

## Growth Management and Planning Division

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### Via Email Only

March 19, 2024

File Number: PLMV202400028

Sarah Leach  
Deputy Clerk/Secretary-Treasurer  
Town of Pelham  
20 Pelham Town Square, P.O. Box 400  
Fonthill, ON L0S 1E0

Dear Ms. Leach:

**Re: Regional and Provincial Comments**  
**Application Type: Minor Variance**  
**Town File Number: A4-2024P**  
**Applicant/Agent:** [REDACTED]  
**Owner:** [REDACTED]  
**Location: 1313 Victoria Avenue, Pelham**

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Regional Growth Management and Planning Division staff has reviewed the materials circulated with the Minor Variance application for the lands located at 1313 Victoria Avenue in the Town of Pelham ("subject lands").

The applicant is proposing relief from Pelham's Zoning By-Law 4481(2022) to permit a mobile food truck as an On-Farm Diversified Use.

A pre-consultation meeting attended by the landowner, Regional, and Town staff was held on March 2, 2023. At that time the Town was requiring an Official Plan Amendment ("OPA") and Zoning By-Law Amendment ("ZBA") applications in addition to Site Plan Approval; however, staff acknowledge that the Minor Variance application was requested in lieu of an OPA/ZBA.

The following comments are provided from a Provincial and Regional perspective to assist the Town in its consideration of these applications.

**Provincial and Regional Policies**

According to the Provincial Policy Statement, 2020 ("PPS"), the subject lands are located within the Prime Agricultural Area, and more specifically within a Specialty Crop Area, and designated as Specialty Crop Area in the Niagara Official Plan, 2022 ("NOP"). The lands fall within the Protected Countryside of the Greenbelt Plan, 2017 ("Greenbelt Plan"), and more specifically within the Specialty Crop Area – Niagara Peninsula Tender Fruit and Grape Area.

Provincial and Regional policies permit a full range of agricultural, agriculture-related and on-farm diversified uses ("OFDUs") within specialty crop areas. Agriculture-related and OFDUs are intended to complement the principal agricultural uses on the property and in the surrounding area and contribute to the sustainability and viability of the farming operation.

The PPS defines OFDUs as those that are secondary to the principal agricultural use of the property, and are limited in area; these can include, but are not limited to, home occupations, home industries, agri-tourism uses, and uses that produce value-added agricultural products.

Pursuant to the PPS, the Ontario Ministry of Agriculture, Food and Rural Affairs' ("OMAFRA") Guidelines on Permitted Uses in Ontario's Prime Agricultural Areas ("OMAFRA Guidelines") provide criteria to consider when determining the classification of a diversification use in prime agricultural areas. These uses are to be considered based on the following criteria:

1. Located on a farm;
2. Secondary to the principal agricultural use of the property;
3. Limited in area;
4. Includes, but is not limited to, home occupations, home industries, agri-tourism uses and uses that produce value-added agricultural products; and
5. Shall be compatible with, and shall not hinder, surrounding agricultural operations.

With regard to Criterion #1, the proposed use is located on an agricultural parcel that is planted with cash crop.

The OMAFRA Guidelines recommend considering Criterion #2 based on spatial and temporal terms; the uses must be secondary relative to the agricultural use of the property, and the spatial limits are addressed through Criterion #3, and temporal considerations apply to uses that are temporary or intermittent, such as events.

Criterion #3 requires the OFDUs to be limited in area, recommending that these uses are limited to a maximum of 2% lot coverage with further limitations on the gross floor area ("GFA") of the buildings used for OFDUs (e.g. 20% of the 2%).

The Guidelines note that "limited in area" calculations should account for all aspects related to an OFDU, including any buildings, outdoor storage areas, landscaped areas,

berms, wells and septic systems, parking areas and new access roads, and that the lot area coverage ratio should be based on the size of the individual parcel of land where the use is located and not the total area of a farm operation. The size of the parcel is 23.6 hectares; therefore, in order to adhere to the recommended size limit, the total area of the proposed OFDU (and all aspects related to it) would need to be no larger than 0.472 hectares (4,720 sq. m) in area.

The Planning Justification Brief prepared by NPG Planning Solutions (dated February 15, 2024) notes that the GFA of the proposed OFDU is approximately 18 sq. m., noting that a portion of the existing gravel parking lot is to be used for parking and customer seating. Additional information is required to confirm that the proposal meets the "limited in area" criteria. Staff request the submission of a detailed site plan at the Site Plan Approval stage showing the total development envelope coverage of the site (including parking, seating areas, septic system, etc.) in square metres.

### **Archaeological Potential**

The subject lands fall within the Region's mapped area of archaeological potential, as identified on Schedule 'K' of the NOP. Provincial and Regional policies state that development and site alteration shall not be permitted on lands containing archaeological resources or areas of archaeological potential unless significant archaeological resources have been conserved or the land has been investigated and cleared or mitigated following clearance from the Province.

Staff is of the understanding that the proposal will not result in any deep ground disturbance. As such, in lieu of an archaeological assessment, staff provide the following archaeological advisory clause:

"Should deeply buried archaeological remains/resources be found during construction activities, all activities impacting archaeological resources must cease immediately, and the proponent must notify the Archaeology Programs Unit of the Ministry of Citizenship and Multiculturalism (MCM) (416-212-8886) and contact a licensed archaeologist 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 Niagara Regional Police Services as well as the Cemeteries Regulation Unit of the Ministry of Public and Business Services Delivery (416-326-8800) must be contacted. In situations where human remains are associated with archaeological resources, the MCM 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."

### **Private Servicing**

Regional Private Sewage System staff are of the understanding that there are no public washrooms being added to the property to support the food truck and that all greywater from the food truck will be disposed of by the sewage system onsite.

Staff were unable to identify any records for the two existing septic systems onsite. One of the septic systems services the dwelling and the other services the employee washroom / food preparation area. The septic system for the dwelling is located east of the dwelling and the septic system for the employee washroom and food preparation sink is located east of the employee washroom.

The septic tank lids for the employee washroom and food preparation area were exposed and loosened prior to the onsite inspection. Staff observed no defects with the existing systems at the time of the inspection.

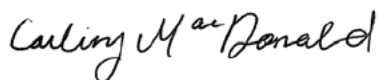
Given that the food truck will meet the minimum building code setbacks and that no building permits are required, staff offer no objection to the continued use of the existing sewage system to service the food truck. Please note, if at any time the sewage systems become defective or the sewage flows are added to the property, the existing septic systems would need to be replaced and meet current building code requirements.

### **Conclusion**

In conclusion, Regional Growth Management and Planning Division staff offer no objection to the Minor Variance application as the proposal is generally consistent with the intent of Provincial and Regional On-Farm-Diversified Use policies. At the Site Plan stage, staff will require the submission of a detailed site plan to confirm that the proposal is consistent with the criteria for OFDUs outlined in the OMAFRA Guidelines on Permitted Uses in Ontario's Prime Agricultural Areas. The detailed site plan should account for all aspects related to the OFDU, including (but not limited to) any outdoor storage areas, landscaped areas, septic system, parking areas, seating areas, etc.

Please send copies of the staff report and notice of the Town's decision on these applications. If you have any questions related to the above comments, please contact me at [carling.macdonald@niagararegion.ca](mailto:carling.macdonald@niagararegion.ca)

Kind regards,



Carling MacDonald  
Development Planner, Niagara Region

cc: Pat Busnello, Manager of Development Planning, Niagara Region  
Caitlin Goodale, Private Sewage System Inspector, Niagara Region