

THE CORPORATION OF THE MUNICIPALITY OF MISSISSIPPI MILLS

STAFF REPORT

DATE: May 17, 2022
*Deferred from May 17, 2022 COW meeting

TO: Committee of the Whole

FROM: Marc Rivet, Planning Consultant

SUBJECT: **OFFICIAL PLAN AMENDMENT 29 (LEAR)**
ZONING BY-LAW AMENDMENT Z-04-22
Municipality of Mississippi Mills

RECOMMENDATION

THAT Committee of the Whole recommends that Council adopts Official Plan Amendment No. 29 being an amendment to repeal and replace Schedule A – Rural Land Uses to the Community Official Plan and make certain policy revisions to the Community Official Plan to be in full force and effect on January 5, 2024.

THAT Committee of the Whole recommends that Council adopts Zoning By-law Amendment Z-04-22 being a concurrent Zoning By-law amendment in order for the Rural and Agricultural limits to be consistent with the proposed Schedule A – Rural Land Use to the Community Official Plan to be in full force and effect on January 5, 2024.

BACKGROUND

Community Official Plan

Mississippi Mills Community Official Plan has two primary designations for the rural areas, an Agriculture designation and a Rural designation. The Agriculture designation is intended to be reflective of the Prime Agricultural Areas as defined in the Provincial Policy Statement (PPS). The current Agriculture designation consists predominantly of Class 1 – 3 soils and excludes adjacent lands (Class 4 -7 soils). The Rural designation is comprised of the remaining lands (outside of the Agriculture designation).

The Community Official Plan also contains areas that are identified as a Rural-Agriculture Overlay which have associated policies related to active agricultural operations in Section 3.3.4 of the Community Official Plan.

This current policy framework is not consistent with the 2020 Provincial Policy Statement as it relates to Prime Agricultural lands as the current Agriculture designation does not include lands beyond the Class 1 to 3 soil classification. As it relates to the Agriculture designation in the Community Official Plan, Section 2.3.1 of the PPS indicates that *prime agricultural areas* shall be protected for long-term use for agriculture. Prime agricultural areas mean areas where

prime agricultural lands predominate. This includes areas of prime agricultural lands and associated Canada Land Inventory Class 4 through 7 lands, and additional areas where there is a local concentration of farms which exhibit characteristics of ongoing agriculture. Prime agricultural areas may be identified by the Ontario Ministry of Agriculture, Food and Rural Affairs (OMAFRA) using guidelines developed by the Province as amended from time to time. A prime agricultural area may also be identified through an alternative agricultural land evaluation system approved by the Province.

Official Plan Amendment (OPA) 21 Five-Year Review

Official Plan Amendment 29 (OPA 29) stems from the work that started as part of OPA 21; which was the Five-Year Review of the Community Official Plan. Discussions regarding updating Agriculture designation in the Community Official Plan began in 2016 during the OPA 21 process. As part of OPA 21, a review of the Agriculture designation was conducted based on input from the Ontario Ministry of Agriculture, Food and Rural Affairs (OMAFRA) and further discussed in a background report provided to the Municipality titled, Agricultural Lands Review, February 2018. The proposed amendment, at that time, included 15,560 hectares of lands designated Agriculture compared to the 11,723 hectares currently designated Agriculture (in addition to 5,559 hectares of lands under the Rural Agriculture Overlay).

On February 20, 2018, Council passed Resolution No. 110-18 to defer the review of its Agriculture designation and review these designated areas at a later date using an alternative agricultural land evaluation system approved by the Province, known as an Agricultural Land Evaluation and Area Review (commonly referred to as LEAR).

Following a series of meetings in 2018 and 2019, Agricultural Advisory Committee (AAC) meetings as well as Council Resolutions with respect to undertaking a LEAR study, the study formally began in 2019 after Council passed the following Resolution (222-19):

THAT Council direct staff to request that the County of Lanark delay the decision on agricultural mapping until the completion of the LEAR review with a mutually agreed upon timeline.

As such, the County's Notice of Decision on OPA 21 deferred the delineation of prime agricultural areas under the Agriculture designation, pending the completion of a LEAR study.

LEAR Study

LEAR is a tool which can be used by municipalities to identify lands that may be suitable for designation as prime agricultural areas in their Official Plans. Developed by OMAFRA, LEAR uses quantitative datasets to evaluate the agricultural suitability of lands based on soil capability as well as other factors that affect agricultural potential, within the context of a given municipality.

LEAR scores individual land parcels based on their agricultural potential whereby high-scoring parcels have the greatest agricultural potential. LEAR also establishes a score threshold that is specific to the study.

LEAR is intended to provide municipalities with a starting point for designating prime agricultural areas. Parcels that score below the selected score threshold are typically considered as poor candidates for prime agricultural areas designation while those scoring above the score threshold are typically considered as good or excellent candidates for designation; however, a number of other factors play a role in the identification of Prime Agricultural Areas including property owner/community feedback, input from working groups, and expert reports (i.e. Soil Reports prepared by an Agrologist). As a result, a parcel can receive a high LEAR score but may not be included as a prime agricultural area or receive a score lower than the established threshold but be included in the identification of a prime agricultural area.

Again, it is important to remember that when we are talking about designating “prime agricultural areas” that this can include land that does not have Class 1-3 soils. Lands that have Class 4-7 soils are not automatically excluded from the “prime agricultural area”. Likewise, a high scoring parcel of land with Class 1-3 soils can be excluded from designation as part of a “prime agricultural area”.

Each LEAR evaluation has two key components:

- Land Evaluation (LE): This component evaluates soil capability as it relates to agriculture. The Canada Land Inventory (CLI) Soil Capacity Classification dataset is used for this component of the tool; providing 7 soil classifications as well as an organic soil classification to establish soil capacity.
- Area Review (AR): This component allows Municipalities to consider other factors that impact agricultural potential. This may include onsite factors such as parcel size or current land use or may include offsite factors such as conflicting land uses.

Attachment B illustrates the changes to the Community Official Plan Schedule A “Rural Land Use” based on the first draft of OPA 29 Schedule A released in March 2021 and the second draft of OPA 29 Schedule A released in March 2022.

In terms of total land area, these changes represent the following areas designated, or proposed to be designated as Agriculture:

	Agriculture designation	“Rural – Agriculture” Overlay
2006 COP Schedule A	11,705 hectares	5,558 hectares
2018 Draft AG Review OPA 21*	15,560 hectares	5,558 hectares
2021 Draft Schedule A OPA 29	14,343 hectares	-
2022 Draft Schedule A OPA 29**	13,564 hectares	-

* Agricultural review was deferred from OPA 21

** 2022 Schedule A (OPA 29) also highlights 4 properties that are being proposed as “Rural” based on professional agrologist report’s findings and conclusions.

STUDY AND CONSULTATION PROCESS

A series of public meetings, open houses, working groups and Committee meetings were held over the course of the LEAR study. Many of these meetings occurred during COVID-19 and following Provincial and Municipal protocol, many of these meetings were held virtually.

Committee of the Whole (COW) Meetings and Related Documents

On March 25, 2021, a Staff Report was presented to COW seeking direction from Council to proceed with an Open House and Public Meeting for OPA 29 in accordance with *Planning Act* notification procedures. A Background Report was also presented explaining the LEAR methodology to identify prime agricultural areas.

On April 8, 2021, Notice of Public Meeting was completed and a draft copy of OPA 29 (dated April 8, 2021) was made available for review including supporting information and material. On May 4, 2021, a Public Meeting was held to provide an opportunity for the public to review and provide input on the draft Official Plan Amendment.

Mississippi Mills Agriculture Advisory Committee (AAC)

The AAC is an advisory committee of Council with a mandate to advise and support Council on matters of impact to the agricultural community for the benefit of the entire Municipality. The AAC’s mission statement is also to provide support on other related issues as requested by Council. The AAC consists of 1 Council member, Mayor (ex-officio), staff support, and 5 to 7 members of the public representing various sectors of the community.

A series of meetings were held with the AAC as the LEAR study progressed including the following:

- April 22, 2021: JLR presented an overview of Land Evaluation and Area Review (LEAR) with guests John O’Neill, OMAFRA representative and Julie Stewart, Lanark County Planner. Agricultural Advisory Committee Meeting - April 22, 2021
- June 02, 2021: The AAC prepared a report with a series of recommendations for Council. Agricultural Advisory Committee Meeting - June 2, 2021 These recommendations included:
 - That a LEAR working group be developed comprised of the Agricultural Advisory Committee members plus the Council representatives from Ramsay and Pakenham Wards, plus ad hoc members from the agricultural community.
 - That the working group be supported:
 - in meeting with the consultant to better understand the specific assumptions made in developing the study

- In reviewing the map products developed by the project
 - In reviewing a representative set of properties to validate the study to date or recommend changes in the assumptions.
 - In developing an appropriate communication to the affected landowners to ensure that they know and understand the changes and possible effects on their properties.
 - In contacting a selection of landowners affected by this study.
 - That the Indigenous community be consulted as part of the process.
 - That a direct mailing be made to inform landowners of these changes.
 - That this report be presented to Council
- December 8, 2021, a meeting was held to discuss proposed changes to OPA 29 and further discussions about suggested revisions including a list of properties being added and removed. Agricultural Advisory Committee Meeting - December 8, 2021
- February 18, 2022, the AAC approved a recommendation to approve the revised Official Plan Amendment No. 29 “Prime Agricultural Area Review” dated November 24, 2021, as approved by the LEAR Working Group. Agricultural Advisory Committee Meeting - February 18, 2022

Staff note that since the recommendation of the AAC to approve the revised OPA 29 dated November 24, 2021, the municipality received three (3) soil study submissions from landowners. These soil study submissions were reviewed by JLR and determined to meet the LEAR criteria. As a result, three areas previously recommended for Agriculture designations have been modified to Rural designations in the attached OPA 29 document and associated Schedule. These areas are highlighted in red in Attachment B.

LEAR Working Group Mandate

As previously noted, a LEAR Working Group was struck out of the recommendation from the AAC in June 2021. The LEAR Working Group is comprised of the AAC members plus the Council representatives from Ramsay and Pakenham Wards.

The LEAR working group’s mandate was to review the LEAR recommendations and propose revisions based on their local knowledge and expertise to ensure the protection of prime agricultural areas and local concentration of farms which exhibit characteristics of ongoing agriculture.

The following are the series of meetings that were held with the LEAR Working Group and streamed online on the Municipality’s website:

- LEAR Working Group Meeting - June 28, 2021
- LEAR Working Group Meeting - August 3, 2021
- LEAR Working Group Meeting - September 1, 2021
- LEAR Working Group Meeting - September 22, 2021

- [LEAR Working Group Meeting - October 6, 2021](#)
- [LEAR Working Group Meeting - October 20, 2021](#)
- [LEAR Working Group Meeting - November 3, 2021](#)
- [LEAR Working Group Meeting - February 8, 2022](#)

The final recommendation of the LEAR Working Group to the AAC was a recommendation to approve of the revised Official Plan Amendment No. 29 “Prime Agricultural Area Review” dated November 24, 2021.

Public Consultation Process

The public consultation process for LEAR was undertaken through a series of meetings, public notifications, direct mailout to landowners, website updates, email notifications as well as social media postings (Municipality’s Facebook page).

The Municipality created a webpage dedicated to the LEAR study containing recordings of streamed meetings, links to meeting agendas and minutes, all supporting information and material related to the LEAR study and OPA 29 and concurrent zoning schedule update:
[Official Plan Amendment 29 - Prime Agricultural Area Designation Review - Mississippi Mills](#)

The following is the information posted on the Municipality’s webpage:

OPA 29 and Zoning By-law Z04-2022 Public Meeting Information Session April 5, 2022

- Public Notice for Public Meeting
- Presentation Slides for Public Meeting
- Recording of Public Meeting
- What is LEAR?
- LEAR Next Steps?
- Frequently Asked Questions
- GIS LEAR Map (Free ArcGIS Web Application)

OPA 29 Documents and Additional Resources

- Proposed Agricultural Designation Map
- Map of Rural and Agricultural Changes
- Draft Official Plan Amendment 29
- Draft LEAR Zoning Ramsay Ward
- Draft LEAR Zoning Pakenham Ward
- OMAFRA LEAR Document

Committee of the Whole Meetings and Related Documents

- March 25, 2021 Report to Committee of the Whole re: Official Plan Amendment (OPA) No. 29 Agricultural Lands LEAR
- March 25, 2021 OPA 29 Overview Presentation Slides
- Public Meeting Notice March 2021

- Draft OPA 29 March 2021
- Letter to property owners changing from Agricultural to Rural designation
- Letter to property owners changing from Rural to Agricultural designation
- LEAR Scores of 66+

Agricultural Advisory Committee (AAC) Meetings

- April 22, 2021 (including JLR presentation)
- June 2, 2021
- December 8, 2021
- February 18, 2022

Information Sessions and Previous Public Meeting Links

- April 28, 2021 Virtual Information Session Recording (with presentation slides)
- May 4, 2021 Public Meeting Recording

LEAR Working Group Meetings

- June 28, 2021
- August 3, 2021
- September 1, 2021
- September 22, 201
- October 6, 2021
- October 20, 2021
- November 4, 2021
- February 8, 2022

In addition to newspaper notice, email updates, and use of the municipal website, the municipality sent out 578 letters by mail on July 28, 2021 (mailout #1) including:

- 135 letters to property owners that were being considered to change from Agricultural to Rural (including properties that had a partial Agriculture designation).
- 443 letters to property owners that are proposed to be changed from Rural to Agricultural (including properties that had a partial Rural designation).

The Municipality received emails from approximately 120 landowners and approximately 15 phone calls following the release of the first draft mapping in 2021. A copy of this email correspondence has been included in Attachment C. Municipal staff reviewed these submissions and discussed many of them with the LEAR Working Group. Verbal submissions were also received during the April 28, 2021, Virtual Information Session and the May 4, 2021, Public Meeting.

Following the LEAR Working Group meetings and the recommendation to approve the LEAR study and implementation of OPA 29 from the AAC, staff completed additional consultation in the form of newspaper notice, email updates, and postings on the municipal website and social media.

In addition to the above notification, the Municipality sent out a total of 508 letters by mail on March 25, 2022, (mailout #2) including:

- 28 letters to property Owners whose properties are currently designated Agriculture and proposed to be redesignated to Rural
- 192 letters to property Owners whose properties are currently designated partially Agriculture and partially Rural and proposed to be redesignated to Rural
- 107 letters to property Owners whose properties are currently designated Rural and proposed to be redesignated to Agriculture
- 181 letters to property Owners whose properties are currently partially designated Agriculture and partially Rural and proposed to be redesignated to Agriculture

As the study progressed, the information which was presented to the public, the LEAR working group recommendations and public submissions were made, the proposed lands for designation changed. The property owners notified in Mailout #1 and those notified in Mailout #2 are slightly different because the properties that were affected by the proposed designation changes were different. During the consultation and comment periods discussed above, there were a number of changes made to the lands recommended for designation.

The Municipality has received emails from approximately 80 landowners following release of the second draft in March 2022. A copy of this email correspondence has been included in Attachment D. Staff note that many of these submissions relate to the Burnt Lands Area of Natural and Scientific Interest (ANSI).

Burnt Lands Area of Natural and Scientific Interest (ANSI)

For the Committee's information, the limits of the Burnt Lands (ANSI) are not being revised with this review. At the beginning of the LEAR study, discussions were held with representatives from Ministry of Northern Development, Mines, Natural Resources and Forest (MNRF), OMAFRA, and Ministry of Municipal Affairs and Housing (MAH) who did not identify any conflicts with any changes of designation from Rural to Agriculture. Staff are of the opinion that any change in designation from Rural to Agriculture for those lands would result in greater protection of the ANSI areas as the development policies (mainly consents) are stricter as it relates to the Agriculture designation versus the Rural designation.

RESULTS OF LEAR STUDY AND POLICY IMPLICATIONS

Rural to Agricultural Designation

The majority of permitted land uses for Agriculture and Rural designations are very similar. The most notable policy difference between these two designations is the ability to sever land. The current severance policies in the Community Official Plan are stricter for the lands within the Agriculture designation compared to the Rural designation.

For the Committee's information, the majority of the public feedback expressing concern over the LEAR study and its policy implications were focused on the impact of development potential. The change in designation from Rural to Agriculture does not have tax implications and minimal difference in permitted uses between the two designations; however, there was

notable concern amongst the public regarding the restriction on lot creation (severance), ability for land to be included in future settlement area expansions as well as the ability to develop the lands for rural residential subdivision lots.

For the Committee's information, rural residential subdivisions are not currently supported in the policy framework for the Community Official Plan in the Rural designation. With respect to LEAR impacting the evaluation of expansion lands for settlement areas, any expansion to settlement areas requires a comprehensive study which includes a range of important land use planning considerations such as population projections, assessment of available vacant land within existing settlement areas, the existing transportation network, servicing feasibility as well as land use designations. Lands that are designated Agriculture would be a consideration in settlement area expansion; however, it would be one of many land use considerations that would be balanced as part of a larger land use study.

With respect to lot creation (severance) potential, the change in designation from Rural to Agriculture will impact a landowner's ability to sever non-farm residential lots *if* the landowner has an original township lot (as of July 1, 1973). The Agriculture designation limits lot creation to surplus farm dwelling severances, farm consolidations and severances that generally meet the minimum 40 ha agricultural lot area. Further discussion regarding lot creation is noted below.

Agricultural to Rural Designation

As previously mentioned, the permitted land uses are very similar in both designations. The significant difference for properties designated Rural is that lot creation (severance) is permitted up to two (2) lots from the original township lot (as of July 1, 1973). Staff note however that there are a number of other potential constraints to lot creation such as severance history, Minimum Distance Separation (MDS) setback requirements as well as other land use constraints (Provincially Significant Wetlands, Aggregate resources, Hydrogeological issues etc.) which impact the severance ability on lands. As a result, the creation of two (2) non-farm residential lots from those lands that are designated Rural is considered a 'best case scenario'.

Many of those who have made submissions with regards to the LEAR study and its proposed designations do not have the ability for severances under the current policy framework. These properties are either not eligible or have already had the maximum number of severances allowed under the Official Plan policies. Others who have the ability to sever land under the current policy framework have the opportunity to do so until such time that the OPA 29 is in full force and effect. This is further discussed in the Implementation Section of this report.

Removal of Rural-Agricultural Overlay

The "Rural – Agriculture" overlay was applied to lands that were considered to be locally significant and that were outside the Agriculture designation. The policies in the Community Official Plan related to this overlay requires that new non-farm buildings maintain a 30-metre setback from active agricultural operations or seek approval from the Committee of Adjustment.

As the purpose of OPA 29 is to designate prime agricultural areas under the Agriculture designation using LEAR and local knowledge, there are other land use planning tools such as

the Minimum Distance Separation guidelines and zoning setbacks that requires suitable setbacks between non-farm residential uses and agricultural uses.

As a result, staff are of the opinion that this Overlay and related policies are not necessary with respect to the implementation of setbacks from active agricultural uses and can be removed from the Community Official Plan as part of OPA 29.

Zoning By-law Amendment

As part of the LEAR study and implementing OPA 29, staff are recommending that implementing zoning be included as part of the implementation of OPA 29. Zoning updates that are consistent with OPA 29, will ensure that the zoning on the lands which are subject to amendment are up to date as soon as OPA 29 comes into full force and effect.

NEXT STEPS

A decision of Mississippi Mills Council on Official Plan Amendment 29 and Zoning By-law Amendment Z-04-22 is the first step in the implementation process.

As the County of Lanark is the approval authority of Official Plan Amendments to the Community Official Plan, the decision of Official Plan Amendment 29 will need to be forwarded to the County for approval. In addition, if Official Plan Amendment 29 is approved by Mississippi Mills Council, the municipality must initiate a County Official Plan Amendment in order to update the County's Agricultural and Rural designations for Mississippi Mills to ensure the Community Official Plan and the County's Sustainable Community Official Plan is consistent.

The following provides a high-level outline of next steps in the process of implementing the proposed amendments.

County Official Plan Amendment Process

- Official Plan Amendment documents and Council By-law (adoption) sent to County
- County Official Plan Amendment (approval authority) process initiated

Review of Official Plan Amendment – County

- County circulates County Official Plan Amendment – includes OMAFRA for review
- May result in changes to Official Plan Amendment
- County holds Public Meeting
- County makes recommendation to County Council
- County Council can approve, approve with modifications, or refuse OPA 29
- Notice of Decision - Official Plan Amendment appeal period

Ontario Land Tribunal

- Appeals of the Lanark County decision may be submitted to the Ontario Land Tribunal

Impacts and Timeframe to Land Owners

- OPA 29 will not be in effect until all appeals are dealt with.
- Applications for land use (development) including land division (consent) would be considered under current policy until OPA 29 and ZBA-04-2022 come into effect.

- A transition period to January 5, 2024 is proposed where applications (which have been deemed complete) would be reviewed against current policy (in effect at time of Council adoption).

IMPLEMENTATION – Transition Clause for Official Plan Amendment 29

As noted in this report, the process to amend the Community Official Plan and the Zoning By-law will impact some landowners more than others. Some landowners will lose the right to sever their land while some others will gain the right to sever non-farm residential lots. The process to amend these policy documents is also subject to appeal to the Ontario Land Tribunal.

In recognition of the impact on landownership and the nature and length of the appeal process, it is recommended that a transition period be established as part of the Amendment. The proposed effective date for the Amendments to be in full force and effect is January 5, 2024. If there are no appeals to Official Plan Amendment 29, then this transition period will provide affected landowners a period of time in which to prepare for the designation change to their property.

For any landowner that currently has severance rights as part of a Rural designation and will lose these rights if the property is redesignated to Agriculture, a transition clause will ensure that they have ample time to submit a complete consent application (including any required plans and studies) to the County of Lanark's Land Division Committee to start the process of severing their land.

If an appeal(s) is submitted against Official Plan Amendment 29, it may very well not be resolved by January 5, 2024. If this is the case, then the appeal process will also provide affected landowners additional time to prepare for any land use designation change.

Staff are of the opinion that the advantage of providing a clear implementation date of January 5, 2024, is to ensure that all landowners have a minimum amount of time to prepare for the land use designation change.

For the Committee's information, with respect to severance applications, applicants do not have to complete the severance application process by January 6, 2024, rather the applicants need to have applied for a consent to sever with a complete application by January 5, 2024.

All of which is respectfully submitted by,

Approved by,

Marc Rivet, MCIP, RPP
Planning Consultant

Ken Kelly
CAO

ATTACHMENTS:

Attachment A - Community Official Plan (2006) Schedule A "Rural Land Use"

Attachment B – Comparison between existing 2006 Schedule A and proposed 2021 and 2022

Attachment C - Redacted original comments from 1st Draft OPA 29 (2021)

Attachment D - Redacted original comments from 2nd Draft OPA 29 and Z-04-22 (2022)
Schedule E – Draft Official Plan Amendment OPA 29
Appendix F – Draft Zoning By-law Amendments Z-04-22

Attachment A –
Community Official Plan (2006) Schedule A “Rural Land Use”