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**Z-8735**  
**Sonia Wise**

<b>TO:</b>	<b>CHAIR AND MEMBERS PLANNING &amp; ENVIRONMENT COMMITTEE</b>
<b>FROM:</b>	<b>JOHN M. FLEMING MANAGING DIRECTOR, PLANNING AND CITY PLANNER</b>
<b>SUBJECT:</b>	<b>APPLICATION BY: MIKE ABUALHAYJA 8076 LONGWOODS ROAD NOTICE OF APPEAL TO THE ONTARIO MUNICIPAL BOARD MEETING ON NOVEMBER 20, 2017</b>

<b>RECOMMENDATION</b>
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That, on the recommendation of the Managing Director, Planning and City Planner, in response to the letter of appeal to the Ontario Municipal Board, received August 23, 2017 submitted by Jacqueline Caranci relating to the Zoning By-law Amendment Z-8735 concerning 8076 Longwoods Road, the Ontario Municipal Board **BE ADVISED** that the Municipal Council has reviewed its decision relating to this matter and sees no reason to alter it.

<b>PREVIOUS REPORTS PERTINENT TO THIS MATTER</b>
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Z-8735: May 23, 2017 - Public Participation Meeting before Planning and Environment Committee to consider the Zoning by-law Amendment Application to permit a livestock facility and an abattoir.

Z-8735: July 17, 2017 – Report to Planning and Environment Committee to consider appropriate maintenance for the deferred Zoning By-law Amendment Application.

<b>PURPOSE AND EFFECT OF RECOMMENDED ACTION</b>
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The recommended action would advise the Ontario Municipal Board that Municipal Council is in agreement with their previous decision on July 25, 2017 to approve the requested amendment to the Zoning By-law to permit the livestock facility and an abattoir.

<b>BACKGROUND</b>
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An application to amend the Z.-1 Zoning By-law was received by the City and deemed complete on January 11, 2017. The application was to allow the adaptive reuse of an existing structure (barn) to facilitate two individual and related uses including a livestock facility, and an abattoir.

A Public Participation Meeting was held before the Planning and Environment Committee on May 23, 2017, to consider the matter. The Committee recommended deferral to allow staff to consider a livestock facility use that is contingent upon an abattoir use.

At Municipal Council on May 30, 2017, the matter was referred back to staff to report back with a revised by-law to ensure that the livestock operation would be maintained appropriately. Council approved the recommended amendment on July 25, 2017.

A copy of the appeal letter from Jacqueline Caranci, and the reasons for the appeal, are attached as Appendix 'B' to this report. The Ontario Municipal Board has scheduled this hearing for February 7 – 9, 2018.

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Figure 1: Subject Site

<b>CONCLUSION</b>
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The proposed abattoir and livestock facility are appropriate land uses within the Agricultural designation, and are consistent with the contemplated uses within prime agricultural areas as specified by the PPS. The proposed adaptive reuse enhances the agricultural function of the subject site and contributes to the overall viability of the agricultural area. Planning staff have reviewed the appeal letter and see no reason for Council to alter its decision relating to this matter.

<b>PREPARED BY:</b>	<b>SUBMITTED BY:</b>
<b>SONIA WISE PLANNER II, CURRENT PLANNING</b>	<b>MICHAEL TOMAZINCIC, MCIP, RPP MANAGER, CURRENT PLANNING</b>
<b>RECOMMENDED BY:</b>	
<b>JOHN M. FLEMING, MCIP, RPP MANAGING DIRECTOR, PLANNING AND CITY PLANNER</b>	

\\FILE2\users-z\pdp\Shared\implemen\DEVELOPMENT APPS\2017 Applications 8723 to\8735Z - 8076 Longwoods Rd (SW)\OMB Appeal\OMB PEC staff report\Z-8735 - OMB PEC report.docx

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Appendix A



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Appendix B

2017-LO1

City Clerk No. 2127  
 Subject 8076 Longwoods Rd  
2-1-172592-2-9735

AUG. 23 2017

Ref. Wethercott  
 C.C. \_\_\_\_\_

**RE Appeal to the OMB**



Appeal Form and Money Order/Cheque Enclosed – Act Reference s. 34(19)

DATE 2017-08-23  
YYMMDD  
 at No. 2864-81726577  
 \$ \*\*\*\*\*300.00



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 Ontario	Environment and Land Tribunals Ontario <b>Ontario Municipal Board</b> 655 Bay Street, Suite 1500 Toronto ON M5G 1E5 Telephone: 416-212-8349 Toll Free: 1-866-448-2248 Fax: 416-326-5370 Website: <a href="http://www.elt.o.gov.on.ca">www.elt.o.gov.on.ca</a>	<b>Appellant Form (A1)</b>  Receipt Number (OMB Office Use Only)  Date Stamp - Appeal Received by Municipality 
1. Appeal Type (Please check all applicable boxes) *		
Subject of Appeal	Type of Appeal	Act Reference (Section)
<b>Planning Act Matters</b>		
<b>Official Plan or Official Plan Amendment</b>	<input type="checkbox"/> Appeal a decision by local council that adopted an OP or OPA (exempt from approval by Minister or Approval Authority)	17(24)
	<input type="checkbox"/> Appeal a decision of an Approval Authority that approved or did not approve all or part of a plan or amendment	17(38)
	<input type="checkbox"/> Approval Authority failed to make a decision on the plan within 180 days	17(40)
	<input type="checkbox"/> Council failed to adopt the requested amendment within 180 days	22(7)
	<input type="checkbox"/> Council refused the requested amendment	
<b>Zoning By-law or Zoning By-law Amendment</b>	<input checked="" type="checkbox"/> Appeal the passing of a Zoning By-law	34(19)
	<input type="checkbox"/> Application for an amendment to the Zoning By-law – failed to make a decision on the application within 120 days	34(11)
	<input type="checkbox"/> Application for an amendment to the Zoning By-law – refused by the municipality	
<b>Interim Control Zoning By-law</b>	<input type="checkbox"/> Appeal the passing of an Interim Control By-law	38(4)
<b>Minor Variance</b>	<input type="checkbox"/> Appeal a decision of the Committee of Adjustment that approved or refused the application	45(12)
<b>Consent/Severance</b>	<input type="checkbox"/> Appeal a decision that approved or refused the application	53(19)
	<input type="checkbox"/> Appeal conditions imposed	53(27)
	<input type="checkbox"/> Appeal changed conditions	53(14)
	<input type="checkbox"/> Application for consent – Approval Authority failed to make a decision on the application within 90 days	
<b>Plan of Subdivision</b>	<input type="checkbox"/> Application for a plan of subdivision – Approval Authority failed to make a decision on the plan within 180 days	51(34)
	<input type="checkbox"/> Appeal a decision of an Approval Authority that approved a plan of subdivision	
	<input type="checkbox"/> Appeal a decision of an Approval Authority that did not approve a plan of subdivision	51(39)
	<input type="checkbox"/> Appeal a lapsing provision imposed by an Approval Authority	
	<input type="checkbox"/> Appeal conditions imposed by an Approval Authority	
	<input type="checkbox"/> Appeal conditions - after expiry of 20 day appeal period but before final approval (only applicant or public body may appeal)	51(43)
	<input type="checkbox"/> Appeal changed conditions	51(48)
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Subject of Appeal	Type of Appeal	Act Reference (Section)
<b>Development Charges Act Matters</b>		
<b>Development Charge By-law</b>	<input type="checkbox"/> Appeal a Development Charge By-law	14
	<input type="checkbox"/> Appeal an amendment to a Development Charge By-law	19(1)
<b>Development Charge Complaint</b>	<input type="checkbox"/> Appeal municipality's decision regarding a complaint	22(1)
	<input type="checkbox"/> Failed to make a decision on the complaint within 60 days	22(2)
<b>Front-ending Agreement</b>	<input type="checkbox"/> Objection to a front-ending agreement	47
	<input type="checkbox"/> Objection to an amendment to a front-ending agreement	50
<b>Education Act Matters</b>		
<b>Education Development Charge By-law</b>	<input type="checkbox"/> Appeal an Education Development Charge By-law	257.85
	<input type="checkbox"/> Appeal an amendment to an Education Development Charge By-law	257.74(1)
<b>Education Development Charge Complaint</b>	<input type="checkbox"/> Appeal approval authority's decision regarding a complaint	257.87(1)
	<input type="checkbox"/> Failed to make a decision on the complaint within 60 days	257.87(2)
<b>Aggregate Resources Act Matters</b>		
<b>Aggregate Removal Licence</b>	<input type="checkbox"/> One or more objections against an application for a 'Class A' aggregate removal licence	11(5)
	<input type="checkbox"/> One or more objections against an application for a 'Class B' aggregate removal licence	
	<input type="checkbox"/> Application for a 'Class A' licence – refused by Minister	11(11)
	<input type="checkbox"/> Application for a 'Class B' licence – refused by Minister	
	<input type="checkbox"/> Changes to conditions to a licence	13(8)
	<input type="checkbox"/> Amendment of site plans	16(8)
	<input type="checkbox"/> Minister proposes to transfer the licence – applicant does not have licensee's consent	18(5)
	<input type="checkbox"/> Minister proposes to refuse transfer of licence – applicant is licensee or has licensee's consent to transfer	
	<input type="checkbox"/> Minister proposes to refuse transfer of licence – applicant does not have licensee's consent to transfer	
<input type="checkbox"/> Revocation of licence	20(4)	
<b>Municipal Act Matters</b>		
<b>Ward Boundary By-law</b>	<input type="checkbox"/> Appeal the passing of a by-law to divide the municipality into wards	222(4)
	<input type="checkbox"/> Appeal the passing of a by-law to redivide the municipality into wards	
	<input type="checkbox"/> Appeal the passing of a by-law to dissolve the existing wards	
<b>Ontario Heritage Act Matters</b>		
<b>Heritage Conservation District</b>	<input type="checkbox"/> Appeal the passing of a by-law designating a heritage conservation study area	40.1(4)
	<input type="checkbox"/> Appeal the passing of a by-law designating a heritage conservation district	41(4)

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Other Matters			
Subject of Appeal <b>Z-1172592</b>	Act/Legislation Name	Section Number	
<b>2. Location Information</b>			
Address and/or Legal Description of property subject to the appeal* 8076 Longwoods Road			
Municipality * City of London			
Upper Tier (Example: county, district, region)			
<b>3. Appellant/Objector Information</b>			
Note: You must notify the OMB of any change of address or telephone number in writing. Please quote your OMB Case/File Number(s) after they have been assigned.			
Last Name * Caranci		First Name * Jacqueline	
Company Name or Association Name (Association must be incorporated – include copy of letter of incorporation)			
Professional Title			
Email Address			
Daytime Telephone Number * ext.		Alternate Telephone Number	Fax Number
<b>Mailing Address</b>			
Unit Number	Street Number * 7620	Street Name * Longwoods Road	PO Box
City/Town * London	Province * ON	Country * Canada	Postal Code * N6P 1L4
<b>4. Representative Information</b>			
<input type="checkbox"/> I hereby authorize the named company and/or individual(s) to represent me			
Last Name		First Name	
Company Name			
Professional Title			
Email Address			
Daytime Telephone Number ext.		Alternate Telephone Number	Fax Number
<b>Mailing Address</b>			
Unit Number	Street Number	Street Name	PO Box
City/Town	Province	Country	Postal Code

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**Note:** If you are representing the appellant and are not a solicitor, please confirm that you have written authorization, as required by the OMB's Rules of Practice and Procedure, to act on behalf of the appellant. Please confirm this by checking the box below.

I certify that I have written authorization from the appellant to act as a representative with respect to this appeal on his or her behalf and I understand that I may be asked to produce this authorization at any time.

**5. Appeal Specific Information**

Municipal Reference Number(s)  
Z-8735 - 8076 Longwoods Road

Outline the nature of your appeal and the reasons for your appeal \*

**LONDON CITY COUNCIL:**

We are opposed to Application Z-8735, 8076 Longwoods Road (just west of Lambeth), owned by Mike Abualhayja, for the following reasons:

It is contrary to Official Plan policies whose intent is to prevent conflicts with neighbouring land uses. The conflicts and troubles caused by the subject are worrisome for us. They include:

- odour from the manure pile and dead sheep and goat carcasses;
- the nuisance and health hazard from flies that live off the manure and carcasses;
- animals straying onto neighbouring properties;
- the traffic hazard caused by dangerous sight lines for highway traffic along the inside of the curve along Longwoods Road for trucks entering and leaving the site; and
- the loss of property value associated with those nuisances.

It is contrary to the zoning regulations that are the purpose for the creation of the AG4 Zone in the Agricultural area.

- The subject property is not an "undersized agricultural lot" as described in the Staff Report. The property was never intended to accommodate an intensive agricultural-commercial operation, as it was originally created as a "single family dwelling" lot in 2001 by a severance of a surplus farm residence. The City's rationale for granting the re-zoning was... "to facilitate a surplus farm dwelling severance, and recognize the reduced property size of the dwelling unit. The subject property was re-zoned from an Agriculture (AG1) to an Agriculture (AG4) Zone through Z-7394, to recognize the single detached dwelling that was severed from the main farm...".
- A severance application for a livestock operation would NOT have been granted.
- Granting the re-zoning application now would be undermining the intent and purpose of the AG4 Zone, as it would defeat the initial, and ONLY, purpose of the severance.

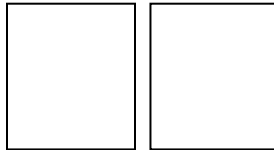
The neighbouring property owners made substantial capital investments on the understanding that the subject was a residential lot, and that the City's Zoning By-law regulations would be enforced.

- It is reasonable to assume that violators to those regulations would not be rewarded.
- We are aware that the City is currently prosecuting the owner of the subject, Mr. Abualhayja, for violations of the Zoning By-law, and that court matter will be proceeding to the scheduled August 14 court date.
- Prosecution is onerous and expensive, so the City must have good reason, meaning the ongoing violation has serious negative consequences, to prosecute a violation of the Zoning By-law. The use of fines and penalties is a last, rather than first resort, meaning that the owner's violations have been ongoing for some time.

We understand that on May 30 Council instructed staff to report back with a revised by-law that would provide for a potential opportunity to ensure that the livestock operation is maintained appropriately.

- It would seem that is an impossible task, as the owner has flagrantly violated existing by-laws for years and there is no reason to assume he will not do likewise with ANY other by-law in future.
- Given the existing conditions of the buildings and other constraints, it would be impossible to operate an abattoir legally on the property, in accordance with legislation governing such businesses. Apparently, that has not deterred the owner in the past, so approving this re-zoning application would only serve to embolden the owner to continue to flaunt the law in future.
- Succumbing to the self-interest of one property owner would mean rewarding the illegal actions of that owner.
- There would be no purpose to having by-laws if they can just be ignored.





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No need has been demonstrated for another abattoir in the area.

- There are five other abattoirs within twenty minutes of London, including one in Mt. Brydges, less than ten minutes from Lambeth, which can process Halal meats. You can find these listed abattoirs on the government website.
- Creating another abattoir would disadvantage those established businesses.
- Millar Berry Farms is one of those businesses that would be (and is already) adversely affected by the subject business. An established and viable farm for over 50 years.
- In addition, practically every grocery store in London offers Halal meats for sale.

We cannot see any justification for an application that is opposed by every resident in the area. It provides no benefit to the City or its residents: creates local disharmony and disamenities for neighbouring property owners; defeats the purpose for the creation of the lot, whose owner has steadfastly violated the City's zoning regulations; and for which there is no need.

In the event some members of Council still have diverging opinions regarding this application, we request that any decision be held off until at least after resolution of the City's prosecution of the subject owner that is currently before the court.

Jacqueline Caranci  
Resident - 7620 Longwoods Road

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I would like this letter to be on the public record.

This morning as I awoke to the sun rising and birds chirping, I was ready to start the day on my 3rd-generation family fruit farm that has been serving London for over 50 years. Then, as I walked outside... BOOM! Like smacking into a brick wall, my senses were assaulted by that distinctive "barn" stench. The air was mostly calm, but there was a slight breeze from the West. What is about 1km away to the West? Certainly not a barn full of animals, since that property is zoned AG4, which allows a residence only, and no farming operation. But alas, someone is breaking the law (again/still), and is keeping livestock on the property once again. I can hear the sheep bleating from the far end of our property, and could see the animals roaming around outside the barn while I was working in a nearby field.

So now, where I should be smelling the sweet aroma of strawberries, I'm smelling nothing but filth. And council wants to allow this on a much larger scale? How can you talk about protecting agricultural operations when you want to unleash this scourge on our well-established farm? I guarantee you that we are providing more and healthier food, and more jobs for our community, than this proposed slaughterhouse which is chronically mismanaged. Not to mention that numerous studies also show that working in a slaughterhouse has negative effects on mental health ([https://docs.google.com/document/d/1ZLRWYz0VpVFqEUFz0Dv\\_zL60WecFW58karlEVOqfmM](https://docs.google.com/document/d/1ZLRWYz0VpVFqEUFz0Dv_zL60WecFW58karlEVOqfmM)).

On our farm, we have to rotate crops on a regular basis. Our property abuts 8076 Longwoods Road. In essence, by going through with this rezoning, you would be prohibiting us from using our land to grow our main crop, strawberries. There is no way that we could grow strawberries right next to a livestock and slaughterhouse operation, what with the abundance of noise, odour, animal waste, and flies. (In case you didn't read it in my original letter, found here: <https://docs.google.com/document/d/1b2p8UnLbHt7cr05sFbv4DUCVSnHrc64c-cOCAAtQtT20>, this is an excellent piece showing just how big a problem flies can be, and how far they will spread: <https://entomology.ca.uky.edu/ef506>)

Another issue that hasn't been discussed at all in any of the meetings is that the proposed zoning will allow for "dead animal transfer". With all the deadstock we've seen there already when animals aren't even allowed to be on the property, how much worse will the stench and flies be if they are storing and transferring dead animals as part of their operation? If it's allowed in the zoning, we have to assume it will happen at some point.

Yet another issue, which is mentioned in the Official Plan, but seemingly hasn't been looked at by staff, is the protection of groundwater. Abattoirs require extensive systems to contain waste and protect groundwater. This is truly important on this property, because all of us in the surrounding area are on wells, counting on the groundwater for our drinking water. And forgive us for being skeptical about all the rules and regulations being strictly adhered to,

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but Mr. Abualhayja demonstrates on a continual basis that he has absolutely zero regard for the law.

Is this what council wants their legacy to be? To supplant a long-standing pillar of the community with a bastion of filth and death? Farming is becoming more difficult by the day, with rising costs (of everything but food), new foreign pests that devastate crops and have no predators, and everything else we have to deal with. One more slap in the face, from a council that is SUPPOSED to be protecting our interests no less, could be the straw that broke the camel's back. Is that what you want to be remembered for?

Council, when you make your decision, do what we've been hearing you say for the last few months. Protect agriculture! Protect farmers who care for and improve the land, provide nutritious food for all, and provide jobs to our community. If you actually listened to the local community, you would know who does and does not do these things.

Sincerely,

The Millars  
Millar Berry Farms  
Residents & Farm Owners - Longwoods Road

**Oral/written submissions to council**

Did you make your opinions regarding this matter known to council?

Oral submissions at a public meeting  Written submissions to council

**Planning Act matters only**

Applicable only to official plans/amendments, zoning by-laws/amendments and minor variances that came into effect/were passed on or after July 1, 2016 (Bill 73)

Is the 2-year no application restriction under section 22(2.2) or 34(10.0.0.2) or 45(1.4) applicable?

Yes  No

**6. Related Matters**

Are there other appeals not yet filed with the Municipality?

Yes  No

Are there other matters related to this appeal? (For example: A consent application connected to a variance application)

Yes  No

**7. Scheduling Information**

How many days do you estimate are needed for hearing this appeal?

1 day  2 days  3 days  4 days  1 week

More than 1 week

How many expert witnesses and other witnesses do you expect to have at the hearing providing evidence/testimony?

1 expert witness

Describe expert witness(es)' area of expertise (For example: land use planner, architect, engineer, etc.)

Douglas Gagel - Senior Planner


Do you believe this matter would benefit from mediation?

(Prior to scheduling a matter for mediation, the OMB will conduct an assessment to determine its suitability for mediation)

Yes  No

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<b>8. Required Fee</b>		
Total Fee Submitted * \$ 300		
Payment Method * <input type="checkbox"/> Certified cheque <input checked="" type="checkbox"/> Money Order <input type="checkbox"/> Solicitor's general or trust account cheque		
<b>9. Declaration</b>		
I solemnly declare that all of the statements and the information provided, as well as any supporting documents are true, correct and complete.		
Name of Appellant/Representative	Signature of Appellant/Representative	Date (yyyy/mm/dd)
Jacqueline Carand		2017/08/22
Personal information requested on this form is collected under the provisions of the <i>Planning Act</i> , R.S.O. 1990, c. P. 13, as amended, and the <i>Ontario Municipal Board Act</i> , R.S.O. 1990, c. O. 28 as amended. After an appeal is filed, all information relating to this appeal may become available to the public.		
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