

**Planning and Development Services**

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**Via Email Only**

January 20, 2021

File No.: D.06.06.CS-21-0002

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**

**Surplus Farm Dwelling Consent**

**Town File Nos.: B4/2021P**

**Owner:** [REDACTED]

**Address: 855 Chantler Road, Pelham**

**Legal Description: Part of Lot 17, Concession 12 (Part 1), Town of Pelham**

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Regional Planning and Development Services staff have reviewed the above-noted consent application, which is proposed to sever Part 1 (6,127.6 square metres), containing an existing single-detached dwelling, two barns and two silos, known as 855 Chantler Road, as a surplus farm dwelling. Part 2 (20.30 hectares) is to be retained for continued agricultural use.

A pre-consultation meeting for this application was held on June 4, 2020, with Town and Regional staff, and the applicant in attendance. The following Provincial and Regional Comments are provided to assist the Committee in their consideration of the application.

**Provincial and Regional Policy**

The subject lands are located within a Prime Agricultural Area under the Provincial Policy Statement (PPS), and are designated as Good General Agricultural Area in the Regional Official Plan (ROP). The permitted uses in these areas include agriculture, agricultural-related, and on-farm diversified uses.

Provincial and Regional policies recognize that agricultural land is a valuable asset that must be managed and protected. Accordingly, the policies of the PPS and ROP restrict

lot creation in agricultural areas, and only permit severances for agricultural lots, minor boundary adjustments, and the disposal of a residence surplus to a farming operation as a result of a farm consolidation, all subject to specific criteria. For the disposal of a surplus farm dwelling, planning policies require that the construction of a new residential dwelling is prohibited on the vacant farmland parcel. As a condition of severance, Regional policy indicates that the applicant must have the farm parcel rezoned to preclude residential uses on the land in perpetuity. The ROP also requires all proposed residential lots created through consent in agricultural areas to meet additional conditions. This includes a lot area of sufficient size to support a well and private septic disposal system, sufficient frontage and safe access to an existing public road, and that the proposed lot be located to minimize the impact on the remaining farm operation. These requirements and criteria are further discussed below under the relevant sections.

## **Surplus Farm Dwelling Consent**

The PPS defines a farm consolidation as the acquisition of additional farm parcels to be operated as one farm parcel. The information submitted with the application states that the purchasing farmer owns approximately 913 acres (369 hectares) of land, and rents an additional approximately 1400 acres (566 hectares) of land in both the Town of Pelham and the Township of Wainfleet for the production of grain. The purchasing farmer has indicated that their primary residence is located at 558 River Road, Pelham. Therefore, the dwelling located at 855 Chantler Road is surplus to the farm operation's needs.

The ROP provides that the size of any new lot shall not exceed an area of 0.4 hectares (1 acre), except to the extent of any additional area deemed necessary to support a private water supply and sewage disposal system. The proposed lot size of 0.6 hectares has been largely determined by the location of the existing dwelling and barns on the subject property. Typically, Regional policy requires any barns or equipment sheds on the subject property to remain with the remnant agricultural parcel to ensure the impact on the remaining farm operation is minimal. However, the Planning Justification Brief, prepared by Craig Lamour, MCIP, RPP (dated December 2020), submitted in support of the application, states that the two barns are surplus to the needs of the farm operation, as any farm equipment that will be used on the remnant agricultural parcel will be stored at the farmer's primary residence located at 558 River Road, Pelham. Consequently, the Planning Justification Brief maintains that these barns should remain with the residential parcel, as they will provide utility to the residential use, and assist in maintaining the rural character of the area.

Given that the barns have been demonstrated to be surplus to the needs of the farming operation, Regional staff are not opposed to retaining the barns with the residential parcel. Accordingly, Regional staff are of the opinion that the lot area of the residential parcel remains consistent with Regional policy because the existing tilled area is being retained with the remnant farm parcel. No agricultural lands are being removed from the farm operation to accommodate the larger lot size.

## **Zoning By-law Amendment**

For surplus farm dwelling consents, Provincial and Regional planning policies require that the construction of a new residential dwelling be prohibited on the agricultural parcel. Therefore, as a condition of approval, Regional staff require that Part 2 be appropriately zoned to preclude a future farm residence on the land (i.e., 'Agricultural Purposes Only' (APO)).

Regional staff note that Regional circulation of the zoning by-law amendment application will not be required, provided it is addressed prior to, concurrently or as a condition of consent, in accordance with the Memorandum of Understanding between the Region and the Local Municipalities. A condition to require the rezoning is included in the conclusion of this letter.

## **Minimum Distance Separation**

Provincial and Regional 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. This formulae is applied in order to separate uses to reduce incompatibility concerns about odour from livestock facilities. An MDS I setback would be required for an existing dwelling to be severed and a livestock facility/anaerobic digester located on the same lot prior to the consent; however, there is no livestock facility on the proposed remnant lot, so no MDS information was requested at the pre-consultation meeting. 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 of Adjustment should look for comments from the Town regarding the MDS setbacks.

## **Core Natural Heritage**

The subject property is impacted by the Region's Core Natural Heritage System (CNHS), consisting of the Upper Coyle Creek Provincially Significant Wetland Complex (PSW), Significant Woodland and Type 2 (Important) Fish Habitat (see attached map). Consistent with ROP policy 7.B.1.11 and 7.B.1.15, an Environmental Impact Study (EIS) is generally required in support of site alteration and/or development proposed within 120 metres of a PSW, within 50 metres of Significant Woodland and/or within 15 metres of a Type 2 (Important) Fish Habitat.

The proposed consent boundary is located outside of the above-noted features and setbacks; therefore, an EIS is not required and there are no further environmental comments.

## **Archeological 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 (including the creation of a new lot) and site alteration (activities, such as grading, excavation and the placement of fill that would change the landform and natural vegetative characteristics of the site) are not permitted on lands containing archaeological resources or areas of archaeological potential, unless significant archaeological resources have been conserved.

Based on Provincial screening criteria, the subject lands exhibit high potential for the discovery of archaeological resources due to their proximity (within 300 metres) to a watercourse, a portion of which runs through the northern portion of the subject lands. The Town of Pelham has an approved Heritage Master Plan, and therefore has jurisdiction on matters related to archaeological resources. Accordingly, Regional staff defer to the Town on any requirements for an archaeological assessment.

## **Private Septic System**

Regional Private Sewage Systems (PSS) staff have reviewed the application and note that no record was found for the existing legal non-conforming sewage system servicing Part 1. At the time of PSS staff's inspection, no visual defects were observed with the existing sewage system. The existing tank is located north of the existing dwelling and the in-ground bed is located west of the existing dwelling.

The proposed consent will not adversely impact the existing sewage system on Part 1, which currently supports the existing dwelling, as well as two detached accessory buildings. There also appears to be usable area on Part 1 for any future septic system repair or replacement that may be required.

Therefore, provided no changes are proposed for the existing dwelling, PSS staff have no objections to this application.

## **Conclusion**

In conclusion, Regional Planning and Development Services staff have no objections to the proposed consent application from a Provincial or Regional perspective, subject to the following conditions:

1. That Part 2 is rezoned for 'Agricultural Purposes Only' to preclude construction of a dwelling in perpetuity;
2. The satisfaction of any local requirements, including archeological assessment(s) and MDS setbacks.

January 20, 2021

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Subject to the above-noted conditions, the consent application is consistent with the Provincial Policy Statement, and conforms to Provincial plans and the Regional Official Plan from a Provincial and Regional perspective.

If you have any questions related to the above comments, please contact me at [Amy.Shanks@niagararegion.ca](mailto:Amy.Shanks@niagararegion.ca), or Britney Fricke, MCIP, RPP, Senior Development Planner at [Britney.Fricke@niagararegion.ca](mailto:Britney.Fricke@niagararegion.ca).

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

Kind regards,



Amy Shanks  
Development Planner

cc: Britney Fricke, MCIP, RPP, Senior Development Planner, Niagara Region  
Justin Noort, C.E.T, Private Sewage System Inspector. Niagara Region  
Lori Karlewicz, Planning Ecologist, Niagara Region  
Curtis Thompson, Planner, Town of Pelham

Appendix: Core Natural Heritage Features Map

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