

Planning and Development Services

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Via Email Only

February 24, 2021

File No.: D.06.06.CS-21-0003
D.06.06.CS-21-0004

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 Applications
Town File Nos.: B5/2021P & B6/2021P
Address: 614 Metler Road, Pelham
Legal Description: Part of Lot 12, Concession 6, Town of Pelham**

Regional Planning and Development Services staff have reviewed the information circulated for two consent applications at 614 Metler Road, Pelham. The consent applications propose the creation of two new lots (Part 1 and 3 on the submitted sketch) for future residential use. Part 2 will be retained for continued residential use.

A preconsultation meeting for the proposed consent applications was held on September 3, 2020, with staff from the Town and Region, as well as the Owner in attendance.

The consent applications were circulated with three associated minor variance applications (Town File Numbers: A9/2021P, A10/2021P, and A11/2021P), which seek relief from the Town's Zoning By-law to permit a reduced minimum lot frontage for Parts 1, 2, and 3, as well as a reduced minimum interior side yard setback for the existing dwelling on Part 2. As the requested variances do not affect Provincial or Regional interests, Regional staff have no comment on these applications.

The following Provincial and Regional comments are provided to assist the Committee in their consideration of the consent applications.

Provincial and Regional Policy

The subject lands are located within a Settlement Area under the Provincial Policy Statement (PPS), and are designated as Hamlet (North Pelham) in the Regional Official Plan (ROP). As Settlement Areas, Hamlets are to be a focus of growth and development, and their vitality and regeneration is promoted by both the PPS and the ROP. The ROP states that Hamlets are to be designated in local Official Plans for further development of a low-density nature without the provision of municipal water and sewer services.

The ROP requires a minimum lot size of 1 hectare for new lots in Hamlets, unless it is determined through a hydrogeological study that a smaller lot size will adequately accommodate private water and sewage treatment on the lot over the long term. The proposed lots will each total 4,046.86 square metres (0.4 hectares) in area. Accordingly, a Hydrogeological Assessment, prepared by Terra Dynamics Consulting Inc. (dated November 11, 2020) was submitted with the application. The Hydrogeological Assessment supports the reduced lot size of 0.4 hectares, provided:

- i. All lots are equipped with sewage systems that provide at least 50% nitrogen reduction of septic effluent Level IV/tertiary treatment;
- ii. Future sewage disposal systems observe the required set-backs from existing water supplies identified in Figure 4 of the Hydrogeological Assessment, unless these water supplies are decommissioned by an Ontario-licensed water well contractor; and
- iii. Water is supplied by cisterns for each of the lots. Alternatively, the construction of new groundwater supplies on the lots will require:
 - a) A water supply assessment (completed in accordance with the Ministry of Environment, Conservation and Parks' D-5-5 Guidelines for Private Wells: Water Supply Assessment);
 - b) Well construction within the Pre-Halton or Bedrock aquifers; and
 - c) Locations meeting the Ontario Building Code setbacks.

Regional Engineering staff have reviewed the Hydrogeological Assessment and offer no objections, provided the report's recommendations are addressed through a development agreement on the severed and retained lots. A condition has been included in the conclusion to address this requirement. Regional staff also note that the existing shallow bored well on the lot may need to be decommissioned, depending on the location of the future septic systems.

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 and site alteration are not permitted on lands containing archaeological resources or areas of archaeological potential, unless significant archaeological resources have been conserved.

At the preconsultation meeting, the subject lands were identified as having high archaeological potential given that they are identified as such in the Town's Heritage Master Plan. A Stage 1 and 2 Archeological Assessment, prepared by Detritus Consulting Limited (dated October 19, 2020) was submitted with the applications. The Stage 2 Assessment did not result in the identification of any archaeological resources, and the Licensed Archaeologist recommended that additional archaeological assessment for the subject lands was not warranted.

In a letter dated December 3, 2020, the Ministry of Heritage, Sport, Tourism and Culture Industries (MHSTCI) acknowledged the information contained in the Stage 1 and 2 Archeological Assessment and its recommendations. The report has been entered into the Ontario Public Register of Archaeological Reports. As such, Regional staff are satisfied that archaeological resources have been adequately addressed for the subject lands.

Recognizing that no archaeological survey, regardless of its intensity, can entirely negate the possibility of deeply buried archaeological materials, Regional staff recommend the inclusion of a standard archaeological clause in the development agreement for the severed and retained lots, relating to deeply buried archaeological materials that may be encountered during grading and construction activities. A condition regarding this clause is included in the conclusion to this letter.

Minimum Distance Separation

Provincial and Regional policies require that new development, including lot creation, 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 MDS setbacks.

Private Servicing

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 the existing single residential-dwelling and detached accessory structure located on Part 2. Based on a site inspection, it was determined that this existing system will not be wholly contained within the new proposed lot lines of Part 2. Therefore, a new sewage system will be required to service this lot, meeting minimum Ontario Building Code (OBC) requirements, as well as the recommendations outlined in the Hydrogeological

Assessment submitted with the applications. There appears to be enough usable area on Part 2 south of the existing dwelling for the replacement system.

Therefore, PSS staff have no objections to the proposed applications, provided a new sewage system is installed for Part 2, which meets both the requirements of the OBC, as well as the recommendations included in the Hydrogeological Assessment submitted with these applications. Additionally, PSS staff note that the future sewage systems for Parts 1 and 3 will be required to comply with these same requirements as part of the sewage system permit .

Conclusion

In conclusion, Regional Planning and Development Services staff have no objections to the proposed consent applications from a Provincial or Regional perspective, subject to the satisfaction of any local requirements, and the following conditions:

1. That the owner enters into a development agreement with the Town, to be registered against the title of Parts 1, 2 and 3, to require:
 - a. Implementation of the recommendations of the Hydrogeological Assessment, prepared by Terra Dynamics Consulting Inc. (dated November 11, 2020), including:
 - i. The lots be equipped with sewage systems that provide at least 50% nitrogen reduction of septic effluent Level IV/tertiary treatment.
 - ii. Future sewage disposal systems observe the required set-backs from existing water supplies as shown on Figure 4 of the Hydrogeological Assessment, prepared by Terra Dynamics Consulting Inc. (dated November 11, 2020), unless these water supplies are decommissioned by an Ontario-licensed water well contractor.
 - iii. Water is supplied by cisterns for each lot. Alternatively, the construction of new groundwater supplies will require:
 1. A water supply assessment completed in accordance with the Ministry of Environment, Conservation and Parks D-5-5 Guidelines for Private Wells: Water Supply Assessment;
 2. Well construction within the Pre-Halton or Bedrock aquifers; and
 3. Locations meeting the Ontario Building Code setbacks.
 - b. Inclusion of the following warning clause:

"Should deeply buried archaeological remains/resources be found on the property during construction activities, all activities impacting archaeological resources must cease immediately, the Archaeology Programs Unit of the Ontario Ministry of Heritage, Sport, Tourism and Cultural Industries (MHSTCI) (416-212-8886) must be notified, and a licensed archaeologist is required to carry out an archaeological assessment in accordance with the Ontario Heritage Act and the Standards and Guidelines for Consultant Archaeologists.

In the event that human remains are encountered during construction, all activities must cease immediately and the local police as well as the Cemeteries Regulation Unit of the Ministry of Government and Consumer Services (416-326-8800) must be contacted. In situations where human remains are associated with archaeological resources, MHSTCI should also be notified to ensure that the site is not subject to unlicensed alterations which would be a contravention of the Ontario Heritage Act."

2. That a new sewage system be installed for Part 2, which meets all requirements of the Ontario Building Code, as well as the recommendations of the Hydrogeological Assessment, prepared by Terra Dynamics Consulting Inc. (dated November 11, 2020).

Provided these conditions are addressed, the proposal is consistent with the Provincial Policy Statement and conforms to Provincial Plans and the Regional Official Plan from a Provincial and Regional perspective.

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

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

Kind regards,



Amy Shanks
Development Planner

cc: Britney Fricke, Senior Development Planner, Niagara Region
Justin Noort, Private Sewage System Inspector, Niagara Region
Curtis Thompson, Planner, Town of Pelham