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File No. 19537

January 4, 2011

Township of Melancthon  
157101 Highway 10  
R.R. 6  
Shelburne, Ont. L0N 1S9

Dear Mesdames & Sirs:

Re: Township of Melancthon - Salvage Yards

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This is to acknowledge the comments received by Mr. Jerry Jorden on December 20, 2010, regarding the revised draft salvage by-law. In light of the upcoming council meeting to discuss this draft by-law the following are my comments on the issues for council's consideration.

1. There remains an overlap between the zoning by-law and the proposed salvage by-law. One option is to enact the salvage by-law with transitional provisions that shall allow for the Township to revise the zoning by-law to ensure there are no conflicts between the two by-laws. A second option is to remove any reference to salvage yards in the zoning by-law, and ensure these are all contained in the salvage by-law. This has the benefit of ensuring that no conflict will occur going forward and avoid any confusion.

2. Council should also consider whether an administrative penalty system would be beneficial to the Township. My previous letter outlined the benefits of such a system, as restated below. Overall, with such a system in place enforcement of this and other by-laws would be more efficient and cost effective for the Township.

a. Under Part IV of the *Municipal Act, 2001*, the Township is permitted to establish a system of administrative penalties as a means of enforcing a system of licences. This has not been included in the current draft salvage by-law, but is something that the Township might want to consider. Relevant provisions would deal with notice, penalty payment, appointment and powers of a screening officers to review any imposed penalties, appointment of a hearings officer, the power to grant extensions of time and other penalties that can be imposed according to the by-law. The advantages of an administrative penalty system are:

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- ✓ The increased ability to regulate and impose conditions on a licensee over a long period of time.
- ✓ It can be used as part of a mixed system of enforcement, for example, a first offence can be subject to a modest administrative penalty and subsequent contravention can be subject to more severe prosecution, this can be a way to increase compliance, at a reduced cost to the municipality.
- ✓ It can improve efficiency in the administration and enforcement of all by-laws since a licensee is required to keep up to date contact information on the record when applying for a licence.
- ✓ Renewal of licences may be denied if there are any outstanding administrative penalties in the applicant's name, which again can bolster enforcement.
- ✓ It offers an alternative means of enforcement outside of the courts, but can be significant enough to discourage repeat offenders.
- ✓ It can offer a more cost efficient means of ensuring enforcement without starting more costly and lengthy revocation or suspension of licence proceedings.
- ✓ Offers a means of going after relatively less important offences that may be overlooked in order to avoid lengthy prosecution procedures.
- ✓ Council can appoint a hearings officer to hear reviews of any administrative penalties.

3. Certain provisions of the by-law have been criticized as being too onerous. Other provisions have rather generalized wording that make the interpretation of these provisions rather subjective. It is for council to decide, whether the it is more important to have the restrictions included, in a more generalized way, or whether to remove them altogether and trust other provincial and federal standards will suffice.

4. Other comments made by Jerry shall be included in the next draft of the by-law, including:

- a. provision for refusing to grant licences to frequent violators of the by-law;
- b. correcting defined terms;
- c. additional provision for on-site lighting to be directed away from neighbours;
- d. ensuring storage of materials shall be under the fence line throughout the property;

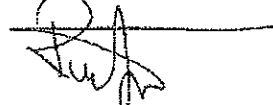
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These are my comments for council's consideration.

Yours very truly,  
SHEPHERD, OSYANY & KING, LLP

per:

A handwritten signature in black ink, appearing to read 'Ruhia Jekhio', is written over a horizontal line.

Ruhia Jekhio

(ext. 222)

RJ/m

December 23, 2010

VIA EMAIL

Ms. Denise B. Holmes, AMCT  
CAO/Clerk-Treasurer  
Township of Melancthon  
157101 Highway 10  
R.R. #6  
Shelburne ON L0N 1S9

Dear Ms. Holmes:

**Holding Zones**

As requested, this letter provides information on the use of holding zones in situations such as that referenced in Mr. Osyany's letter of December 16<sup>th</sup>, 2010, concerning the Strada pit proposal.

A holding zone can be established only through a standard zoning by-law passed in accordance with the provisions of section 34 of the Planning Act. The same process is followed as that for any other zoning by-law amendment, including the usual public notice, public meeting and opportunities for appeal.

Such a by-law would include on the map schedules an "H" or "h" symbol with one or more of the zone symbols applying to certain properties or areas. For example, rather than applying the standard map symbol "M2" for an area included in the Extractive Industrial zone, an "M2H" symbol would be used.

The text of the by-law would indicate that within the area zoned M2H the standard uses permitted in the M2 zone would not be permitted until the H symbol was removed. The text could also specify what uses would be permitted while the H symbol remains in place. Typically, these are limited to existing uses, possibly including limited expansions to such uses.

The text of the by-law would specify the requirements for the removal of the H symbol. These often relate to the provision or upgrading of one or more public services. There could be a requirement for the upgrading of a Township road providing access to the site to accommodate the traffic to be generated by a proposed use of the subject lands. In the situation referenced in Mr. Osyany's letter, the requirement would be the inclusion of a reference on the pit's MNR site plans to the operating agreement with the Township.

The most important consideration in the preparation and use of a holding symbol relates to the conditions under which the symbol would be removed. These must not relate to the principle of the proposed development of the subject lands. Such a by-law should not be passed if the

principle of development has not been established. A holding zone is used to control the implementation of development such as ensuring there are adequate municipal services, including proper roads, in place prior to development proceeding.

When the specified conditions have been met, the H symbol would be removed by an amending by-law. In the example given here, all of the standard uses permitted in the M2 zone would then be allowed on the subject lands. Few of the standard zoning by-law related notice and processing requirements would apply to any such by-law and, with one exception, there would be no appeal rights.

Prior to passing an amending by-law that would remove a holding symbol Council must give notice of its intention to do so. This notice can be either published in a local newspaper or delivered by personal service or ordinary mail to all landowners within the area subject to the by-law. Any persons or agencies that have given the clerk a written request would also have to be notified.

None of the normal appeal rights associated with a zoning by-law would apply with regard to a by-law that removes a holding symbol. The only permitted appeal to the Ontario Municipal Board would involve a situation where an application has been made to the Township to pass such a by-law and Council has either refused it or has not made a decision on the application within 120 days.

Sincerely,



G. W. Jordan, RPP

cc: Andrew Osyany