

PLANNING JUSTIFICATION REPORT

Proposed Surplus Farm Dwelling Consent

1236 Line 1 Road

Part of Township Lot 25, Former Township of Niagara, Town of Niagara-on-the-Lake

Prepared for:

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1.0 INTRODUCTION

Rosemarie Laird, the Applicant, retained my services to prepare this Planning Justification Report (PJR) following the December 18, 2025, Pre-Consultation Meeting convened by the Town.

This PJR is being submitted in support of an application for consent to sever a dwelling made surplus to a farming operation as a result of farm consolidation. In this particular case, the farm consolidation involves the acquisition of an agricultural parcel by George Lepp, which will be further discussed in this PJR.

The PJR also addresses the Zoning By-law Amendment required to ensure that no new residential dwellings are permitted on the vacant lands.

The purpose of the PJR is to evaluate consistency with the Provincial Policy Statement (PPS) and conformity with the Greenbelt Plan, Niagara Official Plan (NOP), Niagara-on-the-Lake Official Plan (Town OP) and Niagara-on-the-Lake Zoning By-law 500A-74 (Town Zoning By-law), as amended.

In summary, it is my opinion that the Application complies with requirements of the *Planning Act*, is consistent with the PPS, and is in conformity with the Greenbelt Plan, the NOP and the Town OP.



FIGURE 3: Streetview of Dwelling Located at 1236 Line 1 Road



FIGURE 4: Driveway and Orchard, West of the Dwelling



FIGURE 5: Line 1 Road Frontage, East of the Dwelling



FIGURE 6: Concession 2 Road Frontage



FIGURE 7: “Barn” as Identified on Surveyor’s Sketch (Appendix 1)



FIGURE 8: “Garage #1” as Identified on Surveyor’s Sketch (Appendix 1)



FIGURE 9: “Garage #2” as Identified on Surveyor’s Sketch (Appendix 1)

The dwelling is surplus to the needs of Mr. Lepp's farm operation. None of the existing accessory buildings is useful to or needed for the operation of the farm; however, they do provide some utility to the residential use of the property and assist in maintaining the rural character of the area. These accessory buildings represent 5.3% lot coverage which is in conformity with the maximum 8% permitted under Section 3.4(b) of Zoning By-law 500A-74, as amended.

The proposed lot is configured in such a manner as to preserve the groups of trees and minor accessory buildings with the residential use and to afford sufficient area for a replacement septic system to the south and east of the dwelling if and when required. As illustrated above, minor alterations are proposed to the "edge of orchard" in order to 'square' the proposed lot.

The retained lands, Parcel 2, are proposed to have an area of approximately 4.5± hectare (11.12± acre) and lot frontage of 58.31 metres (191.31 feet) along Line 1 Road. The whole of the retained lands is proposed to continue in agricultural production as part and parcel of Mr. Lepp's operation.

The vacant lands resulting from the proposed severance will be rezoned in an appropriate manner to prohibit any further residential development in accordance with Provincial, Regional and Town policy.

4.0 LAND USE POLICY CONSIDERATIONS

4.1 PLANNING ACT

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

4.2 PROVINCIAL POLICY STATEMENT (2024)

The Provincial Policy Statement (PPS) provides guidance for managing and directing land uses to achieve efficient and resilient development and land use patterns. The PPS identifies the subject lands as being within a "prime agricultural area".

Policy 4.3.1 of the PPS states that, *prime agricultural areas, including specialty crop areas, shall be designated and protected for long-term use for agriculture.*

Policy 4.3.3.1 of the PPS provides that:

Lot creation in prime agricultural areas is discouraged and may only be permitted in accordance with provincial guidance for:

- c) one new residential lot per farm consolidation for a residence surplus to an agricultural operation, 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 dwellings and additional residential units are prohibited on any remnant parcel of farmland created by the severance. The approach used to ensure that no new dwellings or additional residential units are permitted on the remnant parcel may be recommended by the Province, or based on municipal approaches that achieve the same objective; and*

4.3 GREENBELT PLAN (2017)

According to Schedule 2 to the Greenbelt Plan, the lands lie within the Protected Countryside and are identified as Niagara Peninsula Tender Fruit and Grape Area, which is a specialty crop area.

Section 3.1.2 of the Plan provides policy for specialty crop areas of the Protected Countryside, including:

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. Proposed agriculture-related uses and on-farm diversified uses shall be compatible with and shall not hinder surrounding agricultural operations.*

Section 4.6 provides policy regulating lot creation within the Protected Countryside, including:

- 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.*

4.4 NIAGARA OFFICIAL PLAN (2022)

The subject lands are identified as Specialty Crop Area on Schedule F to the Niagara Official Plan (NOP).

Section 4.1.1.2 provides that, *Prime agricultural areas and specialty crop areas, as shown on Schedule F, shall be protected for long-term use for agriculture.*

Section 4.1.5 sets out the policies for consents in Specialty Crop Areas, allowing for the consideration of the following:

- a. *the size of any new lot shall be an area of 0.4 hectares except to the extent of any additional area deemed necessary to support an on-site private water supply and long-term operation of a private sewage disposal system as determined by Provincial and Regional requirements;*
- b. *any new lot has an adequate groundwater or other water supply, in compliance with Provincial requirements;*
- c. *any new lot has sufficient frontage on an existing publicly maintained road;*

- d. *where possible, joint use should be made of the existing road access to the farm operation;*
- e. *road access to any new lot does not create a traffic hazard because of limited sight lines on curves or grades or proximity to intersections; and*
- f. *proposed lots shall be located and configured to minimize impacts on surrounding farming operations.*
- g. *the consent is for a residence surplus to a farming operation as outlined in Policy 4.1.5.2.*

Section 4.1.5.2 allows a consent to sever a residence surplus to a farming operation under the following circumstances:

- a. *the proposed lot contains a habitable residence, which existed as of December 16, 2004, that is rendered surplus as a result of farm consolidation;*
- b. *the size of any new lot shall be an area of 0.4 hectares except to the extent of any additional area deemed necessary to support an on-site private water supply and private sewage disposal system as determined by Provincial and Regional requirements to a maximum of one hectare;*
 - i. *proposals that exceed one hectare may be considered subject to an amendment to this Plan; and*
- c. *to reduce fragmentation of the agricultural land base, the retained lot shall be merged with an abutting parcel. Where merging of two lots is not possible, the retained farm parcel shall be zoned to preclude its use for residential purposes.*

4.5 NIAGARA-ON-THE-LAKE OFFICIAL PLAN

Section 1 addresses the purpose of the OP, explaining, in part, that:

The municipality consists of five urban communities: Virgil, St. Davids, Queenston, Glendale and the Old Town of Niagara, all in an agricultural setting. The policies of this Plan aim to accomplish a balance between the needs of the agricultural area and those of the urban area so as to reduce, as much as possible, land use conflicts.

The existing atmosphere of the Town with its historic buildings, historic sites, tender fruit lands, specialized crop production and micro-climate is unique in Ontario. Its tree lined streets and environment from earlier periods of the country's history are different from almost any other Town in Ontario. As a result, the

development picture is also somewhat different from other municipalities of a similar size. All are agreed that this atmosphere should be maintained and enhanced in the Town of Niagara-on-the-Lake. With this objective in mind the importance of setting out policies that will both encourage and regulate development patterns in the Town becomes one of the most important goals of the municipality.

Section 6 of the Town's OP provides policies that apply to all designations within the Town, including:

6.17 LOT SIZES

The lot area and lot frontage shall be suitable for the proposed uses and should conform to the provisions of the implementing Zoning By-law. In considering any plan of subdivision or consent application regard shall also be had to the minimum lot sizes provided in the zoning By-law so as to keep the lots as small as possible in relation to the efficient use of land and the need to preserve the agricultural land resource.

According to Schedule "A" Land Use Plan the lands are designated Agricultural.

Section 7 of the OP identifies the following pertinent goals and objectives for lands designated Agricultural:

- 7.2 (1) *To help ensure the preservation of prime agricultural lands for farming with particular emphasis on the preservation of specialty crop lands.*
- 7.2 (2) *To help preserve the existing and potential agriculturally productive land giving highest priority to Good Tender Fruit/Grape Lands.*
- 7.2 (3) *To allow flexibility to farm operations in both type and size and to permit the expansion and contraction of farm operations as necessary provided that the farm remains economically viable and that the size of the farm is appropriate and common in the area.*
- 7.2 (7) *To consider the impact on agriculture as the primary guideline in evaluating development proposals in the agricultural areas.*

Section 7 also provides the following policies directing the consideration of consents for lands designated Agricultural:

7.4 GENERAL AGRICULTURE POLICIES

The following policies shall apply to all lands designated for agricultural use:

(2) MINIMUM DISTANCE SEPARATION REQUIREMENTS

- a) *All new or expanding livestock barns shall be subject to the Minimum Distance Separation (M.D.S.) II requirements. New livestock barns shall*

be encouraged to locate on lands designated "Good General Agriculture" in the Regional Policy Plan.

- b) All new development located on lands designated "Good Tender Fruit or Good Grape" in the Regional Policy Plan shall be subject to the Minimum Distance Separation (M.D.S.) I requirements.*
- c) All new development located on lands designated "Good General Agriculture" in the Regional Policy Plan shall be subject to the Minimum Distance Separation (M.D.S.) I requirements or a distance separation of 300 metres whichever is greater. Exceptions only to the 300 metre separation distance are as follows:*
 - (i) lots of record existing prior to the adoption of this Plan are exempt from the minimum separation distance of 300 metres but not the M.D.S. requirements;*
 - (ii) the minimum distance of 300 metres does not apply to farm retirement lots. However, the M.D.S. requirements will be applied to retirement lots.*

4) CONSENTS

- 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;*
 - (iii) The farms are both located within the Town of Niagara-on-the-Lake;*
 - (iv) The new lot is located to minimize the impact on the remaining farm operation; and*
 - (v) The new lot complies with the Minimum Distance Separation Formula I.*

4.6 NIAGARA-ON-THE-LAKE ADOPTED OFFICIAL PLAN

On May 26, 2026, Town of Niagara-on-the-Lake Council officially adopted a new Official Plan for the Town of Niagara-on-the-Lake. At the time of writing, Town Staff were in the

process of preparing the necessary documentation for submission of the Official Plan to the Ministry of Municipal Affairs and Housing (MMAH) for final approval.

This Official Plan is not in force until such time as final approval is granted by MMAH; however, the policy context is provided here for reference.

According to Schedule A of the Official Plan, the lands are designated Greenbelt Protected Countryside.

Section 2.2 of the Official Plan contains policies guiding development within the Agricultural System. Policies regulating lot creation for surplus farm dwellings is provided at 2.2.12:

- 2.2.12.1 Where a habitable dwelling existed prior to December 16, 2004, a consent to sever a lot containing the dwelling may be granted if that residence becomes surplus to a farming operation as a result of a farm consolidation, as defined in the Greenbelt Plan, provided that:*
- a) 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;*
 - b) 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 by the appropriate authority to support a well and private sewage disposal system;*
 - c) the farms are both located within or abutting the Town of Niagara-on-the-Lake;*
 - d) the new lot is located to minimize the impact on the remaining farm operation;*
 - e) the new lot complies with the Minimum Distance Separation (MDS) Formula;*
 - f) any new lot has sufficient frontage on an existing publicly maintained road; and*
 - g) where possible, joint use should be made of the existing road access to the farm operation.*

4.7 NIAGARA-ON-THE-LAKE ZONING BY-LAW

The lands are zoned Rural A according to Niagara-on-the-Lake Zoning By-law No. 500A-74, as amended.

Both the proposed severed and retained lands comply with the lot frontage and area requirements of the Rural Zone (Schedule F).

As noted, if the consent is approved, the vacant agricultural lands are required to be rezoned to prohibit residential development.

5.0 PLANNING OPINION

The policies of the Province, Region and Town are all similar in allowing for the consideration of consents if:

1. a residence is made surplus to a farming operation as a result of a farm consolidation;
2. the new lot will be limited in size; and
3. new residential dwellings are prohibited in perpetuity on any vacant remnant parcel of land created by the severance.

Farm Consolidation

As noted previously, Mr. Lepp has a life-long commitment to farming. His purchase of the retained lands and its addition to his farm operation is proof of his continued commitment to ownership. This commitment remains in the face of increasingly difficult conditions affecting the economics of farming.

The impact of Niagara's growing popularity as an escape from more densely populated areas is well documented in the residential housing market. While less evident, the agricultural community does not escape this reality as once productive parcels are increasingly removed from production and converted to estates. The significant costs imposed on the farming community in their efforts to protect farmland are at least partially offset by the ability to gain some compensation in the conveyance of dwellings made surplus through consolidation.

This particular parcel has been farmed by Mr. Lepp for eight years and is an important contributor to his land base. This property is in close proximity to other lands owned and its inclusion is intrinsic to his on-going operation.

It is my opinion that the addition of the proposed acquisition of the agricultural lands by Mr. Lepp fulfills the requirement for farm consolidation.

Lot Size

In the subject proposal, the lot proposed to be severed measures 0.52 hectares, which exceeds the standard 0.4 hectares lot size of a surplus farm dwelling within the agricultural area. As illustrated in **Figure 10**, the proposed lot is limited in size to include only the existing farmhouse, associated outbuildings and mature trees as well as reserve area for eventual replacement of the private sewage services. The Applicant has been intentional in configuring the proposed lot in such a manner as to reflect the historic residential use, minimizing the size to preserve the agricultural land base.

In Niagara, the policies specific to lot size of surplus farm dwellings have been interpreted with flexibility to address the creation of larger lots when there are demonstrated constraints to meeting the standard. Some examples include, topography, protection of natural features, location of a dwelling and accessory buildings lot, location of wells and private septic systems and access constraints.

In this particular situation, the proposed size of the severed lands will not lead to the unnecessary removal of land from the prime agricultural area and the proposed lot configuration will not negatively impact the functionality, productivity or viability of the remaining farm parcel. Any benefit realized by simply reducing the proposed 1 hectare parcel to the standard 0.4 hectares would not be outweighed by the cost, financial and environmental, associated with removing the existing buildings and foundations and mature trees.

On this basis, it is my opinion that the creation of a larger lot is justified, and that the intent of the lot size policies is not jeopardized in this particular instance.

New Dwellings Prohibited

If approved, it is anticipated that granting of the consent would be conditional on the Applicant gaining approval of a Zoning By-law Amendment to rezone the lands to prohibit future residential opportunities on the vacant agricultural lands.

In my opinion, the inclusion of this condition and subsequent approval of a Zoning By-law Amendment would address this policy requirement.

Minimum Distance Separation (MDS)

Town Staff informed in the Pre-Consultation Notes that:

Minimum distance separation (if applicable) from any livestock operations.

As noted, Policy 7.4(2) The Town's OP provides direction for the implementation of MDS, stating, in part:

- b) *All new development located on lands designated "Good Tender Fruit or Good Grape" in the Regional Policy Plan shall be subject to the Minimum Distance Separation (M.D.S.) requirements.*
- c) *All new development located on lands designated "Good General Agriculture" in the Regional Policy Plan shall be subject to the Minimum Distance Separation (M.D.S.) requirements or a distance separation of 300 metres whichever is greater.*

There are no known livestock facilities or anaerobic digesters within 500 metres of the lands.

In respect to MDS 1, the Provincial *Minimum Distance Separation (MDS) Document — Formulae and Guidelines for Livestock Facility and Anaerobic Digester Odour Setbacks*¹ provides direction to determine applicability.

Implementation Guideline #9 specifically addresses *MDS I Setbacks and Lot Creation for a Residence Surplus to a Farming Operation*, informing that MDS 1 does not apply in this situation because the dwelling to be severed is currently located on a lot that is already separate:

For a proposed severance of a residence surplus to a farming operation:

1. *Where the existing dwelling to be severed and the nearby livestock facility or anaerobic digester are located on separate lots prior to the consent, an MDS I setback is not required for the consent application (or associated rezoning) unless otherwise required by a municipal official plan policy. This is because a potential odour conflict may already exist between those surrounding livestock facilities or anaerobic digesters and the existing dwelling.*

On this basis, it is my opinion that MDS does not apply to the dwelling on the proposed lot.

Opinion

With respect to the Provincial Policy Statement, it is my opinion that the proposal maintains the intent of Policy 4.3.3.1 c) and that the proposal is consistent with Provincial policy.

Concerning the Greenbelt Plan, it is my opinion that the proposed consent meets the intent of Section 4.6 f) and is in conformity with the intent of the Plan in whole.

Regarding the Regional Official Plan, it is my opinion that the proposal maintains the intent of Sections 4.1.1.2. and 4.1.5 as they relate to a residence made surplus through farm consolidation and that the proposal conforms with the intent of the Plan overall.

Concerning the Niagara-on-the-Lake Official Plan, it is my opinion that the proposed consent maintains the intent of Sections 6.17, 7.2 and 7.4 as they apply, and that the proposal conforms with the intent of the Plan overall.

¹. <https://www.ontario.ca/files/2022-03/omafra-minimum-distance-separation-pub-853-en-2020-03-28.pdf>

6.0 CONCLUSION

Based on the planning analysis, the proposal has been demonstrated:

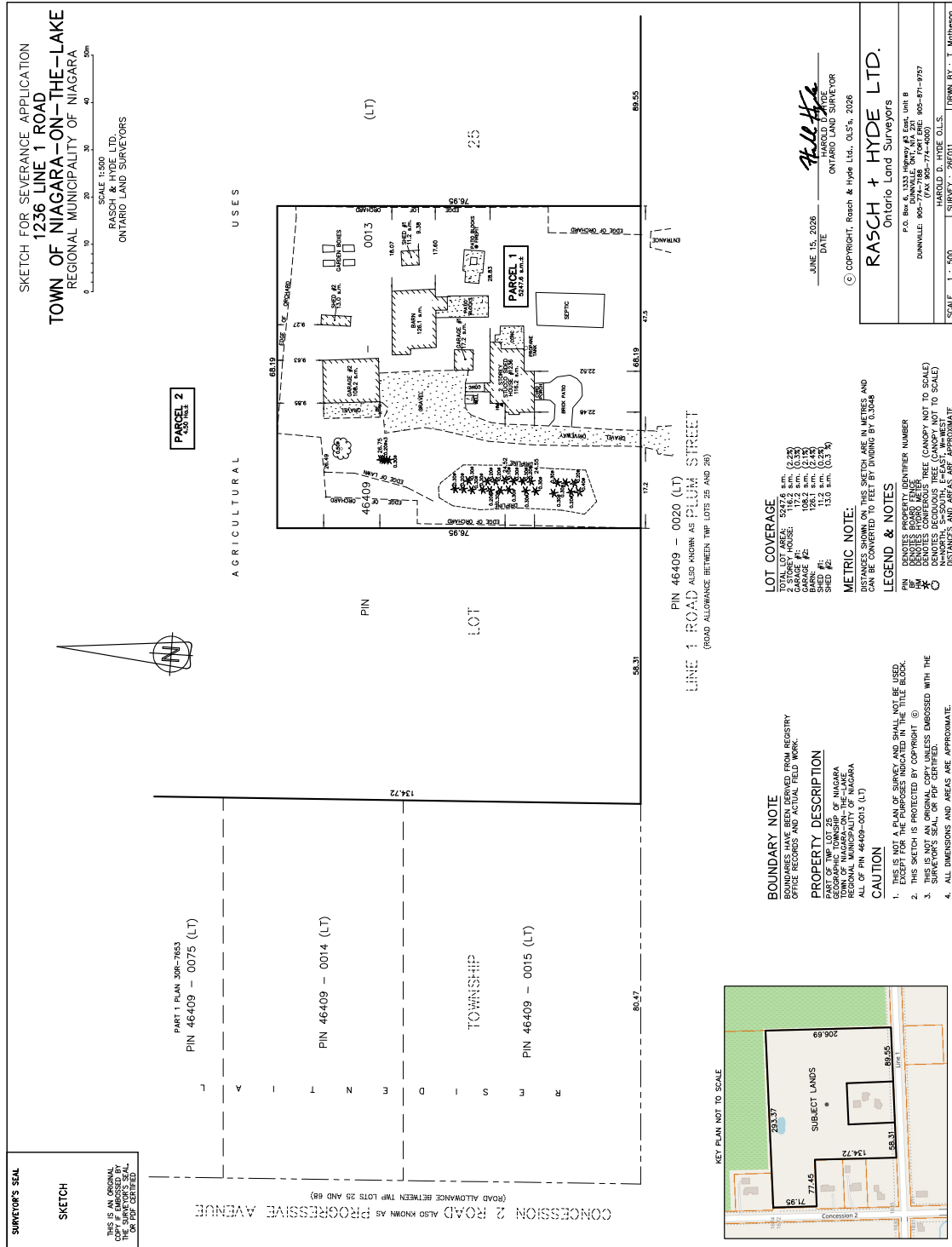
1. to be a logical for the long-term agricultural and residential use of the subject lands;
2. to be consistent with the PPS;
3. to be in conformity with the Greenbelt Plan;
4. to be in conformity with the Niagara Official Plan; and
5. to be in conformity with the Niagara-on-the-Lake Official Plan.

On this basis, the application for consent should be approved subject to the applicants obtaining approval of a Zoning By-law Amendment to prevent residential development of the vacant lot.

Respectfully Submitted,

Craig Larmour, MCIP, RPP

APPENDIX 1 – Surveyor's Sketch



APPENDIX 2 – Draft Zoning By-law Amendment

Explanation of the Purpose and Effect of By-law X

The subject lands are comprised of land known municipally 1236 Line 1 Road in Niagara-on-the-Lake. The subject lands are generally located at the northeast corner of the intersection of Line 1 Road and Concession 2 Road.

Purpose

The subject lands are currently zoned as Rural (A).

The purpose of this Zoning By-law Amendment is to establish site-specific Agricultural Purposes Only (APO-X) zoning for 1236 Line 1 Road required as a condition of a surplus farm severance. The APO zoning will prohibit the development of residential uses on the Agricultural property in perpetuity.

Effect

The effect of the Zoning By-law Amendment is to complete the necessary requirements for APO Zoning as a result of proposed surplus farm dwelling severance on the subject lands.

Applicant: X
File Number: X
Report Number: X
Assessment Roll Number: X

**THE CORPORATION
OF THE
TOWN OF NIAGARA-ON-THE-LAKE
BY-LAW NO. 4316-09**

PART OF TOWNSHIP LOT 25

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)" to Site Specific "Agricultural Purpose Only (APO-X)".
2. That Map A (attached to and forming part of this By-Law) be included and form part of the Town of Niagara-on-the-Lake Zoning By-law 500A-74.
3. That Subsection 21A – Special Exceptions of Zoning By-law 500A-74 is hereby further amended by adding the following:

"21.A.X" – 1236 Line 1 Road

Notwithstanding the provisions of the "Agricultural Purposes Only" (APO) Zone of Zoning By-law 500A-74, the following provisions shall be applicable on those lands shown on Schedule "A".

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

READ A FIRST, SECOND AND THIRD TIME THIS X DAY OF X, 2026.

LORD MAYOR

TOWN CLERK