

2004 CarswellOnt 6116  
Ontario Municipal Board

Ontario (Ministry of Municipal Affairs & Housing) v. Bruce (County)

2004 CarswellOnt 6116, 48 O.M.B.R. 439

**The Ministry of Municipal Affairs (and Housing) and Wayne Lowry appealed to the Ontario Municipal Board under subsection 17(36) of the Planning Act, R.S.O. 1990, c. P. 13, as amended, from a decision of the County of Bruce to approve with modifications the Official Plan for the Township of Huron- Kinloss**

The County of Bruce referred to the Ontario Municipal Board under subsection 4(1) of the Planning Act, R.S.O. 1990, c. P. 13, as amended, Sections 3.8.4.1, 3.9.4.2 and Schedule A-1 of the Official Plan for the Township of Huron-Kinloss

The Ministry of Municipal Affairs (and Housing) appealed to the Ontario Municipal Board under subsection 34(19) of the Planning Act, R.S.O. 1990, c. P. 13, as amended, against Zoning Bylaw 2001-87 of the Township of Huron-Kinloss

The Ministry of Municipal Affairs and Housing brought a motion before the Ontario Municipal Board under Rule 34 of the Board's Rules of Practice and Procedure, for prohibition of the Coalition of Concerned Citizens of Huron-Kinloss from tendering any evidence, including the calling of any witness, in relation to surface water quality and ground water

Culham Member

Judgment: October 4, 2004  
Docket: PLO11018

Counsel: William White, for Township of Huron-Kinloss  
Brenda Linington, for Ministry of Municipal Affairs & Housing  
Valerie M'Garry, Barbara Bidner, for Coalition of Concerned Citizens of Huron-Kinloss  
Chris LaForest (Agent), for County of Bruce  
Don Scott (Agent), for Wayne Lowry  
Paul Hinde (Agent), for Fisherman's Cove Tent & Trailer Park and Silver Lake Camp Grounds

Subject: Public; Environmental; Municipal

**Headnote**

Municipal law --- Planning — Provincial planning policy

Municipal law --- Zoning — Zoning by-laws — Amendment — Procedure

Municipal law --- Zoning — Rezoning land — Application to rezone — By amending municipal plan

***Culham Member:***

1 The Board must resolve two basic disputes, which have festered for over three years. Manure as a by-product of livestock operations is at the root of one dispute. Harnessing wind power as an accessory use to agricultural operations is the source of the other. Other matters before the Board get resolved over the course of the Hearings.

2 One solution creates a 1,200-metre separation distance between urban dwellings and wind turbines. The other is a new agricultural zone for Livestock and Poultry operations (AIL) with its required scrutiny through the mandatory public meeting

process. Based upon 10 days and two evening Hearings of testimony and submissions, the Board concurs with one and rejects the other.

3 Two polarizing perspectives share a mutual concern for the environment, its open spaces and its water. Those directly related to agriculture or indirectly through related services in the hamlets, share a historical "way of life" emotionally grounded through the tilling of the soil and the raising of livestock. Some perceive the water quality issue as related more to relatively high-density residential areas on old septic systems over shallow and susceptible soils along the beachfront.

4 The seasonal and year round urban dweller, in many cases representing generations of family ties to the urbanizing Lake Huron coastline share a perspective. They perceive the degradation of coastal waters as closely related to huge livestock operations with less than diligent management of its manure production.

5 In order to better understand the testimony of all witnesses, this Member visited each of the "Beach" areas along the Lake Huron coastline north to Kincardine; the agricultural Hamlets of Ripley, Lucknow, and Kinloss; and the agricultural "cross-roads" of Amberley, Pine River and Holyrood. In addition, the Member visited each of the four large operations classed as Intensive Livestock operations, as well as many other sites referenced in Exhibit 44. The distinct and evocative "aroma" of Holstein manure mixed with straw bedding; the pristine early morning view across fields of traditional "stooked shieves" of grain; and the warm hospitality served up in Ripley with raspberry rhubarb pie, focused the attention on the evidence afforded by each of the witnesses.

### Appeals

6 The Ministry appealed to the Board, portions of the proposed Zoning By-law 2001-87. As well, the Ministry appealed *Sections 2.2, 3.2.2, 3.2.3.3, 3.2.3.4, 3.2.6, 3.2.7, 3.3.9.2, and 5.9* of the Official Plan. In the Ministry's view, the proposed policies in question do not give appropriate regard to the Provincial Policy Statement; represent a threat to the agricultural industry; and thus do not represent good planning. Shirley Lowry, David Lowry, Len Stam, Murray Hunter, Glenn Boyd, Murray and Jon Wilkens, and Perrin Lowry had appealed the Zoning By-law and later the proposed Official Plan. In their view, it constituted a threat to the viability of the agricultural industry. They withdrew their appeals on the basis that the Ministry's position represents theirs.

7 The Wayne Lowry appeal focuses on what he considers a threat to his potential plans for wind turbines. Mr. Lowry limited the appeal during the Prehearing Conference to *Sections 3.1.1, 3.2.8, 3.3.3, and 3.3.7*.

8 The County referred Section 3.8.4.1 Fisherman's Cove Tent & Trailer Park Inc, and Section 3.9.4.2 Silver Creek Camp Grounds Inc. and Schedule A-1 of the proposed Official Plan.

### History

9 The Coalition of Concerned Citizens of Huron-Kinloss, an incorporated residents group, is fearful of negative change to the waters along the Lake Huron shoreline. This fear grew after the nearby Walkerton crisis. The Coalition opposed in 2001, a large hog operation proposed for a site some five km from the Lake Huron shoreline. Without any formal appeal or public review process available, the Coalition accessed the Courts on several occasions over several years. The outcome is a 3000 instead of an 8000 pig operation. The combined expenditures of approximately \$500,000 by the Applicant, the Coalition and the Township are another result. The Applicant and the Township paid out to the Coalition some \$50,000 in legal fees.

10 In response, the Township attempted a different approach. They created, in the adoption of a new Comprehensive Zoning By-law 2001-87, a new Intensive Agriculture Livestock zone (AIL). The Rezoning process requires a public meeting process and the right of appeal.

11 Other taxpayers, in particular a large group from the farm community, along with the Ministry opposed the By-law and appealed it to the Board. Another Panel of this Board first heard this appeal in September 2002. The Board adjourned that

Hearing to April 14, 2003, because of the delay in the approval of a new Township Official Plan, expected in August of 2002. The Board also adjourned that Hearing with no new date established.

12 Subsequently, the Township approved the new Official Plan on April 26, 2003 in By-law 2003-26. A previous Board decision, delivered on October 15, 2003 and issued as No. 1412, consolidated the appeals of the Zoning By-law with those of the Township's Official Plan. The County of Bruce approved this Township Official Plan with amendments in By-law 4040 on November 6, 2003, and referred some of the matters to the Board under Section 4(1) of the *Planning Act*. A Prehearing Conference held on April 30, 2004 established the Parties, the Issues and the Procedural Order for this Hearing. Obviously, there is a need to bring resolution to these outstanding matters.

13 The Township of Huron-Kinloss, an amalgamation of the Township of Huron, the Township of Kinloss, the Village of Lucknow and the Village of Ripley in January 1999, extends eastward from the Lake Huron coastline in south/central Bruce County, two hours northwest of Kitchener/Waterloo and Highway #401. It has convenient proximity to Ontario's major urban corridor further south. Agriculture is its main economic component.

### Motion

14 At the beginning of this Hearing, the Ministry brought a motion. The motion requested an Order prohibiting the Coalition from tendering any evidence in relation to surface water quality and ground water quality. As an alternative, the Ministry requested an Order amending the Issues List with the Coalition clarifying the precise surface and ground water quality issue. In addition, if the Board agreed to add this issue, the Ministry requested further time to evaluate and prepare testimony.

15 The Board granted the Ministry's motion under Rule 34 subject to the following qualification. The Coalition members and members of the public may raise or express their concerns about water quality in so far as it is directly related to Issue 5 in Attachment 2 to the Procedural Order dated May 14, 2004 Decision Order No. 0894, which appears as follows:

5. Has land use compatibility between agricultural and residential uses been addressed?

16 Section 82 of the Board's Rules of Practice and Procedure binds the Member conducting the Hearing to the Order resulting from the Prehearing Conference, unless the Member is satisfied that there is good reason to vary the Order.

17 The Board takes its position for the following reasons:

1. The issue of surface and ground water is not on the Issues List to which the Coalition had agreed and had a significant role in formulating.

18 It is unreasonable to present scientific documents and testimony relating to a matter not on the Issues List. Over the past two years, the Coalition had opportunity to shape an Issues List. The formulation of the Procedural Order and the Issues List on April 30, 2004 presented the last opportunity. This is a very important step as it shapes the preparation of evidence, the establishments of witnesses, and the scheduling of Hearing time.

2. Further, the Coalition does not persuade the Board that a significant and legitimate reason to change this list exists.

19 Other than Dr. Brian Luinstra, a hydrologist, none of the authorities cited are available for examination. The Coalition proposed that lay witnesses present the documents and make assertions as to their scientific significance to this Hearing. Respectfully, such assertions are beyond their competence.

20 In addition, the Coalition confirmed that the documents and testimony do not demonstrate specific truths directly related to the planning matters before the Board. The Coalition confirmed that they did not expect the Board to make findings pertaining to the documents. The Coalition acknowledged that the Township, in arriving at their planning decisions, did not rely on evidence relating to this new issue. The Coalition acknowledge that the purpose for the documents is to bolster the concerns of the residents as to why they perceive the proposed Official Plan and Zoning amendments as serious and not frivolous. The Board,

by describing the concerns in the Decision No. 0894 of May 14, 2004, acknowledged the seriousness and the magnitude of the Coalition's concern.

21 The Board acknowledges the legitimacy of the Ministry's request. The adjudication on the substantive issues is long over due. Further delay, is not in the public interest.

### **Section 3.2.7. Intensive Livestock and Poultry Use (AIL)**

22 The Board turns first to this most critical policy issue in dispute.

23 Mr. Harold House, a qualified and experienced agricultural engineer, testified in support of the Ministry's appeal. Mr. Matthew Ferguson, a qualified planner, also testified in support of the appeal. Mr. Chris LaForest, a qualified planner and the Director of Planning for the County of Bruce, testified under summons. Mr. Bill Green, a qualified planner, testified in support of the Township's Official Plan as amended by the County.

24 The Board heard from 10 witnesses at a special evening Hearing at which Doug Brown, Ken Taylor, Ken Wilkinson, Roger Crysler, David Hyman, Paul Greenwood, Bill Dow, David Vasey and Jeff Staller, all residents of the Township, testified in support of the Township's Official Plan.

25 Mr. John Gillespie, a local farmer, also testified as to his concern about the targeting of livestock operations and the resultant increased restrictions. In contrast, in his view, the Township placed minimal restrictions on the expansion of urban dwellings in the environmentally fragile area along the coast. This urban area is susceptible to overcharging of septic beds and a resultant pollution of the beach.

26 Mr. John Welwood, a spokesman for the incorporated Coalition, testified as to his concerns; the history of involvement within the Court system with a 2001 application for a swine operation; and his acceptance of the approach within the Township Official Plan. Mr. Brian Luinstra, a qualified hydrologist testified in support of the Township's approach.

27 Mr. House and Mr. Ferguson presented two alternative options to deal with the nutrient management challenge. The first is to rely on the procedures arising out of the *Nutrient Management Act, 2002, S.O. 2002, c.4* in combination with the established Minimum Distance Separation II (MDS II) procedures. No change in the zones is required.

28 The second option, in addition, is to amend the existing AG General Agriculture zones to require Site Plan control to all new and expanded livestock operations under Section 41 of the *Planning Act*. This would allow local planning officials direct involvement and could involve some public participation. It would allow the right-of-appeal of the applicant to the Board.

29 The third option is the new Intensive Livestock and Poultry zone (AIL) presented by Mr. Green. This option relies heavily on the work required under the *Nutrient Management Act* and MDSII, combined with additional criteria under the rezoning process for any new or expanded livestock operation in which the number of "Livestock Units" exceeds 450. It requires public meetings with public participation. It allows the right of appeal to the Board of both the applicant and the public at large.

### **Regard for the Provincial Policy Statement**

30 Section 1.1(b) of the *Planning Act* requires that every land use system be led by provincial policy. Further in Section 2(b), the *Planning Act* specifically directs that the Board "shall have regard to the protection of agricultural resources of the Province". Certainly, Section 3 of the *Planning Act* directs the creation of the Provincial Policy Statement, which states as follows:

Section 2.1.1 "*Prime Agriculture areas* will be protected for agriculture. Permitted uses and activities in these areas are *agricultural uses, secondary uses, and agriculture-related uses*"; and

Section 2.1.5 "*In prime agricultural areas, agricultural uses and normal farm practices will be promoted and protected.*"

31 The Board acknowledges Mr. Ferguson framework for consideration of the Provincial Policy Statement, which is stated below:

The Principles of the PPS identify the need of the policies to "protect Ontario's long term economic prosperity, environmental health and social well-being." Decision makers need to do this through three means:

1. Managing change and promoting efficient, cost-effective development and land use patterns, which stimulate economic growth and protect the environment and public health;
2. Protecting resources for economic use and /or environmental benefits:
3. Reducing the potential for public cost or risk to Ontario residents by direction development away from areas where there is a risk to public health or safety or property damage.

32 Further, the Board acknowledges the following principles stated by Mr. Ferguson, which are as follows:

Decision makers may have to strike a balance between matters of provincial interest when exercising their authority on a land-use planning matter. Neither the Planning Act nor the PPS provide a hierarchy of interests that prioritize one matter of provincial interest over another. Decision makers must determine the optimum balance between matters of provincial interest, and must rely on the context of the specific land use planning matter to determine that optimum balance. Decision makers must demonstrate why they are unable to implement a provincial interest if two provincial interests conflict in the context of a local decision.

33 The County and the Township concede to Mr. House that the *Nutrient Management Act*, which came into force after the initiation of this Zoning and Official Plan, is potentially a great improvement. The *Act* primarily manages nitrogen (N) and phosphates (P). Mr. House emphasized that crops need nutrients whether it is derived from manure or commercial mineral fertilizers.

34 The *Nutrient Management Act* involves the siting of all buildings and storage facilities. It requires the approval of a site-specific Nutrient Management Plan for every livestock operation. The magnitude of the land required for distribution of manure for each operation is directly related to the number of Livestock Units, regardless of the intensity of the operations. The larger the number of Livestock Units and the size of the operation, the larger the amount of land required.

35 Regulation of the manure distribution is based upon the site-specific operation. The Plan evolves from a complete analysis of manure production; of each field assigned to the operation and its soil's characteristics and potential for absorption; of each type of crop to be grown and its potential for uptake of nutrients; and of the nature of the detailed drainage of the land in question. No drainage tiles are permitted within 15.24 metres (50 ft.) of a manure storage facility. Procedures require pre-tilling of heavy clay soils prior to distributing manure so as to break up "macropores", which provide too direct a movement of liquid manure to the tile beds.

36 Mr. House testified that the role of "pathogens", while not dealt with by the new *Nutrient Management Act*, is under review by scientific committees. In his view, the danger of pathogens infiltrating water supply is reduced by good farm practices. A qualified professional must create such Nutrient Management Plans, with their prescribed directions.

37 The Board acknowledges Mr House's testimony as to his concerns for a fair evaluation in a public meeting process in which public concerns are so intense. This is especially so since the Walkerton catastrophe. The Board acknowledges the pejorative nature of the terms "factory farms", "industrial farms" and of the loaded "a priori" view of "corporate farms" mentioned in resident testimony. The Board acknowledges in Mr. House's testimony that a close examination of the ownership of all the large operations in Exhibit 25, reveals that all owners are local in origin evolving out of the local agricultural economy.

38 The Board also acknowledges the concern that a potentially bureaucratic procedure, such as a required rezoning process, could be a future impediment to agriculture. Further, the Board accepts that it is possible that public meetings and participation

could become an effective blockage to agriculture of this intensity. This could be a problem if public perceptions are particularly negative and potentially biased against large livestock operations. When fear is crystallized into anger within a large and vocal crowd, the best of intentions of decision makers could crumble. Neither concern, however, should dictate the evaluation of the Township preferred option. Mr. Green is of the opinion that safe guards are built into the process.

39 Mr. House testified that it is his opinion that the management programme required by the *Nutrient Management Act* will address the environmental concerns relating to ground and surface water. In his opinion, there is no real difference in big or small livestock operations in the land requirements for each animal unit. If greater municipal involvement is required, then it should be through Site Plan control on all operations, not rezoning.

40 Similarly, the Board acknowledges Mr. House's testimony that the established Minimum Distance Separation II programme works in practise. He accepts that more concern is raised over odours from swine operations. He acknowledged, as in any programme, the potential for errors in developing the Nutrient Management Plan.

41 The Board is not persuaded that the use of Mr. Ferguson's framework, leads inevitably to his conclusion. Nor is the Board persuaded that the PPS rules out the recognition of "intensity of use" or the use of the planning tool of rezoning to bring careful analysis to a land-use beyond a certain size or intensity of use. Further, the Board is not persuaded that the outcomes from using the Township option are contradictory to the intent of the PPS.

42 In the alternative, the Board is persuaded by Mr. LaForest and Mr. Green's testimony that in using a significant size criterion of 450 Livestock Units to trigger a careful analysis within a rezoning process, with its public meeting requirement and its right of appeal to the Board, the Provincial intent of preserving Prime Agriculture within the Township is achieved. By providing a window for public scrutiny for only the largest of livestock operations through the public meeting and appeal process; by establishing clear objective criteria against which these livestock applications are evaluated; by requiring the applicant to publicly disclose the details of their approved Nutrient Management Plan for their operation; the Township expects to regain public confidence in the evaluation of expansion in the agricultural economy while doing so with the least bureaucratic impact.

43 The Board notes that the concept of "intensity of use" already exists in *Section 5.5.10 Intensive Livestock Operations* of the Bruce County Official Plan. While the section refers to regulations in Zoning By-law, the Ministry's preferred option of requiring site plan approval, it does refer to the rezoning option. Also, the intensity of use as a concept is imbedded within existing zoning such as By-law 11-82 for the former Township of Huron, albeit at different, much lower intensity level. Thus, after careful consideration of the testimony, the Board makes its findings.

1. The Board finds that the concept of the Intensive Livestock and Poultry zone category gives appropriate regard to the Provincial Policy Statement.

### Planning Merits

44 The Board acknowledges Mr. Ferguson's criticism of the 450 animal unit limits as being somewhat "arbitrary" and that the potential factors in a rezoning process could be "without scientific basis". The County and Township accept this criticism in part through the inclusion of more specific criteria in the County amendments. Many of the conditions and required information are found in the Nutrient Management Plans.

45 During the Hearing, however, the Township and the County responded with recommended alternatives, which appear in Exhibits 30, 30(b), 30(c), 46, 46(b) and 47. Mr. LaForest testified that recently, the County received the results of the *Grey and Bruce Counties Groundwater Management Study*. Such information in his view should be used in any evaluation of a new large livestock operation in addition to and in relation to the information from the Nutrient Management Plan.

46 This study shows Municipal Well Capture Zones (2003) and "Zones of varying degrees of "Certainty and Uncertainty". It also portrays the location of what it refers to as "Intrinsic Susceptibility Index". This relates to the susceptibility of certain ground water environments being compromised. The Board notes that the area along the Lake Huron coastline shows intrinsically



susceptibility to ground water contamination. Ironically, much of the agricultural lands to the west in former Huron Township are the least susceptible.

#### **450 Livestock Unit Size Limit**

47 Mr. Green testified that the size of 450 Livestock Units beyond which a rezoning is required came through public discussions within the agricultural community in particular. No individual farmer expressed concerns about this size. Originally, Mr. Green recommended a much lower threshold, which potentially requires many more farmers to rezone. Mr. Green testified that, in addition the approximate number is referred to in the literature. In a report *Intensive Agricultural Operations IN Rural Ontario* dated March 31, 2000, within Exhibit 15, a farm category with greater than 450 Livestock Units appears as a discernable size category.

48 Beyond, Mr. Ferguson's testimony in opposition to the Intensive Agriculture zone itself, and his reference to 450 as being "arbitrary", no testimony gave any alternative number. In addition, within a letter dated October 29, 2003, the Ministry accepted the 450 Livestock Unit limit but as one beyond which site plan control could apply within a General Agriculture zone. If the number is acceptable for site plan control purposes, it is acceptable for a rezoning process, if that is an acceptable process. Thus, the Board makes the following finding:

2. The Board finds that the 450 Livestock Units size for the Livestock and Poultry use operation recommended by Mr. Green, beyond which a rezoning is required, is a reasonable and acceptable number to use in the circumstances of Huron-Kinloss Township;

#### **Criteria To Be Used By the Township For Intensive Livestock and Poultry Zone (AIL)**

49 The Township originally approved four criteria in Section 3.2.7 against which an application to amend the Zoning By-law would be evaluated. In addition, the Township required site plan approval. These four criteria related to drainage, groundwater susceptibility, odour impacts, and traffic impacts.

50 In consultation with the County, the Township agreed to amendments to this Section with added criteria being specified. These appear within the County approvals dated November 6<sup>th</sup> 2003.

51 During the Hearing, the County and Township, on appraising the Ministry's criticism, recommended further amendments and refinements to the criteria. These are found within Exhibit 45 (b).

1. Submission for information purposes of a Nutrient Management Plan/Strategy to be approved by the Ministry of Agriculture and Food.
2. An Intensive Livestock Impact Assessment (ILIA) shall be prepared by qualified professionals in environmental science and water resources to evaluate the potential impact of the proposed facilities on the natural environment and demonstrate that any adverse impacts will be minimized and mitigated through on-site measures.

The ILIA report will evaluate the natural heritage and natural hazard features identified in this Plan, and the identified municipal wellhead protection areas and intrinsic groundwater susceptibility mapping from the Grey Bruce Groundwater Protection Study.

The ILIA report will specify what site design and mitigation measures, enhanced buffers or setbacks may be required in order to protect watercourses, municipal drains, or wellheads from wastewater and manure spills.

3. In addition to the MDS II formula requirements, the siting of new or expanding intensive livestock or poultry facilities should consider the prevailing winds to mitigate off-site odour impact on neighbouring uses.

4. A report prepared by a qualified professional to determine any anticipated increase in traffic volumes and identify any required road or access improvements. The Township shall not approve new applications for new or expanding intensive livestock or poultry facilities unless they are satisfied that adequate roads and access to the site can or will be provided.

52 Criterion 1 makes the details of the Nutrient Management Plan as approved by the Ministry of Agriculture and Food, public and open to scrutiny. Mr. House testified as to how the details of this confidential Plan could be misused by competitors but did concede how this could be made to work. Criterion 2 requires an impact study that considers the impact upon the environment, addressing concerns those agencies, such as the Conservation Authorities, and the public may have. Criterion 3 places the results of a MDS II analysis in the context of other criteria such as wind. Criterion 4 addresses the public works concerns for managing the roads network.

53 Considerable discussion occurred between the Parties. Whether the criteria are used within a site plan process or a rezoning process, the Board is satisfied that they are reasonable, can be assessed by qualified professionals, and provide an appropriate planning framework for reports to a public meeting process. After carefully assessing all the testimony, the Board makes the following finding:

3. The Board finds that the criteria, as specified in Exhibit 46(b) and which appear as part of **Attachment 4** to this Decision, against which all Livestock and Poultry applications over 450 Livestock Units will be evaluated, give appropriate regard for the Provincial Policy Statement; are reasonable in the circumstances; and represents good planning.

#### **Public Meeting and the Right of Appeal.**

54 The site plan process alternative recommended by the Ministry does not have a formal public meeting requirement. It is accepted that local municipalities have an informal process. There is, however, no right-of-appeal by the public. The rezoning process under the *Planning Act* requires public meetings but also provides the right-of-appeal.

55 The *Nutrient Management Act* process does not have a public meeting process. There is no mechanism for public scrutiny or questioning of specific calculations. Mr. House concedes that a great deal of reliance is placed upon the professional person creating the Plan. Mr. Welwood testified that in the experience of the Coalition, resorting to the Courts for access to information, as an alternative, is slow and very costly. Mr. House, in response to this Member, established that the Ministry staff responds to input from the public at large. Without a public process, there is, however, little potential for input.

56 Mr. LaForest testified unchallenged that the Ministry recommended site plan process would take the same amount of time, three months, as the Township's recommended re-zoning process. The Township recommends now establishing this timeliness as a goal to attain in a new *Section 5.12 Public Process*.

57 Mr. Green and Mr. LaForest testified as to the level of public concern. The concerns arising out of the Walkerton situation have not dissipated. Admittedly, the livestock farm involved in Walkerton is not a large operation. However, the benefits of the *Nutrient Management Act* are not yet self-evident to the local public.

58 The public meeting, and its resultant scrutiny, is a well-established Provincial policy requirement in the *Planning Act*. In the main, the public meeting process is an orderly and civil part of the planning process. While specific public participation can be debated, the outcome of the Coalition involvement through the Courts resulted in a correction of a specific Nutrient Management Plan and a reduction in the size of the operation from 8000 to 3000 swine. The Township concluded after a costly and painful involvement, that while accepting that large livestock operations will occur, a public involvement is necessary in their approval process.

59 The significant difference in the Ministry and Township position is the imposition of the public meeting during the approval system. One purpose of planning is to resolve conflict in land uses. Municipal and applicant staff following objective criteria and established public planning policy usually accomplishes this. When public confidence is a significant issue, this bureaucratic approach is not enough.



60 One purpose of the public meeting is resolving public conflict within the planning process by doing the public business in public. A public meeting opens to scrutiny both the information and the process by which the decision is derived. Given the testimony, the Board concludes that public confidence is a significant part of the local planning circumstance.

61 The Board, after carefully assessing the testimony, makes the following finding:

4. Based upon all the testimony and circumstances faced in Huron-Kinloss Township, the Board finds that it is preferable to have a required public meeting process in any evaluation and approval of large Livestock and Poultry operations.

#### **Re-zoning To An Intensive Livestock and Poultry Zone Category (AIL)**

62 Only four specific sites now qualify and are pre-zoned in the Township's option as Intensive Livestock and Poultry Use. Each has an approved Nutrient Management Plan. No new large livestock applications await consideration or approval. Thus no individual farmer is adversely affected by this initiative at this time.

63 In addition, based upon Mr. LaForest's testimony relating to immediate past experience within the Township, and given the selected size criterion of 450 Livestock Units, the rezoning option would involve very few applications per year. In contrast, the site plan option on all General Agriculture zones would likely affect larger numbers of livestock operations.

64 The Township's option relies solely on the *Nutrient Management Act* process for all those livestock operations with fewer than 450 Livestock Units. The Township's option reduces the number of applications that they must deal with and thus reduces the potential bureaucratic impact upon the local agricultural economy. Not inconsequential, it also lowers the Township's administrative costs.

65 Mr. House's testimony is unchallenged that size of operation of itself, is not a determining factor on the distribution and application of manure. However, part of the rationale of targeting the largest livestock operations over 450 Livestock Units, is that the barns to house the livestock relate to one site and must have commensurately large winter and inclement weather manure storage of up to 8 months. It also must have very large manure handling facilities. These directly relate to the number of Livestock Units at the specific site and not to the land required for the manure distribution. Testimony indicates that such storage facilities have leaked in the past.

66 After careful consideration of the testimony, documents, and the submissions of the Parties, the Board comes to some conclusions. In the end the size parameter of 450 Livestock Units is not pivotal because in either the Ministry or the Township option it is used. Similarly, whether it is the site plan process or the rezoning process, it is critical to have stated and measurable criteria against which the application is evaluated. So this too is not the pivotal factor.

67 The pivotal difference is whether a formal public meeting process and an appeal process is applied. The planning mechanism with such requirements is that of rezoning. This is the same consistent approach, which the Township applies to the addition of a 2 mega-watt wind turbine to an agricultural operation. Given the reasonableness of the 450 Livestock Unit size of operation; of the criteria to be evaluated; of the time taken in and the similarity of each option within the planning process; and the preference for a public meeting process, the Board makes the following finding:

5. Based upon all of the testimony of Mr. LaForest and Mr. Green, the Board finds that the Intensive Livestock and Poultry zone (AIL) is a reasonable and acceptable planning tool to apply to planning in Huron-Kinloss Township.

68 As a result, the Board amends Section 3.2.7 of the Official Plan for the Township of Huron-Kinloss in the manner set out in Exhibit 46(b), which appears as part of *Attachment 4* to this Decision.

#### **Official Plan Section 2.2**

69 Part of the Ministry's concern over this section relates to the issue of "intensity of use", which the Board determined above. After considering testimony from Mr. Bill Green, Mr. Chris LaForest and Mr. Ferguson, the Board makes the following finding:

6. The Board finds concurrence with Mr. Green and LaForest that the County's proposed wording dated November 6<sup>th</sup> 2003 gives appropriate regard for the Provincial Policy Statement and represents good planning.

70 As a result, the Board amends Section 2.2 as recommended by the County in its November 6<sup>th</sup> 2003 decision.

#### **Section 3.2.2, Section 3.2.9.2**

71 During this Hearing, the Parties reached Agreement on specific amendments to Official Plan and zoning language, which appears in Exhibit 30(b). The proposed amendments relate to Official Plan *Section 3.2.2 Definitions*, and *Section 3.2.9.2*. The Board makes the following finding on these matters:

7. The Board finds concurrence with Mr. Ferguson's testimony on the behalf of all Parties relating to these two Sections that the agreed amendments gives appropriately regard the Provincial Policy Statement, and represent good planning. Exhibit 30(b) with the recommended amendments appears as **Attachment 3** to this Decision.

72 As a result, the Board amends the Official Plan for the Township of Huron-Kinloss in the manner set out in Exhibit 30 (b), which appears as *Attachment 3* to this Decision.

#### **Section 3.2.3.3 Agricultural Related Uses**

73 The Parties held numerous discussions on this matter with several modifications in the proposed text representing new understandings. While not necessarily in total agreement, the Parties reached substantial agreement. Mr. Green testified as to its planning merits. The Board makes the following finding:

8. The Board finds concurrence with Mr. Green's testimony that the recommended changes to Section 3.2.3.3 give appropriately regard the Provincial Policy Statement and represent good planning. The recommended text appears in Exhibit 30(c).

74 As a result, the Board amends Section 3.2.3.3 as it appears in Exhibit 30(c) and as an additional part of *Attachment 4* to this Decision.

#### **Section 3.2.3.4 Public Outdoor Recreation**

75 The County's recommendation of November 6<sup>th</sup> 2003 amended this heading to add "Public". The Ministry did not contest this recommendation at this Hearing.

9. Given that it remains outstanding as an appeal Issue 11, the Board finds concurrence with Mr. LaForest that the County's amendment is appropriate and that the Section 3.2.3.4 further restricts recreational activity in the Agriculture area.

76 As a result, the Board amends Section 3.2.3.4 as recommended by the County in its Decision of November 6<sup>th</sup> 2003.

#### **Section 3.2.6 Livestock and Poultry Facilities**

77 The Ministry's recommended text incorporates the site plan approval option as an alternative to the Township's option of rezoning. The Board has resolved this issue earlier in this Decision. The Board makes the following finding:

10. The Board finds concurrence with the recommendation of Mr. LaForest and Mr. Green that the text appearing in Exhibit 46(b) gives appropriate regard to the Provincial Policy Statement and represents good planning.

78 As a result, the Board amends Section 3.2.6 in the manner that appears in Exhibit 46(b) and which appears as part of *Attachment 4* to this Decision.

### Section 5.9 Urban Design and Site Plan Control

79 The Ministry's recommended text incorporates the site plan approval option for all lands in the AG General Agriculture. The Ministry relates landscaping, easements and grading matters to this process. This is proposed as an alternative to the Township's option of rezoning. The Board has resolved this issue earlier in this Decision. The Board makes the following finding:

11. The Board finds concurrence with Mr. Green's testimony that his recommended text gives appropriate regard for the Provincial Policy Statement and represents good planning.

80 As a result, the Board amends Section 5.9 as recommended by the Township in Exhibit 9 representing their April 21, 2003 Decision.

### Proposed Section 5.12 Public Process

81 In response to concerns raised, Mr. Green and Mr. LaForest recommended the insertion of this new Section, which commits the Township to a timely public process. The intent and expectation is that the rezoning process for the Intensive Livestock and Poultry (AIL) will be complete within 90 days. This standard arises out of the history of the local process detailed in Mr. LaForest's testimony.

82 The Board notes that some may question the Board's jurisdiction to act on this planning recommendation. Given that this is not a specifically referred Section under appeal to the Board, the Board gives some thought to this matter. This is a Section not approved, settled or even considered by the County or Township in their previous deliberations. It is then not reopening or reconsidering something that an identified Party could previously give consideration for an appeal. It is a Section that Mr. Green and LaForest recommend in representing the County and the Township.

83 It is a matter that strictly flows from Mr. LaForest's testimony as to the timeliness of both the site plan process and the rezoning process that are before the Board. As an additional Section, it makes explicit as a standard and as a commitment what a qualified planner Mr. LaForest recommends in testimony. Thus in this specific circumstances to obtain the best possible planning outcome, this Member concludes that the jurisdiction is available in Section 17(50) of the *Planning Act* to "make modification to all or part of the plan". Thus the Board makes the following finding:

11. The Board finds concurrence with Mr. Green and Mr. LaForest's testimony that new policy Section 5.12 Public Process within the Official Plan gives intent and direction; implements the intent of the Provincial Policy Statement; and represents good planning.

84 As a result, the Board amends the Township Official Plan as it appears in Exhibit 9 by adding a new Section 5.12, which appears as Exhibit 47 and which also appears in *Attachment 4* to this Decision.

### Fisherman's Cove Minutes of Settlement

85 Fisherman's Cove occupied the first portion of this Hearing during which the Parties presented Minutes of Settlement. The Fisherman's Cove lands are located on the shores of the inland Otter Lake in the northeast portion of the Township. It is an area that is designated and zoned Rural.

86 Fisherman's Cove developed 500 of the zoned 700 campsites on their property. Of this 86 sites are used for year round occupancy. Fisherman's Cove now abandons this request to make these sites year round occupancy.

87 The County and Fisherman's Cove, settled the matter in Issue 16 relating to Lifestyle Community Policy Section 3.8.4.1 of the proposed Official Plan. Mr. Paul Hinde, a qualified planner, testified on behalf of both Parties as to the Settlement Agreement, which is Exhibit 2 and *Attachment 1* to this decision. After considering the documents and the testimony, the Board makes the following finding:

13. The Board finds concurrence with Mr. Hinde's testimony as to the Minutes of Settlement that the recommendations give appropriate regard for the Provincial Policy Statement; are compatible with the whole of the Official Plan; and represent good planning.

88 As a result, the Board, in regard to the Fisherman's Cove referral by the County under Section 4(1) of the *Planning Act*, amends Sections 3.8.4.1 and Schedule A-1 of the Official Plan for the Township of Huron-Kinloss in the manner recommended by Mr. Hinde and appearing in Exhibit 2 and *Attachment 1* to this Decision.

#### **Silver Lake Minutes of Settlement**

89 The Parties informed the Board during the Hearing of a Settlement Agreement. The site in question is a "wilderness camping" area on inland Silver Lake south east of the hamlet of Kinloss in the northeast portion of the Township. The County had difficulty with the proposed designation, as no documented evidence demonstrated that the site in question had ever been part of the camp. During this Hearing an independent witness Mr. Doug Storey, provided affidavit evidence as to the site's camping history to the satisfaction of the County.

90 The Minutes of Settlement appear as Exhibit 36 and as Attachment 2 to this Decision. Mr. Chis LaForest, a qualified planner and the Director of Planning for the County testified as to the planning merits. After considering the documents and the testimony, the Board makes the following finding:

14. The Board finds concurrence with Mr. LaForest's testimony that the agreed amendments contained within the Minutes of Settlement give appropriate regard for the Provincial Policy Statement; are compatible with the whole of the Official Plan; and represent good planning.

91 As a result, the Board, in regard to the Silver Lake referral by the County under Section 4(1) of the *Planning Act*, amends Section 3.9.4.2 and Schedule A-1 of the Official Plan for the Township of Huron-Kinloss in the manner recommended by Mr. LaForest and appearing in Exhibit 36 and *Attachment 2* to this Decision.

#### **The Wayne Lowry Appeal of Section 3.1.1(f), 3.2.8, 3.3.3, and 3.3.7**

92 The early glacial Lake Algonquin Shoreline represents a significant physical demarcation line within the Township. It has import for the proposed Agricultural Restricted (AR) Zone, as well as the Wayne Lowry appeal to the proposed separation distance for wind turbines appearing in *Section 3.1.1(f)*.

93 The Lake Algonquin shoreline is the physical dividing line between the urban designated Lakeshore area along the shoreline, and the Prime Agriculture on a relatively flat plain inland from the coast. For most of the Township, this divide is represented by Lake Range Road, which is in close proximity to the Lake Algonquin shoreline but just above on the relatively flat Prime Agricultural area.

94 From this Lake Algonquin shoreline, which predates the present lake by thousands of years, the land quickly slopes down towards the present Lake Huron. This urbanizing slope varies in width back from the Lake Huron shore from 300 metres in the Bruce Beach area to 2.5 km in the Point Clark area.

95 Mr. Lowry appealed *Section 3.1.1 Commercial Wind Generation System* of the Township's Official Plan. Mr. Lowry also appealed Sections 3.2.8, 3.3.3., and 3.3.7. Specifically, the main objection relates to 3.1.1(f) in which the last sentence appears as follows:

All sites shall be separated from urban areas by a setback of 1,200 metres and comply with the regulations of the Zoning By-law.

96 The Board heard from five witnesses at a special evening Hearing on this matter, at which Earl Wynia, John Holder, Linda Wynia, Jim Reiche, and Norman Taylor testified. The residents testified as to their original and their compromised expectations

as to how far to place wind turbines away from their urban area. They testified as to noise generated by the turbines and to what they considered "visual pollution".

97 Don Scott, a qualified planner, and Mr. Philipp Andras, an experienced developer of "wind farms", testified in support of Mr. Lowry's appeal. Mr. Bill Green, a qualified and experienced planner, testified as to the public consultation process.

98 Wind conditions just inland from the Lake Huron coastline within the Township are identified as a significant potential wind resource for the generation of electric power. While small turbines may locate on any Agriculturally designated lands, commercial turbines of 2 mega watts of potential may only occur on agricultural land specifically re-zoned for that purpose.

99 Mr. Lowry's farm is located in the first tier of farms immediately west of Lake Range Road. It is affected by the restrictions of the new AR zone. Mr. Lowry considers the 1,200 metres separation distance an additional burden that basically prohibits any supplemental farm income from wind generation on his lands.

100 Some of the residents within the Lakeshore Urban area live on the west side of Lake Range Road above the Lake Algonquin Shoreline. Their dwellings are basically at the same visual plane as the Prime Agriculture land to the west. Any future wind turbines would be clearly visible from their residential lots.

101 Provincial guidelines and regulations govern wind turbines. In addition, the Bruce County adopted more stringent policies in *Section 4.14 Wind Energy Conversion System* of its Official Plan. The Township policies are similar to the existing Official Plan policies of the County.

102 The difference is in the proposed spatial separation. The County's policy, which is larger than the provincial standard, establishes in Section 4.14.2(vii) a "separation distance of 400 to 700 metres" in proximity to urban areas. The County planning tests are "compatibility" and "safety".

103 The County requires large-scale wind power generation, generating more than 50 kV.a, to go through a re-zoning amendment process based upon specific criteria in *Section 4.14. 2 Commercial Generating Systems*.

104 Mr. Scott testified that the 1,200 metres requirement as an Official Plan policy is arbitrary and without a reasonable planning basis. He also testified that that it does not give appropriate regard for the Provincial Policy Statement in Section 2.1.1 by unduly placing restrictions on resource-agriculturally related activity.

105 After carefully considering the testimony and documents, the Board finds no supporting evidence or rational to justify what amounts to a doubling of the existing County's separation distance. The County established its separation policy in 1997 with Ontario Municipal Board approval in 1999.

106 The proposed 1,200 metres is even beyond the 1km limit for study purposes only, established by the Ministry in *Exhibit 40 Interpretation For Applying MOE NPC Technical Publications To Wind Turbine Generators*. Residents presented no noise evidence in support of their position. The Board notes the following text at page 5:

Noise impact assessment under a "worst case scenario" at the critical Points of Reception, up to a distance of 1,000 metres from the wind turbine (or closest unit in a wind farm); Impact assessment is not required for Points of Reception farther than 1,000 metres from the wind turbine (or closest unit in a wind farm).

The Board concludes that an additional setback without supporting rational, simply adds confusion within the County's established policy framework.

107 The Board notes that in already existing zoned wind power generation sites that the Parties arrived at the 1,200 metres separation distance within the County's policy framework. However, this occurred within a site-specific consideration during a process of a zoning amendment. The Board remains unaware of those specific circumstances as part of a Settlement Agreement. The 1,200 metres did not result from an imposed and arbitrary general Official Plan policy.

108 In all other aspects of the Lowry appeal, the Board does not find the testimony pivotal in arriving at a determination on Sections 3.2.8, 3.3.3, and 3.3.7. The Board concludes by making the following finding:

15. The Board finds, based upon Mr. Scott's testimony, that the 1200 metres separation distance specified in Section 3.1.1(f) between Urban designations and specifically zoned Agricultural land permitting wind turbines is inappropriate as a Township Official Plan policy in light of the existing County Official Plan policy framework in Section 4.14 Wind Energy Conversion System.

109 As a result, the Board amends *Section 3.1.1(f)* of the Official Plan for the Township of Huron- Kinloss by deleting the following in the last sentence; "be separated from urban areas by a setback of 1,200 metres and". The amended sentence now appears as follows:

All sites shall comply with the regulations of the Zoning By-law.

110 In regard to *Section 3.2.8 Minimum Distance Separation Formulae*, *Section 3.3.3 Permitted Uses*, and *Section 3.3.7 Intensive Livestock and Poultry Use and Facilities* the Board makes the following finding:

16. Based upon the testimony of Mr. LaForest and Mr. Green, the Board finds the recommendations by the Township's April 21, 2003 Official Plan as amended by the County in its November 6, 2003 decision give appropriate regard for the Provincial Policy Statement, and represent good planning.

111 As a result, the Board amends Section 3.2.8, 3.3.7, 3.3.3, and 3.3.7 as recommended by the County in its November 6<sup>th</sup> decision.

#### **Stage One Comprehensive Zoning By-law 2001-87**

#### **Section 4.0 Definitions, Section 6.4 and Section 6.4(m) of the Proposed Zoning By-law**

112 The Parties reached agreement on these matters over the course of the Hearing. The agreed upon amendments to the Zoning By-law are in *Section 4.0 Definitions*, *Section 6.4* and *Section 6.4(m)*. Thus, the Board makes the following finding:

17. The Board finds concurrence with Mr. Ferguson testimony on behalf of all Parties that the amendments give appropriate regard to the Provincial Policy Statement; are compatible with the whole of the Official Plan; and represent good planning.

113 As a result, the Board allows the appeal in part by the Ministry under Section 34(19) of the *Planning Act* to the extent that the Board amends the Zoning By-law 2001-87 of the Township of Huron-Kinloss in the manner set out in Exhibit 30(b), which appears as *Attachment 3* to this Decision.

#### **Section 7.0 and Section 8.0**

114 The Ministry recommended that the reference to "Maximum number of livestock units" be deleted. It relates to the 450 Livestock Units already considered and resolved earlier in this Decision. Similarly, Section 8.0 deals with the Agriculture Intensive Livestock (AIL) Zone previously resolved in this Decision. Thus the Board makes it's finding as follows:

18. The Board finds concurrence with Mr. Green and Mr. LaForest that their recommendations in Section 7.0 and 8.0 of By-law 2001-87, as they appear in Exhibit 8, give appropriate regard for the Provincial Policy Statement; conform to the recommended Township Official Plan; and represent good planning.

115 As a result, the Board dismisses the appeal by the Ministry of Municipal Affairs (and Housing) under Section 34(19) of the *Planning Act* relating to Section 7.0 and Section 8.0 of the Zoning By-law 2001-87.

116 In summary, the Board made its findings and its amendments in each of the organizational sections of this decision for both the Official Plan and the Zoning By-laws of this Decision.



117 The Board so orders.

## **APPENDIX 1 — Official Plan for the Township of Huron-Kinloss Ontario Municipal Board File No. PL011018**

### **Issue #16**

Fisherman's Cove — Are the lands referred to in "OMB SPA 3.8.4.1" suitable and appropriate to be used for four season recreational use and designated "open space and major recreational" instead of the proposed special Lifestyle Community Policy? (3.8.4.1).

The following proposed settlement has been prepared with the intent of resolving the referred sections of the Township Official Plan to the Ontario Municipal Board.


- Delete Section 3.8.4.1 Otter Lake (Fisherman's Cove) in its entirety.
- Change the area presently designated "Special Policy Area Boundary" referred to OMB SPA 3.8.4.1 on Official Plan Schedule "A-1" General Land Use Plan to the Open Space and Major Recreational designation.
- Add a new sub-section immediately following Section 3.9.4.1 subsection ii) as follows:
  - iii) Notwithstanding the four-season recreational use permitted within the Special Open Space and Major Recreational designation of Otter Lake, Fisherman's Cove Park, it is recognized that there are currently 17 sites being used for year-round occupancy by individuals who are not owners or caretakers of Fisherman's Cove Tent and Trailer Park. It is the intent of this plan that the 17 sites currently being used for year-round occupancy will be phased out over time. Through the duration of this situation, the municipality may enter into agreements or pass bylaws within its legal jurisdiction in order to recognize the conversion of the existing year-round sites to four-season recreational use.
  - 3.9.4.1 iii) — delete in its entirety and replace with the following: "the municipality shall ensure that all new residential units intended to be occupied year round are designed to a year round occupancy standard."

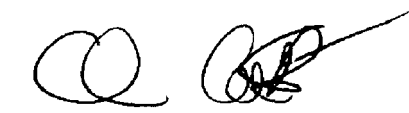
## **APPENDIX 2 — Minutes of Settlement**

### **Re: Referral of Silver Lake Tent & Trailer Park**

1. The lands be designated as proposed in the Official Plan as Open Space and Major Recreational Special Policy Area and as set out in the text in section 3.9.4.2 Silver Lake.
2. That upon preparation of Stage II of the Comprehensive Zoning By-Law that implements the policies of section 3.9.4.2, the land will be placed in an appropriate Zone permitting a campground recognizing the existing wilderness camping area as shown on the attached Schedule "A" to these Minutes of Settlement. In addition an "H" (Holding symbol) will be applied to the wilderness camping area.
3. Prior to any expansion to permanent campground sites into the wilderness camping area, the "H" (holding symbol) applied to this land shall be removed in only in accordance with the criteria of section 3.9.3 of the Official Plan.

Dated at the Township of Huron-Kinloss, County of Bruce this 13<sup>th</sup> day of August 2004.

  
 Laura Haight  
 Township of Huron-Kinloss

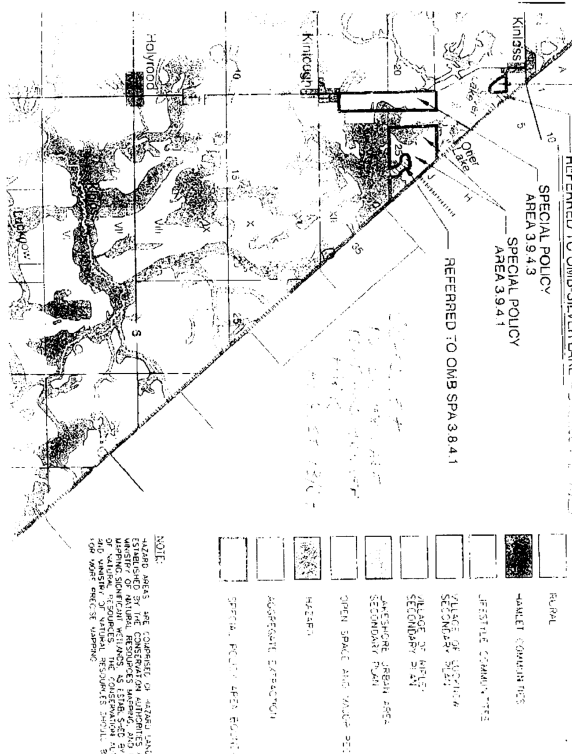
  
 Chris LaForest  
 County of Bruce

  
 Dave Hanna  
 Silver Lake Tent & Trailer Park

Graphic 1

- 28 -

PL011018



Graphic 2

### APPENDIX 3

THE CORPORATION OF THE  
 TOWNSHIP OF HURON-KINLOSS  
 RESOLUTION

(Exhibit 30 (b))

Moved by Hanna

MINUTES OF  
SETTLEMENT  
(MINOR  
MATTERS)  
CZB AND  
OFFICIAL PLAN

203 *THAT Huron-Kinloss endorse the following changes to the Township's Official Plan and Stage I Comprehensive Zoning By-Law as proposed by the Ministry of Municipal Affairs and Housing:*

## **Official Plan**

### **1) sec. 3.2.2 Definition**

2<sup>nd</sup> para. delete and replace with:

The purpose of this definition was to remove any small pockets of non-prime agricultural land that may compromise agricultural use and effective farm operations on prime agricultural land as shown on Schedule "A-1" of this Plan.

### **sec. 3.2.9.2**

2<sup>nd</sup> sentence following 'legally exist' add: "prior to 1978".

## **Zoning By-law**

### **1) Section 4.0 Definitions**

"Agriculture" following 'reforestation' add:

and maple syrup production;

"Rural Residential Cluster" following 'residential lots' add:

of one hectare or less each...

### **2) Section 6.4**

1<sup>st</sup> sentence following 'existing livestock facility' add:

and improvements to existing manure storage facilities required by the Nutrient Management Act or the Township's applicable by-laws are permitted.

### **3) subsection m)**

*amend legal description to Concession "I"*

Carried.

Certified to be a true and complete copy of resolution #203, passed by the Council of The Corporation of the Township of Huron-Kinloss on the 16<sup>th</sup> day of August, 2004.

Laura Haight

Clerk

#### **APPENDIX 4 — Modifications Proposed to the Official Plan On behalf of the Township of Huron-Kinloss**

##### **3.2.3.3 Agriculturally Related Uses**

Small-scale commercial and industrial uses that are directly related to the farm operation and required to be in close proximity to the farm are permitted in this designation and may be permitted on a separate lot.

In addition limited large-scale industrial uses that are directly related to farming and require sites outside of urban and hamlet areas due to their nuisance potential may be permitted in Agricultural Areas. Any such new use will be subject to a zone change and will meet the following requirements:

- a) There is a demonstrated need for the proposed use;
- b) There are no reasonable alternative locations, which would avoid prime agricultural areas;
- c) There are no reasonable alternative locations in prime agricultural areas with lower capability land;

All new limited large scale industrial uses may be required to submit site plans, grading and drainage plans and other drawings as authorized by Section 41 of the Planning Act and the Township's Site Plan Control By-Law.

In all cases these uses shall only be permitted where they are compatible with existing farm operations or otherwise will not reduce the ability of existing farm operations to operate or expand. The Minimum Distance Separation I formula shall be used to determine compatibility with livestock facilities. The following criteria shall also apply:

- a) The proposed use is compatible with existing or planned neighbouring land uses and, where necessary shall be adequately buffered from neighbouring land uses by the provision of adequate setbacks or physical buffers;
- b) The proposed use has direct access to a public road meeting the appropriate standards of the road authority;
- c) The parcel of land or parcel to be created has adequate lot frontage and lot area for the proposed use;
- d) Services such as water supply, sanitary sewage disposal and storm drainage are adequate to serve the proposed use and meet the requirements of the approval authority; and,
- e) The agriculturally related use shall not require large volumes of water or generate large volumes of wastewater.

##### **3.2.6 Livestock and Poultry Facilities**

To provide for new and expanding livestock and poultry facilities while ensuring protection of the natural environment and compatibility with existing land uses the Township adopts the following policies:

1. All new and expanding livestock and poultry facilities will be subject to the requirements of the Nutrient Management Act or the Township's Nutrient Management By-Law.
2. The Township recognizes that agricultural operations, which may include intensive livestock and poultry facilities, can cause disturbances to neighbours and that some nuisances associated with normal farm practices is accepted in "Agricultural Areas".

3. To provide protection and improvement of agricultural land for food production and the continuation of normal farm practices with the protection of the natural environment, the Township has established comprehensive policies in this Plan and provision in the Comprehensive Zoning By-Law to define and regulate the intensity of livestock and poultry facilities.

### 3.2.7 Intensive Livestock and Poultry Use

The Zoning By-Law shall establish an "Agricultural Intensive Livestock" Zone. Intensive livestock and poultry facilities shall be permitted uses and are defined as barns, buildings or structures on a single lot of record, where 450 or more livestock units are housed and shall include beef feed lots.

All new intensive livestock and poultry facilities and all expansions above 450 livestock units will require a zone change to ensure the proposed site is suitable for this use without creating any undue adverse impact on the natural environment and the existing community.

Council will evaluate proposed zone changes for new or expanding intensive livestock and poultry facilities based upon a complete application that also includes the following documentation:

1. Submission for information purposes of a Nutrient Management Plan/Strategy to be approved by the Ministry of Agriculture and Food.
2. An Intensive Livestock Impact Assessment (ILIA) shall be prepared by qualified professionals in environmental science and water resources to evaluate the potential impact of the proposed facilities on the natural environment and demonstrate that any adverse impacts will be minimized and mitigated through on-site measures.

The ILIA report will evaluate the natural heritage and natural hazard features identified in this Plan, and the identified municipal wellhead protection areas and intrinsic groundwater susceptibility mapping from the Grey Bruce Groundwater Protection Study.

The ILIA report will specify what site design and mitigation measures, enhanced buffers or setbacks may be required in order to protect watercourses, municipal drains, or wellheads from wastewater and manure spills.

3. In addition to the MDS II formula requirements the siting of new or expanding intensive livestock or poultry facilities should consider the prevailing winds to mitigate off-site odour impact on neighbouring uses.
4. A report prepared by a qualified professional to determine any anticipated increase in traffic volumes and identify any required road or access improvements. The Township shall not approve new applications for new or expanding intensive livestock or poultry facilities unless they are satisfied that adequate roads and access to the site can or will be provided.

Council shall require the applicant to submit a site plan and may enter into a site plan agreement pursuant to the provisions of Section 41 of the Planning Act to implement.

- a) The provisions of the NMP/NMS
- b) The recommendations of the ILIA, and
- c) The siting of buildings, structures and site works including road and access improvements, site drainage and landscape facilities.

### 5.12 Public Process

The Official Plan clarifies the Planning policies for those who become involved in the planning process in the Township of Huron-Kinloss. This section establishes timelines for zone change applications.

All development applications will be dealt with in a fair and expedient manner without undue time delays. The Township encourages applicants to consult with Township and other agency officials prior to submission of an application.

Upon acceptance of a complete application for a zone change a public meeting and Council decision will take place within 90 days.

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