COMMITTEE OF ADJUSTMENT
TOWNSHIP OF WAINFLEET

"Wainfleet - find your country side!"

FILE NO: B08/2022W

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:

Aaron Butler, NPG Planning Solutions(Agent) on behalf of Tom Mikkelsaar(Owner)

Vacant Lot, Morgan`s Point Road
Concession 1, Part Lot 13, 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 a vacant lot that is located on the east side of Morgan's Point Road with frontage on Fowler Road.

Application is made for the consent to:

- Sever Part 1 (1.69 ha), for future residential use;
- Retain Part 4 (7,855 m^2) 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 L. Bjerno

Member G. Balicki

Member R. Cross

Member S. McMillan

Date of Decision: June 15th 2022 **Date of Mailing: June 16th 2022**

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 6th 2022**

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 Ontario Land Tribunal Act, 2021". The prescribed fee is $400 and payable to the Minister of Finance.

Pursuant to Rule 7 of the OLT Rules, anyone who wishes to participate in an OLT 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 B08/2022W

This is Schedule A, appended to and forming part of the Notice of Decision for Application for Consent B08/2022W.

Application is made for the consent to:

- Sever Part 1 (1.69 ha), for future residential use;
- Retain Part 4 (7,855 m^2) for future residential use.

DECISION: ☑ **GRANTED** ☐ **REFUSED**

The above decision is subject to the following conditions:

1. That Zoning By-law Amendment File No. Z03/2022W be approved;

2. That the owner enter into a development agreement with the Township of Wainfleet and to the satisfaction of Niagara Region, to be registered against the title of Parts 1, 2, 3 and 4, to require:
    a. That the owner agrees to implement the recommendations of the Hydrogeological Assessment prepared by Terra-Dynamics Consulting Inc. (dated February 2, 2022), including:
        i. That development will require the installation of a system that provides nitrogen reduction of septic effluent Level IV/tertiary treatment to at least 50% for Parts 1, 2 and 4 and 75% for Part 3;
        ii. That the sewage disposal beds for each of the four lots be placed in a northwest corner while observing the minimum Ontario Building Code setbacks;
        iii. That water is supplied by cisterns for each of the four lots;
        iv. That any wells located on-site be decommissioned by a water well contractor licensed in the Province of Ontario.
    b. That the owner agrees to implement the mitigation measures identified in the Environmental Impact Study prepared by Myler Ecological Consulting (dated May 2022), including:
        i. That the removal of trees and vegetation be timed to minimize impacts on any wildlife species. It is recommended that tree removal be completed prior to March 15 or after October 31 to minimize impacts to wildlife that may be utilizing the thicket and meadow on the properties;
        ii. That development footprints be maintained on each of the Parts outside of the woodland area, during construction and during subsequent long-term/ permanent maintenance of manicured portions of each residential property;
        iii. That the small stand of Japanese Knotweed that is within the woodland on Part 1 be eradicated; and
        iv. That consideration be given to clearing stands of exotic invasive European Privet, Multiflora Rose and Tatarian Honeysuckle to allow native vegetation to proliferate.

3. That the owner receive acceptance from the Ministry of Heritage, Sport, Tourism and Culture Industries (MHSTCI) for the archaeological assessment report entitled Stage 1 and 2 Archaeological Assessment, prepared by Detritus Consulting Ltd. (dated September 3, 2020), and that a copy of the MHSTCI acknowledgement letter be provided to the Region. If the Ministry requires further archaeological work to be completed prior to acknowledging this report, these report(s) must also be submitted to and acknowledged by the Ministry, to the satisfaction of Niagara Region, prior to clearance of this condition. No demolition, grading or other soil disturbances shall take place on the subject property prior to issuance of a letter from MHSTCI through Niagara Region, confirming that all archaeological resource concerns have met licensing and resource conservation requirements.

4. That the owner provide the Township with a current title search for the subject property to prepare and register the required development agreement.

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This is Schedule A, appended to and forming part of the Notice of Decision for Application for Consent B08/2022W.

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5. 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.

6. That a final certification fee, payable to the Treasurer of the Township of Wainfleet, be submitted to the Secretary-Treasurer.

7. That all conditions of consent be fulfilled within a period of two years after notice has been given under Section 53(17) or 53(24), as per Section 53(41) of the Planning Act, R.S.O. 1990.

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.

3. No objections to this proposal were received from commenting agencies or neighbouring property owners.

Date of Decision: June 15th 2022 **Date of Mailing: June 16th 2022**

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.

All conditions of Consent must be fulfilled by June 15th 2024.

Erin Shacklette, Secretary-Treasurer