



Approved as amended by Regional Planning Committee
 September 21, 1983.
 Approved as amended by Regional Niagara Council
 October 6, 1983.
 DPD 1674
 September 21, 1983
 Files: M.19.12
 M.19.21

Report to: Mr. Smeaton, Chairman and Members of the
 Planning and Development Committee
 Mr. Campbell, Chairman and Members of
 Regional Council

Councillors:

Proposed Town of Pelham Official Plan
 Amendment No. 7: Final Recommendations

On January 26, 1983, the Planning and Development Committee reviewed report DPD 1614 (see Appendix 1) containing comments and recommendations on the conformity of Pelham's proposed Official Plan Amendment No. 7 with the Regional Policy Plan. Committee recommended that the report be reviewed further after discussion with the Town of Pelham.

Subsequently, staff have met with the Pelham Planning and Development Committee, and the Town's staff and planning consultants. As a result, proposed agreements (see Appendix 2) have been reached on a number of revisions to Amendment No. 7 in relationship to DPD 1614's recommendations. However, a few issues remain unresolved. These are:

- a) Environmental reviews in the Special Rural area,
- b) Recreational Uses in Agricultural areas, -
- c) Open Space designations in Agriculture areas, -
- d) Minimum Distance Separation for Lots of Record,
- e) Boundary Issues - North Pelham, and -
- f) Boundary Issues - Fonthill. -

+ aggregate issues # 7+9
 TCG.

A. Environmental Reviews in the Special Rural Area

Pelham has decided to recognize the natural environmental significance of the Short Hills area by designating it as "Special Rural". Also, appropriate policies have been developed aimed at ensuring that any development will not adversely affect the natural environment. Similar policies have been developed with the City of Thorold for its part of the Short Hills. The one basic policy difference is that Thorold is requiring an environmental review for new development whereas Pelham is proposing to make it optional. An environment review describing the natural

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environment and the effects of development on it is favoured although it may be very short for sites with few natural features.

Pelham contends that because they have identified hazard lands in the Short Hills on which development is prohibited and from which setbacks are required, therefore environmental reviews should be discretionary for development in the adjoining "Special Rural" area. Thorold did not identify hazard lands.

Pelham's approach has some merit but does not recognize the integrated, physical characteristics of the Short Hills area. The water, trees, and varied terrain combine to give the Short Hills its scenic and natural qualities. The division of the Short Hills into hazard lands and Special Rural areas fails to convey this relationship. The recognition of hazard lands does not remove the need for an environmental review in the related Special Rural areas if it is desired to maintain the environmental quality of the Short Hills, qualities which have attracted estate residential development. Of course, as noted previously, the environmental review may be brief for sites on which development will have little impact on the natural environment. Such reviews probably could be done by the applicants themselves with assistance from the appropriate agencies. Other, more problematic sites would require an environmental review with greater analysis as contemplated in Pelham's proposed policies.

Recommendation

That, as proposed by the Town of Pelham, the requirement for environmental reviews for development areas adjoining the Short Hills should be discretionary

- 1. ~~That the policies for the "Special Rural" in the "Special Rural" area contain a provision requiring an environmental review for all new development applications.~~

B. Recreational Uses in Agricultural Areas

Policy 1.10.2 proposed in Official Plan Amendment No. 7 would permit such uses as golf courses, parks and open space, and recreational uses. This differs from Policy 6.A.13 of the Regional Plan which permits public recreational uses, subject to certain conditions.

Report DPD 1577 "Recreation/Open Space Uses in Agricultural Areas", August 11, 1982 recommended that no change be made to the Policy Plan on this issue. Thus DPD 1614 recommended that Policy 1.10.2 of proposed Amendment No. 7 be revised to conform with Policy 6.A.13 of the Regional Policy Plan, to permit publicly-owned as apposed to privately-owned recreational uses in Agricultural areas.

In responding to this point, the Town refers to the possibility of further Regional study of this issue upon direction from the Ministry of Municipal Affairs and Housing. However, the Region has received no such directive and thus the original position that proposed Policy 1.10.2 be revised to conform with Regional Plan Policy 6.A.13 is maintained.

Pelham is now suggesting that this item be deferred until the Ministry has reviewed the matter. This deferral is acceptable to staff although it would be preferable now to change the Amendment to have it conform with the Regional Plan.

Recommendation

2. That Policy 1.10.2 of the proposed Amendment No. 7 concerning golf courses, parks and open space and recreational uses in agricultural areas be deferred as requested by the Town of Pelham.

C. Open Space Designations in Agricultural Areas

Pelham has indicated that it prefers to recognize existing open space uses on its Official Plan Land Use Schedule. It is considered that the Schedule then would be more accurate and beneficial for the use of the public with these existing uses shown.

However, Schedule A of proposed Amendment No. 7 designates Open Space uses in areas shown as Good General Agricultural in the Regional Plan. Primarily, these local designations identify golf courses or other private recreational uses.

The Region has encouraged other local municipalities to designate such sites as Agricultural where they co-incide with Good General Agricultural areas recognized in the Regional Plan. This is designed to reduce the impression that such Open Space uses are encouraged throughout Agricultural areas and to help avoid the unnecessary fragmentation of agricultural areas. Naturally, the existing use of such sites can be recognized and protected in municipal zoning by-laws.

With regard to this issue, the position taken in DPD 1614 is maintained, and it is recommended that the Open Space designations and policies proposed in Amendment No. 7 be removed and replaced by a policy noting that existing uses are permitted to continue and that they be recognized in the Town's Zoning By-law. If desired, the specific uses may be identified by name in the policy.

Recommendation

3.4. ~~That the "Open Space" designations and policies be taken out of the proposed Amendment No. 7 to be replaced by a policy noting that existing uses are permitted to continue, and that such uses will be specifically identified in the zoning by-law.~~

That consideration of Open Space designations in Agricultural Areas be deferred at this time.

D. Minimum Distance Separation for Lots of Record

Proposed Policy 1.10.3 makes a rather general provision for exception to the minimum distance separation (from livestock operations) to permit buildings on lots existing on the date the Town's Zoning By-law was passed. However, as discussed in DPD 1614, exceptions should be to the 300 metre distance separation as contained in Regional Policy 6.A.15, not the MDS Formula of the Agricultural Code of Practice.

Discussions with the Town have attempted to develop suitable wording. The Ministry of Agriculture and Food also was contacted by the Town for assistance (see Appendix 3).

In order to conform with the Regional Plan, staff proposed the following wording for Policy 1.10.3

"New or expanding livestock operations and non-farm uses shall be separated to minimize environmental conflicts in the Agricultural area* in accordance with the MDS Formula of the Agricultural Code of Practice.

New dwellings shall be separated from livestock operations in accordance with the MDS Formula or 300 metres, whichever is the greater, except that a new dwelling may be erected on a lot existing at the date of passing of Zoning By-law No. 450(78) provided that the location of such new dwelling shall be in accordance with the MDS Formula" (subject to the normal operations of the Committee of Adjustment).

*Similar provision should be made for the Special Rural Area.

The Town basically wishes some additional flexibility through the Committee of Adjustment. This is the function of the Committee to grant minor variances from zoning requirements including the Minimum Distance Separation Formula. Perhaps in discussions with Pelham this point was not clear and thus the Town prepared the following wording which would be in place of the end of the Regional staff's proposal:

"...whichever is greater. Exceptions to the minimum acceptable separation distance may be made by the Committee of Adjustment for lots of record existing on the date of passing of Zoning By-law No. 450(78) based on the merits of each application. No variance shall be granted that will jeopardize on adjacent livestock operations."

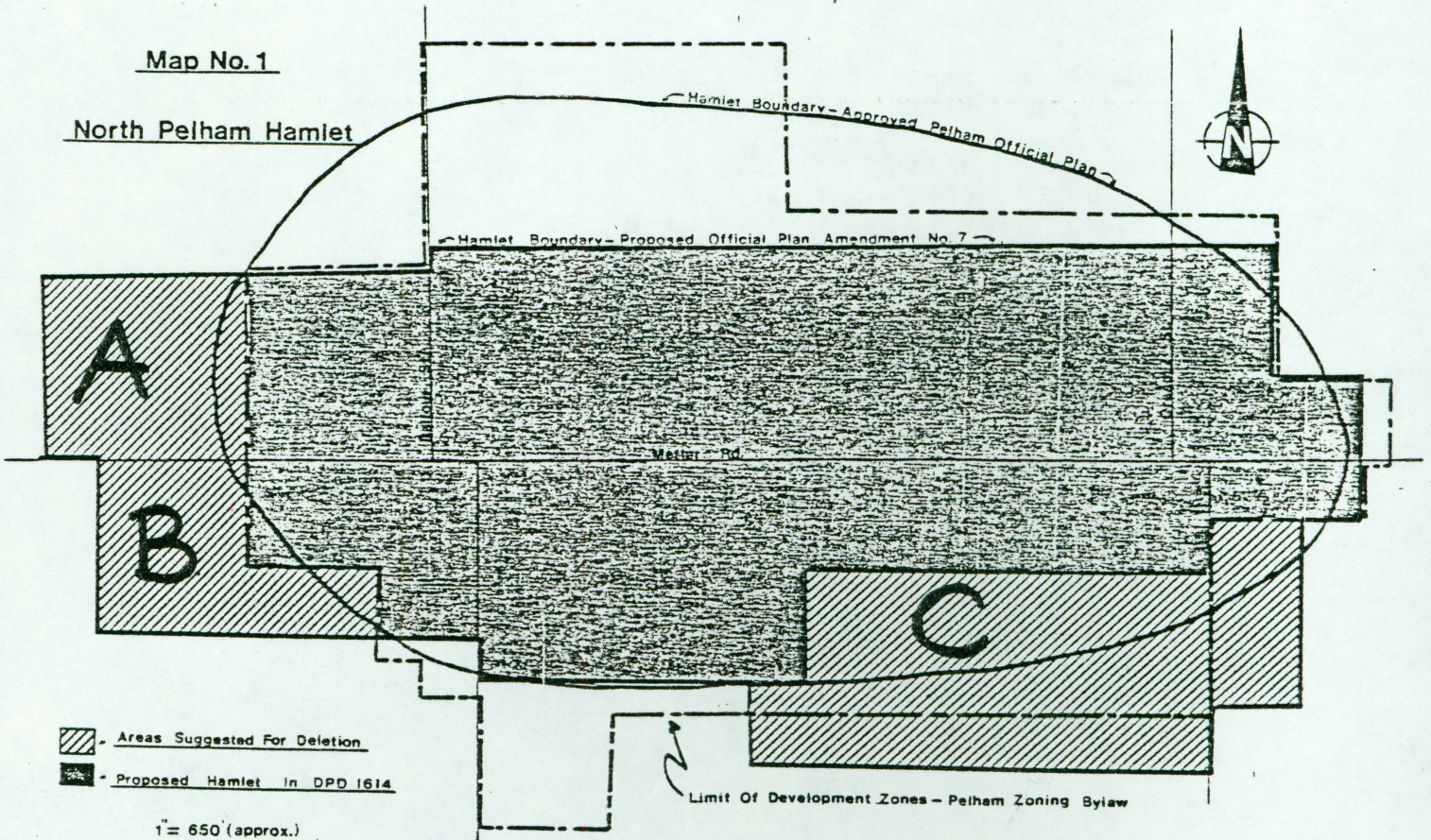
However, the wording proposed by Regional staff allows for Pelham's desire for flexibility while being consistent in its use of terms with the Regional Plan and other local official plans.

Recommendation

- 4.5. That proposed Policy 1.10.3 on the Minimum Distance Separation from livestock operations be revised to read as the wording specified on Page 4, with the addition of "No variance shall be granted that will jeopardize adjacent livestock operations."
- E. Boundary Issues - North Pelham

DPD 1614 indicated that the proposed "Village Residential" area of North Pelham does not conform either to the approved Pelham Official Plan or to the zoning in the existing zoning by-law. Some areas which are zoned for "Development" have been omitted from the proposed "Village Residential" area while in other places the proposals for "Village Residential" extend beyond the areas which are zoned for development. That report proposed that the area shown in black on Map 1 be the extent of North Pelham and that areas labelled A, B, and C be deleted. After discussions with Pelham it is proposed to delete Area A from the Hamlet, leave Area B within the Hamlet and delete Area C. The reasons are as follows:

- a) Area A is affected by livestock and other farming operations. Pelham agrees with the deletion of Area A.
- b) Area B is to remain within the hamlet due to the presence of some residential development. Pelham agrees with the retention of Area B within the hamlet.
- c) Area C is an orchard. Since there are other areas for development within North Pelham, it is proposed not to include this agricultural land within the hamlet. If supported, a change in the zoning will also be needed since most of Area C is zoned for future development. The zoning was done ahead of the Official Plan policies which normally should be done first. However, at the time, Pelham was anxious to have a comprehensive zoning by-law to control land uses of which Area C was a minor part. Nevertheless, staff did suggest that the zoning not include part of Area C but rather follow the rear lot line of lots fronting on Metler Road.



Pelham has deferred a decision on Area C pending receipt of responses from commenting agencies through the Ministry of Municipal Affairs and Housing one of which would be the Region's comments.

Recommendations

5. That Area A shown on Map 1 not be included within the North Pelham hamlet boundary.
6. That Area B shown on Map 1 continue to be included within the North Pelham hamlet boundary.

That the Agricultural Sub-committee be requested to comment on whether or not Area C shown on Map 1 within the North Pelham hamlet boundary should be included within the North Pelham hamlet boundary.

~~7. That Area C shown on Map 1 not be included within the North Pelham hamlet boundary.~~

F. Boundary Issue - Fonthill

Map 2 indicates three small areas that are designated "Urban Residential" or "Industrial" in Amendment No. 7. However, they are outside the Fonthill urban area boundary as shown in the Regional Policy Plan.

Area 1 appears to be a drafting error which can be corrected. For the two other areas on the east and west side of Fonthill along Highway #20, the Town states that it will be requesting a Policy Plan amendment to the urban boundaries to include the existing commercial, industrial, and residential uses.

An amendment to the urban boundaries is not necessary to recognize existing uses. Moreover, changes to the urban boundaries might raise a number of other questions related to agriculture, new boundaries and the 1981 O.M.B. decision on boundaries. Therefore, it is proposed that the urban boundary should be shown as in the Policy Plan. Nevertheless, the existing industrial and commercial uses can be recognized in the Town's Zoning By-law while a policy might even be included in Amendment No. 7 specifically identifying the existing uses to be so zoned.

Recommendation

The Planning Committee amended Recommendation 8 but this was subsequently amended by Regional Council as follows:

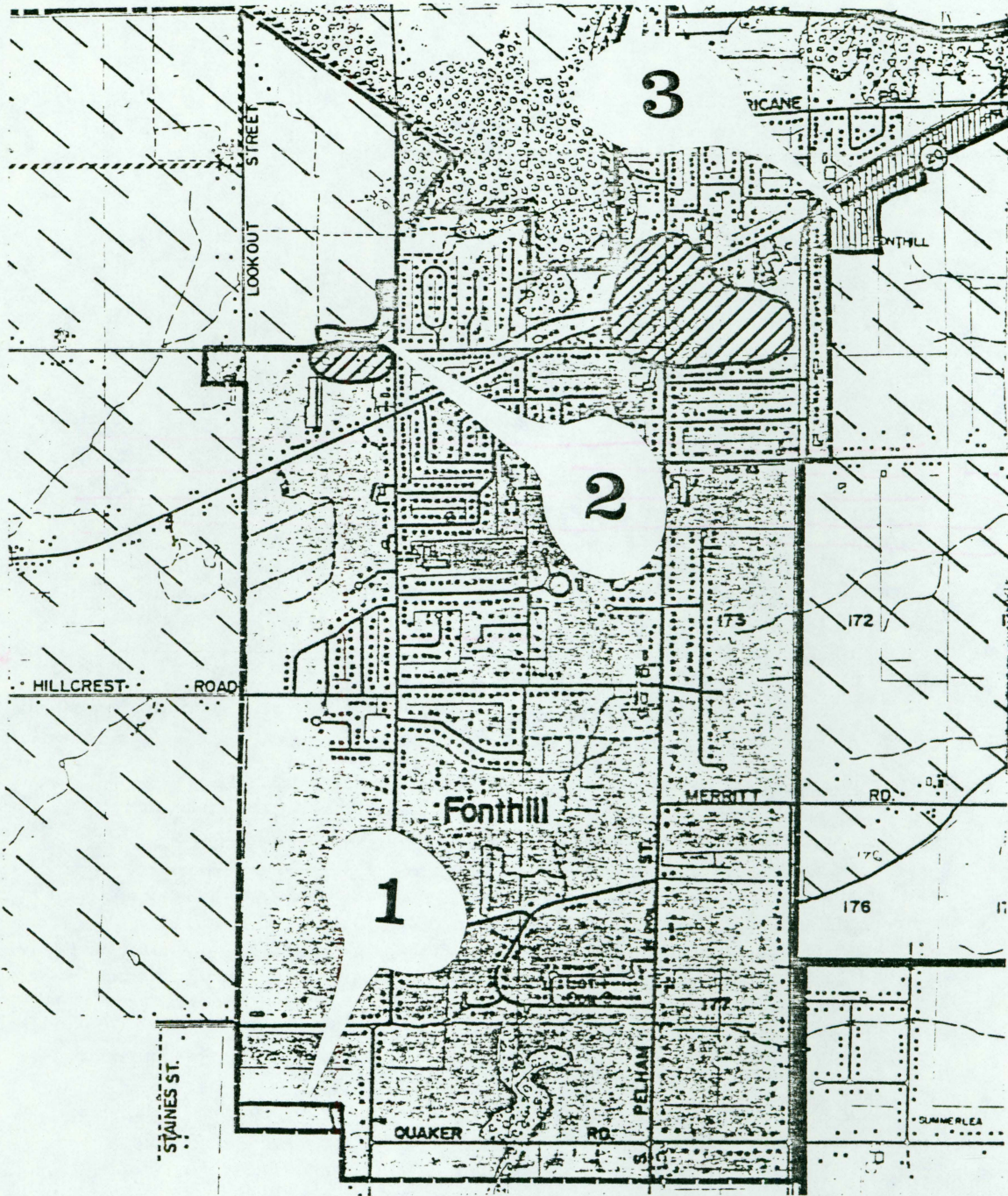
~~8. That the three areas shown on Map 2 which are presently designated "Urban Residential" and "Industrial" and which are just outside the Urban Area Boundary of Fonthill be re-designated to recognize their location outside the Region's urban area boundaries and that the existing use in the two areas along Highway #20 be recognized in the Town's Zoning By law instead.~~

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That Recommendation 8 of report DPD 1674 respecting proposed Town of Pelham Official Plan Amendment No. 7 final recommendation be referred to the Planning and Development Committee for further consideration*

G. Recommendations Agreed Upon

During the course of reviewing Amendment No. 7, Pelham proposed several changes to the agricultural land use designations. Provision is made in Policy 6.A.5 of the Regional Policy Plan for Pelham to make such minor boundary changes through the local land use map which then replaces the Region's Agricultural Land Base Map. The changes are illustrated on Map 3 and listed in Appendix 4. Some changes recognize good general or unique agricultural lands while others recognize existing estate residential development and rolling terrain which limit agricultural use. The changes as listed in Appendix 4 are agreeable to regional planning staff.

TOWN OF PELHAM



Map No. 2



1,2,3 - AREAS TO BE
DELETED NOW OUTSIDE
URBAN AREA

Recommendation

- ~~9.10~~ That the minor changes in agricultural designations shown on Map 3 and listed in Appendix 4 be supported in accordance with Policy 6.A.5 of the Regional Policy Plan.

Other areas of agreement proposed for ratification by this Committee are as follows:

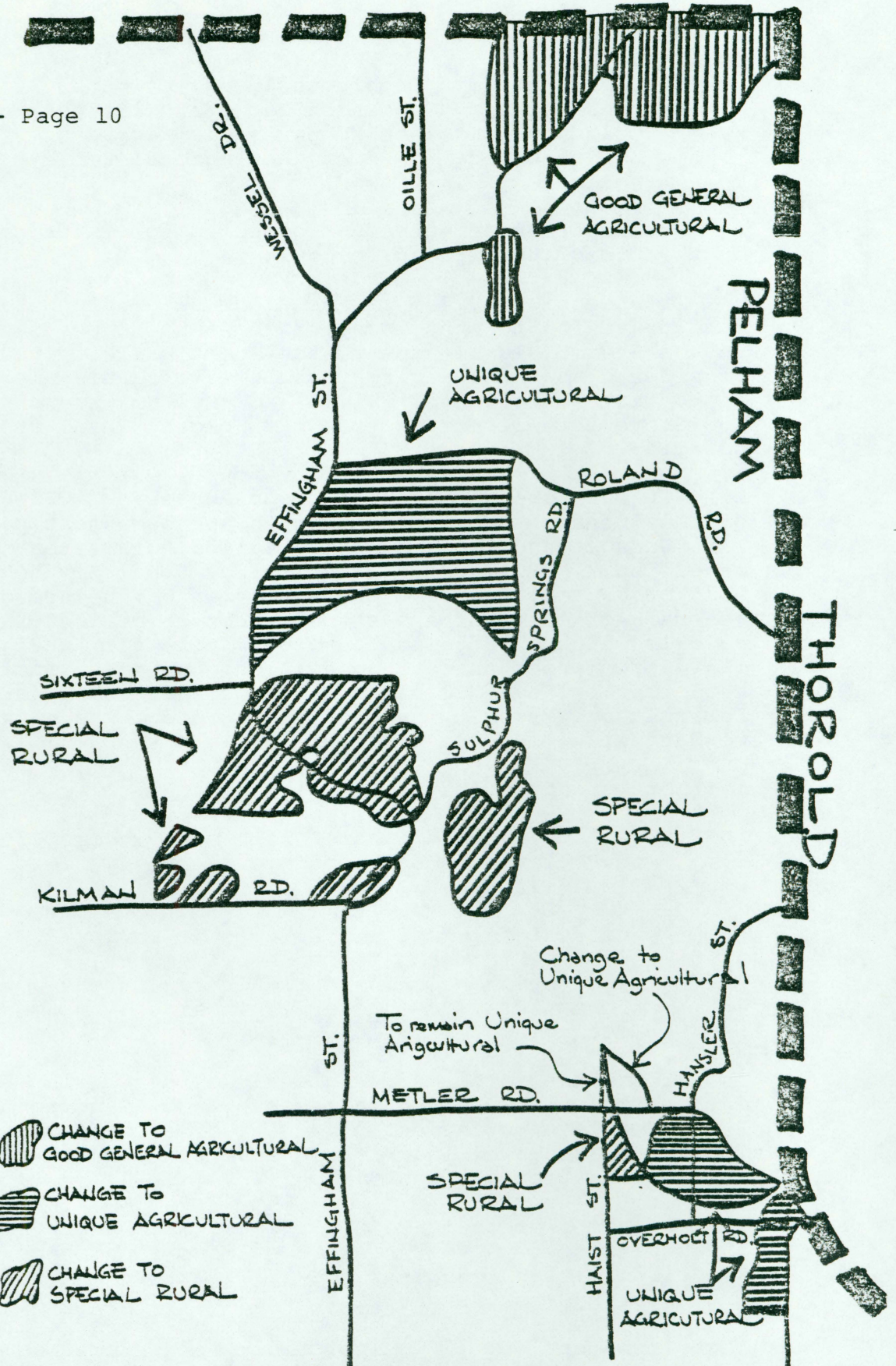
i) Section 1.12.5 of Amendment No. 7 proposed to make provision for the location of waste disposal sites in the Special Rural area of the Short Hills. It is considered that for environmental reasons this use is inappropriate in the Short Hills, and Pelham has now agreed to remove this reference from its Special Rural area policies.

ii) It was agreed to revise proposed policy 1.10.6 of the Amendment to distinguish between consent policies for "Unique" and "Good General" agricultural areas (Recommendation 2, DPD 1614). Also, Policy 6.A.7 of the Regional Plan notes that existing properties in Unique and Good General Agricultural areas should not be divided into parcels which are too small to be viable farm units. DPD 1614 recommended that proposed Amendment No. 7 include a similar policy for Pelham's Unique and Good General Agricultural areas. The Town has agreed to this recommendation.

iii) It was agreed to:

- . replace "earned income" with "net income" in Policy 1.10.6.5 (Recommendation 4, DPD 1614).
- . add Regional Policy 6.A.10(f) to Policy 1.10.7.6 in the proposed Amendment to limit severances in "Agricultural" areas to one acre (0.4 hectares) in size (Recommendation 5, DPD 1614).
- . use the wording of Regional Policy 6.A.12 for policy 1.10.8 in the proposed Amendment, concerning the establishment of added farm-related dwellings without severance (Recommendation 6, DPD 1614).

iv) Pelham's proposed Policy 1.10.6.2 makes provision for the severance of surplus farm dwellings in a manner contrary to Regional Plan Amendment No. 13. Although this Regional Amendment has not yet received Provincial approval, the Province has received no objections and it is anticipated that Amendment No. 13 will probably be approved as submitted.



AGRICULTURAL LAND BASE:
CHANGES AGREED UPON

MAP 3.

3 0386

In the interest of achieving conformity with the Regional Plan, DPD 1614 recommended (Recommendation No. 7) that the Town's proposed Policy 1.10.6.2 be removed from Amendment No. 7 until Regional Plan Amendment No. 13 receives Provincial approval. After that, the Town may pass a subsequent amendment to incorporate Regional Amendment No. 13 into its Official Plan.

It is understood that Pelham intends to follow the course of action recommended above.

v) Amendment No. 7 designates a number of small Rural Commercial areas on lands shown as Good General Agricultural in the Policy Plan. Staff's preference is to have these designations removed from Schedule A. However, Pelham wishes to show them as they identify long-established local development patterns. For this reason and the desire to obtain more important changes to the Amendment related to recreational uses in agricultural areas, staff was agreeable not to continue with Recommendation 10 in DPD 1614 to remove these Rural Commercial designations.

vi) Recommendations 11 and 12 in DPD 1614 on Servicing in "Rural" (now "Special Rural") areas and a policy for additions to existing legal non-conforming uses were agreeable.

vii) Recommendations 13, 14, 16, and 17 in DPD 1614 related to the "Rural" area which has been replaced by a "Special Rural" area with revised policies.

viii) Recommendation 15 (DPD 1614) on omitting the word "undersize" from proposed policy 1.10.5 was agreeable.

ix) It was agreed that the Ministry of Municipal Affairs and Housing should clarify the boundaries for the Niagara Escarpment Commission's Plan Area and for the Pit and Quarry Restrictive Area (Recommendation 19, DPD 1614).

x) Pelham agreed to designate the existing D.L. Stephens licensed pit as a "Mineral Resource Area" (Recommendation 20, DPD 1614).

xi) A statement will be added to Amendment No. 7 noting the servicing reasons for adding to Fenwick, this being an area south of the railway tracks along Church Street (Recommendation 22, DPD 1614). Also, Pelham will be applying for a Regional Policy Plan amendment to show the fully serviced area of Fenwick within urban area boundaries.

xii) Schedule A of Amendment No. 7 is to be changed referring to urban area boundary rather than urban service area (Recommendation 24, DPD 1614).

xiii) Amendment No. 7, Section 1.38.8 is to include reference to the Regional Tree By-law No. 2744-81.

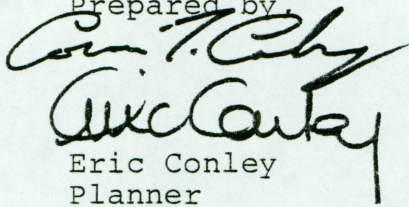
Recommendation

10. ~~11~~. That the above changes as identified in (i) to (xiii) to Amendment No. 7 and agreed to by the Town be supported.

Concluding Recommendations

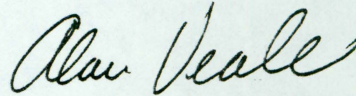
11. ~~12~~. That this report^{, as amended,} and the recommendations contained therein be approved.
12. ~~13~~. That a copy of this report^{, as amended,} be sent to the Town of Pelham and the Ministry of Municipal Affairs and Housing.

Prepared by,



Eric Conley
Planner
Corwin T. Cambray
Manager, Policy Planning

Respectfully submitted,



Alan Veale

EC/CTC/jm

NiagaraDPD 1614
January 26, 1983File: M.19.12
M.19.21

Report to: Mr. Smeaton, Chairman, and Members of the
Planning and Development Committee

Mr. Campbell, Chairman, and Members of
Niagara Regional Council

Councillors:

Comments on Town of Pelham's Proposed
Official Plan Amendment No. 7

During the past year the issue of conformity between area municipal planning documents and the Regional Policy Plan has become quite important. A general report - DPD 1533 - was prepared to indicate the main considerations for each area municipality in terms of bringing its planning documents into conformity with the Regional Policy Plan.

The Town of Pelham, through its proposed Official Plan Amendment No. 7, has begun work on bringing its Official Plan into conformity with that of the Region. In doing so, the Town has had access to the Regional Policy Plan, DPD 1533 on conformity, and a letter dated September 20, 1982 in which detailed comments were provided by Regional staff on an earlier version of the amendment. It is rather discouraging to note that most of the issues raised by the earlier review have not been addressed in the revised Amendment and as a result there are numerous issues that still need to be resolved. Some of the issues may of course have been overlooked due to the study deadline.

The Town of Pelham has submitted the proposed Amendment to the Ministry of Municipal Affairs and Housing and that Ministry has now asked for Regional comments on it. This report therefore is a review of the proposed Amendment for submission to the Province as part of its assessment of the document.

A. DESIGNATION OF THE "RURAL" AREA

A "Rural" area has been identified generally in the Short Hills area of Pelham. This area is very scenic and is thus quite attractive for residential development. The scenic qualities of the area however must be considered in conjunction with its environmental sensitivity which includes Twelve Mile Creek, the only known cold water stream in the Region supporting a native population of brook trout.

There has been considerable interest in Pelham and the Region in protecting the environmental character of the Short Hills area. The Regional Plan recognizes the area as an "Environmental" area and the Proposed Plan for the Niagara

Escarpment shows the area as being either in "Natural" or "Protection" designations, both of which designations were supported by Pelham and by Regional Niagara. The proposed "Rural" policies in the Amendment do not recognize either the environmental significance of the area or the proposed Niagara Escarpment Plan. As examples of this, uses such as public utilities, and communication and transportation facilities are permitted including waste disposal sites provided they cannot be located elsewhere.

The basic issue here is that this area is much more environmentally sensitive than a typical "Rural" area. Consequently the designation and policies for the area should be rethought. As suggestions the area could either be designated as a "Special Rural" area or as an "Environmental" area but in which a limited number of appropriate uses would be permitted. The proposed Niagara Escarpment Plan for this area should especially be considered as at present there is a direct clash between that document and Pelham's proposals.

Further, in the southern part of the proposed "Rural" area there are substantial amounts of Class 2 land, some of which is being actively farmed in both fruit and general farming. From an agricultural perspective therefore it is suggested that the southern part of the proposed area and some Class 1 lands in the North should be designated "Agricultural".

Finally, Regional staff, in earlier discussions with Pelham, suggested a number of alternatives which might be considered for possible designation as a "Rural" area. It is suggested that the Town may wish to review that map with a view to identifying a more suitable "Rural" area than that proposed in this Amendment.

Recommendation

1. That the designation and policies for the area in North-East Pelham which is designated "Rural" be deleted and that appropriate policies which are consistent with both the Regional Policy Plan and the Niagara Escarpment Plan be developed for that area.
- B. POLICY DISTINCTION BETWEEN "UNIQUE" AND "GOOD GENERAL" AGRICULTURAL LANDS

In Schedule "A" of the proposed Amendment, agricultural areas are separated into "Unique" and "Good General" "Agricultural" areas which is both a desirable distinction and one which is consistent with the Regional Policy Plan categories. In the Policy Plan different consent policies were produced for the two types of areas with more restrictive policies applying to the "Unique" lands. The distinction is shown in Policies 6.A.9, 6.A.9.1, and 6.A.10. In the proposed Amendment however policies 6.A.9 and 6.A.9.1 have been amalgamated to apply to the "Agricultural" areas which include both the "Unique" and "Good General" agricultural lands, so that the special status of the "Unique" lands has not been properly

incorporated into the Amendment. The one policy distinction made in the proposed Amendment regarding consent policies in "Unique" and "Good General" areas is in policy 1.10.6.6 which deals with a farm-related residential lot situated on the same side of the road between two permanent dwellings. In the Amendment it is proposed that Policy 1.10.6.6 only apply within the "Good General" agricultural area and not within the "Unique" area. This conforms with the Policy Plan. Also, recognition should be made in the Amendment that consents for farm-related commercial and industrial uses are permitted only in the good general agricultural area.

Recommendation

2. That proposed policy 1.10.6 of the Amendment be revised in accordance with Policies 6.A.9, 6.A.9.1, and 6.A.10 of the Regional Policy Plan, to distinguish between consent policies for "Unique" and "Good General" agricultural areas.

Secondly, Policy 6.A.7 from the Regional Policy Plan deals with the issue of existing properties in "Unique" and "Good General" agricultural areas, noting that these should not be divided into parcels which are too small to be viable farm units. This policy is omitted from the proposed Amendment and it is recommended that it be included.

Recommendation

3. That the wording of Policy 6.A.7 of the Regional Policy Plan on the division of parcels of land into unviable farm units be included as a policy for "Unique" and "Good General" agricultural areas in the proposed Amendment.

C. CONSENT POLICIES IN "AGRICULTURAL" AREAS

There are four points related to the proposed policies dealing with consents in "Agricultural" areas. The first is a wording difference between the Policy Plan and the proposed Amendment. The difference is with respect to retirement severances, which, in the Policy Plan requires that the applicant earn 70% or more net income from farming, whereas in the Amendment, the proposed wording is 70% or more earned income. To avoid confusion it is recommended that it be changed to read as shown in the Policy Plan, which was the wording supported by the Niagara South Federation of Agriculture.

Recommendation

4. That the term "earned income" in proposed Policy 1.10.6.5 of the Amendment be changed to "net income".

Secondly, policy 6.A.10(f) in the Policy Plan is intended to put a limit on the size of areas which can be severed for residential use in the "Unique" and "Good General" agricultural areas. This limit - one acre - was inserted by the Ontario Municipal Board after its lengthy review of the Policy Plan. In reviewing the proposed Amendment, policy 6.A.10(f) has been omitted. Again for clarity and consistency, and to provide conformity with the Regional Policy Plan, it is recommended that it be added to the Amendment as Policy 1.10.7.6.

5. That policy 6.A.10(f) from the Regional Policy Plan be added as Policy 1.10.7.6 in the proposed Amendment to limit severances in "Agricultural" areas to one acre (0.4 hectares) in size.

Thirdly, policy 6.A.12 in the Policy Plan deals with situations where permanent or portable farm-related dwellings may be permitted without severance. Proposed policy 1.10.8 of the Amendment deals with this issue but does not mention the need for the unit or the effect on the tillable acreage which were both included in the equivalent Regional policy. Again, to conform with the Regional Plan, it is recommended that the wording of Regional Policy 6.A.12 be included in policy 1.10.8 of the proposed amendment.

Recommendation

6. That the wording of policy 6.A.12 of the Regional Policy Plan be used for policy 1.10.8 in the proposed Amendment, concerning the establishment of added farm-related dwellings without severance.

The fourth point deals with proposed policy 1.10.6.2 which involves severances of surplus farm dwellings from amalgamated farms. This issue has been discussed at length and Policy Plan Amendment No. 13 on the topic has been adopted by Regional Council. The Province is reviewing the Amendment. While some changes are possible, major revisions are not anticipated. Therefore, the preferred approach would be that Amendment No. 13 be included in Pelham's Amendment No. 7. However, the Town may choose to pass a subsequent amendment after the Regional Amendment receives Provincial approval. In the interim, policy 1.10.6.2 should be removed from Amendment No. 7 since it does not conform with the Regional Amendment.

Recommendation

7. That policy 1.10.6.2 of the proposed Amendment on the severance of surplus farm dwellings from amalgamated farms be removed.

D. PERMITTED USES IN "AGRICULTURAL" AREAS

With respect to permitted uses in "Agricultural" areas, there are three points which should be noted.

Firstly, the uses permitted in proposed policy 1.10.2 include such items as golf courses, parks, and open space and recreational uses. These uses are quite different from those permitted in the Regional Plan which, in Policy 6.A.13 permits public recreational uses subject to certain conditions. This issue was reviewed by the Region in August 1982 in a report on "Recreation/Open Space Uses in Agricultural Areas" in which it was recommended that no change be made to the Policy Plan on this issue. Thus it is recommended that proposed policy 1.10.2 of the Pelham Amendment be changed to conform with Regional Policy 6.A.13.

Recommendation

8. That Policy 1.10.2 of the proposed Amendment be changed to conform with Policy 6.A.13 of the Regional Policy Plan to permit publicly-owned recreation uses in Agricultural areas.

Secondly most of the locations designated "Open Space" are in golf courses or other private recreational uses located in the "Good General" agricultural areas. It is proposed that these uses do not require a special designation in the Official Plan but rather that a policy would indicate that existing uses are permitted. Such uses can be adequately represented through the zoning by-laws. This would allow existing uses to continue but would avoid, or at least reduce, the impression being created that such "Open Space" uses are being encouraged throughout "Agricultural" areas. The one exception to the above is the "Open Space" designation beside the "Rural" areas near the Short Hills. It is proposed that this area also be deleted from the "Open Space" designation and put in an appropriate designation as discussed earlier in the review of Pelham's proposed "Rural" area.

Recommendation

9. That the "Open Space" designations and policies be taken out of the proposed Amendment to be replaced by a notation that existing uses are permitted to continue, and that such uses will be specifically identified in the zoning by-law.

Thirdly, there are some "Rural Commercial" designations located along Canboro Road and elsewhere in "Agricultural" areas. Although this designation is fairly restrictive as to permitted uses, it can create the impression that strip development along highways in "Agricultural" areas is appropriate. For this reason the following recommendation is proposed.

Recommendation

10. That the "Rural Commercial" designations be taken out of "Agricultural" areas in the proposed Amendment, to be replaced by a notation that existing uses are permitted to continue and will be zoned appropriately.

E. SERVICING ISSUES IN "AGRICULTURAL" AND "RURAL" AREAS

Proposed policies 1.10.7.1 and 1.10.7.2 for the "Agricultural" area clearly state the need for a private waste disposal system and a private water supply as conditions which must be met before a consent can be granted. However proposed policy 1.12.3.4 for the "Rural" area does not state the servicing conditions nearly as clearly and it is thus suggested that proposed policy 1.12.3.4 be replaced by appropriate wording taken either from proposed policies 1.10.7.1 and 1.10.7.2 or from policies 6.B.4 and 6.B.5 of the Regional Plan.

Recommendation

11. That the wording of proposed policy 1.12.3.4 on servicing in "Rural" areas be improved as suggested above.

In the Amendment, revised wording is shown for Section 1.5, page 6 of the Official Plan. That section deals with possible expansion of a non-conforming use. However the proposed wording is unclear as to whether or not the policy could be applied to new development. Thus amended wording to include reference to the existing use is recommended.

Recommendation

12. That the proposed wording of Section 1.5, page 6 of the Official Plan be changed to include existing uses as follows:

"Where an existing legal non-conforming use is not in conformity with this Plan but where it is reasonably in harmony with the adjacent area in light of the preceding requirements, appropriate additions and enlargements may be made pursuant to the provisions of The Planning Act".

F. NON-AGRICULTURAL DEVELOPMENT IN "RURAL" AREAS

The beginning of proposed policy 1.12.4 reads as follows:

"Other forms of non-agriculture development may locate within the "Rural" areas either within specific land use designations or by amendment to this Official Plan. Any such amendment must satisfy the following criteria":

The above sentence is unclear since unspecified non-agricultural development can not be located within specific land use designations. Thus it is proposed that the above sentence be rewritten as shown in Recommendation 13.

Recommendation

13. That the beginning of proposed policy 1.12.4 of the Amendment be changed to read as follows:

"Other forms of non-agricultural development may locate within the "Rural" area only by amendment to this Official Plan. Any such amendment must satisfy the following criteria:"

Finally on this point since the first criterion of Regional Policy 6.B.3 was left out of proposed policy 1.12.4.1, it is proposed that the wording indicated in Recommendation 14 be used for proposed policy 1.12.4.1 on uses in "Rural" areas.

Recommendation

14. That proposed policy 1.12.4.1 of the Amendment be changed to read:

"The development is necessary to serve the needs of Rural residents and is unable to be accommodated in urban areas or villages due to special land requirements".

G. NON-CONFORMING USES IN "AGRICULTURAL" AND "RURAL" AREAS

In proposed policy 1.10.5 a process is established for the review of possible expansions of non-conforming uses. The process also applies to new dwellings on undersize vacant lots in the agricultural area. Basically the process involves a review by the Medical Officer of Health with respect to serviceability and a review of the development in relation to the Minimum Distance Separation Formula. The proposed process should also apply to development on existing lots which are not undersized. This concern is accommodated by omitting the word "undersize" from the last sentence of proposed policy 1.10.5.

Recommendation

15. That the word "undersize" be omitted from the last sentence of proposed policy 1.10.5 of the Amendment, so as to make that policy apply to all existing lots in "Agricultural" areas.

Since the above process is not referred to in the "Rural" policies it is proposed that reference to it be made in the "Rural" policies section so that the same situation should apply in "Rural" areas as in "Agricultural" areas.

Recommendation

16. That reference be made to proposed policy 1.10.5 in the "Rural" policies section to indicate that it is included as a "Rural" policy.

H. LOT SIZES IN "RURAL" AREAS

In proposed policy 1.12.3 of the Amendment, some criteria are provided for the consideration of consent applications

for new non-farm residential development in "Rural" areas. However section 10 of Policy 6.B.10 of the Regional Policy Plan has been omitted from the list of criteria and should have been included. The relevant policy reads as follows:

Maximum lot size in the case of a lot, other than an existing lot, where soils of Classes 1, 2, 3 or 4 as defined in the Canada Land Inventory of Soil Capability for Agriculture predominate shall not exceed an area of one acre except to the extent of any additional area deemed necessary to support a well and private sewage disposal system as determined by the Medical Officer of Health or such other person appointed for that purpose by the Ministry of the Environment.

Recommendation

17. That section 10 of policy 6.B.10 of the Regional Policy Plan concerning the maximum size of non-farm lots in "Rural" areas be included as a criterion in proposed policy 1.12.3 of the Amendment.

I. MINIMUM DISTANCE SEPARATION FEATURES FOR LIVESTOCK OPERATIONS

In proposed policy 1.10.3 the following sentence is included at the end of the policy: "Exceptions to the minimum acceptable separation distance may be made for existing lots of record existing at the date of passing of the Zoning By-law No. 450 (1978)".

In reviewing this issue, Regional report DPD 1564 deals with the interpretation of Regional Policy 6.A.15 which is the key policy with respect to distance separations between residences and livestock operations. In that report it was indicated that with respect to permitting building on existing lots, exceptions could only be made to the 300 metre distance separation. Therefore the development would still have to meet the distance required by the Minimum Distance Separation Formula. Thus the sentence shown above should be omitted and replaced by a reference to 300 metres to make the policy consistent with the interpretation of Policy 6.A.15 as approved by Regional Council in DPD 1564.

Recommendation

18. That the phrase "Exceptions to the minimum acceptable separation distance may be made..." in proposed policy 1.10.3 of the amendment be replaced by the wording "Exceptions to the 300 metres separation distance may be made...".

J. MINERAL AGGREGATE ISSUES

There are two mineral aggregate issues that should be noted. Firstly there is the matter of the boundaries of the Niagara Escarpment Commission's Proposed Plan Area and the Pit and Quarry Restrictive Area. The Niagara Escarpment Commission Proposed Plan boundary which is shown does not seem to exactly conform with the boundary shown in the Niagara Escarpment Commission plan, while the Pit and Quarry Restrictive Area boundary is not that which is currently being used by the Niagara Escarpment Commission.

Recommendation

- 19.. That the Ministry of Municipal Affairs and Housing seek clarification of the appropriate boundaries for the Niagara Escarpment Commission Proposed Plan Area and for the Pit and Quarry Restrictive Area.

Secondly the proposed Amendment does not designate the existing D. L. Stephens licensed pit as a "Mineral Resource Extraction" area. Since it is a licensed pit, it should be so designated.

Recommendation

20. That the existing D. L. Stephens licensed pit be designated as a "Mineral Resource Extraction" area.

Finally the area at the Southwest corner of the Tice Road and Effingham Street intersection is shown as a "Possible Aggregate" area in the Regional Plan but as a "Unique Agricultural" area in the proposed Amendment. However since the area is shown in a use which would not preclude its future use for extractive purposes, it is not proposed that the Region object to the intended designation.

K. BOUNDARY ISSUES

a) North Pelham "Village Residential" Area

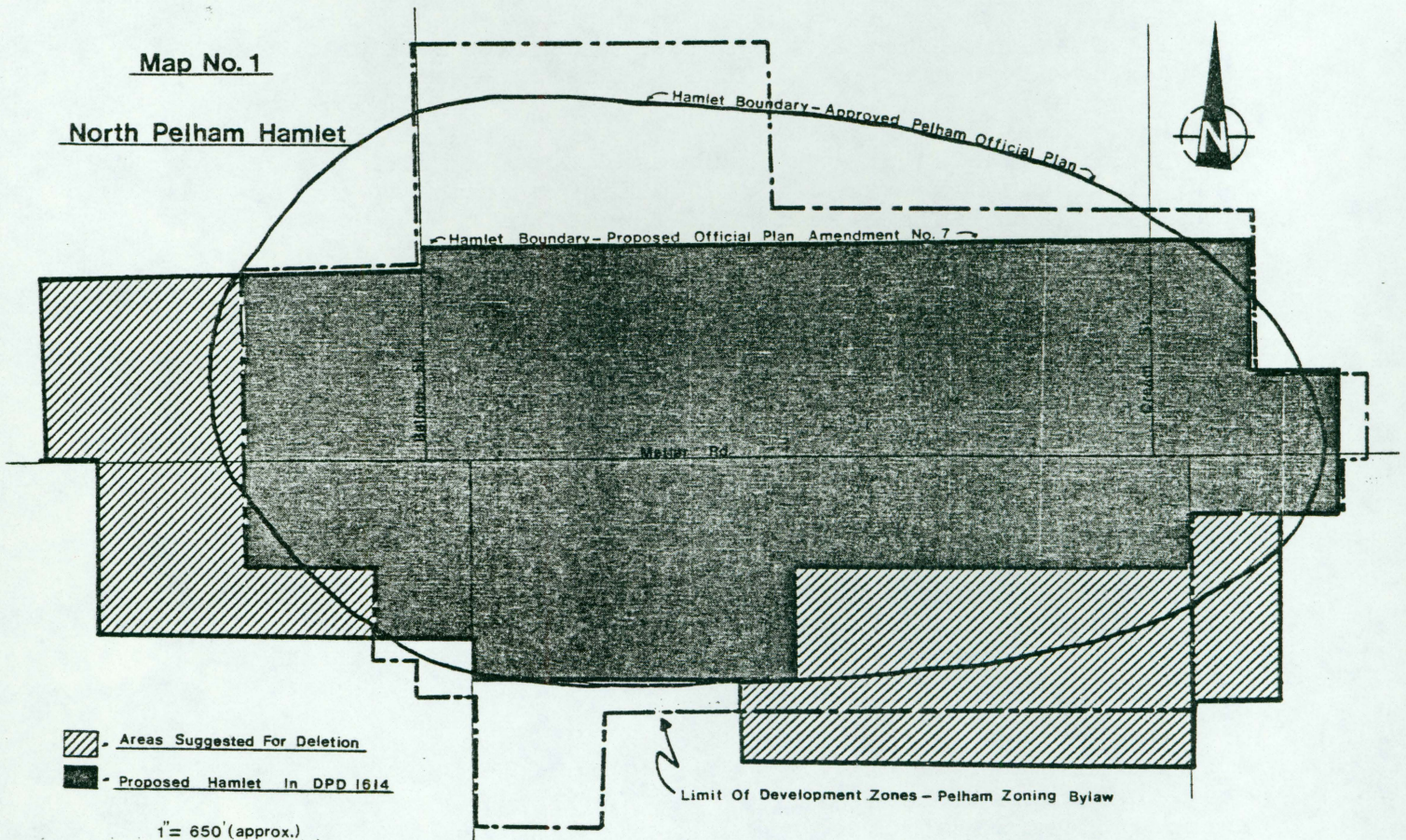
The proposed "Village Residential" area of North Pelham does not conform either to the approved Pelham Official Plan or to the zoning in the existing zoning by-law. Some areas which are zoned for "Development" have been omitted from the proposed "Village Residential" area while in other places the proposals for "Village Residential" extend beyond the areas which are zoned for development.

It is suggested that the proposed "Village Residential" area be changed in two locations as shown in Map 1. In the west the proposed development area has been substantially extended from previously established limits. Since this area includes livestock and other farming operations, and since there is no clear justification given for the extension, it is

suggested that the boundary be that which was established by the zoning by-law. The other area in the south is an active orchard, part of which is presently proposed to be inside the hamlet, with the remainder being outside the proposed boundary. It is suggested here that the orchard boundary which also appears to be the rear lot lines of existing development within the hamlet would be a clearer, more identifiable boundary than that presently proposed and that it would protect existing productive farmland while at the same time providing adequate land for development within the hamlet. Thus the proposed changes would provide more identifiable boundaries, would protect active farming operations including both livestock and fruit operations, and would provide substantial room for development within an adequately sized but compact hamlet community.

Recommendation

21. That the boundaries of the North Pelham "Village Residential" area be as shown on Map 1.



b) Fenwick

For the most part, the "Village Residential" boundary shown for Fenwick agrees with the Ontario Municipal Board decision of February 27, 1981 on Amendment No. 3 to the Pelham Official Plan. However, the present Amendment does go beyond the Ontario Municipal Board decision by including an area south of the railway tracks along Church Street as "Village Residential". While the Region supported the provision of services to this area for health reasons and the area is mostly developed, recognition should be given to the Ontario Municipal Board decision. Therefore the area south of the railway tracks should be designated in some slightly different manner such as "Special Village Residential". A statement of why services were provided and the conditions for any added development should be included.

Secondly within the revised "Village Residential" area, and probably conforming closely to the Sanitary Sewer Area, Pelham may wish to identify an urban area. This should be done if subdivisions on full services are expected. An amendment to the Policy Plan would be needed to identify such an urban area.

Recommendation

22. That the area of Fenwick south of the railway tracks along Church Street be differentiated from the "Village Residential" area with associated policies to indicate the conditions for any added development in that area.

c) Fonthill

There are several small areas shown in Map 2 which are designated "Urban Residential" and "Industrial" and which are outside the Fonthill urban area boundary of the Regional Policy Plan.. Existing commercial uses could be recognized in these areas in the zoning by-law and existing houses are a permitted use outside urban areas. Also, Schedule A should refer to the urban area boundary rather than the urban service area.

Recommendations

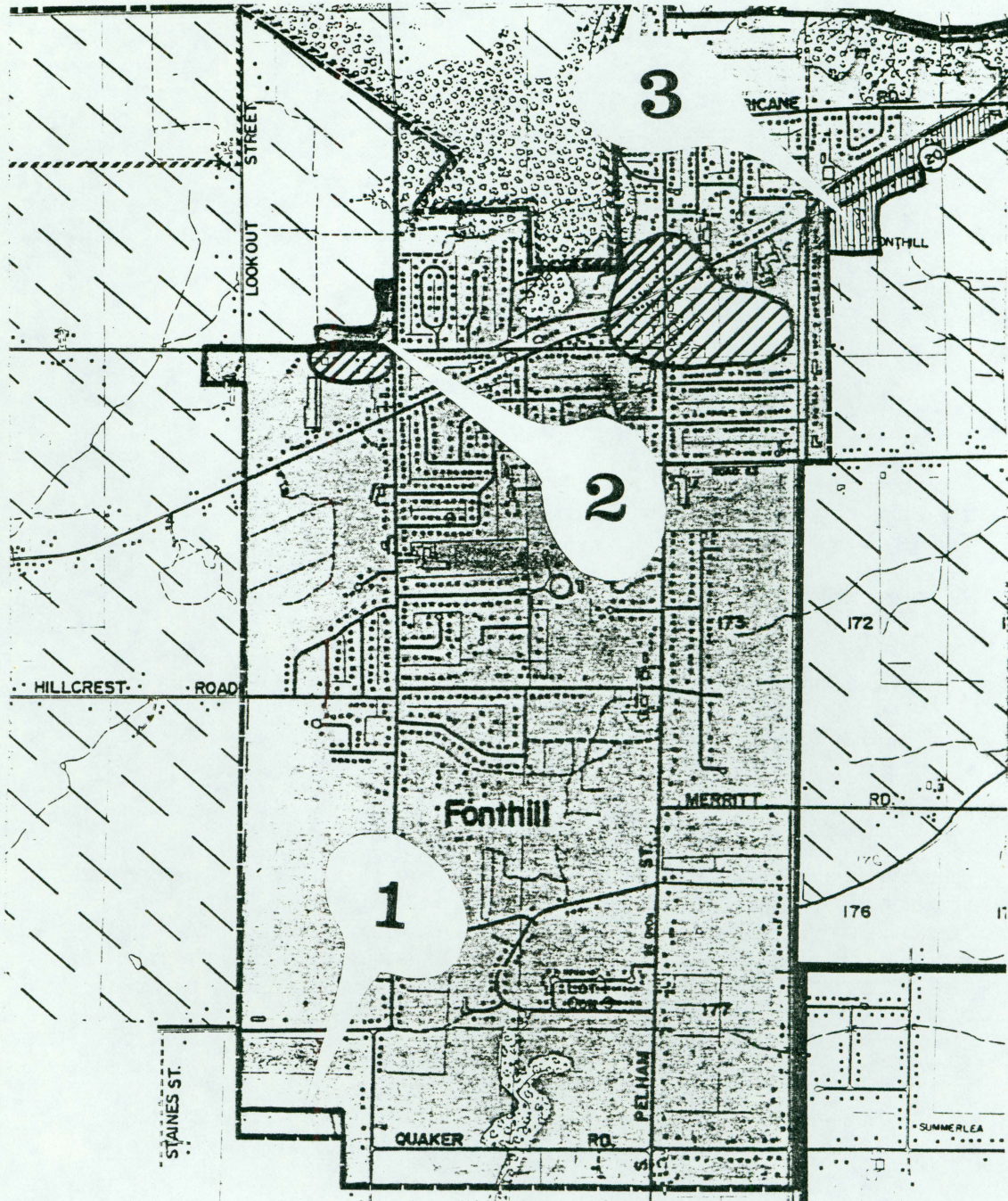
23. That several small areas, shown on Map 2, which are presently designated "Urban Residential" and "Industrial" and which are just outside the Urban Area boundary of Fonthill be redesignated to recognize their location outside the Region's urban area boundaries.
24. That Schedule A refer to the urban area boundary rather than the Urban Service area.

L. THE ROLE OF SECONDARY PLANNING

Secondary planning is a means of providing more detailed plans for development in certain areas. Through such plans the more detailed issues can be dealt with so that Regional

OFFICIAL PLAN AMENDMENT No 7

TOWN OF PELHAM



Map No. 2



1,2,3 - AREAS TO BE
DELETED NOW OUTSIDE
URBAN AREA

and local policies can be more effectively implemented. The Region has provided a booklet containing "Guidelines for Secondary Planning" and the technique is now an established part of the planning process.

The proposed Amendment deals with secondary planning in policy 1.14.3 which notes that new development shall be in accordance with whatever secondary plans have been approved by Council, and that the need for secondary planning may be waived in certain infilling situations. It is however assumed that secondary plans would normally be required for substantial areas of new development in the "Village Residential" areas and in the urban area of Fonthill.

M. ENVIRONMENTAL CONSTRAINT AREA

An "Environmental Constraint Area" is referred to in proposed policies 1.45 and 1.46 on Schedule "A". No such area appears on Schedule "A". However "Environmentally Sensitive" areas are shown and these may be the areas referred to in policies 1.45 and 1.46. These "Environmentally Sensitive" areas however appear to be municipal waste disposal sites and it is suggested that a term such as "Special Constraint Area" would be more appropriate than "Environmentally Sensitive" areas.

Recommendation

25. That the areas referred to in proposed policies 1.45 and 1.46 of the Amendment be clearly shown on Schedule "A" and that the "Environmentally Sensitive" designation be changed to "Special Constraint Area" or similar term.

N. GROUP HOMES POLICIES

The proposed Amendment does not show any policy regarding the location of group homes. That issue is presently being reviewed at the Regional level and a report is expected early in 1983. In view of the present lack of policy on this issue at the Regional level, it is suggested that the present omission only be noted with the understanding that an Official Plan amendment will be expected if a Regional policy is set out in the Policy Plan.

O. PUBLIC WORKS COMMENTS

Public Works have not had an opportunity to review this Amendment. When they have done so, their comments will be presented to the Committee if there are any requested changes for the Amendment.

Conclusions

As indicated in the above report there is a substantial number of areas in which the proposed Official Plan Amendment would not conform with the Regional Policy Plan. This is rather disappointing given the earlier reports regarding conformity of Regional and local plans and the detailed

correspondence regarding an earlier draft of the proposed Amendment. Since the Ministry of Municipal Affairs and Housing has requested the Region's comments on the proposed Amendment, it is suggested that this report be sent to the Ministry but that Regional staff also offer to assist the Town of Pelham to bring the proposed Amendment No. 7 into conformity with the Regional Policy Plan.

Final Recommendations

26. That this report be approved and sent to the Ministry of Municipal Affairs and Housing and to the Town of Pelham.
27. That Regional Planning staff offer to meet with the Town of Pelham to discuss this report, and in the event of an Ontario Municipal Board hearing being held on the proposed Amendment, that Planning staff be authorized to attend and to present the Region's position as indicated in this report.

Prepared by,

George Nicholson.

George Nicholson
Vince Goldsworthy
Planners

Respectfully submitted,

Alan Veale

Alan Veale
Director of Planning

Corwin T. Cambray

Corwin T. Cambray
Manager, Policy Planning

/jb/jm

OFFICE OF THE
MAYOR
CLERK AND TREASURER
WORKS SUPERINTENDENT
RECREATION DEPARTMENT
BUILDING DEPARTMENT

THE CORPORATION OF THE

TELEPHONE
FONTHILL 892-2607
892-5055

DPD 1674
Appendix 2
Pages 27-29



ADDRESS:
POST OFFICE BOX 400
PELHAM MUNICIPAL BUILDING
PELHAM TOWN SQUARE
FONTHILL, ONTARIO
L0S 1E0

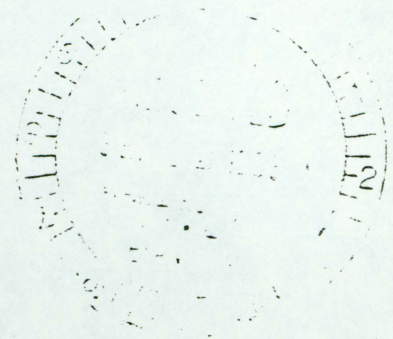
M. 19. 12 ✓
M. 19. 21

ADDRESS REPLY ATTENTION OF

TOWN OF PELHAM

September 12, 1983

Mr. C. Cambray
Manager, Policy Planning
Regional Municipality of Niagara
P.O. Box 1042
Thorold, Ontario
L2V 4T7



Dear Mr. Cambray:

Regional Planning Staff Comments
Town of Pelham OPA #7

Further to your letter of August 10, 1983, concerning Official Plan Amendment #7, the Planning Committee and Council have now had an opportunity to review your comments. Most matters of concern have now been resolved through meetings between the Town's staff and planning consultant and the Regional planning staff. However, there remain areas of difference, itemized below, which the Town would like to review with the Regional Planning Committee in the interests of expediting the Region's comments to the Ministry of Municipal Affairs and Housing. In this regard, please accept this letter as a request to be placed on the agenda of the Regional Planning and Development Committee meeting of September 21, 1983 to discuss the following outstanding items:

Item 1 - Environmental Reviews in the Special Rural Area

As shown on Schedule A Land Use Plan of the Amendment, Hazard Lands are identified within and surrounding the Special Rural designation. Accordingly, under the Hazard Land designation, Sections 1.38.2 and 1.38.4, development is prohibited and new development adjacent to these areas must conform with the set-back requirements in recognition of the existing or potential hazard. These restrictions, together with the policies to control development within the Special Rural Areas, as set out

...../2

Letter to C. Cambray
Re: OPA #7
September 12, 1983

-2-

in Section 1.12, we feel are adequate and appropriate for assessing development and its resultant impact in the Special Rural designation. For this reason, the Council is satisfied with the use of the word "may" in Policy 1.12.3 as it relates to the requirement for an environmental study.

Item 2 - Waste Disposal Sites - Special Rural Areas

Item 3 - Viable Farm Units

Item 4 - Severance of Surplus Farm Dwellings

Council agrees with the comments concerning these matters.

Item 5 - Permitted Uses in Agricultural Areas

Council has reconsidered this matter and is still of the opinion that golf courses, parks and open space uses should be permitted in the Agricultural Area as set out in the Amendment. It is our consultant's understanding that the Ministry of Municipal Affairs and Housing has deferred a similar section in the recently approved Amendment #4 of the City of Port Colborne Official Plan. Accordingly, it is suggested that this item be deferred until the Ministry has reviewed the matter.

Item 6 - Open Space Designation in Agricultural Areas

Council prefers to recognize existing open space uses on the Land Use Schedule, as it is considered that the Schedule would be more accurate and beneficial for the use of the public with the existing uses shown.

Item 7 - Rural Commercial Designations in Agricultural Areas

The Council concurs with staff's comments.

Item 8 - Minimum Distance Separation re: Lots of Record

Council forwarded staff's suggested changes to the revised policy statement to the Ministry of Agriculture and Food. Mr. K. Clarke of the Ministry has responded, copy attached, stating that the Ministry prefers the statement as prepared by the Town's planning consultants. Accordingly, the Town is not favourable to changes in the policy statement as requested by Regional staff.

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Letter to C. Cambray
Re: OPA #7
September 12, 1983

-3-

Item 9 a) - Boundary Issues - North Pelham

Planning Committee has reviewed the North Pelham boundary as suggested by Regional staff (see copy of Planning Committee minutes dated September 7, 1983 attached), and has deferred the matter for further study pending receipt of responses from the commenting agencies through the Ministry of Municipal Affairs and Housing.

Item 9 b) - Boundary Issues - Fenwick

Council concurs with staff's comments. Accordingly, the Town will be requesting an amendment to the Region's Policy Plan to show the serviced area of Fenwick within Urban Area Boundaries.

Item 9 c) - Boundary Issues - Fonthill

The Council still wishes to show the distinctly urban uses that have historically been part of the Fonthill urban area. For this reason, the Town will be requesting an amendment to the Region's Policy Plan to include within the Urban Area Boundaries those existing commercial, industrial and residential areas on the east and west side of Fonthill along Highway #20.

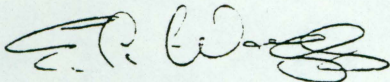
Item 10 - Public Works Comments

Council concurs with staff's comments.

Also attached is a copy of the Planning and Development Committee minutes from the August 16, 1983 meeting for your records.

We would be pleased to discuss any of the above items with you or your staff prior to the Regional Planning and Development Committee meeting.

Yours very truly



E. C. Wagg
Deputy Clerk



Ontario

Ministry of
Agriculture
and Food
Agricultural
Engineering Service
(Tel: 562-4142)

Vineland Station
Ontario LOR 2E0

September 7, 1983

Mr. D.J. Logan, MCIP
Consulting Planner
Miller, O'Dell & Paul
3215 North Service Rd.
Box 220
Burlington, Ontario
L7R 3Y2

Dear Sir:

Re: Pelham O.P. & Your letter August 25, 1983

As you requested, I have reviewed the proposed section in the Pelham O.P. and the Regional staff response contained in your letter.

I am pleased to note that interpretation of the Regional policy plan is allowing some flexibility in siting new dwellings vis a vis existing livestock operations to include use of the MDS formulas. As author of the formulas, I should point out that as conceived, they were intended as guidelines.

It was intended by the author and our sponsoring Ministries, that the distances generated by the formulas would be subject to some review. In the case of certificates of compliance, the professional opinion of our field staff is used in making a final decision. In the case of the use of MDS Formula One, professional judgement is used by staff of the Foodland Preservation Branch. In by-laws, the distances generated are subject to appeal to the Committee of Adjustment for consideration of whether a minor variance can be granted without violating the integrity of the by-law.

Several aspects should be considered that are not in the formulas, such as:

1. Prevailing wind direction
2. Local topography
3. Visual screening
4. No viable alternative
5. Community attitudes
6. The formula is intended to protect the livestock operation for future expansion, not just immediate potential for environmental conflict. Some livestock operations already have restrictions embodied in law or physical limitations that make their future expansion impracticable.

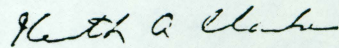
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Mr. D.J. Logan
September 7, 1982

It is my understanding the minor variances by the C of A can be granted only for bylaws and cannot give relief to OP policies. Putting the MDS formula into the OP rather than into the by-law violates that aspect of the intended use of the formula as described above. Putting the fixed distance of 300 metres that had been previously suggested was in my opinion even more difficult to justify.

Yours truly



Keith A. Clarke
Agricultural Engineer

KAC:cjp

Agricultural Land Base changes agreed to by the Town of Pelham

Through Official Plan Amendment No. 7, Pelham proposes to make some minor revisions to its Agricultural Land Base mapping. Provision is made in Policy 6.A.5 of the Regional Plan for Pelham to make these changes through the local Land Use Map which then replaces the Region's Agricultural Land Base Map.

The changes described below have been agreed upon including those described in the list.

1. Change from "Rural" to "Good General Agricultural"
 - . 3 parcels of land on either side of Effingham Street in the northeast corner of Pelham.
2. Change from "Good General Agricultural" and "Rural" to "Unique Agricultural"
 - . east and south of the Effingham Street and Roland Road intersection;
 - . north of Overholt Road and east of Haist Street.
3. Change from "Hazard Land" to "Unique Agricultural"
 - . Overholt Road at North Pelham Street.

The above areas are in agricultural use.

4. Change from "Unique Agricultural" to "Special Rural"
 - . 6 parcels of land in the general vicinity of Effingham Street between Sixteen Road and Kilman Road.

This change recognizes existing estate residential development and rolling terrain which has limited agricultural use.

5. Change from "Unique Agricultural" to "Special Rural"
 - . a parcel of land at the intersection of Haist Street and Metler Road.

The Change to "Special Rural" south of Metler Road is agreeable since the area is in a natural condition with trees, relatively steep slopes, and a creek. However, the lands north of Metler Road support a vineyard and should remain "Unique Agricultural". Furthermore some additional lands to the east of this vineyard should be considered for an Unique Agricultural area rather than "Special Rural" (see Map 3).