

**Planning and Development Services**

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**Via Email Only**

July 21, 2021

File No.: D.06.06.CS-21-0061

Holly Willford  
Town Clerk/Secretary-Treasurer  
Town of Pelham  
20 Pelham Town Square, PO Box 400  
Fonthill, ON L0S 1E0

Dear Ms. Willford:

**Re: Regional and Provincial Comments  
Surplus Farm Dwelling Consent  
Town File No.: B21/2021P  
Owner: [REDACTED]  
Agent: [REDACTED]  
Address: 588 Chantler Road  
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 (1.6941 hectares), containing an existing single-detached dwelling, three accessory structures and a silo, known as 588 Chantler Road, as a surplus farm dwelling. Part 2 (36.3 hectares) is to be retained for continued agricultural use.

A preconsultation meeting for this application was held on April 1, 2021, with staff from the Town, Region and Niagara Peninsula Conservation Authority in attendance, as well as the agent. The following Provincial and Regional Comments are provided to assist the Committee in their consideration of the application.

**Provincial and Regional Policies**

The subject lands are located within a Prime Agricultural Area under the Provincial Policy Statement (PPS), identified as Prime Agricultural Lands in the Provincial Agricultural System under A Place to Grow: Growth Plan for the Greater Golden Horseshoe (Growth Plan), and designated as Good General Agricultural Area in the Regional Official Plan (ROP). 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 410 hectares of land, and rents an additional approximately 526 hectares of land in both the Town of Pelham and the Township of Wainfleet for the production of cash crops. The purchasing farmer has indicated that their primary residence is located at 558 River Road, Pelham. Therefore, the dwelling located at 588 Chantler Road is surplus to the farm operation's needs.

The ROP states 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. Part 1 is proposed to be 1.69 hectares in area, which exceeds the maximum size permitted by the ROP. In addition to the dwelling, the parcel includes three accessory structures and a silo. The Planning Justification Brief, prepared by Craig Lamour, MCIP, RPP (dated June 2021), submitted in support of the application indicates that these structures are not required for the farming operation, as adequate barns and other buildings are located at their principal property (558 River Road, Pelham).

The proposed configuration of Part 1 also includes approximately 1 hectare of land to the west of the existing driveway, which does not contain any physical features or structures associated with the existing dwelling. The Planning Justification Brief identifies that these lands have been included in Part 1 as the configuration of the lot restricts their use for agricultural production. There is a wooded area that runs along the westerly lot line of the property in this location, and the cleared area available for farming is approximately 30 metres wide, which is not wide enough to allow the farmer's equipment to access this location, per the Planning Justification Brief.

Regional staff note that the lands to the west of the driveway present challenges for agricultural viability and maintenance, including accessibility impacts due to the watercourse, driveway, and treed area along Chantler Road. Agricultural viability of these lands is also limited by their close proximity to the adjacent residential dwellings. The current configuration of these lands does not allow for enough area to implement adequate buffers to these adjacent residential uses. Accordingly, staff are not opposed to the proposed lot area of Part 1, and are of the opinion that the proposed consent aligns with the intent of Regional policy.

## **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 preconsultation 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, Significant Valleyland, and Type 2 (Important) Fish Habitat (see attached map in appendix). Consistent with Regional Official Plan (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 PSW, 50

metres of Significant Woodland/Significant Valleyland and 15 metres of Type 2 Fish Habitat.

The new lot is located outside of most of the above-noted setbacks, but the southwest corner of this lot approaches within 3 metres of Type 2 Fish Habitat. ROP policy 7.B.1.29 provides an exemption for an EIS if a proposed single residential lot is to be located entirely within lands adjacent to the CNHS, provided that standard mitigation measures can avoid negative impacts on the features and ecological functions of the CNHS and adjacent lands. As no construction is proposed with this application, staff are supportive of waiving the requirement for an EIS.

## **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 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 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 Servicing**

The subject property contains a residential dwelling with multiple accessory structures. No record of the installation of the existing sewage system was found, however no defects were noted and sufficient usable land remains available on Part 1 to replace the tile bed when needed. The existing sewage system is wholly contained within Part 1. Therefore, Regional Private Sewage System staff have no objections to the application as submitted.

## **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; and

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2. The satisfaction of any local requirements, including archeological assessment(s) and MDS setbacks.

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 Aimee Alderman, MCIP, RPP, Senior Development Planner at [Aimee.Alderman@niagararegion.ca](mailto:Aimee.Alderman@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: Aimee Alderman, MCIP, RPP, Senior Development Planner, Niagara Region  
Lori Karlewicz, Planning Ecologist, Niagara Region  
Caitlin Goodale, Private Sewage System Inspector, Niagara Region  
Kenny Ng, Planner, Town of Pelham

Appendix: Core Natural Heritage Features Mapping

