



Town of Niagara-on-the-Lake

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REPORT #: CDS-23-109

COMMITTEE DATE: 2023-06-13

DUE IN COUNCIL: 2023-06-27

REPORT TO: COTW-Planning

SUBJECT: 882 Line 1 Road - Zoning By-law Amendment Application ZBA-02-2023

1. RECOMMENDATION

It is respectfully recommended that:

- 1.1 The Application for Zoning By-law Amendment (File No. ZBA-02-2023) for lands known municipally as 882 Line 1 Road, be approved as detailed in this report; and
- 1.2 The draft Zoning By-law Amendment, attached as **Appendix IV** to this report, be forwarded to Council for adoption.

2. EXECUTIVE SUMMARY

- This report provides a Staff recommendation to Council regarding an application for a Zoning By-law Amendment (the “Application”) for 882 Line 1 Road.
- The Application requests the “Agricultural Purposes Only (APO) Zone” to preclude the construction of a new residential dwelling in perpetuity on the agricultural portion of the subject lands and a “Rural (A) Zone” with site-specific provisions on the rural residential portion of the property.
- The Application is required to satisfy a condition of approval for a Consent application (File B-10/21 conditionally approved by the Committee of Adjustment on January 20, 2022) to sever a residence surplus to a farming operation due to farm consolidation.
- Staff recommend approval of the Application as detailed in this report as the proposal conforms to *Planning Act* requirements, is consistent with the Provincial Policy Statement and conforms to Provincial, Regional and Town plans.

3. PURPOSE

This report provides a recommendation to the Committee respecting an application under the *Planning Act* seeking approval of a Zoning By-law Amendment. The Application requests a “Rural (A) Zone” with site-specific provisions for reduced lot frontage and to recognize the front yard setback of the existing dwelling known as 882 Line 1 Road on the proposed lot (Part 4). The Application also requests the “Agricultural Purposes Only (APO) Zone” for the agricultural lands (Part 5).

The Application is required to satisfy a condition of approval for a Consent application (File B-10/21 conditionally approved by the Committee of Adjustment on January 20, 2022) to sever a residence surplus to a farming operation due to farm consolidation.

A Survey Sketch showing the proposed Parts on the subject lands is attached as **Appendix I**.

4. BACKGROUND

4.1 Site Description and Surrounding Lands

The subject lands are located on the north side of Line 1 Road and east side of Concession 4 Road, to the southeast of Niagara Stone Road, in the agricultural area of the Town. The proposed new lots will have areas of 0.405 hectares (Part 4) and 19.9 hectares (Part 5). The location of the subject lands is shown on **Map I** of **Appendix II** to this report.

The subject lands have a total lot area of 20.3 hectares (50.4 acres) with sections of street frontage on Line 1 Road and Concession 4 Road. The lands contain a single-detached dwelling, a garage and storage structures, with the majority of the lands planted in vines. The property is serviced by municipal water and private septic systems. The subject lands contain a municipal drain (Szockyj Drain) extending north from Line 1 Road and to the west of the lands containing the existing single-detached dwelling and garage fronting Line 1 Road. The surrounding lands are used for agricultural and residential purposes.

5. DISCUSSION / ANALYSIS

5.1 Policy and Legislative Framework

The Application has been evaluated for consistency and conformity with the relevant Provincial, Regional and local planning policies and legislation, as discussed in the following report sections. Applicable planning legislation and policies are provided in **Appendix III** to this report.

5.1.1 *Planning Act, R.S.O. 1990, c. P.13*

The Application supports the matters of provincial interest, is consistent with policy statements and conforms to provincial plans and upper-tier and lower-tier Official Plans, as demonstrated in the analysis provided in the following sections of this report.

5.1.2 *Provincial and Regional Planning Documents*

The subject lands are designated as being within a “specialty crop area” of the “prime agricultural area” according to the Provincial Policy Statement, 2020 (the “PPS”), and within the “Specialty Crop Area” of the “Protected Countryside” according to the Greenbelt Plan, 2017. The Niagara Official Plan (the “NOP”), 2022, designates the subject lands as “Specialty Crop Area.”

Policies in these plans encourage the protection of agricultural lands. Lot creation is discouraged in such agricultural areas, but the policies do permit the severance of a residence surplus to a farming operation as a result of farm consolidation, subject to criteria. Through the earlier Consent application, the criterion was reviewed and considered in the approval. A requirement for surplus farm dwelling severances is that future residential dwellings are prohibited in perpetuity on the remaining agricultural lands. This Zoning By-law Amendment is a condition of the Consent to implement the dwelling restriction on agricultural lands and address site-specific Rural Zone standards for the property containing the surplus dwelling.

The NOP includes policies for key hydrologic features (KHF) which provide that proposed site alteration within or adjacent to a natural environment system shall not negatively impact a KHF and that a buffer shall be maintained to protect the natural features and ecological functions of the system. The Region and Niagara Peninsula Conservation Authority (the “NPCA”) were consulted through the Consent and Zoning By-law Amendment processes and approved the proposed setbacks to the municipal drain (Szockyj Drain).

Staff consider the Application to be consistent with the PPS and conform with the Greenbelt Plan and NOP.

5.1.3 Town of Niagara-on-the-Lake Official Plan, 2017 Consolidation, as amended

The subject lands are currently designated “Agricultural” in the Town of Niagara-on-the-Lake Official Plan, 2017 Consolidation, as amended (the “Town OP”). The Town OP designation on the subject lands is shown on **Map 2 of Appendix II** to this report.

Similar to the policies of the PPS, Greenbelt Plan and NOP, the Town OP permits Consents for a residence surplus to a farming operation as a result of a farm consolidation, subject to the satisfaction of a number of criteria. The Zoning By-law Amendment to prohibit a new dwelling on the agricultural lands will satisfy the Town Official Plan policies.

Staff consider the Application to conform to the applicable policies of the Town OP.

5.1.4 Town of Niagara-on-the-Lake Proposed Official Plan, 2019

Council adopted a proposed new Official Plan in November 2019. The proposed Official Plan has not been approved and is therefore not in effect but represents Council’s intent. The subject lands are designated “Protected Countryside” and “Specialty Crop Lands” in the proposed Town of Niagara-on-the-Lake Official Plan (the “proposed Town OP”).

Surplus farm dwelling severances are permitted per the policies of the proposed Town OP, which align with the provisions of the PPS, Greenbelt Plan, and NOP. Accordingly, the Application would conform to the applicable policies of the proposed Town OP (if in effect).

5.2 Niagara-on-the-Lake Zoning By-law 500A-74, as amended

The majority of the subject lands are zoned “Rural (A) Zone” on Schedule A of Zoning By-law 500A-74, as amended. The north section is zoned “APO” related to a prior Consent approval. The applicable zoning of the subject lands is shown on **Map 3 of Appendix II** to this report.

The Application is proposing to rezone Part 4 of the subject lands to a site-specific “Rural (A) Zone” with special provisions for lot frontage and front yard setback. The Application seeks the following special provisions for Part 4:

- Minimum lot frontage - 38 metres (Zoning By-law standard 60.96 metres); and,
- Minimum front yard setback (for existing dwelling) - 7.5 metres (Zoning By-law standard 15.24 metres).

The standard “Rural (A) Zone” provisions would apply for such requirements as lot coverage, interior and rear yard setbacks, maximum building height, and minimum dwelling floor area.

The Application is also proposing to rezone Part 5 to “Agricultural Purposes Only (APO)” zone to preclude the construction of a new dwelling in perpetuity. Staff note that the APO Zone does not prohibit the use of future seasonal farm help accommodations on the lands, which are considered an agricultural use. The “Agricultural Purposes Only (APO)” zone permits for continued agricultural use, and the use of agricultural buildings.

A draft Zoning By-law Amendment is attached as **Appendix IV** to this report.

5.3 Consultation

The Application was circulated to appropriate Town departments and external Agencies. Notice of the Application was provided as required by the *Planning Act*. Comments received from external Agencies are attached as **Appendix V** to this report with overall comments summarized below.

5.3.1 Town Departments

Building – No objection.

Finance – No objection.

Fire & Emergency Services – No objection.

Heritage – No objection.

Operations – No objection.

5.3.2 External Agencies

Enbridge – No objection.

Niagara Peninsula Conservation Authority – No objection.

Niagara Region – No objection.

5.3.3 Public

An electronic Open House was held on April 17, 2023, and a statutory Public Meeting was held on May 9, 2023. There were no members of the public at the Open House or Public Meeting, and no written public comments have been received.

6. STRATEGIC PLAN

The content of this report supports the following Strategic Plan initiatives:

Pillar(s)

1. Protect Distinctive Community Assets

Objective(s)

2.2 Develop smart, balanced growth

7. OPTIONS

The Committee may approve, refuse or modify the proposed Zoning By-law Amendment.

8. FINANCIAL IMPLICATIONS

Not applicable.

9. ENVIRONMENTAL IMPLICATIONS

Any environmental issues have been addressed throughout this report.

10. COMMUNICATIONS

Once Council has made a decision on the Application, notice of the decision will be given as required in the *Planning Act*. The decision of Council is subject to a 20-day appeal period. If no appeals are received during the appeal period, the decision of Council is final.

11. CONCLUSION

Community & Development Services staff recommend approval of Zoning By-law Amendment Application ZBA-02-2023 as the Application meets *Planning Act* requirements, is consistent with the Provincial Policy Statement and conforms with the Greenbelt Plan, Niagara Official Plan and Town Official Plan.

12. PREVIOUS REPORTS

- CDS-23-066 - Public Meeting - 882 Line 1 Road, Information Report - May 9, 2023

13. APPENDICES

- **Appendix I** - Survey Sketch
- **Appendix II** - Maps
- **Appendix III** - Planning Legislation and Policies
- **Appendix IV** - Draft Zoning By-law Amendment
- **Appendix V** - Agency Comments

Respectfully submitted:

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