

ISSUE DATE:

**Mar. 11, 2010**



PL050096

**Ontario Municipal Board**  
**Commission des affaires municipales de l'Ontario**

Edelbrock Bros. Limited, William Matthews and Allto Investments Holdings Inc. 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 Minister of Municipal Affairs and Housing to approve the Official Plan for the Township of Amaranth  
Approval Authority File No. 22-OP-5450  
OMB File No. O050177

Edelbrock Bros. Limited 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 By-law 69-2004 of the Township of Amaranth  
OMB File No. R050017

**APPEARANCES:**

**Parties**

**Counsel**

Edelbrock Bros. Limited, and  
Allto Investments Holdings Inc.

William Stutz

Township of Amaranth

Jeffrey J. Wilker

**DECISION DELIVERED BY SUSAN de AVELLAR SCHILLER AND ORDER OF THE BOARD**

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These matters have been the subject of pre-hearing conferences and considerable narrowing of the several appeals initially before the Board. Only two Parties' appeals remained by the hearing of the merits: Allto Investments Holdings Inc. [Allto] and Edelbrock Bros. Limited [Edelbrock]. These appeals deal with different lands and different policies. The Decision on the Allto appeal was issued separately, February 25, 2010. This Decision deals with the Edelbrock appeals.

**Appeals by Edelbrock Bros. Limited**

Edelbrock Bros. Limited owns land on the east side of the community of Laurel in the Township of Amaranth, Dufferin County. The community was traditionally centred on the intersection of what are now County Road 10 and County Road 12, and was

called Richardson's Corners. In existence for approximately 150 years, the community has always had development on each of the four corners of the roads' intersection.

The Board heard from Mr. J. Craig Hunter and Ms Christine Gervais, both full members of the Canadian Institute of Planners and Registered Professional Planners in Ontario, qualified to give the Board expert opinion evidence in land use planning matters. The Board also heard from Mr. Wilhelm Edelbrock, who owns and controls Edelbrock Bros. Limited.

County Road 10 runs east-west and County Road 12 runs north-south. The Edelbrock lands are east of County Road 12, some to the north and some to the south of County Road 10. For ease of reference, those to the north of County Road 10 are referred to as Edelbrock North; those to the south of County Road 10 are referred to as Edelbrock South.

Edelbrock South is the larger of the two parcels at 41 hectares. The western half of Edelbrock South is located within the boundaries of the Laurel settlement area. The major portion of this half is designated Community Residential. A small portion of this western half is environmentally constrained and is designated Environmental Protection. Virtually all of the eastern half of Edelbrock South is outside the settlement boundaries of Laurel. This eastern half is also environmentally constrained and, with the exception of a small corner designated Agricultural, is designated Environmental Protection. Edelbrock is satisfied with this boundary and with the Official Plan designations.

Edelbrock North is the slightly smaller parcel at 38 hectares. A small portion of Edelbrock North, at the southeast corner, is environmentally constrained.

In 1990, Edelbrock applied for draft approval of two plans of subdivision, one for Edelbrock North and one for Edelbrock South. The draft plans called for 98 single detached dwellings on Edelbrock North and 57 single detached dwellings on Edelbrock South. Both parcels were to be developed on municipal water and private septic systems at a rate of 3 units per hectare. In both cases, the lands to be developed corresponded approximately to the non-environmentally constrained lands. Edelbrock did not proceed with these plans and the Ministry of Municipal Affairs and Housing closed the files in 1993.

The Township of Amaranth has two hamlets: Waldemar and Laurel. In 1992, the Township adopted Official Plan Amendment 10, which resulted from a secondary plan study of Waldemar and Laurel. OPA 10 set the eastern boundary of Laurel along a line that included all of Edelbrock North and the western half of Edelbrock South and designated them for residential development. In doing so, the Township confirmed its intention to maintain development of the four corners of the intersection of County Road 10 and County Road 12, and set the hamlet settlement boundary to correspond approximately to the non-environmentally constrained Edelbrock lands that had been the subject of the earlier proposed draft plans of subdivision.

Between the time OPA 10 was adopted in 1992 and the new Official Plan was adopted in 2004, the Township administrative offices, a community park, and Laurelwoods School were all developed west of the western boundary of Laurel. The new Official Plan altered the Laurel boundary westward to encompass these facilities but maintained the eastern boundary as set by OPA 10. In doing so, lands between the western boundary of Laurel and these community facilities were brought into the Laurel settlement area.

The Ministry of Municipal Affairs and Housing is the approval authority for the Township of Amaranth Official Plan. During pre-consultations on the draft Official Plan, the Ministry expressed concern about the addition of agricultural lands into the settlement area of Laurel with the westward expansion of the Laurel settlement area boundary. The Ministry position indicated that if the Township wanted to expand Laurel to the west to encompass the community facilities, then it would have to reduce the Laurel settlement area boundaries elsewhere.

The evidence before the Board is that the Township did not wish to alter the northeast boundary of the Laurel settlement area from what OPA 10 had established. The Official Plan, as approved by the Minister of Municipal Affairs, included a modification reducing the Laurel settlement area boundary in the northeast quadrant to align it almost entirely with existing development in that quadrant. The result was the removal of virtually all of Edelbrock North from the Laurel settlement area boundary and redesignation of these lands to Agriculture. Edelbrock Bros. Limited appealed the Minister's decision to approve the Official Plan with this modification.

The 2006 Provincial *Growth Plan for the Greater Golden Horseshoe* includes Dufferin County. Growth in the County is directed to the Town of Shelburne, the Town of Orangeville, and the community of Grand Valley that is within the Township of East Luther Grand Valley. County and local municipal officials have been meeting regularly to allocate the required growth across the County. At the time of this hearing approximately 1400 units remained unallocated to municipalities. A land budget has been developed for the Edelbrock North lands. Based on municipal water and private septic, the land budget confirmed a yield of just under 100 units, at 3 units per hectare, for these lands. If these lands are reinstated within the Laurel settlement area and designated for residential development, detailed servicing would be finalized through secondary plans and servicing option studies required by the Official Plan as part of growth management. In particular, the final servicing option would have to conform to the requirements of section 4.2.4 of the Official Plan dealing with municipal water and sewage servicing.

The evidence before the Board is that the Township has maintained its preference regarding the northeast boundary of the Laurel settlement area. Specifically, the Township has considered the 1400 unallocated units and the contribution the estimated yield of 100 units on Edelbrock North could make to the *Growth Plan's* required growth in the County of Dufferin. The further evidence before the Board is that the Township had always taken the position that the OPA 10 boundary for the northeast part of Laurel, which placed Edelbrock North within the Laurel settlement area, were the most reasonable, appropriate and desirable northeast boundary for this settlement area. As such, both Edelbrock and the Township now support a modification to the northeast boundary of the Laurel settlement area, as shown on Attachment "1" to this Decision.

Counsel for the Township advised the Board that the Ministry of Municipal Affairs and Housing was aware of these proceedings and had advised the Township that the Province would not attend these proceedings and did not intend to call a case in support of the modification to reduce the northeast boundary of Laurel.

The subject lands are not within the Greenbelt. Since the subject lands are within the area covered by the Provincial *Growth Plan for the Greater Golden Horseshoe*, the Board considered the question of whether the Official Plan matter before the Board should be heard and disposed of as if the *Growth Plan* had not come into effect.

The Provincial *Growth Plan for the Greater Golden Horseshoe* came into effect on June 16, 2006. Ontario Regulation 311/06 under the *Places to Grow Act* set out the transition requirements for matters such as that now before this Board. The Board heard submissions from counsel for both parties on the question of whether the possible reinstatement of the northeast boundary of the Laurel settlement area to that of OPA 10, in the context of the Edelbrock appeal now before this Board, would meet the requirements of O.Reg. 311/06 such that a proposed change would be heard and decided by this Board as if the *Growth Plan* had not come into effect.

Counsel for the Township and counsel for Edelbrock both agree that a proper analysis of O.Reg 311/06 results in the conclusion that the matter now before the Board should be heard and disposed of as if the *Growth Plan* had not come into effect. In reaching this conclusion, counsel referred the Board first to the deemed day of commencement of the Official Plan for the Township of Amaranth, which is the date of adoption by the Township Council in December, 2004. The proposed modification to return the northeast boundary of the Laurel settlement area to the OPA 10 boundary is now made at the request of the Township, supported by Edelbrock. The return to the OPA 10 northeast boundary for Laurel would modify the Official Plan now before the Board by reinstating the 38 hectares of Edelbrock North to the Laurel settlement area. These 38 hectares are well under the 300 hectares that might otherwise bring this matter under the 2006 Provincial *Growth Plan for the Greater Golden Horseshoe*. By reference to O.Reg. 311/06, the Board finds that this proposed modification to the Official Plan meets the requirements set out in O.Reg. 311/06 for matters that are to be heard and disposed of as if the *Growth Plan* had not come into effect

The proposed modification is subject to the 1997 Provincial Policy Statement [PPS] and the requisite test, set out in the applicable iteration of the *Planning Act*, is that the Board shall have regard to the Provincial Policy Statement.

Section 1.1 deals with developing strong communities. This section emphasizes cost-effective development patterns with a focus on settlement areas to accommodate growth. This section also emphasizes the importance of ensuring that land is used efficiently and that infrastructure is planned and developed in a timely fashion to accommodate growth that will, in turn, use the infrastructure efficiently.

Section 1.2 calls for a range of housing to be provided and a ten year supply of land to be designated and available for new residential development and residential intensification.

Section 1.3 deals with infrastructure. Particularly relevant in this case are the policies dealing with water, sewage, and waste management. The policies require analysis to ensure that priority is given to full municipal services that are properly treated, and that private services are used only where full municipal services cannot be provided.

Section 2.1 deals with policies relating to agriculture. The Township of Amaranth is a rural, agricultural community. The subject lands, as all agricultural lands in and around the hamlet of Laurel, are prime agricultural lands. The subject lands are not specialty crop lands, and no specialty crops are grown on these lands. Efficient use of land in the four corners of the intersection of County Road 12 and County Road 10 means that some prime agricultural land will be used for residential development. The evidence before the Board is that Dufferin County is unable to identify sufficient lands for residential intensification to meet the targets set for the County in the *Provincial Growth Plan for the Greater Golden Horseshoe*, and that the subject lands would contribute to meeting the County's target. Further, the evidence before the Board is that an analysis of Minimum Distance Separation guidelines for livestock operations near residential lands indicates that no livestock operations, present or potential by virtue of the future use of existing barns, would be affected negatively by a reinstatement of the residential designation. Lands outside the boundaries of the Laurel settlement area continue to be a mix of viable agricultural lands and those designated for environmental protection.

Having considered and reviewed the Provincial Policy Statement, the Board finds that the proposed Official Plan boundary modification has had appropriate regard for the PPS and meets the intent and purpose of that Statement. Residential development of the non-environmentally constrained lands is needed to meet Provincial intensification targets. The lands to be reinstated for residential development are within the traditional four corners for development in the hamlet of Laurel. While these are prime agricultural lands, no non-prime agricultural lands are available as an alternative. Additionally, these are not specialty crop lands and no specialty crops are grown on the subject lands. The

area to be designated for residential development utilizes land efficiently. Specific development approval would be preceded by a careful analysis of the necessary infrastructure appropriate to meet both the PPS and the Official Plan requirements regarding water and sewage systems and waste handling.

In addition to having regard for the Provincial Policy Statement, the *Planning Act* requires this Board to have regard to matters of Provincial interest, several of which are set out in section 2 of the *Planning Act*. The proposed reinstatement of the northeast OPA 10 boundary for the Laurel settlement area includes the protection of environmentally constrained lands, limits the amount of land to be removed from agricultural designation, creates the opportunity for orderly development of a safe and healthy community, adds to the range of housing within the Township, and represents an appropriate location of growth and development – all of which are matters of Provincial interest. Having regard to section 2 of the *Planning Act*, the Board finds that the reinstatement of the northeast OPA 10 boundary for the Laurel settlement area respects and implements matters of Provincial interest.

The Board further finds that this proposed reinstatement of the northeast boundary of the Laurel settlement area conforms to the policy regime of the Township of Amaranth Official Plan and is appropriate.

Edelbrock also appealed Zoning By-law 69-2004. That appeal was subsequently narrowed to the zoning of the Edelbrock lands. In order to implement the adjustment to the Official Plan to recognize and protect the environmentally constrained lands and to recognize the lands to be designated for residential development, the Township and Edelbrock ask the Board to amend Zoning By-law 69-2004 as shown on Attachment “2” to this Decision.

The zoning regime for the Township places land to be developed for residential purposes within a Rural zone. Lands that are environmentally constrained, and protected with an Environmental Protection designation in the Official Plan, are zoned Environment Protection. The Board finds that the proposed amendment to the zoning by-law mirrors and implements the proposed adjustment to the Official Plan and conforms to that Plan. In addition, the proposed amendment to the zoning by-law recognizes the importance of the environmentally constrained lands in both Edelbrock

North and Edelbrock South, and protects these lands by zoning them Environmental Protection.

The Board's analysis of the application of Provincial statutes, regulations and planning instruments to the proposed adjustment to the Official Plan applies to the zoning by-law amendment as well. The subject lands are not within the Greenbelt. The zoning by-law was adopted in 2004. By reference to O.Reg.311/06, clauses 2(c) and 3(4), the Board finds that the appeal of Zoning By-law 69-2004, now before the Board, is to be heard and disposed of as if the Provincial *Growth Plan for the Greater Golden Horseshoe* had not come into effect. The applicable iteration of the *Planning Act* refers to the 1997 Provincial Policy Statement and the applicable test is to have regard to that Statement. Having considered and reviewed the Provincial Policy Statement and having regard for section 2 of the *Planning Act*, consistent with, and based upon, the Board's analysis of the Official Plan, the Board finds that the proposed amendment to Zoning By-law 69-2004 has had appropriate regard for the PPS and meets the intent and purpose of that Statement and, in accordance with section 2 of the *Planning Act*, respects and implements matters of Provincial interest.

The appeal regarding the Official Plan is allowed. The Board finds that the northeast boundary of the community of Laurel settlement area as it relates to the Edelbrock North lands is properly the boundary set out in the former Official Plan Amendment 10. The Official Plan is modified in accordance with Attachment "1" to this Decision and, as so modified, is approved.

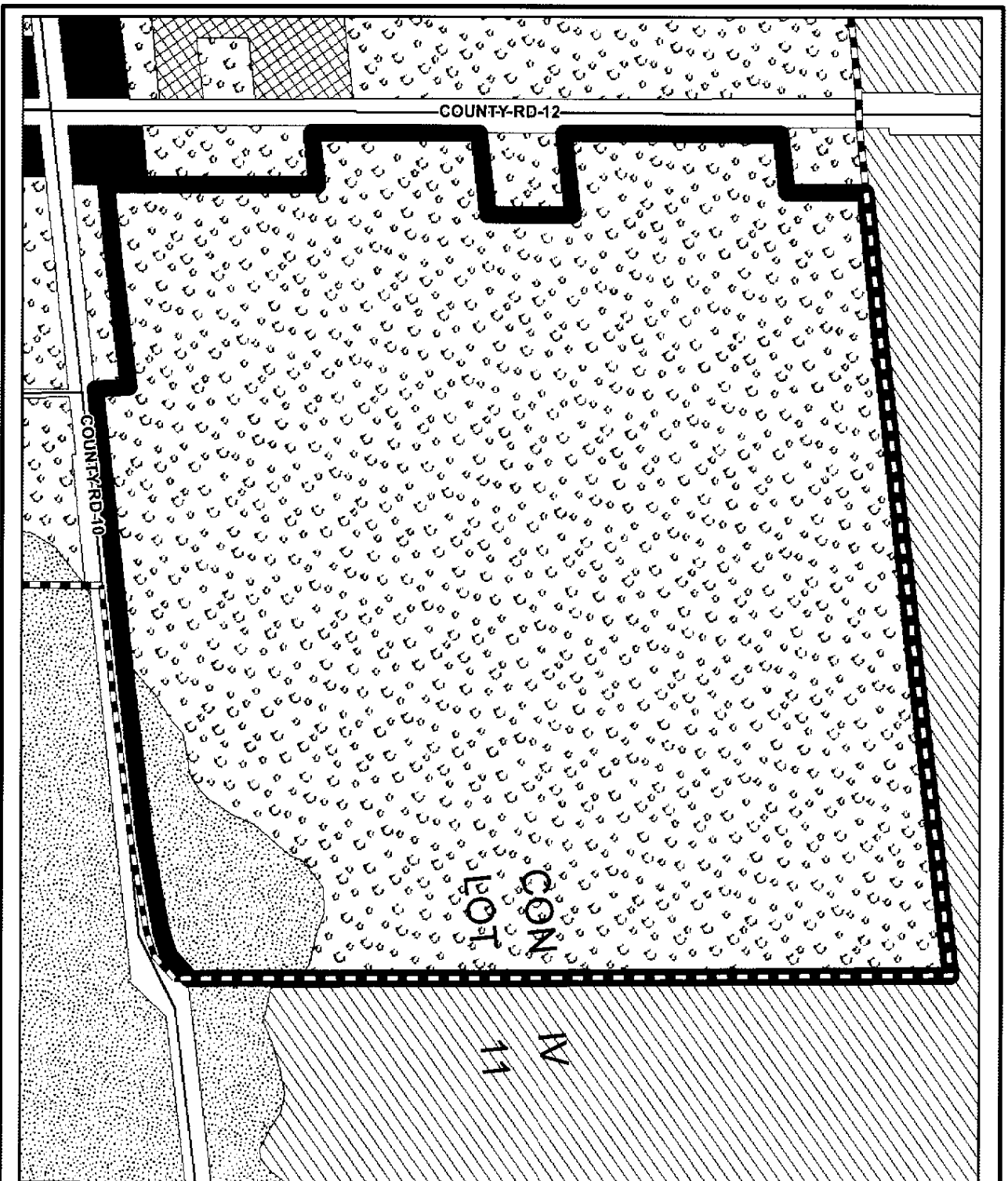
The appeal regarding Zoning By-law 69-2004 is allowed. By-law 69-2004 is amended in accordance with Attachment "2" to this Decision.

So Orders the Board.

"Susan de Avellar Schiller"


SUSAN de AVELLAR SCHILLER  
MEMBER



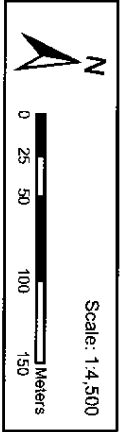


**Edelbrock OMB Hearing  
Official Plan Schedule**

The Corporation of  
The Township of Amaranth

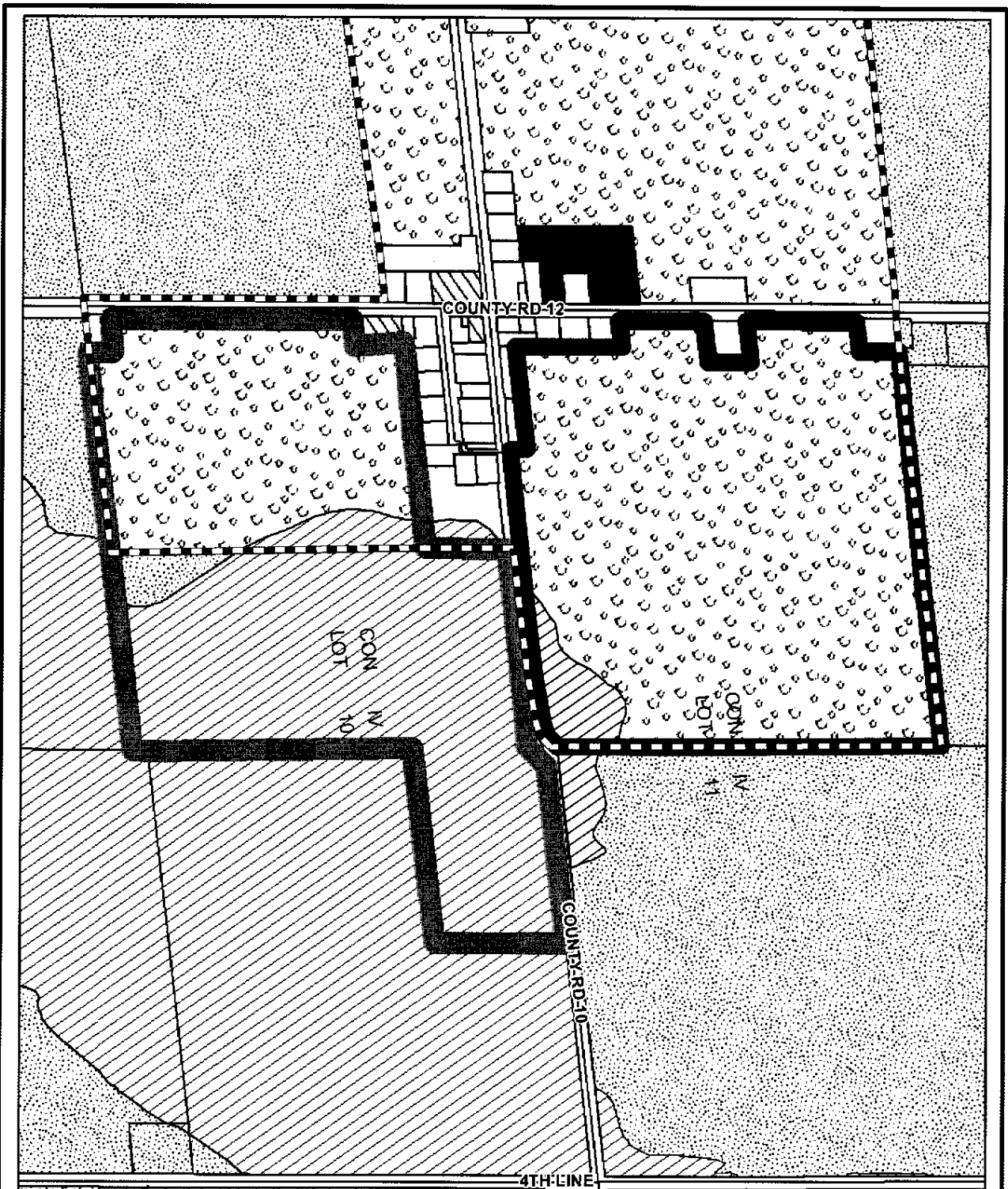


- Legend**
- Primary Roads
  - Community Boundary
  - Edelbrock North Land
  - Agricultural
  - Environmental Protection
  - Community Residential
  - Community Institutional
  - Community Commercial

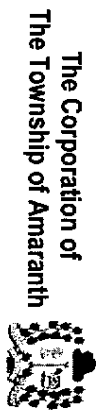


Map Created By: Township of Amaranth  
 Date: Nov 12, 2009  
 Path: L:\Amaranth\_GIS\Amaranth\_09\_Edelbrock\_land\_final\_map.mxd  
 Data: UTM NAD 83 Zone 17

This map is not a legal survey and is for reference purposes only.  
 Lot Fabric Created With Data Provided By: Traneel Inc.



**Edelbrock OMB Hearing  
Zoning Schedule**



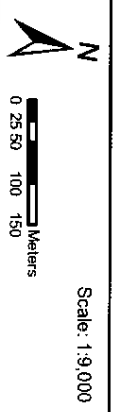
The Corporation of  
Amaranth

**Legend**

- Primary Roads
- Community Boundary
- Edelbrock\_Lands\_North
- Edelbrock\_Lands\_South
- Parcels

**Zoning Designation**

- Environmental Protection
- General Commercial
- Agricultural
- Hamlet Residential
- Rural
- Institutional



Map Created By: Township of Amaranth  
Date: Nov. 20, 2019  
This map is not a legal survey and is for reference purposes only.  
Map Created: Zoning Schedule  
Data Source: Aerial Imagery, Topographic Data, LIDAR, NAD 83 Zone 17