noise level has been kept to a dull roar, however I would expect nothing but grief when a liquor license has been granted.

My property adjoins the applicants’ property and we continually have problems with air, noise and water pollution due to existing business. With this “banquet hall” being considered, I am completely flabbergasted. I am concerned about property value and serenity in a house that is continually being renovated since 1981. What has it come to on Boulding Avenue; a junk yard dog on one side and a honky tonk on the other?

It is also my belief that this property is sold or in the process of being sold, and in my mind this is only the first phase (liquor license, entertainment centre and live bands) to a much bigger endeavour in the future. The cannel’s head is in the tent.

I would like to present two considerations:

1. I would suggest a 10'-12' sound absorbing wall be erected around the whole property to reduce noise and chemical spraying;

2. I would suggest this plan for a banquet hall be relocated on the Connors Nurseries property on Parkside Drive where noise, profanity and drunkenness will not bother the property owners of Boulding Avenue.
I would strongly recommend that any decision by Hamilton's Planning and Economic Development Department be postponed until more input and research is done on this issue.

With all due respect,

[Signature]

Kenneth Bell
12 Boulding Avenue
Waterdown

cc. Councillor McCarthy
February 6th, 2007

Planning & Economic Development Department
Development and Real Estate Division
City Hall, 71 Main St. West 7th Floor
Hamilton ON L8P 4Y5

Attention: Edward John

Re: Preliminary Circulation for Rezoning File ZAR-06-102
For lands located at 383 Dundas Street East (Ward 15)

Dear Edward,

I have read this application for rezoning for the lands at 383 Dundas Street East (Ward 15), roll No. 303 350 26800 000, CON 3 PT LOT 5 FE FLM (formerly East Flamborough) with 242.38 foot frontage 2.11 Acres irregular.

I find this letter a little misleading.

The application proposes to further modify the existing "HC-2" Zoning (Highway Commercial-2 Zone) which allows for a Garden Centre only. The applicant is seeking to add a banquet hall use to the existing use of this Garden Centre. Your letter implies that there is a range of existing uses permitted under the current zoning.

This rezoning also affects the lands located at 4 First Street which has a single family residential home, roll No. 303 350 27000 0000 CON 3 PT LOT 5 FLM Corner 1.01 Acres 198.11 foot Frontage on First Street and 223.89 feet deep (also fronts on Dundas) being a corner lot.

I believe these two properties have merged together as they are owned by the same individual or company.

I own the home bordering the home on 4 First Street. I have lived here since my home was built in 1986. We were well aware of the Garden Centre when we moved here and have had no problem with its current use. However since these two properties have now seemed to have merged and this application is now seeking to add a banquet hall use to the existing use of a Garden Centre, this will definitely have a negative impact the value of my home as well as the value of the other single family residential homes in the immediate area.
Another concern I have is the parking. There is not enough parking now for the existing use of the Garden Centre. Employees as well as customer cars are parking across the road on Dundas Street and along First Street during the spring, summer and fall. This creates congestion on Dundas and on First Street. The Garden Centre itself has hired people to control the traffic flow in and out of its entrances and exits for years.

Noise is another concern. There has been a number of banquets at 383 Dundas Street in the past year and in the beginning there was a lot of excess noise up to and after midnight. This noise was mainly loud music as the current facility has not been adequately insulated for sound. Patrons who step outside after drinking for a cigarette tend to have loud conversations. Many residents near by like to leave their windows open at night and this disrupts sleep. The applicant has made some changes to decrease this noise but what assurances do we have in the future or if this property is sold what the next owner will do.

Increased lighting at night is also a concern as is the potential for increased vandalism and violence. You may want to check police records of incidents occurring outside banquet halls or drinking establishments.

This application for rezoning in my opinion does not conform with the surrounding properties which consist of single family homes. The applicant has indicated that he plans to sell these lands in the near future and move his retail operation to his new location on Parkside Drive. Our fear is a new owner will tear down the existing buildings and put up a larger facility for banquet hall use.

Sincerely

Jim Duschl

Owner of 6 First Street in Waterdown

P.O. Box 931
Waterdown ON LOR 2W0
Office Phone
Fax
From: Phyllis Troiani
Sent: Tuesday, January 23, 2007 1:00 PM
To: John, Edward
Cc: McCarthy, Margaret
Subject: File: ZAR-06-102

It is with a great deal of interest that we read your letter regarding the impending addition to a business located on Dundas Street, which is practically in our back yard. I am assuming that the property concerned is currently operating as Connan Nurseries.

Last summer on a few occasions we were enjoying a backyard barbeque with friends and relatives, and the noise coming from an event being held at Connan Nurseries was so loud, we had to raise our voices to hear each other speak. On another occasion we had to shut ALL the windows in our house so that we could get some sleep, and even with the windows closed we could still hear the noise, and had difficulty getting to sleep (is there not a neighbourhood by-law concerning the level of allowable noise after 11:00 p.m.?).

We wondered at the time, if they were even operating with a permit at that time. The first time the loud noise of the music occurred, my son road around to try & find the source of the noise and came back to report that there was a wedding going on with a live band and the only protection the neighbours had from this disturbance was a thin sheet of plastic.

So we are definitely opposing any night-time and/or weekend activities which I am sure will occur EVERY weekend if they are allowed to go ahead with the installation of a banquet hall on this location. There is already a construction company behind us that operates heavy equipment at all times of the day & evenings including Sundays, which disturbs the peace & quiet of the neighbouring community.

Thank you for the opportunity to express our concerns related to this issue.

Phyllis Troiani & Richard Patenaude
16 Boulting Avenue, Waterdown, ON  L0R 2H3

1/23/2007
John, Edward

From: Cornelius
Sent: Wednesday, January 24, 2007 12:31 PM
To: John, Edward
Cc: McCarthy, Margaret
Subject: ZAR-06-102

Re: ZAR-06-102

Attention: Edward John

I recently received a letter regarding rezoning for lands located at 383 Dundas Street East. This facility is located very close to our home (4 Boulding Avenue).

I have concerns regarding this facility. During the summer (July/August) of 2006, functions (e.g. wedding receptions) took place at these facilities that significantly disrupted our home life. Loud music was played for hours and hours on end, and loud disorderly/drunken behaviour also took place lasting late into the evening/early morning hours. I have on occasion driven over to the facility and have verified that the loud music, yelling and disorderly behaviour, was coming from their facility. Two of the functions held (July/Aug) were of great concern. On one occasion, I phoned and left a detailed message (complaint) on their (Connon Nurseries) voice mail system. I indicated very clearly in the message that I wanted it to be considered a formal complaint.

It is not acceptable for a family, within their own home, to be forced to listen to loud music, yelling and disorderly behaviour coming from a facility that is a short only a short distance away.

Rana Cornelius
4 Boulding Avenue
Watertown, ON
L0R 2H3

1/24/2007
John, Edward

From:  
Sent:  Friday, January 26, 2007 10:12 AM  
To:  John, Edward  
Subject: File ZAR-06-102

I am writing to you in response to your letter dated January 18, 2007 regarding the application for rezoning of the properties located at 383 Dundas Street East in Waterdown to add a banquet hall use. As homeowners and residents of 13 First Street in Waterdown, we are opposed to such a rezoning as we feel that a banquet hall in this residential area would cause the following problems:

1. Added traffic to this already congested area of Highway 5.
2. Noise from a banquet hall - music, comings and goings of cars.
3. Devaluation of our property as a result of such a banquet hall in the vicinity.

We thank you for the opportunity to submit our comments on this issue.

Kim Christie-Keuremennen  
Administrative Assistant  
Audit and Assurance Group  
PricewaterhouseCoopers LLP  
Phone:  

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1/29/2007
Regarding the proposed request for rezoning land at 383 Dunlop Street East in Newmarket and recognizing that we bought our home knowing there would be a busy business at this location, we do have the following concerns:

1. Change from daytime business operation to night and day would introduce significant visible problems:
   i. garbage and foul smells
   ii. smoking - if outside - danger to surrounding buildings
   iii. alcohol consumption - possible disruption andlaying of gates to neighboring properties
   iv. parking - discharge from their lot to First Street should be decreased after dark
   v. Noise - childbirth and music cannot be entirely muffled -- how intrusive to private backyards and/or their sleeping sound residences
   vi. would food prep operations be allowed?

2. Property values - concern that private property values would decrease. Is this what the property is worth? What other uses might be allowed? How growing?

3. Would there be control of business hours?

We have enjoyed a good neighborhood relationship with the Woodbridge family for 45 years when we purchased the adjacent property from the Chinese. We do not wish to change this relationship, but do have the above concerns regarding the change.
John, Edward

From: Denise Stannis - Grisdale Enterprises
Sent: Monday, February 05, 2007 8:44 AM
To: John, Edward
Subject: RE: FILE ZAR-06-102

FEBRUARY 5, 2007

PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT

DEAR SIR;

REGARDING PROPOSED CHANGES TO MODIFY THE EXISTING HC-2 ZONE OF CONNON NURSERY;

WE AS A CURRENT HOMEOWNER AT 14 BOULDING AVENUE WHICH IS TWO DOORS AWAY FROM CONNON'S, WE HAD TO ENDURE THE FREQUENT

AND EXCESSIVE NOISE HELD AT CONNON NURSERY LAST SUMMER 2006. FURTHERMORE THE PROPOSED CHANGE TO A BANQUET HALL WOULD INCREASE

TRAFFIC FLOW ON HIGHWAY 5 (DUNDAS STREET) MORE THAN THERE IS NOW. WE HAVE TO PUT UP WITH THERE BUSINESS OPEN SIX DAYS A WEEK.

CONSEQUENTLY THE TRAFFIC BECOMES SO BAD THAT THEY HAVE TO USE THEIR EMPLOYEES TO STOP TRAFFIC ON HIGHWAY 5 TO ALLOW THEIR CUSTOMERS TO ENTER AND LEAVE THEIR PROPERTY.

IN REGARDS TO THE PARTIES THAT ARE VERY VERY NOISY, THE NOISE THAT WOULD BECOMING FROM THE BANQUET HALL WOULD BE IN EXCESS NOT TO MENTION PARTNERS LEAVING THE HALL LATE AT NIGHT AND PERHAPS CARRYING THE PARTY ON OUTSIDE, AND THE PEOPLE UNDER THE INFLUENCE OF ALCOHOL DRIVING DOWN HIGHWAY 5. THIS I WOULD THINK WOULD DEFINETLY CAUSE SERIOUS ACCIDENTS. FURTHERMORE I MOVED TO WATERDOWN TO GET AWAY FROM THE NOISE IN HAMILTON. MY SECOND BIGGEST CONCERN IS PROPERTY VALUE OF MY HOUSE, ARE YOU GOING TO COMPENSATE ME FOR LOSS OF VALUE? PEOPLE WHO WE HAVE TALKED TO IN THE NEIGHBOURHOOD ARE NOT IF FAVOUR OF THIS PROPOSAL CHANGE.

I'M SURE THAT YOU CAN APPRECIATE THE CONCERNS STATED HERE. MY PROPOSAL IS TO LEAVE CONNON NURSERY AS IT IS AND TO BUILD A BANQUET HALL IN A AREA SUCH AS NEW DEVELOPMENT SITES THAT ARE ON HIGHWAY 5 NEAR HIGHWAY 6 THAT IS FAR BETTER SUITED FOR THIS TYPE OF BUSINESS.

IN THE NEW DEVELOPMENT SITES ON HIGHWAY 5 NEAR HIGHWAY 6, THE LAND BEING DEVELOPED IS FAR BETTER SUITED FOR A BANQUET HALL. THE MAIN REASON IS THE AREA BEING DEVELOPED IS FOR BUSINESS ONLY. THE AREA WE LIVE IN HAS BEEN AND WILL BE DEVELOPED FOR BEING PRIMARILY RESIDENTIAL SUCH AS THE AREA DIRECTLY ACROSS FROM CONNON NURSERY NOW. I ALSO WOULDN'T WANT TO ENTERTAIN THE THOUGHT OF THIS CITY OR CONNON NURSERY IN A LEGAL BATTLE IN THE LEGISLATOR OF THE ONTARIO SUPREME COURT. I CAN ONLY IMAGINE THE HEADACHE THIS WOULD GIVE YOU.

PLEASE DON'T HESITATE TO CALL OR WRITE MYSELF OR MY WIFE AT ANY GIVEN TIME.

YOURS TRULY,

DAVID AND DENISE STANNIS
14 BOULDING AVENUE
WATERDOWN ONTARIO

2/5/2007
Mr. Edward John
City of Hamilton
Planning and Economic Development, Department
City Hall
71 Main Street West 7th Floor
Hamilton, Ontario
L8P 4Y5
February 7th, 2007

Re: File No. ZAR-06-102

Dear Mr. John:

We wish to express our objection to the rezoning application by Connon Nurseries to permit their property at 383 Dundas St. East to be utilized as a banquet hall.

I understand that approving this rezoning application would in effect allow this site to be used as a banquet center 365 days per year. Although the present owner does not have these plans a future owner may.

This is without doubt not a suitable use given this property is surrounded by residential properties.

We have no problem with this site being used as a nursery business as we moved here knowing that they existed however we did not anticipate a business being operated on this site up to 20 hours per day.

We respectfully request that you deny this application.

Thank you for giving us the opportunity to express our concerns.

Yours truly,

Peter and Bernadette Curtis
Dear Neighbours,

As you know, we are in our second year operating our Tropical Banquet and Meeting Centre. We have created a very unique atmosphere, including a waterfall and stream, tropical plants and pottery surrounding the perimeter of the area, 6 huge fig trees imported from Florida filled with white Christmas lights, and a ceiling decorated with over 4,500 lights. I would love to personally show it to you if you would like.

Over the last year, we have hosted over 25 events, including business meetings, anniversary parties, Christmas dinners, and even 3 weddings! It certainly has been a learning experience, and positive for the most part, except for one aspect, and that is, because of the nature of our poly, air-filled walls, the volume of noise that we are experiencing is too high with a few of these events. Like you, I live on the border of the Banquet Centre, and don’t care to hear booming speakers until the wee hours of the night.

It is for this reason, that I have initiated some rules, to try to minimize the sound coming out of the Tropical Banquet and Meeting Centre, and I would like to share these with you: I have disallowed DJ’s to bring in their own speaker system. They generally have very good quality speakers which blasts out a lot of volume, as well as bass. Four small speakers are available for the event to use, as was the case on Saturday night – our largest event to date – and I think you would agree with me, a big improvement from two weekends ago! Another rule I have initiated, is that music is to be turned off by 12:30am or earlier.

I am taking the time to write this for one reason. I do care about the relationships with my neighbours. This is one of those situations in life where the line of business and personal meet, and a decision must be made. From a business perspective, I know that with these new sound rules, I will be losing many events where a DJ or dance is desired. From a personal perspective, a neighbourhood where everyone cares and is considerate to one another, is even more important to me.

Sincerely,
Terry Vanderkruk
& the Staff at Connor Nurseries.
Dear Neighbours,

Soon, if not already, you will be receiving a letter from the City of Hamilton regarding an application we are making to modify our existing commercial land use here at Connan Nurseries. You may have also seen the notice we posted along Highway #5. In addition to our usual Garden Centre Zoning, we are applying to carry on with our banquet centre which will operate from September to April of each year.

This application does not mean we are making any changes to the way the banquet centre is currently operating. The space allocated for the banquet centre will not be any larger than the current size of our heated tropical greenhouse, and we are not planning to expand this. As well, we will remain closed on Sundays despite requests to host events on this day. The Banquet Centre will continue to operate using the same improved music level since the changes we made in the fall. Through conversations with some of my neighbours, many did not even know we hosted 22 events throughout November & December! As I mentioned in my last letter to you, I am also a neighbour to the garden centre, and noise levels are very important to myself, my wife Heather, and my young family (you might have seen the blue balloons! Yes, a boy to add to our 3 girls!).

I feel it is important to communicate these business plans with you, and that you know our intentions. Most importantly, I look forward to continuing to operate this Tropical Banquet Centre through the slower months, allowing us to keep our staff employed during an otherwise off-season.

Thank-you for your time in reading this letter.

Sincerely,
Terry Vanderkruk
& the Staff at Connan Nurseries.