

Our File/N/Réf.
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DATE 6 October 1998

TO/DEST. Coordinator, Planning and Environment Committee

FROM/EXP. Commissioner, Planning and Development Approvals

SUBJECT/OBJET **OMB APPEALS - BOOTH AND KEENAN PROPERTIES
LOT 28 & 29 BF CONCESSION, CITY OF GLOUCESTER**

DEPARTMENTAL RECOMMENDATION

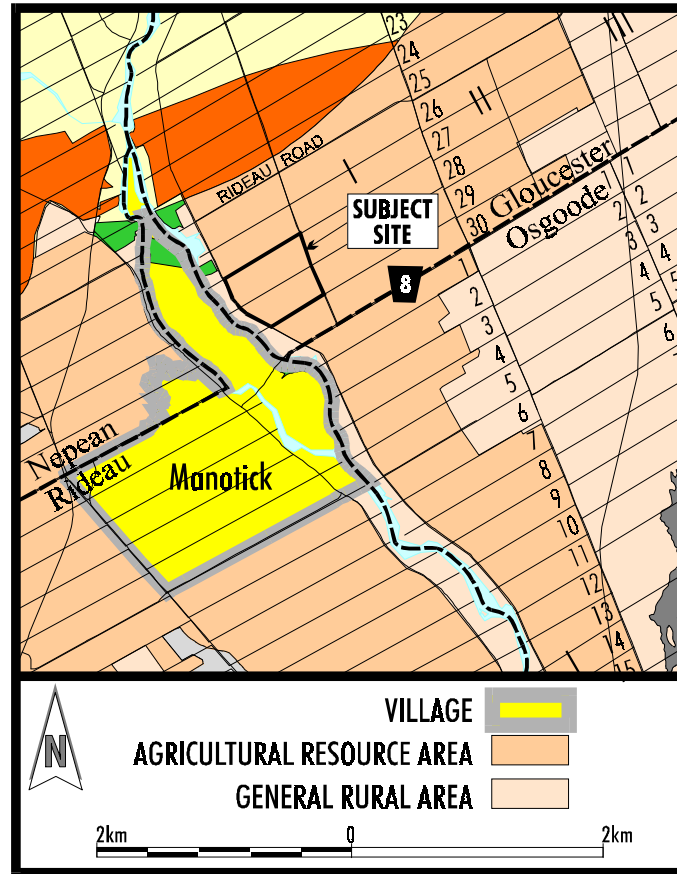
That the Planning and Environment Committee recommend that Council withdraw the appeal of the Ministerial modification changing the designation of Lots 28 and 29 Broken Front Concession, City of Gloucester, from “General Rural Area” to “Agricultural Resource Area”.

BACKGROUND

At the public meeting for the Official Plan held on May 20, 21, 22, Mr Booth and Mr Keenan submitted an agricultural survey, prepared by Dillon Consulting Limited, in support of a request to change the designation of Lots 28 and 29 BF Concession from “Agricultural Resource Area” to a designation that would permit development. The report concluded that the soil classification for the properties (Class 2 according to the Ontario Institute of Pedology maps) was not correct and that the properties have a soil capability of class 3, 4 and 5 with classes 4 and 5 being predominant. The results of the soils report were used to recalculate the LEAR scores to evaluate the agricultural potential of the property. The results of the LEAR, based on the revised soils information indicated that the properties had a poor potential for agriculture.

Staff recommended that Lots 28 and 29 BF Concession be designated General Rural Area, subject to confirmation by OMAFRA that the soil capability for agriculture for the area is predominantly Class 4 and 5 as shown in the report prepared by Dillon. The Regional Official Plan adopted by Council on July 9, 1997, designated the property as “General Rural Area”.

OMAFRA indicated that the soils study done by Dillon Consulting Limited did not provide the information to justify a change in soil reclassification. The Minister of Municipal Affairs and Housing modified the Regional Official Plan on October 21, 1997 to change the designation of the Booth and Keenan properties from “General Rural Area” to “Agricultural Resource Area”.



Mr Booth, Mr Keenan and Regional Council have appealed the ministerial modification. Staff recommended that Council sustain the appeal and request that the applicants and their consultant and OMAFRA do whatever additional investigation is required for the parties to agree on the correct predominant soil classification. Staff indicated that they would bring forward another report to Committee and Council advising on the recommended designation of the properties.

MMAH, OMAFRA, Mr Booth and Mr Keenan and staff participated in the OMB mediation process. The results of the mediation are confidential however it was clear at the mediation session that staff needed direction from Committee and Council regarding Council's position on the appropriate designation for the property. Council's decision to designate the site as "General Rural Area" was based on the conclusions of the Dillon report that the soil capability for the site was predominantly Class 4 and 5. A new soils report, that was prepared according to the terms of reference that were agreed to by OMAFRA, indicates that the soil capability for the site is Class 3 and 4. A Committee and Council position on the appropriate designation of the site is sought based on new information that Committee and Council did not have available to them when the Official Plan was adopted.

This report provides a staff recommendation on the designation of the properties based on new information.

New Soils Report

Mr Booth and Mr Keenan have hired CJ Acton to review the soil capability ratings for their properties. Mr. Acton prepared a report according to the terms of reference that were agreed to by OMAFRA. The report indicated that the property has a soil capability for agriculture of Class 3 and 4. The results of the Acton report are summarised below.

Soil Classification - Acton Report

	Class 3	Class 4	Class 6	Total
Booth Property	38.04%	52.52%	7.44%	100%
Keenan Property	35.74%	64.26%		100%

The last paragraph of the report stated that based on the Hoffman Productivity Indices lowering of the Class 3 soils to Class 4 and Class 4 soils to Class 5 would appear warranted

The report prepared by C. J. Acton entitled “Land Resource Evaluation for Keenan, Booth and Fernlea Flowers Properties” is attached as Annex 1.

MMAH and OMAFRA Response

The OMAFRA have reviewed the Acton soil report and agree with the soil capability ratings in the report indicating the property has a soil capability for agriculture of Class 3 and Class 4. This conclusion was based on the agreed upon terms of reference for the study. The Ministry does not agree with the last paragraph of the report stating that lowering of the Class 3 soils to Class 4 and Class 4 soils to Class 5 would appear warranted. The letter from OMAFRA is attached for information as Annex 2.

The Ministry of Municipal Affairs commented that the revised LEAR scores for the property show that the properties are still within the range which indicates good potential for agriculture. The Ministry also commented that the Provincial Policy Statement and the LEAR system promote the maintaining of large blocks of prime agricultural areas for agricultural purposes. The LEAR approach generally designated blocks of land, a minimum of 250 hectares in size, for specific land uses. The removal of smaller parcels such as the Booth and Keenan properties could contribute to conflicts in an agricultural area and set an undesirable precedent of inconsistency which could undermine the integrity of the Region’s LEAR evaluation system. Allowing development on fragmented parcels also does not contribute to an efficient land use pattern for non-agricultural uses in the long term. The letter from MMAH is attached for information as Annex 3.

LEAR Results

The new soils information was factored into the LEAR system to revise the scores indicating agricultural potential. Based on the OMAFRA comments, the LEAR scores were calculated based on the class 3 and 4 soil capability rating as mapped in the Acton report and agreed to by OMAFRA. The revised LEAR score for Lot 29 (Booth) is 136.85 points and for Lot 28 (Keenan) the score was 139.01 points. The scores for both properties just meet the minimum threshold for good agricultural land (130 points).

Site Visit

On September 9 staff conducted a site visit of both properties. Mr Booth and Mr Keenan gave staff an extensive tour of their properties.

Booth Property

The site visit confirmed that the property is being farmed although not intensively. A hay crop was taken off of most of the farm this summer. The site visit confirmed that the crop was not very good this year (the second crop is also poor). Cattle are being grazed on the western portion of the farm. Some horses are also kept on the farm. There is a cattle operation on the farm to the south. Poor drainage and stoniness limit productivity and make the property difficult to farm. The ditch at River Road is higher than the adjacent field, affecting drainage of their fields. The site visit confirms the results of the LEAR that this is a borderline property. The LEAR however does indicate that the property has some potential for agriculture. The site visit confirmed that the property is similar in land use to other properties in the area that are designated Agricultural Resource. The predominant use of the land east of the River Road is agriculture and the land to the north and south of the property is also being farmed.

Keenan Property

The site visit confirmed that the property is being farmed although not as intensively as the property to the north (Fernlea Flowers). The western part of the property was used for hay and the eastern part of the property was being used to pasture cattle. One field in the centre of the farm was planted in grain. Another field has been reforested. The site visit confirmed the results of the LEAR that this is a borderline property. The LEAR however does indicate that the property has some potential for agriculture. The site visit confirmed that the property is similar in land use to other properties in the area that are designated "Agricultural Resource Area". The predominant use of the land east of the River Road is agriculture and the land to the north and the south of the property is also being farmed.

DISCUSSION

There are two official plan objectives for agriculture:

1. To protect the major areas of agricultural production and other lands suitable for agriculture from loss to other uses
2. To ensure that uses that would result in conflicts with agricultural operations are not established in productive farming areas.

A "General Rural Area" designation for this site would conflict with these objectives.

The soils report prepared by Acton according to the terms of reference agreed to with OMAFRA show that the Booth and Keenan properties have a soil capability for agriculture of Class 3 and 4. Both properties are being farmed although drainage and stoniness constraints have limited the majority of the operation to growing hay and pasture. The LEAR evaluation indicates that the properties just meet the minimum threshold for having good potential for agriculture. The site visit confirmed that these properties have some potential for agriculture although there are significant constraints to agriculture (as reflected in the Class 4 soils). The area however is similar

in use to the surrounding area that is designated “Agricultural Resource Area”. The area is being farmed and has some potential to be used for agriculture.

The Regional Official Plan designates large blocks of land for agricultural purposes. As a general rule, the “Agricultural Resource Area” consists of large blocks of land being 250 hectares or more in size. The predominant land use within these blocks is to remain agricultural. Conversely, areas of 250 hectares or more with poor potential for agriculture (with LEAR score less than 130 points), where the predominant land use is non-agricultural, are designated in a separate non-agricultural designation. The site in question comprises only 83 ha. The land to the north, south and east of the site, designated “Agricultural Resource Area”, is being farmed. A “General Rural Area” designation would intrude into the larger agricultural area and introduce the potential for conflicting land uses with agricultural operations within the “Agricultural Resource Area”.

When Mr. Booth and Keenan first discussed the proposed change in designation of their properties with staff, staff indicated that they could not support the change in designation of such a small site and suggested that they look at a larger block of land. As a result Mr Booth and Mr Keenan submitted a soil survey prepared by Dillon Consulting Ltd for a larger area that extended north to Rideau Road which in addition to their lands included the Mowat property on Lot 26 BF Concession. Fernlea Flowers had also hired Dillon Consulting Ltd. to prepare a soils report for the property they own on Lot 27. While the Booth and Keenan properties are marginal for agriculture, the lands to the north contain better agricultural lands. The property immediately to the north in Lot 27, owned by Fernlea Flowers, is predominantly Class 3 land according to the Acton report. Within the larger block of land Lots 26-29 the predominant land use is agriculture and prime agricultural land (Class 3 soils) predominates. MMAH is correct in their comments that the designation of the Booth and Keenan lands should be evaluated based on an evaluation of the larger block of land and not strictly on the results of the soil capability results for the 83 ha site.

Staff in their initial recommendations on the appropriate designation for the properties placed too much reliance on the soil classification of the Booth and Keenan properties. When staff recommended that Council sustain the appeal of the “General Rural Area” designation of the property, the report to Committee indicated that the appropriate designation of the property revolves around the issue of the correct predominant soil classification of the properties. To be consistent with the way that agricultural lands are designated in the Plan, the designation should be based on the land use and agricultural potential of the larger area and not specifically on the 83 ha parcel owned by Mr. Booth and Mr. Keenan. Creating a non-agricultural designation for a small 83 ha site within a larger agricultural area is not consistent with the way that similar lands have been designated in the Official Plan.

A General Rural Area designation for the Booth and Keenan properties would not be appropriate because it would conflict with the agricultural objectives in the Official Plan:

- the land is within a larger Agricultural Area and the existing land use, agriculture, is similar to and compatible with, the surrounding lands designated Agricultural Resource Area. The LEAR evaluation indicates that the properties have potential for agriculture; the scores are just above the 130 point threshold.
- the “General Rural Area” designation would permit land uses that conflict with agriculture. The objective of the Official Plan is to protect large blocks of land where the predominant

land use is agriculture. The predominant land use in the area is agriculture and a “General Rural Area” designation would introduce an intrusion into the “Agricultural Resource Area”.

Based on the above the appropriate designation of the property is “Agricultural Resource Area”.

CONCLUSION

Since the designation of this site was last considered by Planning and Environment Committee, staff have received and reviewed new information for the site. Based on the results of the Acton soils survey, the letter from OMAFRA regarding the Acton report, the letter from MMAH regarding the appropriateness of the “General Rural Area” designation for the area, the revised LEAR scores and a site visit to the properties, staff are recommending that Council withdraw the appeal of the Ministerial modification to change the designation of the area to “Agricultural Resource Area”.

CONSULTATION

There was an extensive public consultation process for the new Official Plan including public meetings held on May 20-22 when the designation of the site was discussed at Planning and Environment Committee.

MMAH circulated the notice of decision to approve/modify the Official Plan to affected parties indicating that there was a 20 day appeal period for this decision. The MMAH decision to modify the designation of the site was appealed by Mr Booth, Mr Keenan and Council.

FINANCIAL IMPLICATIONS

If Council withdraws the appeal, staff will be supporting the MMAH modification of “Agricultural Resource Area” for the site, and may have to attend at the Ontario Municipal Board (OMB) hearing.

If Council decides to sustain the appeal, Council will be required to hire planning consultants to argue Council’s position at the OMB hearing.

*Approved by
N. Tunnacliffe, MCIP, RPP*