

COMMITTEE REPORT
COMMUNITY PLANNING & DEVELOPMENT DEPARTMENT

Monday, January 13, 2020

Subject: Development Agreement Report – 997 Canboro Road (DA-02-19)

Recommendation:

THAT Committee receive Report #2020-0006 regarding a Development Agreement for 997 Canboro Road and:

THAT Committee recommend the By-law and Development Agreement be approved by Council and that the Mayor and Clerk be authorized to sign the Development Agreement with Jonathon Sinke.

Background:

The purpose of this report is to provide Council with information and a recommendation regarding a request for a Development Agreement that would be executed between the land owner of 997 Canboro Road and the Town of Pelham.

The purpose of the Development Agreement is to satisfy the conditions of Minor Variance approval for file A27/2019P which would include design details for the driveway entrance & culvert, as well as warning clauses regarding the future residential dwelling's location within the prescribed *MDS (Minimum Distance Separation)* setback of the Zoning By-law, protocol if deeply buried archaeological resources are uncovered and a restrictive covenant limiting the use of any future accessory building (i.e. attached / detached garage) to be used for residential living space due to its location within a calculated *MDS* radius.

Analysis:

Location:

The subject lands are 5.4 hectares in size and located on the north side of Canboro Road, lying east of Victoria Avenue (Figure 1), municipally known as 997 Canboro Road, and legally as Concession 9, Part of Lot 20, and Part 1 on RP 59R-500 in the Town of Pelham.

The lands are located outside of the Urban Area boundary and are designated Specialty Agriculture in the Town of Pelham Official Plan and zoned Agricultural (A) Zone in Zoning By-law 1186(1987).

Figure 1: Subject Lands – 997 Canboro Road



Project Description and Purpose:

The proposal is to enter into a Development Agreement to allow for the construction of one single detached residential dwelling. The subject land is 5.4 ha in size and currently supports outdoor crop farming but is otherwise vacant. It is also situated directly west of 971 Canboro Road which contains a poultry barn and is surrounded by other agricultural operations, rural-residential dwellings and an active railway to the north.

The subject land was granted minor variance approval on the 3rd of December, 2019. Application was made for relief of Section 6.14 (a) "New Development in or Adjacent to an 'Agricultural' (A) zone", which states whereas no dwelling on any adjacent lot shall be located within 300m of a livestock operation, to reduce the *Minimum Distance Separation (MDS)* to 201m of any livestock operation.

Condition #3 of Minor Variance approval A27/2019P requires the applicant to enter into a Development Agreement (registered on title) with the Town for the purposes of developing the lot to include, but not be limited to:

- a) Obtaining an Entrance Permit from the Public Works Department for the installation of a driveway/culvert, as applicable, in accordance with town standards. The applicant shall bear all costs associated with such, to the satisfaction of the Director of Public Works.
- b) An owner warning clause specifying that, "The owner acknowledges that their property is located within a 300 metre baseline *Minimum Distance Separation* spatial requirement in the Town's Zoning By-law and that they may potentially, from time to time, experience unpleasant odours from an existing adjacent livestock operation."
- c) An owner warning clause stating that, "Should deeply buried archaeological remains / resources be found on the property during construction activities, the Heritage Operations Unit of the Ontario Ministry of Tourism, Culture & Sport and the Owner's archaeology consultant shall be notified immediately. In the event that human remains are encountered during construction, the Owner shall also immediately notify the Police or coroner and the Registrar of Cemeteries of the Ministry of Small Business and Consumer Services."
- d) Restrictive covenant that the attached garage shall perpetually be prohibited from being converted into residential living space due to its location within the calculated MDS radius.

Financial Considerations:

The applicant is responsible for all costs associated with this development.

Alternatives Reviewed:

Council may choose to not approve the by-law and enter into a Development Agreement with the Owner.

Strategic Plan Relationship: Build Strong Communities and Cultural Assets

The Development Agreement will ensure that technical details with regards to developing this property are met that help support the building of strong communities.

Consultation:

Due to the narrow scope of the proposed Development Agreement, Town Planning staff had only requested comments from the Town Public Works department. The reason for this is because the Region of Niagara was previously consulted during the Minor Variance application process. At that stage, they declared no objections to the minor variance application but did note that the future residential dwelling will require septic system approval from their office prior to obtaining a building

permit. As a result, an exclusive condition was detailed on the Notice of Decision of file A27/2019P dealing with the private sewage system approval.

For Council's information, a Development Agreement is a legal agreement between a private land owner and the municipality to ensure a site is development in a particular manner. Similar to Site Plan Approval, they are not a publically consulted process under the *Planning Act*.

Staff Comments:

Planning staff are of the opinion that the proposed Development Agreement appropriately addresses the conditions of approval by the Committee of Adjustment. It is noted that the execution of this Development Agreement will satisfy Condition #3 of the minor variance approval. The applicant has satisfied Town staff comments with respect to a revised Conceptual Site Plan and Driveway Entrance & Culvert detail. Following the execution of the Development Agreement, compliance with the Agreement requirements, and the receipt of all necessary permits, construction of the future single detached dwelling may commence.

Planning staff recommend that Council approve the By-law authorizing the Mayor and Clerk to execute the Development Agreement with the land owner of 997 Canboro Road.

Other Pertinent Reports/Attachments:

- Appendix A:
 - Conceptual Site Plan
 - Driveway Entrance & Culvert detail (OPSD 301.020)
- Appendix B:
 - Notice of Decision – Minor Variance file A27/2019P
- Appendix C:
 - Cover Letter from Applicant
- Minor Variance (A27/2019P) Recommendation Report

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