

Subject: Information Report – Zoning By-law
Amendment Application (AM-06-2021)**Recommendation:**

BE IT RESOLVED THAT Council receive Report # 2021-0170 for information and recommend to Council:

THAT Planning staff be directed to prepare the Recommendation Report for consideration of adopting the Zoning By-law Amendment.

Background:

The purpose of this report is to provide Council and the public with information regarding an application to amend Zoning By-law No. 1136 (1987) for the property known as 588 Chantler Road. The proposed zoning by-law amendment would rezone:

- Part 1
 - From Agricultural – 25 (A-25) to Site-specific A (*Agricultural*) to amend the maximum lot coverage and maximum height for accessory residential structures; and
- Part 2
 - From Agricultural – 25 (A-25) and Light Industrial – 25 (M1-25) to Site-specific APO (*Agricultural Purposes Only*) to prohibit further residential construction in perpetuity.

Location:

The subject lands are located on the south side of Chantler Road, lying east of Cream Street (Figure 1). Municipally known as 588 Chantler Road, in the Town of Pelham. The property currently supports one single detached dwelling, agricultural barns and productive farmland on a 38.3 hectares lot.

The subject lands are surrounded by:

- North – Agricultural / *key natural heritage features*

- East – Agricultural / rural residential dwellings / Harold S. Bradshaw Memorial Park
- South – Agricultural / rural residential dwellings / *key natural heritage features*
- West – Agricultural / rural residential dwellings

Figure 1: Subject Lands (588 Chantler Road)

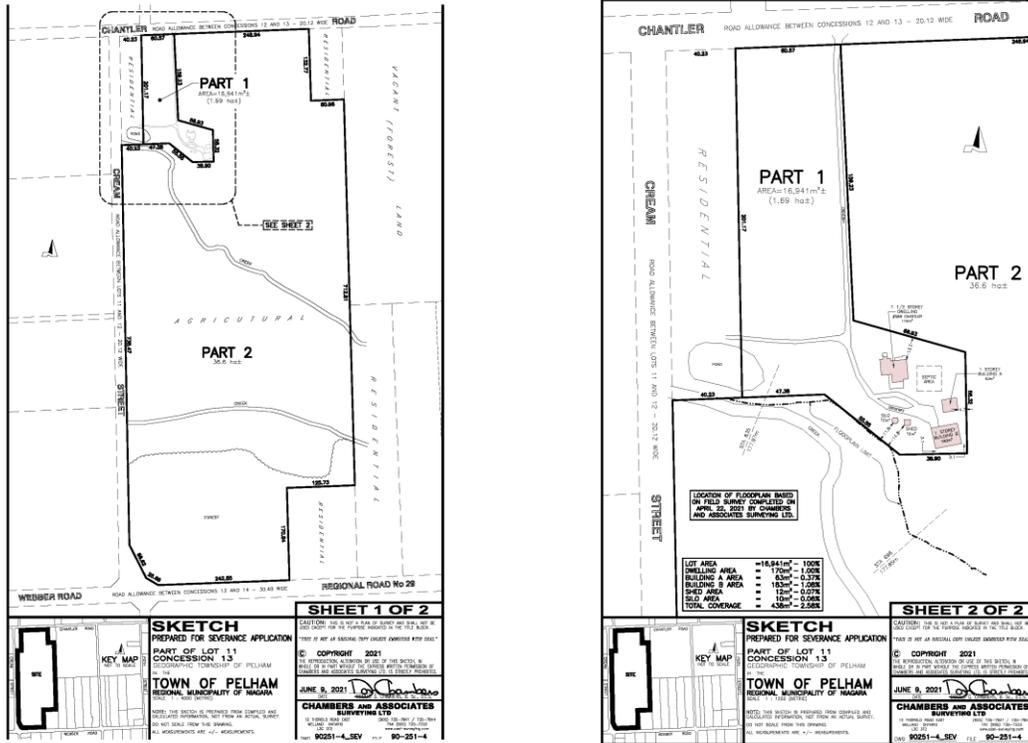


Project Description and Purpose

An application for Zoning By-law Amendment was received for 588 Chantler Road to facilitate a surplus farm dwelling severance. The Committee of Adjustment conditionally approved the severance (Figure 2) on August 3, 2021 (file B21-2021P). The zoning by-law amendment is a condition of severance approval.

The zoning by-law amendment would amend the existing Agricultural - 25 (A-25) and Light Industrial – 25 (M1-25) zone to a site-specific Agricultural (A) zone for Part 1 as well as rezone the retained lands (Part 2) to an Agricultural Purposes Only (APO) zone to prevent further residential construction.

Figure 2: Proposed Consent Sketch



The site-specific zoning provisions are described in greater detail in this Report. The existing residential dwelling and accessory buildings on Part 1 are proposed to remain and with the approval of the severance the accessory buildings become accessory to residential use, vs. being accessory to an agricultural use.

Analysis:

Planning Act

Section 2 of the Act addresses matters of Provincial interest and requires municipal Councils to have regard to, among other matters:

- a) The protection of ecological systems, including natural areas, features and functions;
- b) The protection of the agricultural resources of the Province;
- d) The conservation of significant cultural, archaeological or scientific interest;
- e) The efficient use and conservation of energy and water;
- f) The adequate provision and efficient use of transportation, sewage & water services and waste management systems;
- g) The minimization of waste;

- h) The orderly development of safe and healthy communities;
- l) The protection of the financial and economic well-being of the Province and its municipalities;
- o) The protection of public health and safety;
- p) The appropriate location of growth and development;
- r) The promotion of built form that is well designed, encourages a sense of place, and provides for public spaces that are of high quality, safe, accessible, attractive and vibrant;
- s) The mitigation of greenhouse gas emissions and adaption to a changing climate.

Section 3 of the Planning Act requires that decisions affecting planning matters “shall be consistent with” policy statements issued under the Act. The PPS recognizes the diversity of Ontario and that local context is important. Policies are outcome-oriented, and some policies provide flexibility provided that provincial interests are upheld. PPS policies represent minimum standards.

Section 34 of the Act allows for consideration of amendments to the zoning by-law.

Provincial Policy Statement (2020)

The Provincial Policy Statement (PPS) provides policy direction on matters of provincial interest related to land use planning and development, and sets the policy foundation for regulating the development and use of land. The PPS provides for appropriate development while protecting resources of provincial interest, public health and safety, and the quality of the natural and built environment.

The Provincial Policy Statement (PPS) designates the subject land within the ‘Prime Agricultural Area’. The permitted uses (among others) include agricultural / agricultural related uses, limited residential development and home occupations. ‘Prime Agricultural Areas’ are defined as including associated Canada Land Inventory Class 4-7 lands as well as ‘Prime Agricultural Lands’ (Class 1-3 lands).

Policy 2.3.1 states that *prime agricultural areas* shall be protected for long-term agricultural use.

Policy 2.3.4.1 c) states that lot creation in *prime agricultural areas* is discouraged and may only be permitted for a residence surplus to a farming operation as a result of farm consolidation. Provided that, the new lot is limited to the size necessary to accommodate private water and sewage services and that new residential dwellings are prohibited on the remnant parcel of farmland created by the severance.

The applicant has stated the rationale for the larger parcel size proposed for Part 1 in the cover letter and Planning Justification Brief. Similar to the existing single detached dwelling, the existing barns and silos are considered surplus to the consolidating farmer's business needs as their equipment is stored nearby. These accessory structures are anticipated to remain and will become accessory structures to the residential use.

West of the driveway lies a large open space area, as this area is unfarmed, it is proposed to remain with the proposed lot, and is a contributing factor for the configuration and size of the residential lot, along with the existing setback of the dwelling. This open space area is not applicable for the applicant's farming needs and specifically the lot geometry and on-site natural heritage features create an obstacle for them to properly utilize this area of land for agricultural purposes and therefore, this open area is to remain with the newly created lot.

Niagara Region Official Plan (Consolidated, August 2014)

The Regional Official Plan designates the subject land as 'Good General Agricultural Area'. The predominant use of land will be for agricultural of all types.

The subject lands are 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 Fish Habitat.

The proposed lot is 1.69 ha in size and contains one vacant dwelling that will be serviced by the existing on-site private sewage system, three accessory buildings and a silo.

Policy 10.C.2.1.13 states that *development and site alteration* shall only be permitted on lands containing *archaeological resources or areas of archaeological potential* if the significant *archaeological resources* have been *conserved* by removal and documentation, or by preservation on site.

Development, by definition, includes lot creation according to the PPS. Although the subject lands exhibit composite potential for deeply buried archaeological resources according to the Town's Heritage Master Plan, Town Planning staff are of the opinion that this requirement can be waived given that there will be no new disturbance of the land associated with lot creation and the proposed rezoning will restrict new development.

Regional staff provided comments on the consent application (file B21-2021P) and offered no objections pending the remnant lands (Part 2) be rezoned to preclude further residential construction, and the Town is satisfied with any cultural heritage and Minimum Distance Separation requirements.

In conclusion, Regional staff are satisfied that the proposed development is consistent with Regional policies, and offer no objections and comments.

Pelham Official Plan (2014)

The Town of Pelham Official Plan is the primary planning document that will direct the actions of the Town and shape growth that will support and emphasize Pelham's unique character, diversity, cultural heritage and protect our natural heritage features.

The local Official Plan designates the subject land as 'Good General Agricultural' according to Schedule 'A'.

Policy B2.1.3.1 restricts lot creation in the *Good General Agricultural* area in an effort to maintain and protect agricultural resources of the Town, and by directing new residential growth to *urban settlement areas* or existing vacant building lots. However, this policy does allow for the creation of new lots in certain circumstances, specifically provision b), which states the lot is necessary to accommodate a surplus dwelling resulting from a farm consolidation in accordance with Policy B2.1.3.3.

Policy B2.1.3.3 provides consideration of consents related to farm consolidations. Existing farm dwellings rendered surplus as a result of a farm consolidation may be severed, regardless if the farm parcels subject to the consolidation are abutting or independent. Applications to sever a surplus farm dwelling should provide for a maximum lot area of 0.4 hectares. A larger lot size will be considered if an additional area is necessary to accommodate a private water and sewage disposal system. In addition, it shall be a requirement that the residual or consolidated farm parcel be zoned to preclude future residential use in perpetuity.

The proposed site-specific APO rezoning would facilitate the conditionally approved severance allowing for the disposal (selling off) of an existing residential dwelling that the applicant considers surplus to their farming needs. According to the application and *Planning Justification Brief*, this existing dwelling poses a financial burden to the applicant as it significantly raises the cost of property ownership carrying costs, (i.e. debt servicing, property tax etc.). The existing agricultural

structures are also not needed due to the farmer's nature of business (cash cropping) and storage of farm equipment on other nearby farm property.

Pelham Zoning By-law No. 1136 (1987)

The subject lands are currently zoned 'Agricultural-25' (A-25) and 'Light Industrial-25' (M1-25) according to Schedule 'A' and Schedule 'A6' of the Zoning By-law, respectively. A site-specific Zoning By-law Amendment is required as a condition of severance approval to prohibit further residential construction on Part 2 and to address any zoning deficiencies that result from the severance. The following zoning tables outline the regulations at issue.

Part 1 – Regulations for buildings accessory to residential dwellings (Section 7.7)

Zone Regulation	A zone Default	Proposed
Maximum Lot Coverage	1%	1.58%
Maximum Building Height	3.7 m	5.9 m (19 feet)

The site specific exceptions to the maximum lot coverage and maximum building height are required due to differing requirements for accessory structures for a residential use vs. accessory structures for an agricultural use. While there will be no physical change to the accessory structures and they met the by-law requirements as accessory structures to an agricultural use, they do not meet these requirements for an accessory structure to a residential use and therefore the zoning by-law will recognize these as opposed to creating a legal non-complying circumstance as result of the severance.

Part 2 – Permitted uses (Section 7.1)

- Agricultural purposes only to prohibit new residential construction.

The height restrictions provided by the existing 'Agricultural -25' (A-25) and 'Light Industrial -25' (M1-25) zones will continue to apply as they relate to limiting the height on properties that are in proximity to the airport.

Financial Considerations:

The applicant is responsible for all costs associated with development.

Alternatives Reviewed:

Council could choose not to direct Planning Staff to prepare the Recommendation Report.

Strategic Plan Relationship: Build Strong Communities and Cultural Assets

The efficient use and preservation of Prime Agricultural Land and resources supports the local and regional agricultural economy and helps build towards creating a strong community. The rezoning is required as a condition of severance approval which was granted by the Town's Committee of Adjustment on August 3, 2021. Allowing the consolidated farming business to dispose of (sell) the existing residential dwelling eases the financial burden normally associated with carrying expensive residential real estate (i.e. via debt servicing). This barrier to owning affordable agricultural land makes the purchasing of the retained farmland more attainable.

Consultation:

Agencies were circulated for review and comment on the application prior to scheduling the public meeting. See appendices for comprehensive agency / staff comments. Agency comments received to date are summarized below:

- Building Department (July 20, 2021)
 - No comments (from consent application).
- Canada Post (August 30, 2021)
 - No comments.
- Niagara Region Planning & Development Services (August 16, 2021)
 - Require the 'Agricultural Purposes Only' zoning to be obtained for their previous consent to sever application support.
- Niagara Peninsula Conservation Authority (July 21, 2021)
 - No objections (from consent application).
- Hydro One (September 24, 2021)
 - No comments or concerns.
- Enbridge Gas (August 13, 2021)
 - No objections.

Public Comments

On Wednesday, the 15th day of September 2021, a Public Meeting Notice was circulated to all property owners within 120 metres of the subject land's boundaries. In addition, a Public Notice sign was posted at the public street frontage on Chantler Road. No public comments were received at the time of writing of this report.

Planning Staff Comments

The purpose of this report is to provide Council and the public with information regarding the proposed rezoning application for 588 Chantler Road, applicable

policies and comments received to date. Council may also provide recommendations for proposed changes to the zoning by-law amendment request based on the public, agency or staff input and consistency with approved plans.

A pre-consultation was held with the applicant(s) of the property and staff from the Town and Niagara Region Planning & Development Services on April 1, 2021 to discuss the subject applications.

Regional and Town staff conducted a site visit on June 23, 2021 to meet with the applicant to better understand existing site conditions and the applicant's farming operation.

The applicant (River Bend Farms) operates a long standing, registered farming business growing cash crops such as corn, soybeans and wheat crops. The applicant owns approximately 409.7 hectares of land with another ± 526 hectares being rented throughout the Township of Wainfleet and Town of Pelham. The personal residence of the applicant is within the Town of Pelham and their farming equipment is located nearby.

Subject to the input received at the Public Meeting, the next steps are for staff to prepare a Recommendation Report for Council's consideration at a future meeting.

Other Pertinent Reports/Attachments:

- Appendix A:
 - Proposed Consent Sketch
- Appendix B:
 - Agency Comments

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