

February 28, 2023

Angela Mariani
Development Planner
Nautical Lands Group
372 Taunton Road East, Unit #L4B
Whitby, ON L1R 0H4

Dear Angela:

**RE: Assessment of MDS Application Regarding Proposed Seniors
Residential Development for 60 Henderson Street, Port Hope, Ontario**

Colville Consulting Inc. was retained to interpret the Minimum Distance Separation (MDS) Guidelines and prepare a letter summarizing the applicability of the guidelines for Nautical Lands Group's proposed seniors' residential facility. The proposed development will consist of townhouses, a four-story residential building with 74 units, 98 parking spaces, patio space, and a crosswalk, with access from Henderson Street. The proposed development will be located at 60 Henderson Street, in the Municipality of Port Hope, Northumberland County. These lands, hereby referred to as the Subject Lands, are located within the Port Hope Business Park, and are east of Fox Road, south of Pemberton Drive, west of Henderson Street, and north of Jocelyn Street.

The Subject Lands are within Port Hope's settlement area and are designated "Commercial – General" and "Major Intensification" in Schedule C-1 of the Municipality of Port Hope Official Plan. They are also designated "Urban Area" in Schedule A of the Northumberland County Official Plan. These lands are not part of the Agricultural Land Base (Agricultural Systems Portal (arcgis.com)) and are not within a prime agricultural area or rural area.

It is understood that the proposed seniors' residential development has received some opposition which has raised land use compatibility concerns. The purpose of our assessment is not to opine on whether the location of the proposed development is compatible with existing and future uses. Rather it is to address whether the proposed development is constrained by the MDS I formulae.

A site visit was conducted on January 24th, 2023. The purpose was to confirm land uses identified through a desktop review of aerial photography (Google Earth and Google Maps). The site visit confirmed the presence of a diverse mix of predominantly non-farm land uses located in close proximity to the proposed development. The uses within the Port Hope Business Park a neighbourhood shopping centre, a freestanding supermarket, a health centre providing family physicians, internal medical care and a pharmacy, Access Community Services Inc., the Port Hope Sport and Rehabilitation Center, registered massage therapy facilities, residential dwellings, a full service hotel, the Port Hope Police Station, Canadian Nuclear Laboratories and the associated Port Hope Area Initiative offices, a hardware building centre, other

industrial facilities, and the Curtis Chicks Hatchery (an agricultural use). Photos taken during the site visit can be found in Appendix A.

MINIMUM DISTANCE SEPARATION

According to the Ontario Ministry of Agriculture, Food and Rural Affairs (OMAFRA) FactSheet *Farmer and Neighbour Relations Preventing and Resolving Local Conflicts* (January 2005), neighbour complaints relating to odours generated by farm operations are the number one complaint received by farmers.

The concept of applying separation distances between livestock facilities and non-farm land uses in order to minimize land use conflicts with the growing non-agricultural rural population first originated in the early 1970's with the *Suggested Code of Practice*.

The Province introduced the minimum distance separation in 1995 and created formulae designed to identify appropriate setbacks for development from existing livestock operations. The latest version of the MDS came into effect on March 1st, 2017. The formulae and guidelines are provided in the "Minimum Distance Separation (MDS) Document", Publication 853 OMAFRA (2016).

Two different formulae have been developed by the Province; the MDS I formula and the MDS II formula. The MDS I formula calculates the minimum distance separation requirements between existing livestock facilities and proposed new non-agricultural uses or lot creation. The MDS II calculates minimum distance separation requirements for new or expanding livestock facilities from existing or approved non-farm development. Given that the proposed development is a non-agricultural use, the MDS I formula would be used if applicable based on its location.

Guideline #1: Referencing MDS in Municipal Planning Documents

According to Guideline #1 of the MDS Document, "In accordance with the Provincial Policy Statement, 2014, this MDS Document shall apply in prime agricultural areas and on rural lands. Consequently, the appropriate parts of this MDS Document shall be referenced in municipal official plans, and detailed provisions included in municipal comprehensive zoning by-laws such that, at the very least, MDS setbacks are required in all designations and zones where livestock facilities and anaerobic digesters are permitted."

The Subject Lands are not part of a prime agricultural area and are not on rural lands. Additionally, livestock facilities and anaerobic digesters are not permitted within the "General Commercial" designation of Port Hope's Official Plan.

Guideline #3: For What, and When, is an MDS Setback NOT Required?

Guideline #3 of the MDS Document states, "Certain proposed uses are not reasonably expected to be impacted by existing livestock facilities or anaerobic digesters and as a result, do NOT require an MDS I setback. Such uses may include, but are not limited to:

- ♦ extraction of minerals, petroleum resources and mineral aggregate resources;
- ♦ infrastructure; and
- ♦ landfills."

“In addition, MDS I setbacks are NOT required from:

- ♦ livestock barns occupying an area less than 10 m²;
- ♦ certain unoccupied livestock barns in accordance with Implementation Guideline #20;
- ♦ certain unused manure storages in accordance with Implementation Guideline #21;
- ♦ apiaries;
- ♦ aquaculture facilities;
- ♦ deadstock handling facilities;
- ♦ fairground buildings;
- ♦ feed storages;
- ♦ field shade shelters;
- ♦ greenhouses;
- ♦ kennels;
- ♦ machinery sheds;
- ♦ meat plants (including abattoirs and slaughterhouses);
- ♦ mushroom facilities;
- ♦ pastures;
- ♦ **poultry hatcheries;**
- ♦ stockyards;
- ♦ temporary field nutrient storage sites (as defined under the Nutrient Management Act, 2002);
- ♦ veterinary clinics with housing for livestock; and
- ♦ zoos.”

Guideline #3 exempts the application of the MDS I formula from Curtis Chicks Hatchery to the proposed residential facility. In addition, an expansion of the hatchery would not require the application of the MDS II formula.

Guideline #36: Non-Application of MDS Within Settlement Areas

Guideline #36 of the MDS Document states, “MDS I setbacks are NOT required for proposed land use changes (e.g., consents, rezonings, redesignations, etc.) within approved settlement areas, as it is generally understood that the long-term use of the land is intended to be for non-agricultural purposes.”

The Subject Lands are located within the approved settlement area of Port Hope and therefore do not require MDS I setbacks.

Port Hope Official Plan

The Municipality of Port Hope Official Plan (2017) sets out specific land use policies in Section F2.5. Section F2.5.2 outlines when Minimum Distance Separation is to be used, stating, “All farm and non-farm development within the Natural Linkage, Natural Core and Countryside Area designations will comply with the Minimum Distance Separation formula established by the Province in order to minimize odour conflicts between livestock facilities and development.”

The Subject Lands are not part of the above listed designations and do not require the calculation of MDS setbacks to comply with the Municipality of Port Hope Official Plan.

CONCLUSION

Following a review of the Municipality of Port Hope's Official Plan, the MDS Document and existing land uses, it is our opinion that MDS setback calculations are not required for the proposed seniors' residential development. A desktop review and site visit have confirmed the presence of a diverse mix of non-agricultural uses in close proximity to the Subject Lands. OMAFRA's MDS Document and Port Hope's Official Plan both do not require the application of the MDS formula to the proposed seniors' residential facility.

Thank you for retaining our services. Please call me at 905-935-2161 or email Sean@colvilleconsultinginc.ca or John@colvilleconsultinginc.ca if you have any questions regarding the contents of this letter.

Yours sincerely,



Sean Colville, B.Sc., P.Ag.
President, Colville Consulting Inc.



John Liotta, B.Sc. Env, EMA
Agricultural Consultant, Colville Consulting Inc.

Appendix A

Site Photos

Examples of Existing Land Uses



Photo 1: Canadian Nuclear Laboratories located east of Henderson Street



Photo 2: Port Hope Area Initiative Management Office (PHAI) located east of Henderson Street



Photo 3: Subject Lands with community notice sign in place



Photo 4: Cultivated portion of the Subject Lands



Photo 5: Trade Tech Industries located north of Pemberton Drive



Photo 6: Hampton Inn located south of Pemberton Drive



Photo 7: Bulk Barn located within plaza northeast of Toronto Road



Photo 8: Port Hope Police Station located north of Pemberton Drive and east of Fox Road



Photo 9: Curtis Chicks Ltd. (Maple Lodge Farms) located north of the Port Hope Police Station