SUBJECT: Application to Amend the Flamborough Zoning By-law No. 90-145-Z, for Lands Located at 475 Highway No. 5 West (Flamborough) (PED07136) (Ward 15)

RECOMMENDATION:

That Zoning Application ZAR-06-21, Allen and Elise Christiansen, Owners, to amend the current Agricultural “A” Zone to permit a garden supply assembly operation for a maximum period of three years, for lands located at 475 Highway No. 5 West, former Town of Flamborough, as shown on Appendix “A” to Report PED07136, be denied on the following basis:

(a) That the proposal is not consistent with the Greenbelt Plan, since non-agricultural uses are not permitted in Prime Agricultural Areas.

(b) That the proposal is not consistent with the Provincial Policy Statement (PPS), since non-agricultural uses are not permitted in Prime Agricultural Areas.

(c) That the proposal does not conform to the Hamilton-Wentworth Official Plan or the Flamborough Official Plan, since non-agricultural commercial and industrial uses are not permitted at this location.

Lee Ann Coveyduck
General Manager
Planning and Economic Development Department

EXECUTIVE SUMMARY:

The purpose of the application is to permit an existing garden supply assembly operation to continue for a maximum period of three years.
SUBJECT: Application to Amend the Flamborough Zoning By-law No. 90-145-Z, for Lands Located at 475 Highway No. 5 West (Flamborough) (PED07136) (Ward 15) - Page 2 of 9

Staff does not support the application since it is not consistent with the Greenbelt Plan and Provincial Policy Statement, and does not conform to the Hamilton-Wentworth and Flamborough Official Plans.

BACKGROUND:

Proposal

The applicant has applied to modify the Agricultural “A” Zone of the subject lands, known as 475 Highway No. 5 West (see Appendix “A”), through a temporary use By-law, in order to permit an existing garden supply assembly operation to continue for a maximum period of three years.

Based on the application submitted and a site visit conducted, the operation consists of assembling manufactured rocks (rocks which have holes drilled in them) and lights, which are stored on-site. The operation takes place within a 324 square metre (3,487 square feet) existing shed (Building F, Appendix “C”) and an outside storage area behind the shed. The operation is not visible from Highway No. 5, since it is set back approximately 180 metres (600 feet). The applicant has indicated that the operation is a seasonal business that caters primarily to contractors. Also, the finished product is either picked up by local contractors or transported out (approximately 2 trucks per week).

A large portion (approximately 22 hectares or 84%) of the subject lands are used for farming purposes.

Information Open House (October 2002)

On November 5, 2002, the agent, Fothergill Planning and Development Incorporated, held an information Open House regarding a potential re-zoning application to permit the existing garden supply assembly operation on the subject property. The City’s Planning staff attended. Based on a site visit conducted and a further review of the policies, the City’s Planning staff advised the owners and agent that the proposal could not be supported and that the owners should relocate the business to a more appropriate location on lands designated and zoned for industrial use.

Complaints

Prior to the above Open House, the City’s Building and Licensing Division received a complaint (dated November 14, 2001) that the subject property was being used for a rock landscape forming business with machinery. Upon inspection, Building and Licensing staff identified a Zoning By-law violation, since this use was not permitted. The owners of the subject property indicated their intention to submit a rezoning application and held the Open House.

On February 24, 2004, the City’s Building and Licensing Division received another complaint that an agricultural building was being used as a manufacturing plant. Upon
inspection, Building and Licensing staff identified a Zoning By-law violation, since this use was not permitted on the subject property. As a result, an Order to Comply (pending the outcome of this application) was issued.

Details of Submitted Application

Owners: Allen and Elise Christiansen
Applicant: Carl Christiansen
Location: 475 Highway No. 5, West (see Appendix “A”)

Description:
- Frontage: 183.0 metres (600.39 feet)
- Depth: 1220 metres (4002.62 feet)
- Area: 25.7 hectares (64 acres)

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>Single Detached Dwelling</td>
<td>Conservation Management</td>
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<tr>
<td>and Garden Supply Assembly Operation</td>
<td>“CM” and Agricultural “A” Zones</td>
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<thead>
<tr>
<th>Surrounding Land Uses</th>
<th>North</th>
<th>South</th>
<th>East</th>
<th>West</th>
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<tbody>
<tr>
<td>Agricultural</td>
<td>Agricultural</td>
<td>Agricultural and Single Detached Dwellings</td>
<td>Agricultural, Single Detached Dwellings and Private Elementary School</td>
<td>Agricultural “A” Zone, Conservation Management “CM” Zone, and Institutional “I-1” Zone</td>
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| | Agricultural “A” Zone | Conservation Management “CM” Zone and Agricultural “A” Zone |
| | Agricultural “A” Zone and Conservation Management “CM” Zone |

ANALYSIS/RATIONALE:

1. The proposal cannot be supported for the following reasons:
   
   (i) The proposal is not consistent with the Greenbelt Plan, since non-agricultural uses are not permitted in Prime Agricultural Areas.

   (ii) The proposal is not consistent with the Provincial Policy Statement (PPS), since non-agricultural uses are not permitted in Prime Agricultural Areas.
(iii) The proposal does not conform to the Hamilton-Wentworth Official Plan and the Flamborough Official Plan, since non-agricultural commercial and industrial uses are not permitted at this location.

2. The subject lands are designated as “Prime Agricultural Area” by the Greenbelt Plan and by the Provincial Policy Statement (PPS). Both the Greenbelt Plan and the PPS permit a full range of agricultural, agriculture-related and secondary uses within the “Prime Agricultural Area”, where:

“Agricultural uses” - means the growing of crops, including nursery and horticultural crops; raising of livestock; raising of other animals for food, fur or fibre, including poultry and fish; aquaculture; apiaries; agro-forestry; maple syrup production; and associated on-farm buildings and structures, including accommodation for full-time farm labour when the size and nature of the operation requires additional employment.

Agricultural-related uses” – means those farm-related commercial and farm-related industrial uses that are small scale and directly related to the farm operation and required in close proximity to the farm operation.

Secondary uses” – means uses secondary to the principal use of the property, including but not limited to, home occupations, home industries, and uses that produce value-added agricultural products from the farm operation on the property.”

The proposed garden supply assembly operation is not permitted, since it is not an agricultural use, is not related to an existing farm operation on-site, is not required to be in close proximity to a farm operation, and does not produce value-added agricultural products from a farm operation on the property.

The Hamilton-Wentworth Official Plan designates the subject property “Prime Agricultural”. The Hamilton-Wentworth Official Plan states that agriculture is the predominant use in the Rural Area. The plan provides that limited non-agricultural commercial and industrial uses that would not interfere with farming or agricultural lands may be considered in the Rural Area. These uses must be related to agriculture or use natural resources found in the Rural Area or provide services to rural residents, or require land extensive holdings; and not be suited for locations in the Urban Area.

The operation consists of assembling manufactured materials into a finished product. This use is not related to agriculture or resources found in the Rural Area, and the applicant has not submitted any information to indicate that the use serves the rural community. An assembly operation of this nature is more suited for industrial zoned land within the Urban Area where there is existing infrastructure to support it.
The Flamborough Official Plan designates the subject property “Agriculture”. The plan provides for a full range of Agriculture uses and ancillary uses. A garden supply assembly operation is not permitted.

Staff does not support the application since it is not consistent with the Greenbelt Plan and Provincial Policy Statement, and does not conform to the Hamilton-Wentworth and Flamborough Official Plans.

3. Staff received a letter (attached as Appendix “B”) from adjacent landowners as a result of the pre-circulation of this application. The owners of 564 Ofield Road North state that they are opposed to the application since rezoning the property could negatively impact the surrounding properties. The letter also states that the approval of this application may allow for an expansion to the existing operation, which would cause noise, increased activity, pesticide use and other potential impacts. The applicable policies of the Greenbelt Plan, Provincial Policy Statement, Hamilton-Wentworth Official Plan, and Flamborough Official Plan prohibit the requested use and direct it to the Urban Area and Rural Business Parks in the Rural Area, which eliminate such incompatibilities within Prime Agricultural Areas.

Staff also received an e-mail (attached as Appendix “B”) as a result of the pre-circulation of this application. The e-mail identified an existing concentration of garden supply businesses in the area, and potential impacts due to the use of large amounts of water and chemicals. The application is to permit an existing garden supply assembly operation to continue temporarily and not a traditional garden supply outlet.

4. Based on a conversation with the agent, the purpose of the proposed temporary use By-law is to permit the existing operation to continue for a three year period to allow the applicant time to re-locate the operation to a more appropriate location. As outlined in the Background Section of this report (Page 2), staff advised the applicant in 2002 to re-locate the operation to a more appropriate location and, as such, the applicant has had ample time to relocate. The use has continued illegally since at least 2002, and this application is the result of a recent Order to Comply.

**ALTERNATIVES FOR CONSIDERATION:**

The applicant has the option of using the property for the current range of uses permitted in the Agricultural “A” Zone and Conservation Management “CM” Zone should the application be denied.

**FINANCIAL/STAFFING/LEGAL IMPLICATIONS:**

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<tr>
<th>Financial</th>
<th>–</th>
<th>N/A.</th>
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<tr>
<td>Staffing</td>
<td>–</td>
<td>N/A.</td>
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</table>
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:

Greenbelt Plan

The subject property is designated “Protected Countryside – Prime Agricultural” and “Natural Heritage System” within the Greenbelt Plan. Policy 4.1.1 states that non-agricultural uses are not permitted within Prime Agricultural Areas. Also, Policy 3.1.3.1 and Policy 3.2.2.1 state that normal farm practices and a full range of “agriculture-related” and “secondary uses” are permitted in Prime Agricultural Areas. Policy 3.2.2.4 provides criteria for non-agricultural uses within the Natural Heritage System.

There is no development existing or proposed on those lands designated “Natural Heritage System”. As outlined in the Relevant Consultation Section of this report (Page 9), the Hamilton Conservation Authority was circulated and concluded the proposal will not require a permit.

As the nature of the application is to allow an industrial use to continue, the proposal is contradictory to the Prime Agricultural policies of the Greenbelt Plan.

Provincial Policy Statement

The application has been reviewed with respect to the Provincial Policy Statement (PPS). Policy 2.3.3.1 states that the permitted uses in the Prime Agricultural Area are agricultural uses, secondary uses and agriculture-related uses.

As the nature of the application is to allow an industrial use to continue that is not related to agriculture, the proposal is contradictory to the policies of the Provincial Policy Statement.

Hamilton-Wentworth Official Plan

The subject property is designated “Rural Area” within the Hamilton-Wentworth Official Plan. Policy 3.2.2 states that in most situations, non-agriculturally related recreational, commercial, industrial and institutional uses will not be permitted outside the Rural Settlement Areas of Rural Business Parks. This policy also states that there are limited uses which may be considered in the Rural Area that would not interfere with farming or agricultural lands. These uses must be related to agriculture or resources found in the rural area or provide services to rural residents, or require land extensive holdings; and they must not be suited for locations in the Urban Area. The purpose of this policy is to relieve development pressures on farm land, minimize land use conflicts and competition, and prevent scattered development, all of which will enhance the sustainability of the Rural Area.
As outlined earlier (Background – Page 2), the operation consists of assembling manufactured materials into a finished product. This use is not related to agriculture or resources found in the rural area, and the applicant has not submitted any information to indicate that the use is geared specifically to rural residents. An assembly operation of this nature is suited for industrial zoned land within the Urban Area where there is existing infrastructure to support it. As the nature of the application is to allow an industrial use to continue which does not fulfil any of the above requirements for a location in the Rural Area, the proposal is contradictory to the policies of the Hamilton-Wentworth Official Plan.

Flamborough Official Plan

The subject lands are designated “Agriculture” on Schedule “B”, Rural Land Use Plan, of the Flamborough Official Plan. Also, a portion of the subject lands are identified as falling within lands regulated by the Hamilton Conservation Authority, on Schedule “E”, Hazard Lands.

Policy B.2.1 and Policy B.2.3 of the Flamborough Official Plan outline the principle and ancillary uses permitted within the “Agriculture” designation.

“B.2.1 The uses permitted in areas designated AGRICULTURE on Schedule ‘B’ shall be agricultural operations, including cultivated field crops, animal husbandry, perennial forage crops, greenhouses, nurseries, forestry and reforestation projects and fish and wildlife management or similar uses.

B.2.3 The following ancillary uses are permitted in the AGRICULTURE designation, subject to amendment to the Zoning By-law, provided that they are compatible with agricultural uses, support the agricultural economy, have no adverse impacts on ground and surface water systems and the capabilities of the land for safe septic disposal, and comply with all other provisions of this Plan:

(i) farm implement dealerships;

(ii) fertilizer and agricultural chemical sales;

(iii) livestock assembly points, grain milling facilities and storage of fresh produce;

(iv) small scale institutional uses (maximum land area of two hectares) which cater to the agricultural community;

(v) residential uses in accordance with the policies of this Plan; and,

(vi) tack shops.”
The proposed garden supply assembly operation is not a permitted use as outlined by the above noted policies and, consequently, does not conform to the Flamborough Official Plan.

Policy C.4.2 of the Flamborough Official Plan states that for lands identified as “Hazard Lands” on Schedule “E”, no development shall be permitted without the written approval of the presiding Conservation Authority. As noted in the Relevant Consultation Section of this report (Page 9), the Hamilton Conservation Authority was circulated the application and stated that the building for use as a garden supply assembly operation is not located within the regulated area and a permit is not required from the Conservation Authority.

The new Rural Hamilton Official Plan

The new Rural Hamilton Official Plan was adopted by Council on September 27, 2006, and forwarded to the Minister of Municipal Affairs and Housing (pending approval).

For information purposes, the subject property is designated “Agriculture” within the Rural Hamilton Official Plan. Policy D.2.1 states that the uses permitted in the Agriculture designation are limited to agricultural uses, agricultural-related commercial and agricultural-related industrial uses. Policy D.2.1.2 defines agricultural-related uses as:

“D.2.1.2 Agricultural-related uses are farm-related commercial and farm-related industrial uses that are small scale, producing products and services, wholly and directly related to farming operations and which are required in close proximity to an agricultural use. They are uses necessary to support agricultural uses…”

As the nature of the application is for the establishment of an industrial use which is not related to agriculture and does not fulfil any of the above requirements, the proposal would be contradictory to the policies of the Rural Hamilton Official Plan, if applicable.

**RELEVANT CONSULTATION:**

The following Departments/Agencies had no comments or objections:

- Public Works Department (Traffic Engineering and Operations Section).
- Corporate Services Department (Budgets & Finance).
- Corporate Services Department (Revenues Division).
- Ministry of Transportation Ontario.
- Hydro One Networks Inc.
- Union Gas.

**Hamilton Conservation Authority** has indicated that the subject property is located within an area affected by the HCA Development, Interference with Wetlands and Alterations to Shorelines and Watercourses Regulation 161/06 under Ontario
Regulation 97/04. However, the building for use as a garden supply assembly operation is not located within the regulated area and a permit is not required from the Conservation Authority.

Public Consultation

In accordance with the Public Participation Policy that was approved by Council on May 29, 2003, this application was pre-circulated to 43 property owners within 120 metres of the subject lands.

One letter and one e-mail (attached as Appendix “B”) were received in response to the pre-circulation letter. Concerns were raised in the letter and e-mail regarding the incompatibility of the proposal with the neighbouring agricultural and residential properties, and the concentration of garden supply outlets in the area. An analysis of these issues is discussed in the Analysis/Rationale Section of this report.

A Public Notice sign was posted on the property and notice of the Public Meeting will be given in accordance with the regulations 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

Environmental Well-Being is enhanced. ☐ Yes ☑ No

Economic Well-Being is enhanced. ☐ Yes ☑ No

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

:DF

Attachs. (3)
Attn: David Falletta  
Planning Technician City of Hamilton

Re: Preliminary Circulation  
Zoning Amendment Application ZAR-06-21 (Applicant – Carl Christiansen),  
475 Highway No. 5, Flamborough, Ward 15

We are in opposition to the above Zoning Amendment Application (ZAR-06-21).  
Our property backs onto the above mentioned property and we have concerns about  
future impact changes if rezoning is permitted. 475 Highway No. 5 is a large property,  
which if rezoned, would possibly allow for a variety of options that could cause problems  
for the surrounding rural/residential area. From expansion to additional buildings, noisy  
machinery, business operating hours, gardening equipment, and pesticide use, the range  
of possibilities are all potentially detrimental to neighbouring properties.

Submitted for your consideration,
Glen and Christine Hils  
564 Ofield Road North  
Dundas, ON
Falletta, David

From: Joyce Stewart (Tall Trees Bed and Breakfast)
Sent: June 28, 2006 9:40 AM
To: Falletta, David
Subject: RE: File ZAR-06-21

Good Morning David,

I know I'm late contacting you concerning the above file but had to write anyway. I think before consideration is given for this proposal, someone from your department needs to take a drive out this way and check out how many of this type of operation our area is already supporting.

Don't get me wrong, I'm a gardener, but really we don't need another garden supply outlet here or anywhere within a 20 mile radius or more. How many more are you going to allow, using water and chemicals way beyond the amount used in a household.

Before a decision is made please check this out.

Thank you,

Joyce Stewart
Flamborough
A - FARMHOUSE  A - 57' x 32'
B - SHED  B - 53' x 25'
C - SHED/SMALL BARN  C - 36' x 23'
D - BARN  D - 74' x 13'
E - SHED  E - 13' x 33'
F - SHED (NEW BUILDING)  F - 48' x 88'
...
OUTSIDE STORAGE AREA.