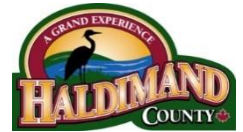


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# HALDIMAND COUNTY

## Report PED-PD-32-2018 Rezoning to Fulfill a Condition of Consent-Mattice For Consideration by Council in Committee on August 28, 2018

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### OBJECTIVE:

To fulfill a condition of consent related to a surplus farm dwelling.

### RECOMMENDATIONS:

1. THAT Report PED-PD-32-2018 Rezoning to Fulfill a Condition of Consent-Mattice be received;
2. AND THAT application PLZ-HA-2018-055 to amend the City of Nanticoke Zoning By-law NE-1-2000 to prohibit future residential development and home occupation opportunities on the retained farm lands be approved for reasons outlined in Report PED-PD-32-2018;
3. AND THAT the proposal is deemed to be consistent with the Provincial Policy Statement (2014), and the Growth Plan for the Greater Golden Horseshoe;
4. AND THAT the By-law attached to Report PED-PD-32-2018 be presented for enactment.

**Prepared by:** Justin Miller, Planner

**Reviewed:** Mike Evers, MCIP, RPP, BES, Manager, Planning and Development

**Respectfully submitted:** Craig Manley, MCIP, RPP, General Manager of Planning and Economic Development

**Approved:** Donald G. Boyle, Chief Administrative Officer

### EXECUTIVE SUMMARY:

The applicant is seeking to add a special provision to lands zoned 'Agriculture (A)' to prohibit future residential development and home occupation opportunities on lands recently retained as part of a surplus farm dwelling severance (heard by Committee of Adjustment on June 12, 2018). Staff has reviewed the proposed zoning amendment on the subject lands against Provincial and County policy frameworks and the principle of land use is consistent with each.

Given the above, Planning staff recommends approval of this proposal for the reasons set out within this report.

### BACKGROUND:

An application has been received to consider an amendment to the City of Nanticoke Zoning By-law NE-1-2000 to fulfill a condition of consent by adding a special provision to the 'Agriculture (A) Zone' to prohibit a single detached dwelling as a permitted use. An existing dwelling was conditionally severed (Attachments 1 and 2) as a surplus farm dwelling following a Committee of Adjustment decision on June 12, 2018. The severed lands are approximately 1.9 hectares (4.71 acres), and the retained farm lands are approximately 76.74 hectares (189.63 acres). The subject (retained) lands are currently actively farmed and a portion of the subject lands contain a woodlot. The proposed

rezoning is required by Haldimand County and Provincial Policy, and is intended to 'freeze' agricultural lands from further residential uses. An automatic rezoning is applied to severances of 0.6 hectares (1.5 acres) or less; because the proposed severance is 1.9 hectares (4.71 acres), the applicant is required to apply for the rezoning described in this application. A larger lot size is supported in this circumstance to recognize the negotiated lot size between the Committee of Adjustment and the applicant, in addition to the location of a watercourse and bedrock that impact the land's ability to be used for farming.

The subject lands are located on the south side of Concession 13 Walpole and are generally surrounded by agricultural uses. The subject lands are described as Part Lot 10, Concession 13, Geographic Township of Walpole, Concession 13 Road.

## **ANALYSIS:**

Planning staff have determined key planning issues related to this application. They are as follows:

### **Provincial Policy**

#### **1. Provincial Policy Statement**

The Provincial Policy Statement (PPS) 2014 policies are generally prohibitive when it comes to the creation of lots within prime agricultural areas in order to protect prime agricultural land. However, the PPS permits lot creation in prime agricultural areas for limited purposes and specifically limited to agricultural uses, agricultural-related uses, infrastructure, and a residence made surplus by farm consolidation provided that new residential dwellings are prohibited on the remnant farm parcel. The overall intent of the agriculture policies within the PPS is to limit the fragmentation of agricultural land and to limit the impact of non-farm dwellings on agricultural operations.

In the context of this proposal, although the severed lot is larger than typically permitted, the Committee of Adjustment was satisfied that the proposal met the PPS criteria and approved an amended proposal. Planning staff had concerns relative to support of an initial proposed severance size of approximately 2.3 hectares (5.7 acres); however, in discussions between the applicant and the Committee, the two parties agreed on an approximate severed lot of 1.9 hectares (4.7 acres) which saw the southerly boundary brought in to be closer to the existing buildings on site. Planning staff respects the efforts made between the Committee and the applicant to come to an amicable solution, and recognizes that farmland fragmentation has been minimized; therefore, Planning staff are able to support the proposed rezoning. In this circumstance, the larger lot is supported based upon the specific circumstances of this location and specifically:

- The existing creek that traverses on the north side of the site and which presents significant challenges in compressing the side lot lines/cutting back the size;
- The long driveway back to the dwelling (note: dwelling is on the south side of the creek and approximately 140 metres from the road);
- The existence of surface bedrock (visible at site inspection) in the area around the dwelling and between the dwelling and the road thus limiting any agricultural potential;
- The existence of hydro infrastructure on the south side of the dwelling.

Planning staff have determined that there is sufficient rationale to justify a larger lot size than typically permitted. The subject proposal for a zoning amendment to prohibit future residential opportunities on the retained lands ensures that the proposed severance is in keeping with

the intent of the PPS. Planning staff are of the opinion that this proposal maintains the intent of these policies; therefore, the proposal is consistent with the PPS.

## **2. Provincial Growth Plan**

The Provincial Growth Plan–Places to Grow was also reviewed by Planning staff in relation to this proposal. The Growth Plan’s policy addresses the protection of prime agricultural lands both directly and indirectly. Based on Planning staff’s review, staff is of the opinion that the subject proposal is not in conflict with and is in keeping with the overall intent of the Provincial Growth Plan.

## **County Policy**

### **1. Haldimand County Official Plan**

The subject lands are designated as ‘Agriculture’ and subject to the related policies within the Official Plan. Haldimand County’s Official Plan, similar to the Provincial Policy Statement (2014), permits new lot creation in agricultural areas for dwellings made surplus due to farm consolidation, provided that future residential development on the retained farm lands is prohibited. The intent of the subject proposal is to ensure this Provincial and local policy requirement is met. The Official Plan’s ‘Criteria for Surplus Farm Dwelling Consents’ policies specifically permit the granting of a severance for a habitable dwelling, provided the dwelling is of a minimum age of ten years and has been made surplus through farm consolidation where a portion of the farm holding contains two or more habitable dwellings within the County. The Criteria further requires that the creation of a surplus farm dwelling lot shall generally be 0.4 hectares to 0.6 hectares (1.0 acres to 1.5 acres) in size to minimize the amount of agricultural land or productive forest land being taken out of production. In the subject proposal, the size of the proposed severed lands measures approximately 1.9 hectares (4.71 acres), which exceeds the standard lot size of a surplus farm dwelling within the agricultural area. However, the Official Plan provides some flexibility in the creation of the lot size for surplus farm dwellings and Planning staff have supported larger lots previously when there are demonstrated constraints to meeting the Official Plan standard. Some examples include topography, the need to protect natural features, the situation of a dwelling on the lot, location of wells and septic systems servicing the dwelling, constraints to using accessory structures for agricultural purposes such as the access or proximity to the new dwelling, and/or lot configuration issues created by the requirements of other external agencies. In this circumstance, a portion of the lands in front of the severed dwelling were not being used for agricultural purposes because they contain a watercourse and have been described as containing bedrock/aggregates that are extremely close to the ground’s surface; Committee found that including these lands with the residential severance did not impact the viability of the remnant farm parcel. Recognizing the amicable solution established between the Committee and the applicant, in addition to the location of the watercourse and bedrock/drain, Planning staff have determined that there is sufficient rationale to justify a larger lot size than typically permitted.

Planning staff are of the opinion that the ‘Criteria for Surplus Farm Dwelling Consents’ tests have been met as the dwelling is surplus and more than 10 years old, private services are available, the proposed lot configuration will not negatively impact the functionality or viability of the farm, the proposal is appropriately separated from any licensed pits and/or quarries, there is direct frontage and access on a public road and there are no perceived negative impacts on the natural environment.

## **2. Minimum Distance Separation (MDS) Requirements**

Both Provincial and County policy requires that measures be taken to ensure that agricultural and residential uses are compatible with each other in an effort to reduce future land use conflicts. This is accomplished, in part, by requiring new lots to satisfy Minimum Distance Separation (MDS) requirements which address issues such as odour from livestock facilities. No livestock facilities were observed on the subject or surrounding lands, and the applicant has indicated that there are no livestock facilities on or within 500 metres (1,640.4 feet) of the subject lands.

### **City of Nanticoke Zoning By-law NE-1-2000:**

The subject lands are zoned 'Agricultural' (A) in the City of Nanticoke Zoning By-law NE-1-2000. The intent of this proposal is to fulfill a condition of consent related to a surplus farm dwelling severance by prohibiting future residential development and home occupations on the retained farm lands.

As the intent of this proposal is to fulfill the requirements of both provincial and local policy by prohibiting future residential development and associated home occupations on the retained farm lands, Planning staff are of the opinion that the subject proposal is appropriate. There are no other zoning deficiencies required to be addressed through this application, as seen in the attached Zoning Review Chart (Attachment 4). A draft Zoning By-law has also been completed and included within Attachment 3.

### **Planning Opinion:**

Planning staff have reviewed the proposed Zoning By-law amendment in relation to Provincial and County policy frameworks and are of the opinion that this proposal is consistent with all levels of policy. Within both the Provincial Policy Statement (2014) and the Haldimand County Official Plan, surplus farm dwelling severances are permitted provided that the remnant farm parcel does not have future residential opportunities and applicable MDS requirements are addressed. The proposal is also consistent with the Zoning By-law for the City of Nanticoke Zoning By-law NE-1-2000.

## **FINANCIAL/LEGAL IMPLICATIONS:**

Not applicable.

## **STAKEHOLDER IMPACTS:**

Building Controls and By-law Enforcement—No objections.

Hydro One—No objections.

Long Point Region Conservation Authority—No objections.

Roads Operations—No objections.

Planning and Development (Development & Design Technologist)—No objections.

Emergency Services—No objections.

Municipal Property Assessment Corporation—No objections.

No comments were received from the public or the Mississaugas of New Credit Council, Six Nations Council, and Union Gas.

## **REPORT IMPACTS:**

Agreement: No

By-law: Yes

Budget Amendment: No

Policy: No

## **ATTACHMENTS:**

1. Location Map.
2. Owner's Sketch.
3. Draft Amendment to Zoning By-law.
4. Zoning Review Chart.