

**CITY OF HAMILTON**

**PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT**  
**Development and Real Estate Division**

<b>Report to:</b> Chair and Members Planning & Economic Development Committee	<b>Submitted by:</b> Lee Ann Coveyduck General Manager Planning and Economic Development Department
<b>Date:</b> November 18, 2005 <b>File:</b> ZAR-05-80	<b>Prepared by:</b> Matthew Johnston, (905) 546-2424, Ext. 6685

**SUBJECT: Application to Amend City of Stoney Creek Zoning By-law No. 3692-92 for Lands Located at 341 Regional Road 20 (Stoney Creek) (PED05201) (Ward 11)**

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**RECOMMENDATION:**

That approval be given, in part, to **Zoning Application ZAR-05-80, by Domenic Marini, Owner**, for a modification to the Agricultural "A" Zone, to allow a Nursery Garden Centre and Home Industries, including Accessory Outdoor Storage as additional permitted uses, for portions of the lands located at 341 Regional Road 20 (Stoney Creek), as shown on Appendix "A" to Report PED05201, on the following basis:

- (a) That Block "1" be rezoned from the Agricultural "A" Zone to the modified Agricultural "A-7" Zone.
- (b) That Block "2" be rezoned from the Agricultural "A" Zone to the modified Agricultural "A-8" Zone.
- (c) That the draft By-law, attached as Appendix "D" to Report PED05201, which has been prepared in a form satisfactory to Corporate Counsel, be enacted by City Council.
- (d) That the amending By-law be added to Schedule "A", Map No. 17, of Zoning By-law No. 3692-92.
- (e) That the proposed changes in zoning conform to the Hamilton-Wentworth Official Plan and the Stoney Creek Official Plan.

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Lee Ann Coveyduck  
General Manager  
Planning and Economic Development Department

**SUBJECT: Application to Amend City of Stoney Creek Zoning By-law No. 3692-92 for Lands Located at 341 Regional Road 20 (Stoney Creek) (PED05201) (Ward 11) - Page 2 of 8**

**EXECUTIVE SUMMARY:**

The proposed modifications to the Agricultural “A” Zone to allow a Nursery Garden Centre and Home Industries, including Accessory Outdoor Storage, as additional permitted uses on portions of the subject property, can be supported as the uses are appropriate and complementary to the surrounding area. The proposal conforms to the “Agricultural” policies of the Stoney Creek Official Plan and the Hamilton-Wentworth Official Plan, the Provincial Greenbelt Plan, and is consistent with the Provincial Policy Statement.

The proposal, as submitted by the applicant, also requested outside parking and storage of larger vehicles including, but not limited to, tractor trailers and flatbed trailers. These uses are not consistent with the Provincial Policy Statement and are in conflict with the Provincial Greenbelt Plan, and cannot be supported by staff.

**BACKGROUND:**

**Proposal**

The purpose of the amendment is to modify the Agricultural “A” Zone to allow a Nursery Garden Centre, Home Industries, and Accessory Outdoor Storage, as additional permitted uses on portions of the subject property identified as Block “1” on Appendix “A”, and to allow Home Industries, and Accessory Outdoor Storage, as additional permitted uses on portions of the subject property identified as Block “2” on Appendix “A”.

The applicant also requested outside parking and storage of larger vehicles including, but not limited to, tractor trailers and flatbed trailers. These uses are not consistent with the Provincial Policy Statement and are in conflict with the Provincial Greenbelt Plan, and cannot be supported by staff.

**Zoning Order**

In August of 2004, complaints were received by area residents regarding the parking and storage of commercial vehicles in an Agricultural “A” Zone. These complaints were investigated by the Standards and Licensing Section and a By-law infraction was confirmed. Following attempts to contact the owner to rectify the situation, a Zoning Order was issued in December 2004, and the matter is now before the Ontario Provincial Offences Court. The Court has adjourned the matter until this zoning application is finalized.

**Location**

The subject property is located on the north side of Regional Road No. 20, between Third Road East and Tapleystown Road, Part of Lot 18, Concession 8 (former Township of Saltfleet), municipally known as 341 Regional Road No. 20 (see Appendix “A”). The subject lands form part of a larger holding owned by the applicant.

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**Owner & Applicant:** 770471 Ontario Limited (Dominic Marini)

**Agent:** Planning & Engineering Initiatives Ltd.  
(Sergio Manchia)

**Property Description**

Applicants Total Holdings	Total Lot Area:	±38.58 Ha (95.3 acres)
	Total Lot Frontage:	378.7 metres (1242 feet)
	Servicing:	Private well and septic
Lands to be Rezoned (Block 1)	Lot Area:	±0.96 Ha (2.4 acres)
	Frontage:	87.8 metres (288 feet)
Lands to be Rezoned (Block 2)	Lot Area:	±0.68 Ha (1.6 acres)
	Frontage:	66.4 metres (218 feet)

**Existing Land Use and Zoning**

	<b>Existing Land Use</b>	<b>Existing Zoning</b>
<b>Subject Land:</b>	Agricultural with gravelled portions	Agricultural "A" Zone
<b>North:</b>	Agricultural	Agricultural "A" Zone
<b>West:</b>	Residential	Rural Residential "RR" Zone
<b>South:</b>	Nursery Garden Centre/ Agricultural	General Agricultural "A1-028" Zone and General Agricultural "A1" Zone
<b>East:</b>	Residential/Commercial	Rural Residential "RR" Zone and Highway Commercial "HC-2" Zone

**ANALYSIS/RATIONALE:**

1. The proposed zoning amendment, excluding the outdoor parking and storage of larger commercial vehicles, including but not limited to, tractor trailers and flatbed trailers, has merit and can be supported for the following reasons:
  - It is consistent with the Provincial Policy Statement.
  - It conforms to the Provincial Greenbelt Plan.
  - It conforms to the Hamilton-Wentworth Official Plan and the Stoney Creek Official Plan.
  - The proposal is compatible with the existing and planned development in the immediate area.

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The outdoor parking and storage of larger commercial vehicles cannot be supported by staff because these uses are not consistent with the Provincial Policy Statement, and are in conflict with the Greenbelt Plan. This use is considered a Transport Terminal and/or an Industrial Garage in the Stoney Creek Zoning By-law, not an Agricultural Use, as required by the Provincial Policy Statement and the Greenbelt Plan.

2. The Nursery Garden Centre, Home Industries and Accessory Outdoor Storage uses would be permitted on the portion of the lands identified as “Block 1” (see Appendix “A”). Based on the concept plan submitted by the applicant (see Appendix “B”), the following site-specific provisions will be incorporated:

- a minimum 9.0 metre landscape strip along the westerly lot line.
- a minimum 6.0 metre landscape strip along the southerly lot line.
- Accessory Outdoor Storage will not be permitted in the flankage side yard or the front yard.
- a minimum flankage side yard setback of 45 metres.

Only the Home Industries and Accessory Outdoor Storage uses would be permitted on the portion of the lands identified as “Block 2” (see Appendix “A”). Based on the concept plan submitted by the applicant (see Appendix “B”), the following site specific provisions will be incorporated:

- a minimum 6.0 metre landscape strip along the southerly lot line.
- a minimum 6.0 metre landscape strip along the easterly zone boundary line.
- Accessory Outdoor Storage will not be permitted in the front yard.

3. Under the Greenbelt Plan definitions, “Home Industries” are considered Secondary Uses that are permitted in the “Protected Countryside”. However, “Home Industries” is not defined in the Stoney Creek Zoning By-law. The subject property abuts the former Township of Glanbrook. The Glanbrook Zoning By-law defines “Home Industry” as follows:

“Small scale commercial and/or industrial use secondary to an agricultural operation which is owned and operated by one or more of the residents of the dwelling unit on the subject lot and shall be wholly enclosed within either a single detached dwelling unit, an attached garage or an accessory building. Such home industries may include a carpentry shop, a metal working shop, a welding shop, an electrical shop or blacksmith's shop, but shall exclude motor vehicle repair shops and motor vehicle body shops.”

It would be appropriate to apply this definition of “Home Industry” to the By-law amendment.

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**ALTERNATIVES FOR CONSIDERATION:**

In the event Council does not support the proposed modification in zoning, the use of the subject property would continue to be regulated by the Agricultural “A” Zone provisions contained in Zoning By-law No. 3692-92.

**FINANCIAL/STAFFING/LEGAL IMPLICATIONS:**

Financial: None.

Staffing: None.

Legal: As required by the Planning Act, Council shall hold at least one Public Meeting to consider an application for a change in Zoning.

**POLICIES AFFECTING PROPOSAL:**

**Provincial Policy Statement**

This amendment has been reviewed with respect to the Provincial Policy Statement (PPS), and is consistent with the principles and policies of the PPS.

The use of outdoor parking and storage of larger vehicles including, but not limited to, tractor trailers and flatbed trailers cannot be included in the amendment because Section 2.3.1 of the PPS states prime agricultural areas are to be protected for long-term agricultural uses.

**Provincial Greenbelt Plan**

The subject lands are designated “Protected Countryside” within the Greenbelt Plan. Policy 3.1 of the Plan outlines that normal farm practices and a full range of agricultural, agriculture-related and secondary uses are supported and permitted. As the nature of the application is to permit a Nursery Garden Centre, Home Industries and Accessory Outdoor Storage, the proposal conforms to the Greenbelt Plan.

The use of outdoor parking and storage of larger vehicles including, but not limited to, tractor trailers and flatbed trailers cannot be included in the amendment because it is a non-farm use and is in conflict with the Greenbelt Plan.

**Hamilton-Wentworth Official Plan**

The Hamilton-Wentworth Official Plan designates the subject property as “Rural Area/Prime Agricultural Lands”. Policy 3.2.2 of the Plan outlines that there are limited uses which may be considered in the Rural Area that would not interfere with farming. These limited uses must provide service to rural residents or require extensive land holdings and not be suitable for an urban location. Therefore, as the nature of the amendment is to modify the existing zoning to permit a Nursery Garden Centre, Home

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Industries and Accessory Outdoor Storage, the amendment conforms to the Hamilton-Wentworth Official Plan.

The use of outdoor parking and storage of larger vehicles including, but not limited to, tractor trailers and flatbed trailers cannot be included in the amendment because it is a non-farm use, which is typically permitted in urban industrial zones.

**Stoney Creek Official Plan**

The subject property is designated “Agricultural” on Schedule “A” – General Land Use Plan in the City of Stoney Creek Official Plan.

Section A.9.1.2 states: “the primary uses permitted in Agricultural areas shall be for farming, animal husbandry, greenhouses, nurseries, apiaries, poultry farms, forestry horticultural research centres and uses similar to the foregoing.” By limiting the additional uses to a Nursery Garden Centre, Home Industries, and Accessory Outdoor Storage, the amendment conforms to Section A.9.1.2.

In considering the appropriateness of the uses permitted by the Plan, Section 9.2.2 states Council shall have regard for the following:

- “a) the need to locate the use in the Agricultural Area in view of alternate suitable locations within the urban area designated elsewhere by this Plan.
- b) the physical suitability of the site for the use proposed.
- c) the suitability of the land for agricultural purposes.
- d) the necessity of the proposed use to serve the needs of the agricultural community.
- e) the adequacy of facilities to service and accommodate the intended use such as roads, private sewage disposal system and ground water supply.
- f) the long term effect of the proposed development on the natural capability of the land to provide a potable source of water and to safely accommodate the disposal of sewage.
- g) the compatibility of the use with the agricultural open space character of the area and with nearby agricultural operations, and in consultation with the Ministry of the Environment, the potential for environmentally based conflicts with existing and proposed nearby residential, institutional, and other sensitive land uses.
- h) the logical extension or/and infilling of existing development.”

The amendment conforms to the aforementioned policy as; the use is most suitable in an agricultural area and not suited for urban areas; the site is physically suited for the

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proposed use as two distinct gravelled areas exist on the site; the remaining ±36 hectares (±89 acres) can continue to be used for agricultural purposes; the Nursery Garden Centre serves the needs of the rural community; the property is currently adequately serviced by roads, private sewage disposal and water supply; the limited coverage of the use on the lands has no cumulative long term effect on water and private sewage disposal; consultation with the Ministry of Environment is not required for the uses; and the uses are a logical extension of planned development in this area.

The use of outdoor parking and storage of larger vehicles including, but not limited to, tractor trailers and flatbed trailers cannot be included in the amendment because it is a non-farm use which is typically permitted in urban industrial zones.

**RELEVANT CONSULTATION:**

**The following Departments and Agencies had no comments or objections:**

- Bell Canada
- Niagara Peninsula Conservation Authority
- Public Works Department
- Corporate Services Department
- Hamilton Police and Hamilton Emergency Services
- Hamilton Hydro

**Public Consultation**

In accordance with the Public Participation Policy that was approved by Council on May 29, 2003, the application and the Notice of Public Meeting were pre-circulated to 73 property owners within 120 metres of the subject lands, and a Public Notice sign has been posted on the property.

Staff received one letter (See Appendix "C"), and one petition signed by 34 area residents, both in objection to the subject application.

The concerns raised in the objection letter included conformity to the Provincial Greenbelt Plan; traffic safety resulting from larger vehicles entering the property; devaluation of property values; pollutant runoff from trucks and trailers; the existing waterway traversing the property; and flooding concerns.

By not allowing the requested use of outdoor parking and storage of larger vehicles including, but not limited to, tractor trailers and flatbed trailers, the amendment conforms to the Greenbelt Plan. Traffic safety and pollutant runoff relating to larger vehicles is no longer associated with the amendment. Staff has no evidence to indicate the proposed amendment would have a negative impact on property values of surrounding properties. The Niagara Peninsula Conservation Authority is aware of the watercourse on the property and did not have any concerns. The further development of the lands may be subject to site plan control, where issues such as lot grading and flooding would be addressed.

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**CITY STRATEGIC COMMITMENT:**

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

**Community Well-Being is enhanced.**  **Yes**  **No**

The public are involved in the definition and development of local solutions.

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

Ecological function and the natural heritage system are protected.

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

Investment in Hamilton is enhanced and supported.

**Does the option you are recommending create value across all three bottom lines?**

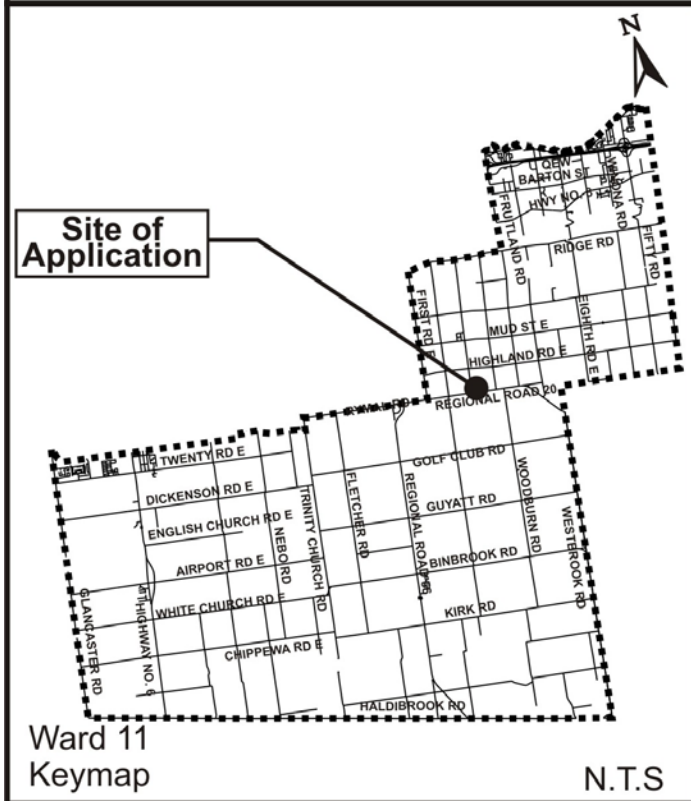
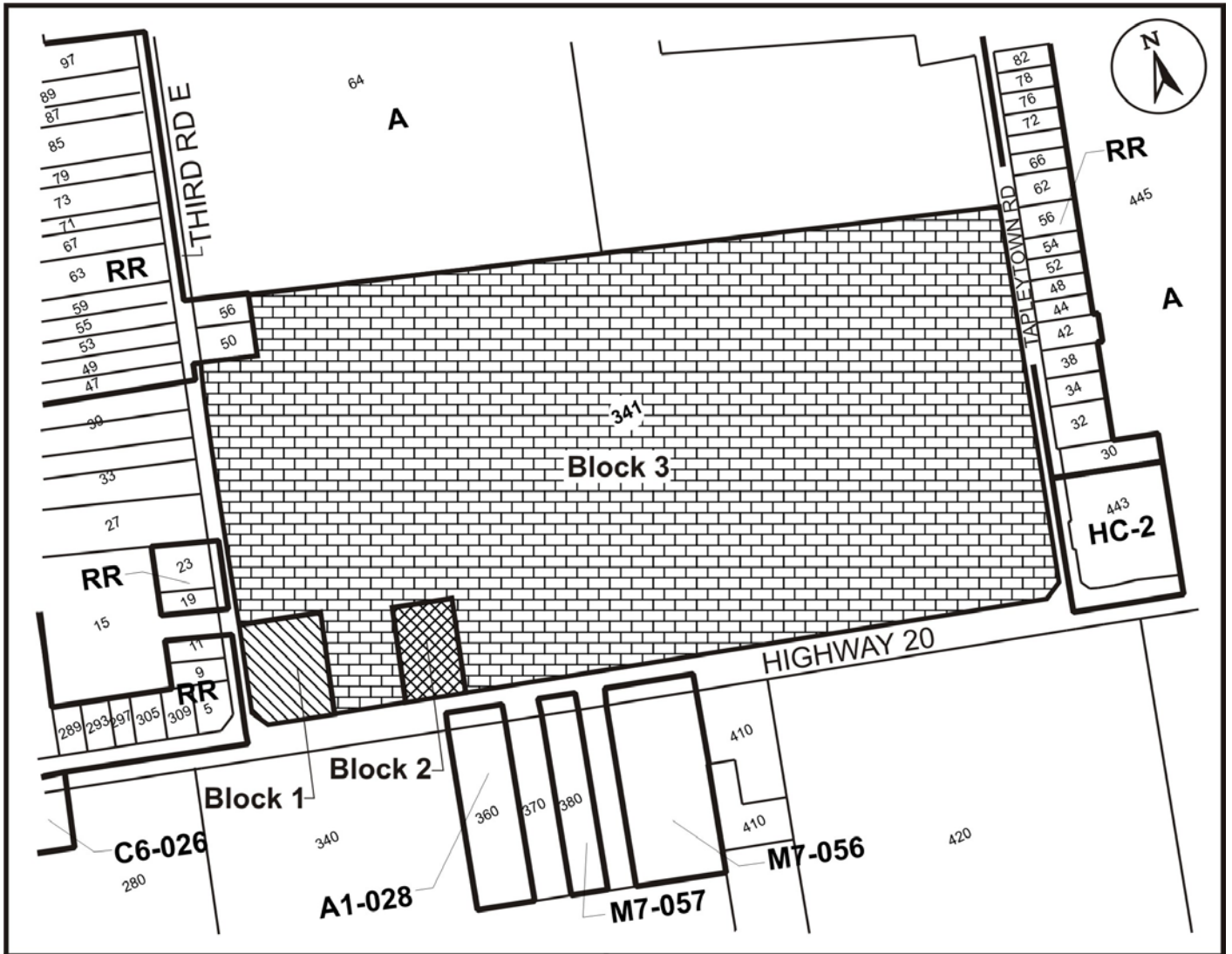
**Yes**  **No**


**Do the options you are recommending make Hamilton a City of choice for high performance public servants?**

**Yes**  **No**

:MJ




Attachs. (4)




 Planning and Economic Development Department  
**Location Map**

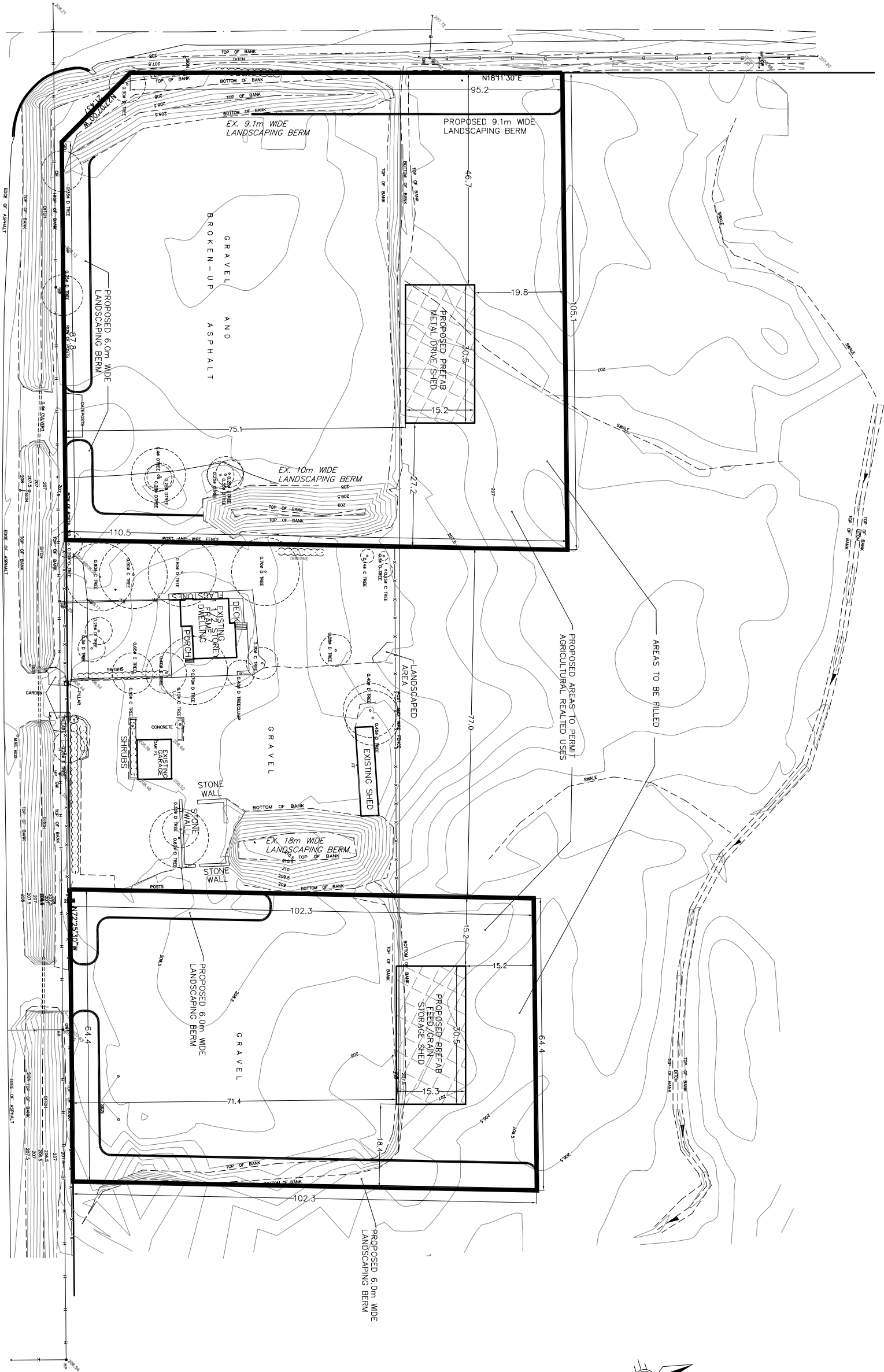
File Name/Number: ZAR-05-80	Date: August 16, 2004
Appendix "A"	Scale: N.T.S
Planner/Technician: MT/NB	

**Subject Property**  
**341 Regional Road No. 20**

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**Block 1** - Change from the Agricultural "A" Zone to a Modified Agricultural "A-7" Zone.
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**Block 2** - Change from the Agricultural "A" Zone to a Modified Agricultural "A-8" Zone.
- 
**Block 3** - Owner's Total Holdings

T&C File Name:

3RD ROAD EAST



THE KING'S HIGHWAY No 20

## PROPOSED ZONING SKETCH

PART OF LOT 18, CONCESSION 8  
FORMER TOWNSHIP OF  
SALTFLEET  
IN THE  
CITY OF HAMILTON

KEY MAP

N.T.S.

THIRD ROAD EAST

HIGHLAND ROAD

TAPLEYTOWN ROAD

HIGHWAY # 20

SUBJECT AREA OF ZONING AMENDMENT

LANDS OWNED BY APPLICANT

**PEIL**  
PLANNING & ENGINEERING INSTITUTIONS LTD.

**HAMILTON - KITCHENER - TORONTO**

360 James Street North  
Suite 200, East Wing  
Hamilton, Ontario, L8L 1H5  
Tel: (905) 546-1010  
Fax: (905) 546-1011  
E-mail: hamilton@peil.net  
www.peil.net

SOURCE:  
BOUNDARY AND TOPOGRAPHY PREPARED BY: AT McLAREN

Designed By: NO  
Drawn By: NO  
Checked By: NO  
Project: HP1090

Scale: N.T.S.  
Date: April, 2005  
Drawing Number: 1 of 1

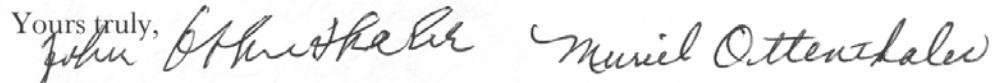
For the following reasons, we respectfully request your attention:

1. This property is in the area designated Green Belt by the province of Ontario.
2. Regional Road 20 has an 80 km limit, which could potentially cause safety hazard for traffic traveling in this area due to these trucks entering and exiting the property. Also there are school buses picking up children on Tapleytown Rd, Regional Rd. 20, and 3rd Road East. These buses exit onto Regional Rd. 20 from Tapleytown & 3rd Road East as well as exit off Reg. Road 20 onto Tapleytown & 3rd Road East. Third road is only approximately 60 meters from the entrance to the parking lot in question.

The area of Third road and Tapleytown is largely residential and is not suitable or built to allow heavy truck traffic. Reg. Road 20 on the north side is also mostly residential thru to the school of Our Lady of the Assumption school located near the junction of Hwy 20, hwy 53 and hwy 56. The school buses also stop along this strip to pick up and drop off the children.

3. Devaluation of our homes and properties.
4. At times pressure washing equipment has been brought in to pressure wash the trucks/trailers that use this property. Oil and pollutants could pollute our wells as we are not serviced by city water.
5. A natural waterway runs through this farm.
6. Flooding occurs in this area during heavy rains and melting snow.

Please consider our comments carefully as a change in zoning would seriously affect our lives. Many of us have resided in this area for over 30 years.

Yours truly,  
  
John & Muriel Ottenthaler  
15 Third Road East, Stoney Creek, Ont. L8J 3J5  
(905) 664-3719

cc Councillor David Mitchell, Ward 11, Jennifer Mossip, Liberal MPP

**Authority:** Item \_\_\_\_\_, Planning and Economic  
Development Committee  
Report PED05201  
CM:

**Bill No.**

**CITY OF HAMILTON**

**BY-LAW NO. \_\_\_\_\_**

**To Amend Zoning By-law No. 3692-92 (Stoney Creek)  
Respecting Lands located at 341 Regional Road 20**

**WHEREAS** the City of Hamilton Act, 1999, Statutes of Ontario, 1999 Chap.14, Sch. C. did incorporate, as of January 1<sup>st</sup>, 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 City of Stoney Creek" 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. 3692-92 (Stoney Creek) was enacted on the 8<sup>th</sup> day of December, 1992, and approved by the Ontario Municipal Board on the 31<sup>st</sup> day of May, 1994;

**AND WHEREAS** the Council of the City of Hamilton, in adopting Section \_\_\_\_\_ of Report 04-\_\_\_\_\_ of the Planning and Economic Development Committee at its meeting held on the \_\_\_\_\_ day of \_\_\_\_\_, 2005, recommended that Zoning By-law No. 3692-92 (Stoney Creek), be amended as hereinafter provided;

**AND WHEREAS** this by-law is in conformity with the Official Plan of the City of Hamilton (formerly the City of Stoney Creek Official Plan), approved by the Minister under the Planning Act on May 12, 1986;

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

1. Map No. 17 of Schedule "A", appended to and forming part of By-law No. 3692-92 (Stoney Creek) is amended by:
  - (a) changing the zoning from the Agricultural "A" Zone to the Agricultural "A-7" Zone, the lands comprised of Block 1; and,
  - (b) changing the zoning from the Agricultural "A" Zone to the and Agricultural "A-8" Zones, the lands comprised of Block 2;

the extent and boundaries of which are shown on a plan hereto annexed as Schedule "A".

2. That Subsection 5.2.8, "Special Exemptions" of Section 5.2, Agricultural "A" Zone, of Zoning By-law No. 3692-92, be amended by adding new special exemptions, "A-7" and "A-8", as follows:

**"A-7 341 Regional Road 20, Schedule "A", Map No. 17**

Notwithstanding the provisions of Section 5.2.2 of the Agricultural "A" Zone, on those lands zoned "A-7" by this By-law, a Nursery Garden Centre, and Home Industry, including Accessory Outdoor Storage shall also be permitted.

For the purpose of this By-law, "Home Industry means a small scale commercial and/or industrial use secondary to an agricultural operation which is owned and operated by one (1) or more of the residents of the dwelling unit on the subject lot and shall be wholly enclosed within either a single detached dwelling unit, an attached garage or an accessory building. Such home industries may include a carpentry shop, a metal working shop, a welding shop, an electrical shop or blacksmith's shop, but shall exclude motor vehicle repair shops and motor vehicle body shops."

Notwithstanding the provisions of Section 5.2.3 of the Agricultural "A" Zone, on those lands zoned "A-7" by this By-law, a minimum 9.0 metre wide landscape strip shall be provided and maintained along the westerly lot line, and a minimum 6.0 metre wide landscape strip shall be provided and maintained along the southerly lot line except for points of ingress and egress; a minimum flankage side yard of 45 metres shall be required; and Accessory Outdoor Storage shall not be permitted in the flankage side yard or the front yard".

**"A-8 341 Regional Road 20, Schedule "A", Map No. 17**

Notwithstanding the provisions of Section 5.2.2 of the Agricultural "A" Zone, on those lands zoned "A-8" by this By-law, a Home Industry, including Accessory Outdoor Storage shall also be permitted.

For the purpose of this By-law, "Home Industry means a small scale commercial and/or industrial use secondary to an agricultural operation which is owned and operated by one (1) or more of the residents of the dwelling unit on the subject lot and shall be wholly enclosed within either a single detached dwelling unit, an attached garage or an accessory building. Such home industries may include a carpentry shop, a metal working shop, a welding shop, an electrical shop or blacksmith's shop, but shall exclude motor vehicle repair shops and motor vehicle body shops."

Notwithstanding the provisions of Section 5.2.3 of the Agricultural "A" Zone, on those lands zoned "A-8" by this By-law, a minimum 6.0 metre wide landscape strip shall be provided and maintained along the easterly zoning boundary and southerly lot line except for points of ingress and egress; and Accessory Outdoor Storage shall not be permitted in the front yard".

3. No building or structure shall be erected, altered, extended or enlarged, nor shall any building or structure or part thereof be used, nor shall any land be used, except in accordance with the Agricultural "A" Zone provisions, subject to the special requirements referred to in Section 2.
4. 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            , 2005.

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MAYOR

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CLERK

ZAR-05-80



