

**AFFECTS
WARD 14**

CITY OF HAMILTON

PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT
Development and Real Estate Division

Report to: Chair and Members Planning & Economic Development Committee	Submitted by: Lee Ann Coveyduck General Manager Planning and Economic Development Department
Date: May 19, 2006 File: ZAR-06-17	Prepared by: David Falletta (905) 546-2424, Ext. 1221

SUBJECT: Application to Amend the Flamborough Zoning By-law 90-145-Z for Property Located at 1143 Edgewood Road (PED06164) (Ward 14)

RECOMMENDATION:

That approval be given to **Zoning Application ZAR-06-17, Mark and Michelle Pagliacci, owners**, to modify the Agricultural "A" Zone in order to permit a Garden Suite for a maximum period of ten years, for lands located at 1143 Edgewood Road, former Town of Flamborough, as shown on Appendix "A" to Report PED06164, on the following basis:

- (a) That the Agricultural "A" Zone provisions applicable to the subject lands, be amended in accordance with Section 39 of the Planning Act, R.S.O 1990, to add a Garden Suite as a permitted use for a maximum period of ten years.
- (b) That the Draft By-law, attached as Appendix "B" to Report PED06164, which has been prepared in a form satisfactory to the City Solicitor, not be enacted by City Council until:
 - (i) The owner enters into an "Occupancy Agreement" with the City, which Agreement shall detail appropriate conditions regarding occupancy and duration of use related to the garden suite; to be prepared in a form satisfactory to the City Solicitor and the Director of Development and Real Estate.

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- (c) That the proposed modification in zoning is in conformity with the Hamilton-Wentworth and Flamborough Official Plans.

Lee Ann Coveyduck
General Manager
Planning and Economic Development Department

EXECUTIVE SUMMARY:

The applicant has submitted an application for a Zoning By-law Amendment to permit a Garden Suite (“granny flat”) for a maximum period of ten years.

The Department supports the application in view of the fact that it is consistent with the Greenbelt Plan and Provincial Policy Statement, conforms to the Hamilton-Wentworth Official Plan and the Flamborough Official Plan, and as the temporary garden suite is considered a compatible use.

BACKGROUND:

Proposal

The applicant has applied to modify the zoning of the subject lands, known as 1143 Edgewood Road (see Appendix “A”), through a temporary use By-law, in order to permit a mobile dwelling unit as a “Garden Suite” for a maximum period of ten years. The “Garden Suite” is intended to be occupied by the owner’s retired parents.

The applicant has also requested a modification for a reduction in the minimum rear yard setback from 10 metres to 1.8 metres, which is discussed in the Analysis/Rationale Section of this report.

Details of Submitted Application

Owner: Mark and Michelle Pagliacci

Location: 1143 Edgewood Road (See Appendix “A”)

Description: Frontage: 67.0 metres (220 feet)
Depth: 132.7 metres (435 feet)
Area: 0.9 hectares (2.2 acres)

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EXISTING LAND USE AND ZONING:

<u>Subject Lands</u>	Existing Land Use	Existing Zoning
	Single Detached Dwelling	"A" Agricultural Zone
<u>Surrounding Land Uses</u>		
North	Single Detached Dwelling	"A" Agricultural Zone
South	Single Detached Dwelling	"A" Agricultural Zone
East	Agricultural	"A-20" Agricultural Zone
West	Agricultural	"A" Agricultural Zone

ANALYSIS/RATIONALE:

1. The proposal has merit and can be supported for the following reasons:
 - (i) The proposed modification in zoning is consistent with the Greenbelt Plan and the Provincial Policy Statement, and it conforms to the Hamilton-Wentworth Official Plan and the Flamborough Official Plan.
 - (ii) It is compatible with the existing and planned development in the immediate area.
2. Flamborough Official Plan

The subject lands are designated "Agriculture" on Schedule "B", Rural Land Use Plan, of the Flamborough Official Plan. On May 4, 1992, Council adopted Official Plan Amendment No. 29 to implement the then requirements of the Provincial Policy Statement on Land Use Planning for Housing. This Amendment was approved by the Region on August 13, 1993, and contains Section E.3.2.5.

Section E.3.2.5 of the Town of Flamborough Official Plan provides criteria to be considered for the placement of temporary mobile dwelling units on lands designated "Agriculture" or "Rural", in accordance with Section F.6.7 of the Flamborough Official Plan:

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- (i) A temporary mobile dwelling unit may be permitted for:
 - the retired parent(s) of a property owner or the property owner's spouse; or,
 - a retiring property owner, provided that the principle dwelling is occupied by the son or daughter of the retiring property owner.
- (ii) the proposal is compatible with the surrounding area and does not impact on the use of the lands for agricultural purposes.
- (iii) the existing landscape can be maintained or improved.
- (iv) the provisions of the Zoning By-law, including adequate off-street parking and the Minimum Distance Separations from agricultural operations, can be met.
- (v) no new access shall be permitted onto a public road.
- (vi) the proposed use can be adequately serviced with water, sewage disposal, roads, garbage collection and utilities, so as not to compromise the Town's financial ability to provide such services.
- (vii) the adequacy of schools and community facilities to service the proposed use.
- (viii) the contribution of the proposed use to the provision of affordable housing.
- (ix) the need for the proposed use has been justified by the landowner.
- (x) other actions, as may be deemed necessary, through the Zoning By-law.
- (xi) the proposal conforms with the provisions of Sections C.1 (The Flamborough Niagara Escarpment Plan Area).
- (xii) the owner of the subject property shall enter into an Occupancy Agreement with the Town, specifying who the occupants of the principle dwelling and the temporary mobile dwelling will be.

The principle dwelling is occupied by the owners and their three children. The proposed temporary retirement dwelling is intended to be occupied by the parents of one of the owners.

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The proposed use is considered to be compatible with the surrounding area. The existing landscape will not be negatively affected as the proposed mobile dwelling will be setback 127 metres from the street and will be surrounded by existing mature trees (see Appendix "C").

The proposal does not impact the use of the lands for agricultural purposes and the requirements of the Zoning By-law including minimum parking will be maintained. No new access is proposed and private servicing is available for the temporary unit.

The Department is satisfied that the need for the proposed use has been justified. The applicant has indicated that one of the retired parents has a medical condition, which requires constant care and additional support becomes increasingly required from the children (owners). The temporary unit will also constitute affordable housing for the resident.

Prior to the passage of the implementing Zoning By-law, the owner shall be required to enter into an Occupancy Agreement, as per the Flamborough Official Plan and as authorized by the Planning Act (Section 39.1(1)), specifying, among other matters, who the occupants of the principle dwelling and the temporary mobile dwelling will be and the length of time the garden suite is permitted for.

Finally, the proposal is in accordance with Section F.6.7 of the Flamborough Official Plan, since the proposed dwelling unit is temporary, can be easily removed, and is compatible with the adjacent uses. Also, the size of the parcel and buildings are appropriate for the second unit and there is adequate space to accommodate private services on site for the proposed temporary use.

Based on the foregoing, the proposed temporary mobile dwelling unit conforms to the relevant criteria for such units under the Flamborough Official Plan

3. Flamborough Zoning By-law No. 90-145-Z

The subject lands are zoned Agricultural "A" Zone in the Flamborough Zoning By-law No. 90-145-Z. This zone does not permit the development of a second dwelling unit on the subject property. The proposed site-specific Agricultural "A-81" Zone would allow for the placement of a temporary mobile dwelling unit, in accordance with the provisions set out for the Agricultural "A" Zone, as amended.

The applicant is proposing a rear yard setback of 1.8 metres (see Appendix "C"), whereas the Agricultural "A" Zone provisions requires a minimum rear yard setback of 10 metres. The purpose and intent of the By-law is to require minimum rear yard building setbacks in order to provide adequate space for maintenance, drainage, outdoor amenity space and to buffer any potential negative impacts from agricultural operations on the surrounding properties. A

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site inspection of the subject lands concluded that the proposed location of the mobile dwelling unit is appropriate since there is adequate space for maintenance, drainage, and amenity space. Negative impacts from the adjacent agricultural lands are not present and the mobile dwelling could be relocated, subject to amending the Occupancy Agreement, if such impacts occur. Furthermore, the proposed location of the mobile dwelling unit is surrounded by mature trees, which provides adequate screening for any potential visual impacts to the surrounding properties. Accordingly, the proposed reduction in rear yard setback can be supported.

The proposed mobile dwelling unit will meet all other requirements of the Agricultural "A" Zone, including the minimum front yard setback of 7.5 metres, minimum side yard setbacks of 1.8 metres, and maximum lot coverage of 20%.

The Flamborough Zoning By-law No. 90-145-Z requires a minimum of two parking spaces for the proposed Garden Suite and existing dwelling (one parking space for each). The existing garage and driveway accommodates the two required parking spaces.

4. Extended Length of Approval

On May 31, 1994, The Residents Rights Act (Bill 120) received Royal Assent. On July 14, 1994, the parts of Bill 120, which amended the Planning Act and Municipal Act, were proclaimed into law. As part of the amendment to the Planning Act, the provisions for the municipality to pass a Temporary Use By-law for "garden suites" has been increased from a minimum of three years to a maximum of ten years. The renewal period remains at three years.

5. Servicing of the Site

As indicated in the agency comments, the Public Health and Community Services Department (Health Protection Branch) has no objection to the proposal. Additionally, the construction of the proposed dwelling is subject to the issuance of a building permit in the regular manner. The Building Code Act requires that any person installing or repairing a Class 2, 3, 4 or 5 sewage system (including septic) obtain a sewage permit issued by the Chief Building Official prior to commencing construction. The existing site is serviced by private well and septic systems.

ALTERNATIVES FOR CONSIDERATION:

If the applicant is denied, then the applicant has the option of using the property for the current range of Agricultural "A" Zone uses.

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FINANCIAL/STAFFING/LEGAL IMPLICATIONS:

Financial	–	N/A.
Staffing	–	N/A.
Legal	–	As required by the <u>Planning Act</u> , 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 – Rural” within the Greenbelt Plan. As the nature of the application is to amend the zoning to permit a temporary use in conjunction with a permitted single detached dwelling that does not create a new residential parcel, the application conforms to the policies of the Greenbelt Plan.

Provincial Policy Statement

The proposal falls within the parameters and is consistent with the Provincial Policy Statement (PPS).

Hamilton-Wentworth Official Plan

The subject property is designated as “Rural” within the Hamilton-Wentworth Official Plan.

As the nature of the application is for a modification of the existing zoning to allow for a temporary use (Garden Suite) in the rural area, the proposal conforms to the policies of the Hamilton-Wentworth Official Plan.

Flamborough Official Plan

The subject property is designated “Rural” on Schedule B, Rural Land Use Plan of the Flamborough Official Plan. The Official Plan has policies which permit temporary mobile dwellings, subject to twelve criteria in Section E.3.2.5 (see Pages 3-4 of this report). The proposal conforms to the policies of the Flamborough Official Plan.

RELEVANT CONSULTATION:

The following Departments/Agencies had no comments or objections:

- Public Works Department (Traffic Engineering and Operations Section).
- Corporate Services Department (Budgets & Finance).

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- Corporate Services Department (Revenues Division).
- Public Health and Community Services Department.
- Hydro One Networks Inc.
- Union Gas.

Public Consultation

In accordance with the Public Participation Policy that was approved by Council on May 29, 2003, this application was pre-circulated to twenty-three property owners within 120 metres of the subject lands. No comments were received. In addition, a Public Notice sign was posted on the property on April 5, 2006.

Notice of the Public Meeting for this rezoning application will be circulated to property owners within 120 metres of the subject lands and through a sign posted on the property 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
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
Infrastructure and compact, mixed use development minimize land consumption and servicing costs.

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)

Authority: Item, Planning and Economic
Development Committee
Report: 06- (PED06164)
CM:

Bill No.

CITY OF HAMILTON

BY-LAW NO. _____

**To Amend Zoning By-law No. 90-145-Z (Flamborough), as amended
Respecting Lands Located at 1143 Edgewood Road (Flamborough)**

WHEREAS the City of Hamilton Act, 1999, Statutes of Ontario, 1999 Chap. 14, Sch. C. did incorporate, as of January 1, 2001, the municipality "City of Hamilton";

AND WHEREAS the City of Hamilton is the successor to certain area municipalities, including the former municipality known as the "The Corporation of the Town of Flamborough" and is the successor to the former regional municipality, namely, "The Regional Municipality of Hamilton-Wentworth";

AND WHEREAS the City of Hamilton Act, 1999, provides that the Zoning By-laws and Official Plans of the former area municipalities and the Official Plan of the former regional municipality continue in force in the City of Hamilton until subsequently amended or repealed by the Council of the City of Hamilton;

AND WHEREAS Zoning By-law No. 90-145-Z (Flamborough) was enacted on the 5th Day of November 1990, and approved by the Ontario Municipal Board on the 21st day of December, 1992;

AND WHEREAS in accordance with the Planning Act, R.S.O., 1990, section 39, Council may pass by-laws authorizing the temporary use of land, buildings or structures for a purpose that is otherwise prohibited by the zoning by-law;

AND WHEREAS this By-law is in conformity with the Official Plan of the City of Hamilton (the Official Plan of the former Town of Flamborough).

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

1. Schedule No. "A-9" attached to and forming part of Zoning By-law No. 90-145-Z (Flamborough), is hereby amended by changing the zoning from the Agricultural "A" Zone to the Agricultural "A-81" Zone, on the lands the extent and boundaries of which are shown on Schedule 'A' annexed hereto and forming part of this By-law.

2. Section 33.3 – Agricultural "A" Zone is hereby amended by adding the following subsection:

33.3.79 "A-81" (See Schedule A-9)

Permitted Uses

- (a) A Garden Suite shall be permitted for a maximum ten (10) year period commencing on the day of the passing of this by-law, being the _____ day of _____, 2006 and expiring on the _____ day of _____, 2016.

A 'Garden Suite' shall mean a one-unit detached residential structure containing bathroom and kitchen facilities that is ancillary to an existing residential structure and that is designed to be portable.

- (b) Any use permitted in an 'A' Zone.

Zone Provisions

- (a) The minimum rear yard setback for a Garden Suite shall be 1.8 metres.
- (b) All other zone provisions of Subsection 33.2 Agriculture 'A' Zone shall continue to apply.

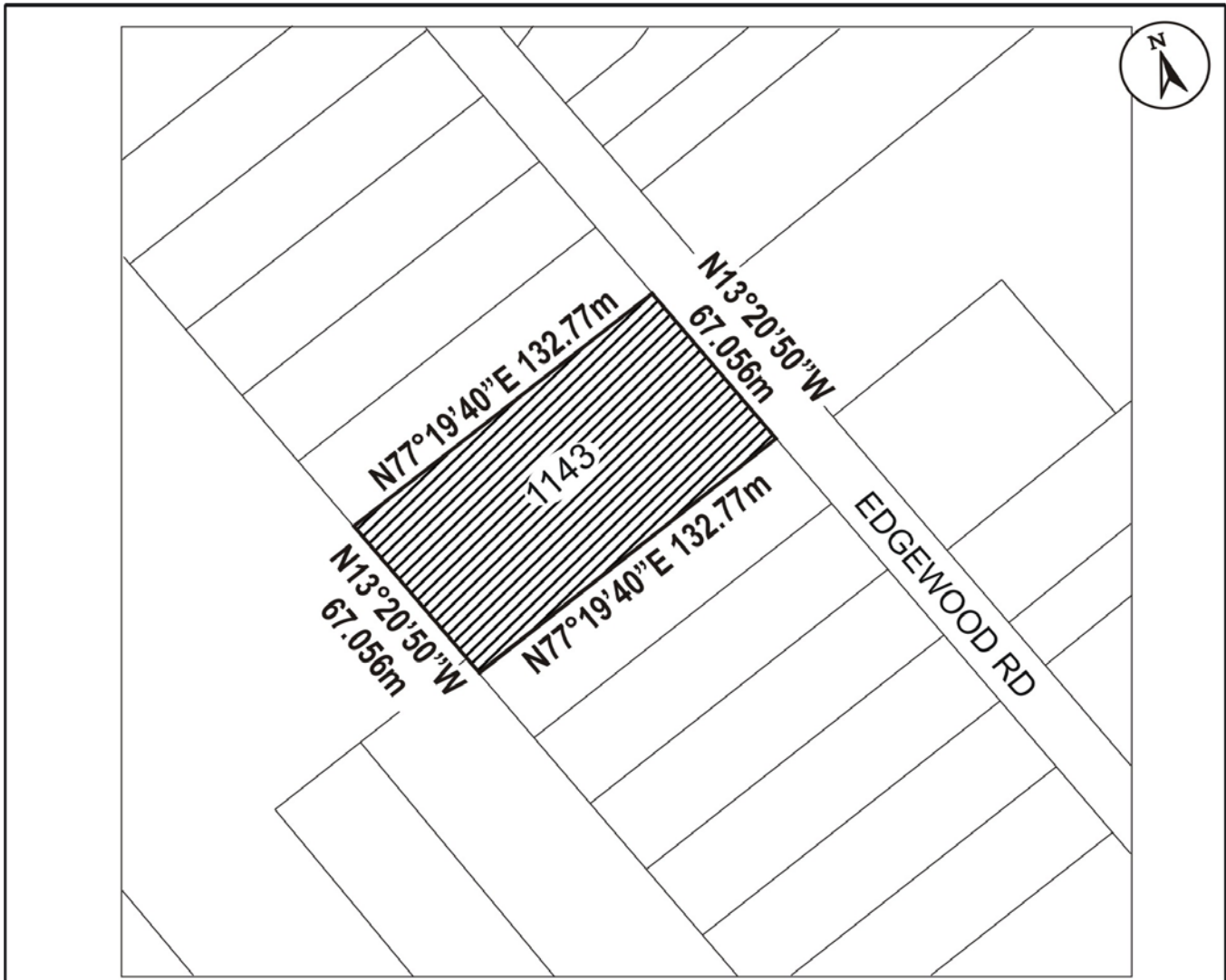
3. The Clerk is hereby authorized and directed to proceed with the giving of notice of the passing of this by-law, in accordance with the Planning Act.

PASSED and ENACTED this _____ day of _____, 2006.

MAYOR

CLERK

ZAR-06-17



This is Schedule "A" to By-Law No. 06—

Clerk

Passed the day of, 2006

Mayor

PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT

Schedule "A"

Map Forming Part of
By-law No. 06-_____

to Amend By-law No. 90-145-Z

Subject Property

1143 Edgewood Road, Flamborough



Change in Zoning from the "A" Agricultural Zone to the "A-81" Agricultural Zone

Scale: Not to Scale	File Name/Number: ZAR-06-17	 Hamilton
Date: April 2006	Planner/Technician: DF/LM	

