

GARROD ♦ PICKFIELD

Environmental, Municipal and Planning Law

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File No: 11742

July 31, 2015

The Clerk
City of Hamilton
71 Main Street W., 1st Floor
Hamilton, ON L8P 4Y5

Dear Ms. Caterini:

Re: Appeal of Zoning By-law No. 15-173 pursuant to Subsection 34(19) of the Planning Act, R.S.O. 1990, c.P.13

We act on behalf of the Coalition for Rural Ontario Environmental Protection (“CROP”), an Ontario not-for profit corporation that represents residents of Rural Hamilton.

On July 10, 2015, the Council of the City of Hamilton passed Zoning By-law No. 15-173 to amend Zoning By-law No.05-200. Prior to this date, CROP provided written submissions to the City of Hamilton and made an oral presentation to the Planning Committee on July 7, 2015, which outlined their concerns with the proposed amendments to Zoning By-law No. 05-200. Our client’s concerns were not addressed prior to the enactment of the By-law No. 15-173. Accordingly, we are writing at this time to appeal By-law No. 15-173 pursuant to Subsection 34(19) of the *Planning Act*, R.S.O. 1990, c. P.13, as amended, to the Ontario Municipal Board. Our client’s reasons for appeal are set out in its correspondence of June 9, 2015, and July 6, 2015. Copies of these letters are attached.

As noted in these letters, the proposed amendments to Zoning By-law No. 05-200, Sections 7.6, 9.12, 12.1, and 12.2, to allow the newly defined use, *Landscape Contracting Establishments – Secondary*, within the Agriculture (A1), Rural (A2), Extractive Industrial (M12) and Conservation/Hazard Land – Rural (P6) Zones do not adequately address the potential for nuisance impacts associated with this use.

In addition, Special Exemptions 103, 241 and 253 that seek to allow the newly defined uses, *Landscape Contracting Establishments*, within the Agriculture (A1), Rural (A2), Settlement Residential (S1), Existing Rural Commercial (E1), Conservation/Hazard Land – Rural (P6), and Conservation/Hazard Land – Rural (P7) Zones do not adequately address the potential for nuisance impacts associated with this use.

OFFICE OF THE CITY CLERK
AUG 05 2015
REF'D TO _____
REF'D TO _____
REF'D TO _____

The Clerk
City of Hamilton

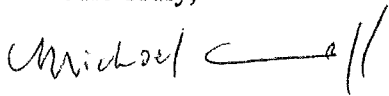
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Finally, insofar as they permit currently existing illegal landscape contracting establishments that do not meet the Greenbelt Plan's definitions of *agricultural*, *agriculture-related* or *secondary uses* within Prime Agricultural Areas, these exemptions are not in conformity with the Greenbelt Plan.

In support of our client's appeal, please find enclosed our completed Ontario Municipal Board Appellant Form (A1) and a cheque in the amount of \$125.00, payable to the Minister of Finance.

Should you require any further information or clarification regarding the appeal, please do not hesitate to contact the undersigned. Thank you.

Yours Truly,

A handwritten signature in black ink, appearing to read "Michael Connell", with a stylized flourish at the end.

Michael Connell

Encl. (5)



Environment and Land Tribunals Ontario
Ontario Municipal Board
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 TEL: (416) 212-6349 or Toll Free: 1-866-448-2248
 FAX: (416) 326-5370
 www.elto.gov.on.ca

**APPELLANT FORM (A1)
 PLANNING ACT**

**SUBMIT COMPLETED FORM
 TO MUNICIPALITY/APPROVAL AUTHORITY**

Date Stamp - Appeal Received by Municipality

Receipt Number (OMB Office Use Only)

Part 1: Appeal Type (Please check only one box)

SUBJECT OF APPEAL	TYPE OF APPEAL	PLANNING ACT REFERENCE (SECTION)
Minor Variance	<input type="checkbox"/> Appeal a decision	45(12)
Consent/Severance	<input type="checkbox"/> Appeal a decision	53(19)
	<input type="checkbox"/> Appeal conditions imposed	
	<input type="checkbox"/> Appeal changed conditions	53(27)
	<input type="checkbox"/> Failed to make a decision on the application within 90 days	53(14)
Zoning By-law or Zoning By-law Amendment	<input checked="" type="checkbox"/> Appeal the passing of a Zoning By-law	34(19)
	<input type="checkbox"/> Application for an amendment to the Zoning By-law – failed to make a decision on the application within 120 days	34(11)
	<input type="checkbox"/> Application for an amendment to the Zoning By-law – refused by the municipality	
Interim Control By-law	<input type="checkbox"/> Appeal the passing of an Interim Control By-law	38(4)
Official Plan or Official Plan Amendment	<input type="checkbox"/> Appeal a decision	17(24) or 17(36)
	<input type="checkbox"/> Failed to make a decision on the plan within 180 days	17(40)
	<input type="checkbox"/> Application for an amendment to the Official Plan – failed to make a decision on the application within 180 days	22(7)
	<input type="checkbox"/> Application for an amendment to the Official Plan – refused by the municipality	
Plan of Subdivision	<input type="checkbox"/> Appeal a decision	51(39)
	<input type="checkbox"/> Appeal conditions imposed	51(43) or 51(48)
	<input type="checkbox"/> Failed to make a decision on the application within 180 days	51(34)

Part 2: Location Information

Majority of the Rural Area _____
 Address and/or Legal Description of property subject to the appeal: _____
 Municipality/Upper tier: City of Hamilton

Part 3: Appellant Information

First Name: _____ Last Name: _____

Coalition for Rural Ontario Environmental Protection (a Not-for-Profit Corporation) See attached Letters Patent
Company Name or Association Name (Association must be incorporated – Include copy of letter of incorporation)

Professional Title (if applicable): _____

E-mail Address: _____
By providing an e-mail address you agree to receive communications from the OMB by e-mail.

Daytime Telephone #: _____ Alternate Telephone #: _____

Fax #: _____

Mailing Address: P.O. Box 112 Copetown PO Copetown
Street Address Apt/Suite/Unit# City/Town
Ontario L0R 1J0
Province Country (if not Canada) Postal Code

Signature of Appellant: _____ Date: _____
(Signature not required if the appeal is submitted by a law office.)

Please note: You must notify the Ontario Municipal Board of any change of address or telephone number in writing. Please quote your OMB Reference Number(s) after they have been assigned.

Personal information requested on this form is collected under the provisions of the *Planning Act*, R.S.O. 1990, c. P. 13, as amended, and the *Ontario Municipal Board Act*, R.S.O. 1990, c. O. 28 as amended. After an appeal is filed, all information relating to this appeal may become available to the public.

Part 4: Representative Information (if applicable)

I hereby authorize the named company and/or individual(s) to represent me:

First Name: Michael Last Name: Connell

Company Name: Garrod Pickfield LLP

Professional Title: Associate

E-mail Address: connell@garrodpickfield.ca
By providing an e-mail address you agree to receive communications from the OMB by e-mail.

Daytime Telephone #: (519) 837-0500 Alternate Telephone #: _____

Fax #: (519) 763-2204

Mailing Address: 9 Norwich Street West Guelph
Street Address Apt/Suite/Unit# City/Town
Ontario N1H 2G8
Province Country (if not Canada) Postal Code

Signature of Appellant: Michael Connell Date: July 31, 2015

Please note: If you are representing the appellant and are NOT a solicitor, please confirm that you have written authorization, as required by the Board's Rules of Practice and Procedure, to act on behalf of the appellant. Please confirm this by checking the box below.

I certify that I have written authorization from the appellant to act as a representative with respect to this appeal on his or her behalf and I understand that I may be asked to produce this authorization at any time.

Part 5: Language and Accessibility

Please choose preferred language: English French

We are committed to providing services as set out in the *Accessibility for Ontarians with Disabilities Act, 2005*. If you have any accessibility needs, please contact our Accessibility Coordinator as soon as possible.

Part 6: Appeal Specific Information

1. Provide specific information about what you are appealing. For example: Municipal File Number(s), By-law Number(s), Official Plan Number(s) or Subdivision Number(s):

(Please print)

Zoning By-law No. 15-173 to amend Zoning By-law No. 05-200

2. Outline the nature of your appeal and the reasons for your appeal. Be specific and provide land-use planning reasons (for example: the specific provisions, sections and/or policies of the Official Plan or By-law which are the subject of your appeal - if applicable). **If more space is required, please continue in Part 9 or attach a separate page.

(Please print)

Please see attached appeal letter.

THE FOLLOWING SECTIONS (a&b) APPLY ONLY TO APPEALS OF ZONING BY-LAW AMENDMENTS UNDER SECTION 34(11) OF THE *PLANNING ACT*.

a) **DATE APPLICATION SUBMITTED TO MUNICIPALITY:** _____
(If application submitted before January 1, 2007 please use the O1 'pre-Bill 51' form.)

b) Provide a brief explanatory note regarding the proposal, which includes the existing zoning category, desired zoning category, the purpose of the desired zoning by-law change, and a description of the lands under appeal:
**If more space is required, please continue in Part 9 or attach a separate page.

[Empty box for explanatory note]

Part 7: Related Matters (if known)

Are there other appeals not yet filed with the Municipality? YES NO

Are there other planning matters related to this appeal? YES NO
(For example: A consent application connected to a variance application)

If yes, please provide OMB Reference Number(s) and/or Municipal File Number(s) in the box below:

(Please print)

Official Plan Amendment No. 9 to Rural Hamilton Official Plan

Part 8: Scheduling Information

How many days do you estimate are needed for hearing this appeal? half day 1 day 2 days 3 days
 4 days 1 week More than 1 week – please specify number of days: _____

How many expert witnesses and other witnesses do you expect to have at the hearing providing evidence/testimony?
Two (2) _____

Describe expert witness(es)' area of expertise (For example: land use planner, architect, engineer, etc.):
Land Use Planners _____

Do you believe this matter would benefit from mediation? YES NO
(Mediation is generally scheduled only when all parties agree to participate)

Do you believe this matter would benefit from a prehearing conference? YES NO
(Prehearing conferences are generally not scheduled for variances or consents)

If yes, why? Identify issues and establish procedural order. _____

Part 9: Other Applicable Information **Attach a separate page if more space is required.

Part 10: Required Fee

Total Fee Submitted: \$ 125.00 _____

Payment Method: Certified cheque Money Order Solicitor's general or trust account cheque

- The payment must be in Canadian funds, payable to the Minister of Finance.
- Do not send cash.
- PLEASE ATTACH THE CERTIFIED CHEQUE/MONEY ORDER TO THE FRONT OF THIS FORM.