SUBJECT: Applications for Amendments to the Flamborough Official Plan and Zoning By-law No. 90-145-Z for Lands Located at 928 Brock Road (Flamborough)(PED07259)(Ward 14)

RECOMMENDATION:

(a) That Official Plan Amendment Application OPA-07-009, Scott Bennett, owner, to add a Special Policy to the “Rural” designation in the Flamborough Official Plan to permit a commercial trucking operation, on the lands located at 928 Brock Road (Flamborough), as shown on Appendix “A” to Report PED07259, be denied on the following basis:

(i) That the application does not conform to the Greenbelt Plan, and is not consistent with the Provincial Policy Statement.

(ii) That the application does not conform to the Hamilton-Wentworth Official Plan.

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

(b) That Zoning Application ZAC-07-016, Scott Bennett, owner, for a change in zoning from the Agriculture “A” Zone to a Rural Industrial “M3” Zone to permit a commercial trucking business, a single detached dwelling and agriculture as permitted uses, on lands located at 928 Brock Road (Flamborough), as shown on Appendix “A” to Report PED07259, be denied on the following basis:

(i) That the application does not conform to the Greenbelt Plan, and is not consistent with the Provincial Policy Statement.

(ii) That the application does not conform to the Hamilton-Wentworth Official Plan.
(iii) That the application does not represent good planning.

Tim McCabe
General Manager
Planning and Economic Development Department

**EXECUTIVE SUMMARY:**

The purpose of the applications are to add a Special Policy to the “Rural” designation in the Flamborough Official Plan and to change the zoning of the subject lands to permit a commercial trucking business, in addition to the current permitted uses of a single detached dwelling and agriculture.

The applications cannot be supported as they are not consistent with the Provincial Policy Statement and do not conform to the Greenbelt Plan or the Hamilton-Wentworth Official Plan. The proposal is not considered to be compatible with existing and planned land uses in the surrounding area, and as such, does not represent good planning.

**BACKGROUND:**

**Proposal**

The applicant is proposing to amend the Flamborough Official Plan to add a Special Policy to the “Rural” designation, and to change the zoning from the Agriculture “A” Zone to a Rural Industrial “M3” Zone, to permit a commercial trucking operation, in addition to the current permitted uses of a single detached dwelling and agricultural uses, on lands at 928 Brock Road (see Appendix “A”).

On November 23, 2006, an inspector from the Building Division attended the subject property, and advised the applicant that a trucking business is not a permitted use on the subject lands. The applicant was advised to contact Planning Staff to discuss rezoning the property. On January 17, 2007, the applicant received an Order to Comply from the City to cease the trucking operation on the agricultural property. On June 8, 2007, the applicant filed the subject applications.

**Application ZAC-03-62**

In 2003, Susan Ivanic and Steve Gunjlac, c/o Split Auto, applied to rezone (ZAC-03-62) a portion of the subject property from the Agricultural “A” Zone to the Agricultural “A-78” Zone to permit an existing automobile repair and auto body shop, and to add a dwelling unit as a permitted use within the “I-8” Institutional Zone on another portion of the property. Council denied the application on October 29, 2003. Upon appeal of the decision to the Ontario Municipal Board by the applicant, the Board issued an Order
dated October 28, 2005 based on a settlement, which denied the rezoning for the automobile repair and auto body shop and approved the rezoning for the dwelling unit.

Location: 928 Brock Road (see Appendix “A”)

Owner: Scott Bennett

Property Description: Frontage: 152.31m
Depth: 278.9m
Total Land Area: 0.8 ha (2 acres)

Existing Land Use and Zoning:

<table>
<thead>
<tr>
<th>Existing Land Use</th>
<th>Existing Zoning</th>
</tr>
</thead>
<tbody>
<tr>
<td>Subject Land: Residential (single-detached), Agricultural and Industrial</td>
<td>Agriculture “A” Zone</td>
</tr>
<tr>
<td>Surrounding Land:</td>
<td></td>
</tr>
<tr>
<td>North: Residential (single-detached) and Agricultural</td>
<td>Agriculture “A” Zone</td>
</tr>
<tr>
<td>West: Commercial</td>
<td>Commercial Agriculture “CA” Zone</td>
</tr>
<tr>
<td>South: Institutional (proposed day care)</td>
<td>Institutional “I-8” Zone</td>
</tr>
<tr>
<td>East: Agricultural</td>
<td>Agriculture “A” Zone</td>
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</tbody>
</table>

**ANALYSIS/RATIONALE:**

1. The proposed Official Plan Amendment and change in zoning to permit a trucking operation in the “Rural Area” cannot be supported for the following reasons:

   (i) The use is inconsistent with the Provincial Policy Statement, and does not conform to the Greenbelt Plan;

   (ii) The use does not conform to the Hamilton-Wentworth Official Plan; and,

   (iii) The use does not represent good planning.
2. **Official Plan Amendment**

The effect of the requested Amendment is to permit a commercial trucking operation on the subject lands. The basis for denying the application is as follows:

(i) The Greenbelt Plan, PPS, and the Hamilton-Wentworth Official Plan require that permitted uses in the “Rural Area” be directly related to agriculture or the management or use of resources. The proposed commercial trucking operation is not a permitted use within the “Rural Area” (refer to the Pages 7 to 11 of this report). Should Council decide to approve the requested Flamborough Official Plan Amendment, the applicant will be required to file a Regional Official Plan amendment application and a public meeting will need to be scheduled prior to approval by Council.

(ii) The company webpage (see Appendix “B”) for the existing business (Redman Transportation) states that they are a mid-sized freight company specializing in the movement of goods within Canada and the United States, including refrigerated and frozen loads. The use of a commercial trucking operation is a “Rural Industrial” use in the Flamborough Official Plan which is defined as those uses that directly relate to and serve the agricultural community or utilize the natural resources of the rural area. As the proposal is for a commercial trucking operation that serves the local and international agricultural, industrial and commercial markets, it does not conform to the intent of the Official Plan.

(iii) The subject lands are adjacent to a planned day care operation, and several residential homes. The noise, dust and traffic that emanates from a 24 hour commercial trucking operation would not be compatible with existing and future land uses. The requested trucking operation is better suited to a “Rural Industrial Business Park” as designated in the Flamborough Official Plan, such as the existing vacant lands zoned Rural Industrial “M3” Zone at the intersections of Highway No. 5 and Highway No. 6, and at Highway No. 5 and Ofield Road South.

3. **Zoning By-law Amendment**

The applicant has requested a Modified Rural Industrial “M3” Zone to permit the trucking operation. While the standard Rural Industrial “M3” Zone that applies in “Rural Industrial Business Park” designations of the Flamborough Official Plan includes a Truck Cartage Terminal and a Truck Depot as permitted uses, the subject site is not appropriate for such uses as noted above, and the Flamborough Zoning By-law which applies this zone to other rural areas has not been brought into conformity with recently approved provincial policies, such as the Greenbelt Plan and the Provincial Policy Statement. These policies supersede the Hamilton-Wentworth and the Flamborough Official Plans. The requested use is also not permitted on the subject lands under these provincial policies, as it did not lawfully exist prior to their approval.
4. Public Consultation

The application was pre-circulated to 19 property owners within 120 metres of the subject lands on June 21, 2007. Several issues were raised in the four letters of objection and in a petition containing 21 signatures which were received in response (see Appendix “C”). A discussion of the issues raised is outlined below:

(i) Incompatibility with abutting uses: The current trucking facility abuts sensitive land uses such as residential uses and a proposed day-care operation.

A response letter identified noise from inside the buildings, and the adjacent property owners’ use and enjoyment of their properties being adversely affected. The letters received identify the business as operating 24 hours per day, and transporting all types of loads. The use of engine braking systems, vibration, the dust from the trucks entering and exiting a gravel drive, and the switching of loads and on-site manoeuvring, which are a normal part of the commercial trucking operation, are not compatible with surrounding sensitive land uses. Staff note that one response letter identified noise from inside the buildings, and noise outside from the switching of loads.

The respondents also cite the loss of residential property values due to the incompatibility; however, staff have no information available to verify this.

(ii) Incompatibility with the Rural Area:

The requested trucking operation serves a wide range of clientele; as such, it is not a “Rural Use”. While an operation such as Redman Transportation is a welcome addition to the City of Hamilton, it should be appropriately located in a “Rural Settlement Area”, a “Rural Business Park”, or in an industrial area within the “Urban Area”. It is not compatible with the vision of “Agricultural First” that the Province and the City have for the Rural Area.

(iii) Safety Concerns:

The responses received cited concern for neighbourhood safety due to the increase in industrial traffic adjacent to a future day care and a school bus stop. A response identifies the designated school bus stop for the cluster of dwellings as being located within 50 feet of the driveway access for the subject lands. Traffic staff have indicated no concerns with the proposal.

The responses also cite concern for environmental safety associated with the increased noise and dust, and the potential risk of impact on ground water in transporting hazardous loads, to and from the subject lands.
Staff note that the commercial trucking operation is not currently paved and no stormwater management measures are in place to control the quality of the run-off from the operation with respect to ground water or soil contamination. All of the letters received raise ground water and well water contamination as concerns. If the applications were approved, these matters could be examined through site plan control prior to enactment of the by-laws.

(iv) Other concerns cited, relate to the approval of the applications if they are subject to limitations or conditions with respect to the number of trucks, area for storage, and hours of business and future expansions. Concern is expressed that enforcement of such conditions would be the responsibility of the neighbours (to complain), and that previous complaints have not been addressed. From a municipal enforcement perspective, it would be difficult to enforce such conditions. The number of trucks used would require a By-law Enforcement Officer to monitor the truck traffic over extended periods of time.

A response noted that once the “Rural Industrial” use is legally established, the applicant can either expand the operation through applications for minor variances, or through intensifying truck traffic. As the business only owns a few trucks, and operates largely as a broker (subcontracting to various independent owner-operated trucks), it is argued that it would be difficult to control the level of truck traffic entering and exiting the site. The response notes that the approval of this industrial use would result in changing the character of the area, with the potential of promoting other industrial businesses.

Staff note that any future applications for a minor variance or a rezoning to permit an expansion would require notification and a public meeting as part of the process. However, expansions to this type of operation would be difficult to control in terms of truck traffic. The surrounding area has a mix of rural land uses such as a dog training facility, residential uses, agricultural uses, and a machine shop; most of these uses maintain a rural character, with the exception of the dog training facility, which is a sizeable commercial operation.

**ALTERNATIVES FOR CONSIDERATION:**

If the applications are denied, then the applicant has the option of using the property for the current uses (agricultural, single detached dwelling, accessory open storage, conservation, one help house, one fruit and/or vegetable stand, and an office for one physical or mental health practitioner, physician, or dentist) permitted in the Agriculture “A” 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 prior to adopting/passing an Official Plan Amendment and a Zoning By-law Amendment.

POLICIES AFFECTING PROPOSAL:

Greenbelt Plan

The subject lands are designated “Protected Countryside - Rural Areas” within the Greenbelt Plan. Section 4.1 of the Plan states that the “Rural Areas” of the “Protected Countryside” are intended to continue to accommodate a range of commercial, industrial and institutional uses serving the rural resource and agricultural sectors. The requested commercial trucking operation is not in conformity with the above policy.

Staff are of the opinion that there are more appropriate locations within the Rural Settlement Areas, Rural Business Parks, and within industrial designations in the Urban Area for such a use. Based on the foregoing, Staff are of the opinion that the subject application does not conform to the policies of the Greenbelt Plan.

Provincial Policy Statement

The application has been reviewed with respect to the Provincial Statement (PPS). Policy 1.1.4.1 (a) states that in the “Rural Areas” located in municipalities, permitted uses and activities shall relate to the management or use of resources, resource-based recreational activities, limited residential development and other rural land uses. The proposed commercial trucking operation is not a rural land use permitted within the “Rural Area”.

The subject proposal is not consistent with the Provincial Policy Statement.

Hamilton-Wentworth Official Plan

Policy C-3.2 states that the Rural Areas contain a complex mix of designations including “Prime Agricultural” lands, “Rural Settlements”, and a variety of existing land uses and activities such as residential, commercial, rural industrial and the primary activity of farming. While in the past these activities have been scattered throughout the rural landscape, the intent of this Plan is to concentrate development in appropriate areas (generally Rural Settlements), limit rural development, and protect agricultural lands. Accordingly, the Plan contains a land use strategy for the Rural Areas that consists of:

- Promoting rural settlements as service centres for the rural community;
• Restricting non-agricultural uses; and,
• Strengthening the rural economy.

Policy C-3.2.2 states that in most situations, non-agriculturally related recreational, commercial, industrial, and institutional uses will not be permitted outside of the Rural Settlement Areas or Rural Business Parks.

Policy 3.2.2.2 states that the Region will require that Area Municipal Official Plans contain policies and corresponding land use designations to limit non-agricultural uses within the “Rural Areas” consistent with the principles of sustainable development, the intent and policies of this plan and the guidelines of the Province.

Map No. 5 of the plan also designates the subject lands as part of a “Mineral Aggregate Resource Area” in order to protect such areas for future mineral aggregate extraction. However, Policy 2.2.1 of the plan indicates that the location of these areas may be refined, without amendment to the plan, in the Area Municipal Official Plans. Therefore, approval of the requested amendments would not conflict with the Hamilton-Wentworth Official Plan in regard to the “Mineral Aggregate Resource Area” designation.

However, based on the foregoing, the subject proposal does not conform to the “Rural Areas” policies of the Hamilton-Wentworth Official Plan.

**Town of Flamborough Official Plan**

The subject property is designated as “Rural Area” on Schedule “B” and as “Mineral Aggregate Resource Lands” on Schedule “J” of the Flamborough Official Plan. The intent of the “Rural Area” is to support the agricultural use of lands, and where the lands are not suited for agriculture, to permit land uses supportive of the Rural Area character and environment. Policy B.3.1 states that permitted uses in the “Rural Area” shall be: agriculture and related farm buildings, farm implement and machinery dealerships, fertilizer and agricultural chemical sales, and grain milling facilities, etc., which cater to the needs of agricultural community.

The requested trucking operation is not a permitted use within the “Rural Area” designation.

As the Official Plan Amendment application is to permit a commercial trucking operation within the “Mineral Aggregate Resource Area”, these policies have been reviewed as well. Policy C.5.1 (iii) states that permitted uses within “Mineral Aggregate Resource Areas” shall be restricted to existing uses plus agricultural, open space and conservation and forestry uses which do not involve significant new buildings or structures. The establishment of new uses or activities whose presence would either prevent or conflict with the possible development of a pit or quarry extraction operation is not permitted. In staff’s opinion, given that no new structures are proposed, the requested trucking operation does not conflict with these particular policies.
As the nature of the Official Plan Amendment application is to permit a “Rural Industrial” use (commercial trucking operation), the “Rural Industrial” policies have been reviewed as well.

Policy B.5.1 states that “Rural Industrial” uses are those that directly relate to and serve the agricultural community or utilize the natural resources of the “Rural Area”. As the requested trucking operation serves a greater community than the local agricultural community, it does not meet the intent of Policy B.5.1.

Policy B.5.3 (ii) states that when new “Rural Industrial” development is proposed on “Rural” lands, such development may be permitted if the need to use this land is justified on the following basis:

(i) Compatibility with the surrounding land uses; and,

(ii) Current supply of the proposed use in the area.

The subject lands are surrounded by residential, agricultural, rural commercial uses and a day care. The noise, traffic, and dust associated with a commercial trucking operation are not compatible with the more sensitive residential and day care uses. There are vacant lands zoned Rural Industrial “M3” located nearby on Coreslab Drive (Highway No. 5 and Highway No. 6) and near Highway No. 5 and Ofield Road South. Therefore, the application does not conform to this policy.

**Rural Hamilton Official Plan – (Pending Ministerial Approval )**

The subject lands are designated as “Rural” on Schedule “D” - Rural Land Use Designations. The “Rural” designation applies to lands characterized as having lower capability for agriculture due to a range of factors. The intent of this Plan is to protect and maintain agricultural uses as the primary and predominant land use.

Policy 4.1.1 states that Resource-Based Commercial and Resource-Based Industrial uses are permitted uses in the “Rural” designation provided that:

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a) The use must be directly related to and require a location on or in close proximity to a rural resource. Permitted resource-based commercial and resource-based industrial uses shall include commercial tree farms, retail greenhouses and nurseries, cement/concrete production, commercial water-taking, and sawmills;

b) The use shall not adversely impact surrounding agricultural uses or existing farm operations. Where non-farm development is proposed on lands used for agriculture it must be demonstrated, to the satisfaction of the City, that no reasonable alternative exists and the need and demand for the use at the proposed location is justified for the amount of land proposed based on existing undeveloped lands available for development in the Rural Settlement Areas designation and the Urban Area;
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d) The development shall be compatible with surrounding land uses and the rural landscape; and

e) A Zoning By-law amendment and Site Plan approval shall be required to permit the use and address appropriate setbacks, building size and location, parking, lighting, drainage, buffering, screening and landscaping, and any other matters."

The Ministry has also recently modified the plan to include the site as a “Mineral Aggregate Resource Area” as defined in the current Hamilton-Wentworth Official Plan.

The requested trucking operation is not directly related to nor does it require a location in close proximity to a rural resource and it is not compatible with the surrounding land uses. Therefore, it is not a permitted use within the “Rural” designation and does not conform to the proposed Rural Hamilton Official Plan.

**RELEVANT CONSULTATION:**

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

- Hamilton-Wentworth District School Board;
- Open Space and Development and Park Planning Section, Public Works Department;
- Forestry and Horticulture Section, Public Works Department;
- Traffic Engineering and Operations Section, Public Works Department;
- Strategic and Environmental Planning, Public Works Department;
- Horizons Utility Corporation;
- Niagara Escarpment Commission; and,
- Budget and Fiscal Policy Services, Corporate Services Department.

**Parking Services Division, Hamilton Municipal Parking System**

Staff have reviewed this application, and have no concerns with the Official Plan Amendment and Zoning By-law Amendment applications. However, the applicant should ensure that all existing and future parking requirements are met on-site.

**Public Consultation**

In accordance with the Public Participation Policy approved by Council on May 29, 2003, the application was pre-circulated to 19 property owners within 120 metres of the subject lands, and a sign was posted.

Five (5) letters from surrounding residents and one petition containing 21 signatures were received in response to the preliminary circulation letter (attached as Appendix “C”). Four (4) of the letters and the petition indicated objections to the applications and one letter indicated support. An analysis of the issues is included in the Analysis/Rationale section of this report.
Notice of the Public Meeting will be given 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 requested use of a trucking operation is not compatible with the surrounding area.

- Environmental Well-Being is enhanced.  
  - Yes  
  - No

  Noise and dust cannot be adequately mitigated.

- Economic Well-Being is enhanced.  
  - Yes  
  - No

  The requested use of a trucking operation has the potential of adversely impacting the rural character of the area and surrounding agricultural operations.

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

:kw

Attachments (3)
Location Map

Site of the Application

PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT

File Name/Number:
OPA-07-09, ZAC-07-016

Date:
Sept 12, 2007

Appendix "A"

Scale:
N.T.S.

Planner/Technician:
KW/KA

Subject Property

928 Brock Road, Flamborough

Ward 14 Key Map

N.T.S.
Applicant’s Website – Redman Transportation

REDMAN TRANSPORTATION

PH: 1-888-673-3626  FAX: 1-866-839-9699

WE ARE A MID-SIZED FREIGHT COMPANY LOCATED IN WATERDOWN, ONTARIO, CANADA. OUR MEMBERS HAVE BEEN INVOLVED WITH THE TRUCKING INDUSTRY FOR OVER 25 YEARS. WE ARE BIG ENOUGH TO HANDLE ALL OF YOUR REQUIREMENTS AND YET WE ARE SMALL ENOUGH TO PUT FORTH THE EXTRA ATTENTION YOU REQUIRE. WE UNDERSTAND THE CHALLENGES FACED BY THE MANUFACTURER AND WOULD LIKE TO OFFER OUR SERVICES TO HELP YOU SAVE BOTH TIME AND MONEY. OUR SHIPMENTS AVERAGE A 98% ON TIME OR EARLIER DELIVERY AND WE ARE PRODUCTIVE IN RESOLVING ANY PROBLEMS THAT DO OCCUR. PLEASE CONTACT ONE OF OUR REPRESENTATIVES BELOW FOR A RATE QUOTE OR SERVICE.

SALES: JEFF STEPHENS, PATRICK McKEANE
ACCOUNTING: MICHELLE TAYLOR  Ph:(905-332-6373) FAX:(905-332-4020)

DISPATCH: SCOTT BENNETT, JANETTE JEBLONSKI

MARKET DEVELOPMENT: ROBERT HERRIOT

WE ARE LOCATED AT: 835 5TH CONCESSION, WATERDOWN ONT. CANADA L0R-2H2

THANK YOU FOR TAKING THE TIME TO REVIEW OUR COMPANY. WE HOPE THAT YOU WILL CONSIDER USING REDMAN AND WE LOOK FORWARD TO HEARING FROM YOU.

ONE CALL DOES IT ALL! 1-888-673-3626
REDMAN TRANSPORTATION

Service

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PH: 1-888-673-3626  FAX: 1-866-839-9699

WE WILL MOVE ALL OF YOUR FREIGHT FROM OR TO ANY POINT IN THE U.S.A AND CANADA - FROM 1 SKID TO A FULL LOAD, HAZARDOUS, HEAT, TIME SENSITIVE, ETC.

WE WILL PROVIDE YOU WITH TROUBLE-FREE SERVICE. WITH JUST ONE CALL WE WILL DO IT ALL.

WE WILL SAVE YOU TIME AND MONEY.

WE SET OUR OWN RATES AS COMPETITIVELY AS THE MARKET WILL ALLOW AND YET WE WILL DELIVER SUPERIOR OVERALL SERVICE. OUR WHOLE FOCUS IS TO MOVE YOUR FREIGHT AS HASSLE FREE AS POSSIBLE, WHILE AT THE SAME TIME, KEEPING YOU INFORMED AS TO THE WHEREABOUTS OF YOUR SHIPMENT.

WE WILL IMPROVE YOUR TRANSIT TIMES. OUR CARRIER KNOWLEDGE AND INFORMATION NETWORK ALLOWS US TO MOVE YOUR FREIGHT WITH THE FASTEST TRANSIT TIMES POSSIBLE. IN MANY CASES WE CAN DELIVER A SHIPMENT IN THE SAME TIME AS AN EXPEDITED TRUCK AT A REGULAR RATE.

OUR SIMPLIFIED BILLING PER SKID SAVES YOU CLERICAL TIME, PROCESSING TIME AND ELIMINATES BILLING PROBLEMS.

WE WILL CONTINUOUSLY PROBLEM SOLVE TO ENSURE YOU RECEIVE TROUBLE-FREE SERVICE. WE WILL WORK WITH YOUR CUSTOM BROKERS, CANADIAN CUSTOMS, YOUR CONSIGNEES AND USE OUR KNOWLEDGE OF THE TRANSPORTATION INDUSTRY TO ENSURE THAT ALL PROBLEMS ARE RESOLVED WITHOUT YOUR INTERVENTION.

WE WILL EARN YOUR BUSINESS BASED ON OUR PERFORMANCE. WE WILL NEVER COMPROMISE, GIVING YOU THE BEST VALUE - THE BEST SERVICE AT THE RIGHT PRICE.

WE ONLY USE BONAFIDE CARRIERS THAT HAVE BEEN APPROVED BY US. ALL CARRIERS MUST FILL WITH US THEIR CARGO INSURANCE, OPERATING AUTHORITY, CUSTOMS BOND, ETC. BEFORE WE WOULD EVER TRUST THEM WITH A LOAD.

ONE CALL DOES IT ALL. REDMAN @ 1-888-673-3626

July 1910

To the Official Plan Amendment APP-07-09

I would like to be present at the public meeting.

Reason being, neighbours are going around with petitions, and never come and see us.

1. This is not fair to the applicant.
2. This neighbour complains about everything.

I have been hearing all the time, even when I registered my business, that it devalued the property. Our machine shop property is marketable now! I would like to be present to support this neighbour’s business.

Thank you,

John Van Wyngaarden

205 546 2002
Responses from the Public Circulation

Rosalyn and Robert Vanderboom
933 Brock Rd.
RR#4, Dundas ON
L9H 5E4

Kristen West, MCIP RPP
City of Hamilton
Planning & Economic Development Department
Development and Real Estate Division (West)
City Hall, 71 Main St West, 7th Floor
Hamilton, ON L8P 4Y5

July 2, 2007

Regarding: Files OPA-07-09 & ZAC-07-016, 928 Brock Rd, Flamborough

Current Situation: operating as a truck depot, uncontrolled number of trucks accessing site, operating 24x7, and shipping is not resource based, storage NOT limited to area proposed by applicant nor limited in numbers of trucks suggested. Noise of trucks and shipping disturbs neighbours throughout the night and day; 6ft fence on north side of property does nothing to abate noise or unsightliness. Site accessed by multiple office employees, greater than 10 trucks may make multiple daily trips, not driven by the property owner.

We are opposed to the re-zoning for the following reasons:

1. INCOMPATIBLE with the surrounding agricultural/rural land uses: shares property line with 5 residences, 1 active farm & 1 proposed daycare/residence. Within 120m of several residences. This is not an industrial but an agricultural, rural, & residential area. The proposed use represents an undesirable impact on the adjacent land uses, with respect to disruptiveness, noise and dust.

2. NOISE: as one of the closest residences to the site, I can no longer have my windows open at night without being awakened by trucks gearing up & down, applying air brakes when stopping behind the residence & when entering & exiting the property. Throughout the daytime, evening, weekdays & weekends, I am disturbed by the same, whether inside my house or out. There is also the associated noise of shipping/moving loads, which occurs inside & outside of the buildings (which incidentally, do not have the appropriate setbacks from the property at 938 Brock Rd.). Other associated noise includes idling trucks and truck maintenance & repair. This 24 X 7 hour operation greatly detracts from the enjoyment and value of my property. I am accustomed to noise, living beside McCann’s and behind the Speedway, who both show respect for quiet after 11pm. I am also accustomed to the quiet of the countryside after 11pm. I have never experienced such disregard for the rights of neighbours, as I have experienced in the past few months from the owners of 928 Brock Rd, who operate under the name Redman Transportation. More respect is shown to those who live near truck drop off points, when drop-offs are not permitted between 11pm-7am. In
truck times are dictated by the needs of the customer (refer to the website, 98% on time). As a result, there is no way that I can be protected from 24x7 noise, dictated by the customer & Redman. There are also no reasonable enforcement methods to limit nighttime disturbances if a trucking depot is permitted on site (speak with Donna May Lord).

3. Creates NEIGHBOURHOOD SAFETY CONCERNS WITH RESPECT TO TRAFFIC SAFETY: increased truck traffic is inconsistent with zoning for a proposed daycare and limits the development of that site, a potential neighbourhood service. Who would send their child to a daycare beside a truck depot, not to mention the safety/noise/dust and health related concerns of such an arrangement? These are abutting & conflicting land usages, with associated dangers. Allowing this represents poor planning. Additionally, my children’s bus stop is directly in front of 928 Brock Rd. The safety of my family will be challenged daily as we access our school bus stop, in September 2007 (a 2, 3 & 6 year old, waiting at a bus stop, within 50ft of the driveway to a trucking depot).

4. Creates ENVIRONMENTAL SAFETY HAZARDS: Shipping does include chemicals, which are temporarily stored onsite. Refer to the Redman Transportation website regarding hazardous goods shipping, and contact Sylvain Campbell, MOE (905-521-7888) who has observed paperwork reflecting the shipping of chemicals on June 8/07. At proposed site, covered artesian well, drainage issues offsite to 837 5th Concession west, which drains to a conservation wetland area. Trucks currently parked throughout the field, on soil, with risk for ground water contamination/drainage issues. This does not contribute to a healthy environment or protection of the hydrologic system. Not to mention the property line shared with active farming land.

5. NOT RESOURCE BASED AND NOT CREATED TO SERVE THE RURAL/AGRICULTURAL COMMUNITY: refer to website; “a mid-sized freight company”, “we understand the challenges of the manufacturer”...“we move all of your freight...hazardous, heat, time sensitive”. There is nothing on his website that refers to resource based trucking. He is listed in the Hamilton Port Profile, with a Milton phone number (905-691-6395). He advertised in the Burlington Gold book (905-332-4521). He continues to maintain these numbers. This pre-existing trucking business has not been established to meet a need in the local agricultural & industrial economy, but relocated to this site. As an observant neighbour, the products shipped do not reflect the local community, but are industrial products, that are compatible with an industrial area, not a rural/agricultural area in the greenbelt. If approved, there is no control of the product subsequently shipped.

6. GREENBELT: Was proposed to “provide protection to the land base needed to maintain, restore and improve the ecological & hydrological functions of the greenbelt; control urbanization of the lands to which the Greenbelt Plan applies; and contribute to the economic viability of farming communities”...Approving this application unnecessarily industrializes land which is part of the greenbelt. Within 6.5 km of this site, there are 2 trucking depots at Highway 5 & Oilfield Rd. S, and vacant, available M3 land beside these trucking depots. How can the city justify removing greenbelt land
Responses from the Public Circulation

when M3 land is currently available locally? (Highway 5 near Lafarge quarry and also near Clappison’s industrial park by Coreslab). How can the city approve this application at this site, which is incompatible with & has such negative impacts for surrounding properties, when this could be avoided by using available, appropriately zoned, vacant land? This does not represent “Smart Growth”.

7. UNENFORCEABLE BYLAWS and COSTLY BYLAW ENFORCEMENT. Proposing limited numbers of trucks and storage sounds good on paper, however, with a depot, it will be unenforceable. The number of trucks on site, and the daily trips will depend on the product shipped and the distance it is traveling. In essence, there will be no control of the traffic volume on site or the noise disturbance created. With regards to the proposed storage area on site, the area & number of trucks stored is currently being exceeded. Does this kind of behavior demonstrate this is a reasonable proposal or demonstrates future compliance with bylaws once enacted? As a neighbour, it speaks to the need for the tedious work of the neighbours & costly involvement of bylaw enforcement staff to limit the uses on site, in the future. This is an unreasonable & irresponsible situation to allow/create.

8. EQUALITY/COMMUNITY DEVELOPMENT: good planning results in a vibrant rural community. Approval of this application will result in a benefit to Redman Transportation, by the creation of valuable industrial land, to the detriment of surrounding residential neighbours whose residential properties will depreciate in value and with respect to enjoyment and quality of life. As suggested by Robert Walters, I have contacted Scott, in an attempt to discuss the application, and my concerns, with him. To date, no response has been received. This does not bode well for the future.

9. UNJUSTIFIABLE: having lived here since June 2000, I have been involved in Hamilton’s community meetings with respect to planning. It is an open process, and hundreds of people attend, to contribute ideas and plan their own futures. The values & directives of the New Rural Official plan, though not law, do not support the proposed usage. We should be moving forward in light of the values of this plan. If approved, what is the city of Hamilton saying to those who follow their plans/direction...”sorry for your luck?” I did not believe my neighbourhood was slated for industrialization, when I decided to remain here.

10. FUTURE M3 INDUSTRIALIZATION/GROWTH OF THE PROPOSED SITE. Good business planning allows for future growth. Through minor variance applications, will the site be allowed to expand, to store more trucks and product? If not, growth can be accommodated by an intensification of truck traffic volume to the site, without any restriction by the city (with exception of changes to the road access). Thus, the proposal of limited trucks is redundant, and there is no property enjoyment for the neighbours. If the residence is rezoned M3, there is no need for a future residential use on site, which may have some impact on deterring intense truck traffic. It also results in changing the nature of our neighbourhood to industrial, which will promote the relocation of other industry to it and the justification for other properties to rezone to M3. There may be the introduction of other M3 uses in the area, to support it. Once M3, and a
Responses from the Public Circulation

In conclusion, this application:
1. Does not conform to the Greenbelt Plan, or the values of the New Rural Official Plan. It is not resource based.
2. Does not represent Smart Growth or good planning with available, vacant industrial “park” land nearby.
3. Is incompatible with surrounding uses and previous land usage decisions.
4. Cannot be made compatible with use of berms/fencing/site specific bylaws, to alleviate neighbours 24x7 noise concerns. Think of a 6 foot fence in relation to the height of an enclosed transport trailer.
5. Site specific bylaws with respect to noise, and limited truck and site storage are unenforceable, given the business nature of a truck depot, our restricted bylaw staffing and the minimal impact of fines (“the cost of doing business”). Site restrictions are also not reasonable, given the growth needs of a newly, relocated business. Bylaw infractions are anticipated, given the observed activity and storage at the site, occurring currently.
6. Results in community safety hazards with respect to neighbouring uses, hydrologic function and traffic safety.
7. Destroys the current rural community, which predated this business use.
8. It is unnecessary and unjustifiable, given the current truck depots and available M3 land within 6.5 km of the proposed site, and the fact that this business was not created to serve this rural/agricultural neighbourhood.

Given the available industrial land areas nearby, created to minimize the detrimental impact on others, and as a result of good planning, I cannot think of one reason that the Planning department, in the City of Hamilton has to approve these applications. If approved in any form, I believe the city is creating disharmony on all levels, and opening themselves up to future problems.

In conclusion, please notify me of the availability of the staff report, prior to the public meeting,

Sincerely,

Rosalyn & Robert Vanderboom
cc Councillor Robert Pasuta
Responses from the Public Circulation

July 18, 2007

City Of Hamilton
Development Planning
71 Main St. W., 7th Fl
Hamilton, Ontario L8P 4Y5

Attention: Robert Walters, MCIP, RPP
& Kristen West, MCIP, RPP

RE: Official Plan Amendment OPA-07-09 & Zoning By-law Amendment
ZAC-07-016 for lands @ 928 Brock Road, Flamborough

I do not support the above-noted application. I was the previous owner of the property until October 2006. Under a Grandfather clause the property housed my families automotive repair business for 27 years & in 2003 it was shut down due to improper zoning. I followed the proper procedures to obtain commercial zoning but my efforts were denied by City Council including local Counselors Dave Braden & Margaret McCarthy. The property has always been zoned as it is today, Agricultural/Residential.

I own a 2 acre lot adjoined to 928 Brock Road, my lot line(which also adjoins the proposed children’s play areas) runs parallel to Mr. Bennett’s proposed “new driveway” for his transport trucks. My lot is zoned site-specific Institutional/ Residential to permit for a children’s centre. My intentions were to build the children’s centre last October however, I decided to withhold plans because I was unsure of Mr. Bennett’s intentions. Time has proven that my concerns were valid and I listed my property on the market in March of this year, the property values in the area will only decrease if there is a trucking yard.

A daycare centre parallel to a trucking yard do not compliment one another for obvious reasons. The influx in traffic has been phenomenal, increasing the risk of accidents for all properties in the area of 928 Brock Road. Evidence to support this not only comes from neighboring homeowners but also by the near mishaps that have occurred & noticeable skid marks out front of the property.

I currently reside on the 5th concession and the influx in transport truck traffic on this main artery leading to 928 Brock Road has grown in the last 9 months, residents in the area have raised concerns regarding this matter.
The property is within the Greenbelt which is to preserve the natural ecosystem. Concerns of natural water flow & well water supplies are viable concerns. There is also an artesian well on the land east of Mr. Bennett’s proposed yard/storage areas & concerns of waste filtering into the water supplies cannot be ignored.

Thank-you for your attention in this matter, I look forward to your response.

Sincerely,

Susan Ivanic

Mr. Frank Evans
827 5th Concession Road West
Dundas, Ontario
L9H 5E4

July 18, 2007

City of Hamilton
Attn: Kristen West, MCIP RPP
Planning and Economic Development Department
City Hall, 71 Main St. W. 7th Floor
Hamilton, Ont.
L8P 4Y5

Re: Files OPA-07-09 & AC-07-016

Dear Ms. West;

I am writing in order to be able to continue to pursue this application through the planning stages. My property is immediately to the south of the applicant and we share 660 feet of property line.

There are some statements in the application, and some of the answers are not correct.

I am opposed to changing the zoning of this land, as described in this application, from agricultural to M3 industrial. I feel it is a further deterioration of rural Flamborough agricultural area. Flamborough has continued to be a largely agricultural area, when all about us, other areas have destroyed so much of their ability to produce food. This in a time of increasing world wide hunger.

Other concerns are the possibility of soil contamination, and run off to surrounding properties, and into the sensitive water table. Noise from the trucks is another concern. All of these affect, and deprecate my property value.

This is a foolish choice for a use for this property.

Sincerely;

Frank Evans
Responses from the Public Circulation

Linda Sway
938 Brock Road
Dundas, Ont., L9H 5E4

July 7, 2007

City of Hamilton, City Hall
Attn: Kristen West, MCIP RPP
Planning and Economic Development Department
71 Main St. W. 9th Floor
Hamilton, Ont., L8P 4Y5

Attn: Kristen West
Re: Files OPA-07-09 & ZAC-07-016

It seems appropriate that I respond today to your letter dated June 21, 2007, regarding the application for rezoning at 928 Brock Road. Why today? Because a white tractor trailer diesel cab parked beside my home, around 10:10 am and was left idling......it is now 11:10am and it is just being moved to the back of the property somewhere. 12:35 pm a white tractor trailer cab comes from the back, and is left idling......until 12:50 pm. Today the temperature is 29-30 degrees. This truck idling issue, beside my house, is not uncommon. During the winter a truck was left idling for two hours. Just one of the nuisances of a truck depot locating next door to a residence, not any residence, MY HOME. 928 Brock Road is not zoned for a truck depot; the new owner, Scott Bennett choose to break/ignore the existing zoning and by laws, and just set up and operate 24 hours a day, 7 days a week with absolutely no regard or concern for neighbors, or regulations. Not a few trucks; Scott has a web site showing he is affiliated with Redman Transportation Inc., an international transportation company which brokers, and transports through Canada, USA, and Mexico. I have no intention of helping with his advertising, but wish to show the extent of this operation. In one day I have seen over thirty trucks, in and out of 928 Brock Road, other days somewhere in the range of twenty trucks. How can this happen on a property zoned agricultural, located in Green Belt, and in a rural residential neighbourhood?

Other issues affecting the enjoyment of my HOME:

2) the only driveway access into this trucking depot is beside my house.
3) noise of trucks gearing up, gearing down, as they approach the subject drive way from Brock Road
4) noise of the truck air brakes
5) large clouds of dust these tractor trailers raise as they travel the dirt driveway
6) tractor trailer trucks come and go 24 hours a day, 7 days a week. Last night for example, a truck arrived, after 2am, with a defective muffler, it was so loud, it woke me from a deep sleep. That same truck woke me again at 4:10 am as it left the subject site and traveled north past my house. The nights are so peacefully quiet in the country, you could hear this truck for miles as it traveled up the road.
7) the inconvenience of coming home and having Brock Road blocked in both directions while a loaded tractor trailer jockeys around and tries to enter the driveway. One I was inconvenienced by was marked Bamaby BC. Another time I witnessed 20 vehicles stopped, lined up from in front of 928 Brock Road, past my house, South bound waiting to continue along Brock Road, but stopped and waiting while a tractor trailer was across Brock Road blocking traffic both directions. That same incident I counted 24 north bound vehicles after the truck got off the road.
8) road safety: loaded tractor trailer trucks parked along Brock Road. Example: in the dark winter months, there were two loaded trucks parked on the road, this was because the area between the house and shop already had three trucks parked. In this area, Brock Road has an 80Km. speed limit with very limited shoulder area before 3 to 4 foot drop into an open ditch on both sides of the road.
9) these large diesel trucks are noisy and actually give off a vibration which can be felt inside my home. During winter months, with the windows in my home closed, I have been sitting in my living room watching tv and can hear and feel vibration when a truck is beside my house.
Responses from the Public Circulation

10) along with the idling trucks, men yell back and forth to each other over the noise of the trucks...
11) there are loud noises associated with the moving of the loads on the trailers, and reloading of the trucks beside my home.
12) cars are parked over night, over the weekend, beside my house. It is not uncommon I understand for truck drivers to sleep in the trucks.
13) because of the number of people coming and going, 24 hours a day, my dog will bark when a new face arrives at the fence line, or close by, including in the middle of the night.
14) items transported are stored on site for periods of time. Truck loads are stored along the mutual fence line, beside my home. The partial, low, wooden fence on the subject side does nothing to hide what is on the other side, as the trucks and loads are double the height of the fence.
15) what is being stored on site? I have witnessed truck loads of barrels, what is in these barrels, and what else is coming on site? The web site states the company transports “hazardous.” Most homeowners in the immediate area rely on wells for their source of drinking water. I fear compromise to this sensitive ground source. The subject site also drains onto neighboring properties, and I wonder about the potential for on site and off site contamination.

All of these issues contribute to an overall effect on my home: how I can enjoy it, relax in it, sleep in home, relax outside on my patio, and entertain friends. I have been robbed, by a very inconsiderate property owner, of many intangible values that all property owners expect. Some very unique to a rural residential area. Then, there is the monetary value of my home, and how difficult it would be to now sell my home. Who would want to buy a home beside a 24 hour 7 days a week truck depot? The value of my home has been flushed down the toilet by this illegal use. I am a single Mom, self employed, and every cent I own is contained in my home. I have worked hard, for many years, and continue to do so, to keep my home, pay my mortgage, and raise my daughter in a rural residential setting. Over the years I have improved my home, as extra money was available. I have been robbed, by a very inconsiderate property owner, of the very tangible value I have been carefully building in my home over the years. I do not understand how someone can do that to another person? Only the applicant appears to benefit from this rezoning application, and at a very high expense to surrounding neighbors.

This area is mainly comprised of rural residential homes; most homes in this area are worth over $300,000.00 and much higher. This is not the area to start a truck depot; this is not an area other home owners perceived as changing into heavy industrial zoning when they were allowed by the City of Hamilton to build their new expensive homes. I do not believe the City of Hamilton, former Town of Flamborough, or Region of Hamilton, considered this area as heavy industrial when the official plans were drafted over the years, and that is why an amendment has been applied for.

The applicant has shown such disregard for the current by-laws and regulations, his neighbors and their way of life - why should this application for rezoning be recommended for approval? Why should there be any consideration for the application, and possible limitations, when there is no regard right now for the existing limitations? Why should the City of Hamilton be placed in a position of spending money of trying to enforce seemingly unenforceable limitations? For example: suppose a limited number of trucks were allowed on site - who is going to count them - who has the time, and who cares? - if a home is for sale in close proximity to the trucking depot, anyone considering buying a house in that area is not going to ask “how many trucks?” - they will say “your house is beside a 24/7 truck depot, zoned heavy industrial M3” and that deteriorates surrounding property values, limit's the type/number of purchasers, because of all associated detrimental effects.

I cannot afford to loose any value in my home, and I do not want to loose any intangible amenities I enjoy while living in a rural residential neighbourhood.

I wish to receive any future documentation/notification regarding this application. Thank you for your time and consideration.

Sincerely,

[Signature]
Responses from the Public Circulation
Responses from the Public Circulation

[Handwritten text and signatures]
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<thead>
<tr>
<th>FULL NAME (printed)</th>
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<th>PHONE NUMBER</th>
<th>SIGNATURE</th>
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<tbody>
<tr>
<td>James Rees</td>
<td>854 Concession Rd W</td>
<td>905-635-8324</td>
<td></td>
</tr>
<tr>
<td>Wendy Galloway</td>
<td>139 Clayton Dr</td>
<td>689-6995</td>
<td></td>
</tr>
<tr>
<td>Rosanne McMillan</td>
<td>861 Brock Rd W</td>
<td>671-3853</td>
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<tr>
<td>Charlotte Ainslie</td>
<td>804 Mulgrave Rd</td>
<td>695-7353</td>
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<tr>
<td>Tony Simpson</td>
<td>372 Bridge Rd</td>
<td>405-592-9701</td>
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The owner of 928 Brock Road, Scott Bennett, has made an application to the City of Hamilton, for an official Plan Amendment under Sections 34 & 35 of the Planning Act. The application requests a rezoning of the land from Agricultural to Residential A-1. The property is currently zoned Agriculture, and is within the Greenbelt. The application stipulates a limited number of trucks on site, but realistically, that will be impossible to enforce. We, the undersigned, are NOT in favour of the current application to rezone 928 Brock Road, and strongly urge the City of Hamilton, and the Regional Planning Board, to reject this application, and to use the location as a Truck Depot, along with outside storage. The Truck Depot will operate 24 hours a day, 7 days a week, with no limitation of truck traffic. The application stipulates a limited number of trucks on site, but realistically, that will be impossible to enforce.

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