

DATE: September 11, 2023

REPORT NO: PD-42-2023

SUBJECT: **Recommendation Report – Application for Zoning Bylaw Amendment for 8214 and 8248 Concession 3 Road (File No. 1601-06-23)**

CONTACT: Susan Smyth, Senior Planner
Dave Heyworth, Manager of Planning
Brian Treble, Director of Planning & Building

OVERVIEW:

- An application for Zoning By-law Amendment has been submitted by Henry and Lisa Van Ryn (1000044923 Ontario Inc.) owners of 8248 Concession 3 Road and Doug and Rita Lampman owners of 8214 Concession 3 Road to satisfy conditions of consent/lot boundary adjustment approved by the Committee of Adjustment on April 26, 2023 under Report COA-006-23 (File No. B03/2023WL). Refer to Attachment 1 – Location Map.
- On April 26, 2023 the Township's Committee of Adjustment approved the above applications based on positive recommendations from Planning Staff.
- The approved boundary adjustment granted 0.40 hectares (0.99 acres) of agricultural designated land from 8214 Concession 3 Road (Parcel 3 – severed lands) to merge with 8248 Concession 3 Road (Parcel 5 – benefitting lands) as shown on Attachment 2 – Survey Sketch.
- Both 8214 and 8248 Concession 3 Road are located on the south side of Concession 3 Road, east of Caistor Centre Road and west of Smithville Road/Regional Road 14.
- Following the lot boundary adjustment, 8214 Concession 3 Road will be approximately 17.043 hectares (42.11 acres) in size which includes the dedication of 1.22 metre for road widening (Parcel 1) and 8248 Concession 3 Road will be approximately 1.367 hectares (3.38 acres) in size which includes the dedication of 1.22 metre for road widening (Parcel 4).
- The application for a Zoning By-law Amendment for 8214 Concession 3 Road will address the deficient lot area and front yard setback which under the Agricultural Zone (Section 5.3) the minimum lot area is to be 40 hectares (98.84 acres) and the minimum front yard setback is required to be 15 metres. The proposed site-specific amendment is to capture these deficiencies and recognize a minimum lot area of 17 hectares and a minimum front yard setback of 6 metres from the existing dwelling.

The Environmental Protection – EP and Environmental Conservation - EC Zones along the rear section of the parcel will be maintained.

- The application for a Zoning By-law Amendment for 8248 Concession 3 Road will continue to recognize the current A-5 exemption and regulations that permits the existing use of the salvage yard and to recognize the reduced lot frontage of 28 metres, west side yard setback of 6.7 metres, east side yard setback of 9.1 metres, rear yard setback of 7.5 metres, building height of 5.3 metres, and maximum 5% lot coverage, all of which will be maintained.
- A site-specific zone will be applied to the lands added from the boundary adjustment (Parcel 3) being 0.40 hectares (0.99 acres), additionally per the comments received by the Region of Niagara, a 30 metre Vegetation Protection Zone (VPZ) measured from the wetland/woodland boundary along the rear and west portion of the added lands (approximately 1,073 square metres/0.11 hectares) will be placed under the Environmental Conservation – EC Zone.
- At the time of writing this report, no public comment submissions have been made, and can be found in Attachment 3 to this report.
- From the date of complete application, being August 18, 2023, 90 days would result in a decision having to be made by November 16, 2023.

RECOMMENDATION:

1. That, Recommendation Report PD-42-2023, regarding “Application for Zoning Bylaw Amendment for 8214 and 8248 Concession 3 Road (File No. 1601-06-23)”, dated September 11, 2023, be received; and,
2. That, the application for Zoning Bylaw Amendment submitted by Henry and Lisa Van Ryn owners of 8248 Concession 3 Road, and Doug and Rita Lampman owners of 8214 Concession 3 Road, be approved in accordance with the attached Amending Zoning By-law with the site-specific regulations; and,
3. That, no further public meeting is required for the consideration of this by-law in accordance with Section 34(17) of the *Planning Act*.

ALIGNMENT TO STRATEGIC PLAN:

Theme #2 & #3

- **Champion** – Strategic Responsible Growth
- **Enrich** – Strong Agricultural Legacy

BACKGROUND:

The purpose of this report is to provide the technical information and recommendation to Council for the Zoning By-law Amendment application. The Recommendation Report is being presented to Council the same evening as the Public Meeting as there has been a lower level of interest from residents in the area, the proposal complies with the Township, Regional and Provincial policies and will assist in meeting timelines outlined in Bill 109.

A Zoning By-law Amendment application has been submitted by Henry and Lisa Van Ryn (1000044923 Ontario Inc.) owners of 8248 Concession 3 Road and Doug and Rita Lampman owners of 8214 Concession 3 Road to satisfy conditions of consent/lot

boundary adjustment approved by the Committee of Adjustment on April 26, 2023 under Report COA-006-23 (File No. B03/2023WL). The approved boundary adjustment granted 0.40 hectares (0.99 acres) of agricultural designated and zoned land from 8214 Concession 3 Road to merge with 8248 Concession 3 Road. This land has historically been used in conjunction with the accessory salvage yard use.

The subject properties, being 8214 and 8248 Concession 3 Road are located on the south side of Concession 3 Road, east of Caistor Centre Road and west of Smithville Road/Regional Road 14. Refer to Attachment 1 for the Location Map.

Upon clearing all conditions of consent and final certification, the boundary adjustment will result in 8214 Concession 3 Road being 17.043 hectares (42.11 acres) in size and 8248 Concession 3 Road will be 1.367 hectares (3.38 acres) in size which includes the dedication of the 1.22 metre road widening to the Township.

8214 Concession 3 Road is a larger agricultural parcel containing a single detached dwelling and two accessory buildings/structures. The parcel also contains environmental features (wetlands and woodlands) located in the rear portion of the site although these features will not be impacted by this amendment.

8248 Concession 3 Road is a smaller agricultural parcel with a site-specific zoning (A-5) that permits the salvage yard operations with specific regulations recognizing the lot frontage, side and rear yard setbacks, lot area, lot coverage, and building height. There is one existing dwelling and one accessory building with the automobile salvage yard in the rear section of the site. According to the applicants, the property has been used as a wrecking, auto body and salvage yard since approximately 1953. Currently, the salvage yard is not operating or open to the public since the new owners purchased the property in February 2022 but they have kept the valid salvage yard license to continue to operate. Over the years, and according to aerial imagery, the salvage yard operation expanded onto the abutting lands as shown in the survey sketch and labelled as Parcel 3 (severed lands), which is the reason for the boundary adjustment. While visible by aerial photography this spreading of the salvage yard use was not visible from the ground. This amendment is a condition of the consent to bring the operation and lands into conformity with the by-law regulations. There is currently no registered site plan and to satisfy Condition 7 of consent, Site Plan Approval is required to recognize the salvage yard operations.

The Region of Niagara regulates and issues licences to govern salvage shops and salvage yards throughout the Region under By-law 2021-59. This licence will assist with controlling certain aspects of the salvage yard function and operations (e.g., fencing and hours of operation).

CURRENT SITUATION:

Provincial Policy Statement 2020

Land use planning decisions must be consistent with the Provincial Policy Statement (PPS), which ensures appropriate development while protecting resources of provincial interest, public health, and the quality of the natural and built environment.

Section 2.3.4.2 of the PPS states that lot adjustments in *prime agricultural areas* may be permitted for legal or technical reasons which was the circumstance for the subject property referred to as 8248 Concession 3 Road. The boundary adjustment approved the lot adjustment and the limits of the salvage yard operation that encroached onto 8214 Concession 3 Road (referred as Parcel 3 on Attachment 2). This application for a Zoning By-law Amendment to 8248 Concession 3 Road will continue to recognize the use of the salvage yard (A-5) and the lands severed by the boundary adjustment currently zoned for Agricultural uses will receive a site-specific zone to also recognize the salvage yard as a permitted use with the rear and west portion of the lands to be zoned as Environmental Conservation – EC for the 30 metre Vegetation Protection Zone (VPZ) recommended by the Region of Niagara.

The application for a Zoning By-law Amendment for 8214 Concession 3 Road will maintain the permitted agricultural uses including the dwelling and accessory buildings and amend the lot area and front yard setback to bring the site into compliance. Considering no additional uses are being added and the areas zoned for environmental protection and conservation are being maintained, Planning Staff consider the application is consistent with the Provincial Policy Statement (PPS) for the long term protection of agricultural uses and environmental sustainability and protection.

A Place to Grow, Growth Plan for the Greater Golden Horseshoe – 2020 Consolidation

The Place to Grow – Growth Plan for the Greater Golden Horseshoe (Growth Plan) builds on the Provincial Policy Statement to establish a unique land use planning framework for the Greater Golden Horseshoe that supports the achievement of complete communities, a thriving economy, a clean and healthy environment and social equality. The policy document specifically guides how and where to grow communities, how to support growth while protecting what is valuable, such as the natural environment and agricultural lands.

Specifically, Section 4.2.6 states that *prime agricultural areas* will be protected for long-term use for agriculture, by minimizing and mitigating adverse impacts on the *Agricultural System*. In regards to 8248 Concession 3 Road, historically the lands been used for a salvage yard and the operation does not plan to expand their capacity and this amendment application is to recognize the use and is not expected to have any adverse impacts on the surrounding agricultural uses.

Similarly, 8214 Concession 3 Road is maintaining the existing agricultural and related uses therefore supporting the protection of the agricultural lands. Therefore, Planning Staff considers the Zoning By-law Amendment application to conform to the Growth Plan policies.

Niagara Official Plan, 2022

The Niagara Official Plan (NOP) provides a framework for growth and development within the Niagara Region. The NOP regulations are consistent with Provincial policies; including the PPS and Growth Plan as noted above. The NOP states how properly protecting resources while planning for growth is critical.

Specifically, protecting the *Agricultural System* is outlined in Section 4.1 of the NOP. The main objectives of this section are to facilitate a strong, diverse, and resilient agricultural economy and to protect the region's agricultural land base, ensuring agricultural sustainability for present and future generations.

Additionally, Section 4.1.6.1(d) of the NOP recognizes that lot adjustment for *legal or technical reasons* such as easements, corrections of deeds, quit claims, and minor boundary adjustments, which do not result in the creation of a new lot. As this is the circumstance, the boundary adjustment was the framework to legally correct the encroachment of the salvage yard onto the abutting lands and this Zoning By-law Amendment application is to legally regulate the use on the added lands to be consistent with the balance of the site for operating a salvage yard, and to identify the 30 metre Vegetation Protection Zone (VPZ) along the rear and west portion of the added lands and place an Environmental Conservation – EC zone for the long term protection of the environmental features.

Township of West Lincoln Official Plan

The subject properties being 8214 Concession 3 Road and 8248 Concession 3 Road are both designated as *Good General Agricultural and Natural Heritage System (Environmental Protection Area and Environmental Conservation Area)* in the Township's Official Plan (OP). The purpose of the Township's *Good General Agricultural designation* is to ensure that these areas are protected and preserved for Agricultural purposes.

The OP, Section 4.4.2 (g) within the Agricultural designation notes that there exist a number of legally established non-agricultural related uses, buildings and structures that have been recognized through the Township's Zoning By-law. These uses can continue to exist as legally established, any changes to these uses, buildings and structures shall be in accordance with the applicable policies of the OP and may require further approval through zoning by-law amendments, site plan approval, or other planning approvals as required to continue to allow the legally established non-agricultural related uses. This relates to this amendment application for 8248 Concession 3 Road for the salvage yard.

The OP, Section 10 provides policies related to the Natural Environment and both subject properties contains environmental features designated as part of the *Core Natural Heritage System* identified in Section 10.7 of the OP. As noted in this section, these features are significant in the context of the surrounding landscape because of their size, location, outstanding quality or ecological functions, as well as, their provincial significance. The main objective is to maintain, restore, and where possible, enhance the long term ecological health, integrity, and biodiversity of the system. The approximate location of these environmental features are along portions of the western lot boundary and rear yard including; Provincially Significant Wetlands, significant woodlands, Environmental Conservation Area and Environmental Protection Area.

As per policy 10.7.2(z) an expansion to an existing use located within an Environmental Conservation Area or adjacent lands to a Core Natural Heritage System Component may be permitted if it will have no significant negative impact on the natural feature or its ecological functions.

Since the boundary adjustment will not impact these features on the property, and no site alteration or new construction is being proposed, the application follows the intended objectives of the OP.

8248 Concession 3 Road is within the Niagara Peninsula Conservation Authority (NPCA) floodplain boundary and the boundary adjustment does not intersect the regulated features on the site therefore the features are protected and the Environmental Protection and Conservation zones are being maintained on the parcel.

Furthermore, it is important to note that both properties have potential for petroleum resources. As outlined in Section 15.2.2 of the OP, the objective of these designated areas are to ensure that abandoned wells are properly remediated and capped to reduce potential contamination of the ground water table. As such, a condition of consent was included to satisfy the concern for petroleum resources on the subject properties.

Planning Staff consider the continued agricultural uses and established non-agricultural uses on the subject properties as recognizing existing situations. Therefore, the application for the amendment meets the intent of the Townships' OP.

Township of West Lincoln Zoning By-law 2017-70, as amended

The subject properties being 8214 Concession 3 Road and 8248 Concession 3 Road are zoned Agricultural 'A' in the Township's Zoning By-law 2017-70, as amended. Although 8248 Concession 3 Road has a site-specific zoning Agricultural 'A-5' which permits the salvage yard use and the regulations for lot frontage, side and rear yard setbacks, lot area, lot coverage, and building height continue to apply. This Zoning By-law Amendment application will apply a site-specific zone to the added lands currently zoned for Agricultural and to also recognize the salvage yard as a permitted use with the rear and west portion of the lands to be zoned as Environmental Conservation – EC for the 30 metre Vegetation Protection Zone (VPZ) recommended by the Region of Niagara.

8214 Concession 3 Road is primarily agricultural with agriculture-related uses including a single detached dwelling and accessory structures, and the boundary adjustment and application to amend the by-law will not impact the surrounding agricultural production as the land being merged has not been actively farmed. As this is the case, the intent of the Agricultural zone is being maintained. Additionally, the minimum lot area required within an Agricultural zone 'A' is 40 hectares (98.84 acres) as outlined in Table 12 of the Township's Zoning By-law 2017-70, as amended. 8214 Concession 3 Road will only be approximately 17.043 hectares (42.11 acres) following the boundary adjustment, and to fulfill a condition of consent requires the approval of an amending by-law to capture the insufficient lot area and reduced front yard setback of the existing dwelling.

Portions of the subject properties are zoned Environmental Conservation 'EC' and Environmental Protection 'EP' which is limited to conservation use and/or public/park for passive recreation.

Environmental Conservation 'EC' zones are subject to a permit issued by the Niagara Peninsula Conservation Authority for existing buildings and/or accessory buildings. Since the boundary adjustment does not impact these environmental features, the preservation and protection of the environmental features are being maintained and as such, Planning Staff consider that the application for a Zoning By-law Amendment conforms to the primary objectives of the Agricultural and Environmental zoning regulations.

A copy of the proposed draft by-law amendment is included as Attachment 3.

FINANCIAL IMPLICATIONS:

There are no financial implications associated with this report except for the potential implications associated with Bill 109, the *More Homes for Everyone Act, 2022*. Bill 109 requires municipalities, starting on July 1st, 2023, to provide fee refunds for planning act applications if decisions are not made within the required Planning Act timelines.

The timelines for approval and required fee returns associated with this will require Township Staff to prepare recommendations on a quicker timeline for Council's decisions. Council must make a decision within 90 days of complete application or they will be required to grant a refund.

	Zoning and Official Plan Combined	Zoning Bylaw Amendment	Site Plan
No refund	Decision is made within 120 days	Decision is made within 90 days	Plans are approve within 60 days
50%	Decision made within 121-179 days	Decision made within 91-149 days	Plans are approved between 61-89 days
75%	Decision made within 180 – 239 days	Decision made within 150 – 209 days	Plans are approved 9 – 119 days
100%	Decision made 240 days and later	Decision made 210 days and later	Plans are approved 120 days and beyond

The current 2023 fee for a standard Zoning By-law Amendment is \$9,630.00. If not approved within 90 days, the Township would be required to refund the applicant \$4,815.00, at 149 days, \$7,222.50 and after 209 days, the entire fee. Since this is a condition of consent a reduced fee of \$4,820 was collected.

A final note for consideration includes the Planning Act changes that have been made through Bill 109, the *More Homes for Everyone Act, 2022* requiring zoning amendments be decided upon within 90 days or face punitive costs back to the applicant. In order to avoid these fee returns, Staff will be required to prepare recommendation reports within the required timeframe that potentially recommend:

1. Approval, subject to a holding provision,
2. Approval of application as submitted,
3. Approval of staff modified application
4. Denial

Staff consider this application for an amendment to the Zoning By-law is a condition of consent and does not create negative adverse impacts to the surrounding agricultural and environmental uses and approval of this application can be granted within the 90 day timeframe and no refund to the applicant should be required.

INTER-DEPARTMENTAL COMMENTS:

Notification was mailed to all applicable agencies, departments and members of the public within 120 metres of the subject property on August 18, 2023. The notice was also uploaded to the Township's website and a yellow notice sign was posted on the subject property on August 17, 2023.

Public Comments

At the time of writing this report, no comments have been received from members of the public for the proposed application.

Agency Comments

The Township's Building Department has reviewed the proposed application and offers no concerns or objections.

Further, the Township's Public Works Department has reviewed the proposed application and offers no concerns or objections.

The Niagara Peninsula Conservation Authority (NPCA) offered comments that the subject properties are impacted by the 30 metre wetland buffer of the Caistor Centre Wetland Complex and watercourses. Since 8248 Concession 3 Road already exists legally and has caused disturbances, the appropriate zoning and vegetation buffers should be maintained to protect the wetland and watercourse. Prior to any site alterations or disturbances proposed within 30 metres of the wetlands or buffer, the NPCA shall be contacted to obtain a permit.

The Region of Niagara Staff acknowledge that new municipal services are not required for either properties since no changes are expected. Furthermore, the identified environmental features and their associated vegetation protection zones are required to be placed in a restrictive environmental zone. Related to 8248 Concession 3 Road, the expansion of the non-agricultural use is on land newly added through a boundary adjustment that area has not been actively used for agricultural purposes but for the legal non-agricultural use (salvage yard). Staff recommend the rear and west portion of the added lands (approximately 1,073 square metres/0.11 hectares) to be zoned as Environmental Conservation – EC for the 30 metre Vegetation Protection Zone (VPZ).

The subject properties are located within the mapped 'Area of Archaeological Potential' however Regional Staff note that at the time of pre-consultation, Staff did not require an archaeological assessment for the lands newly added to 8248 Concession 3 Road, or for the expansion of the use as there is no new site alteration or development proposed. In accordance with Policy 6.4.2.6 of the NOP, any future Planning Act applications within the area of archaeological potential may require an archaeological assessment and this may pertain to the Site Plan Approval application.

The subject properties are impacted by the Region's Core Natural Heritage System, consisting of the Caistor Centre Provincially Significant Wetland ("PSW") Complex, and Significant Woodland. Also, mapped as part of the Growth Plan (2019) is the Provincial Natural Heritage System ("NHS"). As such, these features are considered Key Natural Heritage Features ("KNHF") and Key Hydrologic Features ("KHF"). There is also a watercourse but it was determined by Regional Staff that it was not permanent or intermittent in nature and as such is not a Regionally designated Core Natural Heritage System feature.

Based on observations made by staff on May 30, 2023, and the nature of the application, Staff do not object to the proposed Zoning By-law Amendment provided that the PSW, Significant Woodland and associated 30 metre Vegetation Protection Zones are placed within an appropriately restrictive environmental zone (e.g., Environmental Conservation – EC).

Refer to Attachment 4 for the agency comments.

CONCLUSION:

An application for Zoning By-law Amendment application has been submitted for the properties located at 8214 and 8248 Concession 3 Road. The amending by-law will apply site-specific regulations on the sites as follows:

8248 Concession 3 Road – A-227

- As per the A-5 zone which permits the salvage yard
- Minimum lot area of no less than 4,037.4 square metres (0.40 hectares)
- Minimum 30 metre Vegetation Protection Zone (VPZ) of approximately 1,073 square metres (0.11 hectares) along the rear and west portion of the lands

8214 Concession 3 Road – A-228

- Minimum lot area – 17 hectares
- Minimum front yard – 6 metres

The application to amend the Zoning By-law has been reviewed in accordance with Section 34 of the Planning Act, and against Provincial, Regional and Township Policy, and the application has been deemed to meet the policies for the long term protection and maintenance of agricultural and environmental land uses. As such, Planning Staff recommend the approval of the Zoning By-law Amendment application and the by-law and schedule attached to this report.

ATTACHMENTS:

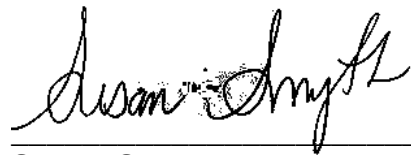
Attachment 1 - Location Map

Attachment 2 - Survey Sketch

Attachment 3 - Amending By-law

Attachment 4 - Agency Comments

Prepared & Submitted by:



**Susan Smyth,
Senior Planner**

Approved by:



**Bev Hendry,
CAO**



**Dave Heyworth,
Manager of Planning**



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