

Planning and Development Services

1815 Sir Isaac Brock Way, Thorold, ON L2V 4T7
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Via Email Only

February 8, 2021

File No.: D.06.07.CS-21-0008

Chris Roome
Secretary-Treasurer, Committee of Adjustment
City of Port Colborne
66 Charlotte Street
Port Colborne, ON L3K 3C8

Dear Mr. Roome:

Re: Provincial and Regional Comments
Consent Application B01-21-PC
Owner: Andy and Dorothy Veenstra
Agent: Julian Renaud
Address: 3288 Second Concession Road, City of Port Colborne

Regional Planning and Development Services staff have reviewed the above-noted consent application, which is made to convey Part 1 (1.58 ha) for an existing residential use (single detached dwelling). Part 2 (60.41 ha) will be retained for an existing agricultural use.

The Region received the application on January 26, 2021. A pre-consultation meeting was held by the City on August 27, 2020, with City and Regional staff and the owner and agent in attendance. The following Provincial and Regional Comments are provided to assist the Committee 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). Both Provincial and Regional policies protect prime agricultural land and restrict new lot creation in the agricultural area, except for the following circumstances:

- The consent is required for existing agriculturally related uses provided the parcel size is limited to the minimum size needed to accommodate the use;

- The consent is for a farm operation supported through a farm business plan and provided both the severed and retained parcel are for agricultural uses and the size of the resulting farm parcels is appropriate for the farming activities proposed, is suited to the particular location and common in the area and provides some flexibility in the agricultural operation;
- Residences surplus to a farming operation as a result of a farm consolidation and provided new residential dwellings are prohibited in perpetuity through a zoning amendment;
- Lot adjustments for legal or technical reasons.

The application has been submitted as a consent for a residence surplus to a farming operation. The PPS defines a farm consolidation as the acquisition of additional farm parcels to be operated as one farm parcel. The consent application proposes to sever the farmland (Part 2) from the existing dwelling (Part 1). Information submitted with the application indicates that approximately 728 ha (1800 acres) of land in Port Colborne and Fort Erie is farmed by the applicant/purchasing farming for cash crops. Provided the remnant parcel will be consolidated with this operation, the proposal constitutes a farm consolidation. The existing dwelling is surplus to the farming operation as the farmer's primary residence is 4238 Second Concession Road. In this regard, the application appears to meet the policy requirement of being a residence surplus to a farming operation as a result of a farm consolidation.

The ROP specifies certain conditions that must be met for proposed residential lots that meet the criteria outlined above. Specifically, new lots should not exceed an area of 0.4 hectares (1 acre) unless additional area is required to support a well and private sewage disposal system. Part 1 is proposed to be 1.58 hectares in area, which is nearly four times larger than the maximum size permitted by the ROP. The parcel includes a barn, shed and carport, which the applicant has indicated are not required for the farming operation, as adequate barns and other buildings are located at their principal property (4238 Second Concession Road). As the principal property is located in close proximity, Regional staff support this rationale in this instance. Regional staff still have concerns with the size and configuration of Part 1; particularly because it includes lands currently in agricultural production (see aerial image in Appendix 1). Creation of the parcel as proposed would result in agricultural land being removed from production, which is contrary to the intent of Provincial and Regional policy. Regional staff cannot support the consent application as currently proposed, but could support a revised lot line that follows the edge of the lands currently in production. This would reduce the size of the lot thereby closer aligning to the ROP direction regarding lot size, and would maintain the intent of Provincial and Regional policies regarding the protection of agricultural lands by retaining all agricultural lands with the remnant parcel. Provided the lot line is revised and Part 2 is zoned for Agricultural Purposes Only (APO) to prohibit the construction of a new residential dwelling in perpetuity, the proposal will meet the intent of Provincial and Regional policy aimed at protecting the land for long term agricultural use. Regional staff suggest that any decision to approve the consent application be conditional on the revised lot line and the remnant parcel being rezoned to APO.

Minimum Distance Separation

The PPS and Regional policies require that new development, including lot creation, and new or expanding livestock facilities comply with the Minimum Distance Separation (MDS) formulae developed by the Ministry of Agriculture, Food and Rural Affairs (OMAFRA), which is applied in order to separate uses to reduce incompatibility concerns about odour from livestock facilities. An MDS I setback would be required for an existing dwelling to be severed and a livestock facility/anaerobic digester located on the same lot prior to the consent; however, there is no livestock facility on the proposed remnant lot, so no MDS information was requested at the preconsultation meeting. Regional staff also note that municipalities are responsible for ensuring that MDS setbacks are met when reviewing land use planning applications or building permits. Therefore, the Committee should look for confirmation from City staff that the proposed lot creation meets the MDS setbacks.

Archaeological Resources

The PPS and ROP provide direction for the conservation of significant cultural heritage and archaeological resources. Specifically, Section 2.6.2 of the PPS and Policy 10.C.2.1.13 of the ROP state that development (including lot creation) and site alteration (activities, such as grading, excavation and the placement of fill that would change the landform and natural vegetative characteristics of the site) are not permitted on lands containing archaeological resources or areas of archaeological potential, unless significant archaeological resources have been conserved.

Based on the Ministry of Heritage, Sport, Tourism and Culture Industries' (MHSTCI) Criteria for Evaluating Archaeological Potential, the property exhibits high potential for the discovery of archaeological resources due to proximity (within 300m) to a watercourse on the property. Although the proposal constitutes "development" as defined in the PPS, as it will result in the creation of a new lot, no "site alteration" is proposed as part of this application; therefore, the Region can waive the requirement for a Stage 1 Archaeological Assessment.

Core Natural Heritage

The subject property is impacted by the Region's Core Natural Heritage System (CNHS), consisting of the Humberstone Muck Basin Swamp Forest Provincially Significant Area of Natural and Scientific Interest (ANSI), the Humberstone Marsh Provincially Significant Wetland (PSW), and Significant Woodland (see Appendix 2). The property is also mapped as part of the Growth Plan (2019) Provincial Natural Heritage System (NHS). As such, these features are considered Key Natural Heritage Features (KNHF) and Key Hydrologic Features (KHF) and the natural heritage policies identified in the Provincial Growth Plan apply.

Growth Plan policies typically require the completion of a Natural Heritage Evaluation (NHE) when development and/or site alteration is proposed within 120 metres (m) of a KNHF/KHF. Regional policies similarly require the completion of an Environmental

February 8, 2021

Impact Study (EIS) when development and/or site alteration is proposed within 120 m of PSW and within 15 m of Type 2 Fish Habitat.

The proposed lot lines are greater than 120 m from the KNHFs and KHF on and adjacent to the property. As such, no studies are required and there are no further Environmental Planning comments.

Private Servicing

Private Septic System (PSS) staff have reviewed the application for consent. No record was found for the existing legal non-conforming sewage system servicing Part 1, known as 3288 Second Concession. At the time of inspection, no visual defects were observed with the existing sewage system. The existing tank and in-ground bed is located east of the existing dwelling. The proposed consent will not adversely affect the existing sewage system on Part 1. It should be noted that Part 1 currently supports a residential dwelling and two (2) detached accessory structures. There also appears to be usable area for any future septic system repair/replacement that may be required. Therefore, provided no changes are proposed for the existing dwelling, PSS staff have no objection to the application as submitted.

Conclusion

In conclusion, Regional staff would not object the consent application, provided:

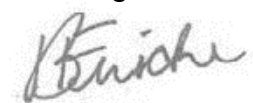
1. That the lot lines for Part 1 be revised to remove all agricultural lands currently in production and minimize the size of the parcel to be more in line with Regional policy, to the satisfaction of Niagara Region;
2. That Part 2 be rezoned for Agricultural Purposes Only to preclude construction of a dwelling in perpetuity.

The above noted conditions are required in order for the proposal to be consistent with the PPS and conform to Provincial Plans and the ROP. The proposal as submitted exceeds the maximum size permitted by the ROP and would result in the removal of lands currently in agricultural production, which is not consistent with the PPS and does not conform to the ROP.

Should you have any questions related to the above comments, please feel free to contact me by email at Britney.fricke@niagararegion.ca.

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

Kind regards,

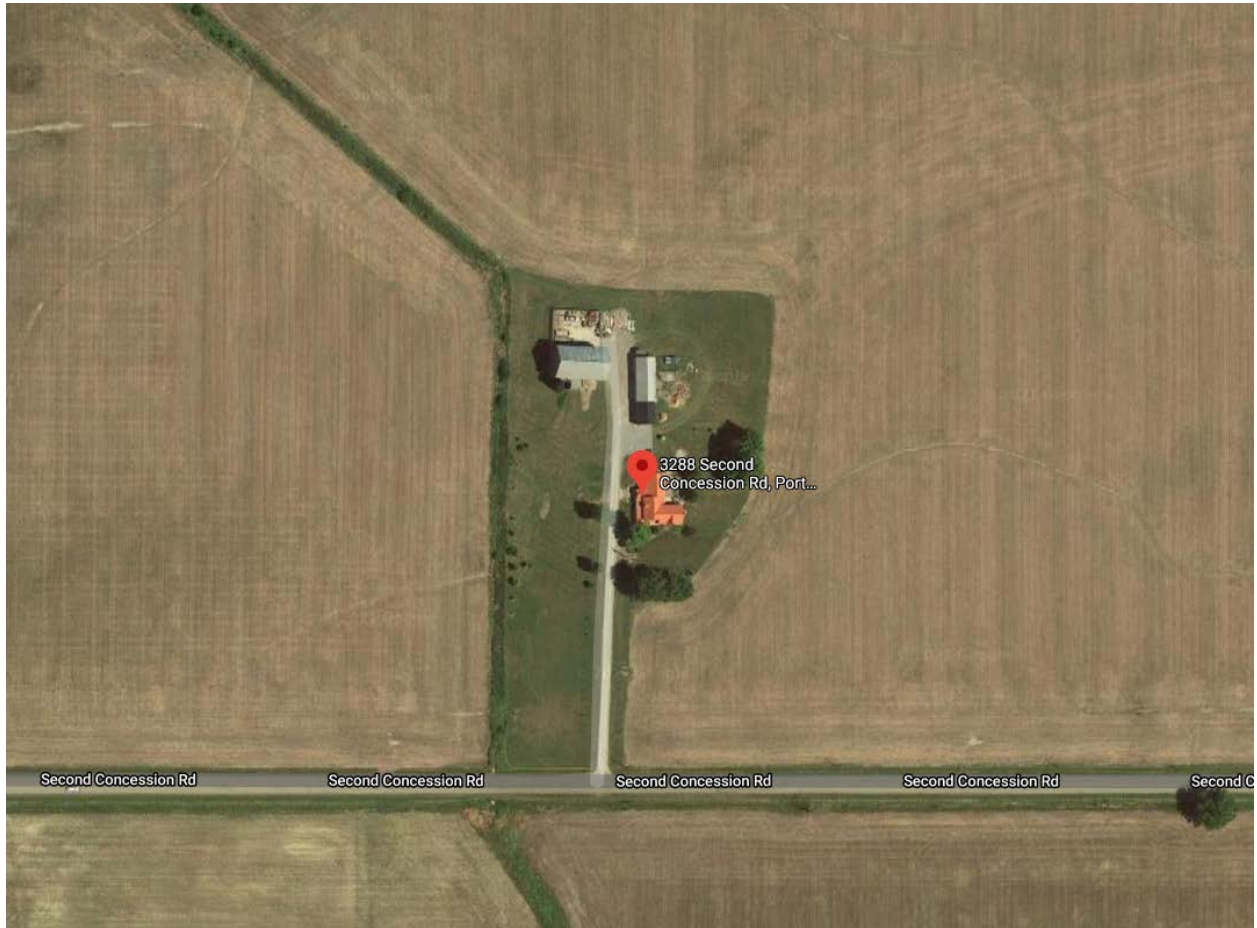


Britney Fricke, MCIP, RPP
Senior Development Planner

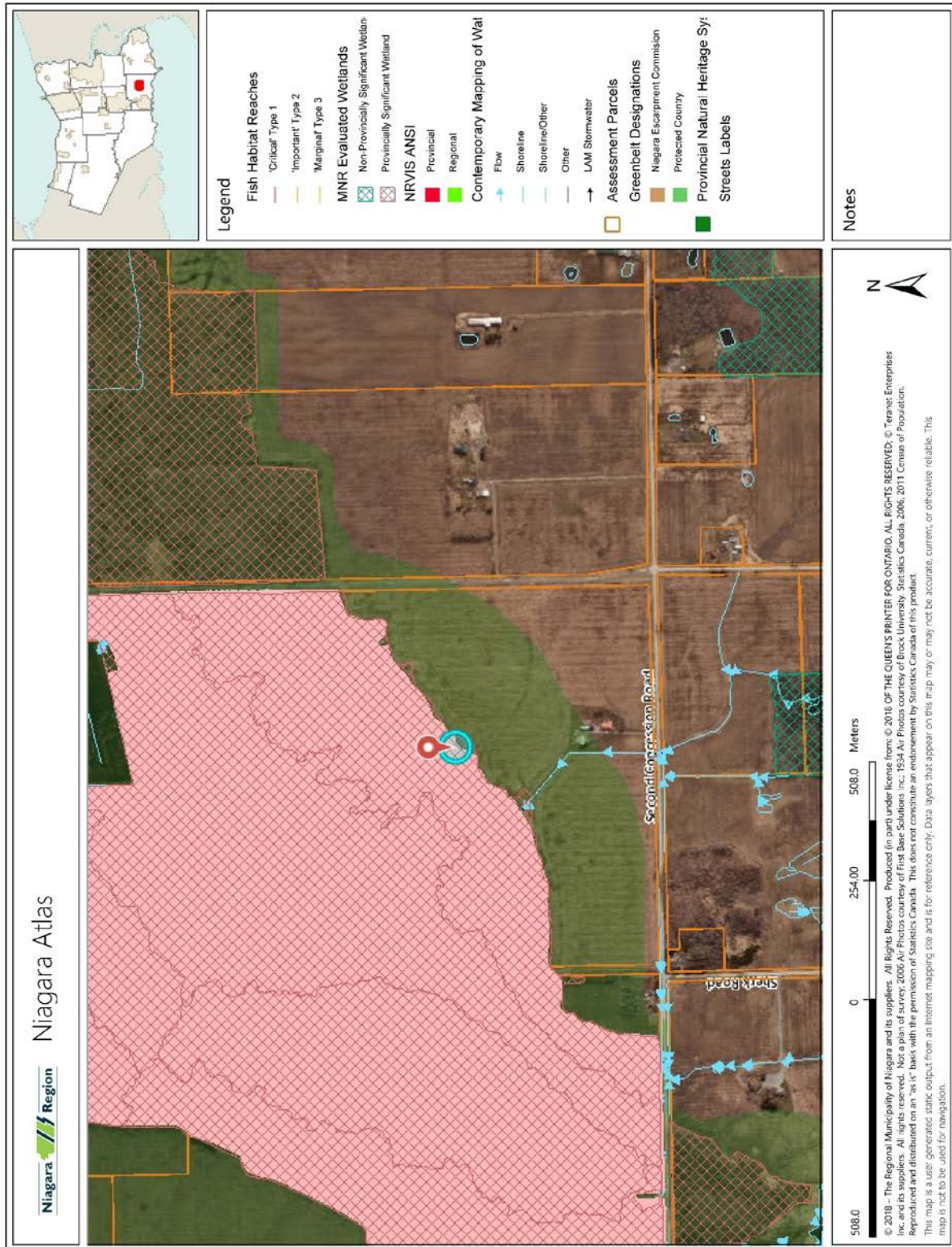
February 8, 2021

cc: Justin Noort, Private Sewage System Inspector, Niagara Region
David Schulz, Planner, City of Port Colborne

Appendix 1- Aerial Image



Appendix 2- Core Natural Heritage Features



David Schulz

From: Fricke, Britney <Britney.Fricke@niagararegion.ca>
Sent: May 13, 2021 11:50 AM
To: Chris Roome
Cc: David Schulz
Subject: FW: 3288 Second Concession - Revised Property Line (PSS Comments)
Attachments: 22140P2 DRAFT.pdf; B01-21-PC Memo to Committee RE Region comments.pdf; Regional Comments (CS-21-0008)- 3288 Second Concession Road, PC.pdf; 20210512_143413.jpg; 20210512_143423.jpg

CAUTION: This email originated from outside your organization. Exercise caution when opening attachments or clicking links, especially from unknown senders.

Hi Chris,

We're all good with the revised property line for this consent. Please accept this email as clearance of that condition.

Thanks,

Britney Fricke, MCIP, RPP (she/her)
Senior Development Planner
Planning and Development Services Department
Regional Municipality of Niagara
1815 Sir Isaac Brock Way, PO Box 1042
Thorold, Ontario L2V 4T7
Phone: 905-980-6000 ext. 3432
Toll-free: 1-800-263-7215
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From: Noort, Justin <Justin.Noort@niagararegion.ca>
Sent: Thursday, May 13, 2021 11:47 AM
To: Fricke, Britney <Britney.Fricke@niagararegion.ca>
Subject: 3288 Second Concession - Revised Property Line (PSS Comments)

Hello Britney,

I conducted a site visit to the noted property yesterday afternoon to confirm that the existing system meets the required Ontario Building Code (OBC) setbacks (3.0m minimum) to the revised property line. The inspection confirmed that the existing bed was approximately 9.5m from the proposed property line and thus meets OBC requirements. Therefore, Regional Private Sewage System Staff have no further objections to the revised lot line and our previous comments remain.

If you need a more formal response please let me know.

Regards,

Justin Noort, C.E.T.

Inspector, Private Sewage Systems, BCIN. 110513

Niagara Region Planning and Development Services

(905) 980-6000 ext 3671

For up-to-date information about Niagara Region's response to the COVID-19 virus, please visit

<https://www.niagararegion.ca/service-disruptions/default.aspx>

Since many Regional staff are focusing on emergency management at this time, we thank you in advance for your patience.

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