

## Schedule J - Agency Comments



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September 26, 2024

NPCA File No.: PLZBLA202401207

VIA EMAIL ONLY

Planning Department  
The Township of West Lincoln  
318 Canborough Street, P.O. Box 400  
Smithville, L0R 2A0

Attention: Justin Paylove, Deputy Clerk

**Subject: Application for Zoning By-Law Amendment, 1601-004-24**  
Evelyn and Jeffrey Duck (C/o, Ross Robbins)  
7395 Twenty Road, West Lincoln  
**ARN 260203001248900**

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To the Planning Department,

Further to your request for comments for the Zoning By-Law Amendment application for the above noted property, the Niagara Peninsula Conservation Authority (NPCA) can offer the following.

**Provided Planning Application description:** *The intent of this rezoning application is to permit a parcel of land described as Range 2, Part of Lot 2, as a buildable lot following a natural severance that was approved by the Ontario Superior Court on August 17th 2024. The resulting parcels do not meet the definition of a 'lot' as identified in the Township's Zoning By-Law 2017-70, as amended. This application also proposes a site specific exception to recognize the deficient area of Part 1 being 7.5 hectares (18.53 acres) whereas, 40 hectares (98.84 acres) is identified as the minimum lot area permitted within an Agricultural 'A' zone by Table 12 in the Township's Zoning By-Law 2017-70, as amended and to permit a deficient lot frontage of 44.3 metres whereas the zoning bylaw required 100 metres.*

The NPCA has reviewed the NPCA Mapping of **ARN 260203001248900** and notes that the property is impacted by NPCA regulated features.

The NPCA regulates watercourses, flood plains (up to the 100-year flood level), Great Lakes shorelines, hazardous land, valleylands, and wetlands under Ontario Regulation 155/06 of the Conservation Authorities Act. The NPCA Policy Document: Policies for Planning and Development in the Watersheds of the Niagara Peninsula Conservation Authority (NPCA policies) provides direction for managing NPCA regulated features.

The subject property contains the following regulated features: In association with North Creek, there is a watercourse, watercourse 15 m buffer, and flood hazard on the subject property. Additionally, there is a Provincially Significant Wetland and 30 m regulated buffer area.

Provided in the Zoning By-Law Amendment Application, the applicant has provided a proposal for a 'Scoped Environmental Impact Statement' dated, November 29, 2023. Following a review, the NPCA has no objections to the proposed works and can offer the following comments:

1. It is noted in the Scoped Environmental Impact Statement that a boundary adjustment was made to the PSW/NPCA Regulated Wetland (page 17), NPCA Planning Ecology agrees with the proposed change based on the information outlined in the memo and from the review of historic aerial imagery and relevant mapping layers (contours and DTMS). Please submit the newly revised wetland boundary as a GIS compatible file (i.e. .shp), so that we can update our mapping.
2. NPCA is supportive of the ESC measures as described in the Scoped Environmental Impact Statement and in Figure 3, which shows the location of the proposed silt fencing.
3. NPCA Planning Ecology is supportive of the recommendation to allow areas within the 30 m buffer to become 'Natural Self-Sustaining Vegetation', as shown on Figure 3.
4. Please note that all areas of disturbed soil shall be stabilized immediately upon completion of work and restored to a pre-disturbed state or better. NPCA Planning Ecology recommends re-vegetation with a native seed mix ([https://npca.ca/images/uploads/common/Native\\_Plant\\_Guide.pdf](https://npca.ca/images/uploads/common/Native_Plant_Guide.pdf)) where appropriate.

Provided in the Zoning By-Law Amendment Application, the applicant submitted a proposed Grading Plan dated, July 23, 2024 by Rasch and Hyde Ltd. The NPCA has reviewed and offers no objections to the proposed dwelling, storage, septic tank and dog kennel. The proposed driveway provides safe access for the proposed works, and flood hazards are not of a concern for the proposed placement. However, please be advised that the proposed driveway does encroach on the NPCA Regulated Limited as such, an NPCA Permit (with applicable fees) will be required prior to the start of proposed development.

## Conclusion

At this time, the NPCA staff have no objections to the Zoning By-Law Application, **1601-004-24**.

Please be advised that the proposed driveway and any future proposed development within an NPCA Regulated area will require review, approval and NPCA Permits (with applicable fees) from this office prior to the commencement of any works on site.

I trust the above will be of assistance to you. Please do not hesitate to call should you have any further questions in this matter.

Yours truly,



Paige Pearson  
Watershed Planner  
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**Public Works Growth Management and Planning Division**

1815 Sir Isaac Brock Way, Thorold, ON L2V 4T7  
905-980-6000 Toll-free:1-800-263-7215

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**Via Email Only**

October 4, 2024

File Number: PLZBA202401130

Madyson Ettl  
Senior Planner  
Township of West Lincoln  
318 Canborough St., P.O. Box 400  
Smithville, ON L0R 2A0

Dear Ms. Ettl,

**Re: Regional and Provincial Comments**  
**Application Type: Zoning By-Law Amendment**  
**Township File Number: 1601-004-24**  
**Applicant: Jeffrey Lawrence Duck, Evelyn Duck**  
**Location: 7395 Twenty Road; Range 2, Part of Lot 4**  
**Municipality Name: West Lincoln**

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Staff of the Regional Public Works Growth Management and Planning Division has reviewed the materials provided with the circulation of the above noted Zoning By-law Amendment (“ZBA”) application for the property municipally known as 7395 Twenty Road in the Township of West Lincoln.

The ZBA application proposes to permit a parcel of land (Range 2, Part of Lot 2) as a buildable lot following a natural severance that was approved by the Ontario Superior Court (August 17, 2024) as the resulting parcel does not meet the definition of a ‘lot’ as defined in the Township’s Zoning By-law 2017-70, as amended.

The application also proposes a site-specific exemption to recognize the deficient area of Part 1 being 7.5 ha whereas 40 ha is identified as the minimum lot area permitted within an Agricultural ‘A’ zone. The application also proposes to permit a reduced lot frontage of 44.3 metres whereas 100 metres is required.

A pre-consultation meeting was held on January 19, 2023, with the Applicant’s agent/representative, attended by Township, Niagara Peninsula Conservation Authority, and Regional staff, to consider the proposal.

The following comments are offered from a Provincial and Regional perspective to assist Council with its consideration of the application.

### **Provincial and Regional Policies**

The subject lands are within the 'Prime Agricultural Area' under the Provincial Policy Statement, 2020 ("PPS") and A Place to Grow: Growth Plan for the Greater Golden Horseshoe, 2020 Consolidation ("Growth Plan"), and the lands are designated 'Prime Agricultural Area' by the Niagara Official Plan, 2022 ("NOP").

Across the region, an Agricultural System has been identified in which all types, sizes, and intensities of agricultural uses and normal farm practices shall be promoted and protected in accordance with Provincial standards. Within Prime Agricultural Areas, a full range of agricultural uses, agriculture-related uses, and on-farm diversified uses are permitted.

Lot creation is discouraged in the Prime Agricultural Area and only permitted in limited circumstances as detailed within PPS Policy 2.3.4.1 and NOP Policies 4.1.4.2 and 4.1.6.1, including for agricultural uses where the minimum lot size for the severed and retained lot is 40 hectares, for an agriculture-related use, for a residence surplus to a farming operation, for a lot adjustment for legal or technical reason that does not result in the creation of a new lot, or for public infrastructure. Furthermore, PPS policy 2.3.4.3 states that within Prime Agricultural Areas, the creation of a new residential lot is not permitted.

Staff notes that if a severance was proposed through a Planning Act application to create a non-farm residential lot, staff would not be in a position to support a consent as PPS and NOP policies noted above would not be met. Staff acknowledge, however, that the Court Order issued by the Ontario Superior Court of Justice (Court File No. CV-23-000061500-0000) (dated August 17, 2023) confirms the natural severance has occurred. As such, staff offers no objection to recognizing the deficient lot area in this instance.

Staff notes that information submitted with the application (Planning Justification report, prepared by Metropolitan Consulting Inc., dated August 2024; and, Robins Creek Farm Business Plan, dated May 29, 2024) indicates that a large portion of the subject lands are to be actively in agricultural production for the growing of crops (hay (10 acres) and garlic (3 acres)), small scale egg production, and horse boarding. Additionally, the PJR referenced an On Farm Diversified Use (OFDU) consisting of an electrical contractor home industry.

The OMAFRA Guidelines on Permitted Uses in Ontario's Prime Agricultural Areas (the Guidelines) provide that agricultural and on-farm diversified uses are permitted. On-farm diversified uses are subject to the following criteria: the use must be located on a farm; secondary to the principal agricultural use of the property; limited in area; includes, but

is not limited to, home occupations, home industries, agri-tourism uses and uses that produce value-added agricultural products; and shall be compatible with, and shall not hinder, surrounding agricultural operations. The Guidelines also recommend that the standard acceptable area occupied by an on-farm diversified use is up to two percent of a farm parcel to a maximum of one hectare.

Regional staff note that the subject property currently contains no active agricultural use, where the requirement of an OFDU would be that it is secondary to the principal agricultural use of the property. The Township should, therefore, be satisfied that a suitable agricultural use will be established to ensure the proposed use is consistent with and conforms to Provincial, Township and Regional policies and plans. Staff understands that the Township is considering that a holding provision be placed onto the subject property until a primary agricultural use is established on the subject property.

### **Archaeological Potential**

The PPS and NOP state that development and site alteration shall not be permitted within areas of archaeological potential unless significant archaeological resources have been conserved or the land has been investigated and cleared or mitigated following clearance from the Province.

The subject land is mapped as an area of archaeological potential on Schedule K of the NOP. Regional staff reviewed the Stage 1-2 Archaeological Assessments, conducted by Seguin Archaeological Services (dated October 20, 2023) and received the associated Ministry of Citizenship and Multiculturalism Acknowledgement Letter (dated November 2, 2023). The Stage 1 background research indicated the Study Area exhibited moderate to high potential for identification and recovery of archaeological resources in the scoped study area. The Stage 2 field assessment was scoped to a small portion of the property as shown on Figures 1-3 of the Study. The area subject to the Stage 2 assessment resulted in identification of one pre-contact Aboriginal findspot (Location 1); additionally, no identification or documentation of archaeological resources were documented during the test pitting survey. Accordingly, the licensed archeologist recommends no further archaeological assessments in the scoped study area.

Staff note that any future development proposed outside of the study area in the Stage 1-2 Archaeological Assessment (dated October 20, 2023) will be subject to a Stage 1-2 Archaeological Assessment (at minimum) and will require their associated Ministry of Citizenship and Multiculturalism Acknowledgement Letter.

Recognizing that no archaeological assessment, regardless of intensity, can entirely negate the possibility of discovering deeply buried archaeological materials, staff provide the following standard archaeological warning clauses should any resources be encountered through future construction works:

*"If deeply buried or previously undiscovered archaeological remains/resources are*

*found during development activities on the subject lands, all activities must stop immediately. If the discovery is human remains, contact the Niagara Regional Police Service and coroner to secure the site. If the discovery is not human remains, the area must be secured to prevent site disturbance. The project proponent must then follow the steps outlined in the Niagara Region Archaeological Management Plan: Appendix C." ([Archaeological Management Plan - Niagara Region, Ontario](#))*

## **Natural Environment**

The subject property is impacted by the Region's Natural Environment System (NES) of the NOP, consisting of the Lower Twenty Mile Creek Provincially Significant Wetland (PSW), other wetland, and a permanent or intermittent stream, which are all considered Key Hydrologic Features outside of Settlement Areas. Staff reviewed the proposal at the pre-consultation meeting (dated January 19, 2023) and were satisfied that the above-noted features appeared to be zoned appropriately.

That said, a Scoped Environmental Impact Study (EIS), prepared by Terrastory Environmental Consulting Inc. (dated November 29, 2023) was circulated with the application. Staff reviewed the EIS which characterizes the NES features and assesses potential impacts associated with the proposed development to demonstrate that there will be no significant negative impacts to the features and associated ecological and hydrological functions. The EIS recommends a 30 metre setback from all wetlands, which are the most restrictive environmental feature. To further mitigate impacts associated with the development, the EIS recommends numerous mitigation measures (e.g., vegetating clearing timing restrictions, installation of erosion and sediment control fencing, restoration of buffers, etc.). Regional Environmental Planning staff are satisfied that the EIS adequately addresses Provincial and Regional NES policies. As it relates to the proposed Zoning By-law Amendment (ZBA) application, Township staff should be satisfied that the features and the recommended setbacks identified in the EIS, are placed into an appropriately restrictive environmental zone.

Staff note that conditions of approval will be recommended to implement the EIS recommendations should a holding provision be applied or future Planning Act approval be required.

## **Waste Collection**

Niagara Region provides curbside waste collection for developments that meet the requirements of Niagara Region's Waste Collection Policy. The subject property is eligible to receive Regional curbside waste collection provided that the owner bring the waste to the curbside on the designated pick up day and that the following limits are not exceeded (based on current waste collection contract):

- No Limit green containers; and,
- 2 Garbage Containers per unit (Bi weekly)
- Curbside Collection Only

Circular Materials Ontario is responsible for the delivery of residential Blue / Grey Box recycling collection services. The most up to date information regarding recycling can be found using the following link: <https://www.circularmaterials.ca/resident-communities/niagara-region/>

## Conclusion

Staff of the Regional Public Works Growth Management and Planning Division offers no objection to the proposed amendment to recognize the subject parcel as a buildable lot subject to the satisfaction of the Township. In addition, staff recommends that a Holding Provision is placed on the subject parcel in order to implement the recommendations of the EIS. Further, the Township should be satisfied that a principal agricultural use is established prior to the approval of an On Farm Diversified Use as discussed above.

Please send a copy of the staff report and notice of the Township's decision on this application. If you have any questions related to the above comments, please contact me at [connor.wilson@niagararegion.ca](mailto:connor.wilson@niagararegion.ca)

Kind regards,



Connor Wilson  
Development Planner

cc: Pat Busnello, MCIP, RPP, Manager, Development Planning, Niagara Region  
Katie Young, MCIP, RPP, Senior Development Planner, Niagara Region  
Adam Boudens, Senior Environmental Planner, Niagara Region  
Philippe Biba, Development Approvals Technician, Niagara Region