

**Planning and Development Services**

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**Via Email Only**

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File No.: D.10.06.OPA-21-0014  
D.18.06.ZA-21-0027

Tara-Lynn O'Toole  
Policy Planner  
Town of Pelham  
20 Pelham Town Square. P.O. Box 400  
Fonthill, ON L0S 1E0

Dear Ms. O'Toole:

**Re: Regional and Provincial Comments  
Town-Initiated Official Plan Amendment and Zoning By-law Amendment  
Proposed Second Dwelling Unit Policies and Regulations  
Town of Pelham**

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Regional Planning and Development Services staff have reviewed the information circulated with the Town-initiated Official Plan and Zoning By-law Amendments, which are intended to establish policies and regulations for second dwelling units within the Town.

The draft Official Plan Amendment (OPA) proposes to:

- Delete reference to accessory apartments and secondary suites throughout the Official Plan, replacing these with the term second dwelling units;
- Permit second dwelling units in single detached, semi-detached and townhouse dwellings located in the Urban Living Area designation, subject to specific policy requirements concerning the appearance and size of the second dwelling unit relative to the principal residential dwelling, as well as compliance with the Ontario Building Code and Fire Code, and the Town's Zoning By-law;
- Add a provision stating that the construction of second dwelling units in the Urban Living Area designation will not contribute to density, but will be included in the Town's intensification target; and
- Permit second dwelling units in existing detached dwellings and detached accessory buildings located in the Good General Agricultural and Specialty Agricultural designations, subject to specific policy requirements, including confirmation that the second dwelling unit is capable of being sustained by the existing water supply and septic system servicing the lot, and a requirement that

the second dwelling unit cannot be severed or subdivided from the parcel that contains the principal residential dwelling.

The draft Zoning By-law Amendment (ZBA) proposes to:

- Add a new definition for second dwelling unit;
- Increase the maximum accessory residential building and structure height to 7.2 metres;
- Modify parking area and driveway requirements;
- Permit one second dwelling unit per lot in a single-detached, semi-detached, townhouse dwelling or detached accessory building in the Agricultural (A), Specialty Rural (SR), Residential Village 1 (RV1), Residential 1 (R1) and Residential 2 (R2) zones, subject to the second dwelling unit complying with specific regulations regarding parking, maximum floor area, maximum number and location of entrances, Ontario Building Code requirements, and water and septic servicing; and
- Add a provision requiring an accessory structure that contains a second dwelling unit to be within 40 metres from the closest portion of the principal dwelling if the property is serviced by a well and/or septic system.

Regional staff provide the following comments regarding Provincial and Regional policy to assist Town staff in finalizing the draft amendments before they are presented to Town Council for final approval.

## **Planning Act**

Section 16(3) of the *Planning Act* requires municipalities to include policies in their Official Plan which authorize the use of two residential units within a detached, semi-detached or row house, as well as one residential unit within a building or structure ancillary to a detached, semi-detached or row house. Section 35.1(1) of the *Planning Act* requires municipalities to include regulations in their Zoning By-law which give effect to the required Official Plan policies under Section 16(3).

Regional staff note that the draft amendments appear to be inconsistent with these requirements under the *Planning Act*. Notably, the draft OPA identifies second dwelling units as being permitted within single detached, semi-detached and townhouse dwellings in residential designations, but does not recognize or address second dwelling units as being permitted within detached accessory buildings. Further, in the draft ZBA, the amended Section 6.2 explicitly states that only one second dwelling unit is permitted per lot, whereas, as noted above, the *Planning Act* requires a total of at least two second dwelling units to be permitted per lot; one within a dwelling, and the other within a building or structure ancillary to that dwelling. Accordingly, Regional staff recommend that the Town be satisfied that the amendments comply with all requirements for second dwelling units under the *Planning Act* prior to their final approval.

## **Provincial and Regional Policies**

### **Provision of second dwelling units**

The Provincial Policy Statement (PPS) calls for the sustainability of healthy, liveable and safe communities by accommodating an appropriate affordable and market-based range and mix of residential types, specifically identifying that municipalities should permit and facilitate additional residential units (i.e. second dwelling units) as a means of achieving this goal. The Growth Plan for the Greater Golden Horseshoe (Growth Plan) provides similar direction, stating that municipalities should support housing choice by planning for a diverse range and mix of housing options and densities, including additional residential units and affordable housing, to meet projected needs of current and future residents. The Regional Official Plan (ROP) encourages municipalities to provide for a diversity of housing types to serve a variety of people as they age through the life cycle, and states that local municipalities are encouraged to adopt policies and zoning by-laws facilitating the creation of second dwelling units, particularly within the urban area.

Together, the proposed amendments will support the creation of more second dwelling units throughout the municipality, which will in turn result in the creation of more affordable housing options, and potentially more rental options, in the local market. Accordingly, from a Provincial and Regional perspective, Regional staff are generally supportive of the proposed amendments, subject to the comments below regarding overall conformity with Provincial and Regional land use designations.

### **Second Dwelling Units in the Urban Living Area Designation**

Lands designated Urban Living Area in the Town's Official Plan are within a Settlement Area under the PPS, Delineated Built-Up Area and Designated Greenfield Area under the Growth Plan, and designated Urban Built-Up and Urban Greenfield Area under the ROP.

The PPS and Growth Plan direct growth to Settlement Areas and the Delineated Built-Up Area and Designated Greenfield Area to efficiently use existing servicing and infrastructure, and to foster the creation of complete communities which provide convenient access to an appropriate mix of jobs, local services, public service facilities, and a full range of housing to accommodate a range of incomes and household sizes. To support the achievement of complete communities, the Growth Plan encourages municipalities to plan for intensification throughout the Delineated Built-Up Area. This includes permissions for second dwelling units.

The ROP permits a full range of residential, commercial and industrial uses generally within the Urban Area, subject to the availability of adequate municipal services and infrastructure. Within the Built-Up Area, the ROP directs municipalities to plan for and promote intensification. The creation of second dwelling units is considered to be a form

of intensification. Until the Region has completed its municipal comprehensive review, and it is approved and in effect, an annual minimum intensification target of 15% will apply to the portion of the Built-Up Area within the Town of Pelham. The proposed amendments will assist the Town in achieving this target, and Regional staff encourage the Town to proactively track the creation of second dwelling units as part of their efforts to monitor this growth target.

### **Second Dwelling Units in the Good General Agricultural Designation**

Lands designated Good General Agricultural in the Town's Official Plan are within a Prime Agricultural Area under the PPS, and are designated as Good General Agricultural Area in the ROP. Provincial and Regional policies state that lands in these designations are to be protected for long-term agricultural use. Accordingly, permitted uses in these designations include agricultural, agriculture-related and on-farm diversified uses. An agricultural use includes a principle dwelling associated with a farming operation. The ROP also permits the continued operation of legally-established residential uses, and the reasonable expansion of these uses within the Good General Agricultural Area designation, provided the expansion will not have a negative impact on environmental features, or result in the inclusion of new incompatible uses. The expansion is also subject to the need and desirability of the operation; regard for the environmental, agricultural, and other policies of the ROP; compatibility with existing surrounding uses; access and servicing requirements being met; and additional municipal services not being required.

To ensure the protection of these lands for long-term agricultural use, and to ensure second dwelling units will not encroach or unnecessarily restrict existing agricultural uses, Regional staff are supportive of the proposed zoning regulations limiting the maximum floor area of second dwelling units in the Agricultural and Specialty Rural zones to 93 square metres, as well as requiring a second dwelling unit located in a detached accessory building to be situated within the existing cluster of buildings, and within 40 metres of the principle dwelling if the property is un-serviced. To ensure the same policy intent is upheld in the proposed OPA, Regional staff recommend that the Town insert a policy requiring second dwelling units in agricultural designations to have a gross floor area less than that of the principle dwelling, similar to the policy that is already proposed for second dwelling units located in the Urban Living Area designation.

From a servicing perspective, Regional staff note that the establishment of a second dwelling unit typically results in increased sewage flows which require the installation of a new sewage system. This would be restricted under the proposed OPA, which requires verification that the existing septic system is capable of accommodating the second dwelling unit. However, it is Regional staff's understanding that the intent behind this policy is to ensure the size of the second dwelling unit, and the features on-site required to support it (i.e. the septic system and water supply) remain limited, thus maintaining as much land as possible for continued agricultural use. Accordingly,

Regional staff have no objections to this proposed policy from a Provincial or Regional perspective.

Provincial and Regional policies largely prohibit the creation of new residential lots in agricultural designations. Regional staff are therefore supportive of the policy in the draft OPA which states that a second dwelling unit cannot be severed or subdivided from the parcel which contains the principal residential dwelling.

### **Second Dwelling Units in the Specialty Agricultural Designation**

Lands designated Specialty Agricultural in the Town's Official Plan are within a Prime Agricultural Area, and more specifically within a Specialty Crop Area under the PPS; within the Protected Countryside, and identified as being within the Specialty Crop Area – Niagara Peninsula Tender Fruit and Grape Area designation under the Greenbelt Plan; and within the Unique Agricultural Area designation under the ROP.

The comments above concerning restrictions on the size of second dwelling units, as well as severances, also apply to lands within these designations.

Additionally, Regional staff note that, under the Greenbelt Plan, second dwelling units are permitted within the Protected Countryside designation, provided they are within an existing dwelling, or in a new dwelling which was authorized for this use prior to the effective date of the Greenbelt Plan (December 16, 2004). Second dwelling units are also permitted within existing accessory structures, provided they are located on the same lot as either an existing dwelling, or a new dwelling which was authorized for this use prior to the effective date of the Greenbelt Plan. Permitted second dwelling units in the Protected Countryside designation must also be located outside of the Greenbelt Natural Heritage System.

Regional staff note that both the draft OPA and ZBA currently do not restrict the creation of second dwelling units to lands located outside of the Greenbelt Natural Heritage System. Additionally, the draft ZBA does not limit the creation of second dwelling units to existing accessory buildings on these lands. These should be addressed to ensure conformity with the policies of the Greenbelt Plan.

### **Draft Policy Review**

In addition to the comments above, the following comments are offered for consideration by Town staff regarding the draft OPA:

- Section B.1.1.4 e) states that a second dwelling unit should be “designed and located to maintain the external appearance and character of a detached dwelling”, however the introduction to Section B.1.1.4 references single detached, semi-detached and townhouse dwellings. For clarity, Town staff may wish to revise clause e) to reference all dwelling types mentioned in the introduction.

- The draft OPA indicates that Section B1.7.7.4.1(a(ii)) will be amended to remove reference to accessory apartments/secondary suites, replacing this with the term second dwelling units. This should be revised to state Section B1.7.7.4.1(a(iii)) will be amended, as this is the clause which references accessory apartments/secondary suites.

## Conclusion

Regional staff appreciate the opportunity to review the draft amendments, and are supportive of the Town's efforts to permit second dwelling units, as this will foster improved housing affordability and choice throughout the municipality. As outlined above, the draft amendments generally comply with Provincial and Regional policies, provided the above-mentioned comments concerning conformity with permissions for second dwelling units within the Protected Countryside designation of the Greenbelt Plan are addressed. Additionally, to better align with Provincial and Regional policies for agricultural areas, it is recommended that a policy be added to the proposed OPA which requires second dwelling units in agricultural designations to have a smaller gross floor area than that of the principle dwelling.

Provided these comments are addressed in the OPA which advances to Town Council, the amendment can be exempt from Regional Council approval, in accordance with Policy 14.E.6 and 14.E.7 of the Regional Official Plan and the Memorandum of Understanding.

Please forward a copy of the final amendments prior to their consideration by Town Council.

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).

Best regards,



Amy Shanks  
Development Planner

cc: Britney Fricke, MCIP, RPP, Senior Development Planner, Niagara Region  
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