

MUNICIPALITY OF LEAMINGTON AGENDA



PUBLIC MEETING

ZONING BY-LAW AMENDMENT
311 MERSEA ROAD 5
PROPOSED DOG BOARDING OPERATION

MONDAY, APRIL 6, 2009
COMMENCING AT 7:00 P.M.
IN THE COUNCIL CHAMBERS

ITEMS FOR CONSIDERATION:

1. Notice of Public Meeting
Pages 2-3
2. Report PLA 04/09 dated February 26, 2009 re: Zoning By-law Amendment - Proposed Dog Boarding Operation - 311 Mersea Road 5
(For Reference - Previously considered at the March 9, 2009 Council Meeting)
Pages 4-12
3. Correspondence from Karen Burgess and Sean Insley dated March 20, 2009 re: Proposed Zoning By-law Amendment - Dog Boarding Operation
Page 13

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THE CORPORATION OF THE MUNICIPALITY OF LEAMINGTON
NOTICE OF PUBLIC MEETING
ZONING BY-LAW AMENDMENT
DOG BOARDING OPERATION (311 MERSEA ROAD 5)

TAKE NOTICE that the Council of the Corporation of the Municipality of Leamington will hold a public meeting concerning a proposed zoning by-law amendment under the provisions of the Planning Act, R.S.O. 1990 on **Monday, April 6th, 2009 at 7:00 pm** in the Council Chambers at the Municipal Building.

The subject property is described as Concession 5, South Part Lot 3 and located at 311 Mersea Road 5 in the former Township of Mersea, now a portion of the Municipality of Leamington (see key map).

The subject property is zoned Agricultural Residential (A5) on map 24 of Zoning By-law #890-09. It is requested that the property be placed in an Agricultural Residential (A5) Defined Zone to permit a dog boarding operation (dog day care), as a secondary use, in addition to the existing residential use.

The subject property is designated Agricultural in the Official Plan for the Municipality of Leamington (approved 2008).

ANY PERSON may attend the public meeting and/or make written or verbal representation either in support of or in opposition to the proposed zoning by-law amendment.

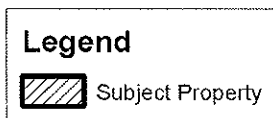
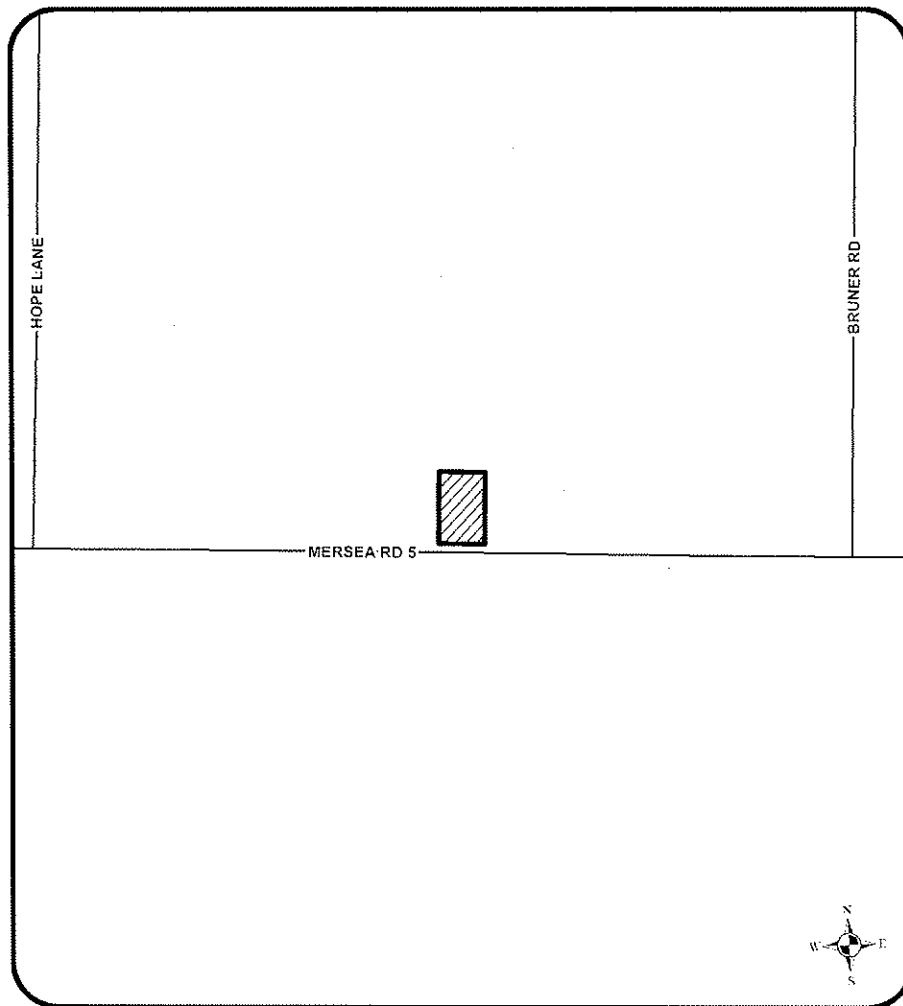
If a person or public body that files an appeal to a decision of the Municipality of Leamington in respect of the proposed zoning by-law amendment does not make oral submission at a public meeting or make written submissions to the Municipality before the proposed by-law is adopted, the Ontario Municipal Board may dismiss all or part of the appeal.

ADDITIONAL INFORMATION relating to this matter is available for review at the Municipal Office for the Corporation of the Municipality of Leamington, 38 Erie Street North, during regular

office hours. Please contact Tracey Pillon-Abbs, Manager of Planning Services, for further information.

DATED at the Municipality of Leamington this 11th day of March 2009.

BRIAN R. SWEET, CLERK
MUNICIPALITY OF LEAMINGTON
38 ERIE STREET NORTH
LEAMINGTON, ONTARIO N8H 2Z3
TELEPHONE: (519) 326-5761



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Provided by the Municipality of Leamington Engineering Department - GIS Services
38 Erie Street North Leamington, Ontario N8H 2Z3
TEL: (519) 326-5761 FAX: (519) 326-2451

REPORT

TO: MAYOR AND MEMBERS OF COUNCIL

FROM: TRACEY PILLON-ABBS, MANAGER OF PLANNING SERVICES

DATE: FEBRUARY 26, 2009

SUBJECT: ZONING BY-LAW AMENDMENT
PROPOSED DOG BOARDING OPERATION
311 MERSEA ROAD 5

AIM:

To report upon a request to schedule the required public meeting to consider a proposed zoning by-law amendment for property located at 311 Mersea Road 5.

BACKGROUND:

Purpose of Application:

Staff has received an application for re-zoning by the owner(s) of the property, to amend the subject lands to permit a dog boarding operation (Camp K-9 Dog Day Care) in addition to the existing residential use. It is proposed to operate the business out of an accessory structure (see attached business plan).

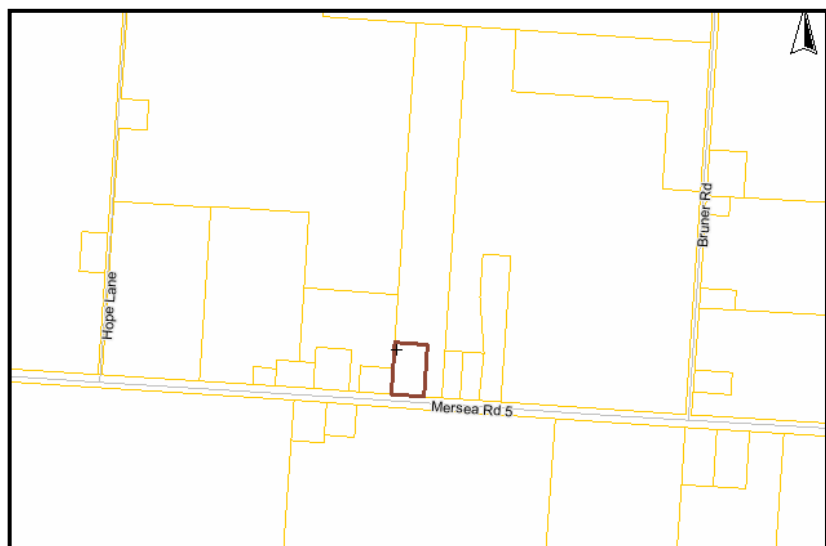
Property Description:

The subject property is described as Concession 5, South Part Lot 3 and located at 311 Mersea Road 5 in the former Township of Mersea, now a portion of the Municipality of Leamington (see key map).

Currently, the property has an existing single unit detached dwelling and one accessory structure.

The property has access to municipal water along with private sanitary and storm sewers.

The property has frontage on Mersea Road 5. There is a mix of residential and agricultural uses abutting the lands.



COMMENTS AND ANALYSIS:

Provincial Policy Statement (PPS):

According to section 2.3.3.1 of the PPS, in prime agricultural areas, permitted uses and activities include agricultural uses, secondary uses and agriculture-related uses.

Further, proposed new secondary uses and agriculture-related uses shall be compatible with, and shall not hinder, surrounding agricultural operations. These uses shall be limited in scale, and criteria for these uses shall be included in municipal planning documents as recommended by the Province, or based on municipal approaches which achieve the same objective.

Secondary uses is defined as secondary to the principal use of the property, including but not limited to, home occupations, home industries, and uses that produce value-added agricultural products from the farm operation on the property.

County Official Plan 2005 (OP):

The OP sets out policies in section 3.3.3 (c) which state that uses secondary to the principal use of the property, including home occupations, home industries and uses that produce value-added agricultural products from the farm operation on the same property are also permitted in the Agricultural designation.

Leamington Official Plan, 2008 (OP):

The subject property is designated Agricultural in the Official Plan (OP) for the Municipality of Leamington (approved 2008).

Section 2.14 of the Plan sets out that secondary uses are permitted in Agricultural designations in accordance with the specific regulations contained within the Zoning By-law. They include bed and breakfast establishments, in-home occupations, farm occupations and road side stands as defined in the zoning by-law. Entrance permits may be required to ensure that traffic generated and safety from traffic entering roadways from these uses are addressed.

The goal of the designation is to restrict the type and amount of non-farm development in the area designated "Agricultural". However, small scale commercial and dry industrial uses, as defined in the Zoning By-law may be permitted only upon amendment to the zoning by-law implementing this plan.

Leamington Zoning:

The subject property is zoned Agricultural Residential (A5) in Zoning By-law #890-09. Residential uses, bed and breakfast establishment and one home occupation are permitted uses.

The property will be required to be placed in an Agricultural Residential (A5) Defined Zone to permit a dog boarding operation, as a secondary use, in addition to the existing residential use.

To ensure that the PPS criteria are met regarding limiting scale, it is suggested that the property be subject to the provisions of Section 4.23, Home Occupation, which includes the following criteria:

- a) the home occupation does not change the character or use of the dwelling for residential purposes and does not significantly alter the appearance of the dwelling or accessory building;
- b) not create or become a public nuisance, particularly in regard to noise, traffic, loading or unloading, or parking;
- c) have no external storage of materials, containers or finished products;
- d) be clearly secondary to the residential use of the property and have only members of the family permanently residing at the property and no more than one assistant at any given time engaged in the business;
- e) have no external display or advertisement other than an unlit sign attached to the building main wall which is a maximum size of 0.5 m² (5.38 ft²) indicating only the name,

- occupation and practicing hours of the occupant;
- f) not use mechanical equipment, the operation of which would result in any undue noise, fumes, dust, or odour escaping to any adjoining premise;
- g) if located in the dwelling unit, not occupy more than 25 % of the gross floor area of the dwelling unit including in the gross floor area any basement or attached garage, or 30 m² (322.92 ft²) whichever is the lesser. If located in an accessory building, not occupy more than 30 m² (322.92 ft²) within the accessory building;
- h) have the location of all parts of a home occupation, other than parking, confined within a building;
- i) have at least but no more than two off-street parking spaces associated with the home occupation, in addition to the main use requirements;
- j) not be used to assemble or rally such persons for transportation to a work site;
- k) not have more than five persons present in the dwelling at any time to receive treatment, services or instructions;
- l) not include any on-site retail store as part of the home occupation;
- m) not include any commercial vehicles, parked outdoors, in association with the home occupation;

For clarity, a ***DOG KENNEL*** shall mean any building or structure used or intended for use for the purpose of breeding and/or raising three or more dogs and licenced by the Corporation of the Municipality of Leamington, but does not include a boarding kennel defined herein. A ***BOARDING KENNEL*** shall mean any building or portion of a building, structure and outdoor area intended for the purpose of feeding, housing or otherwise caring for dogs and other pets for remuneration. ***HOME OCCUPATION***, shall mean the use of part of a dwelling unit or accessory building for an occupation which provides gain or support, for at least one of the permanent residents of such dwelling unit and which is clearly secondary and subordinate to the main use of the dwelling unit as a private residence.

Section 4.26 of the Zoning By-law regulates Kennels. Dog kennels and boarding kennels, as defined herein, shall be established in the permitted uses, in accordance with the following provisions:

1. Unless located within a dwelling, no new dog kennel shall be permitted closer than 60 m (196.85 ft) to an existing residential dwelling on a lot other than the lot upon which the dog kennel is proposed and must be licensed by the Corporation of the Municipality of Leamington.

It is Administrations opinion, that the Boarding Kennel should maintain at least the same setback as a Dog Kennel. Measurements have been shown on the attached air photo.

The operation will also be required to comply with the Municipality of Leamington Noise By-law (#431-03), which regulates the persistent barking of a dog of which the person is the owner or has care and control.

CONSULTATION:

Administration has completed their review of the proposed application as part of the pre-consultation process.

As set out in the Planning Act, a complete application includes any 'prescribed information' identified in the regulations of the Planning Act and any 'additional information' required by the municipality, as identified in its official plan.

When considering application to amend the zoning by-law , provided that such amendment shall be approved only when it has been shown to the satisfaction of the municipality that:

- i) the use is directly related to a farm operation;
- ii) is required in close proximity to a farm operation;
- iii) would include processing agricultural goods or servicing agricultural equipment or operations;
- iv) will be encouraged to locate along Provincial Highways, County Roads and identified truck routes in areas;
- v) the by-law amendment will establish adequate setback and buffering requirements to ensure that any potential incompatibilities with surrounding uses are minimized.

Due to the nature of the proposed zoning change, it is Administration's position that a Planning Justification Study is not required. However, an addendum to the application was required by the applicant to explain how the criteria above have been met (see attached).

CONCLUSION:

As part of the new Bill 51 regulations of the Planning Act, pre-consultation was used to review all the 'prescribed information' and any 'additional information' required in order to consider the application complete. Prior to deeming the application complete, Section 34 (10.3) of the Act sets out that Council must receive all the information or material it needs to make a decision.

Administration suggests that this matter should now proceed to a public meeting. The date for the required public meeting is requested to be scheduled for **Monday, April 6, 2009 at 7:00 pm.**

Notice of public meeting will be circulated to all commenting agencies, municipal departments and abutting landowners within 400' of the subject property. Notice will also appear in the Leamington Post. As part of the new Bill 51, all information will be made available to the public and commenting agencies.

A report by Administration will be presented to Council after the public meeting summarizing all comments and concerns provided, in order to consider a final decision. Specific details of the by-law will be also explained at that time.

Once a decision has been made and notices sent out, there would be an appeal period in the case that there are any objections to the Ontario Municipal Board (OMB). As part of the new Bill 51, the OMB will not consider any information which was not considered by Council.

RECOMMENDATION:

THAT Council declare that the application was reviewed and deemed to be complete pursuant to the requirements of the *Planning Act* to consider a zoning by-law amendment to amend the subject lands to permit a dog boarding operation, as a secondary use, in addition to the existing residential use for property located at 311 Mersea Road 5, as outlined in Report PLA 04/09;

AND that Administration be directed to schedule the required public meeting for Monday, April 6, 2009 at 7:00 pm.

Respectfully submitted,

Tracey Pillon-Abbs,
Manager of Planning Services

Douglas E. Morrish,
Director of Development Services

/tpa

"Adendum"

- 1) MY PLAN IS TO PROVIDE A DOG DAY CARE SERVICE TO THE LOCAL FARMING COMMUNITY AS WELL AS ALL RESIDENTS WITHIN THE LEAMINGTON/KINGSVILLE AREA.
- 2) MY LOCATION IS BETTER SUITED TO PROVIDE THIS TYPE OF SERVICE AS THIS AREA IS AN AGRICULTURAL AREA. FEWER NEIGHBOURS AND MORE OPEN SPACE FOR A FEW DOG RUNS - (FENCED IN).
- 3) DON'T EXPECT TO SERVICE AG EQUIPMENT - HOWEVER I WILL PROVIDE A SERVICE FOR THE PETS - THUS FREING UP TIME FOR LOCAL GROWERS.
- 4) WILL BE LOCATED ON MERSEA RD 5.
- 5) FENCING IS ALREADY EXISTING - CEDAR WEDGE SHOULD ASSIST AND IS ALREADY IN PLACE. ANY WASTE MATERIALS WILL BE PROPERLY TAKEN CARE OF. (GREEN) BELOW GROUND LEVEL DRAIN + SEPTIC TANK SHOULD ELIMINATE WASTE IN AN ENVIRONMENTALLY FRIENDLY WAY.

Business Plan - CAMP K-9

1) TO PROVIDE A DAY CARE SERVICE FOR DOG OWNERS.

POLICIES. - WE REQUIRE OUR CUSTOMERS TO COMPLETE AN APPLICATION SO AS TO DETERMINE IF YOUR DOG IS SUITABLE FOR PLAY & INTERACTION WITH OTHERS.

- 1) BRING A BLANKET OR BEDDING THAT SMELLS LIKE HOME.
- 2) BRING FOOD THAT YOUR DOG IS USED TO EATING - & PLAN ON BUYING 1 TYPE OF DOG FOOD BASED ON MOST USED BY CLIENTS
- 3) WE WILL SUPPLY ALL DISHES.
- 4) DO NOT BRING TOYS AS TOYS CAUSE FIGHTS
- 5) DOGS MUST HAVE ALL VACCINATIONS - AS WELL AS PROOF - DISTEMPENY PARVO. ANNUAL BOOSTER -> RABIS - KENNEL COUGH.
- 6) CUSTOMERS MUST PROVIDE EMERGENCY NUMBERS.
- 7) BARKING POLICY: WE CANNOT HAVE A REPETATIVE BARKER - ONE WHO BARKS CONTINUOUSLY FOR 10 MINS. IN ANY 30 MIN TIME FRAME. - REPETATIVE BARKING IS NOT AN ORDINARY OCCURANCE EVEN FOR PUPPIES. - IF YOUR DOG IS A REPETATIVE BARKER WE WILL USE A VERY HUMANE METHOD TO QUIET HIM/HER DOWN - IT IS A CITRONELLA COLLAR (ANTI BARK) - IT DELIVERS A QUICK SPRAY FROM UNDER THE CHIN - THE DOG LEARNS QUICKLY NOT TO BARK IN A STRESS FREE MANNER.
- 8) KENNELS WILL BE CLEANED OUT DAILY - SANITIZER WILL BE USED IF AN ACCIDENT OCCURS.

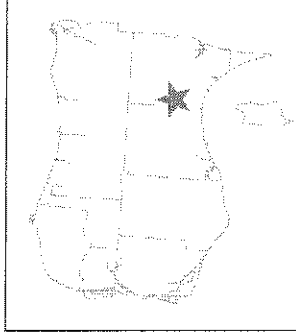
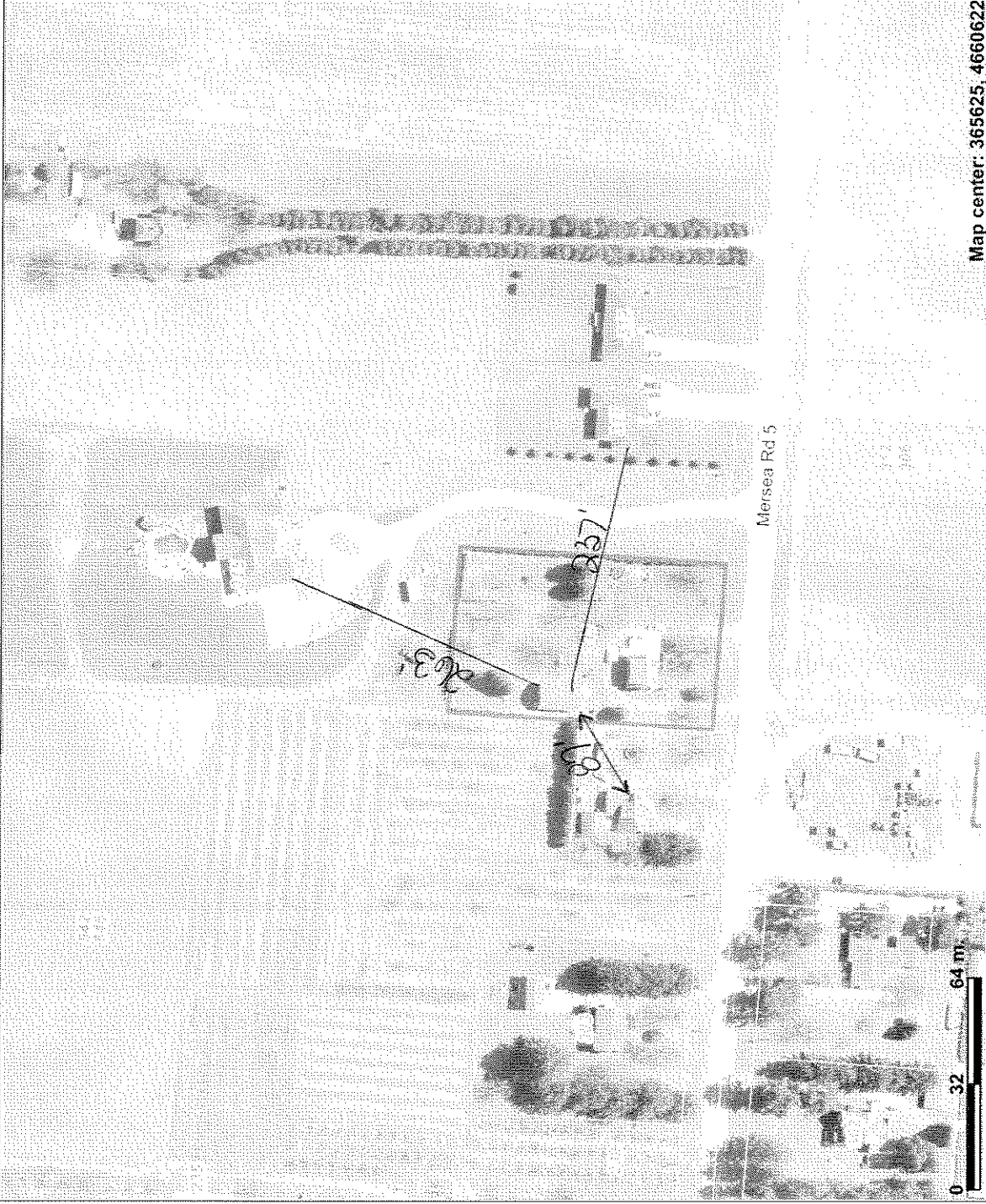
9) WE ARE NOT PREPARE EQUIPPED TO HANDLE PIT BULLS IN OUR FACILITY. DEFINED AS ANY BREED NAMED AS AMERICAN PIT BULL - STAFFORDSHIRE TERRIER, STAFFORDSHIRE BULL TERRIER, OR ANY DOG DISPLAYING PHYSICAL TRAITS OF ANY ONE OF THE ABOVE MENTIONED BREEDS.

10) HOURS OF OPERATION: OPEN 8am TO NOON - 2pm -> 6pm. SUBJECT TO CHANGE.
BREAKFAST 6-8. DROP OFF TIMES - 6am - 8am -
LUNCH 2-4. PICKUP TIMES 4pm - 6pm
NAP TIME NOON -> 2pm

11) - COST PER DAY PER DOG - 18 + GST.
WE WILL CONSIDER OVERNIGHT BOARDING AT A COST OF 30.00 PER DAY.

OUR GOAL IS TO PROVIDE HEALTHY EXERCISE FOR YOUR DOG - DOG RUNS ~~TOGETHER~~ ARE SEPERATED SO LARGE / MEDIUM / SMALL DOGS DO NOT PLAY TOGETHER - LESS RISK OF INJURY - A NAP TIME IS PROVIDED BETWEEN NOON + 2pm - AFTER NAP LUNCH IS SERVED

Internet Mapping Framework



Legend

- Municipalities
- Streets
- Leamington Assessment
- Water

Scale: 1:1,832

This map is a user generated static output from an Internet mapping site and is for general reference only. Data layers that appear on this map may or may not be accurate, current, or otherwise reliable. THIS MAP IS NOT TO BE USED FOR NAVIGATION.

319 Mersea Road 5
Leamington, Ontario N8H 3V5
(519) 322-4433

014
RECEIVED
MAR 27 2009

March 19, 2009

Mr. John Adams
Mayor
Municipality of Leamington
38 Erie Street North
Leamington, Ontario N8H 2Z3

Regarding: Proposed Zoning By-law Amendment - Dog Boarding Operation

Dear Mr. Adams:

In 2004 my husband and I purchased our first home located at 319 Mersea Road 5. We have always enjoyed the outdoors and welcomed the opportunity of living in the county. Over the past few years, several other houses have been built around us and we now have a cozy little neighborhood.

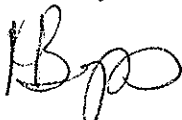
We have noticed that most people living in the county tend to have a dog, which is wonderful since we are big dog lovers, but this proposed zoning by-law amendment for a dog boarding operation has been extremely upsetting. We have a relative in Northern Ontario that owns and operates a business like this and from experience this type of operation can have many negative effects if the surrounding residences are within close proximity to one another. Effects that this proposed dog boarding operation could have on my residence are as follows:

- Impair the enjoyment of my property from dogs constantly barking;
- Decrease property value; and
- Potential of odours coming from the property.

We are aware that there are many operations of this kind around, but seeing as the residence in question is so close to other residences it will have a definite disruption on ourselves and the other neighbors in the area. There is already a current issue with this owner's dog barking and bringing more dogs to this property will just cause more stress and tension towards home owners in the area.

We ask that you visit this location and see just how close the houses are to one another. If you have any questions, we may be contacted at (519) 322-4433.

Sincerely,



Karen Burgess & Sean Insley