

Planning Committee
City of Kingston
City Hall
216 Ontario Street
Kingston, Ontario K7L 2Z3
Attention: James Thompson, Committee Clerk (BY Email - jcthompson@cityofkingston.ca)

July 13, 2020

Members of the Planning Committee,

RE: Application for Official Plan and Zoning By-law Amendment
Unity Farm, Inn and Spa
2285 Battersea Road
BPE Development Inc.
CCS Project No. 4390

Clark Consulting Services has been retained by the Glenburnie Residents Association to provide a planning review of the proposed development and the associated planning applications. This review has focused on an assessment of the application's conformity with the applicable planning documents.

1 The Development Proposal

The development proposal is described as including the following;

- 67 hotel rooms/suites
- A spa
- 2 restaurants
- An event venue
- Farm uses including but not limited to Vineyards, gardens and farm produce retail outlet and café
- A winery, nano-brewery/cidery and associated retail and tasting room/tied house

The expanded farmhouse will accommodate seven hotel suites, a farm-to-table restaurant, a small scale café, a brewery, cidery and winery and associated tied house, a retail space for the sale of products produced by surrounding farming operations and local businesses and storage as well as staff facilities, kitchen and laundry facilities will be housed in the existing limestone farmhouse and a three-storey L-shaped addition to the farmhouse. The existing machinery shed will be relocated and provide storage for the machinery and equipment required for the maintenance of the site. The existing barn will be demolished and replaced with a purpose-built corporate event venue to be located in front of the limestone farmhouse to meet separation distance requirements.



A new building will be built in the north west corner of the northern most parcel of the site. This new building will contain 20 guest suites, a small café and spa quiet rooms, treatment rooms and a yoga studio. A total of 40 cabins will be located within the northern most parcel.

The proposal involves substantial new construction as is evidenced by a review of the concept plan. Aside from the existing farmhouse, the proposal will see all existing accessory structures replaced and the new structures will dominate the central and northern portion of the site. This is particularly evident by the cluster of structures in to be established in the area of the existing farmhouse and the cluster of 40 cabins and the inn and spa located on the northern property. The parking areas represent a combined total of 161 parking spaces.

There is reference in the documentation to on-going agricultural production but in reality, only 5 acres of the 34 acre site is proposed to be used for active crop production. This production is being established to justify the proposed uses.

2 Community Context

The intersection of Unity Road and Battersea Road is the location of several community facilities, however, it does not exhibit a sufficient number and variety of uses to be designated as a Rural Settlement in the Official Plan. Within 500 metres of the intersection there are a total of 34 residential uses, a school, a church and a riding stable. This cluster of rural non-farm uses establishes the character of the immediate area against which proposed development is to be evaluated.

3 Review of Policy

The Principle policy documents applicable to the subject lands are the Provincial Policy Statement and the City of Kingston Official Plan. The planning consultant for the applicant has done an extensive review of these documents in the Planning Rationale Report and Addendum. This review will highlight areas where our opinion differs as to the appropriateness and compliance of the proposed use.

3.1 Provincial Policy Statement

The Provincial Policy Statement provides direction on matters of Provincial interest to guide local planning decisions. Local planning decisions are directed to “be consistent with” the Provincial Policy Statement. In practice this is a high standard.

Section 1.0 addresses Building Strong and Healthy Communities. Section 1.1.1 b) requires that communities accommodate an appropriate range and mix of land uses to meet long-term needs. This places the onus on the proponent to demonstrate that the proposed land use is appropriate and will meet the long-term needs of the community. While the proposal offers employment and economic activity, the appropriateness and the response to the needs of the community are of concern and have not in my opinion been addressed.

Section 1.1.1 c) requires communities to be sustained by “avoiding development and land use patterns which may cause environmental or public health and safety concerns.” Our review of the servicing proposal raises concerns about the heavy reliance on technology to sustain the proposed development particularly with regard to water usage and the potential impact on local aquifers. We also note that the initial setup of the pools relies on water delivered to the site. The proposed uses rely on on-site water storage tanks with off-peak replenishment to meet predicted daily water usage. In our experience this is unusual and demonstrates an extreme reliance on technology to meet the predicted water requirements of the proposed development. Also of concern is the estimated water usage. Our experience with similar development of approximately 50% of the proposed size indicates that the predicted water usage is underestimated. Even with this apparent underestimate the project requires a heavy reliance on technology. This suggests that the project is not sustainable based on the local aquifer capacity and has the potential to stress and impact local ground water supplies.

Section 1.1.4 provides policies for rural areas. It emphasizes building on the rural character including heritage buildings and natural heritage features. While the proposal takes advantage of the rural setting of the site, our concern is that the proposal does not honour the rural setting but rather introduces a significant urban form of development represented by a significant new 3 storey commercial building and a clustering of cabins throughout the northern portion of the site. In our opinion this threatens to significantly alter the rural character of the site and the existing community. This concern is supported by the reliance in the site plan on the need setbacks and buffers to be compatible with adjacent rural uses.

Section 1.1.4.2 directs that rural settlement areas should be the focus of growth and development. Although there is a cluster of development around this site, it is not a designated rural settlement area and therefore is not a location for significant growth in rural terms.

Section 1.1.5.2 provides a list of permitted uses on rural lands. These include:

- a) Management and use of resources;
- b) Resource-based recreational uses (including recreational dwellings);
- c) Residential development, including lot creation, that is locally appropriate;
- d) Agricultural uses, agricultural related uses, on-farm diversified uses and normal farm practices, in accordance with provincial standards;
- e) Home occupations and home industries;
- f) Cemeteries; and
- g) Other rural land uses.

While the event venue and the inn and spa take advantage of the rural setting they are not, in our opinion, resource based recreational uses. While an argument is advanced for agricultural related uses, the practice is to rely on an established farm operation or address each use individually. The reliance on “other rural land uses” as the basis for many of the proposed uses

may apply individually but the collective effect does not, in my opinion, reflect the rural character of the community or meet the requirements for agricultural related uses.

Section 1.1.5.3 directs that “recreational, tourism and other economic opportunities should be promoted”. While the proposal is intended to attract the travelling public and promote tourism while creating employment it is important to balance this objective with Section 1.1.5.4 and 1.1.5.5 which require development to be appropriate to the infrastructure planned or available. Although considerable effort has been made to demonstrate how the proposal can be sustained on the limited available water supply, it is noted that external sources of water and an aggressive program of re-cycling is required to provide the anticipated water needs of the proposed uses which we feel have been underestimated.

Sections 1.1.5.7 requires that agricultural uses be protected, and non-related development be directed to areas where it will minimize constraints on these uses. The proposal relies on the establishment of an area for a vineyard, a garden and an area for the cultivation of hops. The site plan indicates that this area will comprise 5 acres or 13.5% of the site. Prior to the recent construction activity, the potentially tilled area of the site represented nearly 50% of the site and the northern portion of the site was devoted to a woodlot which although not strictly agricultural could have generated lumber and firewood.

Adding to this concern is the required reduction of the Minimum Distance Separation distance to avoid impacting the existing livestock facility to the west of the site. Our review of the calculations finds them to accurately reflect the setback distances for the adjacent livestock uses. In addition to the reduction from 240 metres to 220 metres in the MDS I distance required to permit the proposed use on the northern portion of the property. Although I recognize that the zoning attempts to implement the MDS setback through a series of exceptions to the Rural Commercial Zone, the MDS Guideline #40 are to be measured as the shortest distance between the area proposed to be rezoned and the livestock facility. Our experience suggests this is to acknowledge that the use of the proposed lands extends beyond the building. The proposal introduces a number of land-uses with higher density human occupancy, habitation and activity which will share a contiguous boundary. These uses, most notably the cafes, inn, spa and event venue have the potential to restrict the flexibility of the adjacent farm to locate livestock facilities and manure handling areas. In addition, the close proximity of these non-farm uses raise the potential for complaints by users who are free to experience the entire site. The restriction on the building location does not restrict the use of adjacent areas by guests of the approved facility. On this basis normal farm practices such as manure spreading, tillage and harvesting equipment usage and application of fertilizers and herbicides. All these potential activities could be constrained by the proposed uses, particularly, if they create concerns from guests or employees using the site close to the mutual property boundary.

Section 1.1.5.9 requires that new land uses shall comply with the Minimum Distance Separation formulae. It is clear that the proposal and in particular the proposed cabins require a minor

reduction in the MDS I calculated separation distance. In addition, as is outlined in the Ministry of Agriculture Food and Rural Affairs Publication 853, the purpose of the MDS calculation is to ensure that new non-farm development will not limit the ability of livestock facilities to expand. In this regard we note that the existing livestock facility, currently used to house horses, was adapted from a barn originally built to house dairy cattle. Conversion of the barn back to a dairy operation would require a separation distance of 384 metres (1259 feet) from the area where livestock are housed and 400 metres (1312 feet) from the manure pile. While this conversion would be limited by adjacent non-farm uses, it would be possible to relocate this converted livestock facility further to the north on the existing farm property; however, with the planning approvals being sought, there would be no location on the entire property which could meet this separation distance. The establishment of the use as proposed has a significant impact on the ability of the farm operation to the west to modify their livestock operation to a livestock operation previously operated on the farm property.

On the basis of the above comments it is my opinion that the proposal is not consistent with the Provincial Policy Statement in that it:

- May cause environmental or public health and safety concerns
- Threatens to significantly alter the rural character of the community
- Is not in a designated rural settlement area.
- Does not reflect the rural character of the community.
- Relies upon external sources of water and an aggressive program of re-cycling to provide the anticipated water needs of the proposed uses.
- Has a significant impact on the ability of the farm operation to the west to modify their livestock operation and may result in limitations on normal farm practices.

3.2 City of Kingston Official Plan

The subject lands are designated Rural on Schedule 3-B of the Official Plan. Section 2.1.2 indicates that growth within the Rural Areas will be limited and the natural assets, functions and occupations that contribute to the general sustainability of the City as a whole will be protected. The criteria for consideration of new rural uses includes:

- a) *protection of groundwater sources* – there is concern with impacts on adjacent water supply
- b) *an ecosystem approach to protecting the natural heritage system* – the impact of 40 cabins may modify and potentially disrupt the existing natural wooded areas
- c) *the protection of surface water features...* - the proposed use introduces hard surfaces that require treatment of stormwater drainage
- d) *the extraction of mineral resources* – the area is identified as a Secondary Sand and Gravel Resource Area on Schedule 12
- e) *limiting the types of permitted development to those that support and are compatible with a resource based local economy and sustainable practices* – while the proposal

incorporates sustainable practices, as notes above, there are concerns about the compatibility of the proposed use

- f) *Promotion of agricultural opportunities, practices and alliances that enhance agricultural employment as well as local food production, distribution and consultation is an integral part of the local economy and the City's sustainability goals.* – as noted above, the extent of on-site agricultural production is limited in area, the proposed use limits the potential for new or modified livestock facilities on the adjacent farm and the close proximity of the non-farm uses (particularly the cabins and the spa) has the potential to limit normal farm practices on the adjacent farm.

Section 2.2.15 identifies sites in the Rural Areas that have significance to more than one function or provide protection to more than one resource. Where there is a conflict, the City will be strongly guided by:

a) the priorities expressed in the Provincial Policy Statement and other legislation or policy of the Province;

b) the strategic and fundamental planning principles expressed in this section of the Plan; and

c) the particular circumstances of the site in the context of existing development and the overall policies of this Plan.

Section 2.3.12 further reiterates the planning objectives of the Rural Areas as a balance between resource protection for agriculture, the environmental objectives of the nature heritage features and the social objectives of protecting rural communities and the rural way of life.

Section 2.6.1 states that the intent of this Plan is to promote development in areas where change is desired while protecting stable area from incompatible development or types of development and rates of change that may be destabilizing. It is our opinion that the intensive commercial development proposed is not compatible with the stable surrounding area and has the potential to destabilize this area. Simply stated, there is no compelling reason why this property is different or appropriate for the extent of development proposed.

Section 2.7 outlines Land Use Compatibility Principles. Of these principles the following are of concern:

b) loss of privacy due to intrusive overlook – the introduction of a 3 storey structure while removed from adjacent land uses is out of character with the existing community. In addition the potential for 40 private cabins raises concern with conflicts with normal farming practices such as manure spreading, the application of fertilizer, herbicides and pesticides, the operation of normal farm machinery, the potential for trespass by guests on adjacent property

and the associated liability for injury due to contact with livestock or other farm facilities and operations.

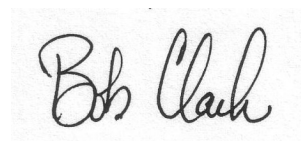
Section 3.14 Rural Commercial is the proposed designation for the subject lands. This acknowledges that the proposed use is not permitted in the Rural designation as it is a large-scale commercial use. The examples sighted in Section 3.14.3 for appropriate Rural Commercial uses include: golf courses, marinas, greenhouse operations, overnight accommodations and seasonal campgrounds. These uses are clearly rural in nature as they require either site specific amenities or large open areas. Section 3.14 goes on to state that "Other types of retail and service commercial uses are intended to locate within a Hamlet or within the Urban Boundary." This suggests that the inn, spa and event venue which are service commercial uses are not intended to be the principle use in the Rural Commercial designation.

Based on our review of the proposal and the supporting documentation it is my opinion that the proposed use and the associated amendments are not appropriate to the subject lands for the following reasons:

- The adequacy of the available water supply;
- the 40 cabins will modify and potentially disrupt the existing wooded areas;
- The proposed uses particularly when taken together are well beyond the scale of uses that could be considered agriculturally related or on-farm diversified;
- the combination of proposed uses are not compatible with the existing rural community;
- the extent of on-site agricultural production is limited, and the proposed use significantly limits the potential for new or modified livestock facilities on the adjacent farm;
- the location of the intensive uses and particularly the 40 private cabins raises concern with conflicts with normal farming practices on the adjacent farms;
- the inn, spa and event venue are service commercial uses and are not intended to be principle uses in a Rural Commercial designation.

For these reasons I feel the proposal is not appropriate for the subject lands and the applications should be denied.

Sincerely,



Bob Clark, MCIP, RPP, P.Ag., OLE, P. Eng.
Principle Planner

Cc: James Bar
David Pentney

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