

**DATE:** March 8, 2021

**REPORT NO:** PD-26-2021

**SUBJECT:** Recommendation Report  
Kenneth Jack Martin  
Zoning By-law Amendment

**CONTACT:** Meghan Birbeck, Planner I  
Brian Treble, Director of Planning & Building

**OVERVIEW:**

- An application for rezoning was submitted by Kenneth Martin for the lands legally described as Concession 1, Part of Lot 3, in the former Township of Gainsborough now in the Township of West Lincoln, Regional Municipality of Niagara, municipally known as 6800 Elcho Road.
- This application for rezoning is required as a condition of consent for minor boundary adjustment severance application B05/2020WL, that was conditionally approved by the Township of West Lincoln's Committee of Adjustment on December 16<sup>th</sup>, 2020.
- This rezoning application proposes to rezone ±0.178 hectares of land which is a recently severed parcel of land, from Agricultural Purpose Only 'APO' to Rural Residential 'RUR'. Refer to Parcel 2 on Attachment 1 for the location.
- In addition, this application proposes to rezone the remaining residential land from Agricultural 'A' to Rural Residential 'RUR'. Refer to Parcel 1 on Attachment 2 for the location.
- A public meeting was held via Zoom on February 8<sup>th</sup> 2021. No public comments were received during this meeting.
- Staff have reviewed the proposed zoning by-law amendment against the relevant Provincial, Regional and Local policy and can now recommend approval of this application.

**RECOMMENDATION:**

1. That, report PD-26-2021, regarding "Kenneth Martin Zoning By-law Amendment File No. 1601-001-21", dated March 8<sup>th</sup> 2021, be RECEIVED; and,
2. That, Section 34(17) of the Planning Act apply and that no further public meeting is

required; and,

3. That, an application for Zoning By-law Amendment 1601-001-21 submitted by Kenneth Martin and a corresponding Zoning By-law be APPROVED and passed; and,
4. That, Staff be authorized to circulate the Notice of Decision for the Zoning By-law Amendment with the corresponding 20-day appeal period.

### **ALIGNMENT TO STRATEGIC PLAN:**

#### **Theme #3**

- Strategic, Responsible Growth

### **BACKGROUND:**

The subject lands are legally described as Concession 1, Part of Lot 3, Gainsborough, in the Township of West Lincoln, Regional Municipality of Niagara, municipally known as 6800 Elcho Road (see attachment 1 for a survey sketch).

This application for rezoning has been submitted to fulfil a condition of consent for application B05/2020WL, which was a minor boundary adjustment that was conditionally granted approval by the Committee of Adjustment on December 16<sup>th</sup>, 2020.

The Zoning By-law Amendment proposes to rezone ±0.178 hectares of the recently severed parcel of land from Agricultural Purpose Only 'APO' to Rural Residential 'RUR'. Refer to Parcel 2 on the attached survey for location. In addition, the application proposes to rezone the remaining residential land from Agricultural 'A' to Rural Residential 'RUR'. Refer to Parcel 1 on the attached Survey for location.

A public meeting was held for the proposed application on February 8<sup>th</sup> 2021. No written or verbal comments were received in regards to this application.

### **CURRENT SITUATION:**

#### **1. Provincial Policy Statement (PPS)**

The PPS guides the growth and development of the Province and provides the general framework for planning in the Province. All planning decisions must be consistent with the PPS. The policies regarding Agriculture are within the 'Wise Use and Management of Resources' section of the PPS. The lot creation and lot adjustment policies in the PPS for the Agricultural area are very specific and limited in the number of instances where severances in the agricultural area can occur. The PPS allows for lot adjustments in the following instances:

*Lot adjustments in prime agricultural areas may be permitted for legal or technical reasons.*

For the purposes of this report the legal or technical reason policy supports the severance for the purpose of a minor boundary adjustment. As the adjustment does not result in the creation of a new lot, it will meet the intent of the PPS.

#### **2. A Place to Grow – Provincial Growth Plan (P2G)**

Applications filed after June 16, 2006 must conform to the A Place to Grow – Provincial Growth Plan. Section 1.2.3 of the P2G provides direction on how to read the Growth Plan, specifically noting that: *This Plan must also be read in conjunction with other provincial plans as defined in the Planning Act that may apply within the same geography.*

Section 4.2.6 of the Growth Plan contains policies for the Agricultural System in Ontario. These policies aim to preserve, protect and enhance Ontario's Agricultural System. Where agricultural uses and non-agricultural uses interact outside of settlement areas, land use compatibility will be achieved by avoiding or where avoidance is not possible, minimizing and mitigating adverse impacts on the Agricultural System. Where mitigation is required, measures should be incorporated as part of the non-agricultural uses, as appropriate, within the area being developed (4.2.6.3). The geographic continuity of the agricultural land base and the functional and economic connections to the agri-food network will be maintained and enhanced (4.2.6.4). The retention of existing lots of record for agricultural uses is encouraged, and the use of these lots for non-agricultural uses is discouraged (4.2.6.5).

### **3. Greenbelt Plan**

Applications must conform to the Greenbelt Plan if they fall within the mapping provided with the Greenbelt Plan. Since the subject lands are outside the area designated in the Greenbelt Plan, the Greenbelt Plan does not apply.

### **4. Regional Policy Plan (RPP)**

The Regional Policy Plan (RPP) provides general policies that are to be applied across the Niagara Region. The policies regarding severances in the agricultural area are similar to those found in the PPS. The policies allow for minor boundary adjustment severances, so long as no new lots are created. As the adjustment does not result in the creation of a new lot it will meet the intent of the RPP.

### **5. Township of West Lincoln Official Plan (OP)**

The Township OP allows for severances in the agricultural area where land is being conveyed as part of a minor boundary adjustment, and does not result in the creation of a new lot. Consent applications are permitted for legal or technical reasons. As the adjustment does not result in the creation of a new lot it will meet the intent of the OP.

### **6. Township of West Lincoln Zoning By-Law (ZBL)**

The subject property is currently zoned Agricultural 'A' in the Township's Zoning By-law. The proposed application is to rezone ±0.178 hectares of the recently severed parcel of land from Agricultural Purpose Only 'APO' to Rural Residential 'RUR', refer to Parcel 2 on the attached survey for location. In addition, the application proposes to rezone the remaining residential land from Agricultural 'A' to Rural Residential 'RUR'. Refer to Parcel 1 on the attached survey for location.

The application proposes to rezone both parcel 1 and parcel 2 to RUR as the Township's Zoning By-law stipulates that Agricultural 'A' properties are to have a

minimum lot area of 40 ha. Since this property's main principle use is residential and is well under 40 ha the RUR zoning is more appropriate.

**FINANCIAL IMPLICATIONS:**

There are no financial implications associated with this application.

**INTER-DEPARTMENTAL COMMENTS:**

Agencies were notified by way of e-mailed and mailed notice on Thursday January 14<sup>th</sup> 2021. Notice was also posted on the Municipality's website and through the posting of a Yellow Sign on the subject property once the notice was sent out to the public.

Township Public Works has no objections regarding the proposed application.

The Niagara Region has no objection regarding the proposed application.

The Niagara Peninsula Conservation Authority (NPCA) commented on the original severance application, identifying that their Policy states that lot creation (unless for legal or technical reasons) should not be permitted within 30 m (98 ft) of a wetland. The portion of land in question for this application is within this buffer, however the NPCA have articulated that they will not object to the proposed boundary adjustment as the adjustment is for "legal and technical reasons".

Agency Comments can be found at attachment 2 to this report.

**PUBLIC COMMENTS**

Public Notice was provided via regular mail to all property owners within a 120m distance of the property lines on January 14<sup>th</sup> 2021. No public comments have been received as of February 3<sup>rd</sup> 2021 via Zoom. No written or verbal comments were received in regards to this application leading up to the public meeting date.

**CONCLUSION:**

Township Staff have completed a review of this application against the applicable planning policy.

The recently severed ±0.178 hectares parcel of land will need to be rezoned from Agricultural Purpose Only 'APO' to Rural Residential 'RUR'. In addition, the remaining residential land will need to be rezoned from Agricultural 'A' to Rural Residential 'RUR'.

Planning Staff can recommend the approval of this application as it meets the intent of the applicable Provincial, Regional and Local planning policies.

**ATTACHMENTS:**

1. Survey Sketch
2. Agency Comments
3. Draft By-law

**Prepared & Submitted by:**



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**Meghan Birbeck**  
**Planner I**



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**Brian Treble**  
**Director of Planning & Building**

**Approved by:**



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**Bev Hendry**  
**CAO**