

**Planning and Development Services**

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**Via Email Only**

November 20, 2019

File No.: D.17.06.MV-19-0058

Nancy Bozzato, Dipl.M.M., AMCT  
Town Clerk/Secretary-Treasurer  
Town of Pelham  
20 Pelham Town Square, PO Box 400  
Fonthill, ON L0S 1E0

Dear Mr./Ms. Bozzato:

**Re: Provincial and Regional Comments  
Minor Variance Application  
Town File A27/2019P  
Applicant/Agent: Upper Canada Consultants  
Owner: Peter and Alice Spyker  
Address: 997 Canboro Road  
Town of Pelham**

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Regional Planning and Development Services staff has reviewed the above-noted minor variance application, which requests relief from the Minimum Distance Separation (MDS) 1 formula. The relief is requested to facilitate construction of a dwelling at 997 Canboro Road, which is in proximity to an existing poultry barn at 971 Canboro Road. The Zoning By-law includes a generic 300 metres (m) MDS setback from a livestock or poultry operation, which is not based on a site specific MDS calculation. The proposed variance would reduce the MDS setback to 201 m. The following Provincial and Regional Comments are provided to assist the Committee in their consideration of the application from a Provincial and Regional perspective.

**Provincial and Regional Policies**

The subject land is considered Prime Agricultural Land under the 2014 Provincial Policy Statement (PPS) and Protected Countryside under the 2017 Greenbelt Plan (GP). The permitted uses and activities for Prime Agricultural Lands are agriculture, agriculture-related, and on-farm diversified uses. Both the PPS and GP protect agricultural lands for long-term agricultural use, and state that proposed agriculture-related uses and on-farm diversified uses shall be compatible with, and shall not hinder, surrounding agricultural operations. The Regional Official Plan (ROP) designates the subject land as

Unique Agricultural Area. The predominant use of land in Unique Agricultural Areas is agriculture of all types, including livestock operations, as well as single detached dwellings on existing lots of record provided they were zoned for such as of December 16, 2004.

### **Minimum Distance Separation**

The PPS (Policy 2.3.3.3) states that new land uses shall comply with the Minimum Distance Separation (MDS) formulae. The formulae are applied in order to separate uses to reduce incompatibility concerns about odour from livestock facilities. To aid in implementing this policy, the Ministry of Agriculture, Food and Rural Affairs (OMAFRA) released MDS Formulae and Guidelines for Livestock Facility and Anaerobic Digester Odour Setbacks (Publication 853) to assist municipalities, farmers, and consultants in implementing MDS as part of planning and development applications. The MDS I setback distances apply to proposed lot creation, rezoning or redesignations, building permits on existing lots, and as directed in local planning documents. In this case, the zoning by-law includes a minimum 300 m separation distance as opposed to direction to apply the MDS I formulae. If not for the 300 m minimum, Town staff would consider any MDS restrictions associated with the future construction of a dwelling as part of the building permit process. A minor variance is required to permit the application of the actual MDS, as calculated on a site specific basis.

An MDS I calculation for the proposed dwelling was submitted with the application. In the absence of floor plans or a site visit of the existing chicken barn to the east, the calculation was based on an aerial image estimate of the barn area. This aligns with the intent of the direction in Publication 853, which states that the calculation should be based on the design capacity, being the maximum number of livestock that can be housed in the barn and/or the maximum volume of manure that can be stored in the accessory building, and serves as a “worst case scenario” MDS calculation. Therefore, Regional staff have no objection to the reduction for the MDS from 300 m to 201 m based on this “worst case” calculation.

Regional staff note that municipalities are responsible for ensuring that MDS setbacks are met when reviewing land use planning applications or building permits. As such, the Committee should look for comments from the Town regarding the MDS setbacks.

### **Archaeological Potential**

The Town of Pelham has an approved Heritage Master Plan and, therefore, has jurisdiction on matters related to archaeological resources. The Committee should refer to Town comments on any archaeological requirements or warning clauses respecting the possible discovery of deeply buried remains during construction.

## Conclusion

In conclusion, Regional staff has no objections to the proposed minor variance from a Provincial or Regional perspective, given that the reduction is based on a worst case scenario calculation and that the Town is responsible for ensuring that MDS setbacks are met when reviewing land use planning applications. The Committee should look for comments from Town staff regarding the reduced MDS setback and archaeological potential.

Should you have any questions related to the above comments, please feel free to contact me at 905-980-600 ext. 3432 or Lola Emberson, MCIP, RPP, Senior Development Planner, at 905-980-6000 ext. 3518.

Please send a copy of the staff report from the Town and notice of the Committee's decision on this application when available.

Kind regards,



Britney Fricke, MCIP, RPP  
Development Planner

cc: Lola Emberson, MCIP, RPP, Senior Development Planner, Niagara Region  
Curtis Thompson, Planner, Town of Pelham