

Planning and Development Services

1815 Sir Isaac Brock Way, Thorold, ON L2V 4T7
905-980-6000 Toll-free:1-800-263-7215

Via Email Only

August 21, 2020

File No.: D.06.06.CS-20-0036

Ms. 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 Ms. Bozzato:

**Re: Provincial and Regional Comments
Consent Application B6/2020P**

Owner: [REDACTED]

Agent: [REDACTED]

Location: Northeast Corner of Webber Road and Poth Street, Pelham

Legal Description: Part of Lot 8, Concession 13, Town of Pelham

Regional Planning and Development Services staff has reviewed the above-noted consent application, which proposes to convey Part 1 (3.98 ha) for future agricultural or residential use. Part 2 (4.06 ha) is to be retained for future uses. Both the severed and retained parcels are currently vacant.

A pre-consultation meeting was held on June 20, 2019, at Pelham Town Hall. The application was received on August 4, 2020, and fees were received August 12, 2020. 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 located within a Rural Area under the 2020 Provincial Policy Statement (PPS) and is designated Rural Area in the Regional Official Plan (ROP). Both Provincial and Regional policies aim to protect agricultural land for long term agricultural use, but permit limited development in rural areas that is compatible with the rural landscape and can be sustained by rural services. In the Rural Area, the predominant use of land will continue to be agriculture, but some non-farm related development will be permitted including limited residential development. Section 5.C.2 of

the ROP permits non-farm residential uses in the Rural Area, subject to a rezoning or a consent to convey in the case of residential use. The ROP directs local Official Plans and Zoning By-laws to provide detailed policies and regulations with respect to residential development in Rural Areas; as such, the Town's Official Plan and Zoning By-law should be relied upon for this detail. The ROP states that development in the Rural Area will not be provided municipal services, and will only be permitted when the individual lot and soil conditions are suitable for the long-term operation of a private water and waste disposal system. Policy 5.C.6.1 limits non-farm residential development in the Rural Area to three lots or less. Further, Policy 5.C.6.4 requires that proposals for rural residential development meet additional criteria, including but not limited to retention of natural features, land use compatibility, and a minimum lot size of 1 hectare.

The consent application would result in the creation of 1 new lot for future residential or agricultural use. The proposed and retained lots meet the 1-hectare requirement of the ROP. The proposed size and configuration of the lots offers sufficient room for a septic system, cistern, and dwelling with additional amenity space. The proposed lots are adjacent to natural features, which are being retained in one parcel and are further discussed under Core Natural Heritage comments below. The lots comply with relevant land use compatibility setbacks, including minimum distance separation and d-series guidelines; however, consideration should be given to Minimum Distance Separation requirements as outlined below. Regional staff is of the opinion that the proposed consent application meets the intent of Provincial and Regional policies, subject to the discussion below.

Core Natural Heritage

The subject property is impacted by the Region's Core Natural Heritage System (CNHS), consisting of the Provincially Significant Upper Coyle Creek Wetland Complex (PSW), Significant Valleyland and Important (Type 2) Fish Habitat (see map in Appendix). The property is also mapped as part of the Growth Plan (2019) Provincial Natural Heritage System (NHS). As such, these features are considered Key Natural Heritage Features (KNHF) and Key Hydrologic Features (KHF) and the natural heritage policies identified in the Provincial Growth Plan apply accordingly.

Regional and Provincial policies require completion of an Environmental Impact Study (EIS) (and/or Natural Heritage Evaluation) when development or site alteration (including the creation of a new lot) is proposed within 120 m of a KNHF or KHF. Growth Plan Policy 4.2.4c) also requires the establishment of vegetation protection zone (VPZ), which for PSW and fish habitat is no less than 30 metres measured from the outside boundary of the feature. Policies generally require the 30 m VPZ to consist of natural self-sustaining vegetation; however, farm related uses are exempt from the requirement provided the land is, and will continue to be, used for agricultural purposes.

As discussed in the June 20, 2019 preconsultation meeting, Regional Environmental Planning staff indicated that if the sketch submitted identifies the required 30 m setback from PSW, Significant Valleyland and Fish Habitat, Environmental Planning staff are

supportive of waiving the requirement for any further studies. The sketch provided shows that these setbacks are met; therefore, no studies will be required.

Please note that the Niagara Peninsula Conservation Authority (NPCA) continues to be responsible for the review and comment on planning applications related to their regulated features. As such, NPCA should continue to be consulted with respect to their comments and permit requirements pursuant to Ontario Regulation 155/06.

Minimum Distance Separation

The PPS and ROP policies require that new development, including lot creation, and new or expanding livestock facilities comply with the Minimum Distance Separation (MDS) formulae developed by the Ministry of Agriculture, Food and Rural Affairs (OMAFRA), which is applied in order to separate uses to reduce incompatibility concerns about odour from livestock facilities. Staff notes that no information regarding adjacent livestock facilities has been submitted in support of the consent application, which proposes to create a new lot within the Rural Area and adjacent to lands designated for agricultural uses. As such, staff cannot confirm if the proposed development meets the requirements for MDS. Regional staff also note that municipalities are responsible for ensuring that MDS setbacks are met when reviewing land use planning applications or building permits. Therefore, the Committee should look for confirmation from Town staff that the proposed lot creation meets the MDS setbacks.

Archaeological Resources

The PPS and ROP provide direction for the conservation of significant cultural heritage and archaeological resources. Specifically, Section 2.6.2 of the PPS and Policy 10.C.2.1.13 of the ROP state that development and site alteration are not permitted on lands containing archaeological resources or areas of archaeological potential, unless significant archaeological resources have been conserved.

The subject land was identified as having high archaeological potential at the preconsultation meeting, as a result of the watercourse running through the property. Recognizing that further *Planning Act* approvals (i.e. site plan approval) will be required for development on the lands, Regional staff agreed to postpone the requirement for an archaeological assessment to the site plan approval stage.

Private Servicing

Private Septic System (PSS) staff have reviewed the application and have no objection to the proposed consent application. The retained (4.06 ha) and severed lot (3.98 ha) are of adequate size to accommodate sewage systems in the future.

August 21, 2020

Conclusion

In conclusion, Regional staff are not opposed to the proposed consent and are satisfied the proposal meets the intent of Provincial and Regional policies, subject to any local concerns and confirmation that the proposed lot meets the MDS requirements.

Should you have any questions related to the above comments, please feel free to contact me by phone at 905-980-600 ext. 3432 or email at Britney.fricke@niagararegion.ca.

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
Senior Development Planner

cc: Caitlin Goodale, Private Sewage System Inspector, Niagara Region
Curtis Thomson, Planner, Town of Pelham

Appendix- Core Natural Heritage Features

