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# The Corporation of the Town of Niagara-on-the-Lake Information Report to Council

**SUBJECT:** Public Meeting – 145 Hunter Road  
Zoning By-law Amendment Application ZBA-23-2023

**DATE:** 2023-12-05

**REPORT #:** CDS-23-244

**PREPARED BY:** Mark Chuang, Planner II

**DEPARTMENT:** Community & Development Services

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## BACKGROUND INFORMATION

### Executive Summary

Public engagement is an important part of the planning process. The Town is holding a Public Meeting in accordance with the requirements of the *Planning Act* to receive input from the public and Council. Staff is reviewing the information submitted and collecting comments. No recommendation is being made at this time.

An Application has been received for a Zoning By-law Amendment which proposes to rezone a portion of the subject lands (Part 2) from the “Rural (A) Zone” to “Agricultural Purposes Only (APO) Zone” to ensure that a new residential dwelling is prohibited in perpetuity. A portion of the subject lands (Part 1) are proposed to be rezoned from “Rural (A) Zone” to a “Rural (A) Site-Specific Zone” with provisions for front yard setback and accessory building setback for existing buildings.

The Amendment is required as a condition of Consent application File B-30/23 to sever a residence surplus to a farming operation as a result of a farm consolidation. Committee of Adjustment granted provisional approval of this application on November 16, 2023.

### Location

The subject lands are known municipally as 145 Hunter Road, located on the south side of Hunter Road, east of Four Mile Creek Road and west of Concession 4 Road. The location of the subject lands is shown on **Figure 1** to this report.



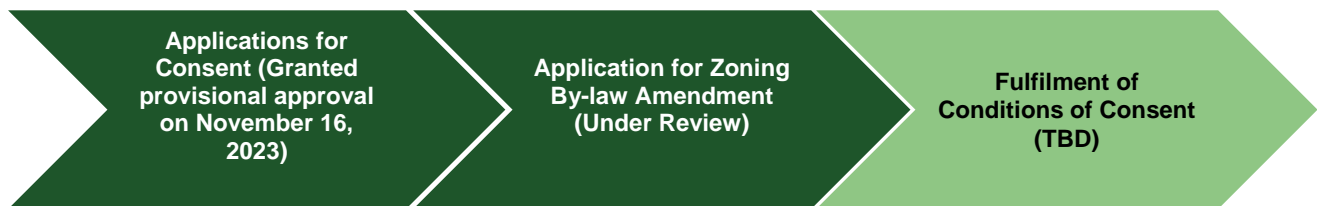
**Figure 1** Location of the subject lands

The subject lands contain an existing single-detached dwelling, garage and hoop building. The dwelling is serviced by municipal water and private septic system. Surrounding lands are characterized by rural residential and agricultural uses.

The submitted Severance Sketch application drawn showing the proposed lots is attached as **Appendix I**.

### Development Process

The current application is in the second stage of the development review process outlined as follows:



### Proposal

An application has been received for a Zoning By-law Amendment to rezone the retained lands (Part 2) from the “Rural (A) Zone” to “Agricultural Purposes Only (APO) Zone” to ensure that a new residential dwelling is prohibited in perpetuity. The severed lands (Part 1) are proposed to be rezoned from “Rural (A) Zone” to a “Rural (A) Site-Specific Zone” with provisions for front yard setback and accessory building setback.

Part 1 has an area of 4,090.4 square metres (1.01 acres) and a lot frontage of 60.96 metres on Hunter Road. Part 1 contains an existing two-storey dwelling, which is serviced by municipal water and a private septic system, and accessory buildings.

Part 2 has an area of 1.82 hectares (4.5 acres) and a frontage of 6.3 metres on Hunter Road. There are no buildings or structures on Part 2. Part 2 is proposed to be merged with Part 3 (5.65 hectares) and Part 4 (3.8 hectares), as a condition of the proposed severance, to create a larger 11.27 hectare farm parcel to achieve the minimum farm parcel size in alignment with

Town policies. Part 3 and 4 will continue to be used for agricultural purposes only.

The Amendment is required to satisfy a condition of Consent application (File B-30/23) that was granted provisional approval by the Town's Committee of Adjustment on November 16, 2023. The consent application was made to facilitate a severance of a residence surplus to a farming operation as a result of a farm consolidation.

The following documents have been submitted and are being considered during the review of these applications:

- Zoning By-law Amendment Application
- Planning Justification Report, August 2023
- Site Plan, June 2023
- Septic System Report, June 2023
- Draft Zoning By-law Amendment

### **Policy Review**

The following provides a general overview of the policy framework regarding this application. A full policy review will be completed and included in the recommendation report.

#### Planning Act, R.S.O. 1990, c.P.13

Section 2 of the *Planning Act* identifies matters of Provincial interest that Council shall have regard to in carrying out its responsibilities under the *Planning Act*.

Subsection 3(5) of the *Planning Act* requires that decisions of Council shall be consistent with provincial policy statements and shall conform with provincial plans that are in effect.

Section 34 of the *Planning Act* permits councils of local municipalities to pass and/or amend zoning by-laws. By-laws passed by Council shall conform to official plans that are in effect.

#### Provincial Policy Statement, 2020

The subject lands are designated as being within a "Prime Agricultural Area" and more specifically a "Specialty Crop Area" according to the Provincial Policy Statement (the "PPS"). The PPS directs that lot creation in prime agricultural areas is discouraged but may be permitted for a residence surplus to a farming operation as a result of farm consolidation. New lots should be limited to a minimize size needed to accommodate the use and private servicing, and the construction of a new residential dwelling must be prohibited on the remnant parcel of farmland.

#### Greenbelt Plan, 2017

The subject lands are designated as "Specialty Crop Area" (Niagara Peninsula Tender Fruit and Grape Area) within the "Protected Countryside" designation of the Greenbelt Plan. The Greenbelt Plan discourages lot creation; however, it may be permitted for the severance of a residence surplus to a farming operation. Similar to the PPS, the severance should be limited to the minimum size, and prohibit any new residential dwelling in perpetuity on the retained farmland.

#### Niagara Official Plan, 2022

The new Niagara Official Plan (NOP) was approved by the Minister of Municipal Affairs and

Housing on November 4, 2022 and applies to the proposal. The subject lands are identified as being within the “Specialty Crop Area” on Schedule F in the NOP. The NOP directs that Consents within the agricultural land base must meet conditions, including that the new lot shall be an area of 0.4 hectares (1 acre) to accommodate and support on-site private water and sewage systems, have sufficient frontage on a public road and be located and configured to minimize impacts on surrounding farming operations. The polices in the NOP require the farm parcel to be re-zoned for agricultural purposes only in perpetuity to restrict any new residential use.

Within the Specialty Crop Area, consents may be permitted if they are for a residence surplus to a farming operation and accompanied with a planning justification report in support of the proposal.

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

The subject lands are identified as "Agricultural" on Schedule A to the Official Plan. The Town OP provides policies for consents on lands in the Agricultural designation. Consents may be granted for a residence surplus to a farming operation as a result of farm consolidation, where the dwelling existed prior to December 16, 2004. Both farms must be located within the Town and the new lot should be located to minimize impacts on surrounding farming operations. The retained parcel shall be zoned for agricultural purposes only to prohibit a new residential use in perpetuity.

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 intent. The subject lands are designated "Protected Countryside" in the proposed Official Plan.

Niagara-on-the-Lake Zoning By-law 4316-09, as amended

The subject lands are zoned “Rural (A) Zone” in the Town’s Zoning By-law 500A-74 (as amended). To ensure that residential development is prohibited in perpetuity on the remaining farmland, this application is proposing to rezone Part 2 to “Agricultural Purposes Only (APO) Zone”.

Additionally, the residential lot (Part 1) is requested to be rezoned to “Rural (A) Site-Specific Zone” with provisions to recognize the existing dwelling and structures on the subject lands. The proposed provisions for Part 1 are shown in the following chart in comparison to the Rural (A) standards:

<b>Zone Requirement</b>	<b>Rural (A) Zone</b>	<b>Site-Specific Rural (A) Zone</b>
Minimum Front Yard Setback	15.24 metres	12.95 metres
Accessory Building Setbacks	3.05 metres	0.0 metres (garage)

The remaining provisions of the Rural A zone and Zoning By-law 500A-74 would apply.

### **Consultation**

The applications were circulated to Town Departments and external agencies for review and comment. Public Notice of the proposal was provided as required by the *Planning Act*. An electronic Open House was held on Monday, November 13, 2023.

To date, the following comments have been received:

#### Town Departments

Accessibility: No comments.

Fire: No comments.

Finance: No concerns.

#### Agencies

Enbridge: No objections.

MTO: Outside the permit control area.

Niagara Region: No concerns.

#### Public Comments

An electronic Open House was held on November 13, 2023. No members of the public attended the Open House.

### **NEXT STEP / CONCLUSION**

Following the Statutory Public Meeting, all comments received will be considered through the review of the applications. The applicant will have an opportunity to respond to comments and submit revised application materials. Any revised materials will be made publicly available. Once the review process has concluded, a staff recommendation report will be prepared and presented at a future Committee of the Whole meeting.

### **ATTACHMENTS**

- **Appendix I** – Severance Sketch