

**DATE:** November 11, 2024

**REPORT NO:** PD-53-2024

**SUBJECT:** **Recommendation Report – Application for Zoning By-Law Amendment for 7395 Twenty Road (File No. 1601-004-24)**

**CONTACT:** Madison Etzl, Senior Planner  
Gerrit Boerema, Acting Director of Planning and Building

**OVERVIEW:**

- An application for a Zoning Bylaw Amendment has been submitted by Ross Robins on behalf of the property owners, Jeffrey and Evelyn Duck to rezone a portion of 7395 Twenty Road, which has been naturally severed by North Creek.
- The intent of this rezoning application is to recognize the parcel of land north of the creek as a “lot” under the Township’s Zoning Bylaw, 2017-70, following a natural severance that was approved by the Ontario Superior Court of Justice on August 17th, 2023. The resulting parcels north and south of the creek do not meet the definition of a ‘lot’ as identified in the Township’s Zoning By-Law.
- This application also proposes site specific exceptions to recognize the deficient lot area, 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, and to permit a deficient lot frontage of 44.3 meters whereas the zoning by-law required 100 meters.
- The applicants are also requesting an amendment to the Township’s zoning bylaw to permit a contracting business on the property as an on-farm diversified use.
- After reviewing the application against the applicable policies, Administration can recommend approval of this zoning bylaw amendment application.

**RECOMMENDATION:**

1. That, Recommendation Report PD-53-2024, titled “Application for Zoning By-law Amendment for 7395 Twenty Road (File No. 1601-004-24) Robins”, dated November 11<sup>th</sup>, 2024, be received; and,
2. That, no further public meeting is required for the consideration of this by-law in accordance with Section 34(17) of the Planning Act; and,

3. That, the application for Zoning By-law Amendment submitted by Ross Robins on behalf of property owners, Jeffery & Evelyn Duck be approved in accordance with the attached Zoning By-law Amendment with the site-specific regulations, and that Council authorize the Mayor and Clerk to sign the necessary by-laws.

**ALIGNMENT TO STRATEGIC PLAN:**

**Theme #2 & #3**

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

**BACKGROUND:**

An application for a Zoning Bylaw Amendment has been made by Ross Robins on behalf of property owners, Jeffrey and Evelyn Duck to rezone a portion of 7395 Twenty Road which has been naturally severed through the Beds of Navigable Waters Act. The subject lands are located of South Grimsby Road 8 and north of North Creek.

The intent of this rezoning application is to recognize the parcel of land north of North Creek (Part 1 on the survey sketch found in Schedule F) as a “lot” for the purposes of building under the Township’s Zoning Bylaw 2017-70 following a natural severance that was approved by the Ontario Superior Court of Justice on August 17<sup>th</sup> 2023 (see Court Order found in Schedule C). The resulting parcels do not meet the definition of a ‘lot’ as identified in the Township’s Zoning By-Law 2017-70, as amended as the bylaw specifically states that parcels created by way of a severance for Navigable Waters are not ‘lots’ for the purposes of zoning.

The rezoning application is also requesting a reduced lot area and lot frontage as the naturally severed parcel does not meet the minimum lot area and frontage of the Township’s Zoning Bylaw.

The applicants submitted a number of studies and reports in support of the application including an Archaeological Assessment, Environmental Impact Assessment, Farm Business Plan, house plans, Planning Justification Report and the court decision regarding the natural severance.

A public meeting was held on October 15<sup>th</sup> to discuss the application and hear from any members of the Public and Council. No public comments were received orally or in writing. Staff additionally presented Planning Report [PD-44-2024](#) which included all of the supplementary reports and studies completed.

Staff have completed a review of the application against the applicable planning policy, which can be found below, and can recommend approval of the application.

**CURRENT SITUATION:**

**Provincial Planning Statement 2024**

The Provincial Policy Statement 2020 and Growth Plan are no longer in effect as of October 19<sup>th</sup>, 2024. The new Provincial Planning Statement, 2024 is now in effect and provides guidance on all land use planning matters in Ontario. All planning decisions must conform to the policies of the PPS 2024.

The subject lands are designated as a Prime Agricultural and Natural Heritage within the Provincial Planning Statement 2024. While the PPS does not specifically speak to severances by way of Navigable Waters, the PPS is generally not supportive of severances that have the effect of creating non-agricultural lots. Both the PPS 2020 and 2024 requires the protection of agricultural areas for long-term agriculture use.

The PPS 2024 also requires that a principal dwelling associated with an agricultural operation be permitted in prime agricultural areas as an agricultural use, in accordance with provincial guidance, except where prohibited (e.g. as a result surplus farm dwelling severance).

The applicants have submitted both a farm business plan and planning justification report to demonstrate how the rezoning will achieve the objectives of the PPS in order to ensure that agricultural uses remain the primary use of the subject property. As such, this application is aligned with the PPS 2024 in terms of defining this parcel as a lot and allowing a principle dwelling.

The Applicant is also seeking to locate a contractor establishment on the property as an On-Farm Diversified Uses (OFDU). In addition to the PPS, the Ontario Ministry of Agriculture, Food and Rural Affairs has provided a guidance document on OFDUs in the Guidelines for Permitted Uses in Ontario's Prime Agricultural Areas.

Section 2.2.1 of the Guidelines states 5 main criterial that must be met to qualify as an agricultural related on farm diversified use:

**1. Located on a farm**

The farm business plan demonstrates that there will be three major agricultural activities of the proposed start up farm which include garlic crops, horse boarding and hay production. The hay will be grown on the farm, it will be bailed by a third party and will be offered for sale as a bale. All of these uses are considered agricultural uses and meet the requirement to be a farm.

**2. Secondary to the principal agricultural use of the property & 3. Limited in Area**

The applicant has demonstrated through his farm business plan that the primary use of the property is and will be agricultural. The contractor's establishment (Electrical business) that is also proposed on the property needs to be secondary to the established agricultural uses in terms of size and scale for staff to consider it an on-farm diversified use. The applicant is proposing a 60ft X 140ft accessory building (780 square metres) with the

electrical business only occupying 1/3<sup>rd</sup> of the proposed building or 260 sq. metres.

**4. Include, but is not limited to, home occupations, home industries, agri-tourism uses and uses that produce value-added agricultural products.**

The contractor's establishment that the applicant is proposing on the property is considered a home industry and would be permitted under provincial Policy. The applicant has indicated that they provide and have been providing service to the agricultural community for a number of years.

**5. Shall be compatible with, and shall not hinder, surrounding agricultural operations.**

The contractor's establishment can be considered an on farm diversified use as it is small in scale and limited in size and will not hinder the surrounding agricultural operations. The service it provides is appropriate and available to rural farming operations as well as rural residential properties as well. Provided that the business maintains limited in scale and not impact surrounding agricultural operations, the proposed use can be considered an on-farm diversified use.

Based on the above review, the proposed application is aligned with Provincial Policy.

**Niagara Official Plan, 2022**

The Niagara Official Plan (NOP) provides long-term strategic policy planning and framework for managing the protection of the agricultural system in the Niagara Region. The subject lands are located within the Prime Agricultural Area and Natural Heritage System. While the NOP does not have any specific policy regarding natural severances, one of the main objectives of the plan is protecting agricultural lands for continued agricultural use. The Niagara Official Plan contains policies regarding On Farm Diversified Uses which is similar and aligns with the Provincial Policy Statement requiring OFDUs to be located on an established farm, be small in scale and be compatible with the surrounding agricultural uses and operations.

As mentioned previously in this report, the farm business plan and planning justification report has demonstrated the property will be primarily used for agricultural purposes and the EIS report has indicated no impacts to the natural environment. For these reasons, Planning Staff can consider this rezoning application in alignment with the general intent and objectives of the Region's NOP

**Township of West Lincoln Official Plan (OP)**

The subject lands are designated as Good General Agricultural lands and Natural Heritage System (Environmental Protection Area and Environmental Conservation Area) within 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 long term Agricultural purposes.

The Township's OP policy for Good General Agricultural Area Policies support smaller agricultural parcels provided that the resulting parcels are both for agricultural use and the size of the resulting agricultural parcels:

- i. Is appropriate for the agricultural activities proposed,
- ii. Is suited to the particular location and common in the area, and
- iii. Provides some flexibility for changes in the agricultural operation.

While the parcel north of the creek is undersized for a typical agricultural parcel in the area, it has already been created through a natural severance. Further, the proposed agricultural uses are more intensive (e.g. garlic), which can be accommodated on smaller lots.

The applicants have additionally provided a scoped EIS report which indicates that the proposed development and zoning bylaw amendment have no negative impacts on the environmental features on the property and therefore the Township's Natural Heritage Policies of the OP are maintained.

Given the above analysis, the intent for continuous agricultural use on the subject lands, and maintaining the existing *Natural Heritage System* designations, this rezoning application can be considered in alignment with the general intent and objectives of the Township's OP policies.

### **Township of West Lincoln Zoning By-law 2017-70, as amended (ZBL)**

The subject parcel is currently zoned Agricultural 'A', Environmental Conservation 'EC', and Environmental Protection 'EP'.

In addition to recognizing Part 1 as a "lot", this application will rezone the Agricultural 'A' lands on Part 1 of PLAN 30R-16154 to an Agricultural zone with a site specific provision A-237) which will recognize the deficient lot area resulting from the related natural severance. The subject lands have a total lot area of 7.5 hectares (19.53 acres) whereas, Table 12 of the Township's Zoning By-Law 2017-70, as amended, identifies 40 hectares (98.84 acres) as the minimum lot area permitted within an Agricultural 'A' zone.

This application also seeks to recognize a deficient lot frontage of a minimum of 44.3 metres whereas the zoning bylaw required 100 metres.

Finally, this application also seeks to permit a contractor's establishment on the property as an on-farm diversified use on a property of 7.5 hectares, whereas the Zoning Bylaw requires a minimum of 10 hectares to permit an on-farm diversified use. Administration staff have included language in the draft bylaw that the OFDU shall be permitted following the establishment of agricultural uses, as outlined in the Farm Business Plan,

including the production of hay, garlic and livestock.

Administration staff support an OFDU on this property with 7.5 hectares provided all other regulations are met including no greater than 1% of lot area be used for the OFDU and no greater than 2 employees beyond property owners, which the applicant has indicated can be achieved.

There are additional regulations for OFDU and Home Industries that the applicant will need to ensure they comply with, found in the Township's zoning bylaw. The applicant has indicated those regulations can be achieved as well.

**FINANCIAL IMPLICATIONS:**

There is no financial implication related to this report.

**INTER-DEPARTMENTAL COMMENTS:**

Notice of the Public Meeting was circulated to all relevant agencies and departments on September 11th, 2024 and the notice was also posted to the Township's website.

**Regional Staff of the Growth Strategy and Economic Development Department and Environmental Planning**

The Region of Niagara offers no objection to the proposed amendment to recognize the subject parcel as a buildable lot subject to the satisfaction of the Township. The Region also recommended that a holding zone be added to the property to ensure that the recommendations of the EIS study, mainly regarding erosion and sediment control, are implemented. Through further discussions, based on the development plans, a holding zone is not required as the proposed development is well setback from environmental features on the property.

**The Niagara Peninsula Conservation Authority (NPCA)**

The NPCA provided no objections to the application as the proposed driveway provides safe access for the proposed works and flood hazards are not of a concern. However, the applicant is 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.

**Public Works Department**

The Township Public Works Department has reviewed the application and have no comments to provide as this application has no impacts to Township infrastructure.

**PUBLIC COMMENTS:**

A public meeting was held on October 15<sup>th</sup> to discuss the application and hear from any members of the Public and Council. No public comments were received orally or in writing.

**CONCLUSION:**

An application has been submitted by Jeffery and Evelyn Duck and Ross Robins to recognize the naturally severed parcel as a lot in the Township's Zoning Bylaw, to recognize a deficient minimum lot area and frontage, and to permit an OFDU on a lot with a deficient lot area.

Based on the planning policy review completed, this application can be recommended for support.

**ATTACHMENTS**

- Schedule A - Location Map
- Schedule B - Agency and Departmental Comments
- Schedule C - Draft Zoning Bylaw

**Prepared & Submitted by:**

**Approved by:**

**Gerrit Boerema  
Acting Director of Planning & Building**

**Truper McBride  
CAO**

**Madyson Ettl  
Senior Planner**