

Ann Rooth

From: JK Dell [REDACTED]
Sent: Monday, July 16, 2018 9:21 AM
To: Agenda Items
Subject: Deputation on Items 15.1.7 & 8 cc2018-15.15.1 & 8

Deputation: Agenda item Report Plan2018-036 & 057 804 Highway 7a

This is my detailed long version as five minutes is not adequate. I hope you are able to review it all.

I was able after making inquiries by email on Tuesday July 3rd to obtain the noise report by Valcoustics Canada prepared for Sutcliffe Holdings dated May 15th. I consulted a professional planner, Stephen Fahner of Northern Vision Planning. He was able to provide a preliminary opinion and would need more time to review all the documents and stated that he was interested in assisting me and suggested I also contact a Noise Consultant. He states that he found the "planning documents up for adoption were weak" and that the OPA and ZPA do not make reference to certain items such as "details on the uses of the property (in particular buildings for accommodation)" nor do they "implement noise attenuation recommendations by the acoustical engineer." He further states, "The city also does not seem to peer review reports that are outside their purview and expertise even though this is noted in their Official plan and Application Fees Bylaw." He further states that while he does not to date have a lot of experience with on-farm diversified uses, who does the PPS is from 2014, he does say I make "an excellent point that such a permanent event centre is not part of this." That is to say a diversified use. On his recommendation I consulted an Acoustical Engineer, Mr Coulter of J.E. Coulter Associated.

Mr Coulter did a preliminary review of the Valcoustics report and identified some areas of concern. The assumption of 81dBA on page six of the report was disturbing. He referred to the "cocktail effect". He also noted Scenario 3 had a north door open and all other doors and windows closed. In that regard I point out that the long axis of the building is more along a North-East to South-West direction as evidenced in the submitted aerial photo by Mr Bedford. It is difficult to determine which door is north and which is east. It is also highly unlikely that in the summer heat in a barn loft 210 people would consent to being confined without maximum ventilation. While I may not have been considered a "noise receptor" for this model I have in the past heard the noise, music and shouting, and my property is more to the south-east. I also find it difficult to grasp how measurements consisting of only 20 people talking in "raised voices for 30 minutes" from a crowd of up to 210 at an alcohol licenced event in the still night air is relevant to common sense. Also note the use of "Indoor sound reinforced music (DJ or live band)." This is why the study needs to be peer reviewed and he is willing and able to do so. He also comments on the use of "'a sound level feedback system" to quantify the sound level during an event. These are widely available commercially, and many products can be configured to cut power to amplifiers if the target sound level is exceeded for a specific period.'" The difficulty here is that the electrical power is supplied by a portable generator which was not available at the time. The weakness in the application is that a sound limiter is required not a feedback system of unknown capability. What if the DJ uses his own equipment or a live band is employed obviously with their own instruments that may not be electronically amplified? Is bylaw going to monitor the device or attend on a Saturday night with a legally accepted device to confirm compliance? Mr Coulter suggests that an expert third party be used to check the elements of any control device not simply accept the operator's word. His company is familiar with this requirement. In that regard the Nestleton Inn application in Omemee, still before the OMB, has been held to a much higher standard related to sound control and mitigation. I'm not aware if that property is prime agricultural land or even in production at the time of the application.

A late staff memorandum has been issued. Concern raised at committee regarding the doors being closed prompted a request by the city to Valcoustics and a second study which I have not been forwarded has been conducted. The fact that this issue was not brought forward by staff in the beginning demonstrates Mr Fahner's statement that staff does not have the expertise required and that a peer review is required. I also find troubling the fact that city staff made the request and not the applicant.

Memorandum comment TEMPORARY USE ZONING BY-LAWS to permit On-Farm Diversified Uses

Staff quotes OMAFRA's Guidelines and declines to apply a Temporary Use By-Law. In my opinion should that route have been used the section on Temporal uses would have applied and the application would fail. Recognising this staff states "the development applications are seeking a variety of PERMANENT On-Farm Diversified Uses." Section 2.3.1 (2) PPS Criteria is referenced. This section deals with diversified uses and this is where staff comment regarding "(e.g. fairgrounds, parks and band shells)" can be also found.

What they fail to quote is the full content of the last paragraph after the topic The Municipal Act 2001 and permits to impose conditions on events.

Large-scale, repeated or permanent events are not on-farm diversified uses and should be directed to existing facilities such as fairgrounds, parks, community centres and halls, settlement areas or rural lands. Guidelines on new venues in prime agricultural areas are provided in Section 3.2 Limited Non-Agricultural Uses.

And the PPS states under permitted uses:

If an agriculture-related or on-farm diversified use is to be located in a prime agricultural area, a best practice is to place the use on lower-capability agricultural lands. In addition, consideration should be given to directing agriculture-related and on-farm diversified uses to settlement areas (the focus of growth and development) or rural lands (where recreation, tourism and other economic opportunities are promoted).

On the request for ten (or any number) of cabins (no matter pioneer or not) a visit to a KOA Campgrounds would be informative. You are able to rent an un-serviced cabin as a standalone rental or as additional sleeping (accommodation) space when arriving with a recreational vehicle, motorhome, travel trailer, tent even. This application is too liberal to prevent this and to leave it to a later site plan or further development document is a serious mistake that may remove a need for council's approval. If not on this application then perhaps another.

In the reports Plan2018-036 and 057. Under OFFICIAL PLAN CONFORMITY it states: "For further clarity, the applicant is requesting a Special Policy Area be applied to permit a broad range of on-farm diversified uses and agri-tourism uses (including pioneer cabins), as defined in the Provincial Policy Statement 2014. Keep in mind this is for CLARITY and this is what is in the PPS:

Special policy area:

means an area within a community that has historically existed in the *flood plain* and where site-specific policies, approved by both the Ministers of Natural Resources and Municipal Affairs and Housing, are intended to provide for the continued viability of existing uses (which are generally on a small scale) and address the significant social and economic hardships to the community that would result from strict adherence to provincial policies concerning *development*. The criteria and procedures for approval are established by the Province.

A *Special Policy Area* is not intended to allow for new or intensified *development* and site alteration, if a community has feasible opportunities for *development* outside the *flood plain*.

Given this definition this application must fail as it is a new and intensified development and even if the site alterations (90 and 35 car parking and other items) have been made they should not have been. Additionally

there are certainly other areas available in this city that is second only to Greater Sudbury in geographic size. I believe the applicant, perhaps through his holding company, owns other properties.

City Official Plan: Section 17.7 Special Policy Area 17.7.1 Where there is existing development within a flood plain, no further development shall be Permitted unless a detailed flood study satisfactory to the Conservation Authority or the Ministry of Natural Resources has been prepared showing the floodway and flood fringe and a Special Policy Area has been established. The Ministers of Municipal Affairs and Natural Resources are responsible for approving the Special Policy Area. If a Special Policy Area is approved, specific policies will be added to this Plan by amendment.

I'm not sure what if any of this has been followed.

City Policy in Official Plan Section 6.2 Objectives: Agriculture Item c) Prevent infiltration of conflicting uses that will restrict or hinder its expansion flexibility on the agricultural community. I suggest to you that should a farmer in the area begin to apply the use of chicken or pig manure a permanent banquet / wedding facility would be in conflict and the farmer, although perhaps within his rights, may find himself defending this new practice in court. Try Yelverton area for this experience. Where would the city liability lie having again approved a wedding venue?

Section 15 Prime Agricultural Designation: 15.2 Objectives: a) Protect prime agricultural lands from non-farm activities and ensure that non-farm agricultural uses and development is encouraged to locate within designated settlement areas.

If this application is allowed how many more non-farm agricultural uses and development from a not limited list will appear?

PPS definition of adverse effects:

Defined in the Environmental Protection Act, means one or more of: c) harm or material discomfort to any person and g) loss of enjoyment of normal use of property.

I can attest to the fact that living in proximity to a banquet / wedding / dinner venue operating from a barn has had both the above defined effects.

The EPA:

Note that NOISE is considered a CONTAMINANT:

Prohibition, contamination generally

6 (1) No person shall discharge into the natural environment any contaminant, and no person responsible for a source of contaminant shall permit the discharge into the natural environment of any contaminant from the source of contaminant, in an amount, concentration or level in excess of that prescribed by the regulations. R.S.O. 1990, c. E.19, s. 6 (1).

Prohibition, discharge of contaminant

14 (1) Subject to subsection (2) but despite any other provision of this Act or the regulations, a person shall not discharge a contaminant or cause or permit the discharge of a contaminant into the natural environment, if the discharge causes or may cause an adverse effect. 2005, c. 12, s. 1 (5).

When Ministry to be notified, adverse effect

15 (1) Every person who discharges a contaminant or causes or permits the discharge of a contaminant into the natural environment shall forthwith notify the Ministry if the discharge is out of the normal course of events, the

discharge causes or is likely to cause an adverse effect and the person is not otherwise required to notify the Ministry under section 92. 2005, c. 12, s. 1 (6).

It is my hope that council will deny this application in full however failing that certain aspects are already allowed as noted in the document from Mr Bedford such as a home occupation a bed and breakfast and an as yet unregulated short term rental. I would expect that if not allowed currently farm based educational programs, workshops on farm operations, farm to table dinners and displays of farm equipment in a museum setting, gallery space would perhaps be suitable. Depending on the nature and time of day charitable fund raisers, corporate functions may also be suitable with a clearer definition of what each entails.

However dances and private parties (especially into the late evening, night and early morning) where music (band, DJ or recorded is a key element) are very suspect and likely to be a problem.

Most importantly weddings and wedding receptions and anything resembling a banquet hall should not be allowed nor should the PPS policy of allowing for ""accommodation for full-time farm labour when additional labour is required" in *prime agricultural areas*" be co-opted to allow cabins for rent to tourists nor a claim they are part of a B&B.

I was unable to attend the first planning committee meeting but I did submit comments. I did not receive notice of the second meeting until an email was sent late Thursday morning June 28th prior to the Canada Day long weekend. Like many other people that weekend is a 4 day event were we left to visit family. I did not get to review the email notice until Tuesday July 3rd. The deadline for the July 4th committee meeting was 12 pm of the 3rd. I began making inquiries, in particular into where the results of a sound study were that was to be completed as a result of submissions made at the previous committee meeting and was referred to in Mr Bedford's reply of May 11th to my concerns. Clearly I could not prepare to meet the noon deadline for the second meeting.

Thank you, John and Kathy Dell