CITY OF HAMILTON

PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT
Planning Division

<table>
<thead>
<tr>
<th>TO:</th>
<th>Chair and Members Planning Committee</th>
</tr>
</thead>
<tbody>
<tr>
<td>WARD(S) AFFECTED:</td>
<td>Ward 15</td>
</tr>
</tbody>
</table>

COMMITTEE DATE: August 13, 2013

SUBJECT/REPORT NO:
Application to Amend Town of Flamborough Zoning By-law No. 90-145-Z for the Property Located at 533 Millgrove Side Road (Flamborough) (PED13145) (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 the Compliance Agreement, attached as Appendix “B” to Report PED13145, be deemed to satisfy Recommendation (e) of the Planning Committee meeting of November 20, 2012, in relation to Report PED12209;

(b) That Council authorize the Mayor and Clerk to execute the Compliance Agreement, attached as Appendix “B” to Report PED13145;

(c) That the draft By-law, attached as Appendix “C” to Report PED13145, for Zoning By-law Amendment Application ZAC-09-036, by Domson Investments Ltd., Owner, be enacted by City Council.
EXECUTIVE SUMMARY

The Zoning By-law Amendment subject to this Report was originally considered in Planning Staff Report PED10127 at the Planning and Economic Development Committee Meeting of October 5, 2010. At that time, the following resolution was given by the Economic Development and Planning Committee:

(a) That Council deem 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.

Subsequently, the matter was brought before Planning Committee, at its meeting of November 20, 2012, where Committee considered Report PED12209, and recommended the following, as it relates to the Zoning By-law Amendment:

(c) That the implementing Zoning By-law, referred to in Recommendation (b)(i) of Report PED12209 (see Appendix "B"), regarding the Dutch Mill Farm Market, be modified to allow additional banquet centre use of up to a maximum 150 people now (which includes the current 112 restaurant seating), and include a Holding ‘H’ provision to additionally allow the banquet centre capacity of up to 250, along with the other existing agri-tourism uses;

(d) That the Holding ‘H’ provision shall not be lifted until the submission of additional Hydrogeological Investigation demonstrating that the uses can be adequately serviced by private water and sanitary services, to the satisfaction of the Manager of Development Planning, Heritage and Design, and the Manager of Infrastructure and Source Water Planning, in consultation with the Ministry of the Environment;

(e) That the approval be conditional on an agreed-to timeline by the applicant or Compliance Agreement.
As a result of these directions, City Planning and Legal staff have prepared a draft Zoning By-law Amendment, as directed in the November 20, 2012, Recommendations (c) and (d) above, and negotiated with the owner’s lawyer to prepare a draft Compliance Agreement, in accordance with Recommendation (e). These documents are now presented for Planning Committee’s consideration as Appendices “B” and “C”, respectively, in this Report.

Alternatives for Consideration - Page 6.

FINANCIAL / STAFFING / LEGAL IMPLICATIONS

Financial: None.

Staffing: None.

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

HISTORICAL BACKGROUND

The subject lands are approximately 16ha (40 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, and deli. 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.

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 vermi-composting 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 applicants' agent.

October 22, 2009:
A letter from the applicants' agent was provided containing an opinion about why the rezoning application should be accepted and circulated.

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 applicants’ 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, 2010, 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 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.

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

November 20, 2012:
Report PED12209 was considered by Planning Committee, which resulted in the following recommendations with respect to the implementing Zoning By-law:
(c) That the implementing Zoning By-law referred to in Recommendation (b)(i) of Report PED12209 (see Appendix "B"), regarding the Dutch Mill Farm Market, be modified to allow additional banquet centre use of up to a maximum 150 people now (which includes the current 112 restaurant seating), and include a Holding ‘H’ provision to additionally allow the banquet centre capacity of up to 250, along with the other existing agri-tourism uses;

(d) That the Holding ‘H’ provision shall not be lifted until the submission of additional Hydrogeological Investigation demonstrating that the uses can be adequately serviced by private water and sanitary services, to the satisfaction of the Manager of Development Planning, Heritage and Design, and the Manager of Infrastructure and Source Water Planning, in consultation with the Ministry of the Environment;

(e) That the approval be conditional on an agreed-to timeline by the applicant or Compliance Agreement.

POLICY IMPLICATIONS

A full assessment of the relevant planning policies was undertaken by Planning staff as part of Planning Staff Reports PED10127 and PED12209.

ANALYSIS / RATIONALE FOR RECOMMENDATION

The draft Compliance Agreement (see Appendix “B”) reflects the intent of Committee/Council in terms of accommodating current, as well as additional uses, but with the owner making a commitment to regularize the activities on-site and providing appropriate private services, prior to implementing additional uses. Planning, Building, Public Works, and Legal staff were involved in and/or consulted with in the preparation of the Agreement, and are satisfied with the form and content of the Agreement.

The implementing Zoning By-law (see Appendix “C”) incorporates the wording proposed by Planning Committee at its meeting of November 20, 2012.

ALTERNATIVES FOR CONSIDERATION:

If the application is refused, the property will remain zoned “A” (Agricultural) and only agricultural uses will be permitted.
ALIGNMENT TO THE 2012 – 2015 STRATEGIC PLAN:

**Strategic Priority #1:**
A Prosperous & Healthy Community

*WE enhance our image, economy and well-being by demonstrating that Hamilton is a great place to live, work, play and learn.*

**Strategic Objective:**

1.1 Continue to grow the non-residential tax base.

APPENDICES / SCHEDULES

- Appendix “A”: Location Map
- Appendix “B”: Draft Compliance Agreement
- Appendix “C”: Draft Zoning By-law Amendment

:CB
Attachs. (3)
Location Map

File Name/Number: ZAR-09-036
Date: October 3, 2012

Appendix "A"

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.
COMPLIANCE AGREEMENT

BETWEEN

DOMSON INVESTMENTS LTD.

Hereinafter “Dutch Mill”

OF THE FIRST PART

AND

CITY OF HAMILTON

Hereinafter “City”

OF THE SECOND PART

WHEREAS Dutch Mill is the owner of approximately 15 ha of land municipally known as 533 Millgrove Side;

AND WHEREAS Dutch Mill applied for a zoning by-law amendment to recognize existing agricultural and agri-tourism uses, and to permit the expansion of a tea room/restaurant use to accommodate up to 250 seats, more fully described in City File ZAC 09-036, and in a report by the Planning and Economic Development Department to the Chair and Members of Planning Committee dated November 20, 2012;

AND WHEREAS the City approved in principle the application for the zoning by-law amendment with modifications such as to limit the proposed uses to Existing Uses (as defined in this Agreement), to limit the size of the tea room/restaurant to 150 seats subject to this Agreement, and to apply a Holding provision with conditions to be met prior to permitting a further expansion of the tea room/restaurant up to 250 seats:

AND WHEREAS Dutch Mill and the City rely on the professional opinion of Peto MacCallum Ltd. that the Existing Use can be serviced by the existing water and sanitary systems on the Subject Lands (as defined in this Agreement), which professional opinion is attached as Appendix 1a and Appendix 1b;

AND WHEREAS Dutch Mill and the City rely on the professional opinion of Peto MacCallum Ltd. that the Interim Use (as defined in this Agreement) is feasible and can
be serviced (for water and sanitary) upon receipt of Provincial Approvals (as defined in this Agreement) and the construction of certain works;

AND WHEREAS Dutch Mill is required to obtain certain Municipal Approvals (as defined in this Agreement) in order to regularize the use of its lands, buildings and structures on the Subject Lands;

AND WHEREAS Dutch Mill is agreeable to taking the necessary actions to comply with municipal and provincial legislative requirements related to the use of the Subject Lands should the City enact the Zoning By-law Amendment in order to protect the health, safety and well-being of present and future users of the Subject Lands, and the City requires Dutch Mill to enter into this Agreement to confirm and implement the commitment of Dutch Mill of obtaining Municipal and Provincial Approvals prior to using the Subject Lands for the Interim Use;

NOW THEREFORE THIS AGREEMENT WITNESSETH THAT, in consideration of the premises and the covenants and agreements contained on the part of Dutch Mill to be observed, fulfilled as required, THE PARTIES COVENANT AND AGREE AS FOLLOWS:

1. In this Agreement, the following words shall have the following meaning:

   "Existing Use" means agriculture and agri-tourism uses of an ancillary petting zoo, fruit/vegetable market and gift shop selling produce primarily grown on the property and/or local farms, a residential unit within the existing commercial building, 112 seat tea room/restaurant and a standalone 4-bedroom single family dwelling;

   "Interim Use" means the Existing Use and an additional 38 seat tea room/restaurant;

   "Municipal Approvals" means achieving compliance by the Existing Use and the Interim Use and where applicable obtaining permits/approvals from the City with respect to: the Building Code Act, the City's Business Licensing By-law, the City's Sign By-law, and the site plan approval requirements pursuant to s. 41 of the Planning Act;

   "Proposed Use" means the Existing Use and an additional 250 seat tea room/restaurant, subject to a Holding Provision;
"Provincial Approvals" means issuance of an environmental compliance approval pursuant to the Environmental Protection Act and of a Permit to Take Water pursuant to the Ontario Water Resources Act;

"Subject Lands" means the land municipally known as 533 Millgrove Side Road and legally described as Part Lot 18, Concession 3, Hamilton (formerly West Flamborough),

"Zoning By-law Amendment" means a proposed amendment to Zoning By-law 90-145-Z (Flamborough) which recognizes and permits the Existing Use and the Interim Use, and includes a Holding provision with conditions to be satisfied for the removal of the Holding provision in order to permit a 250 seat tea room/restaurant.

2. Without fettering the discretion of Council for the City, in the event of passage of the Zoning By-law Amendment by the City, Dutch Mill:

   a) may engage in the Existing Use only;
   b) will maintain and operate the existing water and sanitary systems on the Subject Lands in a safe and efficient manner;
   c) will undertake a water quality and seasonal fluctuations monitoring program on the Subject Lands, to the satisfaction of the City, over a period of at least one year or longer as the City may determine or until such time as issuance of environmental compliance approval by the Ministry of the Environment, in order to confirm that the existing water and sanitary services pose no risk to public health and safety;
   d) will apply for and obtain Municipal Approvals and complete such works as are necessary to implement the Municipal Approvals in accordance with the timeline attached as Appendix 2;
   e) will apply for and obtain Provincial Approvals and complete such works as are necessary to implement the Provincial Approvals in accordance with the timeline attached as Appendix 2.

3. In the event of passage of the Zoning By-law Amendment, Dutch Mill shall not engage the Interim Use or use the Subject Lands in any manner for the Interim Use until such time as all of the conditions in paragraphs 2 (c), (d) and (e) are fulfilled.
4. In the event that any of the conditions in paragraphs 2(c), (d) and (e) are not fulfilled, and/or Dutch Mill fails to comply with section 3 of this Agreement, the City may pass an amendment to the Zoning Bylaw Amendment which repeals the permissions for the Existing Use, the Interim Use and the Proposed Use and permits only:
   a) a gift shop with a 48 seat tea room/restaurant, or an 80 seat tea room/restaurant with no gift shop;
   b) a fruit/vegetable market; and
   c) accessory petting zoo.

5. Dutch Mill agrees not to oppose the amendment to the Zoning By-law Amendment in the event one is passed by Council pursuant to section 4 and not to appeal to the Ontario Municipal Board or to seek any other relief available to it at law from a decision of the City to pass an amendment to the Zoning By-law Amendment pursuant to section 4.

6. 1) This agreement shall be effective upon the Zoning By-law Amendment becoming final, whether by way of expiry of the appeal period under the Planning Act or by determination by the Ontario Municipal Board. Notwithstanding the foregoing, in the event of an appeal to the Ontario Municipal Board from the decision of Council passing the Zoning By-law Amendment and the appeal is successful, Dutch Mill agrees not to oppose the City passing an amending zoning by-law to permit only:
   a) a gift shop with a 48 seat tea room/restaurant or an 80 seat tea room/restaurant with no gift shop;
   b) a fruit/vegetable market; and
   c) a petting zoo.

2) In the event of an appeal to the Ontario Municipal Board from the decision of Council in passing the Zoning By-law Amendment, the obligation of Dutch Mill to apply for and obtain Municipal Approvals and Provincial Approvals in accordance with Appendix 2 in respect of the Interim Use shall be suspended for such period of time as the appeal is pending and until a decision is rendered by the Ontario Municipal Board. However, Dutch Mill agrees that it shall proceed to apply for and obtain all necessary Municipal Approvals and Provincial Approvals with respect to the Existing Use. If the Ontario Municipal Board upholds the Zoning By-law Amendment, then Dutch Mill shall then proceed to apply for and obtain
Municipal Approvals and Provincial Approvals for the Interim Use, and the time lines in Appendix 2 shall be adjusted to correspond with the new start date without a need for a formal amendment to this Agreement, which new start date shall be from when the Ontario Municipal Board has rendered its written decision.

3) In the event of an appeal to the Ontario Municipal Board from the decision of Council in passing the Zoning By-law Amendment, Dutch Mill shall assume responsibility to defend the Zoning By-law Amendment before the Ontario Municipal Board at its expense. The City may or may not participate in such a hearing through its own legal counsel, and if it does not, Dutch Mill shall also defend the City’s decision with respect to the Zoning By-law Amendment. Should the City retain outside counsel to represent its interests before the Ontario Municipal Board, Dutch Mill shall be responsible for the costs of this retainer, which costs shall be paid when the City submits a demand for payment to Dutch Mill.

7. The Appendices attached to this Agreement are an integral part of the Agreement.

8. This Agreement is binding on and to the benefit of successors in title, trustees and assigns of Dutch Mill.

9. Dutch Mill does hereby agree to indemnify, save, defend and keep harmless the City from and against all actions, causes of action, interest, claims, demands, costs charges, damages, expense and lose which the City may bear, incur, be liable for sustain or be put into for any reason, arising directly or indirectly for entering into this Agreement or by Dutch Mill’s failure to fulfill its obligations under this Agreement. This indemnification shall survive the termination or expiry of this Agreement.

10. Notices and other documentation required by this Agreement shall be in writing and shall be delivered by postage-prepaid envelope, personal delivery, or facsimile and shall be addressed to, respectively:
The City:

City of Hamilton
71 Main Street West
Hamilton, Ontario
L8P 4Y5

Attention: Director of Planning, Planning and Economic Development Department

Dutch Mill:

Domsons Investments Ltd.
533 Millgrove Side Road
Waterdown, Ontario
L0R 2H2

Attention: Mr. Tony Simeone

Notices and such documentation shall be deemed to have been given (a) in the case of postage-prepaid envelope, five (5) Business Days after such notice or document is mailed: or (b) in the case of personal delivery or facsimile, one (1) Business Day after such notice or document is received by the other party. Any change in contact information will not be binding on the other party in the absence of seven (7) Business Days written notice by postage-prepaid mail.

11. Any failure by the City to insist in one or more instances upon strict performance by Dutch Mills of any of the terms or conditions of this Agreement shall not be construed as a waiver by the City of its right to require strict performance of any such terms or conditions, and the obligations of Dutch Mills with respect to such performance shall continue in full force and effect. A waiver of any failure to comply with any term of this Agreement must be written and signed by the City.

12. Any changes to this Agreement shall be by written amendment signed by all of the parties, and with respect to the City, shall require Council approval.

13. If any term of condition of this Agreement is to any extent invalid or unenforceable, the remainder of the Agreement shall not be affected thereby.
14. Any reference to a word in this Agreement in the singular shall also include the plural, and any reference in the plural shall include the singular.

15. This Agreement and the rights, obligations and relations of the parties hereto shall be governed by and construed in accordance with the laws of the Province of Ontario.

Dated this day of , 2013

Domsom Investments Ltd.
Name: Tony Simeone
Title: President
I have authority to bind the corporation

CITY OF HAMILTON

________________________
Mayor

________________________
Clerk
July 25, 2012

Mr. Ed Fothergill
Fothergill Planning & Development Inc.
62 Daffodil Crescent
Hamilton, Ontario
L8K 1E1

Dear Mr. Fothergill

Dutch Mill Country Market
533 Millgrove Side Road
Flamborough, Ontario

In response to your letter dated June 15, 2012, we understand the City of Hamilton is looking for some assurance that continuation of the existing use can be accommodated by existing infrastructure, both septic system and water supply.

As you are aware, Peto MacCallum Ltd. (PML) contacted Martin Well Drilling to install a permanent flow meter on the existing on site well. The on site well provides potable water to all facilities on the property, including the residential dwelling, the main building (retail store with gift shop and restaurant/tea room) and greenhouse/garden centre operations.

The meter was installed on May 18, 2012 in order to measure the actual water usage at the site. The average daily use was 47,093 L/day for the month of May and 21,620 L/day for the month of June. According to Mr. Tony Simeone, the month of May is a high water use time due to the greenhouse operation. The average daily use for the first ten days of July was 18,858 L/day.

Regarding the water supply, we believe the existing well is sufficient for the water supply since current and former occupants reported abundant yield, no shortages of water and proper functioning of the well. Based on this history and since there is no change in use, the existing well should be sufficient to accommodate the existing uses.

Regarding the septic system, the property is currently serviced by two independent septic systems; one for the residential house and one for the main building. Since there is no change in use for the house, this system is not included in the following discussion.

Regarding the main building, the current septic system was installed in 1998 under Application No. WF-08-88 and received a permit for its use on August 31, 1998 by the Corporation of the Town of Flamborough. The permit was for a Class 4 Sewage System for Dutch Mill Country Market. Until the proposed development is approved, the existing system should be sufficient to accommodate the current uses in the interim.
We trust this letter is sufficient to allow this matter to proceed through the planning process. We look forward to any questions you may have.

Sincerely,

Peto MacCallum Ltd.

Melissa King, P.Geo.
Associate
Manager, Geoenvironmental Services

Distribution:
1 cc: Fothergill Planning & Development Inc. (via email: edf@fogas.net)
1 cc: Dutch Mill Country Market, Mr. Tony Simone (via email: dutchmill@sympatico.ca)
1 cc: Turkski Mezza Associates. Ms. Nancy Smith (via email: nsmith@tmslaw.ca)
July 5, 2013

Mr. Ed Fothergill
Fothergill Planning & Development Inc.
62 Daffodil Crescent
Hamilton, Ontario
L9K 1E1

Dear Mr. Fothergill

Dutch Mill Country Market
533 Millgrove Side Road
Flamborough, Ontario

This letter provides further clarification to the existing uses of the property and should be read in conjunction with letter dated June 25, 2012.

Existing uses is defined in the agreement with the City of Hamilton as the following:

"...means agriculture and agri-tourism uses of an ancillary petting zoo, fruit/vegetable market and gift shop selling produce primarily grown on the property and/or local farms, gift shop, one residential unit within the existing commercial building, 112-seat teashop/restaurant, and a standalone, 4-bedroom, single family dwelling."

This letter confirms that the June 25, 2012 letter applies to the existing uses defined above.

We trust this letter is sufficient to allow this matter to proceed through the planning process. We look forward to any questions you may have.

Sincerely,

Peto MacCallum Ltd.

Matthew D. St. Denis, P.Eng.
Senior Engineer

MDS Ltd

Distribution:
1 cc: Fothergill Planning & Development Inc. (via email: edf@nas.net)
1 cc: Dutch Mill Country Market, Mr. Tony Simeone (via email: dutchmill@sympatico.ca)
1 cc: Turkstra Mazza Associates, Ms. (Nancy Smith (via email: nsmith@tmalew.ca)
### Appendix 2

#### Proposed Time Line

<table>
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<th>Event</th>
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<th>Completion Date</th>
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<td><strong>1.0 Zoning By-law</strong></td>
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<td><strong>2.0 Site Plan</strong></td>
<td>Pre-submission meeting</td>
<td>28-Jun-13</td>
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<td>Site Plan Submission (if required)</td>
<td>28-Jun-13</td>
<td>05-Jul-13</td>
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<td>Site Plan Review</td>
<td>05-Jul-13</td>
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<td>Site Plan Approval</td>
<td>18-Sep-13</td>
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<td><strong>3.0 Application to MCE for Certificate of Approval for Water and Sewage System</strong></td>
<td>Preconsultation Meeting with MCE</td>
<td>28-Jun-13</td>
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<td>Preparation of Submission Package</td>
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<td>Deficiency Letter</td>
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<td>Revision to Building Permit Drawings, etc</td>
<td>15-May-14</td>
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<td>12-Jul-14</td>
<td>12-Jul-14</td>
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<tr>
<td><strong>5.0 Building Permit Implementation</strong></td>
<td>Issuance of Building Permit</td>
<td>12-Jul-14</td>
<td>12-Jul-14</td>
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<tr>
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<td>Construction Commencement (Mobilization and Preparation)</td>
<td>12-Jul-14</td>
<td>15-Jul-14</td>
<td>7</td>
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<td>Construction Activity</td>
<td>15-Jul-14</td>
<td>17-Oct-14</td>
<td>90</td>
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<td>Finalization of Construction</td>
<td>18-Oct-14</td>
<td>18-Oct-14</td>
<td>1</td>
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<tr>
<td><strong>6.0 Application and Issuance of Municipal License</strong></td>
<td>Application for Municipal Business License</td>
<td>18-Oct-14</td>
<td>18-Oct-14</td>
<td>1</td>
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<tr>
<td></td>
<td>Review of Application</td>
<td>18-Oct-14</td>
<td>7-Nov-14</td>
<td>20</td>
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<td></td>
<td>Issuance of Municipal License</td>
<td>08-Nov-14</td>
<td>8-Nov-14</td>
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**TOTAL DAYS**: 449
CITY OF HAMILTON

BY-LAW NO. [Blank]

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 [Blank] of Report 13-[Blank] of the Planning Committee, at its meeting held on the [Blank] day of [Blank], 2013, 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 (H)” Holding 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 (H) (See Schedule Number A-11)

   Permitted Uses:

   (a) Any use permitted in an A zone.

   (b) A second dwelling unit within the existing building.

   (c) A Gift Shop.

   (d) A Restaurant.

   (e) A Place of Assembly.

   (f) A Fruit or Vegetable Market, selling produce grown on the property and/or local farms.

   (g) An ancillary petting zoo.

   Zone Provisions:

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

   Holding Provision:

   The ‘H’ Holding Provision shall limit the combined capacity of Restaurant and Place of Assembly to 150 seats, until such a time as the owner submits an additional Hydrogeological Investigation, demonstrating that the Restaurant and Place of Assembly uses can be adequately serviced by private water and sanitary services accommodating capacities of 112 seats and 250 seats, respectively, to the satisfaction of the Manager of Development
Planning, Heritage and Design, and the Manager of Infrastructure and Source Water Planning, in consultation with the Ministry of the Environment. Once the Holding provision has been removed, a 112-seat Restaurant and a 250-seat Place of Assembly shall be permitted.

3. That the amending By-law apply a Holding provision for those lands zoned Site-Specific Agricultural “A-90(H)” Holding Zone, in Section 1 of this By-law, by introducing the Holding ‘H’ symbol as a suffix to the proposed zone. The ‘H’ Holding Provision shall limit the combined capacity of Restaurant and Place of Assembly to 150 seats, until such a time as the owner submits an additional Hydrogeological Investigation demonstrating that the Restaurant and Place of Assembly uses can be adequately serviced by private water and sanitary services accommodating capacities of 112-seats and 250-seats, respectively, to the satisfaction of the Manager of Development Planning, Heritage and Design, and the Manager of Infrastructure and Source Water Planning, in consultation with the Ministry of the Environment. Once the Holding provision has been removed, a 112-seat Restaurant and a 250-seat Place of Assembly shall be permitted.

City Council may remove the ‘H’ symbol, and thereby give full effect to the Agricultural “A-90” Zone, by enactment of an amending By-law once the above condition has been satisfied.

4. 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 __ day of __, 2013.

__________________________    _______________________
R. Bratina                  R. Caterini
Mayor                      Clerk

ZAC-09-036
Schedule "A"

Map Forming Part of By-law No. 13-____

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

Mayor

Clerk

PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT