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# HALDIMAND COUNTY

## Report PED-PD-17-2018 Zoning Amendment to Fulfill a Condition of Consent – Mattice



For Consideration by Council in Committee on April 24, 2018

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### OBJECTIVE:

To fulfill a condition of consent related to a surplus farm dwelling severance by removing a dwelling as a permitted use on the retained farmlands, permitting a reduced lot frontage for the surplus farm dwelling lot, and permitting the existing accessory structures to be maintained on the surplus farm dwelling lot.

### RECOMMENDATIONS:

1. THAT Report PED-PD-17-2018 Zoning Amendment to Fulfill a Condition of Consent – Mattice be received;
2. AND THAT application PLZ-HA-2018-041 to amend the City of Nanticoke Zoning By-law NE 1-2000 to establish a special provision to prohibit future residential development and home occupation opportunities on the retained lands, to permit the severed lands to have a reduced lot frontage, and to permit the existing accessory structures to be maintained on the severed lands, be approved for reasons outlined in Report PED-PD-17-2018;
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-17-2018 be presented for enactment.

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

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

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

### EXECUTIVE SUMMARY:

The subject zoning application is required as a condition of a recently approved consent application. The purpose of the consent application was to sever a surplus farm dwelling lot from the farmlands because the farmhouse was made surplus to the farm operation as a result of farm consolidation. The subject application is required because the surplus farm dwelling lot which is approximately 0.8 hectares (2 acres) in size is larger than the preferred lot size of 0.4 to 0.6 hectares (1.0 to 1.5 acres). The subject application has also been made to permit the surplus farm dwelling lot to have a reduced lot frontage and to the permit the two existing accessory structures to be maintained on the surplus farm dwelling lot.

It is planning staff's opinion that the proposal to remove a dwelling as a permitted use such that the retained farmlands are protected in the long-term for agricultural purposes only in accordance with

Provincial policy is consistent with the Provincial Policy Statement (2014), generally conforms to the Haldimand County Official Plan, and generally meets the intent and purpose of the City of Nanticoke Zoning By-law NE 1-2000.

## **BACKGROUND:**

The subject zoning amendment is required as a condition of consent application PLB-2017-105, which was conditionally approved by the Committee of Adjustment on August 15, 2017. The subject lands are described as Geographic Township of Walpole, Concession 3, Part Lot 16 and are municipally known as 765 Concession 2 Walpole (Attachments 1 and 2). The subject lands consist of two parts. Part 1 is the surplus farm dwelling lot which is approximately 0.8 hectares (2 acres) in size (also referred to as the severed lands) and Part 2 is the retained farmlands which is 39.67 hectares (98 acres) in size. The surplus farm dwelling lot contains a surplus farm dwelling and two accessory structures. The remaining structures on the retained farmlands have been removed by the proponent.

The Provincial Policy Statement (PPS) and Haldimand County Official Plan (OP) permit the severance of a surplus farm dwelling as a result of farm consolidation provided that the surplus farm dwelling lot is limited to the size needed to accommodate the appropriate use, appropriate sewage and water services, and new residential dwellings are prohibited on the retained farmlands. Generally, surplus farm dwelling lots are to be 0.4 to 0.6 hectares (1.0 to 1.5 acres) in size in Haldimand County and must minimize the amount of agricultural land or woodland taken out of production. However, larger surplus farm dwelling lots are permitted on a case by case basis subject to a zoning amendment. Larger lot sizes are permitted to ensure farm fields are not fragmented, environmental and topographical features are recognized, and to recognize the location of the surplus farm dwelling in relation to existing farm buildings and structures.

The surplus farm dwelling lot was approved to be approximately 0.8 hectares (2 acres) in size which is larger than the preferred lot size. The Committee of Adjustment considered information provided by the previous owner/future purchaser of the surplus farm dwelling lot who explained that the area containing the accessory structure is hard on farm equipment as a result of the bedrock in this location such that reducing the lot size and demolishing the accessory structure would not preserve/reintroduce farmland. In response to a staff recommendation, the agent and Committee of Adjustment agreed to reduce the lot frontage and width of area containing the driveway from 30 metres (98.4 feet) to 25 metres (82 feet) at the Committee meeting. While the lot size was not reduced to the extent planning staff initially suggested, it is planning staff's opinion that the lot size is appropriate given the reduction made, the additional information provided at the Committee meeting regarding the bedrock (i.e. environmental feature) and proximity of the structure to the surplus farm dwelling.

The purpose of the subject application is to fulfill a condition by removing residential and home occupation opportunities from the retained farmlands (i.e. rezone the farmlands for agricultural purposes only), permitting the severed lands to have a reduced lot frontage, and permitting the existing accessory structures to be maintained on the severed lands.

## **ANALYSIS:**

Through the review of this proposal, planning staff have identified the following key issues:

### **Provincial Policy:**

#### ***Provincial Policy Statement (2014)***

The PPS provides policy direction on matters of provincial interest related to land use planning and development. The *Planning Act* directs that decisions affecting planning matters "shall be consistent

with” the policies of the Provincial Policy Statement (PPS). The PPS directs that prime agricultural areas shall be protected for long-term use for agriculture. The PPS permits lot creation in prime agricultural areas for a residence surplus to a farming operation as a result of farm consolidation provided that the new surplus farm dwelling lot is limited to the size needed to accommodate the use and appropriate sewage and water services and new residential dwellings are prohibited on the retained farmlands. These items were addressed through the previous consent application. It is planning staff’s opinion that the proposal to remove a dwelling as a permitted use on the retained farmlands and permit a reduced surplus farm dwelling lot frontage is consistent with the surplus farm dwelling severance policies of the PPS. The retained farmlands will be protected long-term for agriculture.

Also, the subject lands are predominately designated ‘Mineral Aggregate Resource Area (MARA)’. The PPS directs that mineral aggregate resources shall be protected for long-term use. Lot creation is generally discouraged until such time as the resource is substantially depleted in accordance with the licence. However, the PPS and OP permit additional development (i.e. lot creation) if:

- a) resource use would not be feasible; or
- b) the proposed land use or development serves a greater long-term public interest; and
- c) issues of public health, safety and environmental impact are addressed.

The farm house is existing. Planning staff assessed the implications of the surplus farm dwelling severance at the time of consent in accordance with the MARA policies and were generally satisfied that the proposal to sever the surplus farm dwelling does not offend the PPS. More specifically, there does not appear to be any mineral aggregate resource extraction in the area. In fact, the surrounding area is primarily in agricultural production, which includes several farm and rural residences as the zoning permits these uses as of right. The proposal to rezone the retained farmlands to agricultural purposes only will ensure that no new residences are introduced onto the farmlands. The change in ownership of the farmhouse will not prohibit or limit future mineral extraction.

### ***Provincial Growth Plan (2017)***

The purpose of the Growth Plan is to address challenges related to the forecasted growth and changes in the Greater Golden Horseshoe, and to ensure the protection and effective use of finite resources. The Growth Plan establishes a unique land use planning framework for the Greater Golden Horseshoe that supports the achievement of complete communities, a thriving economy, a clean and healthy environment, and social equity. One of ten guiding principles for how land is to be developed, resources are to be managed and protected, and public dollars are to be invested, is to support and enhance the long-term viability and productivity of agriculture by protecting agricultural areas and the agri-food network. While the Growth Plan does not specifically speak to surplus farm dwelling severances, it is planning staff’s opinion that the proposal to rezone the retained farmlands for agricultural purposes only maintains the intent of the Growth Plan.

### **County Policy:**

#### ***Haldimand County Official Plan***

The subject lands are predominately designated ‘Mineral Aggregate Resource Area’ with a portion being designated ‘Riverine Hazard Lands’. The subject lands are also located partially within the eastern most portion of the Industrial Influence area. While residential development within the Industrial Influence Area is limited, residential consents are permitted in accordance with the surplus farm dwelling consent policies of the OP. Also, the list of permitted uses for the ‘Mineral Aggregate Resource Area (MARA)’ designation does not include a single detached dwelling. For the reasons listed in the above PPS section, it is planning staff’s opinion that the proposal does not offend the MARA policies contained in the OP.

Also, planning staff assessed the severance proposal in accordance with the surplus farm dwelling criteria at the time of consent, which includes the following:

- the dwelling was made surplus through farm consolidation;
- the surplus farm dwelling is a minimum of ten years in age and is habitable;
- the surplus farm dwelling lot is generally 0.4 to 0.6 hectares in size;
- the surplus farm dwelling is privately serviced as per the *Ontario Building Code*;
- the surplus farm dwelling severance does not adversely affect the farm operation;
- the Minimum Distance Separation (MDS) setback is maintained;
- the surplus farm dwelling lot is located more than 300 metres from licenced pits, 500 metres from licenced quarries, and is well removed from waste disposal sites and other potential land use conflicts;
- the surplus farm dwelling lot has safe and direct access to a permanently maintained road;
- the potential impacts on natural environment areas and/or cultural resources have been assessed and addressed, where necessary; and
- no new residential dwelling is permitted on the retained lands.

Through the review of the consent application, planning staff determined that the proposal satisfies the surplus farm dwelling severance policies and general consent to sever policies. Planning staff's initial concerns with regards to the size of the surplus farm dwelling lot were addressed at the Committee meeting. The lot size is appropriate given existing environmental features (bedrock) and the proximity of the surplus farm dwelling in relation to the existing buildings. The proposal as a whole is consistent with Provincial and County policy.

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

The subject lands are predominately zoned 'Agriculture (A)' Zone and are also zoned 'Hazard Lands (HL)' Zone. The 'A' Zone permits a single detached dwelling as of right. The primary purpose of the subject application is to fulfill the requirements of both Provincial and County policy and a condition of the related consent application by removing a dwelling as a permitted use on the retained farmlands such that future residential development is prohibited. The subject application is required because the surplus farm dwelling lot is greater than the preferred lot size of 0.6 hectares (1.5 acres) such that the automatic rezoning process to remove a dwelling as a permitted use on the retained farmlands and recognize existing deficiencies does not apply. The subject application is required to ensure that prime agricultural lands are protected for the long term for agricultural purposes. The secondary purpose is to permit the surplus farm dwelling lot to have a reduced lot frontage and to permit the existing accessory structures to be maintained on the surplus farm dwelling lot. A zoning deficiency chart and the draft, amending By-law have been attached to this report (Attachments 3 and 4, respectively).

With regards to the surplus farm dwelling lot frontage, the Zoning By-law requires a minimum lot frontage of 30 metres (98.4 feet). The proposed lot frontage for the surplus farm dwelling lot is 25 metres (82 feet). Typically, the purpose of the lot frontage provision together with the lot area provision is to ensure that a rural lot can accommodate the permitted use(s), private water and wastewater services, access and egress, parking, amenity and maintenance space, and space for adequate stormwater management and drainage. Given that the surplus farm dwelling is setback from the road, it is not desirable to require a lot frontage of 30 metres, as this would remove existing croplands from agricultural production. It is planning staff's opinion that the proposed lot frontage does not offend the intent and purpose of the Zoning By-law.

Also, with the regards to the residential accessory structures on the surplus farm dwelling lot, the Zoning By-law permits a maximum building height of 6.5 metres (21.3 feet) and a maximum usable floor area of 200 square metres (2,153 square feet) for all accessory structures combined. The proponent is proposing to sever the two accessory structures with the surplus farm dwelling. The garage is 3 metres (10 feet) in height and 51 square metres (549 square feet) in size and the shop is 4.5 metres (15 feet) in height and 219 square metres (2,357 square feet). The accessory structures maintain the height

provision of the Zoning By-law. However, the combined area of the accessory structures of 270 square metres is greater than the maximum permitted usable floor area of 200 square metres.

The purpose of the maximum permitted size provision (together with the maximum height provision) is to ensure that the structures are utilized for their intended use, that the structures fit with the character of the area, and to ensure that the structures do not create land use conflicts (i.e. inappropriate housing of livestock, unregulated businesses, or a change in drainage resulting in flooding). It is planning staff's opinion that maintaining the accessory structure on the surplus farm dwelling lot is appropriate given that the building is existing and currently used as a residential accessory structure. On the ground, there will be no change and the use of the accessory structure is appropriate for the rural residential use of the subject lands.

#### **Planning Opinion:**

Planning staff have reviewed this proposal against Provincial and County land use planning policy. It is planning staff's opinion that the subject application is consistent with Provincial policy and conforms to County policy as it will ensure that the retained farmlands are protected for long term agricultural purposes only.

#### **FINANCIAL/LEGAL IMPLICATIONS:**

Not applicable.

#### **STAKEHOLDER IMPACTS:**

**Canada Post Corporation** – No comments.

**Emergency Services/Fire Department** – No objections.

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

**Health Unit** – No comments.

**Building Controls and By-law Enforcement** – A septic evaluation is not required.

Comments were not received from Bell Canada, Mississauga of the New Credit Council, Six Nations Council, Hydro One, Union Gas, Roads Operations, or MPAC.

#### **REPORT IMPACTS:**

Agreement: No

By-law: Yes

Budget Amendment: No

Policy: No

#### **ATTACHMENTS:**

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