



**Subject: Recommendation Report for Zoning By-law Amendment
D14-01-21, 836 Lorraine Road**

To: Council

From: Planning and Development Department

Report Number: 2021-152

Meeting Date: May 25, 2021

Recommendation:

That Planning and Development Department Report 2021-152 be received; and

That the Zoning By-law Amendment attached as Appendix A to Planning and Development Report 2021-152 be approved.

Purpose:

The purpose of the report is to provide Council with a recommendation regarding a Zoning By-law Amendment application initiated by Steven Rivers of South Coast Consultants on behalf of the owner Chad Peterson for the property legally known as Part of Lot 21, Concession 1, formerly in the Township of Humberstone, now in the City of Port Colborne, Regional Municipality of Niagara, municipally known as 836 Lorraine Road.

Background:

The application for Zoning By-law Amendment accompanied by a planning justification report (PJR) (Appendix E) proposes to change the zoning on a portion of the property from Agricultural (A) to A-59, a special provision of the Agricultural zone that proposes to permit a Landscaping Establishment on the property as a secondary use to the main agricultural use.

On February 16, 2021, Planning staff presented Public Meeting Report 2021-43 for this application outlining the proposed amendments and received questions and comments from Council and members of the public.

Discussion:

City of Port Colborne Official Plan:

According to Schedule A: City Wide Land Use, the City of Port Colborne Official Plan designates the subject property as **Agricultural**. The predominant uses of lands designated Agriculture shall include, but not be limited to; the cultivation of crops on a commercial basis; the storage and processing of produce grown on the premises; the raising of livestock; greenhouses; small-scale agri-tourism; value-added agricultural activities; specialty agricultural uses such as an agricultural research station, fertilizer or seed depot, feed mill, saw mill or kennel, provided the uses are compatible with adjacent uses; and agriculture-related accessory uses, including the sale of products from the farm operation. The Official Plan also recognizes that there are existing non-agricultural uses on agricultural lands. These uses shall continue to be permitted and expanded in accordance with the applicable Regional policies.

The Official Plan designation is not proposed to be changed as a result of this application. Staff note that the property's main use will remain agricultural with the landscaping business being operated as an accessory or secondary use. The Regional Official Plan provides policies with respect to on-farm diversified uses in conjunction with the Provincial Policy Statement (PPS) and the Ontario Ministry of Agriculture, Food and Rural Affairs (OMAFRA) Guidelines on Permitted Uses in the Prime Agricultural Areas. Both Regional and City staff have reviewed this application with respect to the OMAFRA Guidelines below.

Ontario Ministry of Agriculture, Food and Rural Affairs: Guidelines on Permitted Uses in Prime Agricultural Areas:

The following criteria must be met in order for a use to qualify as an on-farm diversified use:

1. The use must be located on a farm;
2. The use must be secondary to the principal agricultural use of the property;
3. The use must be limited in area;
4. The use includes, but is not limited to, home occupations, home industries, agri-tourism uses and uses that produce value-added agricultural products; and
5. The use shall be compatible with, and shall not hinder, surrounding agricultural operations.

Staff is confident that this proposal meets the five guidelines above. The use is located on an active farm, the use is secondary to the principal use of the farm on the property, the use can be limited in area as per the Zoning By-law Amendment, the use will be

conducted as a home occupation/industry, and the use is compatible with, and will not hinder, the surrounding agricultural operations.

Further, the OMAFRA Guidelines outline specific examples of uses that are permitted in prime agricultural areas provided the above criteria is met. A landscaping business is listed as suitable as an on-farm diversified use, which is a use secondary to the main agricultural use.

City of Port Colborne Zoning By-law 6575/30/18:

The subject parcel is zoned **Agricultural (A)**. The following uses are permitted in the A zone: accessory agricultural activities; agriculture use; agri-tourism and value added uses; conservation uses; dwelling, detached existing at the date of the passing of this by-law as a principal use on a new lot; dwelling, detached as a principal use on an existing lot of record at the date of the passing of this by-law; kennel; cannabis production facility; and uses, structures and buildings accessory thereto.

The application for Zoning By-law Amendment proposes to change the zoning on a portion of the property from Agricultural (A) to A-59, a special provision of the Agricultural zone that proposes to permit a Landscaping Establishment on the property as a secondary, on-farm diversified use to the main agricultural use. Staff note that only one on-farm diversified use will be permitted for the property which will ensure only a landscaping establishment will be permitted on the property.

The required special provisions have been outlined below and in the Zoning By-law Amendment attached as Appendix A:

A-59:

In addition to the uses permitted in the Agricultural (A) zone, this land may also be used for a landscaping establishment, and uses, structures and buildings accessory thereto, and the following special provisions shall apply:

- | | |
|---|-------------|
| a) Maximum Lot Coverage | As existing |
| b) Minimum Lot Frontage | As existing |
| c) Minimum Lot Area | As existing |
| d) Minimum Front Yard | 13 metres |
| e) Minimum Interior Side Yard | 26 metres |
| f) Minimum Rear Yard | 285 metres |
| g) Maximum Height | As existing |
| h) Outdoor storage and parking of equipment shall be permitted in the rear yard only. | |

The Region's comments have been addressed through the proposed amendment with the limitation of the A-59 zone and inclusion of the 15m Environmental Protection (EP) buffer from the Type 2 Fish Habitat.

Adjacent Zoning and Land Use:

North-west Residential property w/ Kennel Zoned: Agricultural	North Residential property w/ Kennel Zoned: Agricultural	North-east Lorraine Road
West Agricultural Land Zoned: Agricultural	Subject Property	East Lorraine Road
South-west Agricultural Land Zoned: Agricultural	South Residential and Agricultural Lands Zoned: Agricultural/Agricultural Residential	South-east Lorraine Road

Site Plan Control:

Should the Zoning By-law Amendment be approved, the owner/applicant will be required to enter into a Site Plan Agreement with the City of Port Colborne. The Site Plan Control process will address on-site features such as private servicing, lighting, screening, landscaping, site access and design.

Public Comments:

Staff have evaluated the concerns and comments received by Mr. McIsaac. Through the Site Plan Control process, concerns regarding lighting and noise can be mitigated through required screening, landscaping, and berms on the property. Further, staff note that only the landscaping establishment will be permitted under the zoning. Any other uses or businesses not approved under the amending by-law will need to be removed from the property. As raised by Mr. McIsaac at the public meeting, the property owner has vehicles including, pickup trucks, tractors, skid steers, flat bed trailers, seeding equipment, and lawnmowers. Staff find that these vehicles and specific pieces of equipment are all things that would commonly be found on an agricultural property. The construction equipment on the property will not be permitted under the recommended zoning, as these materials and the use of a contractor's yard is not a supported use under the OMAFRA Guidelines.

Internal Consultations:

Notice of Public Meeting was circulated to required agencies and internal staff on January 27, 2021. At the time of writing this report, the following comments have been received (full comments attached under Appendix B):

Niagara Region:

In conclusion, Regional staff has no objection to the proposed Zoning By-law Amendment from a Provincial and Regional prospective, subject to:

- The A-59 zone being limited to the boundaries of the existing operation, to conform to Provincial guidelines related to the use being secondary to the principal agricultural use and limited in area, and ensure the use does not expand beyond the current configuration.
 - The Important (Type 2) Fish Habitat and a 15 m buffer on both sides of the watercourse containing the Fish Habitat be placed in an appropriate environmental zone.
 - No plumbing or living space being added as part of the proposed use or existing dwelling.
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Financial Implications:

There are no financial implications.

Public Engagement:

Notice of Public Meeting was circulated to property owners within 120m of the property and a public notice sign was posted by January 27, 2021. As of the date of preparing this report, the following written comments have been received:

Correspondence from Neighbouring Properties in Support of the Application:

Full comments attached as Appendix C. Comments were submitted from the following:

- Luke and Monica Nieuwland – 806 and 501 Lorraine Road
- Lou and Maribeth Nieuwland – 501 and 631 Lorraine Road
- Bill and Liana Grist – 861 Lorraine Road
- Allert VanKralingen – 773 Lorraine Road
- Chris Dace – 950 Lorraine Road
- Dave Bankert of Lakeeffect Farms – 650 Lorraine Road and 856 Weaver Road
- Jason Bodner and Kaitlyn Richardson – 916 Lakeshore Road

Sandy Mclsaac – 856 Lorraine Road

Mr. Mclsaac provided oral comments at the public meeting. The minutes of the public meeting can be found attached to this report as Appendix D. A summary of Mr. Mclsaac's comments have been provided below:

- Concerns regarding additional businesses being run on the property
- The changes infringe on the privacy of Mr. Mclsaac's property
- Concerns with noise and vehicles on the property
- Concerns with employees standing and talking outside of the shop consuming alcohol after work

Conclusion:

Based on staff's review of applicable Provincial, Regional and City policies and guidelines as well as consideration of all materials submitted, the Planning Division recommends the approval of the Zoning By-law Amendment attached as Appendix A to this report, changing the zoning on a portion of the property from Agricultural (A) to A-59 and Environmental Protection. City Council is statutorily obligated to make a decision on applications for Zoning By-law Amendment.

Appendices:

- a. Zoning By-law Amendment
- b. Niagara Region Comments
- c. Written Correspondence from the Public
- d. Public Meeting Minutes – February 16, 2021
- e. Planning Justification Report – South Coast Consultants

Respectfully submitted,

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Report Approval:

All reports reviewed and approved by the Department Director and also the City Treasurer when relevant. Final approval is by the Chief Administrative Officer.