

Subject: Recommendation Report for Site Plan
Application – 103 Overholt Road

Recommendation:

BE IT RESOLVED THAT Council receive Report #2020-103 for information as it pertains to application File SP-01-20 for 103 Overholt Road; and

THAT Council consider approval of the By-law, attached hereto as Appendix A, authorizing the Mayor and Clerk to enter into the Site Plan Agreement with Iggy's Farm Ltd. on behalf of the Town.

Background:

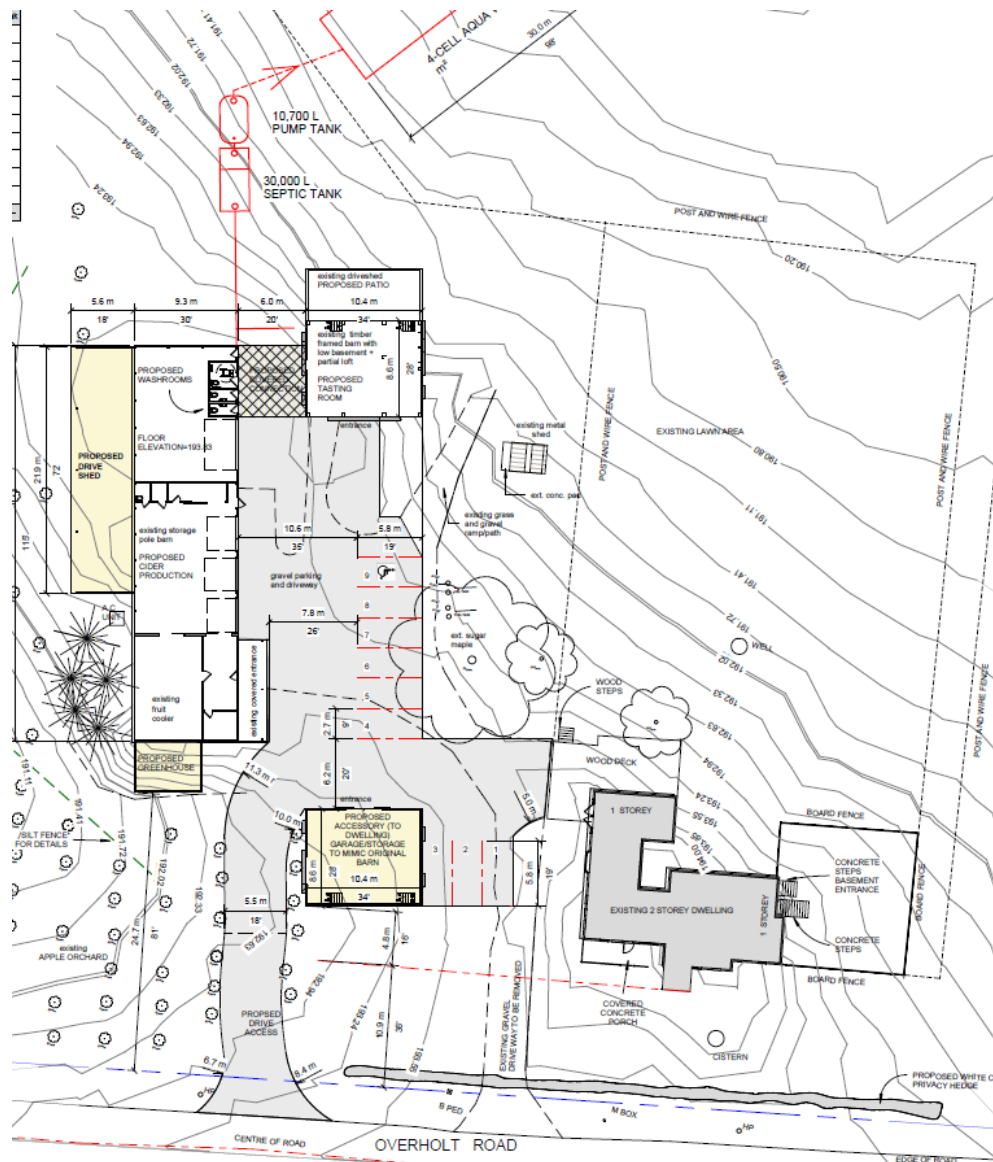
The property is located on the north side of Overholt Road between Haist Street and Hansler Street (Figure 1). The surrounding land uses include environmental protection and single detached dwelling uses to the north and south, agricultural uses to the north and east and a golf course to the west.

Figure 1: Location Map



The property is currently being used for a single detached dwelling and orchard. The property owner wishes to establish a cidery as an agriculture-related use which involves converting the existing ± 365.71 sq m (± 3936.5 sq ft) pole barn for cidery production/processing; converting an existing ± 89.77 sq m (± 966.3 sq ft) timber frame barn for a cidery tasting room; constructing a ± 38.49 sq m (± 414.3 sq ft) connection between the two proposed cidery buildings; constructing a ± 47.47 sq m (± 511 sq ft) patio; constructing an attached ± 122.62 sq m (\pm sq ft) drive shed); constructing an attached ± 27.28 sq m greenhouse); constructing a detached, two-storey ± 89.88 sq m garage and storage for the existing dwelling; installing a new septic system for the cidery use; erecting a sign to advertise the cidery; and, realigning the driveway and constructing parking areas (Figure 2).

Figure 2: Proposed Site Plan



The property is located within the Niagara Escarpment Plan Area. All development within the Niagara Escarpment Plan Area requires a development permit from the Niagara Escarpment Commission. The applicant received conditional approval of their development permit on July 3, 2020. The Notice of Decision regarding the Development Permit application is attached as Appendix B, subject to satisfying a conditions of approval and enter into a Site Plan Agreement with the Town prior to receiving a building permit.

Analysis:

Planning Act

Section 41 (2) of the Planning Act states that where an official plan shows or describes a potential site plan control area, the Council of the local municipality may, by by-law, designate the whole or any part of such area as a site plan control area. Policy E1.4 of the Town's Official Plan, 2014, designates all areas of the Town as proposed site plan control area. By-law No. 1118 (1987) designates all of the Town of Pelham as a site plan control area and exempts certain land uses from site plan control. The proposed improvements to the subject lands are not exempt from site plan control. Consequently, the proposed development requires site plan control.

Provincial Policy Statement, 2020

The property is identified as being within a prime agricultural area and a specialty crop area in accordance with the Provincial Policy Statement.

Policy 1.6.6.4 requires that where municipal sewage services and municipal water services or private communal sewage services and private communal water services are not available, planned or feasible, individual on-site sewage services and individual on-site water services may be used provided that site conditions are suitable for the long-term provision of such services with no negative impacts.

The private sewage system design has been reviewed by Niagara Region staff and no concerns were raised. A clause will be included in the site plan agreement which limits the number of attendees at special events to 60 people to ensure the septic system capacity is not exceeded.

Policy 2.1.1 indicates that natural features and areas shall be protected for the long-term. The proposal avoids and does not impact any natural features or areas. Further analysis in this regard is provided under the Niagara Region Official Plan.

Policy 2.3.3 permits agricultural uses, agriculture-related uses and on-farm diversified uses in prime agricultural areas. Agriculture-related and on-farm

diversified uses are permitted provided they are compatible with and don't hinder surrounding agricultural uses.

Further guidance is provided by the Province in the *Guidelines on Permitted Uses in Ontario's Prime Agricultural Areas* (Guidelines). The Guidelines recommend that compatibility be achieved by reusing existing buildings and locating businesses within existing buildings, minimizing parking area lighting and signage. The Guidelines further recommend that agriculture-related uses (cider making) directly relate to farms in the area.

The proposed cidery will make use of existing farm buildings for processing and tasting and all other buildings/additions are located within the existing farm building cluster thereby minimizing visual impacts and retaining agricultural land. Parking areas will be gravel in keeping with the rural landscape and a clause will be included in the Site Plan Agreement requiring them to remain so. There will be no lighting installed in the parking area. Lighting will occur from fixtures on the buildings. Only one sign is being provided with approval required from the Niagara Escarpment Commission as well as the Town. The cidery will process apples grown on the property.

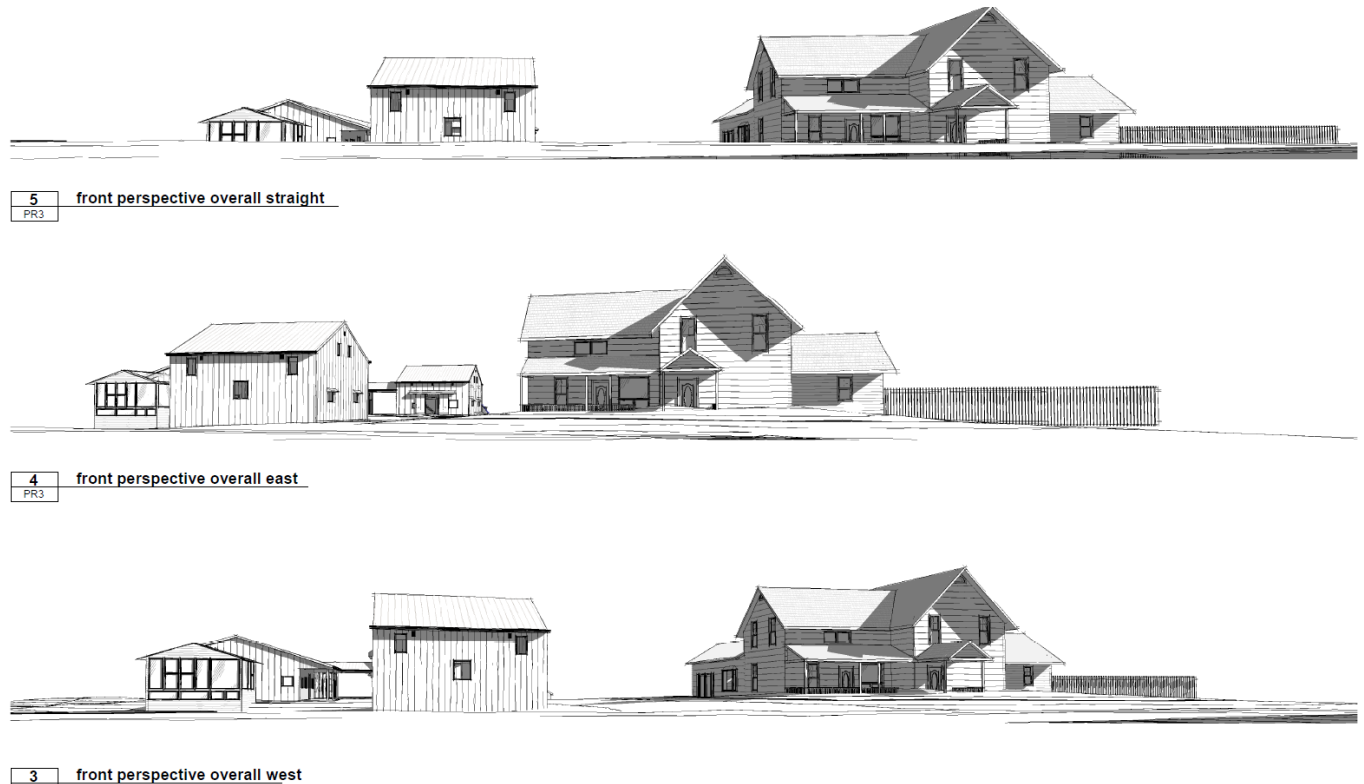
The Guidelines also indicate that on-farm diversified uses (cidery tasting) must be located on a farm, must be secondary to the agricultural use of the property, must be limited in area and must be compatible with surrounding agricultural operations.

The cidery tasting room and patio will be located on the same property as the orchard and will be secondary to the orchard use. The tasting room and patio components are limited in size and area with the orchard use taking place on the majority of the property. To further ensure compatibility with surrounding agricultural operations, a clause has been inserted in the agreement allowing a maximum of 15 special events annually with no more than 2 occurring monthly in addition to the maximum capacity of 60 persons. A total of 9 regular parking spaces are available on the property with the potential for a small amount of overflow parking (2 spaces) on the grassed area east of the existing dwelling during special events. Town and NEC staff have suggested that the applicant employs a shuttle service during planned cidery related events, to which the applicant has agreed to do. The idea is that the shuttle service will pick up visitors and transport them to cidery for cidery related events. It is important to recognize that cidery related events involve alcohol consumption and individual travel to the site should not be encouraged through large expansion of parking facilities.

Given the limited size of buildings, number of persons permitted and limitation on number and frequency of events, noise and traffic are not anticipated to negatively impact surrounding agricultural uses. Further, the renovated building facades are

not being changed substantially and the new building elevations are designed to fit the existing farm buildings (Figure 3).

Figure 3: Building Elevations



Policy 2.6.2 prohibits development on lands containing archaeological resources or archaeological potential unless significant archaeological resources have been conserved. The applicant completed a Stage 1 and 2 archaeological assessment and received an acknowledgement letter from the Ministry of Tourism, Culture and Sport. A clause has been included in the site plan agreement pertaining to archaeological resources as requested by the Niagara Region.

Policy 3.1 requires that development be directed outside of hazardous lands and hazardous sites. The development is proposed outside of hazardous lands and hazardous sites.

Based on the information above, it is Planning staff's opinion that the proposed site plan is consistent with the Provincial Policy Statement.

Niagara Escarpment Plan, 2017

The property is designated Escarpment Protection Area in the Niagara Escarpment Plan. Agriculture-related uses, such as the cidery, are permitted in the Escarpment Protection Area.

The Niagara Escarpment Plan defines wineries as buildings or structures used for the processing of grapes and other fruits in the production of wines and other alcoholic beverages like ciders, including the crushing, fermentation, production, bottling, aging and/or storage of wine and wine-related products, such as grape and fruit based vinegars, as a secondary agricultural use to a vineyard, orchard or fruit farm. The winery may include a laboratory and winery administrative office, but not implement buildings used to house farm machinery (e.g. tractors, sprayers, etc.). Therefore, a cidery is considered a winery under the Niagara Escarpment Plan.

Policy 2.8.8 permits wineries as an agriculture-related use or on-farm diversified use. Consistent with the Provincial Policy Statement, on-farm diversified uses include agri-tourism uses, such as a cider tasting rooms.

The development criteria contained in 2.8.6 of the Niagara Escarpment Plan is consistent with Section 2.3.3.1 of the Provincial Policy Statement requiring that on-farm diversified uses are compatible with and do not hinder surrounding agricultural operations; the use is appropriate to available rural services; existing buildings, structures or facilities on the property, that are no longer needed to support agricultural uses, should be used where possible; all buildings, structures and facilities, including parking areas, associated with the use shall be designed and located to be compatible with the Escarpment's open landscape character; and the gross floor area of any building used for agriculture-related uses shall not exceed 3,200 square metres, unless it can be demonstrated that a larger size is compatible with the site and the surrounding landscape. For greater certainty, the gross floor area does not include any portion of the building that is fully underground.

In addition to the analysis above under the Provincial Policy Statement which addresses most of these requirements, Planning staff confirm that no structures are proposed for agriculture-related uses which are larger than 3200 square metres.

Policy 2.8.9 and 2.8.10 permit a single accessory facility to sell wine with a limited food service at a winery, provided the following criteria are met: the accessory facility is located within the winery building and/ or decks/patios attached to the winery building(s) or utilizes an existing building or structure; and no new or expansions to parking facilities or vehicle access infrastructure will be permitted unless justified to the satisfaction of the implementing authority. Uses that may be permitted as accessory to a winery include: a retail sales and tasting area within the winery building; and the sale of gift and promotional products within the retail sales and tasting area related to the wine and grape industry, or other local agricultural products.

The tasting room is proposed within the existing barn and an addition is proposed to connect the tasting room with the cidery production building. The parking area is expanding slightly to accommodate staff and customers but only between the buildings where parking already exists. As indicated above, cidery-related special events will be limited in size and frequency with any required food being catered so as to ensure compatibility with surrounding agricultural operations and private servicing.

Policy 2.10.1 is consistent with 2.6.2 of the Provincial Policy Statement requiring significant archaeological resources to be conserved where archaeological resources or areas of archaeological potential exist. As discussed, this criteria has been met through the preparation of a Stage 1 and 2 archaeological assessment and receipt of a clearance letter from the Ministry of Tourism, Culture and Sport.

Policy 2.13.1 requires that development ensure the protection of the scenic resources of the Escarpment. The subject property is predominantly orchard, with a central farm cluster including two barns, a driveway and parking/staging area, a dwelling, and sheds/outbuildings. The proposed development, which proposes to add a two-storey garage and storage building and a couple of additions to existing buildings, will be confined to the existing cluster of buildings and not impact the open landscape character that exists or impact on existing orchard area. Staff understand that the access to the garage will be from the rear and the building itself will be designed to match the existing barns which are proposed to be restored.

Based on this analysis, it is Town staff's opinion that the proposal is consistent with the policies of the Niagara Escarpment Plan. NEC staff have also supported this proposal through issuance of a conditional development permit.

Niagara Region Official Plan, 2014

The Regional Official Plan (ROP) identifies the subject land as being outside of the Urban Area for the Town of Pelham, and designated as Unique Agricultural Area on the Region's Agricultural Land Base Map. The ROP permits a full range of agricultural, agriculture-related and secondary/on-farm diversified uses.

Policy 5.B. 19 requires that farm diversification uses be consistent with the Provincial Policy Statement and conform to the Niagara Escarpment Plan and the Greenbelt Plan.

Policy 5.B.23 states that value added production uses (cidery) are intended to primarily serve the farm operation and surrounding local operations, and remain secondary to the principal farming operation in relation to the scale of the operation, its footprint and the product being manipulated.

Policy 5.B.25 indicates that agri-tourism uses that are directly related to agriculture may be recognized and regulated by the local municipality. The activities shall be subject to the following criteria:

- a) The scale of the operation is limited and appropriate to the site and the surrounding area;
- b) The use has minimal impact on, does not interfere with and is compatible with the surrounding agricultural and rural land uses;
- c) The use is limited to low water and low effluent producing uses and the site is capable of accommodating the use on private water and private sewage treatment systems;
- d) The use does not cause off site impacts related to infrastructure or transportation/traffic;
- e) The use does not generate potentially conflicting off-site impacts;
- f) The use complies with all other applicable provisions of the Regional Official Plan.

As discussed above in the policy analysis for the Provincial Policy Statement, the proposal meets these requirements. The Region has offered no objection to approval of the site plan subject to the inclusion of appropriate clauses.

The Region's Core Natural Heritage mapping identifies several environmental features on the subject property, including an Environmental Conservation Area (ECA) associated with Significant Woodlands, a watercourse regulated by the Niagara Peninsula Conservation Authority (NPCA) and containing Type 1 (Critical) Fish Habitat, and a Wetland Allowance (NPCA-regulated 30 m buffer) associated with the Provincially Significant Wetland (Twelve Mile Creek Wetland Complex) located immediately north of the property.

The Region's Environmental Impact Study Guidelines (January 2018) allow for waiving of an Environmental Impact Study if certain criteria are met. In this case, the site plan indicates that the proposed construction area will be located well beyond the 30 metre setback requirement for Fish Habitat and the Significant Woodland and outside the 30 metre waiving zone for Provincially Significant Wetlands. As a result, no further study is required.

Based on this information, Planning staff are of the opinion that the site plan conforms to the Niagara Region Official Plan and Regional staff have also given their support subject to appropriate conditions.

Town of Pelham Official Plan, 2012

The property is designated Niagara Escarpment Plan Area in the Town of Pelham Official Plan. Policy B3.1 of the Town's Official Plan states that there are four designations that apply to the Niagara Escarpment Plan Area in the Town:

Escarpment Natural Area; Escarpment Protection Area; Escarpment Rural Area; and, Public Lands in the Parks and Open Space System and that the Niagara Escarpment Commission (NEC) is the agency responsible for administering the Niagara Escarpment Plan and shall be consulted to determine the exact location of each designation and to determine the policies applicable to these designations.

Schedule B to the Town of Pelham Official Plan shows the property as being adjacent to the Hurleburts Woods Wetland, Deer Wintering Area and Wetlands (PSW). Policy B3.2.4.3 requires that development adjacent to these features complete an Environmental Impact Study to demonstrate no negative impact to the features. As indicated above, the development is located far enough away from the natural features that the requirement for an Environmental Impact Study has been waived.

Policy B1.3.2 of the Town of Pelham Official Plan indicates that the Town's Zoning By-law has no force or effect in the Niagara Escarpment Plan Area.

Planning Staff Comments

The proposed cidery, tasting room and patio represent a permitted value-added agricultural uses accessory to the orchard farming operation. The site plan satisfies the policy criteria from the Province, Region and Town and the scale of the development is appropriate for the agricultural operation. The applicant has satisfactorily responded to comments related to the orientation of buildings and overflow parking area.

Financial Considerations:

The applicant has paid the required site plan approval application fee to cover a portion of staff time for review and processing. The applicant will also be required to pay the required fee for the agreement to cover legal fees for registration as well as to provide financial security to the Town in the event of non-compliance with the site plan agreement.

Alternatives Reviewed:

Though not recommended, Council could refuse the application for site plan approval or request changes to the agreement.

Strategic Plan Relationship: Grow Revenue - Promote Cultural Assets and Protect Environment

Council is obligated to make a decision with respect to the application by the *Planning Act*, R.S.O. 1990, C.P.13. While consideration of this request is not a

specific action in the Strategic Plan, the value added agricultural uses will allow the property owner to grow revenue while promoting the important agricultural areas and uses which are an important part of the Town's culture. The proposal is sufficiently set back from nearby natural heritage features thereby protecting the environment.

Consultation:

For Council's information, site plan control is not a public process under the Planning Act as it is an agreement between the land owner and the Town; therefore, there are no notice requirements for site plan control applications. A public process was undertaken by the Niagara Escarpment Commission as part of the application for development permit in accordance with the requirements of the *Niagara Escarpment Planning and Development Act*.

The site plan application was circulated to Town Departments, including Public Works and Fire and Emergency Services as well as utilities, the Niagara Region and the Niagara Peninsula Conservation Authority for review and comment. All Departments and agencies have offered no objections to approval of the site plan application subject to appropriate clauses being included in the site plan agreement.

It is noted that the applicant has also received conditional development permit approval of the proposed development from the Niagara Escarpment Commission on July 3, 2020 and the proposed site plan is consistent with that conditional approval. Section 24(3) of the *Niagara Escarpment Planning and Development Act* does not allow a municipality to make a decision that relates to development unless a development permit has been issued first. Therefore, the Staff recommendation is consistent with this legislation as well.

Planning staff are of the opinion that the executed site plan agreement will result in reasonable development of the site and represents good planning and therefore recommend that Council approve the by-law to enter into a site plan agreement with Iggy's Farm Ltd.

Other Pertinent Reports/Attachments:

Appendix A By-law to Enter into Site Plan Agreement with Iggy's Farm Ltd. and site plan agreement

Appendix B Niagara Escarpment Commission Notice of Decision

Prepared and Recommended by:

Shannon Larocque, MCIP, RPP
Senior Planner

Barbara Wiens, MCIP, RPP
Director of Community Planning and Development

Prepared and Submitted by:

David Cribbs, BA, MA, JD, MPA
Chief Administrative Officer