



Department of Community
& Development Services
Telephone (905) 468-3266
Facsimile (905) 468-0301

The Town of Niagara-On-The-Lake

1593 Four Mile Creek Road
P.O. Box 100
Virgil, Ontario
L0S 1T0

Report:	CDS-21-006	Committee Date:	March 08, 2021
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Due in Council:	March 22, 2021
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Report To:	Community & Development Advisory Committee
Subject:	File No. ZBA-17-2020 - 1072 Concession 2 Road Application for Zoning By-law Amendment

1. RECOMMENDATION

It is respectfully recommended that:

- 1.1 The application for Zoning By-law Amendment (File No. ZBA-17-2020) for the lands known municipally as 1072 Concession 2 Road be approved; and
- 1.2 The draft Zoning By-law Amendment, attached as **Appendix III** to this report, be forwarded to Council for adoption.

2. PURPOSE / PROPOSAL

The purpose of this report is to provide a recommendation to Council with respect to an application under the *Planning Act* seeking approval of a Zoning By-law Amendment (the "Application") for lands municipally known as 1072 Concession 2 Road.

The Application is proposing to rezone the agricultural portion (Part 1) of the subject lands to "Agricultural Purposes Only (APO)" with site-specific provisions to permit the existing full-time farm help house, maintenance of the existing hedge and for lot frontage. The residential portion (Part 2) would be rezoned to "Rural (A)" with site-specific provisions pertaining to lot frontage and front yard setback of the existing dwelling. The proposed Zoning By-law Amendment is required to fulfil a condition of consent to sever a residence surplus to a farming operation as a result of farm consolidation (File B-06/20).

The application drawing, showing Part 1 and Part 2, is attached as **Appendix I** to this Report.

3. BACKGROUND

3.1 Site Description and Surrounding Land Uses

The subject lands are known municipally as 1072 Concession 2 Road, located north of Line 5 Road in the agricultural area of the Town. The location of the subject lands is shown on **Map 1** of **Appendix II** to this report.

Part 1 of the subject lands has an area of 11.43 hectares (28.24 acres), with 17.72 metres of frontage on Concession 2 Road and currently contains active vineyards and a two-storey, full-time farm help house (1065 Concession 3 Road) with frontage and access onto Concession 3 Road.

Part 2 of the subject lands has an area of 4,200 square metres (1 acre), with 45.72 metres of frontage on Concession 2 Road and currently contains a two-storey, single-detached dwelling (1072 Concession 2 Road) and a shed.

Surrounding lands are occupied by agricultural and rural residential uses.

3.2 Previous Application

A related Consent Application (File B-06/20) was provisionally granted by the Committee of Adjustment on September 17, 2020 for the severance of a residence surplus to a farming operation as a result of farm consultation. Planning Staff did not support the Consent application based on the opinion that the proposal was not consistent with and did not conform to required Planning policies. Council did not agree with the Staff recommendation to appeal the Committee decision and the approval was upheld. The current Zoning By-law Amendment is required to fulfil a condition of provisional Consent and implement the Committee decision.

4. DISCUSSION / ANALYSIS

4.1 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.

4.1.1 *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, and Subsection 24(1) of the *Planning Act* requires that by-laws passed by Council shall conform to official plans that are in effect.

Section 34 of the *Planning Act* permits Council to pass and/or amend zoning by-laws for such purposes as may be set out in the by-law, and for regulating construction and land use within the municipality.

Subject to the analysis provided in the following sections of this report, Staff consider

the Application to comply with the provisions of the *Planning Act*.

4.1.2 Provincial Policy Statement, 2020

The Provincial Policy Statement (PPS), 2020 identifies the subject lands as being within a "prime agricultural area" and more specifically as a "specialty crop area".

Section 2.3.1 of the PPS states that "prime agricultural areas shall be protected for long-term use for agriculture."

Section 2.3.3.1 of the PPS directs that "In prime agricultural areas, permitted uses and activities are: agricultural uses, agriculture-related uses and on-farm diversified uses."

In the PPS, the term "agricultural uses" is defined as follows:

Agricultural uses Means the growing of crops, including nursery, biomass, and horticultural crops; raising of livestock; raising of other animals for food, fur or fibre, including poultry and fish; aquaculture; apiaries; agro-forestry; maple syrup production; and associated on-farm buildings and structures, including, but not limited to livestock facilities, manure storages, value-retaining facilities, and accommodation for full-time farm labour when the size and nature of the operation requires additional employment

Section 2.3.4.1 of the PPS provides that::

2.3.4.1 Lot creation in prime agricultural areas is discouraged and may only be permitted for: ...

(c) a residence surplus to a farming operation as a result of farm consolidation, provided that:

- 1. the new lot will be limited to a minimum size needed to accommodate the use and appropriate sewage and water services; and*
- 2. the planning authority ensures that new residential dwellings are prohibited on any remnant parcel of farmland created by the severance. The approach used to ensure that no new residential dwellings are permitted on the remnant parcel may be recommended by the Province, or based on municipal approaches which achieve the same objective...*

In accordance with Sections 2.3.1 and 2.3.4.1(c)(2) of the PPS, the Application would result in the rezoning of Part 1, the remnant parcel of land, to APO to preclude the construction of a new dwelling in perpetuity and protect it for continued long-term agricultural use. The full-time farm help house, an agricultural use, would be permitted to continue on Part 1 after the APO Zoning is applied.

4.1.3 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, 2017.

Section 3.1.2 (Specialty Crop Area Policies) of the Greenbelt Plan directs that:

3.1.2 For lands falling within specialty crop areas of the Protected Countryside, the following policies shall apply:

1. All types, sizes and intensities of agricultural uses and normal farm practices shall be promoted and protected and a full range of agricultural uses, agriculture-related uses and on-farm diversified uses are permitted based on the provincial Guidelines on Permitted Uses in Ontario's Prime Agricultural Areas...

The Greenbelt Plan provides the same definition of "agricultural uses" as the PPS.

Section 4.6(1) of the Greenbelt Plan states that:

4.6(1) Lot creation is discouraged and may only be permitted for:

- f) The severance of a residence surplus to a farming operation as a result of a farm consolidation, on which a habitable residence was an existing use, provided that:*
 - i. The severance will be limited to the minimum size needed to accommodate the use and appropriate sewage and water services; and*
 - ii. The planning authority ensures that a residential dwelling is not permitted in perpetuity on the retained lot of farmland created by this severance. Approaches to ensuring no new residential dwellings on the retained lot of farmland may be recommended by the Province, or municipal approaches that achieve the same objective should be considered.*

Staff consider the Application to conform to the relevant policies of the Greenbelt Plan.

4.1.4 Niagara Regional Official Plan, 2014 Consolidation, as amended

The subject lands are identified as "Protected Countryside" on Schedule A and "Unique Agricultural Area" on Schedule B to the Niagara Regional Official Plan (ROP), 2014 Consolidation, as amended.

Policy 5.B.1 of the ROP provides that the highest priority will be given to preserving

"good tender fruit lands" and "good grape lands" shown as Unique Agricultural Areas on Schedule B of the ROP.

Policy 5.B.8 In the Unique Agricultural Areas, consents to convey may be permitted only in accordance with the following provisions...

b) The consent is for a residence surplus to a farming operation as a result of a farm consolidation, which residence was an existing use as of December 16, 2004, provided that a residential dwelling is not permitted in perpetuity on the retained lot of farmland created by this severance. As a condition of severance, the applicant must have the remnant parcel rezoned to preclude its use for residential purposes...

Policy 5.B.9 Proposed residential lots being considered for a consent under the criteria in Policies 5.B.8 and 5.B.8.1 must also meet the following conditions...

f) The size of any new lot shall not exceed an area of 0.4 hectares (1 acre) except to the extent of any additional area deemed necessary to support a well and private sewage disposal system as determined by the Ministry of the Environment, Ministry of municipal Affairs and Housing, or persons appointed on behalf...

The Application is considered to conform to the policies of the ROP with respect to the severance of a surplus farm dwelling in the Unique Agricultural Area as it is proposing to rezone of Part 1, the retained farmland, to APO to preclude the construction of a new dwelling in perpetuity and protect it for continued long-term agricultural use.

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

The subject lands are identified as "Agricultural" on Schedule B of the Town of Niagara-on-the-Lake Official Plan (Town Official Plan), 2017 Consolidation, as amended. The Town Official Plan designation of the subject lands is shown on **Map 2 of Appendix II** to this report.

In accordance with the policies of the PPS, Greenbelt Plan, and the ROP, Section 7.4(4) of the Town Official Plan provides the following relevant policies regarding the severance of a surplus farm dwelling:

e) Consents may be granted for a residence surplus to a farming operation as a result of a "farm consolidation" (refer to Greenbelt Plan for definition) where the dwelling existed prior to December 16, 2004 provided that:

(i) The zoning prohibits in perpetuity any new residential use on the retained parcel of farmland created by the severance, and that the

zoning ensures the parcel will continue to be used for agricultural purposes;

- (ii) The size of any new lot does not exceed an area of 0.4 hectares (1 acre) except to the extent of any additional area deemed necessary to support a well and private sewage disposal system as determined by the Ministry of the Environment and Climate Change, Ministry of Municipal Affairs, or persons appointed on behalf;...*

The Application is considered to conform to the policies of the Town Official Plan with respect to the severance of a surplus farm dwelling.

4.1.6 Zoning By-Law 500A-74, 2018 Consolidation, as amended

The subject lands are zoned "Rural (A)" on Schedule A of Zoning By-law 500A-74 (2018 Consolidation, as amended). 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 1, the agricultural portion of the subject lands, to "Agricultural Purposes Only (APO) - Site Specific." The proposed site-specific provisions are as follows:

1. Minimum lot frontage - **17 metres** (Zoning By-law requires 38.10 metres);
2. Permit an **independent full-time farm help house** existing on the property on the date of passage of this By-law; and
3. Require a **hedge be planted and maintained**, at a minimum height of 2 metres and minimum width of 3 metres, along the northerly lot line abutting the residential use, for a minimum length of 44 metres measured from the front lot line.

The proposed lot frontage would recognize the frontage currently utilized for the existing farm operation, with only a minor reduction of approximately 7-8 metres to accommodate the severance of a 1 acre residential lot. The existing full-time farm help house would be permitted on the subject lands after the APO Zoning is applied. A full-time farm help house is normally allowed only in association with a main dwelling on a minimum 8.09 hectare farm. The full-time farm help house is only permitted to accommodate farm help. A single-detached residential dwelling is prohibited on lands zoned APO. A provision has also been proposed by the abutting neighbour to maintain the existing hedge on Part 1, adjacent to the shared lot line.

The Application is proposing to rezone Part 2, the residential portion of the subject lands, to "Rural (A) - Site Specific." The proposed site-specific provisions are as follows:

1. Minimum lot frontage - **45 metres** (Zoning By-law requires 60.96 metres)
2. Minimum front yard setback - **10 metres** (Zoning By-law requires 15.24 metres)

The proposed lot frontage of Part 2 is larger than the frontage currently utilized for the existing residential use, as an additional 7-8 metres of frontage is currently used for farm access. The additional frontage is required on the residential lot to make it 1-acre in area, as required to accommodate the existing and future septic systems. The proposed Zoning By-law amendment is anticipated to have minimal impact on the viability of the remaining farmland.

Staff are in support of the proposed rezoning of the subject lands. The draft Zoning By-law Amendment is attached as **Appendix III** to this report.

4.2 Consultation

The Application was circulated to appropriate Town departments and external agencies. Public notice of the Application was provided as required by the *Planning Act*. An Open House for the Application was held electronically on December 17, 2020 and a statutory Public Meeting was held electronically on January 11, 2021. Written comments submitted to the Town are included in **Appendix IV** to this report, and are summarized as follows:

4.2.1 Town Departments

Building - No objection.

Corporate Services - No objection.

Fire - No objection.

Heritage - No objection. The subject lands are within the area of archaeological potential, however, as no new development is proposed with this application, an archaeological assessment will not be required.

Operations - No objection.

Urban Design - No objection.

4.2.2 Agency Comments

Bell - No objection.

Enbridge - No objection.

Niagara Region - No objection as the Zoning By-law Amendment is being proposed to fulfil a condition of provisional consent.

NPCA - No objection.

4.2.3 Public Comments

No residents attended the Open House or Public Meeting. One written comment was received from the abutting neighbour requesting that a provision be added to the Zoning By-law to require the existing hedge to remain in place and be maintained as a buffer. The applicant is in support of a Zoning provision to maintain the hedge.

5. Strategic Plan

☒ **Not Applicable**

6. OPTIONS

Not applicable.

7. FINANCIAL IMPLICATIONS

Not applicable.

8. COMMUNICATIONS

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

9. CONCLUSION

Community and Development Services Staff recommend approval of Zoning By-law Amendment Application ZBA-17-2020, as the Application meets *Planning Act* requirements, is consistent with the PPS and conforms with the Greenbelt Plan, the Regional Official Plan and the Town Official Plan.

Respectfully submitted,



Mark Iamarino, MCIP, RPP
Senior Planner



Rick Wilson, MCIP, RPP
Manager of Planning



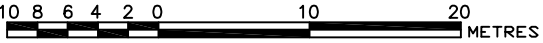
Craig Larmour, MCIP, RPP
Director, Community and
Development Services



Marnie Cluckie, MS.LOD, B.ARCH, B.ES
Chief Administrative Officer

ATTACHMENTS

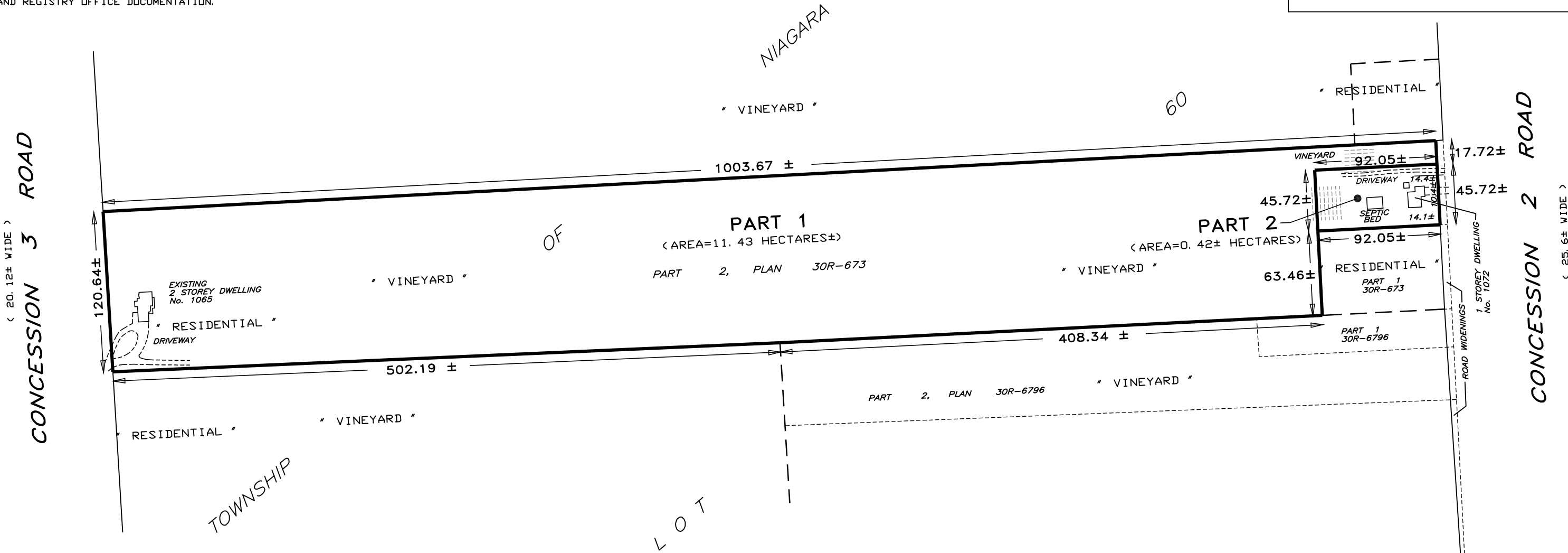
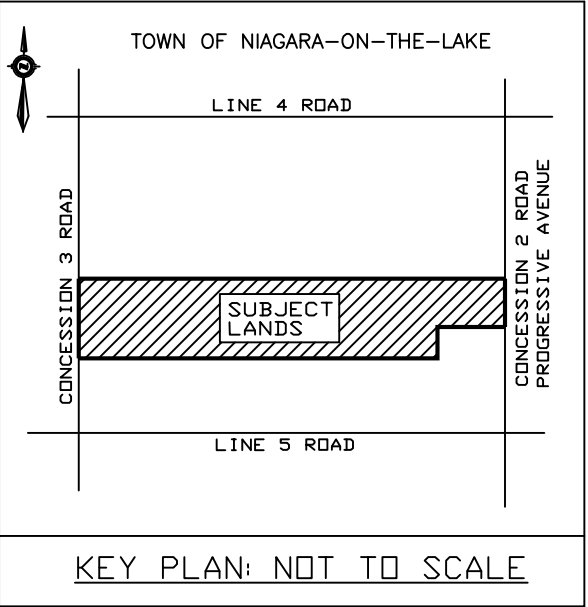
COMMITTEE OF ADJUSTMENT APPLICATION
IN THE
TOWN OF NIAGARA-ON-THE-LAKE
REGIONAL MUNICIPALITY OF NIAGARA
SCALE: 1 : 3000



2019

NOTE:
PROPERTY OUTLINED KNOWN AS MUNICIPAL
ADDRESS 1072 CONCESSION 2 ROAD AND
1065 CONCESSION 3 ROAD AND DESIGNATED AS
DESIGNATED AS PART OF LOT 60, TOWNSHIP OF NIAGARA

NOTE:
DIMENSIONS SHOWN ARE APPROXIMATE AND BASED UPON
FIELD MEASUREMENTS AND AVAILABLE
LAND REGISTRY OFFICE DOCUMENTATION.



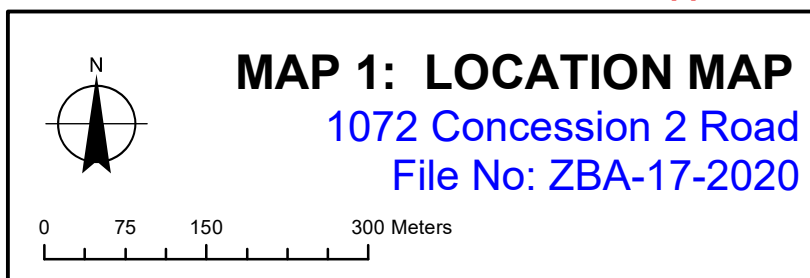
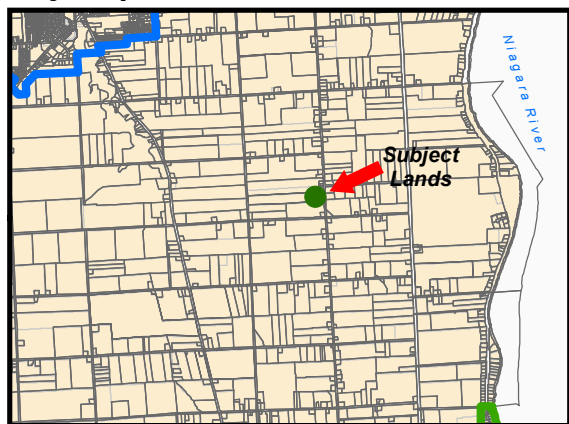
Philip S. Suda
PHILIP S. SUDA O.L.S.

July 15, 2019
DATE

THIS SKETCH IS NOT VALID UNLESS EMBOSSED BY A
SURVEYOR'S SEAL.

CAUTION: THIS IS NOT A PLAN OF SURVEY AND SHALL NOT
BE USED FOR ANY OTHER PURPOSE EXCEPT AS STATED IN THE
TITLE BLOCK

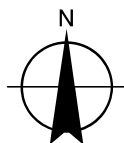
SUDA & MALESZYK SURVEYING INC.
ONTARIO LAND SURVEYORS
26 EAST MAIN STREET, SUITE 2
WELLAND, ONTARIO L3B 3W3
TEL: (905) 732-7651 FAX: (905) 732-7660
FILE: 19-88 JOB No: 5851



1:7,000



0 80 160 320 Meters



1:7,500

MAP 2: OFFICIAL PLAN

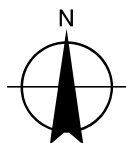
Land Use Designations

File: 1072 Concession 2 Road

ZBA-17-2020



0 80 160 320 Meters



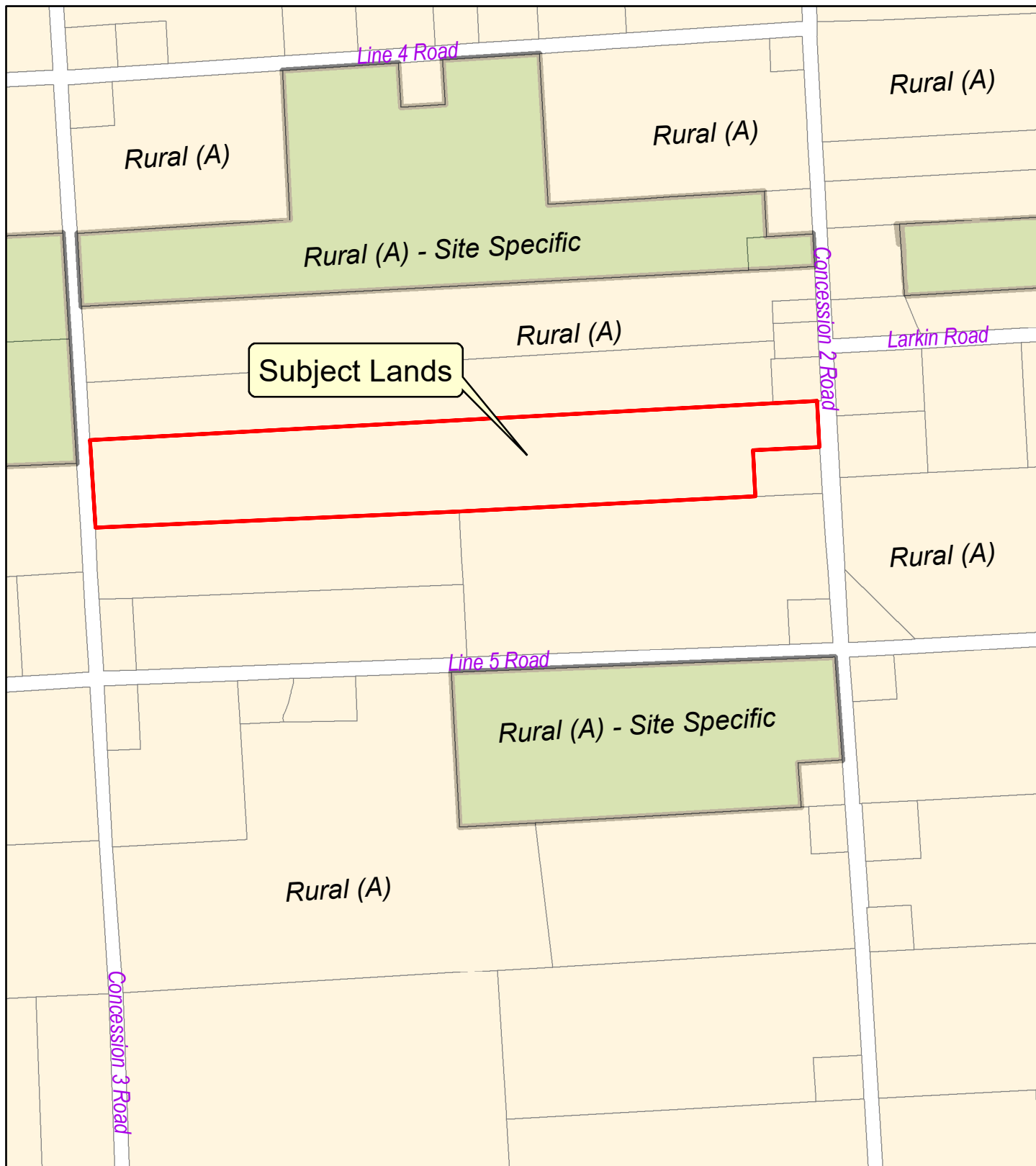
1:7,500

MAP 3: ZONING

As per Zoning By-law 500A-74, as amended

File: 1072 Concession 2 Road

ZBA-17-2020



Explanation of the Purpose and Effect of
By-law 500XT-21

The subject lands are a parcel of land described as 1072 Concession 2 Road and 1065 Concession 3 Road, Niagara-on-the-Lake, more particularly described as Part of Niagara Township Lot 60, Part 2 on 30R-673, subject to RO287823, now in the Town of Niagara-on-the-Lake.

Purpose

The purpose of this By-law is to rezone the agricultural portion (Part 1) of the subject lands with site-specific provisions to prohibit a residential single-detached dwelling in perpetuity and pertaining to lot frontage and maintenance of an existing hedge; and rezone the residential portion (Part 2) with site-specific provisions pertaining to lot frontage and front yard setback of the existing dwelling. The proposed Zoning By-law Amendment is required to fulfil a condition of consent to sever a residence surplus to a farming operation as a result of farm consolidation (File B-06/20).

Effect

The effect of this By-law is to rezone Part 1 of the subject lands to “Agricultural Purposes Only (APO)” with site-specific provisions to prohibit a residential single-detached dwelling in perpetuity and pertaining to reduced lot frontage and maintenance of an existing hedge; and rezone Part 2 to “Rural (A)” with site-specific provisions pertaining to reduced lot frontage and reduced front yard setback of the existing dwelling.

<i>Applicant:</i>	Bert and Karen Ediger
<i>File Number:</i>	ZBA-17-2020
<i>Report Number:</i>	CDS-21-XXX
<i>Assessment Roll Number:</i>	26 27 020 020 023 00

**THE CORPORATION
OF THE
TOWN OF NIAGARA-ON-THE-LAKE
BY-LAW NO. 500XT-21**

1072 Concession 2 Road and 1065 Concession 3 Road
Roll 26 27 020 020 023 00

A BY-LAW PURSUANT TO SECTION 34 OF THE ONTARIO PLANNING ACT TO AMEND BY-LAW 500A-74, AS AMENDED, ENTITLED A BY-LAW TO REGULATE THE USE OF LAND AND THE CHARACTER, LOCATION AND USE OF BUILDINGS AND STRUCTURES THEREON.

WHEREAS the Town of Niagara-on-the-Lake Council is empowered to enact this By-law by virtue of the provisions of Section 34 of the Planning Act, R.S.O. 1990, c.P.13, as amended;

AND WHEREAS this By-law conforms to the Town of Niagara-on-the-Lake Official Plan.

NOW THEREFORE THE COUNCIL OF THE CORPORATION OF THE TOWN OF NIAGARA-ON-THE-LAKE enacts as follows:

1. Schedule “A” of By-law 500A-74, as amended, is further amended by changing the zoning of the subject lands identified on Map ‘A’ (attached to and forming part of this By-law) from “Rural (A) Zone” to “Agricultural Purposes Only (APO) Zone – Site Specific” and “Rural (A) – Site Specific.”
2. That Subsection 21.A, Special Exceptions of By-law 500A-74, as amended, is hereby further amended by adding the following:

1065 Concession 3 Road

In addition to the permitted uses in Section 4.B.1 to Zoning By-law 500A-74, as amended, the following use shall be permitted on the lands zoned “Agricultural Purposes Only (APO) Zone – Site Specific” shown on ‘Map A’ attached hereto:

- a full-time farm help house existing on the date of passage of this By-law

In lieu of the corresponding provisions of Schedule F to Zoning By-law 500A-74, as amended, and in addition to such provisions, the following provisions shall apply to the lands zoned “Agricultural Purposes Only (APO) Zone – Site Specific” shown on ‘Map A’ attached hereto:

- minimum lot frontage of 17 metres (55.7 feet)

- a hedge shall be planted and maintained, at a minimum height of 2 metres and a minimum width of 3 metres, along the northerly lot line, abutting the residential use, for a minimum length of 44 metres measured from the front lot line

1072 Concession 2 Road

In lieu of the corresponding provisions of Schedule F to Zoning By-law 500A-74, as amended, the following provisions shall apply to the lands zoned “Rural (A) Zone – Site Specific” shown on ‘Map A’ attached hereto:

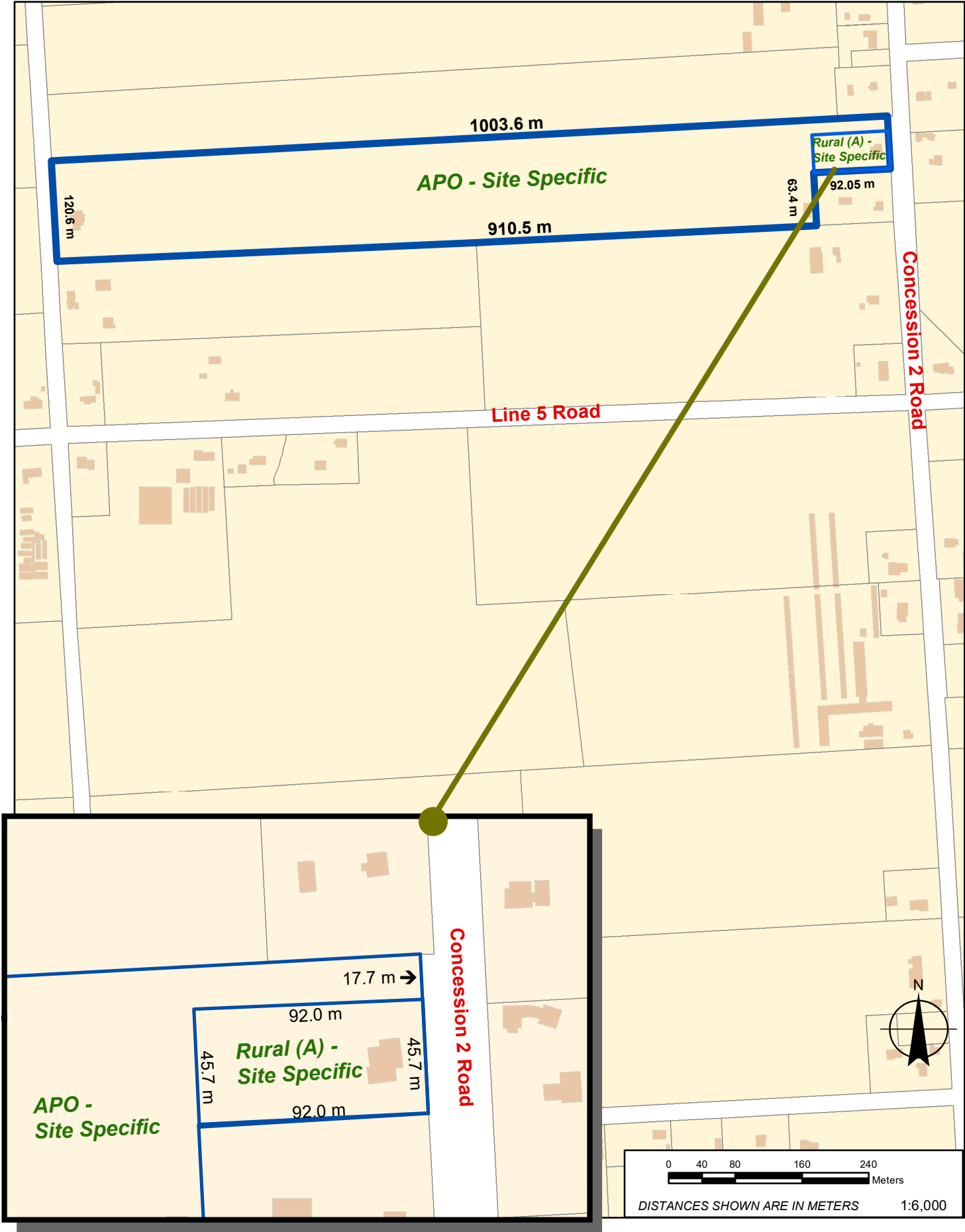
- minimum lot frontage of 45 metres (147.6 feet)
- minimum front yard setback of 10 metres (32.8 feet)

3. That the effective date of this By-law shall be the date of final passage thereof.

READ A FIRST, SECOND AND THIRD TIME THIS 22nd DAY OF MARCH, 2021.

LORD MAYOR BETTY DISERO

TOWN CLERK PETER TODD



MAP 'A' ATTACHED TO BY-LAW 500XT-21 BEING AN AMENDMENT TO SCHEDULE "A" OF ZONING BY-LAW 500A-74, AS AMENDED, OF THE TOWN OF NIAGARA-ON-THE-LAKE AS PASSED ON THIS 22nd DAY OF MARCH, 2021.

LORD MAYOR
BETTY DISERO

TOWN CLERK
PETER TODD

From: [Gordon, Carrie](#)
To: [Mark Iamarino](#)
Subject: FW: New Application - ZBA-17-2020 - 1072 Concession 2 Road - 905-21-001
Date: December 2, 2020 10:38:45 AM
Attachments: [image001.png](#)
[ZBA-17-2020 - Circulation Letter.pdf](#)
[ZBA-17-2020 Application Form ZBA.pdf](#)
[ZBA-17-2020 Consent Sketch.pdf](#)
[ZBA-17-2020 Draft Zoning By-law Amendment.pdf](#)
[ZBA-17-2020 Planning Justification Report.pdf](#)
[ZBA-17-2020 Property Index Map and Parcel Register.pdf](#)

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Hi Mark,

Re: ZBA — 17— 2020

Subsequent to review of the zoning bylaw amendment and severance at 1072 Concession 2 Road, Bell Canada's engineering department have determined that there are no concerns or issues with the proposed application.

If you have any questions regarding this response, please do not hesitate to contact me.

Best regards,

Carrie Gordon



External Liaison – Right of Way Control Centre
140 Bayfield St, Fl 2
Barrie ON, L4M 3B1
T: 705-722-2244/844-857-7942
F :705-726-4600

From: CA - Circulations <CA.Circulations@wsp.com>
Sent: Wednesday, November 25, 2020 1:53 PM
To: ROWCC <rowcentre@bell.ca>
Subject: [EXT]FW: New Application - ZBA-17-2020 - 1072 Concession 2 Road

From: Mark Iamarino [<mailto:Mark.Iamarino@notl.com>]
Sent: November 24, 2020 1:32 PM

From: [Municipal Planning](#)
To: [Mark Iamarino](#)
Subject: RE: New Application - ZBA-17-2020 - 1072 Concession 2 Road
Date: November 26, 2020 10:51:11 AM
Attachments: [image001.png](#)

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Thank you for your circulation.

Enbridge Gas Inc. does not object to the proposed application however, we reserve the right to amend our development conditions.

Please continue to forward all municipal circulations and clearance letter requests electronically to MunicipalPlanning@Enbridge.com.

Regards,

Alice Coleman
Municipal Planning Analyst
Long Range Distribution Planning

ENBRIDGE
TEL: 416-495-5386 | MunicipalPlanning@Enbridge.com
500 Consumers Road, North York, Ontario M2J 1P8

enbridge.com

Safety. Integrity. Respect.

From: Mark Iamarino <Mark.Iamarino@notl.com>
Sent: Tuesday, November 24, 2020 1:32 PM
To: ann-marie.norio@niagararegion.ca; pat.busnello@niagararegion.ca; lola.emberson@niagararegion.ca; Development Planning Applications <devtplanningapplications@niagararegion.ca>; smastroianni@npca.ca; ngodfrey@npca.ca; ksidey@notlhydro.com; landuseplanning@hydroone.com; circulations@wsp.com; Municipal Planning <MunicipalPlanning@enbridge.com>; lynne.cunningham@mpac.ca; Peter Todd <peter.todd@notl.com>; Colleen Hutt <Colleen.Hutt@notl.com>; Victoria Butters <Victoria.Butters@notl.com>; Donna Lake <Donna.Lake@notl.com>; Donna Lake <Donna.Lake@notl.com>; Sheldon Randall <sheldon.randall@notl.com>; Mike Komljenovic <Mike.Komljenovic@notl.com>; Jeff Vyse <Jeff.Vyse@notl.com>; Marci Weston

From: [Emberson, Lola](#)
To: [Mark Iamarino](#)
Cc: [Development Planning Applications](#)
Subject: RE: New Application - ZBA-17-2020 - 1072 Concession 2 Road
Date: November 26, 2020 11:48:15 AM
Attachments: [image001.png](#)

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Hi Mark

Given this ZBA was required as a condition of consent application B-06-20 (Regional file CS-20-0032), in accordance with Section 3.3.4 of the Memorandum of Understanding (Planning Function and Services in Niagara) between the Region and the local municipalities, Zoning By-law Amendment application for Agricultural Purposes Only, required as a condition of consent, are exempt from Regional review.

Respectfully,

Lola Emberson, MCIP, RPP

Senior Development Planner

Planning and Development Services

Regional Municipality of Niagara

1815 Sir Isaac Brock Way, PO Box 1042

Thorold, ON L2V 4T7

Phone: 905-980-6000 ext. 3518

Toll-free: 1-800-263-7215

Fax: 905-687-8056

www.niagararegion.ca

From: Mark Iamarino <Mark.Iamarino@notl.com>

Sent: Tuesday, November 24, 2020 1:32 PM

To: Norio, Ann-Marie <Ann-Marie.Norio@niagararegion.ca>; Busnello, Pat <pat.busnello@niagararegion.ca>; Emberson, Lola <Lola.Emberson@niagararegion.ca>; Development Planning Applications <devtplanningapplications@niagararegion.ca>; smastroianni@npca.ca; ngodfrey@npca.ca; ksidey@notlhydro.com; landuseplanning@hydroone.com; circulations@wsp.com; municipalplanning@enbridge.com; lynne.cunningham@mpac.ca; Peter Todd <peter.todd@notl.com>; Colleen Hutt <Colleen.Hutt@notl.com>; Victoria Butters <Victoria.Butters@notl.com>; Donna Lake <Donna.Lake@notl.com>; Donna Lake <Donna.Lake@notl.com>; Sheldon Randall <sheldon.randall@notl.com>; Mike Komljenovic <Mike.Komljenovic@notl.com>; Jeff Vyse <Jeff.Vyse@notl.com>; Marci Weston <Marci.Weston@notl.com>; Kiefer Paton <Kiefer.Paton@notl.com>; Brett Ruck <Brett.Ruck@notl.com>; Rene Landry <Rene.Landry@notl.com>; Kevin Turcotte <kevin.turcotte@notl.com>; J.B. Hopkins <JB.Hopkins@notl.com>; Craig Larmour <Craig.Larmour@notl.com>; Rick Wilson

From: [Nicholas Godfrey](#)
To: [Mark Iamarino](#)
Subject: RE: New Application - ZBA-17-2020 - 1072 Concession 2 Road
Date: February 23, 2021 4:22:16 PM
Attachments: [image001.png](#)

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Good afternoon Mark,

it is the NPCA's preference that floodplain lands be zoned Hazard or another appropriate category that recognizes the risk for people and property, however given that our regulations still apply for any future development or site alterations regardless of whether it is zoned APO or Hazard, the NPCA is agreeable to this approach.

Best,

Nicholas Godfrey, M.A.

Watershed Planner

Niagara Peninsula Conservation Authority (NPCA)

250 Thorold Road West, 3rd Floor, Welland, ON, L3C 3W2

905-788-3135, ext. 278

ngodfrey@npca.ca

www.npca.ca

Due to the COVID-19 pandemic, the NPCA has taken measures to protect staff and public while providing continuity of services. The NPCA main office is open by appointment only with limited staff, please refer to the [Staff Directory](#) and reach out to the staff member you wish to speak or meet with directly.

Updates regarding NPCA operations and activities can be found at [Get Involved NPCA Portal](#), or on social media at facebook.com/NPCAOntario & twitter.com/NPCA_Ontario.

For more information on Permits, Planning and Forestry please go to the Permits & Planning webpage at <https://npca.ca/administration/permits>.

For mapping on features regulated by the NPCA please go to our GIS webpage at <https://gis-npca-camaps.opendata.arcgis.com/> and utilize our Watershed Explorer App or GIS viewer.

To send NPCA staff information regarding a potential violation of Ontario Regulation 155/06 please go to the NPCA Enforcement and Compliance webpage at <https://npca.ca/administration/enforcement-compliance>.

From: Mark Iamarino <Mark.Iamarino@notl.com>
Sent: February 22, 2021 1:02 PM
To: Nicholas Godfrey <ngodfrey@npca.ca>
Subject: RE: New Application - ZBA-17-2020 - 1072 Concession 2 Road

Hi Nicholas,

There is no Environmental/Conservation Zone overlay in the agricultural area, as the old 1974 Zoning By-law is still in effect for this area.

With the APO rezoning on Part 1, no new dwelling would be permitted, only agricultural uses such as a barn, greenhouse, or season help house. The NPCA regulated area is still applicable, so any development near the watercourse (within the NPCA regulated area) would still require review and approval from the NPCA to obtain a building permit.

I had this discussion with Sarah on a previous file and she provided the following response:

"...given that our regulated lands are still identifiable and will require NPCA approval for any works within those areas, I am not overly concerned with the APO zoning. No need for a site specific zone if this case."

Just want to confirm you are okay with a similar approach for this file.

Thanks,

Mark Iamarino, MCIP, RPP
Senior Planner
Phone: 905-468-6423
1593 Four Mile Creek Road
PO Box 100, Virgil ON L0S 1T0



From: Nicholas Godfrey <ngodfrey@npca.ca>
Sent: December 15, 2020 5:35 PM
To: Mark Iamarino <Mark.Iamarino@notl.com>
Subject: RE: New Application - ZBA-17-2020 - 1072 Concession 2 Road

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Good evening Mark,

Attached are our comments for the subject application.

Please let me know if you have any questions.

Best,

Nicholas Godfrey, B.URPI, M.A.

Watershed Planner

Niagara Peninsula Conservation Authority (NPCA)

250 Thorold Road West, 3rd Floor, Welland, ON, L3C 3W2

905-788-3135, ext. 278

ngodfrey@npca.ca

www.npca.ca

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For more information on Permits, Planning and Forestry please go to the Permits & Planning webpage at <https://npca.ca/administration/permits>.

For mapping on features regulated by the NPCA please go to our GIS webpage at <https://gis-npca-camaps.opendata.arcgis.com/> and utilize our Watershed Explorer App or GIS viewer.

To send NPCA staff information regarding a potential violation of Ontario Regulation 155/06 please go to the NPCA Enforcement and Compliance webpage at <https://npca.ca/administration/enforcement-compliance>.

From: Mark Iamarino <Mark.Iamarino@notl.com>

Sent: November 24, 2020 1:32 PM

To: ann-marie.norio@niagararegion.ca; pat.busnello@niagararegion.ca;

lola.emberson@niagararegion.ca; Development Planning Applications

<devtplanningapplications@niagararegion.ca>; Sarah Mastroianni <smastroianni@npca.ca>;

Nicholas Godfrey <ngodfrey@npca.ca>; ksidey@notlhydro.com; landuseplanning@hydroone.com;

circulations@wsp.com; municipalplanning@enbridge.com; lynne.cunningham@mpac.ca; Peter Todd



250 Thorold Road West, 3rd Floor, Welland, Ontario L3C 3W2
Telephone 905.788.3135 | Facsimile 905.788.1121 | www.npca.ca

December 15, 2020

Our File No.: PLZBLA202001292

BY E-MAIL ONLY

Town of Niagara-on-the-Lake
1593 Four Mile Creek Road
PO Box 100, Virgil ON
L0S 1T0

Attention: Mark Iamarino, Senior Planner

Subject: Application for Zoning Bylaw Amendment, ZBA-17-2020
1072 CON RD 2
ARN 262702002002300

Further to your request for comments for the consent application requesting a severance to the above noted property, the following is offered.

The applicant proposes to rezone the agricultural portion (Part 1) of the subject lands to "Agricultural Purposes Only (APO) – Site Specific" to preclude the construction of a new dwelling in perpetuity.

The applicant also proposes to rezone the residential portion (Part 2) of the subject lands to "Rural (A) – Site Specific", to fulfill a condition of consent to sever a surplus farm dwelling (Consent Application B-06/20).

The Niagara Peninsula Conservation Authority (NPCA) has reviewed the NPCA Mapping of Part 1 and Part 2 of the subject application, and notes that only Part 1 **ARN 262702002002300** is impacted by NPCA regulated features.

NPCA Policy

NPCA Policies, Procedures and Guidelines for the Administration of Ontario Regulation 155/06 and Land Use Planning Policy Document.

The NPCA regulates watercourses, flood plains (up to the 100-year flood level), Great Lakes shorelines, hazardous land, valleylands, and wetlands under *Ontario Regulation 155/06 of the Conservation Authorities Act*. The NPCA's *Policies, Procedures for the Administration of Ontario Regulation 155/06 and The Planning Act* (NPCA policies) provides direction for managing NPCA regulated features.

The subject property (Part 1) is impacted by a floodplain associated with the Two Mile Creek subwatershed, and a regulated watercourse, Two Mile Creek/Harrison Drain.

The NPCA would request that all lands that fall within the Authority identified floodplain be placed in a Conservation Zone (or similar), and that wording be added to the By-Law to ensure that any works proposed within the floodplain, or within 15m of the watercourse, be circulated to the NPCA for review and approvals prior to the commencement of any works on site.

I trust the above will be of assistance to you. Please do not hesitate to call should you have any further questions in this matter. Please send notice of your decision.

Yours truly,

A handwritten signature in black ink, appearing to read 'Nick Godfrey', with a stylized flourish at the end.

Nicholas Godfrey,
Watershed Planner
(905) 788-3135, ext. 278

December 14, 2020

To: Mark Iamarino
Senior Planner, Community and Development Services

RE: ZBA-17-2020, 1072 Concession 2 Road, Niagara-on-the-Lake

In regards to the re-zoning of the property located at 1072 Concession 2 Road, please be advised that I am writing with concerns to the application and some requirements that should be added to the site specific nature of the APO zone.

My husband and I are adjacent land owners and are on a one acre parcel that has 200 feet of frontage required for residential parcels in a Rural (A) zone (as per Schedule F of Zoning By-law 500A-74, as amended.)

At the time of severance for 1072 Concession 2, we were advised by the planning department that the severance would not be supported and we decided not to object to that application. Unfortunately, with only two members of the Committee of Adjustment and the Chair at the committee meeting, it was approved even though it did not meet the Official Plan, Regional Policy Plan or the objectives and policies of the Greenbelt plan as per the Planning Report for the application.

Subsequently, without Council's support for an appeal by the Planning Department, we are now in a situation where we are looking at the requirement for a farm to go from a 125 ft frontage reduced to a parcel with only 58 feet of frontage.

This area is comprised of six residential lots in close proximity to this small main entrance for the farming use but we are the closest in proximity to any uses on the farm. The severance does not directly impact any of the current uses on the property as the farm is leased to another farmer in the area and ongoing farming uses are not an issue.

As adjacent property owners, we don't have an issue with the APO zoning because fortunately, there is a large hedge that provides a screening area between us and the current farm driveway. HOWEVER, there is no guarantee that the current owners and/or lessee or future owners are going to maintain or keep that hedge in that location.

Although the APO zoning will not permit any future residential dwellings to be constructed, there is always the potential for a greenhouse operation, estate winery, fruit processing facility, seasonal help houses, etc. to use that entrance. We are the one residential property that is most directly affected, so all that we would ask is that the requirement for a 10 ft buffer strip to be planted to a natural living hedge be added to the site specific requirements. In the current situation, there is no requirement for any additional work or cost associated with same to be borne by the current applicants.

Thank you for your consideration of this request.

Scott & Darka Jensen
1084 Concession 2 Road