

**Ontario Land Tribunal**  
Tribunal ontarien de l'aménagement  
du territoire

23-008-OLT - Attachment A  
23-009-OLT - Attachment B



**ISSUE DATE:** January 24, 2023

**CASE NO(S):** OLT-21-001085

**PROCEEDING COMMENCED UNDER** subsection 22(7) of the *Planning Act*, R.S.O. 1990, c. P.13, as amended

Applicant and Appellant: Mario Roque  
Subject: Request to amend the Official Plan - Failure of City of Hamilton to adopt the requested amendment  
Existing Designation: Agriculture  
Proposed Designated: Agriculture  
Purpose: To permit a 2-storey Agri-tourism Facility  
Property Address/Description: 3355 Golf Club Road  
Municipality: City of Hamilton  
Approval Authority File No.: RHOPA-19-007  
OLT Lead Case No.: OLT-21-001085  
OLT Case No.: OLT-21-001085  
OLT Case Name: Roque v. Hamilton (City)

**PROCEEDING COMMENCED UNDER** subsection 34(11) of the *Planning Act*, R.S.O. 1990, c. P.13, as amended

Applicant and Appellant: Mario Roque  
Subject: Application to amend Zoning By-law No. 05-200 - Refusal or neglect of City of Hamilton to make a decision  
Existing Zoning: Agriculture (A1), Conservation/Hazard Land (P7), and Conservation/Hazard Land (P8)  
Proposed Zoning: Site Specific (To be determined)  
Purpose: To permit a 2-storey Agri-tourism Facility  
Property Address/Description: 3355 Golf Club Road  
Municipality: City of Hamilton  
Approval Authority File No.: ZAC-19-028  
OLT Lead Case No.: OLT-21-001085  
OLT Case No.: OLT-21-001086

BEFORE:

C. HARDY	)	Monday, the 23rd
MEMBER	)	day of January, 2023
	)	

**THESE MATTERS**, in respect of the lands at 3355 Golf Club Road in the City of Hamilton, having come for public hearings on September 26, 2022 before the Ontario Land Tribunal (the "**Tribunal**") and the Tribunal having issued a Decision and Interim Order on November 23, 2022 allowing the Applicant and Appellant's appeals of the request to amend the City of Hamilton Official Plan and application to amend City of Hamilton Zoning By-law; and

**THE TRIBUNAL HAVING BEEN ADVISED** by the City Solicitor on Monday, January 23, 2023 of the final forms of the amendments to the City of Hamilton Official Plan and Zoning By-law No. 05-200, and that the City and the Applicant and Appellant are thus jointly requesting that the Tribunal proceed to issue its Final Order on that basis;

**AND THE TRIBUNAL** having received, considered and determined the request for the Final Order on Monday, the 23rd day of January 2023;

**AND THE TRIBUNAL BEING SATISFIED** that it is accordingly appropriate that the Tribunal issue its Final Order amending the City's Official Plan and the identified Zoning By-law through the revised instruments now submitted for final approval upon the joint request of the City and the Applicant and Appellant;

**NOW THEREFORE**

**THE TRIBUNAL ORDERS** that the Appeals are allowed in part and:

1. The City of Hamilton Official Plan is amended in accordance with the official plan amendment attached hereto as **Attachment "A"**;

2. Zoning By-law No. 05-200 of the City of Hamilton is amended in accordance with the zoning by-law amendment attached hereto as **Attachment "B"**; and

**THE TRIBUNAL** authorizes the municipal clerk to format, as may be necessary, and assign a number to the by-law for record keeping purposes.

*"Euken Lui"*

EUKEN LUI  
ACTING REGISTRAR

**Ontario Land Tribunal**

Website: [olt.gov.on.ca](http://olt.gov.on.ca) Telephone: 416-212-6349 Toll Free: 1-866-448-2248

The Conservation Review Board, the Environmental Review Tribunal, the Local Planning Appeal Tribunal and the Mining and Lands Tribunal are amalgamated and continued as the Ontario Land Tribunal ("Tribunal"). Any reference to the preceding tribunals or the former Ontario Municipal Board is deemed to be a reference to the Tribunal.

## 23-008-OLT ATTACHMENT A

### Rural Hamilton Official Plan Amendment No. 37

The following text, together with Appendix “A” – Volume 3: Appendix A - Site Specific Key Map, attached hereto, constitutes Official Plan Amendment No. 37 to the Rural Hamilton Official Plan.

#### 1.0 Purpose and Effect:

The purpose and effect of this Amendment is to include an Agri-tourism Retreat as a permitted On-Farm Secondary Use to allow for more specific agri-tourism uses on the subject lands and to enhance the economic base of the agricultural community.

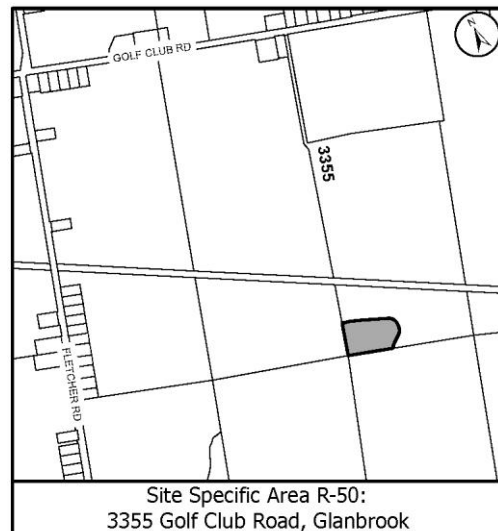
#### 2.0 Location:

The lands affected by this Amendment are the lands south of the hydro corridor and part of the property known municipally as 3355 Golf Club Road, in the former Township of Glanbrook.

#### 3.0 Basis:

The basis for permitting this Amendment is:

- **The proposed development is consistent with the Guidelines on Permitted Uses in Ontario’s Prime Agricultural Areas (2016).**
- **The proposed development will be implemented to protect and enhance the environmental features on the subject lands.**
- **The proposed Amendment is consistent with the Provincial Policy Statement (2020), the Growth Plan (2019) and the Greenbelt Plan (2017).**



#### 4.0 **Actual Changes:**

#### 4.1 **Volume 3 – Special Policy and Site Specific Areas**

##### **Text**

##### 4.1.1 Chapter B – Rural Site Specific Areas

- a. That Volume 3: Chapter B – Rural Site Specific Areas be amended by adding a new Site Specific Area R-50, as follows:

**“R-50      Lands located at 3355 Golf Club Road, former Township of Glanbrook**

- 1.0      For the lands located south of the hydro corridor which are part of the property known municipally as 3355 Golf Club Road, designated Agriculture and identified as Site Specific Area R-50, the following policies shall apply:
- a) In addition to Policy D.2.1 and Policy D.2.1.3 of Volume 1, an Agri-Tourism Retreat shall also be permitted on the subject lands as an On-Farm Secondary Use;
  - b) The Agri-Tourism Retreat shall function as a healthy living agri-tourism facility which provides education and tourist opportunities to experience organic agriculture;
  - c) Accommodations at the Agri-Tourism Retreat shall be limited to one on-farm secondary building, consisting of no more than 12 guest rooms; and,
  - d) The Zoning By-law shall regulate matters such as maximum floor area, access, parking, outdoor storage, and other site specific requirements or performance standards for the Agri-Tourism Retreat.”

##### ***Schedules and Appendices***

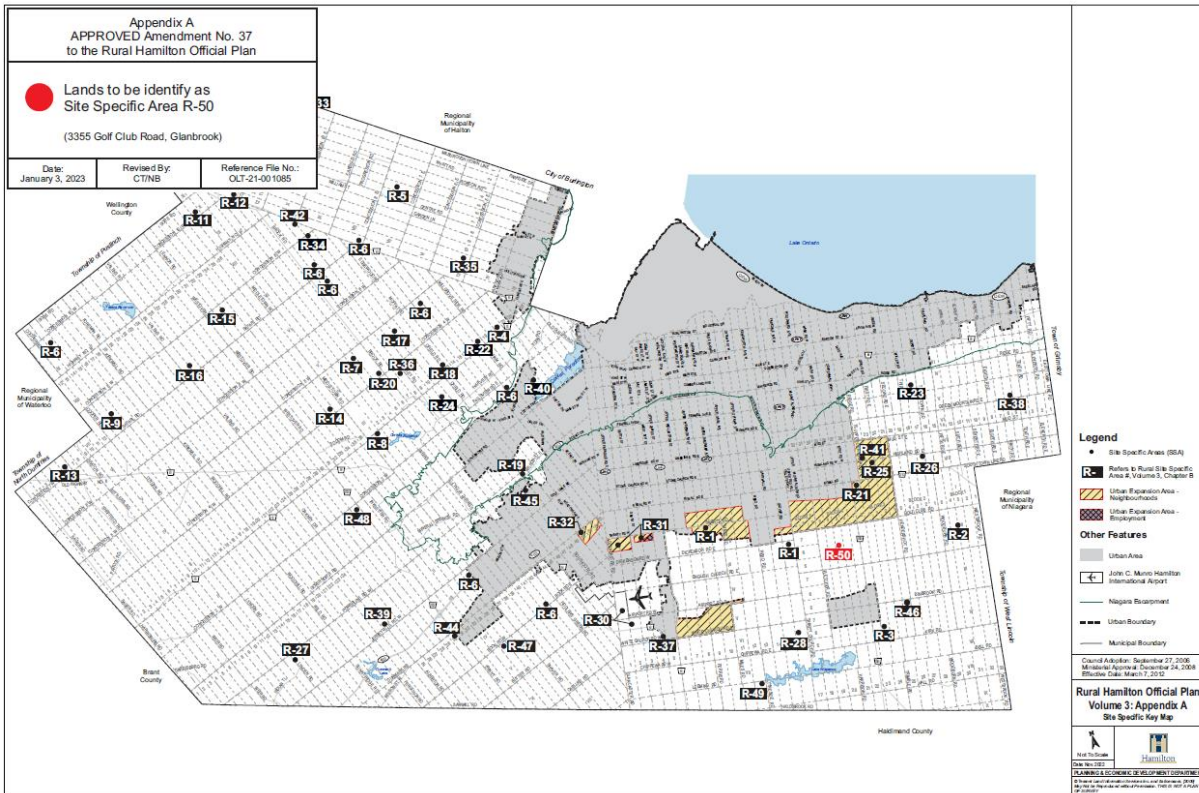
##### 4.1.2 Appendix

a. That Volume 3: Appendix A – Site Specific Key Map be amended by identifying a portion of the subject lands known municipally as 3355 Golf Club Road as Site Specific Area R-50, as shown on Appendix “A”, attached to this Amendment.

**5.0 Implementation:**

An implementing Zoning By-Law Amendment and application for Site Plan Control will give effect to the intended uses on the subject lands.

**OLT-21-001085**



## ATTACHMENT B

### CITY OF HAMILTON

#### BY-LAW NO. 23-009-OLT

#### To Amend Zoning By-law No. 05-200 Respecting the Property Located at 3355 Golf Club Road

**WHEREAS**, the first stage of Zoning By-law, being By-law No. 005-200 came into force and effect on the 25<sup>th</sup> day of May 2005;

**WHEREAS** this By-law conforms with the Rural Hamilton Official Plan upon adoption of Official Plan Amendment No. 37;

**AND WHEREAS** the Ontario Land Tribunal, in its Decision/Order No. OLT-21-001085 dated the 24th day of January, 20223 approved the amendment to Zoning By-law No. 05-200, as herein provided.

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

1. That Map Nos. 180 and 193 of Schedule "A" – Zoning Maps, is amended by changing the zoning from Agriculture (A1) Zone to Agriculture (A1, 824, H129) Zone, the extent and boundaries of which are shown on Schedule "A" attached to this By-law.
2. That Schedule "C": Special Exceptions is amended by adding the following new Special Exception:

"824. In addition to Section 12.1.3.2 a), and notwithstanding Section 3 as it relates to Lot Coverage, Sections 12.1.3.1 e) and 12.1.3.1 h), on those lands zoned Agriculture (A1) Zone, identified on Maps 180, 193 of Schedule "A" of Zoning Maps and described as 3355 Golf Club Road, the following special provisions shall also apply:

**a) For the purposes of Special Exception No. 824, the following definitions shall apply:**

Agri-tourism Retreat	Shall mean a detached building that provides overnight accommodations and meals, up to a maximum of 12 guestrooms, and may also include education, tourist opportunities and other agritourism uses to experience organic agriculture, but shall not include a Hotel or Medical Clinic.
Ground Floor Area	Shall mean the maximum area of the ground floor of a building measured to the outside of all outside walls.
Lot Coverage	Shall mean the percentage of the entire lot located at and known municipally as 3355 Golf Club Road (as of November 23, 2022) covered by all new buildings, structures, outdoor storage, landscaped areas, Septic

or Sewage Systems, berms, laneways, and parking associated with an Agri-tourism Retreat and Agritourism use, but does not include laneways shared between Agricultural uses and Agri-tourism uses existing as of the date of this by-law.

Septic or Sewage Systems Shall mean an onsite wastewater treatment system that may include a septic tank for primary treatment and a trench or bed soil absorption system for secondary treatment of wastewater, and shall be constructed to the satisfaction of the City.

**b) The following Secondary Use to Agriculture shall be permitted in accordance with the regulations of Section 12.1.3.2:**

**Agri-tourism Retreat**

**c) The following regulations shall apply to the use identified in b) above:**

- |      |                           |  |
|------|---------------------------|--|
| i)   | Maximum Gross Floor Area  | 3,000 square metres                                    |
| ii)  | Maximum Ground Floor Area | 1,500 square metres                                    |
| iii) | Maximum Lot Coverage      | 3.2%   |
| iv)  | Parking                   | Minimum parking requirement of 1 space per guest room. |

**3. That Schedule “D”: Holding Provisions be amended by adding the following new Holding Provision**

129. Notwithstanding Section 12.1.1 of this By-law, within the lands zoned Agriculture (A1, 824) Zone, identified on Map Nos. 180 and 193 of Schedule “A” – Zoning Maps and described as 3355 Golf Club Road, no development shall be permitted until such time as:

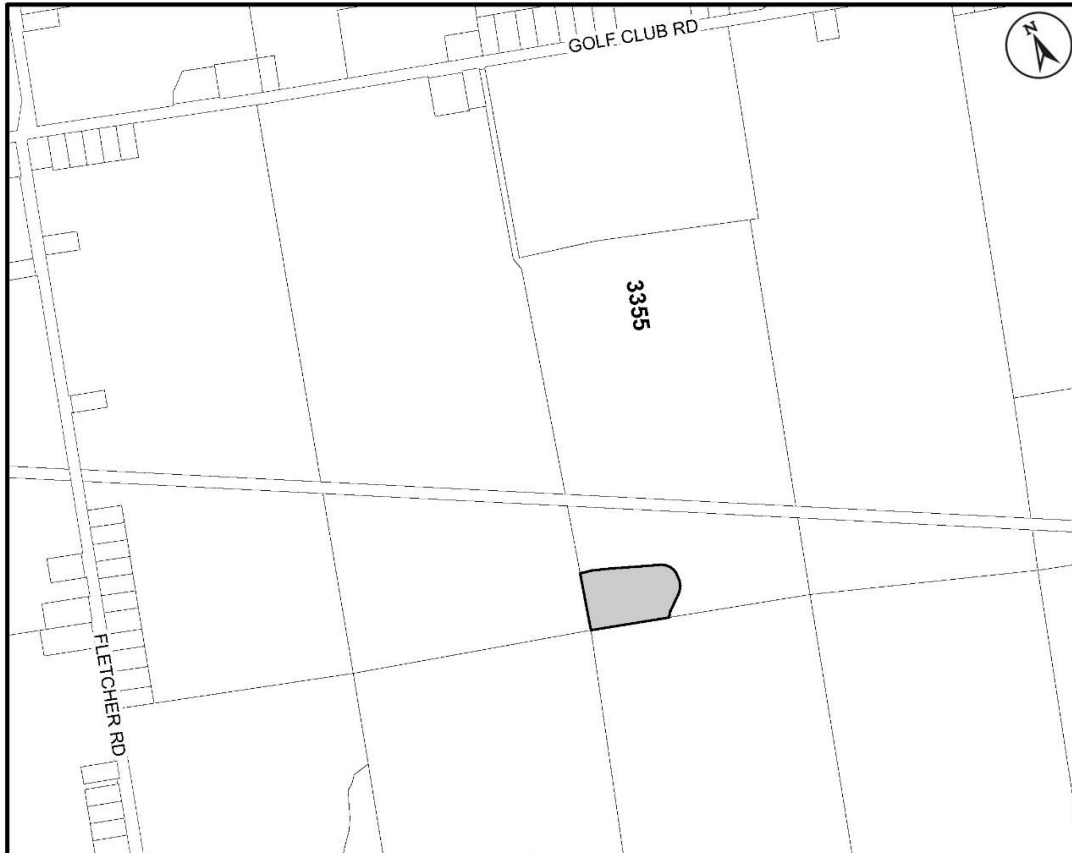
- a) The owner shall provide Stage 3 Archaeological Assessment which has been completed in Accordance Section F.3.2.7 of the Rural Hamilton Official Plan and accepted by the Ministry of Tourism, Culture and Sport for the area within the southern woodlot portion of the subject lands. This shall include the Provincially Significant Woodlot, existing adjacent woodlots and the Provincially Significant wetland located to the south east.
- b) The owner shall submit and receive approval of a Hydrogeological Report to the satisfaction of the Director, Hamilton Water, which shall include but not be limited to the following:



1. A summary of on-site water use (proposed use and existing) supported by sources of information used in the summary shall be completed. Potable water demand must be calculated based on Part 8 of the Ontario Building Code (250L/day/room + 125/day/seat).
2. A pumping test on one or more wells to indicate that the daily water demand can be sourced from onsite while recovering within 24 hours from the start of pumping. Adjacent groundwater users within 500m of the wells shall be provided opportunities to have their wells monitored during testing, all other onsite wells shall be monitored to determine interference extent from pumping. Reporting shall include a distance / drawdown analysis with data from this use as well as cumulative on-site uses to prepare a zone of influence map indicating the zone where zero influence is expected. The report will include all drawdown data from the pumping and monitoring wells, a determination of 95% recovery based on static and maximum drawdown and comparison to observed recovery, and graphical interpretation of drawdown data extrapolated to 10 years.
3. Wastewater attenuation or nitrate boundary calculations prepared using the daily demand indicating that the final steady state boundary concentration of nitrate in groundwater will remain below the threshold of 10 mg/L. Groundwater infiltration rates should be consistent with those in the City of Hamilton Hydrogeological Guidelines (2013) unless otherwise agreed to be the City of Hamilton. Groundwater flow-through should not be used in the calculation unless agreed to by the City of Hamilton.
4. The well labeled as PW 1 in the hydrogeological study dated August 27, 2020 prepared by exp and any other additional well that may be required to supplement PW 1 to meet the demand as agreed with by the City of Hamilton, must be analyzed for all water quality parameters stated in Tables 1 through 4 as found in the document "Technical Support Document for Ontario Drinking Water Standards, Objectives and Guidelines" (2006). Gross Alpha and Gross Beta screening can be done for radiological activity. The analysis must indicate the groundwater supply well(s) provide water within the limits prescribed in Tables 1 through 4 without treatment. Should treatment be required the treatment must be designed to the satisfaction of the City of Hamilton.
5. A scaled site plan must be prepared indicating locations of water supply well(s), sewage disposal system(s) (initial and reserve sewage bed system), ensuring that all clearances conform to Ontario Building Code Part 8 requirements (e.g. tanks and distribution system clearances to property lines, structures, wells, water features, reserve beds, etc.), and also ensuring that water supply well(s) are not located downgradient from the sewage disposal system(s).

**PASSED and ENACTED** this 24th day of January, 2023.

**SCHEDULE "A"**



<p>This is Schedule "A" to By-law No. 23-</p> <p>Passed the ..... day of ....., 2023</p>	<p>-----</p> <p style="text-align: center;">Mayor</p> <p>-----</p> <p style="text-align: center;">Clerk</p>			
<p><b>Schedule "A"</b></p> <p>Map forming Part of By-law No. 23-_____</p> <p>to Amend By-law No. 05-200 Map 180, 193</p>	<p><b>Subject Property</b> 3355 Golf Club Road, Glanbrook (Ward 11)</p> <p> Change in Zoning from Agriculture (A1) Zone to Agriculture (A1, 824, H129) Zone</p>			
<p>Scale: N.T.S</p>	<p>File Name/Number: ZAC-19-028</p>		<p>Date: January 4, 2023</p>	<p>Planner/Technician: CT/NB</p>
<p>PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT</p>				