



Town of Niagara-on-the-Lake

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REPORT #: CDS-25-063 **COMMITTEE DATE:** 2025-05-15
DUE IN COUNCIL: N/A
REPORT TO: Committee of Adjustment
SUBJECT: Consent Application B-05/25 – 944 Concession 1 Road

1. RECOMMENDATION

It is respectfully recommended that:

- 1.1 Consent Application B-05/25 for the severance of the rural residential lot known as 944 Concession 1 Road (Part 1) as a surplus to a consolidated farming operation, be approved, subject to the following conditions:
 - 1.1.1 That the owner/applicant provides a legal description of Part 1, acceptable to the Registrar, together with 1 digital copy to-scale of the deposited reference plan, if applicable, or a copy of all instruments and plans referred to in the legal description, to the satisfaction of the Director of Community and Development Services, for use in the issuance of the Certificate of Consent;
 - 1.1.2 That the owner/applicant provides a lawyer's undertaking, to the satisfaction of the Director of Community and Development Services, to forward a copy of documentation confirming the transaction, i.e. merging of Part 2 with Part 3, has been carried out, the documentation to be provided within two years of issuance of the consent certificate, or prior to the issuance of a building permit, whichever occurs first;
 - 1.1.3 That the owner/applicant obtains approval in the form of a municipal entrance permit from the Town's Operations Department for the proposed driveway on Part 2 providing access to Concession 1 Road, to the satisfaction of the Director of Operations;
 - 1.1.4 That the owner/applicant, at their own expense, enter into a reapportionment agreement for assessment of future maintenance of the municipal drain, subject to the approval of the Town's Drainage Superintendent; and,
 - 1.1.5 That the Town Operations Department be provided with a copy of the deposited reference plan.

2. EXECUTIVE SUMMARY

Staff have received a consent application submitted under Section 53(12) of the *Planning Act*. The application proposes to sever a residence surplus to a farming operation as a result of a

farm consolidation. Town Staff have reviewed the application and consider it to meet applicable planning legislation and policies, subject to the recommended conditions.

3. PURPOSE

The applicant is proposing the creation of one new rural residential lot known municipally as 944 Concession 1 Road (Part 1) as a residence surplus to a farming operation as a result of farm consolidation. Part 1 is proposed to have an area of 4,670.0 square metres (0.467 hectares), a lot frontage of 76.87 metres, and a lot depth of 60.96 metres. The retained agricultural lot (Part 2) will have an area of 23,660.1 square metres (2.36 hectares), a lot frontage of 8.0 metres, and lot depth of 336.25 metres, and will be merged with the adjacent agricultural lot known municipally as 1008 Concession 1 Road (Part 3), which has a lot area of 92,955.6 square metres (9.29 hectares), a lot frontage of 204.58 metres on Concession 1 Road, and lot flankage of 292.45 metres on Line 5 Road.

The application drawing is attached as **Appendix I** to this report.

4. BACKGROUND

4.1 Site Description and Surrounding Land Uses

The subject lands are known municipally as 944 Concession 1 Road, located on the west side of Concession 1 Road, north of Line 6 Road and south of Line 5 Road. The location of the subject lands is shown on **Appendix II** to this report.

The applicant is proposing the severance of Part 1 (944 Concession 1 Road) as a residence surplus to a farming operation as a result of farm consolidation. The rural residential lot is proposed to have an area of approximately 0.467 hectares (1.15 acres) and a frontage of 76.87 metres on Concession 1 Road. Part 1 currently contains an existing one-storey single-detached dwelling and an associated residential accessory building. The existing dwelling on Part 1 is serviced by municipal water and a private septic system.

Part 2, which contains the existing agricultural operation associated with 944 Concession 1 Road, is proposed to have an area of approximately 2.36 hectares (5.8 acres) and a frontage of 8.00 metres on Concession 1 Road. There are no buildings or structures on Part 2.

The applicant proposes to consolidate the retained agricultural lands comprising of Part 2, with the adjacent agricultural lands known municipally as 1008 Concession 1 Road, being Part 3. Part 3 has a lot area of approximately 9.29 hectares (22.9 acres), a lot frontage of 204.58 metres on Concession 1 Road, and lot flankage of 292.45 metres on Line 5 Road. There is an existing dwelling on Part 3, which is serviced by municipal water and a private septic system. The new consolidated agricultural lot is proposed to be 11.65 hectares (28.78 acres), with farm vehicle access provided through the existing frontage on Concession 1 Road and flankage on Line 5 Road associated with Part 3, and the new Part 2 frontage on Concession 1 Road.

Surrounding lands are characterized by rural residential and agricultural uses.

5. DISCUSSION / ANALYSIS

Section 3(5) of the *Planning Act*, R.S.O. 1990, c. P.13 states that a decision of Council, in respect to any planning matter, shall be consistent with the Provincial Planning Statement and conform with the Provincial Plans.

Section 53(12) of the *Planning Act* states that Council, in determining whether a provisional consent is to be given, shall have regard to the matters under Section 51(24), and that conditions of consent may be imposed as set out in Sections 51(25), 51(26) and 51.1.

The Provincial Planning Statement (PPS) designates the subject lands as being within a "Prime Agricultural Area." The Greenbelt Plan designates the subject lands within "Protected Countryside," and more specifically, a "Specialty Crop Area (Niagara Peninsula Tender Fruit and Grape Area)." The subject lands are designated "Specialty Crop Area" in the Niagara Official Plan (NOP) and "Agricultural" in the Town's Official Plan (2017 consolidation, as amended).

Section 4.3.3 of the PPS, Section 4.6.1(f) of the Greenbelt Plan, Section 4.1.5.2 of the NOP, and Section 7.4(4)(e) of the Town's Official Plan permit the severance of a residence surplus to a farming operation as a result of a farm consolidation, subject to criteria identified within the respective planning documents.

The following is a summary of relevant policies from the aforementioned planning documents permitting the severance of a surplus farm dwelling as a result of farm consolidation:

- The residential use must have existed before the Greenbelt Plan came into effect (December 16, 2004);
- The surplus farm dwelling must be habitable;
- The severance must be limited to a minimum lot size needed to accommodate the use, including appropriate sewage and water services, which the Region has determined to be 1 acre;
- A new dwelling is prohibited in perpetuity on the remaining farmland;
- The new residential lot is located to minimize the impact of the remaining farm operation;
- The owner must operate an existing farm within the Town of Niagara-on-the-Lake; and
- The new lot must comply with the Minimum Distance Separation Formulae

A review of the proposed Consent application B-05/25 in consideration of the applicable policies is provided below.

The residential use must have existed before the Greenbelt Plan came into effect (December 16, 2004)

The applicant has noted that the existing dwelling on Part 1 was constructed in approximately 1970. Aerial imagery shows that the dwelling on Part 1 has existed since at least 2000, demonstrating that the dwelling was constructed prior to the Greenbelt Plan coming into effect in 2004.

The surplus farm dwelling must be habitable

Staff consider the existing dwelling on Part 1 to be habitable based on visual observation and given that it is currently being occupied, as indicated by the applicant.

The severance must be limited to a minimum lot size needed to accommodate the use, including appropriate sewage and water services

The PPS and Greenbelt Plan require that a new lot created through a surplus farm residence consent be limited to the minimum size need to accommodate the residential use and appropriate sewage and water services. The NOP specifies that a new lot created through a surplus farm residence consent is required to be at least 0.4 hectares, in addition to any additional land required to support appropriate sewage and water services, to a maximum of 1 hectare.

Part 1 is proposed to be 0.467 hectares (1.15 acres) in area, which is in general conformity with the area requirement of 1 acre, per the NOP. The intent of the lot size requirement is to limit impacts to the farming operation, while ensuring there is enough useable area on the lot to support a replacement septic system in the future, when required.

Regional Private Servicing Staff completed an inspection of the existing sewage system on Part 1. Regional staff have noted that the proposed lot (Part 1) meets the minimum 1-acre requirement under the Region's Private Servicing By-law; however, the parcel has limited usable area available for a potential future replacement septic system. As such, the applicant has been advised that tertiary treatment may be required to support future servicing needs on Part 1. As no changes are proposed to the existing dwelling or accessory building, Regional staff have no objections to the proposed application from a private servicing perspective.

Therefore, Town Staff and Regional Staff consider the size of the proposed residential lot to be in conformity with the NOP lot size requirements.

A new dwelling is prohibited in perpetuity on the remaining farmland

As a condition of this consent, the retained agricultural portion of the lot (Part 2), is to be merged with the abutting parcel, (Part 3) having an area of approximately 9.29 hectares (22.97 acres). As there is an existing single-detached dwelling located on Part 3, staff are satisfied that this merger will prohibit further residential development of the agricultural portion of the lot, ensuring no further fragmentation of the agricultural operation.

The new residential lot is located to minimize the impact of the remaining farm operation

Section 21.2(9) of the Town's Official Plan directs that lot lines shall avoid creating irregular boundaries where possible and, where agricultural lands are affected, avoid creating a lot pattern which would make it difficult to farm. The proposed boundaries of Part 1 are considered regular, as the lot is rectangular in shape, and reflects the area of the existing dwelling. The proposed lot lines are intended to minimize conflicts with the abutting farming operations, providing sufficient space for farming operations. The severance of Part 1 is not anticipated to result in impacts to farming Part 2, and no lands are proposed to be removed from agricultural production.

The owner must operate an existing farm within the Town of Niagara-on-the-Lake

The Surplus Farm Dwelling Information Form indicates that the owner of the subject lands owns and/or operates six (6) other agricultural parcels within the Town and in close proximity to the subject lands, including 1008 Concession 1 Road (Part 3), which the retained agricultural lands (Part 2) are proposed to be merged with. The owner has also confirmed that they have a primary residence on a separate property within the Town. The owner wishes to consolidate the agricultural lands associated with 944 Concession 1 Road with their agricultural operation, including the adjacent agricultural lands associated with 1008 Concession 1 Road. As a result of this consolidation, the owner has deemed the dwelling at 944 Concession 1 Road to be surplus to the needs of the farming operation and is only interested in being the sole owner of the consolidated farm parcel.

The new lot must comply with the Minimum Distance Separation Formulae

Town Staff have not identified livestock facilities within proximity of the subject lands. Minimum Distance Separation (MDS) Guideline #9 under Section 4 of the document outlines that for a proposed severance of a residence surplus to a farming operation where the existing dwelling to be severed and livestock facility are located on separate lots prior to consent, MDS Setback I is not required. This is because a potential odour conflict may already exist between those uses. Given that both the existing dwelling and any livestock facilities in the proximity of the subject lands were located on separate lots prior to the proposed consent, Staff are satisfied that the MDS I calculation is not applicable to the proposed severance of Part 1.

5.1 Town, Agency and Public Comments

The application was circulated to all appropriate Town departments and external agencies, and public notice was provided as required by the *Planning Act*. The following responses were received:

Town Departments

Building – No objection.

Finance – No objection.

Fire and Emergency Services – No objection.

Heritage – No objection.

Operations – No objection. Any new driveway access proposed from Concession 1 Road to service the agricultural lands will require the submission of an Entrance Permit to the Town's Operations Department. The driveway access and laneway must be offset a minimum of 1 metre from the adjacent property line, as well as any existing utilities (hydropoles, utility pedestals, etc.). The property associated with this application contains the Peter's Branch Municipal Drain (Routh Drain System). The upstream limit of the drain contains a catch basin located on the property line dividing 940 and 944 Concession 1 Road. The proposed farm access should not interfere or alter with the function of the catch basin located on the property line, nor should the construction of the laneway damage the municipal drain pipe underneath it. The properties (944 and 1008 Concession 1) will also have to be reapportioned for future maintenance on the municipal drain. This is completed by a drainage engineering consultant at

the cost of the applicant. Town Operations staff is to be provided with a copy of the deposited reference plan.

Agencies

Niagara Region – No objections; however, the retained parcel has limited usable area available for a potential future replacement septic system. As such, the applicant is advised that tertiary treatment may be required to support future servicing needs.

TransCanada Energy Pipelines Limited – No objection.

Enbridge – No objection.

Niagara Peninsula Conservation Authority (NPCA) – A NPCA-regulated watercourse exits a culvert immediately to the north of 944 Concession Road 1. The proposed lot lines are outside of the regulation distance of the features on this site. Further, the proposed lot lines would not cause unnecessary fragmentation of the feature. As such, the NPCA offers no objections to the proposed Consent.

Public

No public comments were received at the time this report was prepared.

6. STRATEGIC PLAN

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

Pillar

1. Vibrant & Complete Community

Priority

1.1 Planning for Progress

Action

1.1 b) Planning for Progress Initiatives

7. OPTIONS

The Committee may approve, refuse or modify the requested Consent applications and/or conditions.

8. FINANCIAL IMPLICATIONS

Not applicable.

9. ENVIRONMENTAL IMPLICATIONS

There are no key natural heritage or key hydrologic features as identified in the Niagara Official Plan, and the property is not within the Conservation Lands overlay within the Town Official Plan. The property associated with this application contains the Peter's Branch Municipal Drain (Routh Drain System), which is also a watercourse regulated by the Niagara Peninsula Conservation Authority (NPCA). The proposed severance does not fragment the watercourse

feature which traverses the area. Any new driveway access proposed from Concession 1 Road to service the agricultural lands will require the submission of an Entrance Permit to the Town's Operations Department to ensure that the proposed farm access does not interfere or alter with the function of the catch basin located on the property line, and that the construction of the laneway does not damage the municipal drain pipe underneath it. The Town's Tree Protection By-law does not apply to lands outside of an urban area, and no impacts to vegetation are anticipated as a result of the proposal.

10. COMMUNICATIONS

Once the Committee of Adjustment makes a decision on the applications, notice of the decision will be given as required in the *Planning Act*. The decision of the Committee is subject to a 20-day appeal period following notice of the Committee's decision. If no appeals are received during the appeal period, the decision of the Committee is final.

Changes to provincial legislation have been made through Bill 23 and third-party appeals from private property owners are no longer permitted.

11. CONCLUSION

Community and Development Services staff recommend approval of Consent Application B-05/25, subject to the recommended conditions, as the application meets the *Planning Act* requirements for lot creation, is consistent with the Provincial Planning Statement and complies with the Growth Plan, Niagara Official Plan and Town Official Plan.

12. PREVIOUS REPORTS

Not applicable.

13. APPENDICES

- **Appendix I –** Application Drawing
- **Appendix II –** Location Map

Respectfully submitted:

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