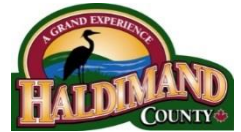


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# HALDIMAND COUNTY

**Report PDD-20-2019 Zoning Amendment to Fulfill a Condition of Consent - 1436586 Ontario Inc.**



**For Consideration by Council in Committee on June 18, 2019**

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## **OBJECTIVE:**

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

## **RECOMMENDATIONS:**

1. THAT Report PDD-20-2019 Zoning Amendment to Fulfill a Condition of Consent - 1436586 Ontario Inc. be received;
2. AND THAT application PLZ-HA-2019-042 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 PDD-20-2019;
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 PDD-20-2019 be presented for enactment.

**Prepared by:** Benjamin Kissner, Planner

**Reviewed by:** Mike Evers, MCIP, RPP, BES, Director of Planning and Development

**Respectfully submitted:** Craig Manley, MCIP, RPP, General Manager of Community & Development Services

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

## **EXECUTIVE SUMMARY:**

This Zoning By-law Amendment is a condition of consent related to a surplus farm dwelling where the lands to be severed exceed the maximum lot size provisions stated in the Haldimand County Official Plan, and as a result, the retained lands need to be re-zoned in order to remove a one family dwelling and home occupation as a permitted use in order to comply with Provincial Policy. The severed lot area exceeds the standards of the Official Plan due to the fact that the dwelling is situated approximately 245 metres from the road.

Planning staff are of the opinion that this proposal is in conformity with the Provincial Policy Statement (2014), complies with the Provincial Growth Plan (2019), conforms to Haldimand County's Official Plan, and maintains the general intent and purpose of the City of Nanticoke Zoning By-law NE-1 2000. There is sufficient justification for the related consent (which proposes to create a larger than typically permitted residential lot) and this proposed zoning amendment. Planning staff recommend approval of this proposal for the reasons set out within this report. A public meeting has been scheduled to correspond with the presentation of this report. A public notice sign has been posted at the site and was visible when the Planner conducted a site visit.

## **BACKGROUND:**

The proposed zoning amendment is required to fulfill a condition of consent within surplus farm dwelling severance application PLB-2018-132, which was conditionally approved by the Committee of Adjustment at its meeting on August 9, 2018. The severance resulted in the creation of a 1.05 hectares (2.6 acres) parcel as a surplus farm dwelling and the retention of an agricultural parcel of approximately 37.08 hectares (91.6 acres) (shown on Attachments 1 and 2). The subject proposal is required to fulfill a condition of consent because the conditionally severed surplus farm dwelling parcel is larger than the maximum lot size of 0.6 hectares (1.5 acres) and as such, the retained lands are not subject to the automatic zoning provision 3.36 of the City of Nanticoke Zoning By-law NE-1 2000, which prohibits residential development on the retained farm parcel when surplus farm dwelling severances are less than 0.6 hectares (1.5 acres). The larger severance size is the result of the length of the driveway to provide access to the residential use.

The subject lands are located on the south side of 4<sup>th</sup> line. The site is legally described as Walpole Concession 13 Part Lot 8 Regular, and known municipally as 670 Concession 13, Walpole. A General Location map can be found in Attachment 1 with the overall lot configuration being shown in Attachment 2 (the owner's sketch). The conditionally severed parcel is irregularly shaped and approximately 1.214 hectares (3 acres) in size which is the result of the distance that the dwelling is set back from the road. The retained farm parcel is approximately 33 hectares (81.5 acres) in size and is intended to continue to be used for agricultural purposes. The proposal includes an alternative standard with regards to the lot frontage for the severed lands due in part to efforts to preserve farmland with the farm parcel. The lot pattern surrounding the frontage of the severed lands is constrained, and as a result will only be 16 metres, where the City of Nanticoke Zoning By-law NE-1 2000 requires 30 metres. Planning staff supports this reduction in frontage, and has not received any concerns through the circulation of the proposal.

## **ANALYSIS:**

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

### **Provincial and County Land Use Policy:**

#### **1. Provincial Policy Statement, 2014**

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 lot is larger than typically permitted, it is Planning staff's opinion that the proposed size of the severed lands will not lead to the unnecessary removal of land from a prime agricultural area, that the proposed lot configuration will not negatively impact the functionality or viability of the farm parcel, and that there is sufficient justification warranting the need for a lot size larger than typically permitted. This is due to the location of the dwelling on the lot, such that it is approximately 245 metres from the road. In light of the added length of the driveway, the applicants have worked to minimize the amount of agricultural land removed from production. 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, 2019

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.

3. County Policy

*i. Haldimand County Official Plan*

The subject lands are designated as ‘Agriculture’ and subject to the related policies within the 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 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 1.05 hectares (2.6 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, Planning staff have determined that there is sufficient rationale to justify a larger lot size than typically permitted. The location of the dwelling on the lot has resulted in the driveway length being approximately 245 metres (804 feet), the land area associated with this driveway has contributed to the total proposed lot area that is to be severed from the original parcel. Further to this, it should be noted that efforts have been made by the applicant to minimize the amount of agricultural land conveyed and dedicate only as much land as required to the dwelling, access and related residential features. In sum, this provides suitable justification for Planning staff to recommend approval of this proposal.

Planning staff are further 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 (constructed in 1890), 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. Planning staff’s opinion is that there is

sufficient justification to support the related severance and the subject proposal which recognizes a lot larger than the Official Plan's recommended lot size.

*ii. 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.

*iii. 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 is a special provision that will be applied to the site to recognize the narrow frontage that has been provided for the lot. This has been evaluated in terms of the applicable policy, and staff are satisfied that the effort to minimize the amount of farmland that is removed from production is suitable to justify a reduction in frontage. In this situation the applicants are proposing 16 metres of frontage where the by-law requires 30 metres. Any additional property-width would represent more farmland being removed from production; thus staff are satisfied with the frontage that has been proposed. The zoning deficiencies required to be addressed through this application are shown in the attached Zoning Review Chart (Attachment 4). A draft Zoning By-law has also been completed and included within Attachment 3.

## **FINANCIAL/LEGAL IMPLICATIONS:**

Not applicable.

## **STAKEHOLDER IMPACTS:**

Building & Municipal Enforcement Services – No objections.

Grand River Conservation Authority – No objections.

Roads Operations – No objections.

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

Water and Wastewater Engineering & Compliance – No objections.

Emergency Services – No objections.

No comments were received from the public or the Mississaugas of the Credit First Nation, Six Nations Council, Hydro One, MTO, MPAC, and Union Gas.

## **REPORT IMPACTS:**

Agreement: No

By-law: Yes

Budget Amendment: No

Policy: No

## **ATTACHMENTS:**

1. General Location Map.
2. Location of Lands Affected – Owner's Sketch.
3. Draft Zoning By-law Amendment.
4. Zoning Review Chart.