

Planning and Development Services  
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## **Via Email Only**

April 7, 2021

File No.: D.18.07.ZA-21-0008

David Schulz  
Planner  
City of Port Colborne  
66 Charlotte Street  
Port Colborne, ON L3K 3C8

Dear Mr. Schulz:

**Re: Revised Provincial and Regional Comments  
Zoning By-law Amendment Application  
Owner: Chad Peterson  
Applicant/Agent: Steven Rivers  
Address: 836 Lorraine Road, City of Port Colborne  
City File No.: D14-01-21**

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Regional Development Planning staff has reviewed the information circulated with the application for Zoning By-law Amendment, which proposes to change the zoning on a portion of the subject land from Agricultural (A) to A-59, a special provision of the A zone that will permit a Landscaping Establishment on the property as a secondary use to the main agricultural use.

A pre-consultation meeting was held on December 12, 2019, at Port Colborne City Hall with City and Regional staff, as well as the owner. Regional staff received the application by email on January 27, 2021. Regional staff originally provided comments on the application by letter dated February 22, 2021. A revised site plan was received on March 18, and Regional staff provides the following revised comments to assist the City in their consideration of the application from a Provincial and Regional perspective.

## **Provincial and Regional Policies**

The subject land is located within a Prime Agricultural Area under the Provincial Policy Statement (PPS) and is designated Good General Agricultural Area in the Regional Official Plan (ROP). Provincial and Regional policies permit agricultural uses, agriculture-related uses and on-farm diversified uses within agricultural areas. In Prime

Agricultural Areas, all types, sizes and intensities of agricultural uses and normal farm practices shall be promoted and protected in accordance with provincial standards. The Ontario Ministry of Agriculture, Food and Rural Affairs (OMAFRA) "Guidelines for Permitted Uses in Ontario's Prime Agricultural Areas" (OMAFRA Guidelines) can be used by approval authorities to assist in evaluating compatibility and appropriateness of agricultural, agriculture-related and on-farm diversified uses. The growing of crops, as well as associated on-farm buildings and structures (including the farmer's residence), is considered an agricultural use. The proposed landscaping establishment is considered on-farm diversified use and should be reviewed against the criteria for those accordingly.

## **Guidelines on Permitted Uses**

The Ontario Ministry of Agriculture, Food and Rural Affairs (OMAFRA) Guidelines on Permitted Uses in Prime Agricultural Areas (the Guidelines) contain the following criteria that must be met in order for a use to qualify as an on-farm diversified (OFD) use:

1. The use must be located on a farm;
2. The use must be secondary to the principal agricultural use of the property;
3. The use must be limited in area;
4. The use includes, but is not limited to, home occupations, home industries, agri-tourism uses and uses that produce value-added agricultural products; and
5. The use shall be compatible with, and shall not hinder, surrounding agricultural operations.

With regard to criteria 1 and 4, the proposed landscaping establishment is located on a 9.5 ha parcel, approximately 9ha of which is farmed for cash crops. The proposed OFD use will be located on the farm parcel and will be operated as a home occupation.

With regard to criteria 2 and 3, the use will be secondary to the principal agricultural use of the property and located within existing structures. The Guidelines recommend that "limited in area" be relative to the size of the farm property, limiting the combined area occupied by all existing and proposed on-farm diversified uses to up to 2 percent (%) of the farm parcel to a maximum of 1 hectare (10,000 square metres). The Guidelines also recommend that the area calculation account for all aspects related to these on-farm diversified uses, including any buildings, outdoor storage areas, landscaped areas, berms, wells and septic systems, parking and new access roads. Existing laneways can be excluded. The Guidelines note that the area of any existing buildings or structures occupied by an on-farm diversified use can be discounted by 50% in this calculation provided these were constructed prior to April 30, 2014. Since the proposed use occupies existing structures that were constructed prior to April 2014, the area of this portion of the use can be discounted accordingly. Since the landscaping establishment will occupy two existing structures (shops) on the property, which based on aerial imagery were constructed prior to April 2014, the area of these structures can be discounted accordingly.

The size of the parcel is 9.5 hectares. Therefore, in order to conform to the limited in area criteria, the total area of any portion of the proposal that will be classified as on-farm diversified use can be no larger than 0.19 hectare (1,900 m<sup>2</sup>). A revised site plan was circulated to provide additional dimensions and detail to determine the size of all aspects of the proposed use on-farm diversified use. Based on the revised site plan, approximately 0.35 ha (3,484m<sup>2</sup>) of land will be used for the landscaping establishment. This calculation discounts the area of the two existing shops (517m<sup>2</sup> and 102.3m<sup>2</sup>) by 50% as outlined above. This equates to approximately 3.7% of the farm parcel, which maintains the intent the 2% recommended in the Guidelines and does not exceed the maximum size of 1ha. Based on the Planning Justification Report, prepared by South Coast Consulting (dated 2020-12-22), 0.55 ha of the subject land is requested to be rezoned to permit the OFD use. To limit further expansion beyond the current configuration, Regional staff suggest that the area of the amending zone be limited to the boundaries of the existing operation. This will prevent the use from occupying more of the property in the future and ensure the intent of the Guidelines and Provincial policies are maintained.

In considering criteria 5, the proposal is not adding a sensitive use that would be subject to minimum distance separation (MDS) or affected by noise, odour or dust from nearby agricultural uses. City staff should confirm that the proposed landscaping business would not interfere with cropping cycles or other agricultural uses on the farm. As noted previously, the use will be located within existing structures; therefore, maintaining the existing agricultural character of the area. Although there are other non-agricultural uses (residential lots) nearby, Regional staff are of the opinion that the cumulative impacts of the proposal in addition to the other non-agricultural uses will not undermine the agricultural nature of the area. The proposed use can therefore be considered compatible with, and will not hinder, surrounding agricultural operations.

Based on the above discussion, the proposed landscaping establishment generally meets the criteria to qualify as an on-farm diversified use. The proposal is consistent with the PPS, and conforms to Provincial and Regional agricultural policies and guidelines, subject to the A-59 zoning being limited to the boundaries of the existing operation.

## **Core Natural Heritage**

The subject property contains portions of the Region's Core Natural Heritage System (CNHS). Specifically, the CNHS on the property consists of Important (Type 2) Fish Habitat (see Appendix). Consistent with Regional Official Plan Policy 7.B.1.15, an Environmental Impact Study (EIS) is required in support of site alteration and/or development proposed within 15 m of Important Fish Habitat to demonstrate there will be no significant negative impact on the feature or its ecological function.

Environmental Planning staff have no objection to the proposed ZBA, but note that the watercourse that traverses through the property is not zoned sufficiently in the Town's Zoning By-law. As such and as conveyed at the preconsultation meeting, staff request

that a 15 m buffer on both sides of the watercourse containing Fish Habitat be placed in an appropriate environmental zone as part of the amendment.

## **Private Servicing**

Private Sewage System (PSS) staff have reviewed the application. No record was found for the existing legal non-conforming sewage system servicing the dwelling at 836 Lorraine Road. At the time of inspection, no visual defects were observed with the existing sewage system. The existing tank and partly raised bed are located west of the existing dwelling.

The proposed application will not adversely affect the existing sewage system servicing the dwelling. It should be noted that if at any time plumbing or living space is added or needed for the landscaping establishment, a new septic system would need to be installed meeting Ontario Building Code requirements. The applicant/owner would need to apply to the Planning and Development Services Department for approval and permitting. There appears to be enough usable area for any future septic system repair/replacement that may be required. Therefore, provided no plumbing or living space is added and there are no changes proposed to the existing dwelling, PSS staff have no objection to the application as submitted.

## **Conclusion**

In conclusion, Regional staff has no objection to the proposed Zoning By-law Amendment from a Provincial and Regional prospective, subject to:

- The A-59 zone being limited to the boundaries of the existing operation, to conform to Provincial guidelines related to the use being secondary to the principal agricultural use and limited in area, and ensure the use does not expand beyond the current configuration.
- The Important (Type 2) Fish Habitat and a 15 m buffer on both sides of the watercourse containing the Fish Habitat be placed in an appropriate environmental zone.
- No plumbing or living space being added as part of the proposed use or existing dwelling.

Should you have any questions related to the above comments, please feel free to contact me at [Britney.fricke@niagararegion.ca](mailto:Britney.fricke@niagararegion.ca).

Please send a copy of the staff report from the City and notice of Council's decision on this application when available.

April 7, 2021

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Kind regards,

A handwritten signature in dark ink, appearing to read "Britney Fricke". The signature is fluid and cursive, with the first name being more prominent.

Britney Fricke, MCIP, RPP  
Senior Development Planner

cc: Adam Boudens, Senior Environmental Planner/Ecologist  
Robert Alguire, C.E.T., Development Approvals Technician  
Justin Noort, C.E.T., Private Sewage Systems Inspector

## Appendix- Core Natural Heritage Mapping

