



COMMITTEE OF ADJUSTMENT
TOWNSHIP OF WAINFLEET

"Wainfleet - find your country side!"

FILE NO: **B05/2020W**

NOTICE OF DECISION

In the matter of the Planning Act; Revised Statutes of Ontario, 1990, Chapter P. 13 and;
In the matter of an application for consent on behalf of:

Daniel & Erika Ricker
Vacant Lot, Morgan's Point Road
Concession 1, Part Lot 14, Wainfleet

Type of Transaction for which application for consent is being made:

☒ Conveyance ☐ Mortgage or Charge ☐ Partial Discharge of Mortgage ☐ Other

Subject of the application:

The subject property is located on the west side of Morgan's Point Road between Lakeshore Road and Monarch Lane. The subject property is a vacant lot.

Application is made for the consent to:

- Sever Part 2 (1.00 ha) as a future residential lot;
- Retain Part 3 (27.89 ha) for future residential use.

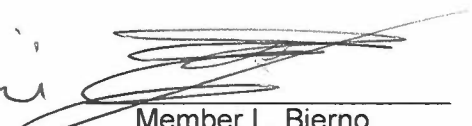
DECISION: ☒ GRANTED ☐ REFUSED

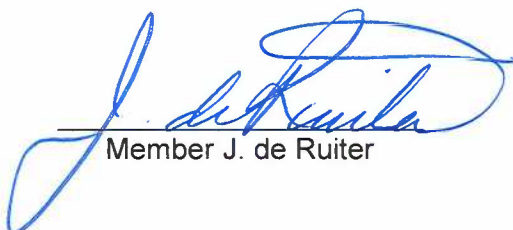
The above decision is subject to the following conditions:

PLEASE SEE SCHEDULE "A" ATTACHED HERETO FOR CONDITIONS AND REASONS


Chair M. Feduck


Member G. Balicki


Member L. Bjerno



Member J. de Ruiter

absent
Member F. DeRuyte

Date of Decision: July 8, 2020

Date of Mailing: July 9, 2020

I hereby certify this to be a true copy of the decision of the Committee of Adjustment for the Township of Wainfleet in the Regional Municipality of Niagara and this decision was concurred in by the majority of the members who heard the application.


Erin Shacklette, Secretary-Treasurer

Last date of filing an appeal to the Local Planning Appeal Tribunal under Section 53 of the Planning Act: **July 29, 2020**

PROCEDURE FOR APPEAL

The Planning Act, R.S.O. 1990, Section 53, Subsection 19, as amended states: - "Any person or public body may, not later than **twenty (20) days after the giving of notice** under subsection (17) is completed, appeal the decision or any condition imposed by the council or the Minister or appeal both the decision and any condition to the Tribunal by filing with the clerk of the municipality or the Minister a notice of appeal setting out the reasons for the appeal, accompanied by the fee prescribed under the Local Planning Appeal Tribunal Act, 2017".

Pursuant to Rule 7 of the LPAT Rules, anyone who wishes to participate in an LPAT appeal hearing as a participant shall file a written participant statement that sets out their position on the matter and issues of the proceeding, together with an explanation of their reasons in support of their position. A participant may only make submissions to the Tribunal in writing.



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SCHEDULE A – FILE B05/2020W

This is Schedule A, appended to and forming part of the Notice of Decision for Application for Consent B05/2020W.

Application is made for the consent to:

- Sever Part 2 (1.00 ha) as a future residential lot;
- Retain Part 3 (27.89 ha) for future residential use.

DECISION: ☒ GRANTED ☐ REFUSED

The above decision is subject to the following conditions:

1. That a lot grading and drainage plan be prepared to the satisfaction of the Manager of Operations.
2. That the owner enter into a development agreement with the Township of Wainfleet, to be registered against the title of Parts 1, 2 and 3, to require:
 - a. That the private sewage system on Parts 1, 2 and the retained lot must have N-1 (50%) nitrogen removal as certified by CAN-BNQ, and the private water supplies must be cisterns and meet Ontario Building Code (OBC) setbacks;
 - b. Implementation of the mitigation measures as described in the EIS prepared by Colville Consulting Inc. (dated January 2020), including but not limited to:
 - i. That a detailed Erosion and Sediment Control (ESC) Plan be prepared for review and approval by the Niagara Region. All erosion and sediment control measures shall be maintained in good condition for the duration of construction until all disturbed surfaces have been stabilized. Muddy water shall not be allowed to leave the site;
 - ii. Any stockpiled materials be stored and stabilized away from the trees to be retained;
 - iii. Any required vegetation removal should be conducted in a manner to avoid impacts to nesting birds that may be utilizing habitats on the property. The breeding bird period for this area is generally March 15 to August 31. A survey for active bird nests should be conducted prior to any vegetation removal or site alteration planned to occur during this window. Any site alteration works should be phased to avoid impacts to active nests until the nestlings have fully fledged;
 - iv. Any lands not included within the development envelope identified on Part 3 of Figure 4 of the EIS Addendum (dated February 2020) should be allowed to re-vegetate naturally;
 - v. Any security lighting to be installed on buildings should be directed away from natural areas to minimize ambient light exposure to the woodland;
 - vi. That permanent fencing be provided along the rear and side lot lines of Part 1 and 2 to prevent encroachment onto Part 3 (the lot fabric is shown on Figure 4 of the EIS Addendum, dated February 2020). Staff also recommend implementation of a no-gate bylaw to reduce human encroachment and limit the movement of pets into the adjacent natural areas; and
 - vii. That a Grading Plan be provided to the satisfaction of Niagara Region, that demonstrates that existing overland flow patterns are maintained, that no grading within the Significant Woodland, Significant Wildlife Habitat and/or their buffers will occur, and identifies the fencing noted above.



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SCHEDULE A – FILE B05/2020W-Conditions Continued

This is Schedule A, appended to and forming part of the Notice of Decision for Application for Consent B05/2020W.

- c. That any offers and agreements of purchase and sale or lease shall include the following warning clause to advise purchasers/tenants that sound levels due to air traffic associated with the nearby airstrip may occasionally interfere with some activities of the dwelling occupants as they sound levels may occasionally be clearly audible:

"Purchasers/Tenants are advised that sound levels due to air traffic associated with the nearby airstrip may occasionally interfere with some activities of the dwelling occupants as the sound levels may occasionally be clearly audible."

- d. Inclusion of the following warning clause:

"Should deeply buried archaeological remains/resources be found on the property during construction activities, all activities impacting archaeological resources must cease immediately, the Archaeology Programs Unit of the Ontario Ministry of Heritage, Sport, Tourism and Cultural Industries (MHSTCI) (416-212-8886) must be notified, and a licensed archaeologist is required to carry out an archaeological assessment in accordance with the Ontario Heritage Act and the Standards and Guidelines for Consultant Archaeologists."

In the event that human remains are encountered during construction, all activities must cease immediately and the local police as well as the Cemeteries Regulation Unit of the Ministry of Government and Consumer Services (416-326-8800) must be contacted. In situations where human remains are associated with archaeological resources, MHSTCI should also be notified to ensure that the site is not subject to unlicensed alterations which would be a contravention of the Ontario Heritage Act."

3. That the archaeological assessment be accepted and acknowledged by the MHSTCI. NOTE: No demolition, grading or other soil disturbance shall take place on the subject property prior to the issuance of a letter from the MHSTCI confirming that all archaeological resource concerns have been mitigated and meet licensing and resource conservation requirements.
4. That the Secretary-Treasurer be provided with a registerable legal description of the subject parcel, together with a copy of the deposited reference plan, for use in the issuance of the Certificate of Consent.
5. That a final certification fee, payable to the Treasurer of the Township of Wainfleet, be submitted to the Secretary-Treasurer.
6. That all conditions of consent be fulfilled by July 8, 2021.

Reasons:

1. This decision is rendered having regard to the provisions of Sections 51(24) and 51(25) of the Planning Act, R.S.O. 1990, as amended.
2. The Committee of Adjustment considered all written and oral submissions and finds that, subject to the conditions of provisional consent, this application meets Planning Act criteria, is consistent with the Provincial Policy Statement and complies with the Growth Plan, the Niagara Region Official Plan and the Township Official Plan.

Date of Decision: July 8, 2020

Date of Mailing: July 9, 2020

I hereby certify this to be a true copy of the decision of the Committee of Adjustment for the Township of Wainfleet in the Regional Municipality of Niagara and this decision was concurred in by the majority of the members who heard the application.

Erin Shacklette, Secretary-Treasurer