



Municipality of Port Hope

Staff Report

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Report Title: Zoning By-law Amendment Application (ZB03-2022) 3402 Ganaraska Road

Report to: Planning & Development Committee

Date of meeting: January 10, 2023

Report Author:

Theodhora Merepeza, Manager, Planning

Department responsible:

Planning & Development

Report Number: PD-01-23

Recommendation:

That a by-law be presented to Council to rezone the Subject Lands municipally known as 3402 Ganaraska Road to a site-specific Hamlet Commercial 'COMV(141)' zone that would permit a retail store, specialty food store, a single detached dwelling, home occupation, community garden and recognize the current legal non-conforming agriculture activities (excluding livestock facilities).

Highlights:

- An application has been made to rezone the subject lands from Institutional Rural with Exception #2 'IR(2)' Zone to site-specific Development Zone to permit an year-round farm market store, café/bakery with commercial kitchen, recognition of the current legal non-conforming agriculture activities (excluding livestock facilities) as well as permit new potential future uses (a single detached dwelling, accessory farm employee accommodations, accessory buildings or structures, a home occupation, farm-related tourism establishment, and community garden).
- The Site Plan application and the supporting studies submitted by the applicant deal only with the year-round farm market store, café/bakery with commercial kitchen.
- Given that the lands are within a Settlement Area (Hamlet of Garden Hill), staff propose rezoning to a site-specific Hamlet Commercial 'COMV(141)' zone that permit a retail store/specialty food store with a maximum permitted gross floor area of 440 m², a single detached dwelling, home occupation, community garden and recognize the current legal non-conforming agriculture activities (excluding livestock facilities).
- The other two requested uses (i.e. accessory farm employee accommodations, and farm-related tourism establishment) are better suited for lands designated as Agriculture and would not be permitted under 'COMV(141)' Zone.

Background:

This is a follow up report to the background report prepared for the public meeting held on December 14, 2022. The Public Meeting report, including the history related to subject lands and evolution of the desired uses over the last three years can be found at the [Municipal website](#). This report will provide a summary of the application, policy/zone standard review, review of agency and public consultation and municipal financial considerations. It will conclude with staff's professional opinion and recommendation regarding approval of the proposed zoning by-law amendment permitting most of the requested uses and is in line with the supporting documentation submitted by the applicant and the proposal discussions from 2019 up until August 2022.

A Site Plan application is also submitted for the farmer's market store/café/bakery and is being concurrently processed by the staff. Site plan approval is delegated to the Director, Planning and Development.

1.1 Subject Lands Application

The subject lands are located north of Ganaraska Road and east of Hammill Road in the Hamlet of Garden Hill the rural area of the Municipality of Port Hope (Figure 1: Subject Lands Map). The subject lands are legally described as Part of Lot 18 Concession 8, being Part 1 of Plan 39R-14123 and municipally known as 3204 Ganaraska Road. The subject lands have a lot area of 4.34 ha (10.72 ac) with 206.12m (676.24ft) of frontage on Ganaraska Road.

The site is currently occupied by active agricultural fields with trees separating the property from the neighbors and a single storey building having an area of 440m² which has been erected in the Summer 2022 without a building permit.

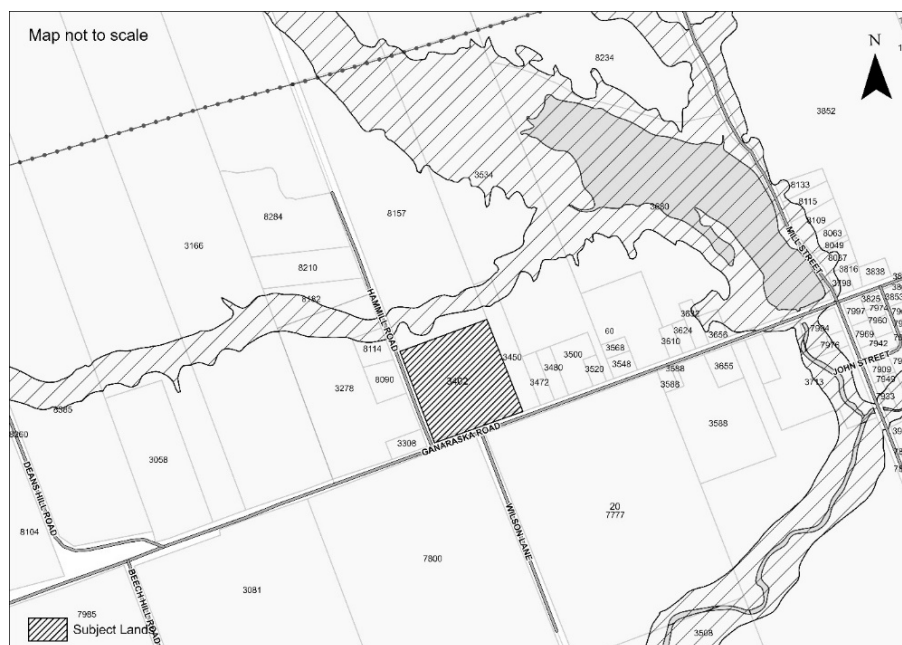


Figure 1: Subject Lands Map

Land uses adjacent to the subject lands include religious retreat (Ganaraska Woods) to the north, farm fields to the south, single detached dwellings to the east and single detached dwellings and elementary school (North Hope Central School) to the west.

The subject lands are currently designated “Hamlet” in the Municipality of Port Hope Official Plan and are zoned Institutional Rural Exception #2 ‘IR(2)’ by Zoning By-law 20/2010, as amended.

1.2 Application

The applicant is proposing to rezone the subject lands from ‘IR(2)’ Zone to a site specific Development ‘D’ zone to permit the following uses:

- Year-round farm market store
- Café / Bakery with commercial kitchen
- Recognition of the current legal non-conforming agriculture activities (excluding livestock facilities)
- New other uses to include:
 - a single detached dwelling
 - accessory farm employee accommodations,
 - accessory buildings or structures,
 - a home occupation,
 - farm-related tourism establishment, and
 - community garden.

As discussed in the [Public Meeting Report](#), the request by the applicant to rezone the subject lands to Development ‘D’ zone is not applicable to the subject application as Development zone is a place holder zone that generally acknowledges the existing uses/structures on the property and any further development plans are subject to a zoning by-law amendment application. Therefore, staff has recommended a more suitable zone with site exception for subject lands to allow for most of the uses requested by the applicant. Section 1.4 of this report provides further information on the proposed zone and the uses permitted.

Policy and Zone Standard Review:

The [Public Meeting Report](#) provided a high-level analysis of the relevant provincial and municipal land-use and development policies (Provincial Policy Statement, Growth Plan, County and Municipal Official Plans) that apply to the proposed application. It is not proposed to repeat these policies and instead, the balance of the report summarizes our planning opinion and recommendations.

Provincial Policy Statement, Growth Plan, County and Municipal Official Plans essentially permit a mix of land uses at appropriate scales suitable for hamlets that efficiently use land resources, supported by private services.

1.3 Municipality of Port Hope Official Plan

In Schedule C of the Official Plan, the subject lands are designated as 'Hamlet'. As per Section D2.2 of the Municipal Official Plan, a mix of suitable residential, commercial, community facilities, and small scale industrial uses developed on private sewage and water systems at appropriate densities and sizes is encouraged within the Hamlet designation.

The predominant form of land use in Hamlet designation is single detached dwellings. Other residential permitted uses include multiple-unit residential development, apartments units above the first floor of a retail commercial use provided that a detailed hydrogeological study confirms an adequate supply of groundwater and the ability of the site soils to assimilate the wastes from the septic systems. A home occupation is also permitted as an accessory residential use.

Section C12.1.2 of the Official Plan sets out the servicing policy in the Hamlet and Rural Areas where all development is to be served by private sewer and water systems. Adequate on-site supply of potable groundwater must be demonstrated. On-site soils and lot sizes must also be determined to be adequate for proposed sewage disposal systems. A detailed hydrogeological study is required to determine that the proposed septic system and wells do not have any negative effects on the surrounding uses.

The applicant has submitted Desktop Hydrological Assessment, prepared by Crozier Consulting Engineers to demonstrate how the site will be serviced. The assessment provided a review of existing reports and well records and concluded that the water demands of the development can be supported via the newly constructed water supply well without impacting existing water wells in the area. However, the assessment indicates that the proposed development includes the construction of a market building and provides its conclusions based on the market building only.

As per Section C12.1.3, all developments shall provide adequate stormwater management facilities as approved by the Municipality and the GRCA. Further, such facilities must be designed to protect adjacent watercourses and land uses from any negative impacts of the stormwater run-off.

The applicant has submitted Stormwater Management Letter/Site Drainage Letter, prepared by Monument Geomatics & Estimating Inc. which only investigated the impacts of the construction of farmer's market building on the drainage pattern of the site or surrounding area. GRCA and Northumberland County comments regarding Desktop Hydrogeological Assessment and Stormwater Management letter have been provided to the proponent.

Therefore, only farmer's market building meets the policy intent of the Municipality's Official Plan as none of the other uses were included in the studies submitted by the applicant demonstrating how these uses meet the servicing and stormwater management policies. Future development of additional permitted uses will need to assess the site servicing and stormwater management matters.

Additionally, the accessory farm employee accommodations, and farm-related tourism establishment uses are better suited for bigger track of lands that are designated Agriculture. Therefore, it is the opinion of staff that these uses should not be approved at this time.

1.4 Zoning By-law

The subject lands are zoned Institutional Rural with Exception #2 'IR(2)' by Zoning By-Law 20/2010, as amended. The current exception on the zone permits only "a place of worship" and "accessory guest house".

Staff note the year-round farm market was not permitted under the 'RU(2)' zone of the former Township of Hope Zoning By-law 3350 (1991), nor in the Institutional Rural 'IR' Zone of the current Zoning By-law 20/2010. Rural Zone in the former Zoning By-law allowed only a **seasonal and temporary** "farm produce retail sales outlet". Such use was described as "operated on a temporary and seasonal basis only provided that the majority of such produce offered or kept for sale is the produce of the farm on which such retail sales outlet is located". Similarly, the current Zoning By-law 20/2010 permits the "farm produce outlet, accessory" use in the Rural zones. Such use is defined as "a *premises* where farm produce, exclusive of meat or poultry, is offered for retail sale, but shall not include the sale of reprocessed farm produce or an *abattoir*."

The principal use proposed, namely **the year-round farmer's market store/café/ bakery** proposed by the applicant is a **commercial use** that includes two defined uses under the current Zoning By-law: retail store and specialty food store.

The applicant proposes a mix of primary and secondary uses (commercial, residential and agricultural). It is staff's understanding that some uses are to be located on the subject lands in the very near future and some contemplated in 20-years time.

Staff carefully considered all the desired uses and proposed D zone, Council questions during the Public Meeting, and public oral and written submissions in the past three months. To this regard, we offer the following comments and opinions:

- Staff and agencies requested the applicant to provide information on the floor area, location and setbacks of potential uses on the property, location of sewage systems and setbacks, location of garbage refusal, parking requirements for each use, studies demonstrating feasibility and no negative impact of the other uses on the site servicing and stormwater management. To date, no information has been provided.
- Without the information above, staff is of opinion that some of the uses have the potential to create conflicts, therefore they are not supported at this time and are not recommended in the proposed By-law. Any development on the property to include the "accessory, farm employee accommodations" and "farm-related tourism establishment" uses should be subject to another rezoning when they are contemplated.
- Additionally, some of the uses requested by the applicant are better suited for lands that are designated as agricultural. Section 4.3 of the Zoning By-law lists a number of provisions for accessory farm employee accommodation, including a

minimum lot area of 40 ha. However, rezoning the subject lands to Agriculture ‘A’ or Rural ‘RU’ zone cannot be considered as the subject lands are designated as ‘Hamlet’ by the Municipality’s Official Plan. The proposed zone and the permitted uses need to align with the ‘Hamlet’ designation.

- Applicant is requesting to rezone the subject lands to Development ‘D’ zone to permit all the requested uses. However, Development zone is a place holder zone that generally acknowledges the existing uses/structures on the property and would not be appropriate for the subject application.
- Staff notes that agricultural use of the subject property is a legal non-conforming use and will be recognized under this zoning by-law amendment application and will be included as a permitted use in the proposed new zone.
- Staff considered placing a Holding One (“H1”) Provision for the two uses that will be lifted once another site plan and the accompanying studies are submitted and approved by the Municipality. Given the size of the property (only 4.34 ha) and the proximity to the existing hamlet uses in the area and potential adverse conflicts, this option is not recommended at this time.
- If the rezoning was to include “accessory, farm employee accommodations” and “farm-related tourism establishment”, then these uses will be as-of-right uses on the property once the by-law comes into effect, for the current owner and prospective owners.
- Planning staff recommends rezoning the subject lands to Hamlet Commercial ‘COMV’ with Exception 141 to allow for all the requested uses, excluding the “accessory, farm employee accommodations” and “farm-related tourism establishment” uses.

As part of the site plan application, the applicant has submitted a site plan drawing showing the location of the farm market building and required parking spaces. Table 7.2 from the Zoning By-law 20/2010, as amended, contains the standards for Commercial Zones. Accordingly, the ‘COMV’ Zone standards are:

Table 1: COMV Zone Standards

Provisions	Required	Actual
<i>Lot Area</i>	3,000 m ²	43,400 m ²
<i>Lot Frontage</i>	30.0 m	206.12 m
<i>Front Yard</i>	10 m	53.5 m
<i>Rear Yard</i>	10 m	142.3 m
<i>Exterior Side Yard</i>	10 m	126.9 m
<i>Interior Side Yard</i>	10 m	49.9 m
<i>Maximum Height</i>	10.0 m	6 m

As per the site plan drawing submitted by the applicant, farmer’s market building meets all the zoning standards for Hamlet Commercial ‘COMV’ zone. Table 2 below shows the

parking spaces required by the farmer's market and the number of parking spaces provided.

Table 2: Parking Spaces

Parking Required	Parking Provided
1/30 m ² NFA = 15	15
Barrier Free Parking Spaces = 0	1

The parking spaces for farm produce outlet are provided as per the requirements of the Zoning By-law 20/2010, as amended.

Consultation with other Departments/Sources:

On September 29, 2022, the Zoning By-law Amendment application submission was circulated to applicable internal departments and external agencies. Majority of the concerns from agencies included requiring more information on the other uses in terms of scale and location on the site and revision to studies to include those uses.

In response to the comments from various technical agencies with regards to the zoning by-law amendment application and site plan application staff received a letter on November 14, 2022 from the applicants Jamie and Kristin Ferguson. In the letter, the applicants acknowledge that at this time the application is only for primary stated usage of the property (i.e. a year round farm market with café/bakery) and any potential future uses will be addressed through a future site plan application and required studies.

Communication and Public Consultation:

The Public Meeting report provided details on notification requirements in accordance with the *Planning Act*. The Public Meeting was held on December 14, 2022 and the [draft minutes](#) for the meeting were included in the Council Agenda of December 20, 2022.

After the public meeting and as of the writing of this report, planning staff has received three more comments from the members of public (**See Attachment 2**).

Financial Considerations:

The applicant has provided the building permit fees at the time of applying for the building permit in April 2022.

Conclusion:

The Applicant has submitted a Zoning By-law Amendment application to support the establishment of a mix of commercial, agricultural and residential uses on the subject lands. The uses are generally permitted on the subject lands by the Provincial Policy Statement, Growth Plan, County of Northumberland Official Plan and the Municipality of Port Hope Official Plan. The current zoning allows only "a place of worship" and "accessory guest house".

The application has been made to rezone the subject lands from Institutional Rural with Exception 2 'IR(2)' Zone to site-specific Development Zone to permit an year-round

farm market store, café/bakery with commercial kitchen, recognition of the current legal non-conforming agriculture activities (excluding livestock facilities) as well as permit new uses (a single detached dwelling, accessory farm employee accommodations, accessory buildings or structures, a home occupation, farm-related tourism establishment, and community garden).

Given that the lands are within a Settlement Area (Hamlet of Garden Hill), staff recommends rezoning to a site-specific Hamlet Commercial 'COMV(141)' zone that will permit the retail store/specialty food store, collectively with a maximum permitted gross floor area of 440 m², a single detached dwelling, home occupation, community garden and recognize the current legal non-conforming agriculture activities (excluding livestock facilities).

Attachments:

Attachment 1: Proposed Zoning By-law Amendment

Attachment 2: Public Comments