



The Municipal Corporation of the Town of Fort Erie

Council-in-Committee Meeting Agenda

Monday, May 8, 2023 - 6:00 PM

Council Chambers

Meetings are being held in-person and via Video Teleconference as may be permitted. All meetings can be viewed at: Town's Website:

<https://www.forterie.ca/pages/CouncilAgendasandMinutes>

Town's YouTube Channel: www.youtube.com/townofforterie

or click on the YouTube icon on the home page of the Town's website (www.forterie.ca) or Cogeco "YourTV"

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1. **Call to Order**
2. **Roll Call**
3. **Announcements/Addenda**
4. **Declarations of Pecuniary Interest**
5. **Notice of Upcoming Public Meetings**
6. **Public Meetings**
7. **Consent Agenda Items**
 - 7.1 **Request to Remove Consent Agenda Items**
 - 7.2 **Consent Agenda Items for Approval**

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IS-10-2023

Award of Software System and Services for the Enterprise Asset and Work Order Management System (Phase III)

Recommendation:

That: Council accepts and approves the proposal from PSD Citywide Inc. to provide software services for the Enterprise Asset and Work Order Management System (Contract No. ISE-22P-AWOMS) to the upset limit of \$338,788.13 (including 13% HST); and further

That: Council accepts and approves the proposal from GM BluePlan Engineering Limited for the extension of the assignment to provide implementation services for Phase III of the AWOMS system (Contract No. ISE-21P-AWOFSC) to the upset limit of \$524,826.24 (including 13% HST); and further

That: Council amends the 2022 Capital Budget to supplement the Software Services for the Enterprise Asset and Work Order Management System (Contract No. ISE-22P-AWOMS) by \$44,000 from Bridge and Culvert Reserves, \$44,000 Road Reserve, \$44,000 Water Reserves, \$44,000 Sanitary Reserves and \$44,000 Storm Reserves; and further

That: Council directs that the costs of implementation and maintenance of the Asset Management and Work Order System be included in future budgets.

[IS-10-2023 - AWOMS Software RFP Award](#)

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IS-11-2023 Amend the 2023 Capital Budget to Add Project EDGEW23 - Edgewood Avenue Storm Sewer

Recommendation:

That: Council amends the 2023 Capital Budget to include Edgewood Avenue Storm Sewer (EDGW23) project for \$80,000 with funding of \$51,200 from the Development Charges Reserve for the Storm Water Drainage and Control Services and \$28,800 from the Storm Refurbishing Reserve.

[IS-11-2023 - Edgewood Avenue Storm Sewer](#)

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CAO-10-2023 Terms of Reference Update for Community Health Care Services Committee

Recommendation:

That: Council approves the Terms of Reference for the Community Health Care Services Committee; and further

That: Council directs Staff to submit a by-law to Council to re-establish the Community Health Care Services Committee, repeal By-law Nos. 29-2018 and 66-2021 and adopt the new Terms of Reference.

[CAO-10-2023 - Terms of Reference Update for Community Health Care Services Committee](#)

CS-03-2023

2022 Development Charges Reserve Fund Status

Recommendation:

That: Council receives Report No. CS-03-2023 regarding the 2022 Development Charges Reserve Fund Status, for information purposes, and further

That: Council directs that the Development Charges Interest Policy By-law No. 110-2022, be amended to change the interest rate charged from 5% to a maximum of prime plus 1%, and further

That: Council directs that the Development Charges Payment Deferral Policy Bylaw No. 111-2022, be amended to change the interest rate charged from 5% to a maximum of prime plus 1%.

[CS-03-2023 - 2022 DC Reserve Fund Status combined](#)

Consent Agenda Recommendation

Recommendation:

That: Council approves the Consent Agenda Items as recommended.

7.3 Items Removed to be Dealt with Separately

8. Planning and Development Services

8.1 Presentations and Delegations

8.2 Reports

PDS-14-1-2023

**Supplemental Information Report -
Proposed Noise and Nuisance By-law**

Recommendation:

That: Council receives Report No. PDS-14-1-2023 for information purposes, and further

That: Council directs that Appendix "1" to Report No. PDS-14-2023 be replaced with the proposed new Noise & Nuisance By-law attached to Report No. PDS-14-1-2023 as Appendix "2".

[PDS-14-1-2023 - Noise & Nuisance Supplementary Report](#)

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PDS-14-2023

Proposed Noise and Nuisance By-law
*(Postponed from February 22, 2023
Special Council-in-Committee Meeting -
Previously moved by Councillor
McDermott as Recommendation No. 3
and further postponed from the April 3,
2023 Council-in-Committee Meeting)*

Recommendation:

That: Council approves the Noise and Nuisance By-law attached as “Appendix 1” to Report No. PDS-14-2023 and directs that Noise and Nuisance By-law No. 30-09, be repealed.

[PDS-14-2023 - Noise & Nuisance By-law Report](#)

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PDS-38-2023

Proposed Draft Plan of Subdivision and Zoning By-law Amendment - Crescent Acres (0-10747 Kraft Road) - Crescent Acres Ltd. (Mark Basciano) - Owner - Upper Canada Consultants (Matt Kernahan) - Agent

Recommendation:

That: Council approves the amendment to the Town's Zoning By-law No. 129-90 as detailed in Report No. PDS-38-2023 for the lands known as 0-10747 Kraft Road, and further

That: Council approves the Crescent Acres Draft Plan of Subdivision dated November 4, 2022, showing 67 lots for single detached dwellings, 4 blocks for semi-detached dwellings, 24 blocks for a total of 145 townhouse dwellings, 1 block for a watercourse, 1 block for a stormwater pond and 1 block for a future road connection as attached as Appendix “2” of Report No. PDS-38-2023, in accordance with the provisions of the *Planning Act*, R.S.O. 1990 c. P. 13 and the Regulations thereunder, subject to the conditions contained in Appendix “3” of Report No. PDS-38-2023, and further

That: Council directs staff to circulate the Conditions of Draft Plan Approval in Appendix “3” of Report No. PDS-38-2023 to the applicable agencies in accordance with the requirements of the *Planning Act*, and further

That: Council directs Staff to submit the necessary by-law.

[PDS-38-2023 Crescent Acres DPS & ZBA Rec Report](#)

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PDS-39-2023

Proposed Draft Plan of Subdivision and Zoning By-law Amendment - 613 Helena Street - SS Fort Erie Inc. (Hunaun Siddiqui & Mohammad Feroz) - Owner - IBI Group (Tracy Tucker) - Agent

Recommendation:

That: Council approves the amendment to the Town's Zoning By-law No. 129-90 as detailed in Report No. PDS-39-2023 for the lands known as 613 Helena Street, and further

That: Council approves the 613 Helena Street Draft Plan of Subdivision dated February 23, 2023, showing 17 blocks for a total of 124 townhouse dwellings, 2 blocks for a total of 4 semi-detached dwellings, 1 block for parkland dedication, 1 block for a stormwater management pond, 1 block for environmental lands and 1 block for a road widening as attached as Appendix "2" of Report No. PDS-31-2023, in accordance with the provisions of the *Planning Act*, R.S.O. 1990 c. P. 13 and the Regulations thereunder, subject to the conditions contained in Appendix "3" of Report No. PDS-31-2023, and further

That: Council directs staff to circulate the Conditions of Draft Plan Approval in Appendix "3" of Report No. PDS-31-2023 to the applicable agencies in accordance with the requirements of the *Planning Act*, and further

That: Council directs Staff to submit the necessary by-law.
[PDS-39-2023 613 Helena Street Rec Report](#)

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PDS-40-2023

Proposed Zoning By-law Amendment - 3624 Hazel Street- S.R. Niagara Investments Inc. (Rita and Salvatore Visca) - Owner - Robert Martin Engineering Inc. (Robert Martin) - Applicant

Recommendation:

That: Council approves the amendment to the Town's Zoning By-law No. 129-90 as detailed in Report No. PDS-40-2023 for the lands known as 3624 Hazel Street, and further

That: Council directs Staff to submit the necessary By-law.

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[PDS-40-2023 - 3624 Hazel Street ZBA - Recommendation Report](#)

8.3 New Business/Enquiries

8.4 Business Status Report

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[PDS - BSR - 8-May-23](#)

9. Infrastructure Services

9.1 Presentations and Delegations

9.2 Reports

9.3 New Business/Enquiries

9.4 Business Status Report

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[IS-BSR - 08AMAY2023](#)

10. Corporate and Community Services

10.1 Presentations and Delegations

10.2 Reports

10.3 New Business/Enquiries

10.4 Business Status Report

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[CS-COS-FES-BSR-May8](#)

11. Scheduling of Meetings

12. Adjournment



Infrastructure Services

Prepared for	Council in Committee	Report No.	IS-10-2023
Agenda Date	May 08, 2023	File No.	230203

Subject	AWARD OF SOFTWARE SYSTEM AND SERVICES FOR THE ENTERPRISE ASSET AND WORK ORDER MANAGEMENT SYSTEM (PHASE III)
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Recommendations	
<u>THAT</u>	Council accepts and approves the proposal from PSD Citywide Inc. to provide software services for the Enterprise Asset and Work Order Management System (Contract No. ISE-22P-AWOMS) to the upset limit of \$338,788.13 (including 13% HST); and further
<u>THAT</u>	Council accepts and approves the proposal from GM BluePlan Engineering Limited for the extension of the assignment to provide implementation services for Phase III of the AWOMS system (Contract No. ISE-21P-AWOFSC) to the upset limit of \$524,826.24 (including 13% HST); and further
<u>THAT</u>	Council amends the 2022 Capital Budget to supplement the Software Services for the Enterprise Asset and Work Order Management System (Contract No. ISE-22P-AWOMS) by \$44,000 from Bridge and Culvert Reserves, \$44,000 Road Reserve, \$44,000 Water Reserves, \$44,000 Sanitary Reserves and \$44,000 Storm Reserves; and further
<u>THAT</u>	Council directs that the costs of implementation and maintenance of the Asset Management and Work Order System be included in future budgets.

Relation to Council's 2018-2022 Corporate Strategic Plan	
Priority:	2. Sustainable Infrastructure for the Future
Goal:	Maintaining and investing in sustainable infrastructure that serves the entire community and builds a strong, vibrant and attractive community.
Initiative:	2.1 Advocate for funding & infrastructure investments from other levels of government public and private sector.

List of Stakeholders

- | |
|---|
| <ol style="list-style-type: none"> 1) Mayor and Council of the Town of Fort Erie 2) Residents of the Town of Fort Erie 3) PSD Citywide Inc. 4) GM BluePlan Inc. 5) Remaining bidders on this project |
|---|

Prepared by:

Submitted by:

Approved by:

*Original Signed:**Original Signed:**Original Signed:*

Michelle Moore C.E.T, CAMP,
Project Manager Asset
Management, Infrastructure
Services

Kelly M. Walsh, P.Eng.,
Director, Infrastructure
Services

Chris McQueen, MBA
Chief Administrative
Officer

Purpose of Report

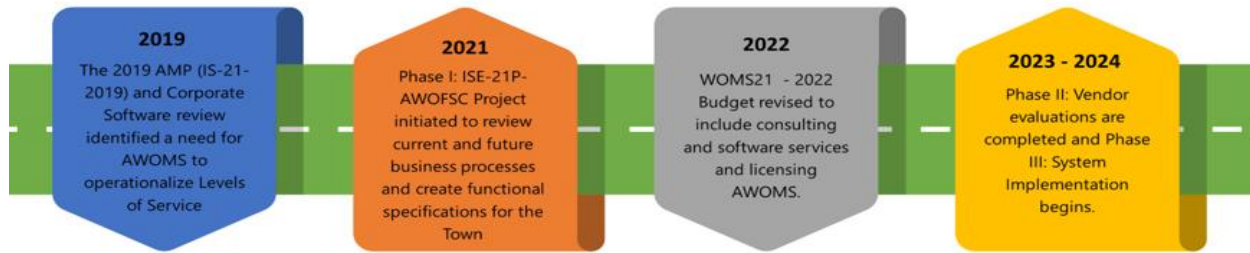
The purpose of this report is to advise Council of the proposal call process for software services for the Enterprise Asset and Work Order Management System (AWOMS), and to request Council's authorization to award PSD Citywide Inc. Contract No. ISE-22P-AWOMS, to provide software services for the project, to extend GMBP assignment and to request additional funding through a transfer from reserves.

Analysis

Staff have identified the need to invest in an integrated Asset and Work Order Management system (AWOMS), that once implemented, will greatly support the Town's knowledge-centric approach to managing the Town's assets. Further, it will support the ability to complete detailed analysis and reporting of planned and completed operational and capital activities, financial analysis for costs of service delivery, and more efficiently planning of operation and maintenance activities.

Background:

The Town's 2019 Asset Management Plan as approved by Report No. [IS-21-2019](#), Corporate Software Review as approved by Report No. [COS-01-2021](#) and Asset Management Plan (AMP) Update as received by Council in Report No. [IS-27-2022](#), made recommendations to modernize the Town's asset management processes by implementing an Asset and Work Order Management System (AWOMS).

Figure 1 - AWOMS Project Timeline

The Town employed a phased approach as follows:

Phase I

- User Needs Assessments
- Current and Future Business process mapping and review
- System Requirements and Functional Specifications.

Phase II

- Vendor Evaluation, Demonstration and Award

Phase III

- System Implementation to Go Live

Phase I - Design Facilitation and Consulting Services

In 2021 Council approved consultation services with GM BluePlan Engineering Limited (GMBP) to provide services for the Phase I Design Facilitation, Procurement and Implementation of Software Systems for Asset and Work Order Management and Finance Enterprise Resource Planning (ISE-21P-AWOFSC). Further, GMBP also provided services for the Phase II works and facilitated during the vendor selection process. Their fees for services are:

Table 1- Design Facilitation and Consulting Services

WOMS21 – Asset and Work Order Management System Contract No.: ISE-21P-AWOFSC	
Project Component	Fees
Phase I – System Design & Functional Specification	\$178,149.02
Phase II – Vendor Evaluation, Demonstration and Award	\$70,794.50
Phase III - Implementation Services	\$524,826.24
Total Fees for Design Facilitation and Implementation Services	\$773,769.76

All amounts include 13% HST

Expected tasks for the AWOMS Implementation are:

- Project Initiation and Scope Review Workshop
- Software Configuration
- Software Acceptance and Testing
- Training and Documentation
- Go Live Assistance
- Warranty and Support

Expected outcomes for AWOMS are:

- Compliance and alignment with the Town's strategic goals
- Process optimization and efficiencies
- Centralization of asset information
- Continuous improvement in managing our assets
- Identify resourcing requirements
- Customer Service Improvements

The new system will facilitate the capture and storage of information at the asset level from service request (via a customer service portal) through to work order close. It will be used to track operations and maintenance activities against an asset, address, or geographical location. It will provide access to data in the field (mobile access), provide a structured way for staff to inform future budgets and manage asset condition data as well as asset inventory. This was included in the 2021 and 2022 Capital Budget (WOMS21) and also recommended in the 2021 Corporate Software review.

The Town currently utilizes manual data extracts, manual reconciliations and duplication of data entry. There is also a requirement to capture and modernize operation and maintenance schedules, better manage our asset's lifecycles as well as plan and budget for new assets in a more efficient manner.

Phase II - Vendor Evaluation, Demonstration and Award

Proposal Call

The proposal call was initiated on October 18th, 2022. The RFP for Contract No. ISE-22P-AWOMS was posted on Biddingo.com and on the Town website, pursuant to the Town of Fort Erie Purchasing By-law No. 123-22. Proposals were accepted until 2:00 p.m. local time, Monday, December 05, 2022. Six (6) submissions for this project were received.

Proposal Evaluation

The proposal review process consisted of components related to the following stages:

- Stage I – Prequalification based on must haves in the pre-requisite workbook.
- Stage II – Proposal evaluation based on technical merit, cost to implement and 8 years of licensing fees.
- Stage III – Vendor demonstration and product (sandbox) testing.

Table 2- Summary of Pre-requisite scores in Stage I

	Rogers	Brightly	Central Square	Elevotec	ESRI	PSD
Technical Score (out of 2581 pts)	2506.7	2233.6	2425.8	2581.0	2476.6	2499.2
Normalized to 15-point scale	14.57	12.98	14.10	15.00	14.39	14.96

All proponents qualified in stage I and were then directed to submit proposals in two separate and sealed files. The first electronic folder held the technical proposal and the second electronic folder contained a completed signed and sealed cost schedule. At stage II of the RFP, technical merit was worth 75% of the final score and cost represented 25%. As per the terms of the RFP, cost 'envelopes' of the top four (4) proposals over a minimum score of 70% were opened.

Table 3 - Summary of Stage II evaluations

Technical	Max Score	PSD Citywide Inc.	Central Square	ESRI Canada	Brightly	Elevotec Inc.	Rogers
Total Technical Score	75	61.16	55.83	57.08	53.38	48.49	38.43
	%	81.55	74.44	76.11	71.17	64.65	51.24
70% Benchmark (min. 52.5 of 75 pts.)	Pass/Fail	Pass	Pass	Pass	Pass	Fail	Fail
Financial - Price is calculated on total cost including option years.							
(Low Bid / Bid \$) x Available Points	25	21.92	25	19.77	23.09	X	X
Technical Rank		1	3	2	4	5	6
Financial Rank		3	1	4	2	X	X
Total Score (Technical + Financial)		83.08	80.83	76.85	76.47	X	X
Final Rank		1	2	3	4	X	X

The Town invited the top four proponents to conduct vendor demonstrations utilizing Town data to ensure that only the most qualified proposals were evaluated for providing this essential service. The vendor demonstration phase weighed 100% of the final score.

The team included staff from various departments, who evaluated products based on technical criteria during vendor demonstrations. They also tested the products on both desktop and mobile devices in a “sandbox” environment.

Table 4 - Vendor Demonstration and Product Testing Scores

Section	Activity / Functionality Demonstrated	Brightly	Central Square	ESRI Cityworks	PSD Citywide
1	Introduction & Product overview	26.9	19.8	29.7	29.2
2	Use Cases & functionality	39.2	32.8	43.7	46.0

3	Overall Presentation / Q&A	11.0	8.6	14.2	15.0
	Total out of 100	77.1	61.2	87.7	90.2
Sandbox Evaluation Scores		36.7	29.7	62.2	71.9

Based on the evaluation process, the project evaluation team recommends that PSD Citywide be retained to complete the implementation phase of this project. The term of the agreement is to be for a period of two (2) Years with an option to renew three (3) times in two-year periods (a total of 8 years) .

Financial/Staffing and Accessibility (AODA) Implications

Total funding projected for phase III (vendor implementation) was \$250,000.00. A summary of the total project costs and funding sources are noted below in Table 5 and Table 6.

Table 5: Project Cost (including all phases)

Project Component	Cost
Phase I System Design	\$160,429.00
Phase II Vendor Evaluation	\$63,753.00
Vendor Proposal Amount Phase III	\$305,089.20
GMBP Implementation Fee Phase III	\$472,622.00
Town Staff and Incidentals	\$42,000.00
Total Project Costs	\$1,043,893.00

All amounts include non-rebated HST

Table 6: Available Funding Sources

Available Funding Sources	Cost
Roads Reserve	\$165,600
Bridges and Culverts Reserve	\$165,600
Sanitary Reserve	\$165,600

Water Reserve	\$165,600
Water Reserve	\$165,600
Total Funding	\$828,000

All amounts include non-rebated HST

Table 7: Variance Projection

Enterprise Asset and Work Order Management System – Contract No. ISE-22P-AWOMS		
Estimated Project Cost	Total Project Funds	Variance
\$1,043,893	\$828,000	(\$215,893)

All amounts include non-rebated HST

As noted in Table 7, there is a projected negative variance for this project in the amount of \$215,893. The recommended reserve transfers from the Bridges and Culvert reserves (\$44,000), Roads (\$44,000), Water (\$44,000), Sanitary (\$44,000) and Storm (\$44,000) will cover the projected variance. Note that the related reserves are able to support the transfer requests based on the 2023 Capital Budget. It should be further noted that the projected operating impacts will be \$54,800.00 each year for option years 1-8 for maintenance, licensing and version protection fees.

It is recommended that the contract for ISE-22P-AWOMS Enterprise Asset and Work Order Management System be awarded to PSD Citywide Inc. for the upset limit of \$338,788 and to GM Blue Plan for the upset limit of \$524,826.24 (including HST).

Policies Affecting Proposal

By-law No. 124-2019 adopted Council's 2018-2022 Corporate Strategic Plan. This includes maintaining and investing in sustainable infrastructure that serves the entire community and builds a strong, vibrant and attractive community.

By-law No. 78-2019 adopted the Asset Management Policy that includes the Ontario Regulation 588/17 made under the Infrastructure for Jobs and Prosperity Act, 2017 – Asset Management Planning for Municipal Infrastructure

Comments from Relevant Departments/Community and Corporate Partners

Staff from Infrastructure, Corporate, Customer Services and Fire/Emergency Services have been instrumental in the development of the project. Comments from relevant departments have been included in this report.

Communicating Results

The Infrastructure Services Department as well as Corporate Services will ensure that communications will be completed as assigned for these projects and that all milestones and undertakings will be communicated to staff via:

- Ongoing Project updates on the Town's Staff Newsletter;
- As required through the Project's communication plan;
- Included in the next Asset Management Update.

Alternatives

Council has the option of not authorizing the award of this project and/or funding elements to the proposed projects. However, this is not recommended as some of the funds are conditional for the projects as submitted and would prevent the Town from realizing asset management recommendations.

Conclusion

Council's authorization of PSD Citywide Inc. as well as GM Blue Plan for the implementation of the Enterprise Asset and Work Order Management System contract, will support the Town's asset management obligations, modernization initiatives and assist in guiding operation, maintenance and capital planning activities towards supporting the Town's effective, sustainable infrastructure objective. It is expected that this project can commence immediately upon award.

Attachments

N/A



Infrastructure Services

Prepared for	Council-in-Committee	Report No.	IS-11-2023
Agenda Date	May 8, 2023	File No.	360301

Subject

AMEND THE 2023 CAPITAL BUDGET TO ADD PROJECT EDGW23 – EDGEWOOD AVENUE STORM SEWER

Resolutions

THAT Council amends the 2023 Capital Budget to include Edgewood Avenue Storm Sewer (EDGW23) project for \$80,000 with funding of \$51,200 from the Development Charges Reserve for the Storm Water Drainage and Control Services and \$28,800 from the Storm Refurbishing Reserve

Relation to Council's 2018-2022 Corporate Strategic Plan

Priority: 2: Sustainable Infrastructure for the Future

Strategic Objective: Maintaining and Investing in sustainable infrastructure that services the entire community and builds a strong, vibrant and attractive community

List of Stakeholders

- 1) Mayor and Council of the Town of Fort Erie
- 2) Town of Fort Erie Ratepayers
- 3) Shayne Avenue Developers

Prepared by:	Submitted by:	Approved by:
<i>Original Signed:</i>	<i>Original Signed:</i>	<i>Original Signed:</i>
Chris Kalimootoo, P.Eng. Manager, Engineering	Kelly M. Walsh, P.Eng. Director, Infrastructure Services	Chris McQueen, MBA Chief Administrative Officer

Purpose of Report

The purpose of this report is to request Council approval for an amendment to the 2023 Capital Budget to add Project EDGW23 to include Edgewood Avenue Storm Sewer, with funding from the Development Charges (DC) Reserve for Storm Water Drainage and Control Services in the amount of \$51,200 and Storm Refurbishing Reserve in the amount of \$28,800 for a total of \$80,000.

AnalysisEdgewood Avenue Storm Sewer Construction

The lands south of Orchard Avenue, East of Daytona Drive, West of Parkdale Avenue and north of Edgewood Avenue (unopened road allowance), hereon noted as Shayne Avenue (North and South) developments, is scheduled to be constructed over the next few years, with works proposed to commence in 2023.

One of the requirements for approval of these developments is installation of storm sewers from the subdivisions and a new 750mm outlet connection on Edgewood Avenue east of Daytona Drive, to the existing 750mm storm sewer pipe on Lakeview Road.

This new connection will provide a five-year conveyance of stormwater flows for the Shayne Avenue developments, and also increase capacity and reduce risk for storm drainage from Daytona Drive, north of Edgewood Avenue, for existing properties.

As this pipe is required for development to proceed, part of the Subdivision Agreement directs the Developer be responsible for implementation, reducing Town staff involvement to oversight only; thereby creating efficiencies.

These works also negate the need for a future project. Crescent Park Storm Drainage Works PH2 (Daytona Dr. Edgewood Ave to Philips St.) No. C13aai, indicated in the Development Charges Background Study (2018), will no longer be required. This identified the project had timing of 1-5 years and a gross cost of \$411,200.

An amendment to the 2023 Capital Budget to add Project EDGW23 - Edgewood Avenue Storm Sewer, would provide funding for the storm sewer works in a timely manner and would allow the developer's engineers to finalize the design drawings, tender documents and construct this piece of Town infrastructure to allow for the development of the Shayne Avenue area.

Financial/Staffing Implications and Accessibility (AODA) Implications

It is recommended that the funds for this capital project be allocated from the Development Charges Reserve for Storm Water Drainage and Control Services in the amount of \$51,200 and Storm Refurbishing Reserve in the amount of \$28,800. This amount is considered the upset limit for the works. With the recommended \$80,000 amendment, the Development Charges Reserve for Storm Water Drainage and Control Services is forecasted to have a projected year ending balance of \$4,974,677 and the Storm Refurbishing Reserve is forecast to have a projected year ending balance of \$2,036,879.

Policies Affecting Proposal

By-law No. 124-2019 adopted Council's 2018-2022 Corporate Strategic Plan with a priority of sustainable infrastructure for the future. Budget Policy By-law No. 127-09, as amended, governs preparation of the budget.

By-Law 539-75, being a By-law to Establish a Policy Governing the Construction of Existing Unopened Municipal Streets and Road in the Town of Fort Erie governs unimproved road allowance extensions.

Comments from Relevant Departments/Community and Corporate Partners

Comments from the Corporate Services and Planning and Development Services departments have been incorporated into this report.

Communicating Results

Information regarding the project will be published on the Town website and adjacent property owners will be notified by hand delivered notices by the developer before construction commences.

Alternatives

Council has the option of not authorizing the recommended budget amendment and instead to defer the project to a future budget year.

This option is not recommended, as the 750mm storm sewer pipe outlet is required for the Shayne Avenue developments and both developers have indicated that they are ready to proceed with the works. This project also makes the proposed future project of the Daytona storm sewer replacement/upgrade superfluous, thereby saving costs in the longer term.

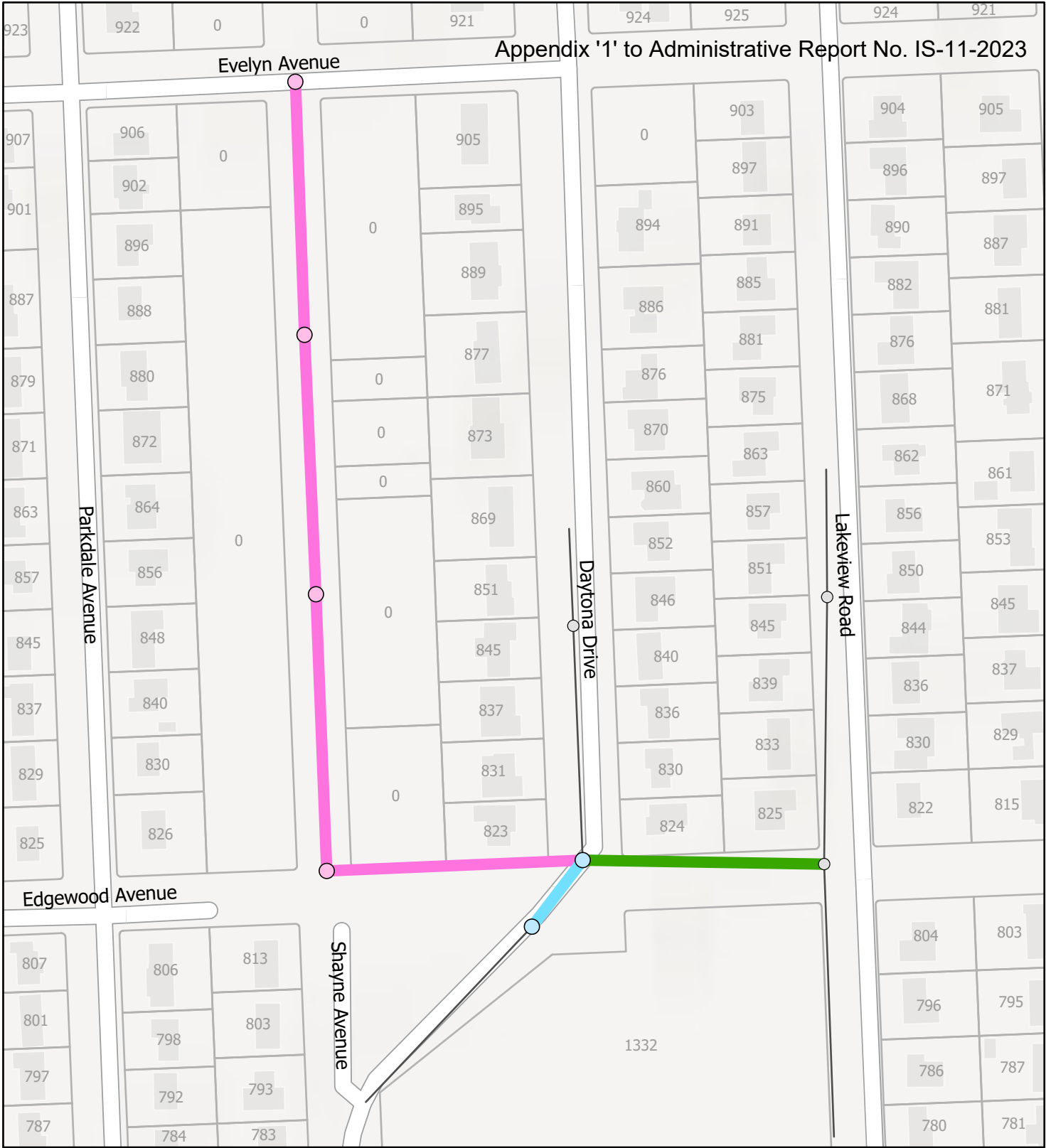
As noted previously, both the DC and storm Reserve have adequate balances to fund this project.

Conclusion

Council's approval of the recommended 2023 Capital Budget amendment, to add Project EDGW23 - Edgewood Avenue Storm Sewer, will ensure funding is provided for an upgraded storm sewer connection that will accommodate growth, reduce future projects and costs, and mitigate risk for current residents.

Attachments

Appendix '1' – Project Location Map



CRESCENT PARK ESTATES

EDGEWOOD AVENUE STORM SEWER



- Proposed Pipe
- Existing Pipe (to be decommissioned)
- Pipe for Development



Community Services

Prepared for	Council-in-Committee	Report No.	CAO-10-2023
Agenda Date	May 8, 2023	File No.	340403

Subject

TERMS OF REFERENCE UPDATE FOR COMMUNITY HEALTH CARE SERVICES COMMITTEE

Recommendations

THAT Council approves the Terms of Reference for the Community Health Care Services Committee; and further

THAT Council directs Staff to submit a by-law to Council to re-establish the Community Health Care Services Committee, repeal By-law Nos. 29-2018 and 66-2021 and adopt the new Terms of Reference

Relation to Council's 2018 - 2022 Corporate Strategic Plan

Priority: 1. Optimizing Health, Housing & Social Well-Being through Service Access and Healthy Lifestyles

Goal: 1.3 Facilitate/coordinate the development of health services inventory and needs assessment

Initiative: N/A

List of Stakeholders

Current Committee Members
Community and Health Services providers and agencies
Future Committee Members
Town of Fort Erie community

Prepared by:

Original Signed

Alice Preston, BBA
Health Services
Coordinator

Submitted and Approved by:

Original Signed

Chris McQueen, MBA
Chief Administrative Officer

Purpose of Report

This report aims to update Terms of Reference for the Community Health Care Services Committee based on feedback received from the current committee. The updated Terms of Reference will create standard expectations and accountability and capture expanded goals and objectives related to the provision of essential community and health care services within the Town of Fort Erie, particularly continuity of necessary services following the opening of the new South Niagara Hospital.

Analysis

Report No. [COS-01-2023](#) was considered and approved at the Regular Council Meeting held on January 23, 2023, which advised Council on the state of the Town's Committees. Staff identified that the Terms of Reference for many of the Town Committees are outdated or non-existent. As a result, Legislative Services created a standard template, Terms of Reference, to assist in establishing common expectations and accountability across Town Committees.

The Terms of Reference for the Community Health Care Services Committee was reviewed by the current membership, and their input has been incorporated into the proposed updates. The mandate was expanded to include the development of an evidence-based strategy and a comprehensive business case to ensure demands for Health Services are met prior to the opening of the new South Niagara Hospital and potential closure of the Douglas Memorial Hospital. The Committee will continue to ensure the residents of Fort Erie have access to primary care, urgent care and after-hours health care services, supported by the Town's Health Services Coordinator and Physician Recruitment program.

Financial/Staffing Implications

Any costs associated with the Community Health Care Services committee (if any) would be accommodated within the 2023 approved budget.

Policies Affecting Proposal

None.

Communicating Results

New Terms of Reference will be distributed to the Health Services Coordinator and relevant Town staff, Committee Members and posted on the Town's web page.

Alternatives

Council could choose not to update the Terms of Reference; however, this is not recommended since the current Terms of Reference do not capture new goals and objectives identified by the Health Services Committee.

Conclusion

The Chief Administrative Officer and Health Services Coordinator have worked with the Community Health Care Services Committee to update their Terms of Reference to capture expanded goals and objectives related to the provision of essential community and health care services within the Town of Fort Erie, particularly continuity of necessary services following the opening of the new South Niagara Hospital.

Attachments

Appendix “1” – Community Health Services Committee Terms of Reference

Community Health Care Services Committee (CHCSC)

Terms of Reference

1. Mandate and Objectives

1.1. The mandate of the Committee is to:

- a) Work to ensure that the residents of Fort Erie have access to primary care, urgent care and associated community and health care services that are required within the community
- b) Develop an evidence-based strategy and a comprehensive business case regarding a Health Services model to effectively provide primary care, urgent care and associated community and health care services in Fort Erie; The Health Services model will ensure health care service demands are being met and services maintained and enhanced within the Town of Fort Erie prior to the closure of the Douglas Memorial Hospital and the opening of the new South Niagara Hospital in Niagara Falls
- c) Provide guidance on the Town's Physician Recruitment program

1.2. The objectives of the Committee shall be as follows:

- a) Work to ensure that the residents of Fort Erie have access to primary care, urgent care, community services and after hours health care services
- b) With the continued shortage of Fort Erie's primary care complement, the Committee must stay apprised of the numbers of un-rostered citizens to ensure ongoing access and preventative care is available to them
- c) Provide guidance on the Town's Physician Recruitment program and strategies to ensure that gaps in primary care and urgent care can be addressed (such as after-hours clinics and urgent care coverage)
- d) Engage local healthcare providers to ensure a robust complement of physicians with faculty appointments, teaching of future providers of care, and developing a recruitment and retention initiative to ensure our providers are supported by their community
- e) Develop a Health Services model that provides a seamless transition of health services for the residents of Fort Erie upon closure of the Douglas Memorial Hospital and the opening of the new South Niagara Hospital, including:
 - i. Identify the current baseline of health care service available in Fort Erie and future health service demands to inform the establishment of achievable goals, short term and long term, that will address any health service gaps identified; and
 - ii. Address specific health care needs of the Indigenous community in the business case and establish an appropriate Health Services Facility to serve this population; and
 - iii. Develop a compelling business case to demonstrate community need to secure primary health care, urgent care and related health services for the community including the establishment of an effective Health Services Facility; and

Appendix "1" to Report No. CAO-10-2023

- iv. Engage in all necessary action, including creating partnerships with other organizations and government agencies, to ensure access for the residents to all health care services deemed necessary for a Health Services Facility; and
 - v. Identify sources of funding for any capital and/or operational costs associated with the health services required; and
 - vi. Create a government relations and advocacy strategy for addressing the current and future healthcare needs of the community; and
 - vii. Identify a preferred location for the Health Services Facility that will provide accessible, sustainable primary care, urgent care, and associated health services to serve all residents of Fort Erie; and
 - f) Stay informed of emergency department wait times, off-load delays, wait times for specialist services, wait times for home and community care, the number of citizens using the emergency department for primary care servicing; and
 - g) Assess the significance of health care service proposals and the impact of the intended outcomes of those service proposals on the residents of Fort Erie; and
 - h) Engage the community in identifying, soliciting, pursuing and advocating for health care needs in Fort Erie, where appropriate; and
- 1.3. The Committee shall, following the appointment of Committee members:
- i. Prepare a timetable for Council that will outline milestones that will result in a health care strategy for Council's consideration
 - ii. The timetable will include a mandatory quarterly report to Council to provide regular updates until the final strategy is complete
 - iii. The quarterly report may include comments on problems or concerns the Committee has experienced with current government or agency policies and/or regulations in the development of the strategy

2. Membership

2.1. Qualifications

- a) Members shall have access to a computer and an email address to receive meeting invitations and agenda packages with large files
- b) Consideration of appointments to the Committee shall be based on representation by specific health service providers and/or demonstrated knowledge or expertise related to health services

2.2. Composition

- a) The Committee shall be comprised of thirteen (13) members including representation from the following:
 - i. Town of Fort Erie, five (5):
 - Mayor
 - Coordinator, Community Health Care Services
 - Two (2) appointed Councillors, and one (1) Alternate
 - Chief Administrative Officer
 - ii. Fort Erie's Indigenous Community: two (2) and one (1) Alternate
 - iii. Hospice Niagara: one (1) and one (1) Alternate
 - iv. Niagara Health: one (1) and one (1) Alternate

- v. Local Physicians: one (1) and one (1) Alternate
- vi. Bridges Community Health Centre: one (1) and one (1) Alternate
- vii. Niagara Region: one (1) and one (1) Alternate
- viii. One (1) member from the community at large
- b) Each organization listed in subsection (a) shall make written recommendations for consideration of appointment by Council
- c) The Local Physicians shall be recommended by a consensus of the Mayor, Coordinator, Health Care Services and the Chief Administrative Officer
- d) Consideration will be given to membership within the Niagara Ontario Health Team or any other health-based community planning organization

2.3. Term

- a) Committee members shall hold office concurrent with the term of Council, and shall continue until a new Council appoints new Committee members following an election

3. Roles and Responsibilities

3.1. At the first meeting of the term, Committee members shall appoint a Chair, Vice-Chair and Secretary

3.2. Chair and Vice-Chair

- a) Chair all regular meetings of the Committee and exercise authority, and perform duties as required
- b) Maintain decorum at each meeting and ensure that the Rules of Procedure are observed under By-law No. 36-2016 (Council Rules of Procedure), as amended or replaced
- c) Ensure that all committee members are provided with an opportunity to comment
- d) Provide guidance and leadership to the Committee in the completion of its mandate
- e) Vice-Chair shall assume all functions of the Chair in the Chair's absence

3.3. Secretary

- a) Circulate agendas and record and prepare minutes of Committee meetings
- b) Distribute the minutes to the Town Clerk

3.4. Committee Members

- a) Attend meetings of the Committee (if unable to attend, notification should be sent to the Secretary and Town Staff as soon as possible before the meeting)
- b) Review agendas and materials before the meeting
- c) Contribute time, knowledge, skill and expertise to the fulfillment of the committee mandate

3.5. Town Staff

- a) Provide guidance and advice to the Committee in fulfillment of its mandate and objectives
- b) Prepare and submit reports to Council as required

3.6. Ad-Hoc Working Groups

- a) The Committee is permitted to form ad-hoc working groups which may include external personnel (if required) to address any specific objectives with reporting back to the Committee (as needed)

3.7. Resignations and Vacancies

Appendix "1" to Report No. CAO-10-2023

- a) Notices of resignation shall be submitted in writing to the Clerk's Office and the Staff Liaison
- b) The Committee shall self solicit to fill vacancies during the Term
- c) Applications to fill vacancies during the Term shall be forwarded to the Clerk for consideration and appointment by Council

4. Reporting

4.1. This Committee reports to Council through its minutes and through reports prepared by Town Staff

5. Meetings

5.1. Meeting Schedule

- a) Generally, the Committee will meet bi-monthly or as required to conduct business to carry out its mandate and objectives
- b) Special meetings may be held at the call of the Chair or by a call of 2/3 majority of the Committee

5.2. Quorum shall be seven (7) members

5.3. Rules of Procedure

- a) The Committee shall follow the Council's Rules of Procedure By-law, as amended or replaced, with modifications as necessary
- b) In the event of a conflict between the Terms of Reference and any by-law of the Town of Fort Erie, the Terms of Reference shall prevail

5.4. Agendas and Minutes

- a) The format of agendas and minutes shall be in a form approved by the Clerk

5.5. Notice

- a) Formal notice shall be given seven (7) days in advance of the meeting

5.6. Ad Hoc Guests

- a) The Committee may invite additional attendees, from time to time, to address specific issues or topics

6. Remuneration

6.1. The Committee operates on a volunteer basis only

7. Amendments to the Terms of Reference

7.1. The Committee shall review the Terms of Reference on a bi-annual basis and make recommendations through their minutes, as needed



Corporate Services

Prepared for	Council-in-Committee	Report No.	CS-03-2023
Agenda Date	May 8, 2023	File No.	350204

Subject
2022 DEVELOPMENT CHARGES RESERVE FUND STATUS

Recommendations	
<u>That</u>	Council receives Report No. CS-03-2023 regarding the 2022 Development Charges Reserve Fund Status, for information purposes, and further
<u>That</u>	Council directs that the Development Charges Interest Policy By-law No. 110-2022, be amended to change the interest rate charged from 5% to a maximum of prime plus 1%, and further
<u>That</u>	Council directs that the Development Charges Payment Deferral Policy By-law No. 111-2022, be amended to change the interest rate charged from 5% to a maximum of prime plus 1%.

Relation to Council's 2018-2022 Corporate Strategic Plan
Priority: Sustainable Infrastructure for the Future
Goal: Update Town's 10-year forecast (recurring capital, Asset Management Plan, Master Plan, Development Charge investments, etc.)

List of Stakeholders
<ul style="list-style-type: none">• Town of Fort Erie Ratepayers• Developers, Niagara Home Builders Association• Owners of vacant land, pending development

Prepared by:	Submitted by:	Approved by:
<i>Original signed</i>	<i>Original signed</i>	<i>Original signed</i>
Nanette General, CPA, CGA EA to Director, Corporate Services	Jonathan Janzen, CPA, CA Director, Corporate Services	Chris McQueen, MBA Chief Administrative Officer

Purpose of Report

The purpose of this report is to provide Council with the annual statement reporting transactions affecting the Development Charges Reserve fund as required by the *Development Charges Act* and Ontario Regulation 82/98.

Analysis

Development Charges (DC) recover growth-related capital expenditures from new development. The *Development Charges Act* (the “DC Act”) is the statutory basis to recover these charges. Bill 73, *Smart Growth for Our Communities Act* came into effect January 1, 2016 and amended the *DC Act* and *Planning Act*. The contents of the treasurer’s financial statement under section 43 of the *DC Act* require the following:

- The report be made available to the public;
- Submit the report to the Minister of Municipal Affairs and Housing only when requested by the Minister;
- Identify all assets whose capital costs were funded with DC, and for each asset, identify capital costs which were funded by other sources; and
- Include a statement as to the municipality’s compliance in not imposing, directly or indirectly, a charge related to a development, except as permitted.

A DC Background Study contains the underlying information supporting development charge rates and policies. The Study identifies eligible capital projects and restricts the amount to the proportion related to growth. The Study was completed in 2018 and was adopted March 18, 2019 by By-law No. 47-2019 as amended and approved pursuant to the Order/Decision of the Local Planning Appeal Tribunal issued July 17, 2020 in Case No. DC190006 and repealed By-law No. 43-2014. The existing DC By-law expires March 17, 2024. To prepare for this, the contract for the 2024 DC Background Study was awarded to Hemson and work on the study is scheduled to commence shortly.

Financial/Staffing and Accessibility (AODA) Implications

During 2022, the Town collected \$3,928,429 (2021 - \$4,816,700) in DCs. Residential construction includes urban, non-urban, apartments and multiples and contributed 99.95% of this revenue at \$3,926,521 with the remaining \$1,908 from commercial development. The revenues earned are apportioned to each service area in accordance with the technical data contained in the 2018 DC Background Study.

2022 DC collections above were 2% less than the \$4.0 million budget and were 18% lower than the \$4.8 million received in 2021. The decrease in collections is consistent with year end development activity in Report No. [PDS-33-2023](#) noting permits were issued for 239 new residential units with a total residential build value of \$145.7 million.

The reserve earned \$417,042 in 2022 from bank and investment income. Capital projects funded from the reserve totalled \$2 million and included Albert Street Park Renovations, Crystal Ridge Park Improvements, Neighbourhood Parks Enhancement,

Ferndale Multi-use Court Conversion, Spears Road Subdivision New Park, Arthur Street Upgrade, Schooley Road upgrades and Fire Station #4. The reserve also funded growth-related debt service costs for Thompson Rd, Frenchman's Creek and Garrison Rd totalling \$286,230. DCs funded operating transit costs of \$87,065 and Library costs of \$30,000. The uncommitted balance as at December 31, 2022 was \$16,801,702.

The Appendix "1" opening balance, previously stated as \$16,569,638 in the 2021 DC Reserve Fund Status Report No. CS-04-2022, has been revised to \$16,624,243 to account for an ICIP grant received for the capital projects of Albert Street Park Renovation and Crystal Ridge Park Improvements. This adjustment was made because of a delay in the grant agency's agreement being signed, resulting in a late amendment. Despite the amendment being approved with the 2022 Spring Capital close out Report No. CS-06-2022, the costs incurred until December 31, 2021 were eligible for the grant, and therefore the 2021 DC transfer was adjusted accordingly.

Due to Bill 197, parking is no longer considered an eligible service for DC collection. However, the Community Benefit Charge (CBC) allows for parking to be included as an eligible fee. As a result, once the study is complete and approved by Council, the DC Parking component balance will be transferred to the CBC reserve. Furthermore, as of 2023, transit services have been transferred to the Niagara Transit Commission (NTC). The Town is collaborating with NTC to manage the transfer of any excess DC transit funds. As a result of the changes noted above, the parking and transit service rates have been removed from the 2023 DC fee schedule.

Discretionary Exemptions

There are a variety of discretionary exemptions available under section 3.8 of the current DC by-law including industrial purposes, Brownfields Community Improvement Plan, affordable housing, agricultural uses, and second dwelling units. However, according to section 5(6)3 of the DC Act, "if a DC by-law exempts a certain type of development or implements a lower DC than what is permitted, any resulting shortfall cannot be compensated for by increasing the DC for other types of development". Consequently, any revenue loss resulting from a DC discretionary exemption or phase-in must be funded through non-DC sources such as property taxes. Town budgets have not allocated funds for discretionary exemptions, and costs have been covered by any unbudgeted General Levy surplus in accordance with Budget Policy. This information can be found in Appendix "1" in the "Transfers from Levy" section. The following are the 2022 discretionary exemptions totaling \$1,381,705.

a) Industrial

Council approved an Industrial DC rate of zero through Report No. CDS-24-2014 on March 24, 2014. This was supported again in the 2019 DC Study. Nine industrial building permits were issued in 2022 that were eligible for DC and a total of \$848,471 was forgone based on the commercial rate.

b) Brownfields Community Improvement Plan

Council approved By-law No. 109-10 in 2010 to adopt a Brownfields Community Improvement Plan (CIP). Section 5.6 created a Brownfields DC Exemption Program to promote Smart Growth and redevelopment on brownfield sites by providing a major economic catalyst in the form of an upfront reduction of the DCs. The program provides a financial incentive in the form of a 75% reduction of Town DC's payable equal to the cost of environmental remediation approved under the Brownfields Rehabilitation Grant Program. For 2022, there were no forgone DCs related to this program.

c) Other

13 permits were provided with other exemptions totaling \$533,234 as summarized in the table below:

By-law Section	Type	Permits issued	Exemption Amount
3.8 (c)	Agricultural uses	4	\$66,566.83
3.8 (d)	Secondary dwelling units	5	\$46,729.00
3.8 (h)	Core Municipal exempt area	3	\$260,925.17
3.8 (l)	Affordable housing	1	\$159,013.00
Total		13	\$533,234.00

The exemptions above do not cover the time and effort spent by staff to calculate and monitor the exempted amounts for reporting purposes and to ensure any lost revenue is compensated. Bill 23 introduced several new exemptions, highlighted in Report No. [PDS-73-2022](#). Staff will review the cost-benefit analysis of these and other discretionary exemptions to understand and minimize the taxpayer burden of financing growth.

Development Charges Interest Policy (DCIP)

By-law No. 110-2022 was approved September 19, 2022, following royal assent of Bill 108 on June 6, 2019, to introduce two new sections (26.1 and 26.2) to the DC Act under the "Collection of DCs" section. The approval of the DCIP permitted municipalities to levy interest on frozen and phased DCs, without prescribing a specific implementation method. However, Bill 23 amended Section 26.3, setting a maximum interest rate of prime plus 1%. Sections 6.3.2, 7.5.2, and Appendix "A" of the DCIP are being revised to reflect this change and apply the maximum interest rate where applicable.

Development Charges Payment Deferral Policy (DCPDP)

The DCPDP is based on section 27 of the DC Act relating to agreement, early or late payments. Bill 23 did not impact this section; however, for consistency and clarity, the DCPDP will be amended to agree to the DCIP maximum interest rate.

Policies Affecting Proposal

By-law No. 124-2019 adopted Council's 2018-2022 Corporate Strategic Plan.

By-law No. 47-2019, as amended, approved DCs pursuant to the Order/Decision of the Local Planning Appeal Tribunal issued July 17, 2020 in Case No. DC190006.

Development Charges Act, 1997, as amended.

Ontario Regulation 82/98, as amended.

By-law No. 109-10 adopted the Brownfields Community Improvement Plan (CIP). The DC reduction requirements are in the Town's DC By-law.

By-law No. 110-2022 adopted the Development Charges Interest Policy.

By-law No. 111-2022 adopted the Development Charges Payment Deferral Policy.

Comments from Relevant Departments/Community and Corporate Partners

The Treasurer is required to prepare a financial statement on the DC Reserve fund with prescribed information, make the statement available to the public, and to forward the Treasurer's statement to the Minister of Municipal Affairs and Housing upon request.

The Town is in compliance with the requirements of Section 59.1 (1) of the "DC Act" for the year ended December 31, 2022 which states that:

"A municipality shall not impose, directly or indirectly, a charge related to a development or a requirement to construct a service related to development, except as permitted by this Act or another Act. 2015, c. 26, s. 8."

Communicating Results

The "DC Act" requires that the statement be made available to the public. The Report is posted on the Town's website under Government on the "Agendas and Minutes" page.

Alternatives

This report must be provided annually to meet the requirements of the "DC Act".

Conclusion

The DC Reserve fund had an uncommitted balance of \$16.8 million as at December 31, 2022. This report provides the annual prescribed information for legislated requirements.

Due to modifications in Bill 23, an amendment is required for the DC Interest Policy to conform to the maximum prescribed interest rate. To ensure consistency, the maximum interest rate for the DC Payment Deferral Policy will also be revised.

Attachments

Appendix “1” – DC Reserve Fund for By-law No. 47-2019, as amended

Appendix “2” – List of assets approved to be funded by Development Charges for 2022

Appendix “3” – Description of services for which fund was established to recover
growth-related cost

Appendix "1" to Administrative Report No. CS-03-2023

THE CORPORATION OF THE TOWN OF FORT ERIE
DEVELOPMENT CHARGES RESERVE FUND
BY-LAW NO. 47-2019
JANUARY 1, 2022 to DECEMBER 31, 2022

	Roads and Related	Public Works and Fleet	Fire Protection	Parks and Recreation	Transit	Library Services	Parking	Administration	Storm Water Drainage and Control Services	Wastewater Services	Water Supply Services	TOTAL RESERVE FUND
Fund balance, Jan 1, 2022	\$ 3,587,203.14	\$ 1,095,158.26	\$ 81,606.17	\$ 4,430,608.95	\$ 161,520.41	\$ 157,058.60	\$ 104,137.11	\$ 152,140.91	\$ 5,296,339.51	\$ 1,288,639.84	\$ 269,830.22	\$ 16,624,243.12
Revenues:												
Urban residential	\$ 321,725.22	\$ 113,112.64	\$ 39,922.11	\$ 690,939.48	\$ 34,051.21	\$ 10,437.15	\$ 4,566.25	\$ 50,098.33	\$ 559,300.89	\$ 476,977.86	\$ 53,620.87	\$ 2,354,752.01
Non-urban residential	\$ 42,444.71	\$ 14,922.77	\$ 5,266.86	\$ 91,154.57	\$ 4,492.32	\$ 1,376.96	\$ 602.42	\$ 6,609.39	\$ -	\$ -	\$ -	\$ 166,870.00
Apartments and Multiples	\$ 191,814.06	\$ 67,531.82	\$ 23,813.85	\$ 412,299.53	\$ 20,378.02	\$ 6,279.27	\$ 2,606.49	\$ 29,856.17	\$ 333,749.36	\$ 284,581.46	\$ 31,988.76	\$ 1,404,898.79
Commercial Outside Business District	\$ 372.87	\$ 129.87	\$ 45.63	\$ -	\$ 39.15	\$ -	\$ 5.13	\$ 57.24	\$ 646.65	\$ 549.72	\$ 61.83	\$ 1,908.09
	\$ 556,356.86	\$ 195,697.10	\$ 69,048.45	\$ 1,194,393.58	\$ 58,960.70	\$ 18,093.38	\$ 7,780.29	\$ 86,621.13	\$ 893,696.90	\$ 762,109.04	\$ 85,671.46	\$ 3,928,428.89
Transfers from Levy:												
Industrial zero-rated DC	\$ 115,925.01	\$ 40,757.09	\$ 14,384.85	\$ 248,961.41	\$ 12,269.44	\$ 3,760.75	\$ 1,645.33	\$ 18,051.58	\$ 201,529.00	\$ 171,866.11	\$ 19,320.83	\$ 848,471.39
Other exemptions	\$ 72,854.73	\$ 25,614.38	\$ 9,040.37	\$ 156,463.36	\$ 7,710.90	\$ 2,363.49	\$ 1,034.03	\$ 11,344.78	\$ 126,653.78	\$ 108,011.72	\$ 12,142.46	\$ 533,234.00
	\$ 188,779.74	\$ 66,371.47	\$ 23,425.22	\$ 405,424.77	\$ 19,980.34	\$ 6,124.24	\$ 2,679.36	\$ 29,396.36	\$ 328,182.78	\$ 279,877.83	\$ 31,463.29	\$ 1,381,705.39
Spent total before investment income	\$ 4,332,339.74	\$ 1,357,226.83	\$ 174,079.84	\$ 6,030,427.30	\$ 240,461.45	\$ 181,276.22	\$ 114,596.76	\$ 268,158.40	\$ 6,518,219.19	\$ 2,330,626.71	\$ 386,964.97	\$ 21,934,377.40
Investment income	\$ 82,371.55	\$ 25,805.20	\$ 3,309.81	\$ 114,657.59	\$ 4,571.94	\$ 3,446.64	\$ 2,178.85	\$ 5,098.54	\$ 123,932.06	\$ 44,312.62	\$ 7,357.43	\$ 417,042.23
Return Capital Surplus (Deficit):												
Report No. CS-06-2022				\$ (43,369.00)								\$ (43,369.00)
	\$ -	\$ -	\$ -	\$ (43,369.00)	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ (43,369.00)
Capital spending:												
Albert Street Park Renovation				\$ (182,762.00)								\$ (182,762.00)
Arthur Street Upgrade - G3	\$ (144,391.00)								\$ (379,231.00)	\$ (322,189.00)		\$ (845,811.00)
Crystal Ridge Park Improvements (CRYS18 to 21)				\$ (322,173.00)								\$ (322,173.00)
Douglas Park Revitalization				\$ (4,046.00)								\$ (4,046.00)
Neighbourhood Parks Enhancement				\$ (4,041.00)								\$ (4,041.00)
Fire Station #4			\$ (82,931.21)									\$ (82,931.21)
Lakeside Road Watermain Replacement									\$ (11,229.00)			\$ (11,229.00)
Prospect Point Road - Friendship Trail to Highland	\$ (15,592.00)								\$ (2,705.00)			\$ (18,297.00)
Schooley Road Storm Sewer & Outlet - CB1b	\$ (11,974.00)								\$ (153,180.64)			\$ (165,154.64)
Schooley Road Upgrade - CB1a	\$ (37,826.00)								\$ (187,239.00)			\$ (225,065.00)
Spears Road Subdivision New Park				\$ (91,900.29)								\$ (91,900.29)
Townline Road Servicing Study	\$ (14,766.00)											\$ (14,766.00)
West Main Street Storm Sewer Replacement - May St to Ott Rd	\$ (4,654.00)								\$ (4,457.00)			\$ (9,111.00)
	\$ (229,203.00)	\$ -	\$ (82,931.21)	\$ (604,922.29)	\$ -	\$ -	\$ -	\$ -	\$ (738,041.64)	\$ (322,189.00)	\$ -	\$ (1,977,287.14)
Capital debt payments												
Tompson Road - THOM09											\$ (22,012.95)	\$ (22,012.95)
Frenchman's Creek - FREN08										\$ (82,293.95)		\$ (82,293.95)
Garrison Road - GRSH08 & GRSS10										\$ (181,923.32)		\$ (181,923.32)
	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ (264,217.27)	\$ (22,012.95)	\$ (286,230.22)

Operating spending:
Community Benefit Study
Library Services
Transit services

Due to(from) category:

and balance, December 31, 2022

Less: Committed capital and operating spending

Fund balance, December 31, 2022 uncommitted

Purposes Only

Less: 92901 DC Reserved Town Funded

January 1 to December 31, 2022

Revised 92900 Fund Balance, Dec 31, 2022

By-law No. 47-2019
Development Charges Approved
(2022 rates - LPAT Sch B3 Jan to Dec 31)

Library Services
Fire Protection
Parks and Recreation
Public Works and Fleet
Parking
Transit Services
Administration
Road and Related

Stormwater Drainage & Control Services
Wastewater Services
Water Supply Services

Jan 1 to Dec 31, 2022 collections

Urban residential - 7537
Non-urban residential - 7536
Apartments and Multiples - 7539
Total Residential

Commercial Outside Business District - 7538
Total Commercial

Investment income Jan 1 to Dec 31, 2022

Roads and Related	Public Works and Fleet	Fire Protection	Parks and Recreation	Transit	Library Services	Parking	Administration	Drainage and Control Services	Wastewater Services	Supply Services	RESERVE FUND
							\$ (1,735.00)				\$ (1,735.00)
					\$ (30,000.00)						\$ (30,000.00)
				\$ (87,065.00)							\$ (87,065.00)
\$ -	\$ -	\$ -	\$ -	\$ (87,065.00)	\$ (30,000.00)	\$ -	\$ (1,735.00)	\$ -	\$ -	\$ -	\$ (118,800.00)
\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
\$ 4,185,508.29	\$ 1,383,032.03	\$ 94,458.44	\$ 5,496,793.60	\$ 157,968.39	\$ 154,722.86	\$ 116,775.61	\$ 271,521.94	\$ 5,904,109.61	\$ 1,788,533.06	\$ 372,309.45	\$ 19,925,733.27
\$ (1,070,485.00)		\$ -	\$ (876,680.00)				\$ (209,702.00)	\$ (940,003.00)	\$ (27,161.00)		\$ (3,124,031.00)
\$ 3,115,023.29	\$ 1,383,032.03	\$ 94,458.44	\$ 4,620,113.60	\$ 157,968.39	\$ 154,722.86	\$ 116,775.61	\$ 61,819.94	\$ 4,964,106.61	\$ 1,761,372.06	\$ 372,309.45	\$ 16,801,702.27

\$ (426,946.44)	\$ (111,647.60)	\$ (23,425.22)	\$ (424,348.77)	\$ (29,152.10)	\$ (12,635.72)	\$ (3,883.86)	\$ (35,287.90)	\$ (635,929.01)	\$ (279,877.83)	\$ (31,463.29)	\$ (2,014,597.74)
\$ 2,688,076.85	\$ 1,271,384.43	\$ 71,033.22	\$ 4,195,764.83	\$ 128,816.29	\$ 142,087.14	\$ 112,891.75	\$ 26,532.04	\$ 4,328,177.60	\$ 1,481,494.23	\$ 340,846.16	\$ 14,787,104.53

Residential Urban Area	Unserviced Area	Apartments (2 + bedrooms)	Multiples	Commercial Municipal Wide (per Sq metre)	Industrial Municipal Wide
\$ 80	\$ 80	\$ 53	\$ 57	\$ -	\$ -
\$ 306	\$ 306	\$ 201	\$ 213	\$ 1.69	\$ -
\$ 5,296	\$ 5,296	\$ 3,480	\$ 3,699	\$ -	\$ -
\$ 867	\$ 867	\$ 570	\$ 606	\$ 4.81	\$ -
\$ 35	\$ 35	\$ 22	\$ 23	\$ 0.19	\$ -
\$ 261	\$ 261	\$ 172	\$ 183	\$ 1.45	\$ -
\$ 384	\$ 384	\$ 252	\$ 268	\$ 2.12	\$ -
\$ 2,466	\$ 2,466	\$ 1,619	\$ 1,722	\$ 13.81	\$ -
\$ 9,695	\$ 9,695	\$ 6,369	\$ 6,771	\$ 24.07	\$ -
\$ 4,287		\$ 2,817	\$ 2,995	\$ 23.95	\$ -
\$ 3,656		\$ 2,402	\$ 2,554	\$ 20.36	\$ -
\$ 411		\$ 270	\$ 287	\$ 2.29	\$ -
\$ 8,354		\$ 5,489	\$ 5,836	\$ 46.60	\$ -
\$ 18,049		\$ 11,858	\$ 12,607	\$ 70.67	\$ -

Jan 1 -Dec 31, 2022 collections	% of Total
\$ 2,354,752.00	59.94%
\$ 166,870.00	4.25%
\$ 1,404,898.80	35.76%
\$ 3,926,520.80	99.95%
\$ 1,908.09	
\$ 1,908.09	0.05%
\$ 3,928,428.89	100.00%

\$ 417,042.22

CORPORATION OF THE TOWN OF FORT ERIE
2022 CAPITAL BUDGET & FINANCING

Run Date: 12/04/23 1:14 PM

	2022 Budget	Reserves	Development Charges	Gas Tax	Debentur	Donations & Other Contributions	Fed/Prov Reg/ Grants
ACTIVE CAPITAL							
CORPORATE & COMMUNITY SERVICES							
Digital Capital							
IMIS22 IT Computer Hardware	78,500	78,500					
PHON22 Phone Replacement	17,000	17,000					
SERV22 Server & Core Infrastructure Replacement	16,000	16,000					
WINF22 WinFuel Upgrade	10,000	10,000					
Total Digital Capital	121,500	121,500					
Municipal Centre Capital							
COPY22 2022 Photocopier Replacement	16,000	16,000					
Total Municipal Centre Capital	16,000	16,000					
Total CORPORATE & COMMUNITY SERVICES	137,500	137,500					
PLANNING & DEVELOPMENT SERVICES							
Parks & Open Space Capital							
ACCE22 Park Accessibility Improvements	35,000	30,983	4,017				
ACQU22 Parkland Acquisition Shagbark	900,000	900,000					
BACK22 Backstop Replacements	112,000	112,000					
BBST22 Bay Beach Storm Repairs	125,000	125,000					
BOWN20 Bowen Road Park Playground Replacement	100,000	88,523	11,477				
DOUG20 Douglas Park Revitalization	200,000	178,000	22,000				
ENHA22 Neighbourhood Park Enhancements	40,000		40,000				
HHHP22 History Happened Here Pilot Program	15,000	15,000					
OAKE23 Oakes Park Ball Diamond Improvements	250,000	250,000					
PKSG22 Park Signage	75,000	75,000					
PLND23 Ridgeway North Park Land Acquisition	150,000	150,000					
SPSP22 Sugarbowl Park Splashpad	1,625,000	506,250	618,750				500,000
SUGR23 Sugarbowl Park Playground Replacement	100,000	88,000	12,000				
TCCR22 Park Court Resurfacing	65,000	65,000					
TOUR22 Fort Erie Tourism Sign	110,000	10,000					
WARE22 Park Waste Receptacles	60,000	60,000					
Total Parks & Open Space Capital	3,962,000	3,010,087	351,913				500,000
Total PLANNING & DEVELOPMENT SERVICES	3,962,000	3,010,087	351,913				500,000
FIRE & EMERGENCY SERVICES							
Fire & Emergency Capital							
BKGR22 Bunker Gear Replacement	50,000	50,000					
RECR22 Recruit PPE	40,000	40,000					
Total Fire & Emergency Capital	90,000	90,000					
Total FIRE & EMERGENCY SERVICES	90,000	90,000					
INFRASTRUCTURE SERVICES							
Roads Capital							
BRID18 Bridgeburg District Streetscape Improvements	3,931,100				3,181,100		750,000
BURL20 Burleigh Rd Development	83,259					83,259	
DARX22 Delaware Avenue Road Extension	65,000	65,000					
ELMS19 Elm Street Watermain - Ridge Rd N to Park	35,000	35,000					
ERIE20 Erie Road Development	378,502					378,502	
GRRP22 Guide Rail Replacement	75,000	75,000					
HAGY14 Hagey Ave Road Extension	721,350	721,350					
IDYL20 Idylewyld Sanitary Sewer	1,410,000	1,278,505					131,495
KNGD19 King Street Upgrade - G6	39,525	19,762	19,763				
LAKE07 Lakeside Road Watermain Replacement	134,712	134,712					
OTRX17 Ott Road At Grade Rail Crossing	235,000	235,000					

CORPORATION OF THE TOWN OF FORT ERIE
2022 CAPITAL BUDGET & FINANCING

Run Date: 12/04/23 1:14 PM

	2022 Budget	Reserves	Development Charges	Gas Tax	Debentur	Donations & Other Contributions	Fed/Prov Reg/ Grants
PPFC25 Prospect Point Road Upgrade - R6c	191,556	95,778	95,778				
RCON23 2023 Road Reconstruction Program	20,000	20,000					
RRNI22 Ridge Road North Intersection Improvements	120,000	120,000					
RSRF22 2022 Road Resurfacing Program	2,285,000	2,085,000		200,000			
TBAY19 Thunder Bay Road Upgrade - Burleigh to Prospect	125,910	62,955	62,955				
TRSS22 Townline Road Servicing Study	100,000		100,000				
WOMS21 Maintenance Work Order Management System	130,000	130,000					
Total Roads Capital	10,080,914	4,966,951	278,496	200,000	3,181,100	461,761	881,495
Bridges & Culverts Capital							
BRGB22 Bridge & Culvert Replacement	765,000	115,000		650,000			
BRIG23 2023 Bridge & Culvert Replacement	160,000	160,000					
NIGH20 Nigh Road Upgrade - R1	600,000	600,000					
RWAL23 Farr Avenue Retaining Wall	75,000	75,000					
WOMS21 Maintenance Work Order Management System	120,000	120,000					
Total Bridges & Culverts Capital	1,720,000	1,070,000		650,000			
Sidewalk Capital							
SIDE22 2022 Sidewalk Repair Program	365,000	365,000					
Total Sidewalk Capital	365,000	365,000					
Storm Sewer Capital							
ELMS19 Elm Street Watermain - Ridge Rd N to Park	36,000	36,000					
HAGY14 Hagey Ave Road Extension	182,700	182,700					
HIWM19 High Street Watermain Replacement	63,000	63,000					
IDYL20 Idylewylde Sanitary Sewer	110,000	110,000					
KNGD19 King Street Upgrade - G6	73,170	18,292	54,878				
LAKE07 Lakeside Road Watermain Replacement	87,026	87,026					
PPFC25 Prospect Point Road Upgrade - R6c	371,844	185,922	185,922				
STRM22 2022 Storm Sewer Repairs - Various Locations	300,000	300,000					
TBAY19 Thunder Bay Road Upgrade - Burleigh to Prospect	76,050	38,025	38,025				
WOMS21 Maintenance Work Order Management System	120,000	120,000					
Total Storm Sewer Capital	1,419,790	1,140,965	278,825				
Fleet Capital							
B01922 Building/Bylaw Inspection Vehicle	50,000	50,000					
P14422 2022 Parks Pickup Truck w/ Plow	73,000	73,000					
R13322 2022 Roads Pickup Truck	57,000	57,000					
R43522 2022 Roads Tandem Dump/Plow	338,000	338,000					
U11322 2022 Utilities Pickup Truck	53,000	53,000					
Total Fleet Capital	571,000	571,000					
Wastewater Capital							
ELMS19 Elm Street Watermain - Ridge Rd N to Park	35,000	35,000					
HAGY14 Hagey Ave Road Extension	87,150	87,150					
IDYL20 Idylewylde Sanitary Sewer	1,066,000						1,066,000
LAKE07 Lakeside Road Watermain Replacement	108,882	(88,818)					197,700
SILI22 Sunset Industrial Lands	100,000	100,000					
TRSA21 2021 Trenchless Repairs	1,500,000	1,500,000					
TRSA22 2022 Trenchless Repairs	230,000	230,000					
WOMS21 Maintenance Work Order Management System	120,000	120,000					
Total Wastewater Capital	3,247,032	1,930,067					1,316,965
Water Capital							
HAGY14 Hagey Ave Road Extension	78,750	78,750					
IDYL20 Idylewylde Sanitary Sewer	900,000						900,000
LAKE07 Lakeside Road Watermain Replacement	66,760	66,760					

CORPORATION OF THE TOWN OF FORT ERIE
2022 CAPITAL BUDGET & FINANCING

Run Date: 12/04/23 1:14 PM

	2022 Budget	Reserves	Development Charges	Gas Tax	Debentur	Donations & Other Contributions	Fed/Prov Reg/ Grants
TBAY19 Thunder Bay Road Upgrade - Burleigh to Prospect	78,000	78,000					
WDWS22 Infrastructure Leak Detection - Hydrants	45,000	45,000					
WMET22 2022 Water Meter Replacement Program	50,000					50,000	
WOMS21 Maintenance Work Order Management System	120,000	120,000					
Total Water Capital	1,338,510	388,510				50,000	900,000
Cemeteries Capital							
CMCP22 McAfee Cemetery New Columbarium Purchase	75,000	75,000					
CMCR21 McAfee Cemetery Columbarium Replacement	75,000	75,000					
Total Cemeteries Capital	150,000	150,000					
Parks Capital							
WBTR22 Waverly Beach Trail Reconstruction	3,000,000	44,625		750,000			2,205,375
Total Parks Capital	3,000,000	44,625		750,000			2,205,375
Facilities Capital							
BBPL22 Bay Beach Parking Lot Asphalt	100,000	100,000					
CRPL22 Crystal Ridge Rink Pad Lighting Replacement	30,000	30,000					
CRRC27 Crystal Ridge Roof Replacement	885,000	885,000					
EJFB22 EJ Freeland Centre Building Envelope Repairs	300,000	300,000					
EJFL22 EJFCC Pool Lift	13,270	9,270				4,000	
EJFP22 EJ Freeland Centre Pool Repairs	365,000	365,000					
MCAR22 Municipal Centre Asphalt Replacement	200,000	200,000					
OPBR22 Oakes Park Bleacher Replacement	50,000	50,000					
SPAC22 Staff Space Study	250,000	250,000					
TCLU22 Tennis Club Lighting Upgrade	40,000	40,000					
THFR22 Town Hall Foundation Repair	30,000	30,000					
Total Facilities Capital	2,263,270	2,259,270				4,000	
Total INFRASTRUCTURE SERVICES	24,155,516	12,886,388	557,321	1,600,000	3,181,100	515,761	5,303,835
Total ACTIVE CAPITAL	28,345,016	16,123,975	909,234	1,600,000	3,181,100	515,761	5,803,835
Total ACTIVE CAPITAL	28,345,016	16,123,975	909,234	1,600,000	3,181,100	515,761	5,803,835

Development Charges Reserve Fund

Pursuant to the Development Charges Act, 1997 S.O. 1997 c.27, as amended, monies collected under the act shall be placed into a separate reserve account for the purpose of funding growth- related net capital costs for which the development charge was imposed under the Development Charges By-law No. 47-2019.

Description of service for which fund was established to recover growth related costs:

Library Services	Funds collected for this service are to be used for growth-related investment in costs of acquiring new materials.
Fire Protection	This fund is used for growth-related projects supporting the fire service including fire facilities, vehicles and equipment.
Parks and Recreation	The fund is used to finance the cost of growth-related investment in indoor recreation facilities and parkland development.
Public Works and Fleet	Funds are collected for the capital costs involved with Building and Fleet components of the Public Works and Fleet Department as it relates to growth.
Parking	Funds collected for this service are to be used for the construction of additional parking spaces and equipment. <i>(Removed in 2023)</i>
Transit	Funds collected for this service are used to finance the cost of growth-related transit services including shelters and vehicles. <i>(Removed in 2023)</i>
Administration	Funds collected are used for growth-related studies such as DC Background Studies, PRC Master Plans etc.
Roads & Related	Funds are collected for construction of road system upgrades and expansion of capacity as it relates to growth.
Storm Water Drainage & Control Services	Funds collected for this service are to be used for items such as erosion control, storm water management and water quality/quantity control. Many of the projects are related to upgrading roads to urban standards, and some are distinct storm draining works such as those on Crescent Park, Schooley Road, Lawrence Avenue, Ferndale Avenue, and Lakeside Road.
Wastewater	Funds are collected for the construction of wastewater upgrades and expansion as it relates to growth which includes recoveries for the Arcadia Street Sewage Pumping Station and Forcemain, the remaining debt payments for works completed at Frenchman's Creek and Garrison Road and a provision for a new wastewater master plan.
Water Supply Services	Funds are collected for the construction of water upgrades and expansion it relates to growth including recovery of the past commitment for works completed on Thompson Road.



Planning and Development Services

Prepared for	Council-in- Committee	Report No.	PDS-14-1-2023
Agenda Date	May 8, 2023	File No.	310101

Subject	
SUPPLEMENTAL INFORMATION REPORT - PROPOSED NOISE AND NUISANCE BY-LAW	

Recommendations	
THAT	Council receives Report No. PDS-14-1-2023 for information purposes, and further
THAT	Council directs that Appendix "1" to Report No. PDS-14-2023 be replaced with the proposed new Noise & Nuisance By-law attached to Report No. PDS-14-1-2023 as Appendix "2".

Relation to Council's 2018-2022 Corporate Strategic Plan	
N/A	

List of Stakeholders	
<ul style="list-style-type: none">• Mayor & Council• Municipal Staff• Town of Fort Erie Residents	

Prepared by:	Submitted by:	Approved by:
Original Signed	Original Signed	Original Signed
Jensen Cornelius, CPSO Municipal Law Enforcement, Planning and Development Services	Anamika Dilwaria, MCIP, RPP Director, Planning & Development Services	Chris McQueen, MBA Chief Administrative Officer

Purpose of Report

This report will provide additional information to Council in relation to concerns brought forward at the February 22nd, 2023 Council-in-Committee meeting. Further, this report will provide a recommendation in relation to the passing of the proposed new Noise and Nuisance By-law.

Background

On February 22nd, 2023, staff presented the proposed new Noise and Nuisance By-law Report No. PDS-14-2023 for consideration. Town Council received the report but requested additional information and further that staff obtain public input through “Let’s Talk: Fort Erie”. The following recommendation was approved:

Recommendation No. 5 Moved by: Mayor Redekop

That: Council postpones Report No. PDS-14-2023 to the April 3, 2023 Council-in-Committee meeting to permit notification by staff to the public in "Let's Talk Fort Erie", on the Town's website and Facebook, and the local newspaper, of Council's intention to pass a new Noise & Nuisance By-law, and for staff to provide a supplemental report to Council. (Carried)

On April 3rd, 2023, staff presented an Interoffice Memorandum requesting additional time to prepare this report for the May 8th, 2023 Council-in-Committee meeting. The following recommendation was approved:

*Recommendation No. 5
Moved by: Mayor Redekop*

That: Report No. PDS-14-2023 be postponed to the May 8, 2023 Council-in-Committee meeting. (Carried)

Analysis

To reiterate PDS-14-2023 briefly, Town staff from various departments including the By-law Division, Infrastructure services and the Town Solicitor proactively reviewed the existing Noise and Nuisance By-law 30-09 to make changes to reflect trends within the Niagara Region. The purpose of these changes are to improve clarity, provide easier interpretation and enforcement. These enhancements will ensure that all residents are able to enjoy their properties and public spaces while respecting their neighbors and the community.

During the Council-in-Committee meeting on February 22nd, 2023, members of Council brought forward a number of concerns with the proposed By-law. Town Council received the report but requested additional information for a number of proposed amendments, further that staff obtain public input through “Let’s Talk: Fort Erie”, and finally that the proposed By-law be emailed to local BIA’s for their comment.

This report will address the areas of concern to Town Council and provide recommendations through an analysis of the proposed changes.

A. Items Addressed at Council Meeting February 22nd, 2023 -

1) Introduction of Noise Meters -

Town Council recommended that By-law staff consider the use of noise meters to reduce subjectively at calls for service.

Historically and to date all noise complaints (120 noise complaints in 2022) have been effectively resolved using a progressive approach to complaints. By-law staff responding to complaints initially opt to educate residents as to their infractions against the Noise and Nuisance By-law, using enforcement as a final option where compliance has not been achieved. This approach has proven to be effective, as in 2022, 0 penalty notices were issued regarding noise matters.

Noise meters, although capable of providing a numerical bar for enforcement would not be used in the majority of complaints where offences are not actively ongoing at the time of the By-law Officer’s arrival. Noise meters as well do not address individual complaints that may fall outside of the norm. i.e. (repeatedly cutting grass at 7 a.m.). Noise complaints remain subjective as to what disturbs one may not disturb another and rely on interpretation to resolve complaints. For example, with the use of noise meters, By-law staff may attend a property, inform the owner that music is over the threshold of decibels permitted under the By-law, the owner may turn the music down one notch and be under the threshold. While this would be compliant with the By-law, noise may still be bothersome to neighbours. By-law staff believe that noise complaints can be best addressed through negotiating resolutions with all involved persons.

By-law staff have canvassed other By-law Enforcement Departments located within the Niagara Region in relation to the use of noise meters. To date only one Municipality within the Niagara Region has been identified as having noise meters, however the equipment is not being actively used at this time, having found the equipment ineffective.

By-law staff will acquire some noise meters, for any instances where they might be useful to monitor, measure or resolve noise complaints. The estimated cost would be approximately \$800.00 to \$900.00 per unit. Cost associated with training By-law Officers on the use of noise meters would be addressed separately.

In addition, a review of decibel levels would be required to be completed to determine acceptable levels for noise within the Town of Fort Erie.

2) Outdoor Patios:

Town Council questioned that Outdoor Patios not be closed at 11:00 P. M. as stated in section 3.2 (j). of the proposed Noise / Nuisance By-law.

Section 3.2 (j) as stated, although new to the Noise and Nuisance By-law, was passed under a Zoning Amendment in 2022 through public consultation with a recommended closing time of 11:00 P. M. for outdoor patios, if any part of the patio is located within 60 metres of a residential zone. This Zoning Amendment was sent to all the local BIA's and Planning Staff received one response indicating this was a positive change. Prior to the passing of this section under the Zoning By-law, outdoor patios were not permitted to have any outdoor noise including: televisions, stereos, or outdoor bands with any amplification devices. With the addition of this section to the Zoning By-law and Noise and Nuisance By-law, this section permits for outdoor patios to continue their operation after 11:00 P.M., however, the outdoor amplification devices must cease. This allows for an equal balance between the interests of businesses and residents in the area. This has been in effect since the passing of the Zoning Amendment in 2022. Approximately 8 calls for service have been received by the By-law Enforcement division, which have been successfully resolved with 0 penalties issued. With the addition of this already approved section to the proposed Noise and Nuisance By-law it provides By-law Enforcement Officers a mechanism to enforce violations under the Administrative Penalties By-law (maximum fine for this proposed by-law is \$700.00 on a tiered three offence) as opposed to under the Zoning By-law via *Planning Act* by way of Part Three Information (maximum fine \$25,000 on a first conviction or \$50,000 on a first conviction to a corporation).

While this section can be removed from the proposed Noise and Nuisance By-law; it would mean the only mechanism to allow By-law Enforcement Officers to address these complaints would be under the Zoning By-law. Removing this section from the proposed Noise and Nuisance By-law, this forces By-law Enforcement Officers to charge owners/corporations that do not comply with this section of the Zoning By-law by way of a Part Three Information, which in turn results in more Officer time spent in the Provincial Offences Courthouse in Welland, resulting in longer proceedings for everyone.

By-law staff are recommending that this section should remain in the proposed Noise and Nuisance By-law, as it provides additional options for By-law Enforcement Officers to resolve complaints and has already been passed under the Town's Zoning By-law. This section allows for Officers to issue fines under the Administrative Penalties By-law, only when necessary and as a last resort. This will save valuable Officer-time as Screenings and Hearings are handled in house by the Screening Officer and/or Hearing Officer, who is designated as an impartial third party. Screenings and Hearings are held at a designated time and location

and have a docket that typically only consists of administrative penalties issued by enforcement officers from the Town of Fort Erie.

3) Garage Sales:

Town Council questioned that garage sales not be limited to only residential zones as stated in section 5.2 (j) of the proposed Noise / Nuisance By-law.

In the previous report presented to Council, the proposed By-law had an error under section 5.2 (j), which stated "... 5.2 (j) conducting a garage sale more than four (4) times per calendar year at a property located in a residential zone under Town By-law No. 129-90, as amended from time to time;" this has been updated with the following changes: "... 5.2(j) conducting a garage sale more than four (4) times per calendar year at a property that does not have a residential use under Town By-law No. 129-90, as amended from time to time;". Section 5.2 (j) has been amended to ensure temporary events such as garage sales are permitted where zoning permits residential land use. The proposed By-law has had minor clerical amendments which do not change the meaning or intent except in relation to garage sales to correct an error identified by Council.

This section is in the current Noise and Nuisance By-law 30-09 section 4.2(c) taken from the Town's Zoning By-law. Similar to the reasoning behind the addition of outdoor patios, this allows the By-law Enforcement Officers additional mechanisms to enforce these violations under the Administrative Penalties By-law via the *Municipal Act, 2001* as opposed to the Zoning By-law via the *Planning Act*. The By-law Department has received 9 complaints for garage sales since 2006. As a result, 3 complaints were unfounded, 5 were resolved by way of an educational letter under the Noise and Nuisance By-law 30-09, and 1 received fines for not complying with restrictions under the *Reopening Ontario Act* during the Covid-19 Pandemic, which were unrelated to this section of the By-law.

By-law staff are recommending that this section should remain unchanged from the proposed Noise and Nuisance By-law, as it provides additional options for By-law Enforcement Officers to resolve complaints and has already been passed under the Town's Zoning By-law.

4) Persistent Noise:

Town Council had concern with the restricting of neighbours addressing each other from across the street of their dwellings.

This example would not constitute a violation under the proposed By-law, as section 3.2(h) defines persistent noise as: "means continuously for a period of ten (10) minutes or longer or intermittently for an aggregate period of ten (10) minutes or longer in any sixty (60) minute period". This definition has been added to clarify

to residents the definition of persistent, which provides for easier interpretation and enforcement, if required.

By-law Enforcement Officers have been successful to date dealing with these issues and staff recommend Council approve the definition for “persistent”.

5) Regulations under the *Municipal Act, 2001*:

Town Council had concerns with the enforcement of this By-law on young adults or minors.

Regulations under the *Municipal Act, 2001* only allow for Officers to issue fines for individuals 16 years of age or older. When dealing with complaints regarding minors, for example, at a local skatepark, typically assistance of an additional Officer or the Niagara Regional Police is requested and from there individuals are typically advised to leave the premises if they are not able to follow the rules of the park or comply with the Municipal By-laws. Historically, the By-law Department has not had any issues in this regard.

6) Complainant Reporting/Vexatious Complaints:

Town Council had concern with vexatious complaints being called into the By-law unit and requested a mechanism to address these complaints.

Historically, By-law Enforcement staff do not investigate anonymous noise and nuisance complaints unless there is reasoning as to why the individual does not want to leave their name (example: there is a concern of safety, etc). Otherwise, it is requested the complainant leave their name, phone number and address for purposes of following up with the complainant and to assist with the investigation (example: listening for noise nearby the complainant’s property).

By-law staff, to date have not recognized this as a concern in relation to noise and nuisance complaints and are not recommending the addition of a specific violation for potential vexatious complaints. A number of concerns include the difficulty of Officers being able to gather sufficient evidence to prove the intent of the complaint as being vexatious. There is also concern this could discourage residents from calling in legitimate complaints. As well, it is possible that the complainant has continually submitted complaints for the same offence and by the time the Officer arrives at the location the violation may have ceased.

By-law staff recommend that a separate policy for vexatious complaints be considered, that could still be used in the future for this By-law as well as can be used for all Municipal By-laws.

7) Fine Amounts:

Town Council requested information as to how the Town of Fort Erie proposed Administrative Penalty Fines compared to other Niagara jurisdictions.

Town staff compared the Administrative Penalty Fines to the following closest Municipalities: Niagara Falls, St. Catharines, Welland and Wainfleet. The proposed By-law for tier one offences is on par with the neighbouring Municipalities listed above. The tiered offence system has been implemented to show the seriousness of these offences and the continuation of these noise and nuisance offences. Please see **Appendix “1”** of this document for the comparison of fines.

By-law staff recommend the fine amounts and tiered penalty system be approved by the Fort Erie Council.

8) Construction Hours:

Town Council had concern with the construction hours and no policy for exemptions to this section of the By-law.

The Construction hours indicated in the proposed By-law section 3.2 (g) “...between the hours of 9:00 P. M. of one day and 7:00 A. M. of the following day”, have not changed from the current Noise and Nuisance By-law. In the past, when required to have an exemption for construction outside of these hours, the contractor makes a written request which is provided to Council to approve by resolution. Typically, this practice has only been used by the Ministry of Transportation completing work along the QEW.

Recently, By-law staff have been contacted by a site supervisor from a local construction project and have been able to build a relationship with this person to address any complaints that may arise. This practice has not been used as no complaints have recently been submitted for this site, however, this may be a good practice to use in the future if a construction project is causing any noise or nuisance issues.

By-law staff recommend no changes be made to construction hours and to proceed with the current process.

9) Town Exemption:

Town Council had concern with the perceived disparity of the Town of Fort Erie being exempted from excessive noise while homeowners could not carry out similar practices without permission. This wording has been suggested by the Town Solicitor. By-law staff understands that this section allows for Town staff (example: Water/Wastewater Division)

after hours to undertake emergency repairs relating to Town projects, where required. Additionally, this section allows for general maintenance to be completed within Town facilities outside of operational hours to ensure taxpayer services are not interrupted. This clause can be found in other Municipalities Noise and Nuisance By-laws in the Niagara Region.

B. “Let’s Talk: Fort Erie”

Town Council requested notification by staff to the public in "Let's Talk Fort Erie", on the Town's website and Facebook, and the local newspaper, of Council's intention to pass a new Noise & Nuisance By-law.

As requested staff worked with the Town’s Communication Team to create a “Let’s Talk: Fort Erie” web page which allowed residents to share their comments with staff and Council on the proposed new Noise and Nuisance By-law. This was advertised on the Town’s website, social media and the local newspaper from March 9th, 2023 until April 11th, 2023. The “Let’s Talk: Fort Erie” web page had a coloured copy of the proposed By-law for residents to review and see the proposed changes as well as what has already been passed under the Town’s Zoning By-law and what has remained unchanged from the existing By-law. The coloured copy of the proposed By-law can be found under **Appendix “2”** of this document.

By-law staff reached out to individuals who provided their input through this forum via telephone, and were able to address concerns regarding noise/nuisance in their neighborhood and educate on current enforcement procedures. This opportunity to speak with the public allowed for By-law staff to inform residents on the intention and purpose of the proposed By-law and discuss existing regulations. During a telephone call with a resident located in Ridgeway, the individual stated “appropriate action was taken with my complaints to the by-law department” and “I commend Town staff” for actions taken while handling his concerns. This resident further stated “wow, appreciate the call. It made me feel my concerns were heard” and “these are overdue changes”. During an additional conference phone call with two Crystal Beach residents, staff were able to address where new procedures should be put in place for residences occupied by visitors and tenants, which in turn should further assist with concerns for noise and nuisance. These phone calls and input received through “Let’s Talk: Fort Erie” allowed for staff to speak directly with the community, understand their concerns and provide information to residents on the correct channels for reporting their concerns.

By-law Staff believe many residents were not aware of the existence of the current Noise and Nuisance By-law and the various sections that address their specific concerns. Many residents were informed of options available in relation to their complaints and resolutions that may be available to them. In addition, Staff were informed of areas in Town to be addressed. Staff wish to thank the Town residents for providing responses to better allow service to the community.

The total responses received back from the public through “Let’s Talk: Fort Erie” and directly the by-law enforcement department was 47. Comments and input received through the “Let’s Talk: Fort Erie” forum can be found in **Appendix “3”** of this document.

C. Notification of the Proposed Noise and Nuisance By-law to local BIA’s -

Town Council requested notification by staff to the local BIA’s of Council’s intention to pass a new Noise & Nuisance By-law.

To date staff have received a total of 5 email replies from members of local BIAs, included in **Appendix “4”**. Staff again followed up with these emails. All responses were reviewed and considered in the formation of the new Noise and Nuisance By-law.

Financial/Staffing and Accessibility (AODA) Implications

There are no Financial or Staffing implications.

Policies Affecting Proposal

Existing Noise and Nuisance By-law #30-09.

Comments from Relevant Departments/Community and Corporate Partners

The draft By-law responds to enforcement concerns and enhances the ability to serve the public.

Corporate Services has reviewed the By-law and made relevant comments that have been implemented.

Communicating Results

If accepted, a media campaign, in consultation with the Town’s Communication Team, is recommended to ensure residents are aware of the changes and provide education of the new regulations.

Alternatives

Council may wish to continue with the existing Noise and Nuisance By-law, however this is not recommended as the By-law would benefit from a number of clarifications and enhancements to ensure that all residents are able to enjoy their properties and public spaces while respecting their neighbors and the community. The proposed By-law allows for easier interpretation, consistency of enforcement and ensures Town standards are maintained.

Conclusion

Staff have undertaken an initial review of the existing Noise and Nuisance By-law with other departments, including Infrastructure Services and the Town Solicitor, to address the various nuances of amending the Noise and Nuisance By-law. Additional consultation was conducted with a number of Town residents who responded to the “Let’s Talk: Fort Erie”, web page. Staff also engaged with BIA respondents. Many residents were supportive of the suggested changes, although others did not feel the need for changes or felt that the Town was imposing too much into their lives and properties. Staff felt the current By-law is out dated and does not provide the tools to work with our community to address concerns. The new By-law is prepared in response to emerging trends and will leave the Town in a better position to address resident concerns.

Staff are recommending that the proposed new Noise and Nuisance By-law be approved by Council in its entirety and By-law #30-09 be repealed.

Attachments

Appendix “1” – Fine comparisons

Appendix “2” – Draft By-law (coloured copy)

Appendix “3” - “Let’s Talk: Fort Erie” responses

Appendix “4” – BIA responses

TOWN OF FORT ERIE PROPOSED FINE AMOUNTS:

COLUMN 1	COLUMN 2	COLUMN 3	COLUMN 4	COLUMN 5
Offence	Section	Penalty Tier 1	Penalty Tier 2	Penalty Tier 3
Unreasonable noise or noise likely to disturb inhabitants	3.1	\$250.00	\$350.00	\$450.00
Noise deemed to be unreasonable or likely to disturb inhabitants	3.2	\$250.00	\$350.00	\$450.00
Trespassing light	4.1	\$250.00	\$350.00	\$450.00
Light affecting operation of motor vehicle on highway	4.2	\$250.00	\$350.00	\$450.00
Public nuisance	5.1	\$250.00	\$350.00	\$450.00
Act, conduct or thing deemed to be a public nuisance	5.2	\$250.00	\$350.00	\$450.00
Fail to comply with an order	6.6	\$500.00	\$600.00	\$700.00
Obstruct an officer	6.11	\$300.00	N/A	N/A

CITY OF WELLAND FINE AMOUNTS:

COLUMN 1	COLUMN 2	COLUMN 3
Short Form Wording	Section	Set Fine
Make noise or noises likely to disturb the inhabitant	S.2	\$300.00
Cause noise or noises likely to disturb inhabitants of the City	S.2	\$300.00
Permit noise or noises likely to disturb inhabitants of the City	S.2	\$300.00

CITY OF NIAGARA FALLS FINE AMOUNTS:

COLUMN 1	COLUMN 2	COLUMN 3
Short Form Wording	Section	Set Fine
Make noise likely to disturb the inhabitant	S.2	\$200.00
Make vibration likely to disturb the inhabitants	S.2	\$200.00
Cause noise from – revving of an engine or motor	S.3, Sch. 2(1)	\$100.00
Cause noise from – the squealing of vehicle tires	S.3, Sch. 2(2)	\$100.00
Cause noise from operation of equipment without effective exhaust	S.3, Sch. 2(3)	\$100.00
Cause noise from operation of equipment without effective muffling	S.3, Sch. 2(3)	\$100.00
Operate motor vehicle resulting in sounds due to improperly secured loads	S.3, Sch. 2(4)	\$100.00
Cause noise by operating motor vehicle horn where not required	S.3, Sch. 2(5)	\$100.00
Cause noise by persistent barking, whining or calling by animal	S.4(1), Sch. 3(1)	\$100.00
Cause noise by persistent yelling, shouting, screaming, whistling, hooting or singing	S.4(1), Sch. 3(2)	\$100.00
Cause noise by activation of security alarm in excess of five minutes	S.4(1), Sch. 3(3)	\$100.00
Cause noise by operation of construction equipment when prohibited	S.4(1), Sch. 3(4)	\$200.00
Cause noise by operation of power device for domestic purposes when prohibited	S.4(1), Sch. 3(5)	\$100.00
Cause noise by operation of non-power device for domestic purposes when prohibited	S.4(1), Sch. 3(5)	\$100.00

Cause noise by operation of refuse or refuse-compacting equipment when prohibited	S.4(1), Sch. 3(6)	\$200.00
Cause noise by operation of motor in toy or model when prohibited	S.4(1), Sch. 3(7)	\$100.00
Cause noise by vehicle repairs when prohibited	S.4(1), Sch. 3(8)	\$100.00
Cause noise by loading, unloading materials when prohibited	S.4(1), Sch. 3(9)	\$200.00
Cause noise by use of electronic device for amplification of sound when prohibited	S.4(1), Sch. 3(10)	\$200.00
Cause noise by playing of music when prohibited	S.4(1), Sch. 3(11)	\$200.00

TOWNSHIP OF WAINFLEET:

COLUMN 1	COLUMN 2	COLUMN 3	COLUMN 4	COLUMN 5
Offence	Section	Penalty Tier 1	Penalty Tier 2	Penalty Tier 3
Make, cause or permit unreasonable noise or noise that is likely to disturb Inhabitants	3.1	\$500.00	\$1000.00	N/A
Operation of a Motor Vehicle in an unauthorized race	4.1 (a)	\$1000.00	N/A	N/A
Operation of a Motor Vehicle in a manner that causes its tires to squeal	4.1 (B)	\$75.00	N/A	N/A
Operation of a Motor Vehicle or trailer in manner that results in noise due to disrepair or unsecured load	4.1 (c)	\$75.00	N/A	N/A
Operation of a Motor Vehicle without effective exhaust muffling device	4.1 (d)	\$75.00	N/A	N/A
Operation of Construction Equipment without effective exhaust muffling device	4.1 (e)	\$75.00	N/A	N/A
Operation of bell, horn, siren or other warning device on a Motor Vehicle, bicycle or vehicle not authorized by law or within good safety practices	4.1 (f)	\$75.00	N/A	N/A
Operation of bell, horn, siren or other similar device on a Motor Vehicle, bicycle or vehicle unnecessarily or for unreasonable period of time	4.1 (g)	\$75.00	N/A	N/A
Operation of radio, amplifier, speaker or similar device on or in a Motor Vehicle, trailer or vehicle in a manner that is Clearly Audible 8 metres from the vehicle	4.1 (h)	\$75.00	N/A	N/A

Operation of sound-producing device for purpose of advertising that projects sound into any public street or public place	4.1 (i)	\$75.00	N/A	N/A
Operation of sound-producing device at a Property in a manner that is Clearly Audible in another dwelling or commercial unit with its doors and windows closed	4.1 (j)	\$1,000.00	N/A	N/A
Persistent shouting, yelling, hooting, whistling, singing or other like sounds of any Person	4.1 (k)	\$75.00	N/A	N/A
Persistent barking, howling, whining or other like sounds of any Animal	4.1 (l)	\$75.00	N/A	N/A
Operation of a combustion engine used or intended for use in a toy, model or replica that is used only for amusement between 8:00 p.m. one day and 8:00 a.m. the following day	5.1 (a)	\$75.00	N/A	N/A
Operation of any motorized Conveyance other than on a Highway between 8:00 p.m. one day and 8:00 a.m. the following day, other than on Sundays or Holidays	5.1 (b)	\$75.00	N/A	N/A
On Sundays and Holidays, operation of a motorized Conveyance other than on a Highway before 11:00 a.m.	5.1 (c)	\$75.00	N/A	N/A
Racing of any motorized Conveyance when regulated by law from 9:00 p.m. one day and 9:00 a.m. the following day, other than on Sundays and Holidays	5.1 (d)	\$75.00	N/A	N/A
On Sundays and Holidays, racing of any motorized Conveyance when regulated by law before 10:00 a.m.	5.1 (e)	\$75.00	N/A	N/A
Operation of any tool for lawn, yard or garden maintenance	5.1 (f)	\$75.00	N/A	N/A

between 9:00 p.m. one day and 7:00 a.m. the following day, other than on Sundays and Holidays				
On Sundays and Holidays, operation of any tool for lawn, yard or garden maintenance before 10:00 a.m	5.1 (g)	\$75.00	N/A	N/A
Operation of Construction Equipment, between 8:00 p.m. one day and 7:00 a.m. the following day, other than on Sundays and Holidays	5.1 (h)	\$75.00	N/A	N/A
On Sundays and Holidays, operation of Construction Equipment before 10:00 a.m.	5.1 (i)	\$75.00	N/A	N/A
Operation of Domestic Construction Equipment between 8:00 p.m. one day and 7:00 a.m. the following day, other than on Sundays and Holidays	5.1 (j)	\$75.00	N/A	N/A
On Sundays and Holidays, operation of Domestic Construction Equipment before 10:00 a.m.	5.1 (k)	\$75.00	N/A	N/A
Shouting, yelling, hooting, whistling, singing or other like sounds of any Person between 10:00 p.m. one day and 8:00 a.m. the following day, other than on Sundays or Holidays	5.1 (l)	\$1,000.00	N/A	N/A
On Sundays and Holidays, shouting, yelling, hooting, whistling, singing or other like sounds of any Person before 11:00 a.m	5.1 (m)	\$1,000.00	N/A	N/A
Hinder or obstruct Officer from performing duties	9.3	\$250.00	N/A	N/A
Contravention of an issued Order	9.7	\$1,000.00	N/A	N/A

CITY OF ST. CATHARINES

COLUMN 1	COLUMN 2	COLUMN 3
Offence	Section	Penalty Tier 1
Cause or permit a noise likely to disturb the inhabitants of the City of St. Catharines	Section 4	\$300.00
Cause or permit noise likely to disturb the inhabitants of the City of St. Catharines, to wit: persistent racing of motor of a motor vehicle	Section 2(1)(a)	\$300.00
Cause or permit a noise likely to disturb the inhabitants of the City of St. Catharines, to wit: persistent squealing of tires of a motor vehicle	Section 2(1)(b)	\$300.00
Cause or permit a noise likely to disturb the inhabitants of the City of St. Catharines, to wit: persistent operation of engine without effective muffling device	Section 2(1)(c)	\$300.00
Cause or permit a noise likely to disturb the inhabitants of the City of St. Catharines, to wit: persistent operation of horn or other warning device	Section 2(1)(f)	\$300.00
Cause or permit a noise likely to disturb the inhabitants of the City of St. Catharines, to wit: persistent barking, calling, or whining of domestic animal	Section 2(1)(g)	\$300.00
Cause or permit a noise likely to disturb the inhabitants of the City of St. Catharines, to wit: operation of amplifier clearly audible in another residential unit between 23:00 and 07:00	Section 3(1)(a)	\$300.00
Cause or permit a noise likely to disturb the inhabitants of the City of St. Catharines, to wit: operation of amplifier in a public place clearly audible at point of reception between 23:00 and 07:00	Section 3(1)(b)	\$300.00
Cause or permit a noise likely to disturb the inhabitants of the City of St. Catharines, to wit: operation of auditory signalling device between 23:00 and 07:00	Section 3(1)(c)	\$300.00
Cause or permit a noise likely to disturb the inhabitants of the City of St. Catharines, to wit: yelling, shouting, whistling or playing musical	Section 3(1)(d)	\$300.00

instruments clearly audible at point of reception between 23:00 and 07:00		
Cause or permit a noise likely to disturb the inhabitants of the City of St. Catharines, to wit: operation of construction equipment between 23:00 and 07:00	Section 3(1)(e)	\$300.00
Cause or permit a noise likely to disturb the inhabitants of the City of St. Catharines, to wit: operation of a tool for domestic purposes between 23:00 and 07:00	Section 3(1)(f)	\$300.00



The Municipal Corporation of the Town of Fort Erie

By-law No. xx-2023

Being a By-law to Regulate Public Nuisances and Noise in the Town of Fort Erie and to Repeal By-law No. 30-09

Whereas section 11 of the *Municipal Act, 2001*, S.O. 2001, c. 25 (“*Municipal Act, 2001*” or “the statute”) provides that a lower-tier municipality may pass by-laws respecting the economic, social and environmental well-being of the municipality, the health, safety and well-being of persons, the protection of persons and property and by-laws respecting animals; and

Whereas section 128 of the *Municipal Act, 2001* provides that a local municipality may prohibit and regulate with respect to public nuisances, including matters that in the opinion of Council are or could become or cause a public nuisance; and

Whereas section 129 of the *Municipal Act, 2001* provides that a local municipality may prohibit and regulate with respect to noise and outdoor illumination, including indoor lighting that can be seen outdoors; and

Whereas section 425 of the *Municipal Act, 2001* provides that a municipality may pass by-laws providing that a person who contravenes a by-law of the municipality passed under the statute is guilty of an offence; and

Whereas section 429 of the *Municipal Act, 2001* authorizes a municipality to establish a system of fines for offences under its by-laws; and

Whereas section 434.1 of the *Municipal Act, 2001* authorizes a municipality to establish a system of administrative monetary penalties to assist the municipality in promoting compliance with its by-laws; and

Whereas the Council of The Corporation of the Town of Fort Erie deems it necessary and desirable in the public interest to regulate public nuisances and noise in the municipality and to enact this By-law for that purpose;

Now therefore the Municipal Council of The Corporation of the Town of Fort Erie enacts as follows:

1.0 SHORT TITLE

1.1 The short title of this By-law is the “Noise and Nuisance By-law”.

2.0 DEFINITIONS

2.1 The following terms are defined for the purposes of this By-law:

“**administrative penalty**” means a monetary penalty administered pursuant to Town By-law No. 111-2019, as amended from time to time.

“**agricultural operation**” has the same meaning as in the *Farming and Food Production Protection Act*, 1998, S.O. 1998, c. 1

“**animal**” means any member of the animal kingdom other than a human.

“**clearly audible**” means that the sound or noise in question is easily perceptible, without undue effort, to a disinterested person with no hearing disability.

“**construction**” means erection, alteration, repair, dismantling, demolition, structural maintenance, land clearing, earth moving, grading, excavating, laying of pipe and conduit (whether below or above ground level), street and highway building, application of concrete, equipment installation and alteration, and structural installation of construction components and materials, in any form or for any purpose.

“**Council**” means the Council of The Corporation of the Town of Fort Erie.

“**direct light**” means light emitted directly from the lamp or reflector of a luminaire.

“**enforcement authority**” means an officer and any person appointed or otherwise delegated the authority of administration and enforcement of this by-law.

“**exterior luminaire**” means a luminaire that is situated outside of any building or structure, including those affixed to exterior walls or surfaces of any building or structure.

“**garage sale**” means a sale conducted at a property containing a residential use by its owner or occupant of household goods belonging to the owner or occupant, as the case may be, and includes a yard sale, lawn sale and other similar events.

“**glare**” means light emitted from a luminaire of sufficient intensity to (i) reduce the viewer’s ability to see; or (ii) produce a sensation of discomfort, to a disinterested person with no visual disability or undue sensitivity to light.

“**highway**” has the same meaning as in the *Highway Traffic Act*, R.S.O. 1990, c. H.8 (*“Highway Traffic Act”*).

“**indirect light**” means light emitted from a luminaire that has been reflected or scattered off other surfaces.

“**inhabitants**” means one or more persons who reside in the Town, temporarily or permanently, and may include visitors to the Town.

“**interior luminaire**” means a luminaire that is situated inside of any building or structure, including those affixed to interior walls or surfaces of any building or structure, which emits light that can be seen outdoors.

“**luminaire**” means a complete lighting device that includes one or more lamps enclosed in a housing and is accompanied by one or more reflectors, refractors or other similar items and, without limiting the generality of the foregoing, includes laser source lights, signal beacons, floodlights, spotlights, flashing lights, high-intensity lights and other forms of illumination.

“**motor vehicle**” has the same meaning as in the *Highway Traffic Act*.

“**normal farm practice**” has the same meaning as in the *Farming and Food Production Protection Act, 1998*.

“**officer**” means a by-law enforcement officer of the Town, a member of the Niagara Regional Police Service, a member of the Ontario Provincial Police and any other provincial offences officer designated under the *Provincial Offences Act, R.S.O. 1990, c. P.33* (“*Provincial Offences Act*”).

“**occupant**” means a person that occupies a property and includes owners, renters and lessees.

“**order**” means any notice of non-compliance issued under this By-law.

“**outdoor patio**” means an outdoor area adjacent to or in any way associated with an eating establishment or tavern that is designed or used as an area for the sale and service of any food or beverage by the eating establishment or tavern.

“**owner**” means the registered owner of a property.

“**persistent**” means continuously for a period of ten (10) minutes or longer or intermittently for an aggregate period of ten (10) minutes or longer in any sixty (60) minute period.

“**person**” means an individual, corporation, partnership or association.

“**point of reception**” means any location on a property where noise originating from other than that property is received.

“**property**” means any land or premises within the Town.

“**public nuisance**” means any act, conduct or thing that is injurious to health, indecent, offensive to the senses of a disinterested person or that otherwise interferes with the reasonable enjoyment of life or property.

“**Town**” means The Corporation of the Town of Fort Erie or the geographic area of the municipality, as the context requires.

“**trespassing light**” means light emitted from a luminaire that is easily perceptible, without undue effort, to a disinterested person with no visual disability or undue sensitivity to light, at a property other than the one on which the luminaire is situated, and includes direct light, indirect light and glare.

3.0 NOISE

- 3.1 No person shall make, cause or permit an unreasonable noise or noise that is likely to disturb inhabitants.
- 3.2 Without limiting the generality of section 3.1, noise resulting from the following acts is deemed to be unreasonable noise or noise that is likely to disturb inhabitants:
- (a) the ringing of bells, blowing of horns or sounding of sirens on any motor vehicle except as required or authorized by law or for reasons of safety;
 - (b) the operation of a motor vehicle in a manner that results in grading, grinding or rattling or other like sound or noise due to disrepair or inadequate maintenance;
 - (c) the revving, racing or accelerating of a motor attached to a motor vehicle while the motor vehicle is not in motion;
 - (d) the operation of any radio, television or other electronic device, musical or sound producing instrument with such volume so as to annoy or disturb inhabitants;
 - (e) the operation of any radio, amplifier, speaker or similar sound producing device for the purpose of advertising a good or service in a manner that projects sound or noise into any public street or other public place;
 - (f) the operation of any radio, amplifier, speaker or similar sound producing device in a manner that produces sound or noise that is clearly audible at a point of reception;
 - (g) between the hours of 9:00 p.m. of one day and 7:00 a.m. of the following day, the operation of equipment used for construction;
 - (h) the persistent yelling, shouting, swearing and/or speaking by any person at a volume that is clearly audible at a point of reception;
 - (i) the persistent barking, howling, whining or other like sounds made by an animal kept or used for any purpose other than a normal farm practice carried on by an agricultural operation.
 - (j) between the hours of 11:00PM of one day and 11:00AM of the following day, the operation of an outdoor patio in a manner that produces sound or noise that is clearly audible at a point of reception, if any part of such patio is located within 60 metres of a residential zone.
- 3.3 This By-law shall not apply to noise resulting from:
- (a) the operation of any emergency service vehicle or ambulance while carrying out its lawful duties;
 - (b) the use of a warning device during the lawful operation of a motor vehicle;
 - (c) the operation of any railway or airport within the legislative authority of Parliament;

- (d) the operation of equipment by or on behalf of the Town for construction projects, general maintenance projects and emergency projects of the Town;
- (e) the operation of equipment by or on behalf of the Town for Town maintenance operations including but not limited to snow removal, street sweeping, line painting, grass cutting, tree and shrub pruning, mulching and field maintenance;
- (f) the collection or disposal of garbage, waste or recyclable material by the Town or the Regional Municipality of Niagara;
- (g) the reasonable use of equipment for snow removal and yard maintenance on private property;
- (h) any parade hosted, authorized or approved by the Town, provided that the parade is carried on in accordance with all terms and conditions of the authorization or approval;
- (i) the reasonable use of a radio, amplifier, speaker or similar sound producing device in a public place during a special event hosted, authorized or approved by the Town, provided that the event is carried on in accordance with all terms and conditions of the authorization or approval;
- (j) any discharge of fireworks that complies with the fireworks by-law of the Town;
- (k) sports, exercise or recreational activities or events at public parks or public beaches where such activities or events have been authorized or approved by the Town and are carried on in accordance with all terms and conditions of the authorization or approval;
- (l) the operation of bells or chimes in relation to any religious or military ceremony;
- (m) activities that are part of a normal farm practice carried on by an agricultural operation; and
- (n) activities carried out in compliance with a permission granted under federal or provincial legislation, including but not limited to an environmental compliance approval.

4.0 **LIGHTING**

- 4.1 No person shall use or operate, or cause or permit the use or operation of, any exterior luminaire or interior luminaire in a manner that emits direct light, indirect light or glare such that it creates and/or results in trespassing light.
- 4.2 No person shall use or operate, or cause or permit the use or operation of, any exterior luminaire or interior luminaire in a manner that emits direct light, indirect light or glare such that it affects the operation of a motor vehicle on a highway by any person.
- 4.3 This By-law shall not apply to direct light, indirect light or glare resulting from:

- (a) the operation of any emergency service vehicle or ambulance while carrying out its lawful duties;
- (b) the use of vehicular lights during the lawful operation of a motor vehicle;
- (c) the operation of equipment by or on behalf of the Town for construction projects, general maintenance projects and emergency projects of the Town;
- (d) the operation of equipment by or on behalf of the Town for Town maintenance operations including but not limited to snow removal, street sweeping, line painting, grass cutting, tree and shrub pruning, mulching and field maintenance;
- (e) the reasonable use of luminaires during a special event hosted, authorized or approved by the Town, provided that the event is carried on in accordance with all terms and conditions of the authorization or approval;
- (f) sports, exercise or recreational activities or events at public parks or public beaches where such activities or events have been authorized or approved by the Town and are carried on in accordance with all terms and conditions of the authorization or approval;
- (g) activities that are part of a normal farm practice carried on by an agricultural operation; and
- (h) activities carried out in compliance with a permission granted under federal or provincial legislation.

5.0 **PUBLIC NUISANCE**

5.1 No person shall cause or permit a public nuisance.

5.2 Without limiting the generality of section 5.1, the following acts, conduct and things are deemed to be a public nuisance:

- (a) loitering in a public place after a request from an enforcement authority to leave;
- (b) fighting;
- (c) using profane or abusive language or gestures;
- (d) littering;
- (e) defacing, damaging or vandalizing public or private property;
- (f) spitting, expectorating, urinating or defecating in a public place;
- (g) public drunkenness or public intoxication;
- (h) conducting a garage sale at any property that does not have a residential use under Town By-law No. 129-90;
- (i) between the hours of 6:00 p.m. of one day and 8:00 a.m. of the following day, conducting a garage sale at a property that does not have a residential use under Town By-law No. 129-90;

- (j) conducting a garage sale more than four (4) times per calendar year at a property that does not have a residential use under Town By-Law No. 129-90;
 - (k) the attracting and or feeding of animals domesticated or otherwise in such a way that is causes damage or otherwise creates a nuisance or disturbance to another person or another persons property, other than as part of a normal farm practice carried on by an agricultural operation
 - (l) obstructing, interfering with or otherwise impeding the movement of persons or motor vehicles;
 - (m) obstructing or attempting to obstruct an enforcement authority in the course of his or her duties; and
 - (n) any act, conduct or thing prohibited by sections 3.2, 4.1 or 4.2 of this By-law.
- 5.3 Notwithstanding any other provisions in this By-law, the restrictions listed in Section 5.2(k) shall not apply to:
- (a) properties zoned for agricultural or open space uses that are involved in dairying, animal husbandry, the raising of poultry, vermiculture, aquaculture, equestrian centres, riding stables and zoological theme parks.

6.0 **ADMINISTRATION AND ENFORCEMENT**

- 6.1 This By-law shall be administered and enforced by the Town and enforcement authorities.
- 6.2 An enforcement authority may, for the purpose of enforcing this By-law, exercise any power, authority or remedy granted to the Town pursuant to the *Municipal Act, 2001*.
- 6.3 An enforcement authority may, at all reasonable times, enter upon and inspect any property to determine if this By-law is being complied with.
- 6.4 For the purposes of an inspection under section 6.3 of this By-law, an enforcement authority may require the production for inspection of documents or things relevant to the inspection, inspect and remove relevant documents or things for the purpose of making copies or extracts, require information from a person concerning a matter related to the inspection and/or take photographs, samples, measurements necessary for the purposes of the inspection and may also include being accompanied by a person possessing special or expert knowledge.
- 6.5 An enforcement authority who is satisfied that there has been a contravention of this By-law may make an order requiring the person who contravened the By-law or caused or permitted the contravention and/or the owner or occupant of the property where the contravention occurred to discontinue the contravening activity and/or to bring the property into compliance with this By-law.
- 6.6 No person shall fail to comply with an order made under section 6.5.

- 6.7 An order made under section 6.5 shall set out the municipal address and/or legal description of the property, reasonable particulars of the non-compliance and the work required to correct it and the date(s) by which there must be compliance with the order.
- 6.8 An order made under section 6.5 may be served by regular mail, registered mail or hand delivered to the last known address of the person to whom it is issued, by email to the last known email address of the person to whom it is issued, or by posting the order at the property where the contravention occurred.
- 6.9 Where any person fails to comply with an order made under section 6.5 by the prescribed date(s), the Town may do any matter or thing necessary to bring the property into compliance with this By-law at the expense of the person in default of the order.
- 6.10 The Town may recover the cost of any matter or thing done pursuant to section 6.8 of this By-law by adding the cost to the tax roll and collecting it in the same manner and with the same priority as municipal taxes.
- 6.11 No Person shall obstruct or hinder, or attempt to obstruct or hinder, an enforcement authority in the exercise of a power or the performance of a duty under this By-law.

7.0 OFFENCES AND PENALTIES

- 7.1 Every person who contravenes any provision of this by-law is guilty of an offence and upon conviction is liable to such penalties as are provided for in the *Municipal Act, 2001* and the *Provincial Offences Act*.
- 7.2 Where an enforcement authority is satisfied that a person has failed to comply with any provision of this By-law, the enforcement authority may issue a penalty notice imposing an administrative penalty in the amount as established in Schedule “A” to this By-law.
- 7.3 Administrative Penalty By-law No. 111-2019, as amended or replaced from time to time, applies to each administrative penalty issued pursuant to this by-law.
- 7.4 Every person who contravenes any provision of this By-law shall, upon issuance of a penalty notice in accordance with Administrative Penalty By-law No. 111-2019, be liable to pay to the Town an administrative penalty in accordance with that By-law.

8.0 GENERAL

- 8.1 In the event of a conflict between this By-law and the provisions of another Town by-law, the provisions of this By-law shall prevail.
- 8.2 If any section or part of this By-law is found by any court of competent jurisdiction to be illegal or beyond the power of Council to enact, such sections or parts shall be deemed to be severable and all other sections or parts of this By-law shall be deemed to be separate and independent therefrom and to be enacted as such.

By-law No. xx-2023

Page 9

- 8.3 This By-law shall be read with all changes in number or gender as are required by context.
- 8.4 Any reference to legislation or Municipal By-laws in this By-law includes the legislation or By-law and any amendment, replacement, subsequent enactment or consolidation of such legislation or By-law.
- 8.5 The Clerk of the Town is authorized to affect any minor modifications, corrections or omissions, solely of an administrative, numerical, grammatical, semantical or descriptive nature to this by-law or its schedules after the passage of this by-law.
- 8.6 By-law No. 30-09 is repealed.
- 8.7 This By-law shall come into force and effect on the date of passage.

Read a first, second and third time and finally passed this day of , 2023.

Mayor

Clerk

I, _____ Clerk of The Corporation of the Town of Fort Erie, certify the foregoing to be a true copy of By-law No. xx-2023 of the said Town. Given under my hand and the seal of the said Corporation, this day of , 20

**SCHEDULE “A”
to Noise and Nuisance By-law No. XX-2023**

Administrative Monetary Penalties

For the purposes of this By-law:

Column 1 (“Description of Offence”) in the table sets out the short form wording to be used in a Penalty Notice for a contravention of the designated provisions listed.

Column 2 (“Section”) in the table lists the specific section of the provision that has been contravened.

Column 3 (“Penalty Tier 1”) sets out the Administrative Monetary Penalty amounts that are payable for contraventions of the designated provisions listed in Columns 1 and Column 2.

Column 4 (“Penalty Tier 2”) sets out the Administrative Monetary Penalty amounts that are payable for a second (2nd) contravention of the designated provisions listed in Columns 1 and Column 2 by the same person within a one (1) year period since the previous offence conviction.

Column 5 (“Penalty Tier 3”) sets out the Administrative Monetary Penalty amounts that are payable for a third (3rd) contravention of the designated provisions listed in Columns 1 and Column 2 by the same person within a one (1) year period since the previous offence conviction.

COLUMN 1	COLUMN 2	COLUMN 3	COLUMN 4	COLUMN 5
Offence	Section	Penalty Tier 1	Penalty Tier 2	Penalty Tier 3
Unreasonable noise or noise likely to disturb inhabitants	3.1	\$250.00	\$350.00	\$450.00
Noise deemed to be unreasonable or likely to disturb inhabitants	3.2 (a-j)	\$250.00	\$350.00	\$450.00
Trespassing light	4.1	\$250.00	\$350.00	\$450.00
Light affecting operation of motor vehicle on highway	4.2	\$250.00	\$350.00	\$450.00
Public nuisance	5.1	\$250.00	\$350.00	\$450.00
Act, conduct or thing deemed to be a public nuisance	5.2 (a-n)	\$250.00	\$350.00	\$450.00
Fail to comply with an order	6.6	\$500.00	\$600.00	\$700.00
Obstruct an officer	6.11	\$300.00	N/A	N/A

By-law No. xx-2023

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Additions to the By-law
From the previous By-law, with changes
Added to the by-law from the current Zoning By-law
No changes from previous By-law

Survey Responses

03 November 2020 - 12 April 2023

Public Feedback Survey: Noise and Nuisance By-Law Updates

Let's Talk Fort Erie

Project: REQUEST FOR PUBLIC INFORMATION: TOWN OF FORT ERIE NOISE AND NUISANCE BY- LAW



VISITORS					
125					
CONTRIBUTORS			RESPONSES		
43			47		
13	30	0	17	30	0
Registered	Unverified	Anonymous	Registered	Unverified	Anonymous

APPENDIX "3" TO ADMINISTRATIVE REPORT PDS-14-1-2023 DATES MAY 8, 2023



Respondent No: 1

Login: jcornelius

Email: jcornelius@forterie.ca

Responded At: Mar 07, 2023 13:29:37 pm

Last Seen: Apr 05, 2023 17:35:52 pm

IP Address: [REDACTED]

Q1. What is your opinion on the updates to the Noise and Nuisance By-Law?

Test

APPENDIX "3" TO ADMINISTRATIVE REPORT PDS-14-1-2023 DATES MAY 8, 2023



Respondent No: 2

Login: jcornelius

Email: jcornelius@forterie.ca

Responded At: Mar 07, 2023 13:29:53 pm

Last Seen: Apr 05, 2023 17:35:52 pm

IP Address: [REDACTED]

Q1. What is your opinion on the updates to the Noise and Nuisance By-Law?

test

APPENDIX "3" TO ADMINISTRATIVE REPORT PDS-14-1-2023 DATES MAY 8, 2023



Respondent No: 3

Login:

Email:

Responded At: Mar 07, 2023 14:32:06 pm

Last Seen:

Mar 07, 2023 14:32:06 pm

IP Address:

Q1. What is your opinion on the updates to the Noise and Nuisance By-Law?

I appreciate the additions and amendments very much. But I want to say that the bylaw, as it exists as a written document, doesn't have any impact in my experience. My neighbors have been shining a spotlight directly at our window for 18mos. They threaten us and taunt us saying "call a bylaw officer!" because they will make our lives miserable, revving the motors of their trucks in front of our bedroom windows, driving over our shrubs. Our other neighbors, when we ask them to turn their obnoxious outdoor radio down respond by saying "we can turn it UP!" Sorry but bylaws have no impact with residents who feel above the law, which appears to be a large segment of the town population.

APPENDIX "3" TO ADMINISTRATIVE REPORT PDS-14-1-2023 DATES MAY 8, 2023



Respondent No: 4

Login: [REDACTED]

Email: [REDACTED]

Responded At: Mar 07, 2023 15:13:32 pm

Last Seen: Mar 07, 2023 15:13:32 pm

IP Address: [REDACTED]

Q1. What is your opinion on the updates to the Noise and Nuisance By-Law?

The changes appear to be appropriate and clarify more than the past By-Law.

APPENDIX "3" TO ADMINISTRATIVE REPORT PDS-14-1-2023 DATES MAY 8, 2023



Respondent No: 5

Login: [REDACTED]

Email: [REDACTED]

Responded At: Mar 07, 2023 15:24:05 pm

Last Seen: Mar 07, 2023 22:24:06 pm

IP Address: [REDACTED]

Q1. What is your opinion on the updates to the Noise and Nuisance By-Law?

Please start enforcing the noise by-law on Dominion Rd and Rosehill. The revving of vehicles, loud motorcycles and racing of vehicles along Dominion has increased and in my opinion gotten out of control the past few years.

APPENDIX "3" TO ADMINISTRATIVE REPORT PDS-14-1-2023 DATES MAY 8, 2023



Respondent No: 6

Login: [REDACTED]

Email: [REDACTED]

Responded At: Mar 07, 2023 15:45:52 pm

Last Seen: Mar 07, 2023 15:45:52 pm

IP Address: [REDACTED]

Q1. What is your opinion on the updates to the Noise and Nuisance By-Law?

Good

APPENDIX "3" TO ADMINISTRATIVE REPORT PDS-14-1-2023 DATES MAY 8, 2023



Respondent No: 7

Login: [REDACTED]

Email: [REDACTED]

Responded At: Mar 07, 2023 16:05:53 pm

Last Seen: Mar 07, 2023 16:05:53 pm

IP Address: [REDACTED]

Q1. What is your opinion on the updates to the Noise and Nuisance By-Law?

More information is needed to make a decision. What time would it start or finish? Or would this be all day? I think certain noise is acceptable ie, working on a project on your property, playing musical instruments (not everyday) 1-2 times a week. Also many more calls will be made to complain(some calls legitimate and some not) this will lead to more bylaw officers? Taxes go up?

APPENDIX "3" TO ADMINISTRATIVE REPORT PDS-14-1-2023 DATES MAY 8, 2023



Respondent No: 8

Login: [REDACTED]

Email: [REDACTED]

Responded At: Mar 07, 2023 16:26:02 pm

Last Seen: Mar 07, 2023 16:26:02 pm

IP Address: [REDACTED]

Q1. What is your opinion on the updates to the Noise and Nuisance By-Law?

Seems a little over controlling in some areas

APPENDIX "3" TO ADMINISTRATIVE REPORT PDS-14-1-2023 DATES MAY 8, 2023



Respondent No: 9

Login: [REDACTED]

Email: [REDACTED]

Responded At: Mar 07, 2023 18:03:53 pm

Last Seen: Mar 07, 2023 18:03:53 pm

IP Address: [REDACTED]

Q1. What is your opinion on the updates to the Noise and Nuisance By-Law?

Why is it ok for the town to carry out their practise, but a homeowner or contractor cannot carry on theirs without permission, or following a by law imoeding on their way of earning a living. I feel the fines are astronomical. The changes quite ridiculous. However, I know that filling this out and commenting here will get no where.

APPENDIX "3" TO ADMINISTRATIVE REPORT PDS-14-1-2023 DATES MAY 8, 2023



Respondent No: 10

Login:

[REDACTED]

Email:

[REDACTED]

Responded At: Mar 07, 2023 18:08:11 pm

Last Seen:

Mar 07, 2023 18:08:11 pm

IP Address:

[REDACTED]

Q1. What is your opinion on the updates to the Noise and Nuisance By-Law?

I agree with and encourage the with the proposed noise and nuisance by-law updates. In my personal experiences, far too many residents of Fort Erie seem to be of the opinion that they can do whatever they want without any consideration for others. Holding people accountable for their actions which cause nuisance and harm to others is an important topic that Fort Erie should address.

APPENDIX "3" TO ADMINISTRATIVE REPORT PDS-14-1-2023 DATES MAY 8, 2023



Respondent No: 11

Login: [REDACTED]

Email: [REDACTED]

Responded At: Mar 07, 2023 18:36:34 pm

Last Seen: Mar 07, 2023 18:36:34 pm

IP Address: [REDACTED]

Q1. What is your opinion on the updates to the Noise and Nuisance By-Law?

Stop micromanaging people. It basically says if my student wants to play their instrument outside they risk getting in trouble. Or if my movement activated floodlight shines in my neighbors yard, they could report it and I could get in trouble. It's a bit ridiculous to be honest. Stop trying to control people so heavily! NO TO 15 MINUTE CITIES! WE WILL NOT COMPLY.

APPENDIX "3" TO ADMINISTRATIVE REPORT PDS-14-1-2023 DATES MAY 8, 2023



Respondent No: 12

Login:

[REDACTED]

Email:

[REDACTED]

Responded At: Mar 07, 2023 18:54:27 pm

Last Seen:

Mar 07, 2023 18:54:27 pm

IP Address:

[REDACTED]

Q1. What is your opinion on the updates to the Noise and Nuisance By-Law?

not answered

APPENDIX "3" TO ADMINISTRATIVE REPORT PDS-14-1-2023 DATES MAY 8, 2023



Respondent No: 13

Login: [REDACTED]

Email: [REDACTED]

Responded At: Mar 07, 2023 19:53:31 pm

Last Seen: Mar 07, 2023 19:53:31 pm

IP Address: [REDACTED]

Q1. What is your opinion on the updates to the Noise and Nuisance By-Law?

I think that most of these updates infringe on our freedom yet again! Controlling what people are allowed to listen to, their noise level, what they do inside their home and on their own property is a direct violation of our freedom of choice. The brightness of lights? The sound of one's vehicle? As if there aren't better ways to spend taxpayer dollars than having meetings about such minute details! Please! Focus on actual issues and stop trying to control every aspect of our lives.

APPENDIX "3" TO ADMINISTRATIVE REPORT PDS-14-1-2023 DATES MAY 8, 2023



Respondent No: 14

Login:

[REDACTED]

Email:

[REDACTED]

Responded At: Mar 07, 2023 21:40:42 pm

Last Seen:

Mar 07, 2023 21:40:42 pm

IP Address:

[REDACTED]

Q1. What is your opinion on the updates to the Noise and Nuisance By-Law?

Section 5.2a of this by-law is concerning. It appears to give too much authority to officers to remove a person from a public place, having committed no other offense making being in that public place itself an offense. It should clarify that another listed offense must be committed for a person to be removed.

APPENDIX "3" TO ADMINISTRATIVE REPORT PDS-14-1-2023 DATES MAY 8, 2023



Respondent No: 15

Login: [REDACTED]

Email: [REDACTED]

Responded At: Mar 08, 2023 06:35:09 am

Last Seen: Mar 08, 2023 13:23:36 pm

IP Address: [REDACTED]

Q1. What is your opinion on the updates to the Noise and Nuisance By-Law?

The updates seem fine, but I do not see anything related to snowmobiles, motorcycles, and atv's on the Friendship Trail in Ridgeway.

APPENDIX "3" TO ADMINISTRATIVE REPORT PDS-14-1-2023 DATES MAY 8, 2023



Respondent No: 16

Login: [REDACTED]

Email: [REDACTED]

Responded At: Mar 08, 2023 13:27:46 pm

Last Seen: Mar 09, 2023 23:13:43 pm

IP Address: [REDACTED]

Q1. What is your opinion on the updates to the Noise and Nuisance By-Law?

I believe that there should be a clause in the by-law and monetary penalties when someone consistently contacts by-law to lodge noise complaints, or property standards complaints etc. on a neighbouring property and by-law officers find said complaints to be unwarranted and/or unsubstantiated. The person should be deemed to have acted unreasonably, frivolously, vexatiously, or in bad faith and fined. It's more to do with a pattern of behaviour. This would form part of the "nuisance" aspect of the by-law. The hope in adding it would be to cut down on neighbour disputes.

APPENDIX "3" TO ADMINISTRATIVE REPORT PDS-14-1-2023 DATES MAY 8, 2023



Respondent No: 17

Login: [REDACTED]

Email: [REDACTED]

Responded At: Mar 09, 2023 16:13:43 pm

Last Seen: Mar 09, 2023 23:13:43 pm

IP Address: [REDACTED]

Q1. What is your opinion on the updates to the Noise and Nuisance By-Law?

I did leave a note yesterday but forgot to add two additional comments: There should be a measurement i.e. decibel rating and not just a subjective determination on whether a noise is too loud. Also, there should be a time of day measurement. Vacuuming with your window open and it takes longer than 10 minutes during the day should not be subjective to a by-law complaint or as another example, having friends over for a lunch in the backyard in the afternoon where people are talking and, god forbid, laughing, trigger the possibility of your neighbour calling by-law. Time from 9:00 am to 11:00 pm. The 11:00 pm is to match with the Open-Burning By-Law.

APPENDIX "3" TO ADMINISTRATIVE REPORT PDS-14-1-2023 DATES MAY 8, 2023



Respondent No: 18

Login: [REDACTED]

Email: [REDACTED]

Responded At: Mar 09, 2023 17:23:19 pm

Last Seen: Mar 09, 2023 17:23:19 pm

IP Address: [REDACTED]

Q1. What is your opinion on the updates to the Noise and Nuisance By-Law?

Glad to see updates to reflect changing demographics of Fort Erie

APPENDIX "3" TO ADMINISTRATIVE REPORT PDS-14-1-2023 DATES MAY 8, 2023



Respondent No: 19

Login: [REDACTED]

Email: [REDACTED]

Responded At: Mar 10, 2023 04:29:11 am

Last Seen: Mar 10, 2023 10:49:35 am

IP Address: [REDACTED]

Q1. What is your opinion on the updates to the Noise and Nuisance By-Law?

Much needed changes to bylaw for our once small but now becoming over crowded town.

APPENDIX "3" TO ADMINISTRATIVE REPORT PDS-14-1-2023 DATES MAY 8, 2023



Respondent No: 20

Login: [REDACTED]

Email: [REDACTED]

Responded At: Mar 10, 2023 04:33:14 am

Last Seen: Mar 10, 2023 04:33:14 am

IP Address: [REDACTED]

Q1. What is your opinion on the updates to the Noise and Nuisance By-Law?

It was alot to read. How about a quick summary of the big changes.

APPENDIX "3" TO ADMINISTRATIVE REPORT PDS-14-1-2023 DATES MAY 8, 2023



Respondent No: 21

Login: Jonna Gates

Email: jgates@forterie.ca

Responded At: Mar 10, 2023 07:07:58 am

Last Seen: Mar 10, 2023 07:07:58 am

IP Address: [REDACTED]

Q1. What is your opinion on the updates to the Noise and Nuisance By-Law?

test

APPENDIX "3" TO ADMINISTRATIVE REPORT PDS-14-1-2023 DATES MAY 8, 2023



Respondent No: 22

Login: cpatton

Email: cpatton@forterie.ca

Responded At: Mar 10, 2023 07:18:49 am

Last Seen: Apr 13, 2023 19:41:40 pm

IP Address:



Q1. What is your opinion on the updates to the Noise and Nuisance By-Law?

TEST

APPENDIX "3" TO ADMINISTRATIVE REPORT PDS-14-1-2023 DATES MAY 8, 2023



Respondent No: 23

Login: [REDACTED]

Email: [REDACTED]

Responded At: Mar 10, 2023 09:50:44 am

Last Seen: Mar 10, 2023 16:50:44 pm

IP Address: [REDACTED]

Q1. What is your opinion on the updates to the Noise and Nuisance By-Law?

My family and I have been dealing with a bright green flood light that have been shining directly to inside our house for nearly 5 years. Worked along side the Town to try and get this issue resolved. I am hoping that specific reference to light nuisances and definitions and fines will have our issued resolved once and for all. The definition "persistent" has been defined as a continuous period of ten (10) minutes or longer should be shorted to two (2) minutes or longer. For a family that has been living with a bright green flood light shining into our house (living room, kitchen and master bedroom for nearly 5 years...I can tell you that ten (10) minutes of continuous light is too long.

APPENDIX "3" TO ADMINISTRATIVE REPORT PDS-14-1-2023 DATES MAY 8, 2023



Respondent No: 24

Login: [REDACTED]

Email: [REDACTED]

Responded At: Mar 10, 2023 09:51:20 am

Last Seen: Mar 10, 2023 09:51:20 am

IP Address: [REDACTED]

Q1. What is your opinion on the updates to the Noise and Nuisance By-Law?

I think its insane, quite down by 11 is enough. You shouldn't half to cater to people by making it any ealier its not fair to anyone

APPENDIX "3" TO ADMINISTRATIVE REPORT PDS-14-1-2023 DATES MAY 8, 2023



Respondent No: 25

Login: [REDACTED]

Email: [REDACTED]

Responded At: Mar 10, 2023 09:58:10 am

Last Seen: Mar 10, 2023 09:58:10 am

IP Address: [REDACTED]

Q1. What is your opinion on the updates to the Noise and Nuisance By-Law?

I think what your adding on is a bit much wouldn't you say so? Adding so many suburban areas yet continue to treat this town as a retirement home and making it great for the elderly, but news flash there is a large population of youths that you are completely disregarding... this isn't Pleasantville.

APPENDIX "3" TO ADMINISTRATIVE REPORT PDS-14-1-2023 DATES MAY 8, 2023



Respondent No: 26

Login: [REDACTED]

Email: [REDACTED]

Responded At: Mar 10, 2023 10:05:36 am

Last Seen: Mar 10, 2023 10:05:36 am

IP Address: [REDACTED]

Q1. What is your opinion on the updates to the Noise and Nuisance By-Law?

I rescind my comments about the too much. But I stand by that the town is not doing anything to keep young people here.

APPENDIX "3" TO ADMINISTRATIVE REPORT PDS-14-1-2023 DATES MAY 8, 2023



Respondent No: 27

Login: [REDACTED]

Email: [REDACTED]

Responded At: Mar 10, 2023 16:03:09 pm

Last Seen: Mar 10, 2023 16:03:09 pm

IP Address: [REDACTED]

Q1. What is your opinion on the updates to the Noise and Nuisance By-Law?

I don't think there is really no need for it

APPENDIX "3" TO ADMINISTRATIVE REPORT PDS-14-1-2023 DATES MAY 8, 2023



Respondent No: 28

Login: [REDACTED]

Email: [REDACTED]

Responded At: Mar 10, 2023 21:21:58 pm

Last Seen: Mar 11, 2023 04:21:58 am

IP Address: [REDACTED]

Q1. What is your opinion on the updates to the Noise and Nuisance By-Law?

In my opinion they are reasonable.

APPENDIX "3" TO ADMINISTRATIVE REPORT PDS-14-1-2023 DATES MAY 8, 2023



Respondent No: 29

Login: [REDACTED]

Email: [REDACTED]

Responded At: Mar 10, 2023 21:22:11 pm

Last Seen: Mar 11, 2023 04:21:58 am

IP Address: [REDACTED]

Q1. What is your opinion on the updates to the Noise and Nuisance By-Law?

In my opinion they are reasonable.

APPENDIX "3" TO ADMINISTRATIVE REPORT PDS-14-1-2023 DATES MAY 8, 2023



Respondent No: 30

Login: [REDACTED]

Email: [REDACTED]

Responded At: Mar 11, 2023 00:16:49 am

Last Seen: Mar 11, 2023 00:16:49 am

IP Address: [REDACTED]

Q1. What is your opinion on the updates to the Noise and Nuisance By-Law?

I disagree with the use of lights section , should be allowed to illuminate dwelling inside at any time , most seniors are up early and use to have lights on and even sit on patio with lights on, in good weather, is this new law saying that is not allowed ?

APPENDIX "3" TO ADMINISTRATIVE REPORT PDS-14-1-2023 DATES MAY 8, 2023



Respondent No: 31

Login: [REDACTED]

Email: [REDACTED]

Responded At: Mar 11, 2023 01:57:02 am

Last Seen: Mar 11, 2023 01:57:02 am

IP Address: [REDACTED]

Q1. What is your opinion on the updates to the Noise and Nuisance By-Law?

Idiotic. Swearing constitutes public nuisance? What is this, 1945? And this town's bylaws are already overly invasive nonsense; why are you adding bylaws for things that are already illegal under the Canadian criminal code? (Like interfering with police enforcement.) Why is this town run seemingly entirely by morons?

APPENDIX "3" TO ADMINISTRATIVE REPORT PDS-14-1-2023 DATES MAY 8, 2023



Respondent No: 32

Login: [REDACTED]

Email: [REDACTED]

Responded At: Mar 11, 2023 08:38:55 am

Last Seen: Mar 11, 2023 08:38:55 am

IP Address: [REDACTED]

Q1. What is your opinion on the updates to the Noise and Nuisance By-Law?

not answered

APPENDIX "3" TO ADMINISTRATIVE REPORT PDS-14-1-2023 DATES MAY 8, 2023



Respondent No: 33

Login:

[REDACTED]

Email:

[REDACTED]

Responded At: Mar 11, 2023 10:40:55 am

Last Seen:

Mar 11, 2023 10:40:55 am

IP Address:

[REDACTED]

Q1. What is your opinion on the updates to the Noise and Nuisance By-Law?

Not needed

APPENDIX "3" TO ADMINISTRATIVE REPORT PDS-14-1-2023 DATES MAY 8, 2023



Respondent No: 34

Login: [REDACTED]

Email: [REDACTED]

Responded At: Mar 11, 2023 14:20:27 pm

Last Seen: Mar 11, 2023 21:20:27 pm

IP Address: [REDACTED]

Q1. What is your opinion on the updates to the Noise and Nuisance By-Law?

Updates are a nice change. However, I would like to have added to the by law about target and rifle shooting. We have been experiencing these on past weekends that are occurring for many hours.

APPENDIX "3" TO ADMINISTRATIVE REPORT PDS-14-1-2023 DATES MAY 8, 2023



Respondent No: 35

Login:

[REDACTED]

Email:

[REDACTED]

Responded At: Mar 11, 2023 17:09:28 pm

Last Seen:

Mar 11, 2023 17:09:28 pm

IP Address:

[REDACTED]

Q1. What is your opinion on the updates to the Noise and Nuisance By-Law?

The updates haven't addressed our concerns with the Bylaw

APPENDIX "3" TO ADMINISTRATIVE REPORT PDS-14-1-2023 DATES MAY 8, 2023



Respondent No: 36

Login:

Email:

Responded At: Mar 11, 2023 17:33:40 pm

Last Seen:

Mar 11, 2023 17:33:40 pm

IP Address:

Q1. What is your opinion on the updates to the Noise and Nuisance By-Law?

The problem with the Bylaw is that it does not give an objective, impartial level as to how to determine what is "likely to disturb." What happens when a neighbor has a zero noise tolerance so that no amount of noise is ever deemed reasonable. How can a resident ever enjoy their property if a neighbor can complain about hearing music or even voices from their property? Are we no longer allowed to have BBQs in our backyards with reasonable music? Can children no longer play outside and enjoy their childhood for fear that their neighbor will find their noise disturbing and that in and of itself is a noise Bylaw infraction. The Bylaw needs to have some sort of measurement for what is inappropriate or else calls about frivolous noise will continue. Perhaps having a decibel level to objectively state what is reasonable is something that should be included in this Bylaw amendment. This would make it very clear what the standard is. I am sure this strategy has been used by other towns and we could look to them for guidance.

APPENDIX "3" TO ADMINISTRATIVE REPORT PDS-14-1-2023 DATES MAY 8, 2023



Respondent No: 37

Login: [REDACTED]

Email: [REDACTED]

Responded At: Mar 12, 2023 11:04:40 am

Last Seen: Mar 12, 2023 16:52:31 pm

IP Address: [REDACTED]

Q1. What is your opinion on the updates to the Noise and Nuisance By-Law?

Reasonable

APPENDIX "3" TO ADMINISTRATIVE REPORT PDS-14-1-2023 DATES MAY 8, 2023



Respondent No: 38

Login: [REDACTED]

Email: [REDACTED]

Responded At: Mar 13, 2023 08:37:11 am

Last Seen: Mar 13, 2023 08:37:11 am

IP Address: [REDACTED]

Q1. What is your opinion on the updates to the Noise and Nuisance By-Law?

Disagree, I believe in being respectful with my neighbours and what we have it is enough.

APPENDIX "3" TO ADMINISTRATIVE REPORT PDS-14-1-2023 DATES MAY 8, 2023



Respondent No: 39

Login: [REDACTED]

Email: [REDACTED]

Responded At: Mar 13, 2023 11:35:30 am

Last Seen: Mar 13, 2023 11:35:30 am

IP Address: [REDACTED]

Q1. What is your opinion on the updates to the Noise and Nuisance By-Law?

It looks like a lot of thought has gone into this. It seems to cover a lot of possibilities for noise.

APPENDIX "3" TO ADMINISTRATIVE REPORT PDS-14-1-2023 DATES MAY 8, 2023



Respondent No: 40

Login: [REDACTED]

Email: [REDACTED]

Responded At: Mar 15, 2023 16:34:55 pm

Last Seen: Mar 15, 2023 16:34:55 pm

IP Address: [REDACTED]

Q1. What is your opinion on the updates to the Noise and Nuisance By-Law?

11pm to 11am for restaurants and patios seems a bit extreme. This city has no venues for live entertainment as it is, every restaurant is fast food or take out. The city is obsessed with low income / low tier shopping, food, entertainment. Further making it difficult for the few water side restaurants and bars in the spring and summer months will further ossify this already aged and bored town. If you buy a home near a bar, what did you expect? Are we really that pretentious and self important?

APPENDIX "3" TO ADMINISTRATIVE REPORT PDS-14-1-2023 DATES MAY 8, 2023



Respondent No: 41

Login:

[REDACTED]

Email:

[REDACTED]

Responded At: Mar 16, 2023 12:18:17 pm

Last Seen:

Mar 16, 2023 12:18:17 pm

IP Address:

[REDACTED]

Q1. What is your opinion on the updates to the Noise and Nuisance By-Law?

Garage sales are environmentally sustainable, they divert goods from waste management and illegal dumping. Limiting residents of Fort Erie to 4 garage sale days each year will negatively impact the waste we produce and reduce commerce. Fort Erie has a lot of residents that are retired. These people are likely to have acquired many goods that they may want to sell as they get older and as such may require more than 4 garage sales in the spring and/or summer months to accommodate sales.

APPENDIX "3" TO ADMINISTRATIVE REPORT PDS-14-1-2023 DATES MAY 8, 2023



Respondent No: 42

Login: [REDACTED]

Email: [REDACTED]

Responded At: Mar 24, 2023 17:58:59 pm

Last Seen: Mar 24, 2023 17:58:59 pm

IP Address: [REDACTED]

Q1. What is your opinion on the updates to the Noise and Nuisance By-Law?

Updates will need enforcement. Currently most complaints are dismissed/no follow up with person presenting the infraction.

APPENDIX "3" TO ADMINISTRATIVE REPORT PDS-14-1-2023 DATES MAY 8, 2023



Respondent No: 43

Login:

[REDACTED]

Email:

[REDACTED]

Responded At: Mar 24, 2023 18:13:02 pm

Last Seen:

Mar 25, 2023 00:13:02 am

IP Address:

[REDACTED]

Q1. What is your opinion on the updates to the Noise and Nuisance By-Law?

It seems that the town is clearly over stepping on private property. I clearly understand noise and light pollution which may effect others particularly late at night but I also would have to think that this would have to be sustained over a period of time not one night or one day

APPENDIX "3" TO ADMINISTRATIVE REPORT PDS-14-1-2023 DATES MAY 8, 2023



Respondent No: 44

Login: [REDACTED]

Email: [REDACTED]

Responded At: Mar 24, 2023 18:17:37 pm

Last Seen: Mar 25, 2023 00:13:02 am

IP Address: [REDACTED]

Q1. What is your opinion on the updates to the Noise and Nuisance By-Law?

It appears to me that the town is overstepping our private property and I clearly understand noise and light pollution may be an issue but must be over a period of days or weeks and not one day or night whereby a person may have cause for celebration. Obviously loud noise or light late into the night early am could be a problem and reported

APPENDIX "3" TO ADMINISTRATIVE REPORT PDS-14-1-2023 DATES MAY 8, 2023



Respondent No: 45

Login: [REDACTED]

Email: [REDACTED]

Responded At: Mar 26, 2023 11:05:45 am

Last Seen: Mar 26, 2023 11:05:45 am

IP Address: [REDACTED]

Q1. What is your opinion on the updates to the Noise and Nuisance By-Law?

I believe the updates to the by-law are excellent. It provides much more clarity and will also make it easier for by-law officers to enforce. This by-law also seems to have much more "teeth" compared to the previous version.

APPENDIX "3" TO ADMINISTRATIVE REPORT PDS-14-1-2023 DATES MAY 8, 2023



Respondent No: 46

Login: [REDACTED]

Email: [REDACTED]

Responded At: Apr 07, 2023 18:32:10 pm

Last Seen: Apr 08, 2023 00:32:10 am

IP Address: [REDACTED]

Q1. What is your opinion on the updates to the Noise and Nuisance By-Law?

I would like to see specific mention of cars fitted with modified illegal mufflers. These are extremely annoying and disruptive. The same can be said about the motorcycles with the extremely loud illegal mufflers, it's outrageous that we have to stop talking when these drive by because you cannot hear each other.

APPENDIX "3" TO ADMINISTRATIVE REPORT PDS-14-1-2023 DATES MAY 8, 2023



Respondent No: 47

Login:

[REDACTED]

Email:

[REDACTED]

Responded At: Apr 10, 2023 06:52:51 am

Last Seen:

Apr 10, 2023 12:48:31 pm

IP Address:

[REDACTED]

Q1. What is your opinion on the updates to the Noise and Nuisance By-Law?

It is my understanding that the new sport of pickle ball is very loud and constant noise emitting from the paddles...will this be taken into account to ensure the adjacent property owners are not impacted during the day when pickleball is being played

Re: Noise bylaw update with regards to motor vehicle 📎


Jenny Cornelius


t
o

2023-04-05 02:10 PM

From Jenny Cornelius/FortErie

To

 [REDACTED] Noise bylaw update with regards to motor vehicle

 Jenny Cornelius *Thank you for taking the time to respond to the proposed Noise and Nuisance B*

Thank you for taking the time to respond to the proposed Noise and Nuisance By-law. All comments will be reviewed and considered for amendments to the current Noise and Nuisance By-law. The Municipal Council of the Town of Fort intends to consider the new By-law at its meeting on Monday, May 8th, 2023. In your response, you have noted matters such as vehicles with modified exhaust systems and vehicles accelerating at high rates of speed that should be addressed by the Niagara Regional Police under the Highway Traffic Act.

By-Law Enforcement Unit

Jensen Cornelius, CPSO, MLEO

Municipal Law Enforcement Officer

The Corporation of the Town of Fort Erie

1 Municipal Centre Drive | Fort Erie, ON | L2A 2S6

jcornelius@forterie.ca | 905.871.1600 Ext 2512 | Fax: 905.871.4022

Our Focus: Your Future

[REDACTED] Under section 3.2 (c) does not mention "idling"a... 2023-03-25 09:33:49 AM

From: [REDACTED]
To: bylawenforcement@forterie.ca
Date: 2023-03-25 09:33 AM
Subject: Noise bylaw update with regards to motor vehicle

Under section 3.2 (c) does not mention "**idling**"a motor. Also mentions while motor vehicle is **not in motion**. Maybe it should include while in motion and some provisions if noise is from a vehicle with modified exhaust system.

A resident in the New Marina High Pointe subdivision on Sharon Drive has a highly modified "zoom zoom" car as well as a motorcycle that seems to think it's ok to at 6am to start an idle his car for ten to fifteen minutes so as to warm it up. Departure seems to always be at high rates of acceleration on Nathaniel Dr only to do excessive downshifting to stop at Pettit. When arriving home same thing with excessive speed on Nathaniel Dr and downshifting and excessive engine

revving and idelling. Seems to me not only this individual but other area residents think Nathaniel Dr is a raceway. Maybe speed bumps .

Note the bylaw uses the word motor. Technically **motor** is an electric motor vehicles use combustion **engine**.

Sent from Samsung tablet

APPENDIX "3" TO ADMINISTRATIVE REPORT PDS-14-1-2023 DATES MAY 8, 2023

input for noise by-law [REDACTED] to jmccaffery, bylawenforcement 2023-03-28 02:21 PM
From [REDACTED]
To <jmccaffery@forterie.ca>, <bylawenforcement@forterie.ca>

1 Attachment



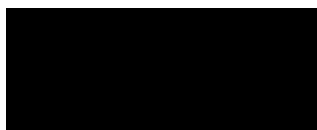
Noise by-law.docx

Greetings.

Please see the attachment for my input. I hope I do not sound too curmudgeonly and cranky! 😊

Thanks for doing this.

Best regards,



TO: By-Law Enforcement Unit

DATE: 2023.03.28

E: jmccaffery@forterie.ca and bylawenforcement@forterie.ca

FROM: [REDACTED]

[REDACTED]
Ridgeway, ON

L0S 1N0
[REDACTED]

RE: Request for Public Input for Intention to Pass A Noise & Nuisance By-Law

I would like to submit the following input for your consideration:

1. The noise & nuisance by-law review is perhaps long over due and necessary for the community due to increased noise and nuisances. The population has grown considerably within Fort Erie and this contributes to the need for this review, as increased population begets new issues or amplifies existing concerns related to noise and nuisance.

2. Specific to my neighbourhood circumstances, and I believe this is evident across many different areas of Fort Erie, there have been a significant number of b' n' b' s cropping up in our neighbourhoods. I certainly do not know if all of these are legal or not, but the number of rentals has been readily observed as increasing drastically. Along with that there have been several issues that impact my/our ability to enjoy our own home and property. Eg:

a. noise from parties proliferates at all hours of the day and night. I am not speaking of moderate levels but of excessive volumes. Eg: on numerous occasions even when I am within my own home, with the windows and doors closed we can still hear thumping bass permeating through the inside of our home. I have seen groups of individuals descend on their rental unit and then immediately set-up an actual PA system and have it blaring all day and night. This makes it unpleasant to simply be outside and enjoy one's own backyard as the sound from the PA's, or 'cranked up' stereos impedes the ability to be outside without being inundated by this constant noise.

b. We, like other residences in fort Erie, have an outdoor patio and above ground pool that we like to enjoy in the spring/summer months. Our own enjoyment of the backyard is impeded by the loud parties, excessive volume levels of music, and of course raised voices as these people have to talk loudly and/or shout over the volume

of their music. And on top of that, it seems these gatherings are magnets for cars and motor bikes with loud mufflers that tear around the neighbourhood. (I simply do not understand the justification of these loud mufflers or the pleasure that the owners of these modified cars/bikes derive from the noise). This occurs at all hours but is most bothersome during night. (This is not just a noise/nuisance issue but also becomes a safety issue. In this regard, I have written to my local councillor about putting speed humps in the roads to calm traffic down but I never received an acknowledgement to that submission). I do know there are some municipalities that have banned these types of modified vehicles.

c. One local resident enclosed their deck with some sort of awning material. All this did was create amplified noise, ie: loud voices, screaming, yelling, hooting/hollering from enclosed decks till the wee hours of the morning. Because of the awning material being used as an enclosure it has concentrated sounds and then it is projected by the enclosure in the manner of an amphitheatre. I realize that these vocalizations cannot be totally eliminated but after a certain hour, eg: 11:00 PM, it should be stopped. After all some people have to work the next day, some families have children that need their sleep, some families have elderly members that need their sleep and some homes have ill individuals that need sleep and not be interrupted by noise. (One of the direct neighbours, age 87 at the time, was saying she could not sleep till 3 or 4 in the morning because of this inconsiderate noise.)

d. There have been instances over the last summer where pleasure craft (boats) have been moored in Lake Erie at the foot of Bernard Ave in Ridgeway, and tied off to two or more boats, with a sound system set up on one of the boats that could be clearly heard all the way down to Bethune Ave. from the lake. This was so loud that it completely drowned out any music that was being played by individuals and/or families that came to the beach for the day. This amount of volume being heard over that much area is simply unnecessary under any circumstances and has a definite impact on anyone living in that area. This excessive volume simply should not be allowed in the public.

3. In regards to noise/nuisance, there is an ongoing issue with dogs. Too many dog owners do not train their dogs properly so as not to be barking incessantly. Too many dog owners let their pets stay out all day and night and let them bark and howl with no regard to their neighbours. These people are irresponsible and inconsiderate, especially when they neglect their dogs whilst they leave their premises and go out. These inactions nullify the attempts of responsible pet owners that train and attempt to keep their pets quiet. There exists studies indicating that pet ownership is good for one's health. I submit that incessant dog barking is not healthy at all for people that have to listen to this noise as it can become 'grating'. Perhaps dog owners who leave their pets unattended all day should have to muzzle the dogs to prevent incessant barking and/or howling. (Perhaps consideration should also be given to restrict the number of dogs in any area).

4. In terms of acoustics, I submit that it is important that consideration be given to acoustics and how sound bounces and travels in residential areas. Eg: there is a dwelling located 3 houses away from me. Every summer the owners of this place 'pump up' their backyard stereo. The sound travels between 2 houses and is projected into my backyard as there is nothing but 'bush' for the sound to be projected through. They argue that the south side of their residence does not create excessive noise but that is because there are fences and trees in that area to diminish the sound. They ignore the fact that sound travels readily through an area that has no type of barrier to stifle the noise. As such, in my opinion it is vital that regard be given to acoustics and its impact on how sound travels.

5. In light of the above, meters that measure sound are not always effective. Positioning is important and direction from which noise is emanating from is essential to be recognized. There has been discussion about employing sound meters but they must be used properly to be effective in addressing excessive noise. The source of the noise, the volume and how it is funnelled are all factors that should be considered.

6. I have approached certain neighbours about the excessive noise. A few will listen and will adjust accordingly. Unfortunately there are a certain number that turn belligerent and confrontational. As such, one hesitates to approach a residence to voice concerns about excessive volumes for fear of being verbally abused and/or threatened. Some of these individuals resort to claiming it is their right to play what they want, when they want and as loud as they want. There are elderly people in the area of where I live who are simply too scared for their safety to complain. (Often they leave it to me to approach the neighbour on their behalf as long as I do not identify them specifically.) These individuals seem to dismiss the legislation pertaining to the right to enjoy one's own property without being overwhelmed by noise, etc. As such I have become reluctant to approach anyone but excessive noise as I fear for my safety and for the protection of my property as a result of threats being made.

7. In light of the above, (a) I have been contacting the by-law officers in regards to excessive noise. I find them to be very professional and diplomatic. They will outline steps that are to be taken and they seem to follow up on their procedures. However, I also believe that these by-law officers are facing potential confrontation and threats. I do hope that a review of the relevant by-laws also addresses the safety of the by-law officers while enhancing their authority and power to do their jobs effectively.

(b) I dislike calling the police about these matters but it seems that is the only option during the night and/or on weekends when the by-law officers are not working. I myself would like to think that the police force has other things to attend to that are more crucial, rather than noise and nuisance problems. However, what are the options, if any, and will the committee updating the by-law consider other options that may be effective?

7. I am unclear as to whether the matter of trash falls under this by-law. It seems that with the increase of b'n'b's there is also an increase of trash being strewn about on lawns during and after some of the 'parties' that take place. If this is a component of the by-law I hope there are more effective and efficient means developed to address this ever increasing problem.

Summarily, I give kudos to the people responsible for initiating this review. (Excessive noise within the neighborhood has been associated with irritability, aggression, stress and anxiety.) It seems that there are several factors in play that contribute to excessive and unnecessary noise levels. It is indeed unfortunate that people just are not simply more courteous and considerate of others but it seems that these days more and more people are only concerned about themselves and have no regard about how their actions impact others. I have lived in Ridgeway for over 20 years. It was a quaint and quiet community. Over the years, many new houses have gone up, and there has been a significant increase of b'n'bs being rented out to what I describe as party people. With all that noise levels have definitely gone up and it impacts the quality of life in the residential areas of Fort Erie. There is no reasonable argument that justifies the need for all this noise and the negative impact it has on people. As much as people want to hear their music, it should be restricted to their properties and not be forced on other neighbours. After all, do we not have a right to enjoy our own properties too

The same principles should apply to cars with excessive noise from their 'souped up' mufflers and stereos. I understand some cities in Florida have introduced laws that in effect say that if you can hear another car's stereo 25 feet away, it is deemed to loud and is ticketed. (The muffler issue just seems ludicrous, ie: there is no need for that level of noise)

(It is truly unfortunate that one cannot simply ask a person to turn down their 'noise maker' instead of having to do by-law reviews, etc. Where did common courtesy go?)

Submitted by:

[REDACTED]

[REDACTED]

APPENDIX "3" TO ADMINISTRATIVE REPORT PDS-14-1-2023 DATES MAY 8, 2023



Re: Public Input: By-law to Regulate Public Nuisances and Noise in the Town of Fort Erie and to Repeal By-law No. 30-09 [REDACTED] to Jenny Cornelius 2023-03-31 11:08 AM

Cc [REDACTED] "Jim McCaffery", "Wayne Redekop", "Tom Lewis"

From [REDACTED]

To "Jenny Cornelius" <JCornelius@forterie.ca>

Cc [REDACTED] "Jim McCaffery" <JMcCaffery@forterie.ca>,

"Wayne Redekop" <WRedekop@forterie.ca>, "Tom Lewis" <TLewis@forterie.ca>

Dear Ms. Cornelius,

Thank you for your prompt email response, which I will share with my neighbours.

Best regards,

On Fri, Mar 31, 2023 at 11:03 AM Jenny Cornelius <JCornelius@forterie.ca> wrote:

Good Morning [REDACTED]

Thank you for taking the time to speak with us this morning. Please see below information.

If you are calling to submit a noise complaint between the hours of 8:30-4:30 Monday-Friday, please call (905)871-1600 ext. 5215.

If you are calling to submit a noise complaint relating to a short term rental outside of the above mentioned hours, or on a Saturday or Sunday, please call (905)871-1600 ext.5216.

All calls relating to noise and nuisance after 8pm, must be directed to Niagara Regional Police.

Please follow up via email with us at: bylawenforcement@forterie.ca

Thank you,

Jensen Cornelius, CPSO, MLEO

Municipal Law Enforcement Officer

The Corporation of the Town of Fort Erie

1 Municipal Centre Drive | Fort Erie, ON | L2A 2S6

icornelius@forterie.ca | 905.871.1600 Ext 2512 | Fax: 905.871.4022

Our Focus: Your Future

From: [REDACTED]

To: "Jim McCaffery" <JMcCaffery@forterie.ca>

Cc: bylawenforcement@forterie.ca, [REDACTED] "Tom Lewis" <TLewis@forterie.ca>, "Wayne Redekop" <WRedekop@forterie.ca>

Date: 2023-03-30 10:43 AM

Subject: Re: Public Input: By-law to Regulate Public Nuisances and Noise in the Town of Fort Erie and to Repeal By-law No. 30-09

Hello Jim

Thank you for your email. I may be reached at 647-285-2793.

Regards,

On Mar 30, 2023, at 10:12 AM, Jim McCaffery< JMcCaffery@forterie.ca> wrote:

APPENDIX "3" TO ADMINISTRATIVE REPORT PDS-14-1-2023 DATES MAY 8, 2023

Good morning,

Thank you for taking the time to provide your comments in relation to the amended Noise / Nuisance By-law. We are currently reaching out to community members to discuss their comments, as we move forward with several amendments. If you are amenable can you please provide a contact number that I may reach you to schedule a discussion.

Regards,
Jim

Jim McCaffery

Municipal Law Enforcement Coordinator

The Corporation of the Town of Fort Erie

1 Municipal Centre Drive | Fort Erie, ON | L2A 2S6

JMcCaffery@forterie.ca | 905.871.1600 Ext 2216

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From: [REDACTED]
To: bylawenforcement@forterie.ca
Cc: wredekop@forterie.ca, "Tom Lewis" <TLewis@forterie.ca>, [REDACTED]
Date: 2023-03-29 01:39 PM
Subject: Public Input: By-law to Regulate Public Nuisances and Noise in the Town of Fort Erie and to Repeal By-law No. 30-09

Dear Jim McCaffery, Coordinator Law Enforcement

Thank you for the opportunity to invite input into the proposed By-law changes regarding the Fort Erie Noise and Nuisance By-law. Please review the comments, suggestions, and recommendations below.

According to the World Health Organization (WHO)

APPENDIX "3" TO ADMINISTRATIVE REPORT PDS-14-1-2023 DATES MAY 8, 2023

Noise is an underestimated threat that can cause a number of short- and long-term health problems, such as for example sleep disturbance, cardiovascular effects, poorer work and school performance, hearing impairment, etc.

Noise has emerged as a leading environmental nuisance and the public complains about excessive noise more and more often.

How loud is too loud?

The WHO guidelines for community noise recommend less than 30 A-weighted decibels (dB(A)) in bedrooms during the night for a sleep of good quality.

The WHO guidelines for night noise recommend less than 40 dB(A) of annual average (L_{night}) outside of bedrooms to prevent adverse health effects from night noise. *

APPENDIX "3" TO ADMINISTRATIVE REPORT PDS-14-1-2023 DATES MAY 8, 2023

Please note that although all full-time and part-time residents should obviously follow all By-laws, recent allowances of Short-Term-Rentals (STRs) and responsibilities of the owners should be **highly enforced**. Full-time and part-time residents living in close proximity to STRs do not know who is staying in these properties at any given time (unlike having a neighbour who may be contravening the By-laws and can often have a discussion or resolve noise and nuisance issues). However, if the owner of the STR is not a primary permanent resident, this causes more complications (e.g. the need to contact the owner etc. which should not be left to neighbours when By-laws are contravened).

As has been previously mentioned by residents in the STR Land Use Study, enforcement of any By-law pertaining to STR in the future will be paramount. There is an element of our society that will look for and find ways to circumvent rules and ignore the spirit of Noise and Nuisance By-laws / STR By-laws. As such these business owners are deemed to be getting away with penalties by neighbours in these communities.

Comments and suggestions:

-Enforcing Noise and Nuisance By-laws with a By-law officer **on-call** / patrolling this jurisdiction if not 24 hours/day, then especially during the evening/night-time (**e.g. from 6pm-6am**) and who can **give monetary penalties** on site [and appropriate demerit points to Short-Term-Rentals (STR) if applicable]. This would avoid having to overload the Niagara Regional Police Services for any By-law violations. Also, penalties should be given to **both** the owner of a property as well as the inhabitants if they are not the same party, as this will help deter owners from not screening/vetting their prospective renters.

APPENDIX "3" TO ADMINISTRATIVE REPORT PDS-14-1-2023 DATES MAY 8, 2023

-Enforcing STR owners to have **Mandatory NoiseAware-like technology** (<https://noiseaware.com/cart/>) (<https://noiseaware.com/cities-counties/>) (info@noiseaware.io) (<https://noiseaware.com/blog/the-importance-of-guest-vetting-best-practices-to-keep-bad-guests-away/>) (used by Airbnb, VRBO etc.) devices for STR owners that will notify them about their guests and hopefully prevent calls to By-law officers if dealt in a timely manner. (This device allows access to get real-time information, historical data and instant alerts, so you can solve noise and occupancy problems from anywhere; and defend against false noise complaints if needed)

-Posting STR owners' infractions and demerit points online as public record if they contravene Noise and Nuisance or other STR By-laws

-Ensuring noise and nuisance on **public beaches** are also enforced (e.g., prohibiting radios, music devices etc. at the beach). If beach goers want music and don't want to listen to the sounds of the water, then wear earphones, earbuds etc. No one should be subjected to this infringement at the beach (**including boats that dock near the public beaches**).

-Enforcing Noise and Nuisance in a timely manner as pertains to **fireworks** (having **an on-call By-law officer** could help alleviate this).

APPENDIX "3" TO ADMINISTRATIVE REPORT PDS-14-1-2023 DATES MAY 8, 2023

As a resident and tax payer, hopefully everyone wants this community to thrive, be harmonious and to follow the By-laws **enforced** by the Town of Fort Erie. Also, as more of the region is being developed and with increased tax revenues, municipal resources should be used and extended as needed in order to fill any gaps and be able to **enforce Nuisance and Noise By-law violations**.

Bylaws are ineffective if not dealt with in a professional and timely manner. It is incumbent on the town of Fort Erie to ensure peace and tranquility to its residents, as this is a basic human right. It is my hope that the result of this input of concerns and offering solutions, will make the community better for everyone! If you require further information, please do not hesitate to contact me.

Respectfully submitted,

[REDACTED]

c.c. Mayor Wayne Redekop, Ward 5 Councillor Tom Lewis, [REDACTED]

APPENDIX "3" TO ADMINISTRATIVE REPORT PDS-14-1-2023 DATES MAY 8, 2023

P.S. FYI- other neighbours have been respectfully bcc'd with permission so that they are aware of the proposed By-law enhancements and who may be interested in commenting and following up with By-law officers for any infractions.

* <https://www.who.int/europe/news-room/fact-sheets/item/noise>

APPENDIX "4" TO ADMINISTRATIVE REPORT PDS-14-1-2023 DATED MAY 8, 2023

Proposed Noise and Nuisance By-law Crystal Beach [REDACTED] to bylawenforcement@forterie.ca
2023-04-14 10:38 AM
From [REDACTED]
To "bylawenforcement@forterie.ca" <bylawenforcement@forterie.ca>

Hello By Law of Fort Erie,

I wanted to express my opinion about the Proposed Noise and Nuisance By-law in Crystal Beach. I believe that patios be operational from 11am to 2am Friday and Saturdays from May through September.

We own 3 properties in Crystal Beach ; 2 along Erie and one on Derby. The lively nature of the Crystal Beach is important for tourists and residents during the summer months.

Thank you,

[REDACTED]

Crystal Beach, ON

Sent from [Mail](#) for Windows

APPENDIX "4" TO ADMINISTRATIVE REPORT PDS-14-1-2023 DATED MAY 8, 2023



Fwd: Noise and Nuisance By-law [REDACTED] to Jim McCaffery, bbailey@forterie.ca,
bylawenforcement@forterie.ca 2023-04-13 08:55 PM
From [REDACTED]
To "Jim McCaffery" <JMcCaffery@forterie.ca>, "bbailey@forterie.ca" <bbailey@forterie.ca>,
"bylawenforcement@forterie.ca" <bylawenforcement@forterie.ca>

I apologize but I accidentally sent the email below before I was finished. Below is the completed email.

Get [Outlook for Android](#)

From: [REDACTED]
Sent: Thursday, April 13, 2023, 8:28 p.m.
To: bylawenforcement@forterie.ca <bylawenforcement@forterie.ca>
Subject: Noise and Nuisance By-law

To the by-law department

I just wanted to write this email in support of the new noise and nuisance by-law. I believe it is well thought out and is in line with what the majority of the residents would want. It is also consistent with the other municipalities in the area such as St. Catharines, Niagara Falls and NOTL. In fact, these municipalities go one step further and include a specific time when noise is not allowed, 11pm in St.Catharines and 9pm in Niagara Falls. It might be a good idea to include this in Fort Erie.

I would like to address an email I received from the Crystal Beach BIA. This email states that the BIA passed a resolution wanting music to be played on patios until 2 am on weekends from May to September. As a business owner in the Crystal Beach BIA, I do not support this resolution. I was never contacted by the BIA asking for my opinion. I spoke with several other business owners as well as local residents and all were opposed to the idea of music being allowed until 2 am. All agreed that 11 pm is more than reasonable. We all look forward to enjoying the nice weather in the spring, summer and fall and don't want to be annoyed by one or two patios wanting to play music until 2 am. Also, nothing ever good happens after 2 am after a night of late drinking encouraged by late music.

Thank you
[REDACTED]

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APPENDIX "4" TO ADMINISTRATIVE REPORT PDS-14-1-2023 DATED MAY 8, 2023

noise bylaw [REDACTED] to bylawenforcement@forterie.ca, tlewis@forterie.ca 2023-04-13 08:04 PM
From [REDACTED]
To "bylawenforcement@forterie.ca" <bylawenforcement@forterie.ca>, "tlewis@forterie.ca" <tlewis@forterie.ca>

Good evening

I am emailing to inform you that the new bylaw proposal lacks fundamental detail. It allows for too much ambiguity and will cause too much strain on the bylaw and local business as proposed.

In crystal beach, all commercial restaurants and patios are well within 60 meters of a residential zone and with no defined acceptable decibel rating the simple chatter coming from a busy patio would be deemed unacceptable. An Addendum to this bylaw that would allow for certain types of establishments in a downtown core to operate at a reasonable level outside of this bylaw seems to be required.

With all the changes aimed at tourism, we run the risk of causing serious financial damage to the community. This is another step aimed at reverting this community to a time when most of Erie road was "closed for business".

I implore all of you to seriously look at the bigger picture before making yet another blanket solution. Your decisions have lasting impact on the future of our community.

Sincerely

[REDACTED]
Crystal Beach resident

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APPENDIX "4" TO ADMINISTRATIVE REPORT PDS-14-1-2023 DATED MAY 8, 2023

Noise bylaw [REDACTED] to bylawenforcement 2023-04-13 03:21 PM
From [REDACTED]
To bylawenforcement@forterie.ca
Please respond to [REDACTED]

Hello,

I think it is critically important to allow business patios to be allowed open to 2am. People want to socialize and enjoy themselves, especially after our long shutdown and shut in. Many people don't even consider going out til 10:30 or 11 so to be shut down earlier than 2 hardly gives them time to unwind.

I don't find the noise of people talking and laughing to be a nuisance - though some people do. I've had people complain about normal speech level and laughter at 11 in the morning.

Our patio businesses need to be allowed to serve their customers and hopefully maintain their businesses for us all to have a varied healthy community.

Be well.



Crystal Beach, ON
L0S 1B0



APPENDIX "4" TO ADMINISTRATIVE REPORT PDS-14-1-2023 DATED MAY 8, 2023



Re: Noise & Nuisance By-Law - CBBIA Carol Schofield to [REDACTED] 2023-04-24 01:30 PM

Cc "Tom Lewis", Jim McCaffery, Jenny Cornelius

From Carol Schofield/FortErie

To [REDACTED]

Cc "Tom Lewis" <TLewis@forterie.ca>, Jim McCaffery/FortErie@TownOfFortErie, Jenny Cornelius/FortErie@TownOfFortErie

1 Attachment



April 20, 2023.pdf

To:

Cc: "Tom Lewis" <TLewis@forterie.ca>, JMcCaffery@forterie.ca, JCornelius@forterie.ca

Hello [REDACTED]

Thank you for your correspondence.

I have copied Jim McCaffery, our Coordinator - Law Enforcement and Jenny Cornelius, one of our By-law Enforcement Officers, who have carriage of the report and recommendations to Council. The BIA's concerns will be addressed in the Report which is returning to Council on May 8th.

Kind regards,

Carol Schofield, Dipl.M.A.
Manager, Legislative Services / Clerk
Town of Fort Erie / 1 Municipal Centre Drive
Fort Erie, ON L2A 2S6
☎ 905-871-1600 Ext 2211

Our Focus: Your Future



Please consider the environment before printing this email.

---04/24/2023 01:11:02 PM---Hello, We hope this email finds you well.

From: [REDACTED]
To: "cschofield@forterie.ca" <cschofield@forterie.ca>
Cc: "Tom Lewis" <TLewis@forterie.ca>
Date: 04/24/2023 01:11 PM
Subject: Noise & Nuisance By-Law

Hello,

We hope this email finds you well.

Enclosed is a letter concerning the by-law that pertains to patio regulations, including their designated hours of closure.

The contents of this letter concern an issue that is of great importance to us (Crystal Beach BIA) and our community, and we would be grateful if you could take the time to review it.

We understand that you have a busy schedule, and we appreciate any time you can spare to consider the appeal. If you have any questions or concerns, please do not hesitate to contact us at [REDACTED]

We look forward to hearing from you.

Thank you for your continued commitment to serving our town. (See attached file: April 20, 2023.pdf)

April 20, 2023

Dear Mayor Redekop and members of Council,

The Crystal Beach Business Improvement Association (CBBIA) represents over 60 businesses in the Crystal Beach neighborhood of Fort Erie. The CBBIA has been in existence since 2006 serving our membership and the community. The primary focus of our board is to promote local businesses in Crystal Beach and to beautify the business community. We are the volunteer group that hosts the Crystal Beach SupperMarket, Farmers Market, Halloween stroll, and many other exciting events throughout the year.

We are writing to you today to provide comments and concerns on the Noise and Nuisance By-Law. Before bringing forward our concerns and input, we would like to take the time and thank you for allowing for additional public comment on such an important topic to many. After review and discussion with some of our membership at our April 12th BIA meeting, our comments and concerns focus on Section 3.2, clause J, which relates to outdoor patios. We have concerns and would like to make a request for Council's reconsideration as you look to improve the by-law.

The proposed noise and nuisance by-law says that **outdoor patios that produce sound or noise that is clearly audible at a point of reception, if any part of such patio is located within 60 metres of a residential zone**, would need to be closed by 11:00 pm. **The BIA is requesting that you consider extending the time of this by-law from 11:00 pm to 2:00 am on Friday nights and Saturday nights from May-September which is our seasonal peak season.** We are asking for this increase in time for outdoor patios within the BIA boundaries/Crystal Beach Entertainment District as defined in the Crystal Beach Secondary Neighborhood Plan approved by Council.

Since we are finally now coming out of the COVID-19 pandemic and nearly all of the businesses in our membership are trying to recover economically, the BIA believes that it would be detrimental to our membership if patios were to be closed by 11:00 pm. For over 100 years, we've been a destination for celebration, fun, beach vibes...and with all of that comes noise, music and laughter.

We want to stress that we are very obviously a seasonal community. It is sleepy in the winter, but in full effect in our peak season months (May-September). Individuals from all over North America seek us out as Ontario's South Coast, which is the only water way that has full southern exposure. One of the other perks of beautiful Crystal Beach is that it is an extremely safe and walkable community. People (including us members of the BIA) feel safe at all hours of the night, and the people who visit our community feel very much at home.

Most of the year, we are cooped up inside, so when the summer comes around, there is nothing better than patio season. And depending on which way the wind blows, noise carries.

Whether it's people laughing, kids crying, families singing and dancing, fireworks...it is the place to be during the day, but equally during the night.


Additionally, the CBBIA depends heavily on our local community and the summer tourism economy to be sustainable. Most of the time during family vacations, they are likely not thinking about time, but rather trying to make the most of every opportunity they have to enjoy late-night options, and restaurant/patio experiences with their loved ones.

Furthermore, our Business Improvement Area is an employer to many seasonal workers. By extending the by-law by 3 hours, for 2 days out of the week, it would help grow our much-needed tourism economy and the businesses that depend on it.

In closing, we are highly requesting that you reconsider this option as per the above concerns and reasons given in this letter and to look at this from a broader perspective. This decision **WILL** have lasting effects on the community, tourism, and businesses. Should you wish to discuss the matter further, please do not hesitate to reach out, as we would be happy to speak with you regarding this important matter.

Respectfully,




Crystal Beach BIA Chair
As directed by the CBBIA executive

Cc. Fort Erie Economic Development



Planning and Development Services

Prepared for	Council-in-Committee	Report No.	PDS- 14- 2023
Agenda Date	February 22, 2023	File No.	310101

Subject	
PROPOSED NOISE AND NUISANCE BY-LAW	

Recommendations	
That	Council approves the Noise and Nuisance By-law attached as “Appendix 1” to report No. PDS-14-2023 and directs that Noise and Nuisance By-law No. 30-09, be repealed

Relation to Council’s 2018-2022 Corporate Strategic Plan	
N/A	

List of Stakeholders	
<ul style="list-style-type: none">• Mayor & Council• Municipal Staff• Town of Fort Erie Residents	

Prepared by:	Submitted by:	Approved by:
Original Signed	Original Signed	Original Signed
Jensen Cornelius, CPSO Municipal Law Enforcement, Planning and Development Services	Alex Herlovitch, MCIP, RPP Director, Planning & Development Services	Chris McQueen, MBA Chief Administrative Officer

Purpose of Report

This report seeks council approval to update the Town's Noise and Nuisance By-law. The existing regulations regarding noise and nuisance are contained within the proposed Noise and Nuisance By-law with updated sections and additions.

Town staff from various departments including the By-law Department and the Parks Department have reviewed the existing Noise and Nuisance By-law 2009-30 for the purpose of improving clarity, easier interpretation and enforcement. The By-law has been enhanced to ensure that all residents are able to enjoy their properties and public spaces while respecting their neighbours and the community.

Analysis

The Parks and Recreation Department approached the By-law Department with changes within the current Noise and Nuisance By-law to proactively reflect recent activity in the Niagara Region. The proposed By-law will permit for the use of regular activities within the Towns sports parks, while still regulating unwanted or undesired behaviours within the parks to ensure nearby residents are not disturbed. Upon closer review of the By-law, By-law Enforcement Staff decided that the proposed amendments and additions were required to ensure the By-law is effective for enforcement as well as the ease of understanding to both the resident and enforcement personnel in line with other municipalities regulations.

Section 2.0 Definitions:

There have been a number of proposed definitions added or amended for better clarification and ease of understanding by users and enforcement personnel. Amongst some of the new definitions are those for "clearly audible", "direct light", "indirect light", "persistent" and "trespassing light". These definitions were added to ensure that complaints received by the By-law Department are properly addressed and for the ease of understanding of each infraction under the By-law.

Section 3.0 Noise:

This section regulates the noise that is reasonable, unreasonable and outlines the exemptions of which noise is permitted. Some additions to this section include hours in which unreasonable noise is prohibited on outdoor patios, as well as outlines exemptions as a result of trends in the Niagara Region. The By-law provides exemptions to sports, exercise or recreational activities at public parks or public beaches where activities have been authorized. This has been a trend within the Niagara Region due to recent civil action taken against Municipalities within the Region. This section allows for reasonable noise within parks and beaches as approved by the Town.

Section 4.0 Lighting:

This section regulates reasonable and unreasonable lighting. In the recent years, By-law Enforcement has received an increase number of complaints regarding nuisance lighting. The changes within the By-law speaks to direct light, indirect light or light glare that results in light trespass, which often effects inhabitants of the Town. The By-law permits owners to have lighting on their property to provide safety and security, while prohibiting unreasonable lighting that disrupts the enjoyment of nearby neighbours. Normal farm practice is exempt from this portion of the By-law.

Section 5.0 Public Nuisance:

This section regulates public nuisances. Some of the changes seen in this section of the By-law will regulate public nuisances such as: public drunkenness or intoxication, fighting, profane or abusive languages/gestures and loitering in public spaces after being asked to leave by enforcement authorities. At present, these situations can be handled by the Niagara Regional Police, however, this section can assist with enforcement in our public parks and beaches by the By-law Enforcement Officers.

Section 7.0 Offences and Penalties:

This section allows By-law Enforcement Officers to act under the Provincial Offences Act as well as the Town's Administrative Penalties By-law 111-2019. Fine amounts have remained at \$250.00 for unreasonable noise, noise deemed likely to disturb inhabitants, trespassing light, light affecting operation of a motor vehicle on a highway, and public nuisances. There have been two infractions added which include; fail to comply with an order (\$500.00) and obstruct an officer (\$300.00). These infractions reflect the seriousness of the offence and the impact this behaviour has on neighbouring properties and the community.

Additionally, tiered offences have been added to the By-law to allow a mechanism for By-law Enforcement Officers to gain compliance with the By-law for repeat offenders.

Financial/Staffing and Accessibility (AODA) Implications

With the addition of two new infractions to the Noise/ Nuisance By-law the Town can anticipate a nominal increase in revenue generated through application of the proposed penalties.

Policies Affecting Proposal

By-law 111-2019, Being a By-law to establish a System for Administrative Penalties.

Comments from Relevant Departments/Community and Corporate Partners

The draft By-law responds to enforcement concerns and enhances the ability to serve the public.

The Legal Department reviewed the By-law and made relevant comments that have been implemented.

Communicating Results

A community notification of the new Noise / Nuisance By-law would be recommended. Should Council accept staff recommendations a media notification could be undertaken by Town staff to communicate to residents how the Noise / Nuisance By-law will be transitioned.

Alternatives

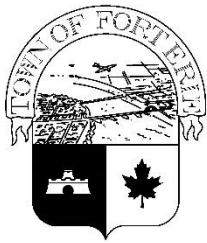
Council has the option of making no changes to the existing By-law or propose alternative policies or standards that can be incorporated in a revised draft.

Conclusion

That the proposed draft Noise and Nuisance By-law is approved by Council in its entirety and By-law #2009-03 be repealed.

Attachments

Appendix "1" – Draft By-law.



The Municipal Corporation of the Town of Fort Erie

By-law No. xx-2023

Being a By-law to Regulate Public Nuisances and Noise in the Town of Fort Erie and to Repeal By-law No. 30-09

Whereas section 11 of the *Municipal Act, 2001*, S.O. 2001, c. 25 ("*Municipal Act, 2001*" or "the statute") provides that a lower-tier municipality may pass by-laws respecting the economic, social and environmental well-being of the municipality, the health, safety and well-being of persons, the protection of persons and property and by-laws respecting animals; and

Whereas section 128 of the *Municipal Act, 2001* provides that a local municipality may prohibit and regulate with respect to public nuisances, including matters that in the opinion of Council are or could become or cause a public nuisance; and

Whereas section 129 of the *Municipal Act, 2001* provides that a local municipality may prohibit and regulate with respect to noise and outdoor illumination, including indoor lighting that can be seen outdoors; and

Whereas section 425 of the *Municipal Act, 2001* provides that a municipality may pass by-laws providing that a person who contravenes a by-law of the municipality passed under the statute is guilty of an offence; and

Whereas section 429 of the *Municipal Act, 2001* authorizes a municipality to establish a system of fines for offences under its by-laws; and

Whereas section 434.1 of the *Municipal Act, 2001* authorizes a municipality to establish a system of administrative monetary penalties to assist the municipality in promoting compliance with its by-laws; and

Whereas the Council of The Corporation of the Town of Fort Erie deems it necessary and desirable in the public interest to regulate public nuisances and noise in the municipality and to enact this By-law for that purpose;

Now therefore the Municipal Council of The Corporation of the Town of Fort Erie enacts as follows:

1.0 SHORT TITLE

1.1 The short title of this By-law is the "Noise and Nuisance By-law".

2.0 DEFINITIONS

2.1 The following terms are defined for the purposes of this By-law:

“administrative penalty” means a monetary penalty administered pursuant to Town By-law No. 111-2019, as amended from time to time.

“agricultural operation” has the same meaning as in the *Farming and Food Production Protection Act, 1998*, S.O. 1998, c. 1 (*“Farming and Food Production Protection Act, 1998”*).

“animal” means any member of the animal kingdom other than a human.

“clearly audible” means that the sound or noise in question is easily perceptible, without undue effort, to a disinterested person with no hearing disability.

“construction” means erection, alteration, repair, dismantling, demolition, structural maintenance, land clearing, earth moving, grading, excavating, laying of pipe and conduit (whether below or above ground level), street and highway building, application of concrete, equipment installation and alteration, and structural installation of construction components and materials, in any form or for any purpose.

“Council” means the Council of The Corporation of the Town of Fort Erie.

“direct light” means light emitted directly from the lamp or reflector of a luminaire.

“enforcement authority” means an officer and any person appointed or otherwise delegated the authority of administration and enforcement of this by-law.

“exterior luminaire” means a luminaire that is situated outside of any building or structure, including those affixed to exterior walls or surfaces of any building or structure.

“garage sale” means a sale conducted at a residential property by its owner or occupant of household goods belonging to the owner or occupant, as the case may be, and includes a yard sale, lawn sale and other similar events.

“glare” means light emitted from a luminaire of sufficient intensity to (i) reduce the viewer’s ability to see; or (ii) produce a sensation of discomfort, to a disinterested person with no visual disability or undue sensitivity to light.

“highway” has the same meaning as in the *Highway Traffic Act*, R.S.O. 1990, c. H.8 (*“Highway Traffic Act”*).

“indirect light” means light emitted from a luminaire that has been reflected or scattered off other surfaces.

“inhabitants” means one or more persons who reside in the Town, temporarily or permanently, and may include visitors to the Town.

“interior luminaire” means a luminaire that is situated inside of any building or structure, including those affixed to interior walls or surfaces of any building or structure, which emits light that can be seen outdoors.

“luminaire” means a complete lighting device that includes one or more lamps enclosed in a housing and is accompanied by one or more reflectors, refractors or other similar items and, without limiting the generality of the foregoing, includes laser source lights, signal beacons, floodlights, spotlights, flashing lights, high-intensity lights and other forms of illumination.

“motor vehicle” has the same meaning as in the *Highway Traffic Act*.

“normal farm practice” has the same meaning as in the *Farming and Food Production Protection Act, 1998*.

“officer” means a by-law enforcement officer of the Town, a member of the Niagara Regional Police Service, a member of the Ontario Provincial Police and any other provincial offences officer designated under the *Provincial Offences Act*, R.S.O. 1990, c. P.33 (*“Provincial Offences Act”*).

“occupant” means a person that occupies a property and includes owners, renters and lessees.

“order” means any notice of non-compliance issued under this By-law.

“outdoor patio” means an outdoor area adjacent to or in any way associated with an eating establishment or tavern that is designed or used as an area for the sale and service of any food or beverage by the eating establishment or tavern.

“owner” means the registered owner of a property.

“persistent” means continuously for a period of ten (10) minutes or longer or intermittently for an aggregate period of ten (10) minutes or longer in any sixty (60) minute period.

“person” means an individual, corporation, partnership or association.

“point of reception” means any location on a property where noise originating from other than that property is received.

“property” means any land or premises within the Town.

“public nuisance” means any act, conduct or thing that is injurious to health, indecent, offensive to the senses of a disinterested person or that otherwise interferes with the reasonable enjoyment of life or property.

“Town” means The Corporation of the Town of Fort Erie or the geographic area of the municipality, as the context requires.

“trespassing light” means light emitted from a luminaire that is easily perceptible, without undue effort, to a disinterested person with no visual disability or undue sensitivity

to light, at a property other than the one on which the luminaire is situated, and includes direct light, indirect light and glare.

3.0 NOISE

- 3.1 No person shall make, cause or permit an unreasonable noise or noise that is likely to disturb inhabitants.
- 3.2 Without limiting the generality of section 3.1, noise resulting from the following acts is deemed to be unreasonable noise or noise that is likely to disturb inhabitants:
- (a) the ringing of bells, blowing of horns or sounding of sirens on any motor vehicle except as required or authorized by law or for reasons of safety;
 - (b) the operation of a motor vehicle in a manner that results in grading, grinding or rattling or other like sound or noise due to disrepair or inadequate maintenance;
 - (c) the revving, racing or accelerating of a motor attached to a motor vehicle while the motor vehicle is not in motion;
 - (d) the operation of any radio, television or other electronic device, musical or sound producing instrument with such volume so as to annoy or disturb inhabitants;
 - (e) the operation of any radio, amplifier, speaker or similar sound producing device for the purpose of advertising a good or service in a manner that projects sound or noise into any public street or other public place;
 - (f) the operation of any radio, amplifier, speaker or similar sound producing device in a manner that produces sound or noise that is clearly audible at a point of reception;
 - (g) between the hours of 9:00 p.m. of one day and 7:00 a.m. of the following day, the operation of equipment used for construction;
 - (h) the persistent yelling, shouting, swearing and/or speaking of any person at a volume that is clearly audible at a point of reception;
 - (i) the persistent barking, howling whining or other like sounds made by an animal kept or used for any purpose other than a normal farm practice carried on by an agricultural operation.
 - (j) between the hours of 11:00PM of one day and 11:00AM of the following day, the operation of an outdoor patio on a manner that produces sound or noise that is clearly audible at a point of reception, if any part of such patio is located within 60 metres of a residential zone.
- 3.3 This By-law shall not apply to noise resulting from:
- (a) the operation of any emergency service vehicle or ambulance while carrying out its lawful duties;
 - (b) the use of a warning device during the lawful operation of a motor vehicle;

- (c) the operation of any railway or airport within the legislative authority of Parliament;
- (d) the operation of equipment by or on behalf of the Town for construction projects, general maintenance projects and emergency projects of the Town;
- (e) the operation of equipment by or on behalf of the Town for Town maintenance operations including but not limited to snow removal, street sweeping, line painting, grass cutting, tree and shrub pruning, mulching and field maintenance;
- (f) the collection or disposal of garbage, waste or recyclable material by the Town or the Regional Municipality of Niagara;
- (g) the reasonable use of equipment for snow removal on private property;
- (h) any parade hosted, authorized or approved by the Town, provided that the parade is carried on in accordance with all terms and conditions of the authorization or approval;
- (i) the reasonable use of a radio, amplifier, speaker or similar sound producing device in a public place during a special event hosted, authorized or approved by the Town, provided that the event is carried on in accordance with all terms and conditions of the authorization or approval;
- (j) any discharge of fireworks that complies with the fireworks by-law of the Town;
- (k) sports, exercise or recreational activities or events at public parks or public beaches where such activities or events have been authorized or approved by the Town and are carried on in accordance with all terms and conditions of the authorization or approval;
- (l) the operation of bells or chimes in relation to any religious or military ceremony;
- (m) activities that are part of a normal farm practice carried on by an agricultural operation; and
- (n) activities carried out in compliance with a permission granted under federal or provincial legislation, including but not limited to an environmental compliance approval.

4.0 LIGHTING

- 4.1 No person shall use or operate, or cause or permit the use or operation of, any exterior luminaire or interior luminaire in a manner that emits direct light, indirect light or glare such that it creates and/or results in trespassing light.
- 4.2 No person shall use or operate, or cause or permit the use or operation of, any exterior luminaire or interior luminaire in a manner that emits direct light, indirect light or glare such that it affects the operation of a motor vehicle on a highway by any person.
- 4.3 This By-law shall not apply to direct light, indirect light or glare resulting from:

- (a) the operation of any emergency service vehicle or ambulance while carrying out its lawful duties;
- (b) the use of vehicular lights during the lawful operation of a motor vehicle;
- (c) the operation of equipment by or on behalf of the Town for construction projects, general maintenance projects and emergency projects of the Town;
- (d) the operation of equipment by or on behalf of the Town for Town maintenance operations including but not limited to snow removal, street sweeping, line painting, grass cutting, tree and shrub pruning, mulching and field maintenance;
- (e) the reasonable use of luminaires during a special event hosted, authorized or approved by the Town, provided that the event is carried on in accordance with all terms and conditions of the authorization or approval;
- (f) sports, exercise or recreational activities or events at public parks or public beaches where such activities or events have been authorized or approved by the Town and are carried on in accordance with all terms and conditions of the authorization or approval;
- (g) activities that are part of a normal farm practice carried on by an agricultural operation; and
- (h) activities carried out in compliance with a permission granted under federal or provincial legislation.

5.0 PUBLIC NUISANCE

5.1 No person shall cause or permit a public nuisance.

5.2 Without limiting the generality of section 5.1, the following acts, conduct and things are deemed to be a public nuisance:

- (a) loitering in a public place after a request from an enforcement authority to leave;
- (b) fighting;
- (c) using profane or abusive language or gestures;
- (d) littering;
- (e) defacing, damaging or vandalizing public or private property;
- (f) spitting, expectorating, urinating or defecating in a public place;
- (g) public drunkenness or public intoxication;
- (h) conducting a garage sale at any property that is not located in a residential zone under Town By-law No. 129-90, as amended from time to time;
- (i) between the hours of 6:00 p.m. of one day and 8:00 a.m. of the following day, conducting a garage sale at a property that is located in a residential zone under Town By-law No. 129-90, as amended from time to time;

- (j) conducting a garage sale more than four (4) times per calendar year at a property located in a residential zone under Town By-Law No. 129-90, as amended from time to time;
- (k) the attracting and or feeding of animals domesticated or otherwise in such a way that is causes damage or otherwise creates a nuisance or disturbance to another person or another persons property, other than as part of a normal farm practice carried on by an agricultural operation;
- (l) obstructing, interfering with or otherwise impeding the movement of persons or motor vehicles;
- (m) obstructing or attempting to obstruct an enforcement authority in the course of his or her duties; and
- (n) any act, conduct or thing prohibited by sections 3.2, 4.1 or 4.2 of this By-law.

6.0 ADMINISTRATION AND ENFORCEMENT

- 6.1 This By-law shall be administered and enforced by the Town and enforcement authorities.
- 6.2 An enforcement authority may, for the purpose of enforcing this By-law, exercise any power, authority or remedy granted to the Town pursuant to the *Municipal Act, 2001*.
- 6.3 An enforcement authority may, at all reasonable times, enter upon and inspect any property to determine if this By-law is being complied with.
- 6.4 For the purposes of an inspection under section 6.3 of this By-law, an enforcement authority may require the production for inspection of documents or things relevant to the inspection, inspect and remove relevant documents or things for the purpose of making copies or extracts, require information from a person concerning a matter related to the inspection and/or take photographs, samples, measurements necessary for the purposes of the inspection and may also include being accompanied by a person possessing special or expert knowledge.
- 6.5 An enforcement authority who is satisfied that there has been a contravention of this By-law may make an order requiring the person who contravened the By-law or caused or permitted the contravention and/or the owner or occupant of the property where the contravention occurred to discontinue the contravening activity and/or to bring the property into compliance with this By-law.
- 6.6 No person shall fail to comply with an order made under section 6.5.
- 6.7 An order made under section 6.5 shall set out the municipal address and/or legal description of the property, reasonable particulars of the non-compliance and the work required to correct it and the date(s) by which there must be compliance with the order.
- 6.8 An order made under section 6.5 may be served by regular mail, registered mail or hand delivered to the last known address of the person to whom it is issued, by

email to the last known email address of the person to whom it is issued, or by posting the order at the property where the contravention occurred.

- 6.9 Where any person fails to comply with an order made under section 6.5 by the prescribed date(s), the Town may do any matter or thing necessary to bring the property into compliance with this By-law at the expense of the person in default of the order.
- 6.10 The Town may recover the cost of any matter or thing done pursuant to section 6.8 of this By-law by adding the cost to the tax roll and collecting it in the same manner and with the same priority as municipal taxes.
- 6.11 No Person shall obstruct or hinder, or attempt to obstruct or hinder, an enforcement authority in the exercise of a power or the performance of a duty under this By-law.

7.0 OFFENCES AND PENALTIES

- 7.1 Every person who contravenes any provision of this by-law is guilty of an offence and upon conviction is liable to such penalties as are provided for in the *Municipal Act, 2001* and the *Provincial Offences Act*.
- 7.2 Where an enforcement authority is satisfied that a person has failed to comply with any provision of this By-law, the enforcement authority may issue a penalty notice imposing an administrative penalty in the amount as established in Schedule "A" to this By-law.
- 7.3 Administrative Penalty By-law No. 111-2019, as amended or replaced from time to time, applies to each administrative penalty issued pursuant to this by-law.
- 7.4 Every person who contravenes any provision of this By-law shall, upon issuance of a penalty notice in accordance with Administrative Penalty By-law No. 111-2019, be liable to pay to the Town an administrative penalty in accordance with that By-law.

8.0 GENERAL

- 8.1 In the event of a conflict between this By-law and the provisions of another Town by-law, the provisions of this By-law shall prevail.
- 8.2 If any section or part of this By-law is found by any court of competent jurisdiction to be illegal or beyond the power of Council to enact, such sections or parts shall be deemed to be severable and all other sections or parts of this By-law shall be deemed to be separate and independent therefrom and to be enacted as such.
- 8.3 This By-law shall be read with all changes in number or gender as are required by context.

- 8.4 Any reference to legislation in this By-law includes the legislation and any amendment, replacement, subsequent enactment or consolidation of such legislation.
- 8.5 The Clerk of the Town is authorized to affect any minor modifications, corrections or omissions, solely of an administrative, numerical, grammatical, semantical or descriptive nature to this by-law or its schedules after the passage of this by-law.
- 8.6 By-law No. 30-09 is repealed.
- 8.7 This By-law shall come into force and effect on the date of passage.

Read a first, second and third time and finally passed this day of , 2023.

Mayor

Clerk

I, _____ Clerk of The Corporation of the Town of Fort Erie, certify the foregoing to be a true copy of By-law No. xx-2023 of the said Town. Given under my hand and the seal of the said Corporation, this day of , 20

SCHEDULE "A"
to Noise and Nuisance By-law No. XX-2023

Administrative Monetary Penalties

For the purposes of this By-law:

Column 1 ("Description of Offence") in the table sets out the short form wording to be used in a Penalty Notice for a contravention of the designated provisions listed.

Column 2 ("Section") in the table lists the specific section of the provision that has been contravened.

Column 3 ("Penalty Tier 1") sets out the Administrative Monetary Penalty amounts that are payable for contraventions of the designated provisions listed in Columns 1 and Column 2.

Column 4 ("Penalty Tier 2") sets out the Administrative Monetary Penalty amounts that are payable for a second (2nd) contravention of the designated provisions listed in Columns 1 and Column 2 by the same person within a one (1) year period since the previous offence conviction.

Column 5 ("Penalty Tier 3") sets out the Administrative Monetary Penalty amounts that are payable for a third (3rd) contravention of the designated provisions listed in Columns 1 and Column 2 by the same person within a one (1) year period since the previous offence conviction.

COLUMN 1	COLUMN 2	COLUMN 3	COLUMN 4	COLUMN 5
Offence	Section	Penalty Tier 1	Penalty Tier 2	Penalty Tier 3
Unreasonable noise or noise likely to disturb inhabitants	3.1	\$250.00	\$350.00	\$450.00
Noise deemed to be unreasonable or likely to disturb inhabitants	3.2	\$250.00	\$350.00	\$450.00
Trespassing light	4.1	\$250.00	\$350.00	\$450.00
Light affecting operation of motor vehicle on highway	4.2	\$250.00	\$350.00	\$450.00
Public nuisance	5.1	\$250.00	\$350.00	\$450.00
Act, conduct or thing deemed to be a public nuisance	5.2	\$250.00	\$350.00	\$450.00
Fail to comply with an order	6.6	\$500.00	\$600.00	\$700.00
Obstruct an officer	6.11	\$300.00	N/A	N/A



Planning and Development Services

Prepared for	Council-in-Committee	Report No.	PDS-38-2023
Agenda Date	May 8, 2023	File No.	350302-0129 & 350309-0553

Subject

**PROPOSED DRAFT PLAN OF SUBDIVISION AND ZONING BY-LAW AMENDMENT
CRESCENT ACRES (0-10747 KRAFT ROAD)
CRESCENT ACRES LTD. (MARK BASCIANO) - OWNER
UPPER CANADA CONSULTANTS (MATT KERNAHAN) - AGENT**

Recommendation

- THAT** Council approves the amendment to the Town's Zoning By-law No. 129-90 as detailed in Report No. PDS-38-2023 for the lands known as 0-10747 Kraft Road, and further
- THAT** Council approves the Crescent Acres Draft Plan of Subdivision dated November 4, 2022, showing 67 lots for single detached dwellings, 4 blocks for semi-detached dwellings, 24 blocks for a total of 145 townhouse dwellings, 1 block for a watercourse, 1 block for a stormwater pond and 1 block for a future road connection as attached as **Appendix "2"** of Report No. PDS-38-2023, in accordance with the provisions of the *Planning Act*, R.S.O. 1990 c. P. 13 and the Regulations thereunder, subject to the conditions contained in **Appendix "3"** of Report No. PDS-38-2023, and further
- THAT** Council directs staff to circulate the Conditions of Draft Plan Approval in **Appendix "3"** of Report No. PDS-38-2023 to the applicable agencies in accordance with the requirements of the *Planning Act*, and further
- THAT** Council directs Staff to submit the necessary by-law.

Relation to Council's 2018-2022 Corporate Strategic Plan

Priority: Managed Growth through Responsibility, Stewardship and Preservation

List of Stakeholders

Crescent Acres Ltd. - Mark Basciano (Owner)
Upper Canada Consultants - Matt Kernahan (Agent)
Residents and Property Owners in the Town of Fort Erie

Prepared by:

Submitted by:

Approved by:

Original Signed**Original Signed****Original Signed**

Daryl Vander Veen
Intermediate Development
Planner

Anamika Dilwaria, M.Pl.,
MCIP, RPP
Director, Planning &
Development Approvals

Chris McQueen, MBA
Chief Administrative Officer

Purpose

The purpose of this report is to provide a staff recommendation to Council regarding the proposed Crescent Acres Subdivision. Applications for a Draft Plan of Subdivision and a Zoning By-law Amendment were submitted by Matt Kernahan of Upper Canada Consultants, Agent for Crescent Acres Ltd. (Mark Basciano), Owner of the subject property located at 0-10747 Kraft Road. A location map showing the area subject to the applications is attached as **Appendix “1”**. The statutory Public Meeting for this proposal was held on February 27, 2023. Council received the related [Report No. PDS-15-2023](#) for information purposes on the same date.

The proposal is known as Crescent Acres Draft Plan of Subdivision. The development is proposing 67 lots for single detached dwellings, 4 blocks for a total of 8 semi-detached dwellings, 24 blocks for a total of 145 townhouse dwellings, 1 block for a watercourse, 1 block for a stormwater pond and 1 block for a future road connection to the lands to the east. The proposed draft plan of subdivision is attached as **Appendix “2”**.

The proposed Zoning By-law Amendment is required to change the zoning of the subject property from Residential 2 (R2) Zone, Residential Multiple 1 (RM1) Zone and Environmental Conservation (EC) Overlay Zone to a site specific Residential Multiple 1 (RM1) Zone to permit single detached dwellings, semi-detached dwellings, townhouse dwellings and the stormwater management pond. An Environmental Protection (EP) Zone is proposed for the block associated with the watercourse. The Zoning By-law Amendment also proposes to remove the Environmental Conservation (EC) Overlay Zone from the subject lands.

Nature of the Site

The subject site is located on the east side of Crescent Road in the Crescent Park neighbourhood of Fort Erie inside the Urban Boundary and is 10.68 hectares in area. The property is municipally known as 0-10747 Kraft Road and is vacant land.

The following are the land uses surrounding the subject property:

- North:** Commercial uses along Garrison Road, vacant commercial land, vacant residential land, some existing single detached dwellings and Garrison Public School.
- South:** Single detached dwellings and largely vacant land that is also the site of a radio transmission tower facility.
- East:** Largely vacant land that is also the site of a radio transmission tower facility.
- West:** Single detached dwellings.

Planning Context

2020 Provincial Policy Statement (PPS)

The subject lands are located within a Settlement Area under the 2020 Provincial Policy Statement (PPS). The policies of the PPS direct growth to settlement areas and encourage building strong communities through the efficient use of land, resources, and infrastructure. The PPS supports development of complete communities with an appropriate range and mix of housing types.

This proposal is consistent with the policies of the PPS. The proposed development is occurring in a designated growth area within the Urban Boundary. The proposed single detached dwellings, semi-detached dwellings and street townhouse dwellings provide for a mix of housing types. The proposal efficiently uses urban land and is adequately serviced with water and sanitary sewer.

2020 Growth Plan for the Greater Golden Horseshoe (Growth Plan)

The subject property is within a Settlement Area in the Growth Plan and is designated as Designated Greenfield Area. In general, the Growth Plan directs new residential development within the delineated Built-up Area and encourages opportunities for efficient use of urban land and a range and mix of housing types.

This proposal is consistent with the policies of the Growth Plan. The proposed development is located within a Settlement Area. The Growth Plan requires development in Designated Greenfield Areas to achieve a minimum density of 50 people and jobs per ha across the municipality. Niagara Region has noted in their comments that the proposed density of this project is 52 people and jobs per hectare

and therefore achieves the minimum density requirement under the Growth Plan. The proposed plan of subdivision represents efficient use of urban land and has a mix of housing types.

2022 Niagara Official Plan (NOP)

The NOP notes that development in urban areas will integrate land use planning and infrastructure planning to responsibly manage growth. The NOP promotes intensification, compact built form and a diverse range and mix of housing types. Similar to the Growth Plan, the NOP establishes a minimum density of 50 residents and jobs per hectare for designated greenfield areas.

This proposal is consistent with the NOP. The proposed single detached semi-detached and townhouse dwellings are consistent with compact built form and provide a mix of housing types. As noted above, the proposal achieves the density target for the Town of Fort Erie for a minimum of 50 residents and jobs per hectare for greenfield development.

2011 Town of Fort Erie Official Plan

Official Plan Schedule A - Land Use Plan

The subject lands are designated Urban Residential and Environmental Conservation on Schedule A of the Town's Official Plan. Section 4.9 of the Official Plan states that lands with Urban Residential designation are intended for a variety of housing forms including single detached dwellings and multi-unit residential dwellings including townhouses. The proposed plan of subdivision complies with the housing forms permitted under the Urban Residential land use designation.

The Environmental Conservation designation requires environmental review and the Agent has completed a [Natural Heritage Assessment](#). Consultation with Niagara Region, the Niagara Peninsula Conservation Authority (NPCA) and the Town's Environmental Advisory Committee (EAC) have confirmed that the site does not feature natural heritage features with the exception of the drainage feature on the eastern edge of the property. This feature will be located within a watercourse block and protected with an Environmental Protection (EP) Zone.

Site Specific Policy Area 5 - Kraft Drain Area

The subject property is identified as being located within the Site Specific Policy Area (SSPA) 5 - Kraft Drain Area on Schedule A of the Town's Official Plan. The SSPA states that development within this area should be completed in association with an Environmental Planning Study and a Neighbourhood Plan outlining how the land will be developed and serviced in accordance with the policies of the Official Plan. A Comprehensive Servicing Study and overall Storm Water Management Plan will form important components of the Neighbourhood Plan.

Planning staff note that the subject property is clearly shown to be within the Crescent Park neighbourhood on Schedule A1- Neighbourhoods of the Official Plan and not within the Kraft neighbourhood area. It is also functionally part of the Crescent Park neighbourhood. The subject property does not have any direct frontage onto Kraft Road. Instead, it has two connections to Crescent Road. Further, the [Functional Servicing Report](#) and a [Stormwater Management Plan](#) submitted as part of the application demonstrate that the proposed development will utilize the existing water, sanitary and storm sewer infrastructure within the Crescent Road road allowance. Staff note that the Frenchmen's Creek Trunk Sanitary Sewer project was completed several years ago. The Agent has also submitted a [Natural Heritage Assessment](#) that demonstrates that there are no major environmental concerns on the subject property provided the block for the watercourse is protected with an Environmental Protection (EP) Zone.

The integration of this parcel with the Crescent Park neighbourhood along with the studies that were submitted in support of this development satisfies the intent of Site Specific Policy Area 5 without the need for a Neighbourhood Plan.

Official Plan Schedule B - Mineral Aggregate & Petroleum Resources

Schedule B of the Official Plan illustrates that the subject property is not within a petroleum resource area and staff note that there are no active wells within 75.00 metres of the subject property.

Official Plan Schedule C - Natural Heritage Features & Schedule C1 - Natural Hazards & Fish Habitat

Schedule C of the Official Plan identifies the property as being within a Significant Natural Area (SNA). Schedule C1 identifies an unclassified stream fish habitat corresponding to the drainage feature that is under the regulation of the Niagara Peninsula Conservation Authority (NPCA). While this drainage feature is largely east of the subject property a small portion is located on the very eastern edge of the property. This area will be protected within a block of land that will be zoned Environmental Protection (EP) Zone.

Official Plan Schedule D - Cultural Heritage Archaeological Zones of Potential

Schedule D of the Official Plan illustrates the subject property as being within an area identified as having potential for archaeological resources. The Agent has completed a [Stage 1 and 2 Archaeological Assessment](#) to address the zone of potential.

Urban Residential Land Use Designation

Subsection 4.7.4.1 Urban Residential of the Official Plan provides guidance to Council when considering medium-density residential uses and infill residential intensification on vacant land. Townhouse dwellings are considered to be medium-density residential uses in the Town's Official Plan. Planning staff has provided an analysis with respect to these criteria below.

In considering medium-density and high-density residential uses, redevelopment and infill residential intensification on vacant land, regard shall be given to the following:

- a. *The height, bulk and arrangement of buildings and structures to achieve a harmonious design, compatible integration with the surrounding area and not negatively impact on lower density residential uses;*

The proposed plan of subdivision features a mix of single detached, semi-detached and townhouse dwellings. Although the final dwelling designs are preliminary at this stage, the future dwellings are anticipated to fit in well with the surrounding area. The semi-detached and townhouse dwellings are clustered in the core of the development with single detached dwellings being located along the periphery of the development site. This allows the development to blend well with the surrounding single detached dwellings along Crescent Road. The layout of the development is characteristic of a typical suburban development and will integrate well with the rest of the Crescent park neighbourhood.

- b. *Appropriate open space, including landscaping and buffering to maximize privacy and minimize the impact on adjacent lower density uses;*

The parcels within the proposed development will have an appropriate amount of open space, landscaping and buffering. All of the proposed dwellings meet the requirements of the Zoning By-law for landscaped area and front and rear yard setbacks under the proposed RM1 zoning.

- c. *Parking areas that are sufficient size to satisfy the need of the development and are well designed and properly related to buildings and landscaped areas;*

All of the proposed dwellings will provide on-site parking via driveways and garages. The Zoning By-law requires one parking space per dwelling unit for single detached dwellings, semi-detached dwellings and street townhouse dwellings. All of the proposed units front onto public streets and parking will occur in attached garages and driveways in the front yard. Adequate space will be available in the rear yard for landscaping and amenity area.

- d. *The design and location of refuse pick-up and recycling service areas meets Regional Waste Collection design requirements;*

All dwelling units in the proposed development will front onto public streets. Niagara Region has confirmed in their comments that all units will be eligible for curbside pick up service.

- e. Driveway access, internal roadways and pedestrian walkways that are safe and properly designed;*

Driveways will be located in the front yards of the proposed dwellings and will connect directly to public streets. The Town's Subdivision Control Guidelines require installation of a sidewalk on one side for pedestrian movement. Planning staff recommend the addition of two crosswalks over Crescent Road at each entrance to the development.

- f. Convenient access to a collector or arterial road;*

The proposed development has direct access to Crescent Road, which is a collector road. Crescent Road provides connection to Garrison Road to the north and Dominion Road to the south, which are arterial Regional roads.

- g. Location in regard to the elements of traditional neighbourhood design and within convenient walking distance of the central focus of the neighbourhood;*

The proposed plan of subdivision is in close in proximity to numerous commercial amenities along Garrison Road, Garrison Public School and St. Philomena Catholic Separate School. These amenities are within walking distance. The proposed development is also within the service areas for Spears Estates Park and Ferndale Park.

- h. Building designs that place windows and balconies to overlook pedestrian routes and parking areas to encourage "eyes on the street"; and*

All of the proposed dwelling units will front onto and face public streets, thereby providing "eyes on the street".

- i. Site planning considerations that facilitate walking and cycling activity such as secured bike storage, lighting and bikeways.*

Sidewalks for pedestrian movement will be required in accordance with the Town's Subdivision Control Guidelines. Active transportation via walking or cycling will be possible via connection to the existing road and sidewalk networks of the surrounding neighbourhood.

Official Plan - Subdivision Control

Section 13.5 II. of the Official Plan provides some direction for Council when considering approval of a Plan of Subdivision. These are:

a. The Plan of Subdivision conforms with the policies of this Plan;

The Urban Residential land use designation permits the development of single detached, semi-detached and townhouse dwellings. The Applicant has completed an Natural Heritage Assessment (EIS) that demonstrates that there are no natural heritage features present on the subject property.

b. Adequate servicing such as water supply, sewage disposal facilities, storm water drainage, solid waste collection and disposal, roads, pedestrian facilities and fire and police protection can be provided;

The development is located within the Urban Boundary and dwellings within will have access to emergency services and garbage collection services. The development will integrate with existing municipal water, sanitary sewer and storm sewer infrastructure in the Crescent park neighbourhood. The Applicant has provided a Functional Servicing Report and a Stormwater Management Plan which demonstrates that sufficient services will be available or constructed for this development. There is an existing 200mm water main with the Crescent Road road allowance that is sufficient to provide water supply and fire protection for the proposed development. Similarly, there is an existing 300-350 mm sanitary sewer along Crescent Road that is sufficient to support the sanitary flows from the development. Municipal services will need to be extended into the site from Crescent Road to service the proposed parcels within the subdivision in accordance with the Town's Subdivision Control Guidelines. The development will feature internal sidewalks and staff recommends the addition of two crosswalks at the proposed Street A and Street B entrances to integrate the subdivision with the Crescent Park sidewalk network.

c. The Town is able to provide necessary services without imposing undue increases in taxation on all residents; and

The subject property is within the Urban Boundary and all parcels are required to be serviced via municipal water and sanitary sewer systems. Any service extensions will be at the cost of the developer.

d. The Plan of Subdivision is not deemed to be premature, and it is considered necessary in the public interest.

The subject property is within the Urban Boundary and is consistent with Provincial, Regional and Town planning policy which promote intensification and development within the existing urban area. The proposed plan of subdivision is in the public interest as it will provide additional dwelling units, housing variety and financial benefit to the Town.

Plan of Subdivision Design

The proposed draft plan of subdivision is attached as Appendix "2" and consists of the

following elements:

- 67 lots for single detached dwellings
- 4 blocks for a total of 8 semi-detached dwellings
- 24 blocks for a total of 145 townhouse dwellings
- 1 block for a watercourse
- 1 block for a stormwater pond
- 1 block for a future road connection to the lands to the east

The proposed dwellings will front onto internal roads within the proposed development. All lots that back onto existing single detached dwellings along Crescent Road are proposed for single detached dwellings to mitigate impacts on existing dwellings. The proposed semi-detached and townhouse dwellings are internalized within the development or back onto commercial properties. The overall density of the plan of subdivision is 21.20 units/ha.

The conditions of draft plan approval for the proposed plan of subdivision are attached as **Appendix “3”**.

Comprehensive Zoning By-law No. 129-1990

The lands are currently zoned Residential 2 (R2) Zone, Residential Multiple 1 (RM1) Zone and Environmental Conservation (EC) Overlay Zone in accordance with Zoning By-law No. 129-1990. The Agent is requesting to rezone the subject lands to a new site-specific Residential Multiple 1 (RM1) Zone for the proposed single detached dwellings, semi-detached dwellings, townhouse dwellings and the stormwater pond. An Environmental Protection (EP) Zone is proposed for the watercourse block to protect the NPCA-regulated drainage feature. The Zoning By-law Amendment also proposes to remove the Environmental Conservation (EC) Overlay Zone from the site.

The proposed site-specific RM1 Zone contains special provisions for the various dwelling unit types. A series of charts illustrating the zoning departures for each housing type along with planning staff comments are below.

Table 1: Zone Comparison Chart - Proposed Site-specific RM1 Zone for Single Detached Dwellings			
Zoning Regulation	Base Regulations (Section 12.3 - R2A Zone)	Proposed Regulations	Planning Comments
Minimum Lot Frontage	12.00 m 15.00 m for a corner lot	No change	Meets requirements.
Minimum Lot Area	375.00 sq m	No change	Meets requirements.

Table 1: Zone Comparison Chart - Proposed Site-specific RM1 Zone for Single Detached Dwellings			
Zoning Regulation	Base Regulations (Section 12.3 - R2A Zone)	Proposed Regulations	Planning Comments
Maximum Lot Coverage	50%	Removal of maximum lot coverage.	Support. Since the proposed single detached dwellings meet all of the other setback requirements of Section 12.3 of the Zoning By-law, removal of the maximum lot coverage is not anticipated to result in dwellings that overpower the lot or impose undue massing impacts on adjacent parcels.
Minimum Front Yard	6.00 m to garage 3.00 m to other parts of dwelling	No change	Meets requirements.
Minimum Interior Side Yard	1.20 m 3.00 on one side if no attached garage or carport	No change	Meets requirements.
Minimum Exterior Side Yard	3m, except that an attached garage or attached carport which faces the exterior side lot line shall be located no closer than 6m to the exterior side lot line.	No change	Meets requirements.
Minimum Rear Yard	6.00 m	No change	Meets requirements.
Maximum Building Height	2.5 storeys and 10.50 m	No change	Meets requirements.
Minimum Landscaped Area	20% overall 30% of front yard	No change	Meets requirements.

Table 2: Zone Comparison Chart - Proposed Site-specific RM1 Zone for Semi-Detached Dwellings			
Zoning Regulation	Base Regulations (R3 Zone)	Proposed Regulations	Planning Comments
Minimum Lot Frontage Per Dwelling	9.50 m for an interior lot	8.00 m for an interior lot	Support. The reduced frontage is a result of the semi-detached lots being irregularly shaped. The width of the lot widens considerably as depth increases into the semi-detached dwelling lots. The proposed frontage will be sufficient for appropriately-sized semi-detached dwellings.
	10.50 m for a corner lot	No change for a corner lot	Meets requirements.
Minimum Lot Area Per Dwelling	305.00 sq m	No change	Meets requirements.
Maximum Lot Coverage	1 storey - 60% 2 storey - 40%	No change	Meets requirements.
Minimum Front Yard	6.00 m to garage 3.00 m to other parts of dwelling	No change	Meets requirements.
Minimum Interior Side Yard	1.20 m plus an additional 0.50 m for every storey or part thereof above the ground floor	1.20 m	Support. Comparing this side yard requirement to the R2A Zone, it is worth noting that 1.20 m is a sufficient side yard setback for

Table 2: Zone Comparison Chart - Proposed Site-specific RM1 Zone for Semi-Detached Dwellings			
Zoning Regulation	Base Regulations (R3 Zone)	Proposed Regulations	Planning Comments
			single detached dwellings regardless of height up to 2.5 storeys and 10.50 m. The proposed reduction is not anticipated to cause issues with maintenance, access or drainage in the interior side yards of the proposed semi-detached dwellings.
	3.00 m on one side if no attached garage or carport	No change	Meets requirements.
Minimum Exterior Side Yard	3.00 m, except that an attached garage or attached carport which faces the exterior side lot line shall be located no closer than 6.00 m to the exterior side lot line.	No change	Meets requirements.
Minimum Rear Yard	6.00 m	No change	Meets requirements.
Maximum Building Height	2.5 storeys and 9.00 m	No change	Meets requirements.
Minimum Landscaped Area	20% overall 30% of front yard	No change	Meets requirements.

Table 3: Zone Comparison Chart - Proposed Site-specific RM1 Zone for Street Townhouse Dwellings			
Zoning Regulation	Base Regulations	Proposed Regulations	Planning Comments
Minimum Lot Frontage	6.00 m for street townhouse lots 9.00 m for street townhouse corner lots	No change	Meets requirements.
Minimum Lot Area	200.00 sq m for an interior lot 270.00 sq m for a corner lot	180.00 sq m for an interior lot 215.00 sq m for a corner lot	Support. The reduced lot area for interior and corner townhomes is relatively minor. The proposed townhouse parcels will remain large enough for the construction of an appropriately-sized townhouse with adequate space for servicing, parking and amenity area.
Minimum Front Yard	6.00 m to garage 4.00 m to other parts of dwelling	No change	Meets requirements.
Minimum Interior Side Yard	1.50 m	1.20 m	Support. The reduced side yard setback would only apply to townhouse end units between townhouse blocks. The proposed reduction is not anticipated to impact maintenance, access and drainage in the interior side yard between townhouse blocks.
Minimum Exterior Side Yard	3m, except that an attached garage or	No change	Meets requirements.

Table 3: Zone Comparison Chart - Proposed Site-specific RM1 Zone for Street Townhouse Dwellings			
Zoning Regulation	Base Regulations	Proposed Regulations	Planning Comments
	attached carport which faces the exterior side lot line shall be located no closer than 6m to the exterior side lot line.		
Minimum Rear Yard	6.00 m	No change	Meets requirements.
Maximum Building Height	3 storeys and 12.00 m	No change	Meets requirements.
Minimum Landscaped Area	25% overall 30% of front yard	No change	Meets requirements.
Maximum Density	35 units per hectare	21.20 units per hectare	Meets requirements.
Maximum Lot Coverage	Interior street townhouse - 60% Exterior street townhouse - 40%	Removal of maximum lot coverage	Support. The front yard and rear yard setbacks are met for the proposed townhouse dwellings and so there will be sufficient space for parking and rear yard amenity space. Undue massing impacts are not anticipated to result from the removal of the maximum lot coverage regulations. Further, the townhouse dwellings will also comply with the landscaping requirements of the Zoning By-law and

Table 3: Zone Comparison Chart - Proposed Site-specific RM1 Zone for Street Townhouse Dwellings			
Zoning Regulation	Base Regulations	Proposed Regulations	Planning Comments
			there will be a sufficient amount of open space on each townhouse parcel.
Planting Strips	In accordance with Section 6.21 and 4.5m where it abuts a street, except for points of ingress/egress.	Delete requirement.	Support. All of the townhouse dwellings within this development will front onto public streets. The standard front yard and exterior side yard setbacks under the RM1 zoning provide sufficient landscaped areas between the townhouse dwellings and the street.

Stormwater Management Pond as a Permitted Use under RM1 Zone

The site-specific RM1 Zoning will also contain a special provision to permit a stormwater management pond as a permitted use. Planning staff support this addition. This approach has been used in the past in other developments. The Official Plan notes that public utilities are an acceptable use in the Urban Residential land use designation.

Removal of the Environmental Conservation (EC) Overlay Zone

Planning staff support the request to remove the EC Overlay Zone from the site. Review of the natural heritage assessment by Niagara Region, the Niagara Peninsula Conservation Authority (NPCA) and the Town's Environmental Advisory Committee (EAC) have concluded that the majority of the site does not have natural heritage features. The drainage feature along the eastern edge of the property is environmentally sensitive and will be protected with a 15.00 m vegetated buffer. This area comprises the watercourse block on the draft plan of subdivision and will be protected with Environmental Protection (EP) zoning.

Studies

The following studies were submitted with the Zoning By-law Amendment and Draft Plan of Subdivision applications:

- [Stage 1 and 2 Archaeological Assessment](#);
- [Environmental Noise Feasibility Study](#);
- [Functional Servicing Report](#);
- [Natural Heritage Assessment](#);
- [Stormwater Management Report](#)

Staff note that the findings of these studies are discussed in detail throughout [Report No. PDS-15-2023](#).

Traffic Brief

A [traffic brief](#) was prepared for this proposal by SLBC Inc. on March 8, 2023. Intersection analysis was completed for Crescent Road at Garrison Road, Crescent Road at Orchard Avenue / proposed Street B, Crescent Road at Evelyn Avenue and Crescent Road and the proposed Street A. The analysis is based on existing conditions and the future planning horizons of 2025 and 2030, factoring in an annual background traffic growth rate of 2% per year and the traffic anticipated to be generated by the Crescent Acres development. The traffic brief conclusions are as follows:

- The proposed development is projected to generate approximately 124 two-way trips during the AM peak hour (30 inbound and 94 outbound), and 156 two-way trips during the weekday PM peak hour (98 inbound and 58 outbound).
- No traffic operational concerns are expected to be generated from the development, and no improvements at the study intersections are recommended in response to the proposed development.
- All intersections will continue to operate at Level of Service (LOS) A or B during the AM and PM peak hours out to 2025 and 2030 under future total traffic conditions, with the overall average LOS for each intersection being classified as A;
- Auxiliary left-turn lanes and all-way stop controls are not warranted at the future road connections to Crescent Road; it is recommended both the future Street A and Street B intersections on Crescent Road be full movement accesses (no turn restrictions) with stop control for the minor street approaches (free flow for Crescent Road).

Financial/Staffing and Accessibility (AODA) Implications

All costs associated with processing the applications are the responsibility of the Owner. No staffing implications are expected.

No impediments to the AODA legislation are expected to be developed through the proposed amendments and approvals.

Policies Affecting Proposal

Notice of the September 12, 2022 Public Meeting was circulated in accordance with the *Planning Act* by placing an advertisement in the August 18, 2022 edition of the *Fort Erie Post*. In addition, all property owners within 120 metres of the subject property were mailed a “Notice of Complete Application and Public Meeting” on August 18, 2022.

Land use policies that apply to the subject property are contained in the Town’s Official Plan and applicable Regional and Provincial regulations.

Comments from Relevant Departments/Community and Corporate Partners

A request for comments regarding these applications was circulated to relevant Departments/Community and Corporate Partners on January 3, 2023. Comments received prior to the Public Meeting are included in [Report No. PDS-15-2023](#) for review. New comments received following the Public Meeting are summarized below and are attached in full as **Appendix “4”**.

Agency Comments

None.

Staff Comments

Infrastructure Services

If crosswalks are added to Crescent Road the estimated cost per crosswalk ranges from \$5,000.00 for pavement markings and signage to \$200,000.00 for a full, signalized crosswalk like those in downtown Ridgeway. The lower threshold is recommended in this instance. The developer may also be required to install a small connection sidewalk.

Environmental Advisory Committee (EAC)

The Town’s Environmental Advisory Committee was circulated for comments on this application and the request to remove the Environmental Conservation (EC) Overlay Zone as part of the proposed Zoning By-law Amendment. The Committee visited the site on February 26, 2023. It was noted that the subject property was a field with no substantial vegetation. The Committee recommended the following:

- That the EC Overlay Zone be removed as requested;
- That the plantings within the watercourse block include pollinator ground cover;

- That the parcels that back on to the watercourse block utilize fencing with no openings or gates to prevent disturbance of the vegetated buffer area along the watercourse.

Public Comments

A public information open house was held in-person in the Atrium of Town Hall on August 23, 2022 from 5 to 6 pm. All property owners within 120 metres of the subject lands were notified of the information open house via a notice mailed by Staff on August 9, 2022. Staff, the Agent, and a representative from the developer attended the information open house meeting. Approximately 25 members of the public attended the information open house meeting.

The statutory Public Meeting for this application was held on February 27, 2023. Four members of the public provided comments to Council during the Public Meeting. A fifth member of the public also submitted written comments that were appended as part of the minutes of the meeting.

Comments and feedback from the public and Council are outlined below. New comments received since the Public Meeting are attached as **Appendix “5”**.

Drainage Issues resulting from the Development

Several members of the public noted that there are existing drainage issues in the area and were concerned that the proposed development may cause further drainage impacts.

Staff Response

Detailed engineering review will occur by Town Infrastructure Services staff if the proposed Plan of Subdivision is approved. The development will not proceed until it is demonstrated that there will be no adverse drainage impacts on adjacent lands. Planning staff note that the Agent has provided a Stormwater Management Plan (SWP) to address stormwater runoff and drainage from the proposed development. The development will utilize a system of rear yard swales, catch basins, storm sewers and a stormwater detention pond that are designed to prevent drainage issues and flooding resulting from the proposed development.

Impacts of Construction on Nearby Dwellings

One resident noted during the Public Meeting that there were concerns about the impacts of dust on nearby houses resulting from construction. It was also suggested that construction vehicles enter at Street B to minimize impacts on residences along Crescent Road.

Staff Response

The Town actively monitors and enforces property standards throughout the construction process. If issues occur during construction members of the public can reach out to the Town's Customer Service Unit (CSU) staff at (905) 871-1600 and staff will follow up immediately with the developer to resolve them.

The Town has directed construction vehicles to use certain access points to developments in the past in an effort to minimize impacts on existing residences. Town staff will similarly review best practices to minimize impacts at the construction stage if this application is approved.

Impacts to Health Care/Medical Facilities

One resident questioned if the Town's hospital can accommodate the population increase that will result from this development.

Staff Response

Staff acknowledge the ongoing concerns regarding Douglas Memorial Hospital and medical services in general in the Town, however, the provision of medical services is largely under the mandate of the Niagara Region Public Health and Emergency Services. This development will not have a significant impact on the provision of healthcare services in the Town of Fort Erie.

Loss of Open Space/Impact on Wildlife/Environment

During the public meeting several residents expressed concerns about the loss of open space and the impacts development will have on wildlife and the environment.

Staff Response

The Agent has submitted a [natural heritage assessment](#) completed by Beacon Environmental that concluded that there are no natural heritage features present on the site aside from the watercourse and that the proposed development is in conformity with the natural heritage policies of Niagara Region, the Niagara Peninsula Conservation Authority and the Town of Fort Erie.

Planning staff note that as part of this application Niagara Region and the Niagara Peninsula Conservation Authority were circulated for comments on this application and the natural heritage assessment. Aside from the drainage feature within the watercourse block both agencies acknowledged that there were no significant natural heritage or environmentally sensitive features on the subject property. The drainage feature and watercourse block will be protected with an Environmental Protection (EP) Zone.

The Town's Environmental Advisory Committee (EAC) also visited the site and similarly recommended that the Environmental Conservation (EC) Overlay can be removed as requested by this application.

Planning staff note that the subject property is not designated as Open Space. It is designated as Urban Residential in the Town's Official Plan, which permits the proposed development. The intent of the Official Plan was for the land to develop provided the requisite environmental review is completed. This has occurred over the course of the planning process and it has been demonstrated that there are no natural heritage features on the majority of the site and that the Environmental Conservation can be lifted.

Neighbourhood Plan

One resident noted that there is not a neighbourhood plan in place for this area, and stated that the Town Official Plan requires a neighbourhood plan to be in place prior to development proceeding for large scale development applications.

Staff Response

Planning staff acknowledge that the Official Plan does make repeated references to Neighbourhood Plans with respect to development in Urban Residential areas and in relation to large scale development. The Town of Fort Erie has been actively developing plans for the various neighbourhoods in the Town of Fort Erie which have taken the form of Secondary Plans. Some areas in the Town are within neighbourhoods that do not yet have active Secondary Plans in place such as Crescent Park.

The Town's Official Plan is a vision document intended to provide general policies for land use. The policies within are not intended to restrict the use of land such as a Zoning By-law nor to fully stop development. The policies exist to provide guidance and direction to Council and planning staff when considering Planning Act applications such as this proposal. The Official Plan provides various other policies and criteria to be considered with respect to Planning Act applications in the absence of a neighbourhood plan, such as Subsection 4.7.4.1 and Subsection 13.5 II as outlined in this report.

It is staff's opinion this proposal meets the intent of the policies outlined in the Official Plan.

Pedestrian Connection from Crescent Road to Garrison Public School

One resident suggested an easement or right-of-way along the northern edge of the development for a sidewalk to provide a passageway to Garrison Public School to the east. There was also discussion during the Public Meeting regarding provision of additional sidewalks and crosswalks across Crescent Road.

Staff Response

Planning staff note that there is an existing sidewalk network in place along Crescent Road and both sides of Garrison Road that provide pedestrian access to Garrison Public School to the east. Staff note that all of the parcels between the subject property and Garrison Road to the north are under private ownership. It would be difficult to obtain a land connection east of Crescent Road to Garrison Road with the current parcel configuration of the area.

Planning staff are supportive of installing two crosswalks on Crescent Road at the intersections of Street A and Street B on the proposed plan of subdivision to connect to the sidewalk on the west side of Crescent Road. Based on comments from Infrastructure Services, the cost of this project is estimated to be \$10,000.00. This has been added as a condition of approval for the proposed subdivision.

Shadowing Impacts on Adjacent Dwellings

One of the questions raised during the Public Meeting is if there would be shadowing impacts to existing dwellings near the entrances of Street A and Street B resulting from two storey homes in the proposed development.

Staff Response

Significant shadowing impacts on existing dwellings or their rear yard amenity areas are not anticipated. The housing form that is adjacent to the existing homes along Crescent Road consists of single detached dwellings. These dwellings are subject to the height limits of Section 12.3 of the Zoning By-law (R2A Zone regulations) which limits the height to a maximum of 2.5 storeys and 10.50 m. Nearly all new subdivisions in the Town of Fort Erie utilize the R2A Zone regulations for single detached dwellings and there has not been an established pattern of issues with shadowing on adjacent parcels. The proposed single detached dwellings in this proposal comply with all of the required setbacks under Section 12.3 and therefore will not impose undue massing or shadow impacts on the existing parcels along Crescent Road.

Planning staff note that the zoning of the existing dwellings along Crescent Road is Residential 1 (R1) Zone. This zone also permits dwellings up to 2.5 storeys in height with a maximum building height of 9.00 m. The proposed two storey dwellings will not be out of character with the area and are similar to the built form permitted by the zoning of the surrounding neighborhood.

Swales in Rear Yard

One of the questions raised during the Public Meeting was what was the typical width of a rear yard drainage swale and how would it effect the rear yard amenity space of the proposed parcels, especially once decks and porches are added to a dwelling.

Staff Response

The width of a typical drainage swale is 2.00 to 3.00 m. They typically do not impact a resident's use of a back yard other than not being able to construct structures on the swales that would negatively impact drainage. The swales are shallow ditches that can still be used as rear yard open space.

Planning staff note that the addition of decks or porches does not remove rear yard amenity space. The porches and decks themselves are considered to be rear yard amenity space similar to landscaped area or grassed area.

Town Park in the Development

Several members of the public had questions regarding if the Town had any plans for a neighbourhood park in the area or within the proposed development itself.

Staff Response

Planning staff have reviewed the Town's existing Parks and Open Space Plan and note that the subject property is within the service area of Ferndale Park and Spears Estates Park. There are two main types of parks in the Plan, community parks, which have a service area of 1,600 m, and neighbourhood parks, which have a service area of 600 m. A portion of the subject property is within the 600 m service area of Spears Estates Park (a neighbourhood park) and is accessible via a pedestrian connection from Meadowood Street to Garrison Public School. The entirety of the site is also within the service area of Ferndale Park (a community park), which is located approximately 700 m to the west of the development.

It is noted that the Town of Fort Erie does not have the financial resources to construct a park in every new subdivision. In the case of the project staff requested cash in lieu of parkland dedication from this development to assist the Town in securing land for parkland purposes in the area.

Traffic and Speeding

Several of the residents expressed concern regarding traffic impacts in the area resulting from the proposed development and in particular speeding along Crescent Road. It was noted by several residents that there is only one stop sign on Crescent Road, located at the intersection with Phillips Street. This results in speeding issues. Another issue that was identified was left turns from Crescent Road onto Garrison Road. The intersection is unsignalized.

Staff Response

Following the Public Meeting the Agent completed a traffic brief for the proposed development. The traffic brief concluded that no traffic operational concerns are

expected to be generated from the development and no improvements at the study intersections are recommended in response to the proposed development. The brief modelled traffic out to 2025 and 2030 and the results indicate that all of the nearby intersections will operate at Level of Service A or B even with annual increases in background traffic and the traffic flow resulting from this development.

Issues with speeding are largely an existing issue and planning staff note that enforcement of posted speed limits are the responsibility of the Niagara Regional Police Service (NRPS). The Town also has a new Traffic Calming Policy in places to support such issues.

Alternatives

Council may elect to deny the Zoning By-law Amendment and Draft Plan of Subdivision applications. Planning Staff do not recommend this as the proposal is consistent with Provincial, Regional, and Town planning policies, and represents good land use planning.

Second Opinion Clause

Should a motion be placed before Council that does not support Planning Staff's recommendations, Council is advised to table its decision to consider the matter further or until such time as a second planning opinion on the motion, from an independent planning consultant, can be obtained. If the Applicant has an opinion from an independent planning consultant then Council can consider their report as the second planning opinion. In the event, the second planning opinion, obtained by the Clerk or provided by the Applicant, is supported by Council, and Council makes a decision based on that second planning opinion, then the planner who has provided the second opinion shall be retained for the purpose of an Ontario Land Tribunal hearing. The procedures under PLA-06 shall be followed as well.

Communicating Results

There are no communication requirements at this time.

Conclusion

Planning Staff support the proposed Zoning By-law Amendment and Draft Plan of Subdivision applications. The applications will facilitate development of a plan of subdivision containing a total of 220 dwelling units that represent a compact form of development and will provide additional housing variety to the Town. The proposal is consistent with Town, Regional and Provincial planning policies and represents good planning principles.

Planning Staff recommend that Council approves the Zoning By-law Amendment and Draft Plan of Subdivision as proposed, and direct staff to circulate the conditions of draft plan approval to the appropriate external agencies and prepare the necessary by-law.

Attachments

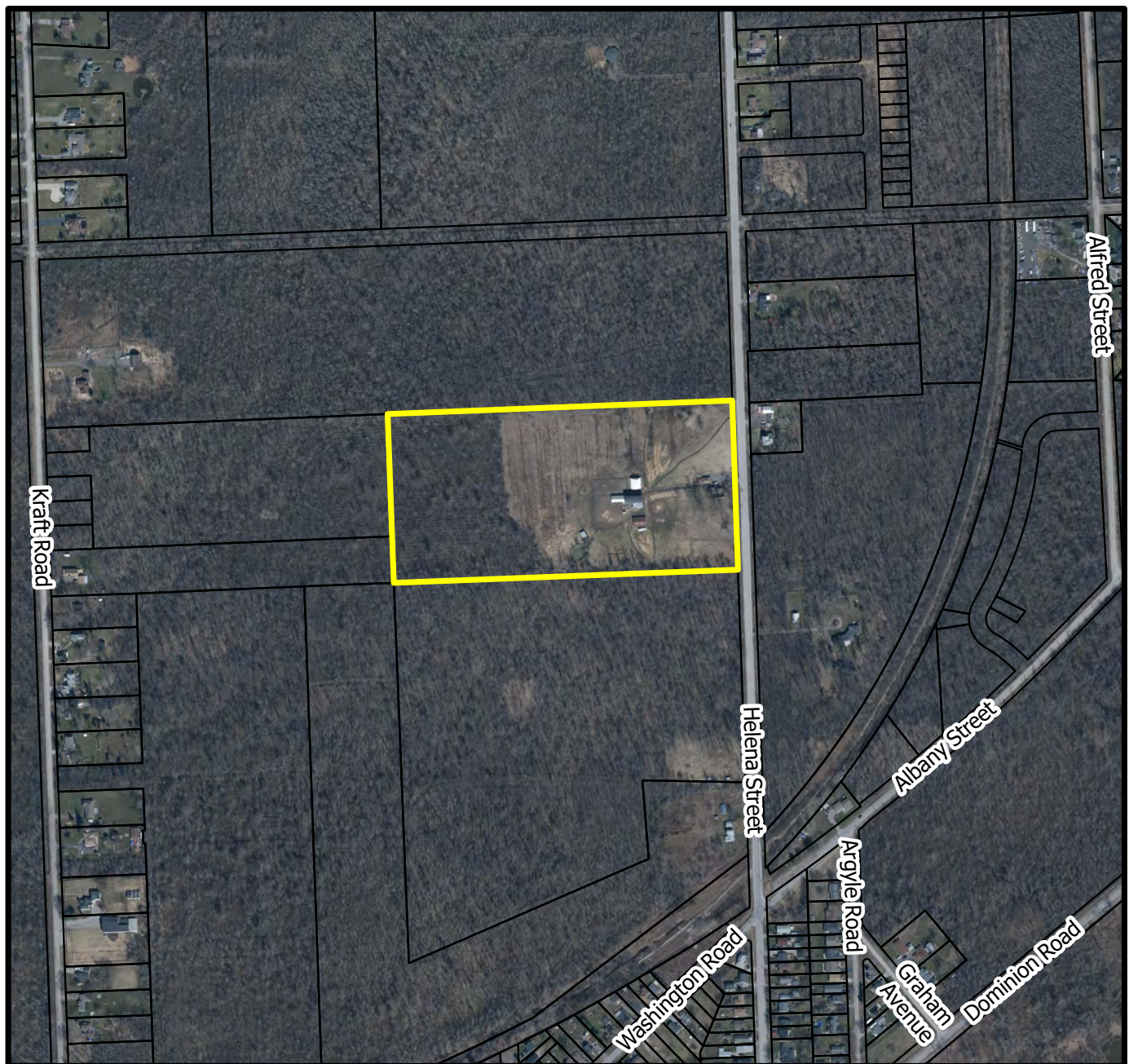
Appendix “1” - Location Plan

Appendix “2” - Draft Plan of Subdivision

Appendix “3” - Conditions of Draft Plan Approval

Appendix “4” - New Comments from Staff/Agencies

Appendix “5” - New Comments from the Public



0 250 500 Metres

LOCATION PLAN

**Draft Plan of Subdivision & Zoning By-law Amendment -
613 Helena Street**

Subject Lands - 613 Helena Street



Planning and Development Services, Map Created June 8, 2022



CONDITIONS OF DRAFT PLAN APPROVAL
613 Helena Street Plan of Subdivision April 3,
2023

The conditions of final approval and registration of the 613 Helena Street Plan of Subdivision by SS Fort Erie Inc. in the Town of Fort Erie are as follows:

1. That this approval applies to the 613 Helena Street Draft Plan of Subdivision – Part of Lot 1, Concession 2 Lake Erie, being all of PIN 64470-0131, prepared by Phillip S. Suda on February 23, 2023, showing 17 blocks for a total of 124 street townhouse dwellings (Blocks 1 to 17), 2 blocks for 4 semi-detached dwellings (Blocks 15 & 16), 1 block for parkland dedication (Block 20), 1 block for a stormwater management pond (Block 21), 1 block for environmental lands (Block 22) and 1 block for a road widening (Block 25).
2. That the owner deed Block 20, as shown on the Draft Plan to the Town for stormwater management purposes, free and clear of any mortgages, liens and encumbrances.
3. That the owner deed Block 21, as shown on the Draft Plan to the Town for parkland purposes, free and clear of any mortgages, liens and encumbrances.
4. That the owner deed any and all easements that may be required for access utility and drainage purposes be granted to the appropriate authorities and utilities.
5. That all roads within the subdivision be designed according to Town of Fort Erie Standards and the lands be conveyed to the Town of Fort Erie as public highways.
6. That the subdivision agreement include a clause requiring that each agreement of purchase and sale state that *"Roof downspouts shall discharge only to the ground surface via splash pads to either the front, rear or exterior side yards. No direct connection to the storm sewer will be permitted nor should downspouts discharge directly to the driveway or a roadway."*
7. That the subdivision agreement include a clause requiring that each agreement of purchase and sale state that *"The owner (developer) shall be responsible for installing paved driveway aprons from curb to the property line or from the curb to the sidewalk."*
8. That prior to receiving Final Approval, the owner shall submit, for review and approval by the Town, a Geotechnical Study prepared by a qualified engineer, that verifies the soil bearing capacity, assesses bedrock elevations and groundwater conditions, appropriate sewer pipe design, pipe bedding, backfill and roadway designs and appropriate mitigation measures to address groundwater issues encountered.
9. That the owner prepare a detailed Subdivision Grade Control Plan showing both existing and proposed grades and the means whereby major storm flows will be accommodated across the site be submitted to the Town of Fort Erie.
10. That the owner shall enter into any agreement as required by utility companies for installation of services, including street lighting, all in accordance with the standards of the Town of Fort Erie. All utilities servicing the subdivision shall be underground.

Upon installation and acceptance by the Town, streetlights and streetlight electrical supply system will be added to the Town's inventory.

11. That the streets be named to the satisfaction of the Town.
12. That the Owner agrees, at a minimum, to construct 1.5 metre sidewalks on one side of all internal streets within the subdivision to the satisfaction of the Town.
13. That the design drawings for the water, sanitary sewer and storm water drainage systems, including storm water management, to service this development be submitted to the Town of Fort Erie for review and approval.
14. That prior to approval of the final plan or any on-site grading, the owner submit to the Town of Fort Erie for review and approval two copies of a detailed stormwater management plan for the subdivision and the following plans designed and sealed by a suitably qualified professional engineer in accordance with the Ministry of the Environment documents entitled "Stormwater Management Planning and Design Manual", March 2003, and "Stormwater Quality Guidelines for New Development", May 1991, and in accordance with Town of Fort Erie's Storm Drainage Guidelines, the Town of Fort Erie Lot Grading Policy, Town of Fort Erie Stormwater Management Facility Design, Operation and Maintenance Policy and Standards:
 - a) Detailed lot grading and drainage plans, noting both existing and proposed grades and the means whereby overland flows will be accommodated across the site;
 - b) Detailed sediment and erosion control plans.
15. That the subdivision agreement between the owner and the Town of Fort Erie contain provisions whereby the owner agrees to implement the approved stormwater management plan required in accordance with Condition 14 above.
16. That the Developer is responsible to front-end the construction of watermains, sanitary sewers and storm sewers (where required) on Helena Street from Albany Street to Phillips Street.
17. That the Developer submits a Landscape Plan, pursuant to the Subdivision Control Guidelines and to the satisfaction Town Staff. The Plan shall address pedestrian circulation, site landscaping, streetscape treatments, appropriate buffering of the watercourse block, and interface with Helena Street.
18. That the Developer submits a Streetscape Plan, pursuant to the Subdivision Control Guidelines, showing how the development will interface with Helena Street.
19. That if final approval is not given to this plan within three years of the approval date and no extensions have been granted, draft approval shall lapse. If the owner wishes to request an extension to the draft period, a written explanation with reasons why the extension is required, together with a resolution from the local municipality must be received by the Region prior to the lapsing date.
20. That the Subdivision Agreement contain wording wherein the Owner agrees to implement the mitigation measures and recommendations found in Section 8.0 of the Environmental

Impact Assessment (EIA) prepared by Colville Consulting Inc. (dated July 2017) and Section 6.2 of the Environmental Impact Study (EIS) Addendum prepared by Beacon Environmental Limited (dated February 2022), including but not limited to:

- a. That vegetation removals be undertaken between October 1 and March 14, outside of both the breeding bird nesting period and active bat season. A survey for active bird nests should be conducted prior to any vegetation removal or site alteration planned to occur during this window.
 - b. That any security lighting to be installed on buildings should be downward facing and directed away from natural areas to minimize ambient light exposure to the adjacent natural areas.
 - c. That no construction materials or equipment be located, even on a temporary basis, within the woodland/wetland features, or their buffers.
 - d. That a limit of work fence be installed on the property in the vicinity of the White Wood Aster to help avoid direct impacts.
 - e. That site appropriate low impact development (LID) practices be implemented to off-set the infiltration deficit resulting from the addition of impervious surfaces.
21. That permanent rear-lot fencing be installed along the 15 m buffers adjacent to natural heritage features, to the satisfaction of the Niagara Region. The fencing shall include a permanent wildlife exclusion barrier that extends below grade to contain wildlife movement to the natural heritage features and restrict access to the adjacent rear yards. A No-Gate By-law is recommended to reduce human encroachment and limit the movement of pets into the adjacent natural areas.
22. That an Erosion and Sediment Control (ESC) Plan be prepared for review and approval by the Niagara Region. The Plan should incorporate the recommendations found in both the "Environmental Impact Assessment" prepared by Colville Consulting Inc. (dated July 2017) and the "Environmental Impact Study Addendum" prepared by Beacon Environmental Limited (dated November 2022). All ESC 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.
23. That a Grading Plan be provided to the satisfaction of Niagara Region, that demonstrates that no grading within the natural heritage features and/or their buffers will occur. The Grading Plan shall designate specific locations for stockpiling of soils and other materials which will at a minimum be outside of the natural heritage features and their buffers.
24. That a Buffer / Enhancement Plan be prepared to the satisfaction of the Niagara Region. The Plan should incorporate the recommendations found in both the "Environmental Impact Assessment" (EIA) prepared by Colville Consulting Inc. (dated July 2017) and the "Environmental Impact Study Addendum" prepared by Beacon Environmental Limited (dated November 2022). The Plan should incorporate dense plantings of native trees and shrubs that complement the adjacent vegetation communities. The removal of invasive species should also be incorporated, as appropriate. The Buffer / Enhancement Plan should be completed by a full member of the Ontario Association of Landscape Architects. The Plan shall also include the locations and installation details associated with 5-6 bat boxes, as recommended in the EIA to help provide potential roosting habitat for bat species.

25. That the Developer provide securities to the Town of Fort Erie in the form of a Letter of Credit in the amount of the estimated cost as approved by the Region for the restorative plantings required in accordance with the above conditions and that the Subdivision Agreement include provisions whereby the developer agrees that the Town may draw on the Letter of Credit, if required, to ensure installation of the plantings.
26. That prior to removing the existing farm buildings, surveys be conducted for Barn Swallow and Species at Risk bats in accordance with established protocols and/or through consultation with the Ministry of Environment, Conservation and Parks (MECP).
27. That an Ecological Monitoring Plan be prepared to the satisfaction of Niagara Region. At a minimum the plan should assess the effectiveness of the wildlife exclusion barrier fencing and monitor the success of the restorative plantings and invasive species removals. The Report should be submitted to Regional Development Approvals, with attention to Environmental Planning, devtplanningapplications@niagararegion.ca by September 1 of years 1 through 5. The Report should also include photographs and advise actions necessary to address any deficiencies.

Note: At a minimum, the plan should assess the effectiveness of the wildlife exclusion barrier fencing and monitor the success of the restorative plantings and invasive species removals. The monitoring should take place upon the initiation of any development and/or site alteration and continue up to and including 5 years from full build out.
28. That the Subdivision Agreement contain wording wherein the Owner agrees to implement the approved Erosion and Sediment Control Plan, Grading Plan, Buffer/Enhancement Plan, Relocation and Monitoring Plan, and Ecological Monitoring Plan.
29. That the Subdivision Agreement contain wording wherein the Owner agrees that the Town may draw on the Letter of Credit, if required, to ensure to installation of all required restoration works.
30. That a Phase One and Phase Two Environmental Site Assessment (ESA) prepared by a Qualified Professional (QP) in accordance to the Environmental Protection Act and its associated regulations, as amended, describing the current conditions of the development lands, be submitted to the satisfaction of Niagara Region. A Letter of Reliance from a QP shall be submitted to Niagara Region, to indicate that, despite any limitations or qualifications included in the above submitted reports/documents, the Region is authorized to rely on all information and opinions provided in the reports submitted, in order to clear this condition.
31. That the Owner submits a Stage 1 and Stage 2 Archaeological Assessment prepared by a licensed archaeologist (including any subsequent recommended assessments) to the Ministry of Heritage, Sport, Tourism and Culture Industries (MHSTCI) for review and approval. A copy of each submitted archaeological assessment, as well as applicable Letters of Acknowledgement from the MHSTCI shall be provided to the Niagara Region. The completed archaeological assessments shall cover the areas of the property that will be disturbed as a result of the proposed works, and must be accepted by the MHSTCI, to the satisfaction of Niagara Region, prior to clearance of this condition.

resource concerns have been mitigated and meet licensing and resource conservation requirements.

32. That the following warning clause be included in the Subdivision Agreement with respect to the potential discovery and protection of any archaeological resources encountered during construction activities:

"Should deeply buried archaeological remains/resources be found during construction activities, all activities impacting archaeological resources must cease immediately, and the proponent must notify the Archaeology Programs Unit of the Ministry of Heritage, Sport, Tourism and Culture Industries ("MHSTCI") at (416-212-8886) and contact a licensed archaeologist 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 at (416-326-8800) must be contacted. In situations where human remains are associated with archaeological resources, the 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."

34. That the Owner dedicates a 1.6m road widening to the Regional Municipality of Niagara along the frontage of Regional Road 122 (Helena Street) prior to the issuance of a building permit, to the satisfaction of Niagara Region, in accordance with Regional Official Plan Policy 9.C.
35. That the Owner dedicates a 4.50m by 4.50m daylight triangle at the corner of Regional Road 122 (Helena Street) prior to the issuance of a building permit, to the satisfaction of Niagara Region, in accordance with Regional Official Plan Policy 9C.
36. That the Owner dedicates a one-foot reserve along the frontage Regional Road 122 (Helena Street) including daylight triangles for Lots 1, 11, 21, and 37 prior to the issuance of a building permit, to the satisfaction of Niagara Region, in accordance with Regional Official Plan Policy 9.C.
37. That prior to any construction taking place within the Regional Road Allowance, the applicant shall obtain a Construction Encroachment Permit and Regional Entrance Permit.
38. That prior to approval of the final plan or any on-site grading, the Owner shall submit a Detailed Stormwater Management Plan for the subdivision and the following plans designed and sealed by a qualified professional engineer in accordance with the Ministry of the Environment and Climate Change documents entitled Stormwater Management Planning and Design Manual, March 2013 and Stormwater Quality Guidelines for New Development, May 1991, or their successors to the Niagara Region Planning and Development Services Department for review and approval:
- a. Detailed lot grading, servicing and drainage plans, noting both existing and proposed grades and the means nearby overland flows will be accommodated across the site;

- b. Detailed erosion and sedimentation control plans;

- c. Detailed phasing of construction of the stormwater management facility to coincide with phasing of development of residential lands (internal and external to the subdivision) planned to be serviced by the stormwater management facility.
- 39. That the Subdivision Agreement between the Owner and the Town contain provisions whereby the Owner agrees to implement the approved plan(s) required in accordance with the Conditions above.
- 40. That the Owner submit a written undertaking to the Niagara Region Public Works Department (Development Services Division) that draft approval of this subdivision does not include a commitment of servicing allocation by the Regional Municipality of Niagara as this servicing allocation will be assigned at the time of registration and any pre-servicing will be at the sole risk and responsibility of the Owner.
- 41. That the Owner submit a written undertaking to the Niagara Region Public Works Department (Development Services Division) that all offers and agreements of Purchase and Sale, which may be negotiated prior to registration of this subdivision, shall contain a clause indicating that a servicing allocation for this subdivision will not be assigned until the plan is registered, and a similar clause be inserted in the Subdivision Agreement between the Owner and the Town.
- 42. That prior to final approval for registration of this plan of subdivision, the Owner shall submit the design drawings [with calculations] for the sanitary and storm drainage systems required to service this development and obtain Ministry of Environment Conservation and Parks Approval under the Transfer of Review Program or approval through the new Consolidated Linear Environmental Certificate of Approval.
- 43. That the Owner ensures that all streets and development blocks can provide access in accordance with the Regional Municipality of Niagara's Corporate Waste Collection Policy relating to the curbside collection of waste.
- 44. That a mechanism be provided (i.e. drainage easement) that would ensure the perpetual unimpeded discharge of stormwater onto the private lands.
- 45. Restoration of any disturbed areas to the satisfaction of the NPCA. NPCA Staff require that enhancements to the retained PSW be explored such as invasive species removal and native underplantings to assist with the re-establishment of native species. A Monitoring Plan is required for review by the NPCA to ensure the successful re-establishment of vegetation and the restoration of wetland functions. The NPCA would request that a 10 year period be included (ie: monitoring in years 1, 2, 3, 5, 10) to ensure objectives are achieved.
- 46. Prior to construction, detailed grading, storm servicing, stormwater management, and construction sediment control drawings shall be circulated to this office for review and approval.
- 47. The Owner acknowledges and agrees to convey any easement(s) as deemed necessary by Bell Canada to service this new development. The Owner further agrees and acknowledges to convey such easements at no cost to Bell Canada.

48. The Owner agrees that should any conflict arise with existing Bell Canada facilities where a current and valid easement exists within the subject area, the Owner shall be responsible for the relocation of any such facilities or easements at their own cost.
49. The owner shall complete to the satisfaction of the Director of Engineering of the town of Fort Erie and Canada Post:
- a. Include on all offers of purchase and sale, a statement that advises the prospective purchaser:
 - i. That the home/business mail delivery will be from a designated Centralized Mail Box.
 - ii. That the developers/owners be responsible for officially notifying the purchasers of the exact Centralized Mail Box locations prior to the closing of any home sales.
 - b. The owner further agrees to:
 - i. Work with Canada Post to determine and provide temporary suitable Centralized Mail Box locations which may be utilized by Canada Post until the curbs, boulevards and sidewalks are in place in the remainder of the subdivision.
 - ii. Install a concrete pad in accordance with the requirements of and in locations to be approved by Canada Post to facilitate the placement of Community Mail Boxes
 - iii. Identify the pads above on the engineering servicing drawings. Said pads are to be poured at the time of the sidewalk and/or curb installation within each phase of the plan of subdivision.
 - iv. Determine the location of all centralized mail receiving facilities in co-operation with Canada Post and to indicate the location of the centralized mail facilities on appropriate maps, information boards and plans. Maps are also to be prominently displayed in the sales office(s) showing specific Centralized Mail Facility locations.
 - c. Canada Post's multi-unit policy, which requires that the owner/developer provide the centralized mail facility (front loading lockbox assembly or rear-loading mailroom [mandatory for 100 units or more]), at their own expense, will be in effect for buildings and complexes with a common lobby, common indoor or sheltered space.

Clearance of Conditions

Prior to granting prior to granting approval of the final plan, the Town will require written confirmation from the following agencies that their respective conditions have been met satisfactorily:

- Niagara Region - Conditions 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 29, 40, 41, 42 & 43.
- Niagara Peninsula Conservation Authority - Conditions 44, 45 & 46.
- Bell Canada - Conditions 47 & 48.
- Canada Post - Condition 49.

1. THE LANDS REQUIRED TO BE REGISTERED UNDER THE LAND TITLES ACT:
 - a) Section 160(1) of the Land Titles Act requires all new plans to be registered in the Land Titles system.
 - b) Section 160(2) allows certain exceptions.
2. WATER AND SEWER SYSTEMS
Inauguration or extension of a piped water supply, a sewage system or a storm drainage system is subject to the approval of the Ministry of the Environment, Conservation and Parks under Section 52 and 53 of the Ontario Water Resources Act, R.S.O. 1990.
3. CONVEYING
As the land mentioned above be conveyed to the Municipal Corporation may be more easily described in the conveyance by reference to a registered plan than by "metes and bounds" be it suggested that the description be so worded and be it further suggested the Owner give to the Municipality an undertaking to deposit with the Clerk a properly executed copy of the conveyance concurrent with the registration of the plan.
4. In order to assist the agencies listed above in clearing the conditions of final approval and registration of the plan, it may be useful to forward executed copies of the agreement between the Owner and the Town to these agencies. In this instance, this copy should be sent to:

Alexander Morrison
Senior Development Planner
Niagara Region
Phone: (905) 980-6000
Email: alexander.morrison@niagararegion.ca

Taran Lennard
Watershed Planner
Niagara Peninsula Conservation Authority
Phone: (905) 788-3135 ext. 277
Email: tlennard@npca.ca

Juan Corvalan
Senior Manager - Municipal Liaison
Bell Canada
Email: planninganddevelopment@bell.ca

Andrew Carrigan
Officer, Delivery Planning
Canada Post
Phone: (226) 268-5915
Email: Andrew.Carrigan@Canadapost.ca

5. REVIEW OF CONDITIONS

The applicants are advised that should any of the condition appear unjustified or their resolution appear to be too onerous they are invited to bring their concerns

to Council's attention. Council will consider a request to either revise or delete conditions.

6. SUBDIVISION AGREEMENT

Prior to final approval for registration, a copy of the executed Subdivision Agreement for the proposed development should be submitted to Niagara Region for verification that the appropriate clauses have been included. Niagara Region recommends that a copy of the draft agreement be provided in order to allow for the incorporation of any necessary revisions prior to execution.

7. NOTES

- Prior to granting final plan approval, the Town must be in receipt of written confirmation that the requirements of each condition have been met and all fees have been paid to the satisfaction of Niagara Region.
- Niagara Region recommends that a copy of the draft agreement also be provided in order to allow for the incorporation of any necessary revision prior to execution.
- Clearance requests shall be submitted to the Region in accordance with the Memorandum of Understanding, which stipulates that requests for formal clearance of conditions are to be received and circulated to the Region by the Town of Fort Erie. The Town of Fort Erie is also responsible for circulating a copy of the Draft Agreement, and the Region is unable to provide a final clearance letter until the Draft Agreement is received. The Region is committed to reviewing submissions related to individual conditions prior to receiving the formal request for clearance. In this regard, studies and reports (one hard copy and a PDF digital copy) can be sent directly to the Region with a copy provided to the Town of Fort Erie.

APPENDIX "4" TO ADMINISTRATIVE REPORT PDS-39-2023 DATED MAY 8, 2023

613 Helena - Tomorrow's Meeting and Engineering Comments Taran Lennard to Daryl Vander Veen, Anamika Dilwaria 2023-02-22 03:54 PM
 From "Taran Lennard" <tlennard@npca.ca>
 To "Daryl Vander Veen" <DVanderVeen@forterie.ca>, "Anamika Dilwaria" <ADilwaria@forterie.ca>

Hi Daryl & Anamika,

Due to conflicts tomorrow, neither myself or Adam (our Ecologist) will be available to meet. However, please pass along that if the applicant wishes to speak with us directly, please provide them my contact details and I'd be happy to arrange a brief meeting with them. I notice from your agenda the main item is with respect to the pond relocation. In speaking with Adam, the NPCA is open to ideas of where the pond is to be located – Staff are not set in one specific location. Provided it is protected with an appropriate buffer, the NPCA is likely going to be OK with the location chosen on the property. We are open to ideas, based on how the final layout of this subdivision appears.

The NPCA also offers the following Engineering comments. Please pass these along to the applicant:

- 1) That a mechanism be provided (i.e. drainage easement) that would ensure the perpetual unimpeded discharge of stormwater onto these private lands.
- 2) Indicate the location of the Dry Pond's Spreader Swale (as noted in the 'Scoped Environmental Impact Study Addendum' (dated November 2022) by Beacon Environmental.
- 3) The NPCA understands that the proposed Dry Pond will attenuate post development peak stormwater flows to pre-development conditions. However, the NPCA notes that the water balance study did not include an analysis of the impacts of increased post development surface water runoff volumes on the adjacent wetlands. As such, please confirm that the adjacent wetlands will not be negatively impacted by additional post development storm water runoff volumes.
- 4) (Eventual Condition of Subdivision) Prior to construction, detailed grading, storm servicing, stormwater management, and construction sediment control drawings shall be circulated to this office for review and approval.

As noted above, please advise the applicant to reach out to me should there be any questions, or if they wish to meet one on one. Thank you.

Taran Lennard
Watershed Planner

Niagara Peninsula Conservation Authority (NPCA)
 250 Thorold Road West, 3rd Floor | Welland, ON L3C 3W2
 Tel: 905-788-3135 | extension 277
 email: tlennard@npca.ca

The NPCA is updating our Planning and Permitting Policies! To find out more visit [Get Involved with NPCA](#)

[NPCA Watershed Explorer](#)

Due to the COVID-19 pandemic, the NPCA has taken measures to protect staff and public while providing continuity of services. The NPCA main office is open by appointment only with limited staff, please refer to the [Staff Directory](#) and reach out to the staff member you wish to speak or meet with directly.

Updates regarding NPCA operations and activities can be found at [Get Involved NPCA Portal](#), or on social media at facebook.com/NPCAOntario & twitter.com/NPCA_Ontario.

For more information on Permits, Planning and Forestry please go to the Permits & Planning webpage at <https://npca.ca/administration/permits>.

APPENDIX "4" TO ADMINISTRATIVE REPORT PDS-39-2023 DATED MAY 8, 2023



Fw: Do not rezone 613 Helena - Public Meeting February 13

Carol Schofield to Mayor and Council

2023-02-08 04:25 PM

Cc Chris McQueen, Kelly Walsh, Jonathan Janzen, Alex Herlovitch, Daryl Vander Veen, Anamika Dilwaria

From Carol Schofield/FortErie
To Mayor and Council
Cc Chris McQueen/FortErie@TownOfFortErie, Kelly Walsh/FortErie@TownOfFortErie, Jonathan Janzen/FortErie@TownOfFortErie, Alex Herlovitch/FortErie@TownOfFortErie, Daryl Vander Veen/FortErie@TownOfFortErie, Anamika Dilwaria/FortErie@TownOfFortErie

Good afternoon,

Please find below comments received regarding the above-noted development.

Respectfully submitted,

Carol Schofield, Dipl.M.A.
Manager, Legislative Services / Clerk
Town of Fort Erie / 1 Municipal Centre Drive
Fort Erie, ON L2A 2S6
☎905-871-1600 Ext 2211

Our Focus: Your Future



Please consider the environment before printing this email.

----- Forwarded by Carol Schofield/FortErie on 02/08/2023 04:24 PM -----

From: "Judith Gr" <[redacted]>
To: "cschofield@forterie.ca" <cschofield@forterie.ca>
Date: 02/08/2023 02:51 PM
Subject: Do not rezone 613 Helena

To Dan Vander Veen , Mayor if Fort Erie and Town Council

Im replying in response to the upcoming council meeting Feb 13 2023 on the rezoning of 613 Helene St in the town of Fort Erie. This is important piece of property not only to the numerous wildlife there but the low land is important to drainage of the that areas watershed which helps control local flooding on Kraft Road . Also the proximity to the For Erie Race track of such property that could house horses is one of the few remaining sections of land that can do so .

Please keep this property zoned as it presently is and save our conservation areas that our previous planners had the intelligence to protect.

Judith Greaves
402 Parkdale Ave
Fort Erie ,On L2A4R4

Sent from my iPhone

Fw: Plan of Subdivision-613 Helena St - PUBLIC MEETING FEB. 13

Carol Schofield to Mayor and Council

2023-02-13 04:14 PM

Cc Chris McQueen, Kelly Walsh, Jonathan Janzen, Alex Herlovitch, Daryl Vander Veen

From Carol Schofield/FortErie
To Mayor and Council
Cc Chris McQueen/FortErie@TownOfFortErie, Kelly Walsh/FortErie@TownOfFortErie, Jonathan Janzen/FortErie@TownOfFortErie, Alex Herlovitch/FortErie@TownOfFortErie, Daryl Vander Veen/FortErie@TownOfFortErie

Please refer to the written submission received below concerning the above-noted Public Meeting.

Respectfully submitted.

Carol Schofield, Dipl.M.A.
Manager, Legislative Services / Clerk
Town of Fort Erie / 1 Municipal Centre Drive
Fort Erie, ON L2A 2S6
☎905-871-1600 Ext 2211

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Please consider the environment before printing this email.

----- Forwarded by Carol Schofield/FortErie on 02/13/2023 04:13 PM -----

From: "Taylor Lawrie" <[redacted]>
To: "cschofield@forterie.ca" <cschofield@forterie.ca>
Date: 02/13/2023 04:10 PM
Subject: Plan of Subdivision-613 Helena St

Good afternoon,

I am writing to you today in regards to the proposed draft plan of subdivision for 613 Helena Street in Fort Erie. Me, as well as many people that I am certain you've herd from, really hope this can be reconsidered as this property is home to so many different types of wildlife. Fort Erie is being built up so much and the animals don't have a place to go. It would be a shame to see this beautiful property turn into an eyesore of yet another subdivision. On behalf of all of the wildlife and the lovely people that currently reside on the property, please please reconsider and scrap the plan of subdivision. Fort Erie is loved for the small town vibe and the farms, not the hustle and bustle of a built up city.. people come here to get away from that. Again, please don't build a subdivision, or anything for that matter, on 613 Helena Street!!

Fw: Application Nos: 350308-0107 & 350309-0481

Carol Schofield to Daryl Vander Veen

2023-02-14 03:21 PM

From Carol Schofield/FortErie
To Daryl Vander Veen/FortErie@TownOfFortErie

Hi Daryl, here's a late submission for 613 Helena.

Carol Schofield, Dipl.M.A.
Manager, Legislative Services / Clerk
Town of Fort Erie / 1 Municipal Centre Drive
Fort Erie, ON L2A 2S6
☎ 905-871-1600 Ext 2211

Our Focus: Your Future



Please consider the environment before printing this email.

----- Forwarded by Carol Schofield/FortErie on 02/14/2023 03:20 PM -----

From: "Nadezda Dohnalova" <[redacted]>
To: "cschofield@forterie.ca" <cschofield@forterie.ca>
Date: 02/13/2023 05:50 PM
Subject: Application Nos: 350308-0107 & 350309-0481

To whom it may concern,

I am not a big writer but me and my family are strongly against this proposal. We drive by this property every day, sometimes several times a day as we own our home near Dominion Rd. and Washington Rd. It is a home for the wildlife. We enjoy seeing deer, turkeys, fox,... as we drive by. We were not against the development close to Waverly Beach but this one so close by is just too many. Where are we pushing the wild animals? Where they suppose to go? Please do not develop on this property. It is home to too many animals. We must protect it.

Thank you for listening.

Nadezda Dohnalova
[redacted]



Planning and Development Services

Prepared for	Council-in-Committee	Report No.	PDS-39-2023
Agenda Date	May 8, 2023	File No.	350308-0107 & 350309-0481

Subject

**PROPOSED DRAFT PLAN OF SUBDIVISION AND ZONING BY-LAW AMENDMENT
613 HELENA STREET
SS FORT ERIE INC. (HUNAUN SIDDIQUI & MOHAMMAD FEROZ) - OWNER
IBI GROUP (TRACY TUCKER) - AGENT**

Recommendation

- THAT** Council approves the amendment to the Town's Zoning By-law No. 129-90 as detailed in Report No. PDS-39-2023 for the lands known as 613 Helena Street, and further
- THAT** Council approves the 613 Helena Street Draft Plan of Subdivision dated February 23, 2023, showing 17 blocks for a total of 124 townhouse dwellings, 2 blocks for a total of 4 semi-detached dwellings, 1 block for parkland dedication, 1 block for a stormwater management pond, 1 block for environmental lands and 1 block for a road widening as attached as **Appendix "2"** of Report No. PDS-31-2023, in accordance with the provisions of the *Planning Act*, R.S.O. 1990 c. P. 13 and the Regulations thereunder, subject to the conditions contained in **Appendix "3"** of Report No. PDS-31-2023, and further
- THAT** Council directs staff to circulate the Conditions of Draft Plan Approval in **Appendix "3"** of Report No. PDS-31-2023 to the applicable agencies in accordance with the requirements of the *Planning Act*, and further
- THAT** Council directs Staff to submit the necessary by-law.

Relation to Council's 2018-2022 Corporate Strategic Plan

Priority: Managed Growth through Responsibility, Stewardship and Preservation

List of Stakeholders

The Corporation of the Town of Fort Erie
SS Fort Erie Inc. (Hunaun Siddiqui & Mohammad Feroz) - Owner
IBI Group (Tracy Tucker)
Residents and Property Owners in the Town of Fort Erie

Prepared by:

Submitted by:

Approved by:

Original Signed***Original Signed******Original Signed***

Daryl Vander Veen
Intermediate Development
Planner

Anamika Dilwaria, M.Pl.,
MCIP, RPP
Director, Planning &
Development Approvals

Chris McQueen, MBA
Chief Administrative Officer

Purpose

The purpose of this report is to provide a staff recommendation to Council regarding the proposed Plan of Subdivision for 613 Helena Street. Applications for a Draft Plan of Subdivision and a Zoning By-law Amendment were submitted by Tracy Tucker of IBI Group, Agent for SS Fort Erie Inc., (Hunaun Siddiqui & Mohammad Feroz), Owner of the subject property located at 613 Helena Street. A location map showing the area subject to the applications is attached as **Appendix “1”**.

Background

The proposal is known as 613 Helena Street Draft Plan of Subdivision. Originally this development proposed 17 blocks intended for 116 townhouse dwellings, a block for a stormwater pond, a block for environmental lands and a block for a road widening.

Following fieldwork in conjunction with the Niagara Peninsula Conservation Authority (NPCA) to delineate the natural heritage areas on the subject property the proposal was revised. The revised development is 8.14 ha in area and proposed 19 blocks intended for 135 townhouse dwellings, a block for a stormwater pond, a block for environmental lands and a block for a road widening.

Following the Public Meeting that was held on February 13, 2023 the proposed plan of subdivision was revised further to address feedback from Council and members of the public. The current proposal now includes 17 blocks for a total of 124 townhouse dwellings, 2 blocks for a total of 4 semi-detached dwellings, 1 block for parkland dedication, 1 block for a stormwater management pond, 1 block for environmental lands and 1 block for a road widening. The total number of dwelling units has been reduced by 7 dwelling units from 135 units to 128 units. This correspondingly has lowered the

density of the developable area of the site from 52.12 units/ha to 49.42 units/ha. The revised plan of subdivision is attached as **Appendix “2”**.

The Zoning By-law Amendment application proposes to change the zoning of the subject property from Neighbourhood Development (ND) Zone to a site-specific RM1 (RM1) Zone for the proposed semi-detached dwellings and townhouse dwellings and to redefine the boundaries of the Environmental Conservation (EC) Overlay Zone on the subject property to reflect the results of the Applicant's Environmental Impact Study (EIS) Addendum. Site-specific regulations are proposed to permit reduced lot area for interior street townhouse lots, increased maximum density and removal of the requirement for a 4.50 m planting strip where it abuts a street.

The Zoning By-law Amendment component of the application has largely remained unchanged with the exception that the Applicant has agreed to eliminate the request to remove the maximum lot coverage regulations for interior and exterior townhouse dwellings. As discussed during the Public Meeting the proposed dwellings will comply with the maximum lot coverage requirements of the proposed RM1 zoning.

Nature of the Site

The subject property is located within the Urban Boundary on the west side of Helena Street in the Kraft neighbourhood of Fort Erie and is 8.14 ha in area. The property is municipally known as 613 Helena Street and there is an existing single detached dwelling and farm operation on the subject property.

The following are the land uses surrounding the subject property:

- North:** Vacant, wooded lands that are designated as Provincially Significant Wetlands (PSW).
- South:** Vacant, wooded lands that are designated as PSW.
- East:** Two single detached dwellings and vacant, wooded lands that are designated as PSW.
- West:** Vacant, wooded lands that are partially designated as PSW.

Staff note that the subject property does not have access to municipal servicing at the current time. The developer will be responsible for all associated costs to extend required municipal services into the subject lands. Since the planned lots are within the Urban Boundary they must be serviced by the municipal sanitary sewer and water distribution system.

Planning Context

2020 Provincial Policy Statement (PPS)

The subject lands are located within a Settlement Area under the 2020 Provincial Policy Statement (PPS). The policies of the PPS direct growth to settlement areas and encourage building strong communities through the efficient use of land, resources, and infrastructure. The PPS also encourages opportunities for intensification, the redevelopment of underutilized lands, and infill development where appropriate.

This proposal is consistent with the policies of the PPS. The proposed development is located within the Urban Boundary and proposes to develop underutilized land. The proposed semi-detached dwellings and street townhouse dwellings provide for a mix of housing types. The proposal efficiently uses urban land and will be serviced with municipal water and sanitary sewer. These services will need to be extended to the site from Albany Street to the south.

2020 Growth Plan for the Greater Golden Horseshoe (Growth Plan)

The subject property is within the Greater Golden Horseshoe Growth Plan Area and designated Built-up Area. In general, the Growth Plan directs new residential development within the delineated Built-up Area and encourages opportunities for efficient use of urban land and a range and mix of housing types.

This proposal is consistent with the policies of the Growth Plan. The proposed development is located within a Settlement Area and will efficiently use underutilized urban land. The proposed plan of subdivision proposes a mix of housing types and will assist the Town in achieving its density target.

2022 Niagara Official Plan (NOP)

The NOP notes that development in urban areas will integrate land use planning and infrastructure planning to responsibly manage growth. The NOP promotes intensification, compact built form and a diverse range and mix of housing types. The subject property is considered to be Built-up Area under the NOP.

The proposed subdivision complies with the NOP. The proposed semi-detached and townhouse dwellings are characteristic of intensification and compact built form and will also increase the variety of housing types in the Town. The proposed development will also assist the Town of Fort Erie to achieve the minimum residential intensification target of 50% of new residential dwelling units within the Built-up Area.

2011 Town of Fort Erie Official Plan

Official Plan Schedule A - Land Use Plan

The subject lands are designated Urban Residential, Environmental Protection and Environmental Conservation on Schedule A of the Town's Official Plan and are located within Site Specific Policy Area 5 - Kraft Drain Area (SSPA). Section 4.9 of the Official Plan states that lands with Urban Residential designation are intended for a variety of housing forms including multi-unit residential dwellings such as semi-detached dwellings and street townhouse dwellings. The proposed land uses comply with the Urban Residential land use designation. Environmental Protection and Environmental Conservation areas are to be excluded from development.

Site Specific Policy Area 5 - Kraft Drain Area

The subject property is identified as being located within the Site Specific Policy Area (SSPA) 5 - Kraft Drain Area on Schedule A of the Town's Official Plan. The SSPA states that development within this area should be completed in association with an Environmental Planning Study (EPS) and a Neighbourhood Plan outlining how the land will be developed and serviced in accordance with the policies of the Official Plan. A Comprehensive Servicing Study and overall Storm Water Management Plan will form important components of the Neighbourhood Plan. The Frenchman's Creek Trunk Sanitary Sewer Project must be constructed prior to development proceeding.

An [Environmental Impact Study \(EIS\) Addendum](#) was completed in support of this proposal and Niagara Region and the Niagara Peninsula Conservation Authority (NPCA) are in agreement with the conclusions of the study subject to some conditions of approval that will be resolved if this proposal is approved. Environmental Protection areas will remain unchanged and the EIS recommends that a 15.00 m vegetated buffer from the Provincially Significant Wetlands adjacent to the site be implemented in the proposed subdivision. This area corresponds to the environmental block on the plan and will be zoned Environmental Conservation (EC) Overlay Zone.

The Agent has completed a [Functional Servicing and Stormwater Management Report](#), a [Geotechnical Report](#), a [Hydrogeological Investigation](#) and a [Water Balance Analysis](#) that outlines how the proposed subdivision will be serviced and developed.

The SSPA also states that the EPS should be prepared in association with a neighbourhood plan. This proposal is being brought forward as the subject property is an isolated pocket that is surrounded by Environmental Protection areas. There is no possibility of connection or integration with a larger neighbourhood. Although a neighbourhood plan is not yet available for the Kraft neighbourhood planning staff are of the opinion that it was not the intent of the Town's Official Plan to completely restrict development in the absence of a neighbourhood plan.

Official Plan Schedule B - Mineral Aggregate & Petroleum Resources

Schedule B of the Official Plan illustrates that the subject property is within a petroleum resource area. There are no active wells within 75.00 metres of the subject property. The subject property is not within an area identified as having potential for mineral aggregate resources.

Official Plan Schedule C - Natural Heritage Features & Schedule C1 - Natural Hazards & Fish Habitat

Schedule C of the Official Plan identifies the west portion of the property as Provincially Significant Wetlands (PSW), Significant Natural Area and as being part of a Woodlot Over 2 Ha. The portion of the property that is subject to proposed residential development does not contain any natural heritage features. Lands to the north and south are identified as Environmentally Sensitive Area, PSW, Significant Natural Area and as being part of a Woodlot Over 2 Ha. The subject property and adjacent lands are under the regulation of the Niagara Peninsula Conservation Authority (NPCA).

Schedule C1 of the Official Plan does not identify any natural hazard area or fish habitat on or near the subject property.

Niagara Region has noted that the subject property is impacted by the Region's Core Natural Heritage System ("CNHS") consisting of the Kraft Drain Provincially Significant Wetland ("PSW") Complex and Significant Woodland.

Detailed comments from Niagara Region and the NPCA in regard to the [Environmental Impact Study \(EIS\) Addendum](#) submitted with the application are contained in [Report No. PDS-07-2023](#).

Official Plan Schedule D - Cultural Heritage Archaeological Zones of Potential

Schedule D of the Official Plan illustrates the subject property as being within area identified as having potential for archaeological resources. The Agent has completed [Stage 1 & 2 Archaeological Assessments](#). Detailed comments from Niagara Region regarding the Archaeological Assessments are contained in [Report No. PDS-07-2023](#).

Urban Residential Land Use Designation

Subsection 4.7.4.1 Urban Residential of the Official Plan provides guidance to Council when considering medium-density residential uses and infill residential intensification on vacant land. Townhouse dwellings are considered to be medium-density residential uses in the Town's Official Plan. Planning staff has provided analysis with respect to these criteria below.

In considering medium-density and high-density residential uses, redevelopment and infill residential intensification on vacant land, regard shall be given to the following:

- a. *The height, bulk and arrangement of buildings and structures to achieve a harmonious design, compatible integration with the surrounding area and not negatively impact on lower density residential uses;*

The proposed plan of subdivision features a mix of semi-detached dwellings and townhouse dwellings which will front onto public streets. Although the final dwelling designs are preliminary at this stage the future dwellings are anticipated to be harmonious with each other as they will all be part of the same subdivision. All of the dwellings are proposed to be two storeys in height. Parcels surrounding the subject property are heavily impacted by natural heritage features including Provincially Significant Wetlands and do not have much development potential. The subject property is an isolated pocket of developable land. No issues with compatible integration or impacts on lower density residential will result from this proposal.

- b. *Appropriate open space, including landscaping and buffering to maximize privacy and minimize the impact on adjacent lower density uses;*

The parcels within the proposed development will have an appropriate amount of open space, landscaping and buffering. All of the proposed dwellings meet the requirements of the Zoning By-law for landscaped area and front and rear yard setbacks under the proposed RM1 zoning. Adequate space will be available in the rear yards for outdoor amenity area. An environmental block including a 15.00 m vegetated buffer between the proposed dwellings and wetlands on adjacent parcels is also proposed around the development area to mitigate impacts to Provincially Significant Wetlands on adjacent parcels. The developer is also proposing to dedicate Block 20 of public parkland dedication purposes. This block is 0.19 ha in area.

- c. *Parking areas that are sufficient size to satisfy the need of the development and are well designed and properly related to buildings and landscaped areas;*

All of the proposed dwellings will provide on-site parking via driveways and garages. The Zoning By-law requires one parking space per dwelling unit for semi-detached dwellings and street townhouse dwellings. All of the proposed units front onto public streets and parking will occur in the front yard. Adequate space will be available in the rear yard for landscaping and amenity area.

- d. *The design and location of refuse pick-up and recycling service areas meets Regional Waste Collection design requirements;*

All dwelling units in the proposed development will front onto public streets. Niagara Region has confirmed in their comments that all units will be eligible for curbside pick up waste collection services.

- e. *Driveway access, internal roadways and pedestrian walkways that are safe and properly designed;*

Driveways will be located in the front yards of the proposed dwellings and will connect directly to public streets. The Town's Subdivision Control Guidelines require the installation of a sidewalk on one side for pedestrian movement. Planning staff will recommend that the sidewalk be installed on the same side of the road as the proposed parkland block to provide internal connectivity to the park.

- f. *Convenient access to a collector or arterial road;*

The proposed development has direct access to Helena Street, which is a Regional arterial road. Helena Street provides ready access to Garrison Road to the north and Dominion Road to the South, both of which are also Regional arterial roads. The Provincial Queen Elizabeth Way (QEW) highway is also located nearby approximately 2 km to the north.

- g. *Location in regard to the elements of traditional neighbourhood design and within convenient walking distance of the central focus of the neighbourhood;*

The proposed plan of subdivision itself is isolated and is unable to integrate with a larger neighbourhood. Much of the existing Kraft neighbourhood consists of vacant, undeveloped residential land, industrial lands or wooded areas that are environmentally significant. The subject property is located close to commercial amenities along Garrison Road, although access to these amenities would occur primarily by motor vehicle. The revised plan of subdivision includes a public park that will be accessible by internal sidewalks within the development.

- h. *Building designs that place windows and balconies to overlook pedestrian routes and parking areas to encourage "eyes on the street"; and*

All of the proposed dwelling units will front onto and face public streets, thereby providing "eyes on the street".

- i. *Site planning considerations that facilitate walking and cycling activity such as secured bike storage, lighting and bikeways.*

Internal sidewalks for pedestrian movement will be required in accordance with the Town's Subdivision Control Guidelines. The Town will require that sidewalks are placed on the same side of the street as the proposed parkland block to ensure connectivity to the park.

Official Plan - Subdivision Control

Section 13.5 II. of the Official Plan provides some direction for Council when considering approval of a Plan of Subdivision. These are:

a. The Plan of Subdivision conforms with the policies of this Plan;

The Urban Residential land use designation permits development of semi-detached and street townhouse dwellings. The Applicant has completed an Environmental Impact Study (EIS) Addendum that provides recommendations to mitigate impacts on nearby natural heritage features including Provincially Significant Wetlands. This includes implementation of a 15.00 m vegetated buffer around the proposed dwellings to be protected by an Environmental Conservation (EC) Overlay Zone to provide adequate separation from wetlands on adjacent parcels.

b. Adequate servicing such as water supply, sewage disposal facilities, storm water drainage, solid waste collection and disposal, roads, pedestrian facilities and fire and police protection can be provided;

The development is located within the Urban Boundary and dwellings within will have access to emergency services and waste collection services. The development will require connection to municipal water and sanitary sewer infrastructure. Extension of these services will be required to develop the site and the cost of this extension is the responsibility of the developer. The Agent/Owner have provided a [Functional Servicing and Stormwater Management Report](#), a [Geotechnical Report](#), a [Hydrogeological Investigation](#) and a [Water Balance Analysis](#) that outlines how the proposed subdivision will be serviced and engineered. These technical documents will be reviewed by the Town, NPCA and Region in detail as part of the subdivision approval process if this application is approved. The proposed plan of subdivision will include internal sidewalks in accordance with the Town's Subdivision Guidelines.

c. The Town is able to provide necessary services without imposing undue increases in taxation on all residents; and

The subject property is within the Urban Boundary and all parcels are required to be serviced via municipal water and sanitary sewer systems. Any service extensions will be at the cost of the developer.

d. The Plan of Subdivision is not deemed to be premature, and it is considered necessary in the public interest.

Planning staff are of the opinion that the proposed plan of subdivision is not premature. Although there is not a neighbourhood plan in place for the subject property the subject property is within the Urban Boundary and is consistent with Provincial, Regional and Town planning policy which promote intensification and development of underutilized lands within the existing urban area. The proposed development has been modified significantly since the original submission in 2018 and now is supportable by Town, Regional and NPCA staff. The proposed plan of subdivision is in the public interest as it will provide additional dwelling units, housing variety and financial benefit to the Town.

Plan of Subdivision Design

The revised draft plan of subdivision is attached as **Appendix “2”** and consists of the following elements:

- 17 blocks intended for 124 street townhouse dwellings
- 2 blocks intended for 4 semi-detached dwellings
- 1 block intended for parkland dedication
- 1 block intended for a stormwater pond
- 1 block intended for environmental lands
- 1 block for a road widening of Helena Street

The draft plan features a crescent road shown as Street ‘A’ that connects to Helena Street in two locations. All of the proposed townhouse dwellings front onto the crescent road. The block for environmental lands encapsulates a 15.00 m buffer recommended in the Environmental Impact Study (EIS) Addendum from natural heritage features on the subject property and on adjacent lands.

Conditions of approval for the proposed plan of subdivision are attached as **Appendix “4”**.

Reduction in Number of Dwelling Units

The proposed plan of subdivision has reduced the total number of dwelling units from 135 units to 128 units. This has lowered the density of the development area from 52 units/ha to 49.42 units/ha. The overall density of the plan of subdivision is 15.72 units/ha. The reduction in units is a result of one of the townhouse blocks being dedicated for park purposes and another being converted from a block of street townhouses to two semi-detached dwellings.

Parkland Dedication

Many of the comments made during the Public Meeting from Council and members of the public were concerns that there are no public parks in the area. It was noted by some members of the public that the proposed subdivision should consider a park inside the development.

Planning staff reviewed the Town’s Parks and Open Space Master Plan and noted that the subject property is not within the service area for any neighbourhood or community parks (the service area for a neighbourhood parks and community parks are 600 m and 1,600 m respectively). The nearest public park is Waverly Beach Park to the south, which is a distance of nearly 900 m. Further, there is no sidewalk connection available to reach Waverly Beach Park from the subject property.

Town staff, the Region and the Agent/Owner met to discuss options to extend a sidewalk down to Waverly Beach Park. Ultimately, it was decided that a sidewalk

extension south is not feasible. Although the Town can require the Agent to build a sidewalk along the frontage of Helena Street across the subject property there is no means of requiring the developer to build the remainder of the sidewalk further south. The Town could consider taking securities to help pay for future extensions of the sidewalks. However, with much of the lands to the south being constrained by natural heritage features including Provincially Significant Wetlands, it is unclear if the sidewalk would ever be constructed. It was noted that construction of a sidewalk south towards Waverly Beach Park may also require an Environmental Impact Assessment due to the close proximity of Provincially Significant Wetlands to the road allowance.

As an alternative, the Agent/Owner proposed revising the plan to dedicate a block for parkland purposes within the proposed subdivision. This is Block 20 on the plan of subdivision and the block is 0.19 ha in area. From a Town parks perspective, this park would be undersized and not ideal as the standard area requirement for a Town park is 0.50 ha. A typical neighbourhood park includes a playground, pathway, benches and shade structures.

There is a similarly sized park constructed as part of Spears Road Estates subdivision that will serve as a useful comparison. Spears Estates Park is 0.18 ha in area and features a playground, open turf area, seating and garbage receptacles. The cost of the park to the Town in 2021 was approximately \$300,000, with \$270,000 allocated for construction and \$30,000 allocated for a consultant to design the park. The estimated annual maintenance cost of the park in 2023 is approximately \$29,000.

It is noted that the park dedication of 0.19 ha is greater than 5% of the developable area of the proposed development (5% would equal approximately 0.13 ha). The Owner has agreed to dedicate Block 20 for parkland purposes even though it exceeds 5% of the developable area of the plan of subdivision.

Although the parkland block is adjacent to the stormwater management pond, the pond itself would be fenced and would not be considered part of the park itself.

Comprehensive Zoning By-law No. 129-1990

The lands are currently zoned Neighbourhood Development (ND) Zone and Environmental Conservation (EC) Overlay Zone in accordance with Zoning By-law No. 129-1990. The Agent is requesting to rezone the subject lands to a new site-specific Residential Multiple 1 (RM1) Zone to permit the proposed semi-detached and street townhouse dwellings. The Zoning By-law Amendment also proposes to refine the boundaries of the Environmental Conservation (EC) Overlay Zone on the subject property to ensure natural heritage features are adequately protected in accordance with Regional and NPCA requirements.

Townhouse Dwellings

The site-specific RM1 proposes regulations to permit reduced lot area for interior street townhouse lots, increased maximum density and removal of the requirement for a 4.50 m planting strip where it abuts a street. These departures are outlined in the zoning chart below and include planning staff comments.

Table 1: Zone Comparison Chart - Proposed Site-specific RM1 Zone			
Zoning Regulation	Base Regulations (RM1 Zone)	Proposed Regulations (site-specific RM1 Zone)	Planning Comments
Minimum Lot Frontage	6.00 m for a street townhouse lot 9.00 m for a street townhouse corner lot	No change	Meets requirement.
Minimum Lot Area	200.00 sq m for a street townhouse lot	155.00 sq m for a street townhouse lot	Support. The proposed townhouse dwellings meet all of the setback requirements under the RM1 zoning and will be of sufficient size to accommodate an appropriately-sized townhouse dwelling with space for parking in the front yard and amenity area in the area yard.
	270.00 sq m for a street townhouse corner lot	No change	Meets requirement.
Maximum Lot Coverage	Exterior street townhouse - 40% Interior street townhouse - 60%	No change	Meets requirement.
Minimum Front Yard	6.00 m to garage 3.00 m to other parts of dwelling	No change	Meets requirement.

Table 1: Zone Comparison Chart - Proposed Site-specific RM1 Zone			
Zoning Regulation	Base Regulations (RM1 Zone)	Proposed Regulations (site-specific RM1 Zone)	Planning Comments
Minimum Side Yard	1.50 m	No change	Meets requirement.
Minimum Exterior Side Yard	3.00 m 6.00 m if an attached garage or carport faces the exterior lot line	No change	Meets requirement.
Minimum Rear Yard	6.00 m	No change	Meets requirement.
Maximum Building Height	3 storeys and 12.00 m	No change	Meets requirement.
Minimum Landscaped Area	Street townhouse lots - 25%	No change	Meets requirement.
Maximum Number of Units in a Row	8	No change	Meets requirement.
Minimum Distance Between Buildings on the Same Lot	15m, except 3m between end walls and 9m between an end wall and a rear wall	No change	Meets requirement.
Maximum Density	35 units/ha	49.42 units/ha	Support. Planning staff note that the Urban Residential land use designation does not have a maximum density limit. Further, the density is higher due to much of the lot area of the subject property being comprised of environmental lands outside of the developable area. The overall density of the site with the environmental

Table 1: Zone Comparison Chart - Proposed Site-specific RM1 Zone			
Zoning Regulation	Base Regulations (RM1 Zone)	Proposed Regulations (site-specific RM1 Zone)	Planning Comments
			lands included is 15.72 units/ha.
Privacy Area	Notwithstanding the yard requirements above, every dwelling unit shall have at least one area which serves as a privacy area adjacent to the dwelling unit, having a minimum depth of 4.5m	No change	Meets requirement.
Planting Strips	In accordance with Section 6.21 and 4.50 m where it abuts a street, except for points of ingress/egress	Shall not apply (not required for street townhouse dwellings).	Support. All of the townhouse dwellings within this development will front onto public streets. The standard front yard and exterior side yard setbacks under the RM1 zoning provide sufficient landscaped areas between the townhouse dwellings and the street.

Semi-detached Dwellings

Planning staff note that the proposed semi-detached dwellings fully comply with the regulations of the proposed RM1 zoning and will not require any special provisions.

Environmental Conservation (EC) Overlay Zone

It is noted that this application will not be seeking the removal of the Environmental Conservation (EC) Overlay Zone. The proposed development area is largely outside of the existing EC zoning on the subject property. Instead, in accordance with the recommendations of the EIS Addendum, this application is proposing to increase the amount of EC zoning on the site to cover the entirety of the environmental block on the plan of subdivision (Block 22 on the draft plan). This will include the 15.00 m vegetated buffer from Provincially Significant Wetlands adjacent to the property as recommended by the EIS Addendum. Any Provincially Significant Wetlands that currently exist on the subject property will remain zoned Environmental Protection (EP) Zone.

The Town's Environmental Advisory Committee (EAC) was circulated on this application and the EIS Addendum. A site visit occurred on March 19, 2023. EAC was generally in agreement with the recommendations of the EIS Addendum. The Committee also recommended the following:

- That bird friendly design standards be incorporated into dwelling facings that back onto the vegetated buffer area;
- That pollinator plants be included as plantings in the buffer area;
- That a warning clause be added into the subdivision agreement to prevent dumping or encroachment into the vegetated buffer area;
- That native tree species be used for tree plantings.

Studies

The following studies were submitted with the Zoning By-law Amendment and Draft Plan of Subdivision applications:

- [Stage 1 and 2 Archaeological Assessment](#);
- [Environmental Impact Study Addendum](#);
- [Phase I and II Environmental Site Assessments](#);
- [Revised Functional Servicing and Stormwater Management Report](#);
- [Geotechnical Report](#);
- [Hydrogeological Investigation](#);
- [Revised Transportation Impact Study](#);
- [Water Balance Analysis](#)

Staff note that the findings of these studies are discussed in detail throughout [Report No. PDS-07-2023](#).

Financial/Staffing Implications

All costs associated with processing the application and the development of the property is the responsibility of the owner.

Policies Affecting Proposal

Notice of the Public Meeting was circulated in accordance with the *Planning Act* by placing an advertisement in the January 19, 2023 edition of the *Fort Erie Post*. Further, all property owners within 120 m of the subject property via mailed notice on January 23, 2023.

Land use policies for the subject lands are contained in the Town's Official Plan, and applicable Regional and Provincial regulations.

Comments from Relevant Departments/Community and Corporate Partners

A request for comments regarding this Draft Plan of Subdivision and Zoning By-law amendment was circulated to relevant Departments/Community and Corporate Partners. New comments received since the Public Meeting are summarized below, and are attached as **Appendix "5"**.

Agency Comments

Niagara Peninsula Conservation Authority (NPCA)

The NPCA provided some additional information regarding the proposed relocation of one of the ponds onsite and conditions of approval related to engineering matters in a follow up email. It was noted that there is flexibility where the pond can be located provided it is protected with an adequate buffer.

Staff Comments

None.

Public Comments

A public information open house was held in-person in the Atrium of Town Hall on May 11, 2022 from 5 to 6 pm. All property owners within 120 metres of the subject lands were notified of the information open house via a notice mailed by Staff on April 27, 2022. Staff and the Agent attended the information open house meeting.

A statutory Public Meeting was held in Council Chambers of Town Hall on February 13, 2023. Ten members of the public spoke in opposition to the proposal. Two written submissions in opposition the development were also submitted in advance of the meeting are were appended to the meeting minutes.

Comments and feedback from the public and Council to date are outlined below. Public comments received in writing are attached for reference as **Appendix "6"**.

Affordable Housing

A resident expressed concern that the proposed townhouse dwellings would not contain any affordable units.

Staff Response

The proposed semi-detached dwellings and street townhouse dwelling will introduce additional housing variety into Fort Erie's housing market. The units are not anticipated to be affordable housing units based on Canadian Mortgage and Housing Corporation (CMHC) definitions.

Access to Schools

One resident asked how children living in this development would go to school.

Staff Response

Comments were received from the District School Board of Niagara confirming that children in this development would be bussed to Garrison Rd PS (Gr. JK-8) and Greater Fort Erie Secondary School (Gr. 9-12). There is no indication that there are capacity issues at the existing schools.

Issues with Helena Street and Traffic from the Development

Another issue that was raised was the poor condition of Helena Street and potential issues with traffic.

Staff Response

The Applicant completed a revised Traffic Impact Study noting that Helena Street and the nearest intersections have sufficient capacity to accommodate traffic from the proposed development. The condition of the road itself is the responsibility of Niagara Region.

Loss of Prime Agricultural Land and Wildlife Habitat, Impacts on Wetlands

A resident commented that this proposal will result in the loss of prime agricultural land and wildlife habitat and had questions regarding the impact on wetlands in the area.

Staff Response

Staff note that this subject property is within the urban boundary and is not considered to be prime agricultural land. Use of the land as an agricultural operation is an existing

situation and is considered to be non-conforming under the zoning and Official Plan land use designation.

The Agent has prepared an Environmental Impact Study (EIS) Addendum that limits the development area to a portion of the site that is outside of natural heritage features. The Applicant is proposing a 15.00 m environmental buffer area that will be maintained to prevent impacts to natural heritage features on-site or on adjacent parcels. The NPCA, Niagara Region and the Town's Environmental Advisory Committee are in agreement that the 15.00 m buffer is appropriate to protect wetlands and other environmentally sensitive areas.

Lack of Playgrounds or Sidewalks in the Area

A resident commented that there are no parks proposed within the development and no sidewalks for children on Helena Street.

Staff Response

The Owner has agreed to dedicate a block for parkland dedication. This is Block 20 on the revised draft plan of subdivision and is 0.19 ha in area.

Lack of Medical Facilities

One resident expressed concern that the Town does not have adequate medical facilities and the nearest full-service hospital is located a significant distance.

Staff Response

Staff acknowledge that this is an ongoing issue in Fort Erie but is largely under the mandate of the Niagara Region Public Health and Emergency Services. This development will not have a significant impact on the provision of healthcare services in the Town.

Neighbourhood Plan

One resident noted that there is not a neighbourhood plan in place for this area, and stated that the Town Official Plan requires a neighbourhood plan to be in place prior to development proceeding for large scale development applications.

Staff Response

Planning staff acknowledge that the Official Plan does make repeated references to Neighbourhood Plans with respect to development in Urban Residential areas and in relation to large scale development. The Town of Fort Erie has been actively developing plans for the various neighbourhoods in the Town of Fort Erie which have taken the

form of Secondary Plans. Some areas in the Town are within neighbourhoods that do not yet have active Secondary Plans in place such as Crescent Park.

The Town's Official Plan is a vision document intended to provide general policies for land use. The policies within are not intended to restrict the use of land such as a Zoning By-law nor to fully stop development. The policies exist to provide guidance and direction to Council and planning staff when considering Planning Act applications such as this proposal. The Official Plan provides various other policies and criteria to be considered with respect to Planning Act applications in the absence of a neighbourhood plan, such as Subsection 4.7.4.1 and Subsection 13.5 II as outlined in this report.

In the case of this proposal it is also notable that the subject property is surrounded on all sides by large areas of Provincially Significant Wetlands. The site is an isolated developable pocket that does not have the ability to integrate with a larger neighbourhood.

Swales in Rear Yard

One of the questions raised during the Public Meeting was what was the typical width of a rear yard drainage swale and how would it effect the rear yard amenity space of the proposed parcels, especially once decks and porches are added to a dwelling.

Staff Response

The width of a typical drainage swale is 2.00 to 3.00 m. They typically do not impact a resident's use of a back yard other than not being able to construct structures on the swales that would negatively impact drainage. The swales are shallow ditches that can still be used as rear yard open space.

Planning staff note that the addition of decks or porches does not remove rear yard amenity space. The porches and decks themselves are considered to be rear yard amenity space similar to landscaped area or grassed area.

Alternatives

Council may elect to deny the Zoning By-law Amendment and Draft Plan of Subdivision applications. Planning Staff do not recommend this as the proposal is consistent with Provincial, Regional, and Town planning policies, and represents good land use planning.

Second Opinion Clause

Should a motion be placed before Council that does not support Planning Staff's recommendations, Council is advised to table its decision to consider the matter further

or until such time as a second planning opinion on the motion, from an independent planning consultant, can be obtained. If the Applicant has an opinion from an independent planning consultant then Council can consider their report as the second planning opinion. In the event, the second planning opinion, obtained by the Clerk or provided by the Applicant, is supported by Council, and Council makes a decision based on that second planning opinion, then the planner who has provided the second opinion shall be retained for the purpose of an Ontario Land Tribunal hearing. The procedures under PLA-06 shall be followed as well.

Communicating Results

There are no communication requirements at this time.

Conclusion

Planning Staff support the proposed Zoning By-law Amendment and Draft Plan of Subdivision applications. The applications will facilitate development of a plan of subdivision containing a total of 128 dwelling units that represent a compact form of development and will provide additional housing variety to the Town. The proposal is consistent with Town, Regional and Provincial planning policies and represents good planning principles.

Planning Staff recommend that Council approves the Zoning By-law Amendment and Draft Plan of Subdivision as proposed, and direct staff to circulate the conditions of draft plan approval to the appropriate external agencies and prepare the necessary by-law.

Attachments

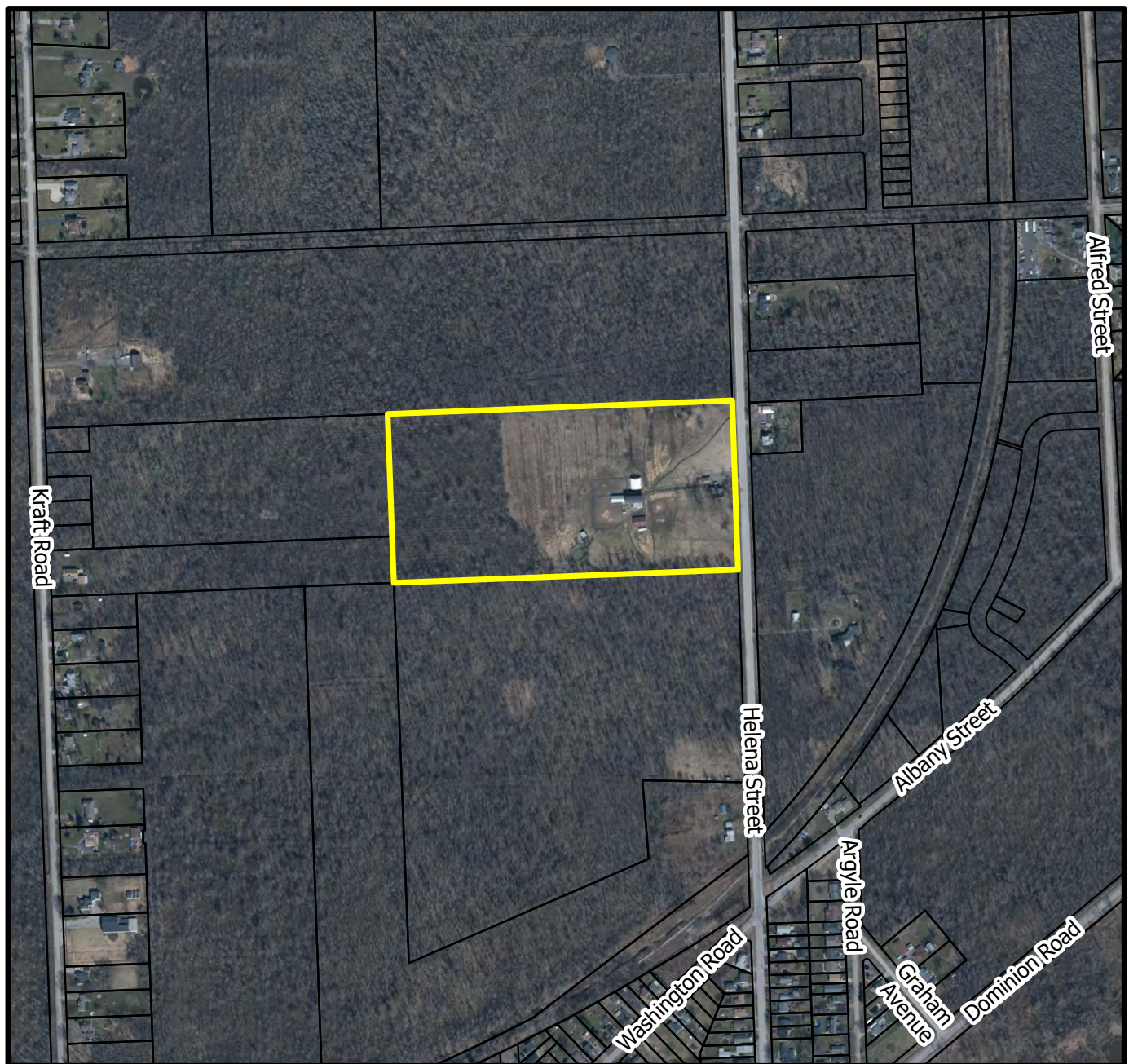
Appendix “1” - Location Plan

Appendix “2” - Revised Draft Plan of Subdivision

Appendix “3” - Conditions of Draft Plan Approval

Appendix “4” - New Comments from Staff/Agencies

Appendix “5” - New Comments from the Public



0 250 500 Metres

LOCATION PLAN

**Draft Plan of Subdivision & Zoning By-law Amendment -
613 Helena Street**

Subject Lands - 613 Helena Street



Planning and Development Services, Map Created June 8, 2022

APPENDIX "2" TO ADMINISTRATIVE REPORT PDS-39-2023 DATED MAY 8, 2023



CONDITIONS OF DRAFT PLAN APPROVAL
613 Helena Street Plan of Subdivision April 3,
2023

The conditions of final approval and registration of the 613 Helena Street Plan of Subdivision by SS Fort Erie Inc. in the Town of Fort Erie are as follows:

1. That this approval applies to the 613 Helena Street Draft Plan of Subdivision – Part of Lot 1, Concession 2 Lake Erie, being all of PIN 64470-0131, prepared by Phillip S. Suda on February 23, 2023, showing 17 blocks for a total of 124 street townhouse dwellings (Blocks 1 to 17), 2 blocks for 4 semi-detached dwellings (Blocks 15 & 16), 1 block for parkland dedication (Block 20), 1 block for a stormwater management pond (Block 21), 1 block for environmental lands (Block 22) and 1 block for a road widening (Block 25).
2. That the owner deed Block 20, as shown on the Draft Plan to the Town for stormwater management purposes, free and clear of any mortgages, liens and encumbrances.
3. That the owner deed Block 21, as shown on the Draft Plan to the Town for parkland purposes, free and clear of any mortgages, liens and encumbrances.
4. That the owner deed any and all easements that may be required for access utility and drainage purposes be granted to the appropriate authorities and utilities.
5. That all roads within the subdivision be designed according to Town of Fort Erie Standards and the lands be conveyed to the Town of Fort Erie as public highways.
6. That the subdivision agreement include a clause requiring that each agreement of purchase and sale state that *"Roof downspouts shall discharge only to the ground surface via splash pads to either the front, rear or exterior side yards. No direct connection to the storm sewer will be permitted nor should downspouts discharge directly to the driveway or a roadway."*
7. That the subdivision agreement include a clause requiring that each agreement of purchase and sale state that *"The owner (developer) shall be responsible for installing paved driveway aprons from curb to the property line or from the curb to the sidewalk."*
8. That prior to receiving Final Approval, the owner shall submit, for review and approval by the Town, a Geotechnical Study prepared by a qualified engineer, that verifies the soil bearing capacity, assesses bedrock elevations and groundwater conditions, appropriate sewer pipe design, pipe bedding, backfill and roadway designs and appropriate mitigation measures to address groundwater issues encountered.
9. That the owner prepare a detailed Subdivision Grade Control Plan showing both existing and proposed grades and the means whereby major storm flows will be accommodated across the site be submitted to the Town of Fort Erie.
10. That the owner shall enter into any agreement as required by utility companies for installation of services, including street lighting, all in accordance with the standards of the Town of Fort Erie. All utilities servicing the subdivision shall be underground.

Upon installation and acceptance by the Town, streetlights and streetlight electrical supply system will be added to the Town's inventory.

11. That the streets be named to the satisfaction of the Town.
12. That the Owner agrees, at a minimum, to construct 1.5 metre sidewalks on one side of all internal streets within the subdivision to the satisfaction of the Town.
13. That the design drawings for the water, sanitary sewer and storm water drainage systems, including storm water management, to service this development be submitted to the Town of Fort Erie for review and approval.
14. That prior to approval of the final plan or any on-site grading, the owner submit to the Town of Fort Erie for review and approval two copies of a detailed stormwater management plan for the subdivision and the following plans designed and sealed by a suitably qualified professional engineer in accordance with the Ministry of the Environment documents entitled "Stormwater Management Planning and Design Manual", March 2003, and "Stormwater Quality Guidelines for New Development", May 1991, and in accordance with Town of Fort Erie's Storm Drainage Guidelines, the Town of Fort Erie Lot Grading Policy, Town of Fort Erie Stormwater Management Facility Design, Operation and Maintenance Policy and Standards:
 - a) Detailed lot grading and drainage plans, noting both existing and proposed grades and the means whereby overland flows will be accommodated across the site;
 - b) Detailed sediment and erosion control plans.
15. That the subdivision agreement between the owner and the Town of Fort Erie contain provisions whereby the owner agrees to implement the approved stormwater management plan required in accordance with Condition 14 above.
16. That the Developer is responsible to front-end the construction of watermains, sanitary sewers and storm sewers (where required) on Helena Street from Albany Street to Phillips Street.
17. That the Developer submits a Landscape Plan, pursuant to the Subdivision Control Guidelines and to the satisfaction Town Staff. The Plan shall address pedestrian circulation, site landscaping, streetscape treatments, appropriate buffering of the watercourse block, and interface with Helena Street.
18. That the Developer submits a Streetscape Plan, pursuant to the Subdivision Control Guidelines, showing how the development will interface with Helena Street.
19. That if final approval is not given to this plan within three years of the approval date and no extensions have been granted, draft approval shall lapse. If the owner wishes to request an extension to the draft period, a written explanation with reasons why the extension is required, together with a resolution from the local municipality must be received by the Region prior to the lapsing date.
20. That the Subdivision Agreement contain wording wherein the Owner agrees to implement the mitigation measures and recommendations found in Section 8.0 of the Environmental

Impact Assessment (EIA) prepared by Colville Consulting Inc. (dated July 2017) and Section 6.2 of the Environmental Impact Study (EIS) Addendum prepared by Beacon Environmental Limited (dated February 2022), including but not limited to:

- a. That vegetation removals be undertaken between October 1 and March 14, outside of both the breeding bird nesting period and active bat season. A survey for active bird nests should be conducted prior to any vegetation removal or site alteration planned to occur during this window.
 - b. That any security lighting to be installed on buildings should be downward facing and directed away from natural areas to minimize ambient light exposure to the adjacent natural areas.
 - c. That no construction materials or equipment be located, even on a temporary basis, within the woodland/wetland features, or their buffers.
 - d. That a limit of work fence be installed on the property in the vicinity of the White Wood Aster to help avoid direct impacts.
 - e. That site appropriate low impact development (LID) practices be implemented to off-set the infiltration deficit resulting from the addition of impervious surfaces.
21. That permanent rear-lot fencing be installed along the 15 m buffers adjacent to natural heritage features, to the satisfaction of the Niagara Region. The fencing shall include a permanent wildlife exclusion barrier that extends below grade to contain wildlife movement to the natural heritage features and restrict access to the adjacent rear yards. A No-Gate By-law is recommended to reduce human encroachment and limit the movement of pets into the adjacent natural areas.
22. That an Erosion and Sediment Control (ESC) Plan be prepared for review and approval by the Niagara Region. The Plan should incorporate the recommendations found in both the "Environmental Impact Assessment" prepared by Colville Consulting Inc. (dated July 2017) and the "Environmental Impact Study Addendum" prepared by Beacon Environmental Limited (dated November 2022). All ESC 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.
23. That a Grading Plan be provided to the satisfaction of Niagara Region, that demonstrates that no grading within the natural heritage features and/or their buffers will occur. The Grading Plan shall designate specific locations for stockpiling of soils and other materials which will at a minimum be outside of the natural heritage features and their buffers.
24. That a Buffer / Enhancement Plan be prepared to the satisfaction of the Niagara Region. The Plan should incorporate the recommendations found in both the "Environmental Impact Assessment" (EIA) prepared by Colville Consulting Inc. (dated July 2017) and the "Environmental Impact Study Addendum" prepared by Beacon Environmental Limited (dated November 2022). The Plan should incorporate dense plantings of native trees and shrubs that complement the adjacent vegetation communities. The removal of invasive species should also be incorporated, as appropriate. The Buffer / Enhancement Plan should be completed by a full member of the Ontario Association of Landscape Architects. The Plan shall also include the locations and installation details associated with 5-6 bat boxes, as recommended in the EIA to help provide potential roosting habitat for bat species.

25. That the Developer provide securities to the Town of Fort Erie in the form of a Letter of Credit in the amount of the estimated cost as approved by the Region for the restorative plantings required in accordance with the above conditions and that the Subdivision Agreement include provisions whereby the developer agrees that the Town may draw on the Letter of Credit, if required, to ensure installation of the plantings.
26. That prior to removing the existing farm buildings, surveys be conducted for Barn Swallow and Species at Risk bats in accordance with established protocols and/or through consultation with the Ministry of Environment, Conservation and Parks (MECP).
27. That an Ecological Monitoring Plan be prepared to the satisfaction of Niagara Region. At a minimum the plan should assess the effectiveness of the wildlife exclusion barrier fencing and monitor the success of the restorative plantings and invasive species removals. The Report should be submitted to Regional Development Approvals, with attention to Environmental Planning, devtplanningapplications@niagararegion.ca by September 1 of years 1 through 5. The Report should also include photographs and advise actions necessary to address any deficiencies.

Note: At a minimum, the plan should assess the effectiveness of the wildlife exclusion barrier fencing and monitor the success of the restorative plantings and invasive species removals. The monitoring should take place upon the initiation of any development and/or site alteration and continue up to and including 5 years from full build out.
28. That the Subdivision Agreement contain wording wherein the Owner agrees to implement the approved Erosion and Sediment Control Plan, Grading Plan, Buffer/Enhancement Plan, Relocation and Monitoring Plan, and Ecological Monitoring Plan.
29. That the Subdivision Agreement contain wording wherein the Owner agrees that the Town may draw on the Letter of Credit, if required, to ensure to installation of all required restoration works.
30. That a Phase One and Phase Two Environmental Site Assessment (ESA) prepared by a Qualified Professional (QP) in accordance to the Environmental Protection Act and its associated regulations, as amended, describing the current conditions of the development lands, be submitted to the satisfaction of Niagara Region. A Letter of Reliance from a QP shall be submitted to Niagara Region, to indicate that, despite any limitations or qualifications included in the above submitted reports/documents, the Region is authorized to rely on all information and opinions provided in the reports submitted, in order to clear this condition.
31. That the Owner submits a Stage 1 and Stage 2 Archaeological Assessment prepared by a licensed archaeologist (including any subsequent recommended assessments) to the Ministry of Heritage, Sport, Tourism and Culture Industries (MHSTCI) for review and approval. A copy of each submitted archaeological assessment, as well as applicable Letters of Acknowledgement from the MHSTCI shall be provided to the Niagara Region. The completed archaeological assessments shall cover the areas of the property that will be disturbed as a result of the proposed works, and must be accepted by the MHSTCI, to the satisfaction of Niagara Region, prior to clearance of this condition.

resource concerns have been mitigated and meet licensing and resource conservation requirements.

32. That the following warning clause be included in the Subdivision Agreement with respect to the potential discovery and protection of any archaeological resources encountered during construction activities:

"Should deeply buried archaeological remains/resources be found during construction activities, all activities impacting archaeological resources must cease immediately, and the proponent must notify the Archaeology Programs Unit of the Ministry of Heritage, Sport, Tourism and Culture Industries ("MHSTCI") at (416-212-8886) and contact a licensed archaeologist 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 at (416-326-8800) must be contacted. In situations where human remains are associated with archaeological resources, the 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."

34. That the Owner dedicates a 1.6m road widening to the Regional Municipality of Niagara along the frontage of Regional Road 122 (Helena Street) prior to the issuance of a building permit, to the satisfaction of Niagara Region, in accordance with Regional Official Plan Policy 9.C.
35. That the Owner dedicates a 4.50m by 4.50m daylight triangle at the corner of Regional Road 122 (Helena Street) prior to the issuance of a building permit, to the satisfaction of Niagara Region, in accordance with Regional Official Plan Policy 9C.
36. That the Owner dedicates a one-foot reserve along the frontage Regional Road 122 (Helena Street) including daylight triangles for Lots 1, 11, 21, and 37 prior to the issuance of a building permit, to the satisfaction of Niagara Region, in accordance with Regional Official Plan Policy 9.C.
37. That prior to any construction taking place within the Regional Road Allowance, the applicant shall obtain a Construction Encroachment Permit and Regional Entrance Permit.
38. That prior to approval of the final plan or any on-site grading, the Owner shall submit a Detailed Stormwater Management Plan for the subdivision and the following plans designed and sealed by a qualified professional engineer in accordance with the Ministry of the Environment and Climate Change documents entitled Stormwater Management Planning and Design Manual, March 2013 and Stormwater Quality Guidelines for New Development, May 1991, or their successors to the Niagara Region Planning and Development Services Department for review and approval:
- a. Detailed lot grading, servicing and drainage plans, noting both existing and proposed grades and the means nearby overland flows will be accommodated across the site;

- b. Detailed erosion and sedimentation control plans;

- c. Detailed phasing of construction of the stormwater management facility to coincide with phasing of development of residential lands (internal and external to the subdivision) planned to be serviced by the stormwater management facility.
- 39. That the Subdivision Agreement between the Owner and the Town contain provisions whereby the Owner agrees to implement the approved plan(s) required in accordance with the Conditions above.
- 40. That the Owner submit a written undertaking to the Niagara Region Public Works Department (Development Services Division) that draft approval of this subdivision does not include a commitment of servicing allocation by the Regional Municipality of Niagara as this servicing allocation will be assigned at the time of registration and any pre-servicing will be at the sole risk and responsibility of the Owner.
- 41. That the Owner submit a written undertaking to the Niagara Region Public Works Department (Development Services Division) that all offers and agreements of Purchase and Sale, which may be negotiated prior to registration of this subdivision, shall contain a clause indicating that a servicing allocation for this subdivision will not be assigned until the plan is registered, and a similar clause be inserted in the Subdivision Agreement between the Owner and the Town.
- 42. That prior to final approval for registration of this plan of subdivision, the Owner shall submit the design drawings [with calculations] for the sanitary and storm drainage systems required to service this development and obtain Ministry of Environment Conservation and Parks Approval under the Transfer of Review Program or approval through the new Consolidated Linear Environmental Certificate of Approval.
- 43. That the Owner ensures that all streets and development blocks can provide access in accordance with the Regional Municipality of Niagara's Corporate Waste Collection Policy relating to the curbside collection of waste.
- 44. That a mechanism be provided (i.e. drainage easement) that would ensure the perpetual unimpeded discharge of stormwater onto the private lands.
- 45. Restoration of any disturbed areas to the satisfaction of the NPCA. NPCA Staff require that enhancements to the retained PSW be explored such as invasive species removal and native underplantings to assist with the re-establishment of native species. A Monitoring Plan is required for review by the NPCA to ensure the successful re-establishment of vegetation and the restoration of wetland functions. The NPCA would request that a 10 year period be included (ie: monitoring in years 1, 2, 3, 5, 10) to ensure objectives are achieved.
- 46. Prior to construction, detailed grading, storm servicing, stormwater management, and construction sediment control drawings shall be circulated to this office for review and approval.
- 47. The Owner acknowledges and agrees to convey any easement(s) as deemed necessary by Bell Canada to service this new development. The Owner further agrees and acknowledges to convey such easements at no cost to Bell Canada.

48. The Owner agrees that should any conflict arise with existing Bell Canada facilities where a current and valid easement exists within the subject area, the Owner shall be responsible for the relocation of any such facilities or easements at their own cost.
49. The owner shall complete to the satisfaction of the Director of Engineering of the town of Fort Erie and Canada Post:
- a. Include on all offers of purchase and sale, a statement that advises the prospective purchaser:
 - i. That the home/business mail delivery will be from a designated Centralized Mail Box.
 - ii. That the developers/owners be responsible for officially notifying the purchasers of the exact Centralized Mail Box locations prior to the closing of any home sales.
 - b. The owner further agrees to:
 - i. Work with Canada Post to determine and provide temporary suitable Centralized Mail Box locations which may be utilized by Canada Post until the curbs, boulevards and sidewalks are in place in the remainder of the subdivision.
 - ii. Install a concrete pad in accordance with the requirements of and in locations to be approved by Canada Post to facilitate the placement of Community Mail Boxes
 - iii. Identify the pads above on the engineering servicing drawings. Said pads are to be poured at the time of the sidewalk and/or curb installation within each phase of the plan of subdivision.
 - iv. Determine the location of all centralized mail receiving facilities in co-operation with Canada Post and to indicate the location of the centralized mail facilities on appropriate maps, information boards and plans. Maps are also to be prominently displayed in the sales office(s) showing specific Centralized Mail Facility locations.
 - c. Canada Post's multi-unit policy, which requires that the owner/developer provide the centralized mail facility (front loading lockbox assembly or rear-loading mailroom [mandatory for 100 units or more]), at their own expense, will be in effect for buildings and complexes with a common lobby, common indoor or sheltered space.

Clearance of Conditions

Prior to granting prior to granting approval of the final plan, the Town will require written confirmation from the following agencies that their respective conditions have been met satisfactorily:

- Niagara Region - Conditions 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 29, 40, 41, 42 & 43.
- Niagara Peninsula Conservation Authority - Conditions 44, 45 & 46.
- Bell Canada - Conditions 47 & 48.
- Canada Post - Condition 49.

1. THE LANDS REQUIRED TO BE REGISTERED UNDER THE LAND TITLES ACT:
 - a) Section 160(1) of the Land Titles Act requires all new plans to be registered in the Land Titles system.
 - b) Section 160(2) allows certain exceptions.
2. WATER AND SEWER SYSTEMS
Inauguration or extension of a piped water supply, a sewage system or a storm drainage system is subject to the approval of the Ministry of the Environment, Conservation and Parks under Section 52 and 53 of the Ontario Water Resources Act, R.S.O. 1990.
3. CONVEYING
As the land mentioned above be conveyed to the Municipal Corporation may be more easily described in the conveyance by reference to a registered plan than by "metes and bounds" be it suggested that the description be so worded and be it further suggested the Owner give to the Municipality an undertaking to deposit with the Clerk a properly executed copy of the conveyance concurrent with the registration of the plan.
4. In order to assist the agencies listed above in clearing the conditions of final approval and registration of the plan, it may be useful to forward executed copies of the agreement between the Owner and the Town to these agencies. In this instance, this copy should be sent to:

Alexander Morrison
Senior Development Planner
Niagara Region
Phone: (905) 980-6000
Email: alexander.morrison@niagararegion.ca

Taran Lennard
Watershed Planner
Niagara Peninsula Conservation Authority
Phone: (905) 788-3135 ext. 277
Email: tlennard@npca.ca

Juan Corvalan
Senior Manager - Municipal Liaison
Bell Canada
Email: planninganddevelopment@bell.ca

Andrew Carrigan
Officer, Delivery Planning
Canada Post
Phone: (226) 268-5915
Email: Andrew.Carrigan@Canadapost.ca

5. REVIEW OF CONDITIONS

The applicants are advised that should any of the condition appear unjustified or their resolution appear to be too onerous they are invited to bring their concerns

to Council's attention. Council will consider a request to either revise or delete conditions.

6. SUBDIVISION AGREEMENT

Prior to final approval for registration, a copy of the executed Subdivision Agreement for the proposed development should be submitted to Niagara Region for verification that the appropriate clauses have been included. Niagara Region recommends that a copy of the draft agreement be provided in order to allow for the incorporation of any necessary revisions prior to execution.

7. NOTES

- Prior to granting final plan approval, the Town must be in receipt of written confirmation that the requirements of each condition have been met and all fees have been paid to the satisfaction of Niagara Region.
- Niagara Region recommends that a copy of the draft agreement also be provided in order to allow for the incorporation of any necessary revision prior to execution.
- Clearance requests shall be submitted to the Region in accordance with the Memorandum of Understanding, which stipulates that requests for formal clearance of conditions are to be received and circulated to the Region by the Town of Fort Erie. The Town of Fort Erie is also responsible for circulating a copy of the Draft Agreement, and the Region is unable to provide a final clearance letter until the Draft Agreement is received. The Region is committed to reviewing submissions related to individual conditions prior to receiving the formal request for clearance. In this regard, studies and reports (one hard copy and a PDF digital copy) can be sent directly to the Region with a copy provided to the Town of Fort Erie.

APPENDIX "4" TO ADMINISTRATIVE REPORT PDS-39-2023 DATED MAY 8, 2023

613 Helena - Tomorrow's Meeting and Engineering Comments Taran Lennard to Daryl Vander Veen, Anamika Dilwaria 2023-02-22 03:54 PM
 From "Taran Lennard" <tlennard@npca.ca>
 To "Daryl Vander Veen" <DVanderVeen@forterie.ca>, "Anamika Dilwaria" <ADilwaria@forterie.ca>

Hi Daryl & Anamika,

Due to conflicts tomorrow, neither myself or Adam (our Ecologist) will be available to meet. However, please pass along that if the applicant wishes to speak with us directly, please provide them my contact details and I'd be happy to arrange a brief meeting with them. I notice from your agenda the main item is with respect to the pond relocation. In speaking with Adam, the NPCA is open to ideas of where the pond is to be located – Staff are not set in one specific location. Provided it is protected with an appropriate buffer, the NPCA is likely going to be OK with the location chosen on the property. We are open to ideas, based on how the final layout of this subdivision appears.

The NPCA also offers the following Engineering comments. Please pass these along to the applicant:

- 1) That a mechanism be provided (i.e. drainage easement) that would ensure the perpetual unimpeded discharge of stormwater onto these private lands.
- 2) Indicate the location of the Dry Pond's Spreader Swale (as noted in the 'Scoped Environmental Impact Study Addendum' (dated November 2022) by Beacon Environmental.
- 3) The NPCA understands that the proposed Dry Pond will attenuate post development peak stormwater flows to pre-development conditions. However, the NPCA notes that the water balance study did not include an analysis of the impacts of increased post development surface water runoff volumes on the adjacent wetlands. As such, please confirm that the adjacent wetlands will not be negatively impacted by additional post development storm water runoff volumes.
- 4) (Eventual Condition of Subdivision) Prior to construction, detailed grading, storm servicing, stormwater management, and construction sediment control drawings shall be circulated to this office for review and approval.

As noted above, please advise the applicant to reach out to me should there be any questions, or if they wish to meet one on one. Thank you.

Taran Lennard
Watershed Planner

Niagara Peninsula Conservation Authority (NPCA)
 250 Thorold Road West, 3rd Floor | Welland, ON L3C 3W2
 Tel: 905-788-3135 | extension 277
 email: tlennard@npca.ca

The NPCA is updating our Planning and Permitting Policies! To find out more visit [Get Involved with NPCA](#)

[NPCA Watershed Explorer](#)

Due to the COVID-19 pandemic, the NPCA has taken measures to protect staff and public while providing continuity of services. The NPCA main office is open by appointment only with limited staff, please refer to the [Staff Directory](#) and reach out to the staff member you wish to speak or meet with directly.

Updates regarding NPCA operations and activities can be found at [Get Involved NPCA Portal](#), or on social media at facebook.com/NPCAOntario & twitter.com/NPCA_Ontario.

For more information on Permits, Planning and Forestry please go to the Permits & Planning webpage at <https://npca.ca/administration/permits>.

APPENDIX "4" TO ADMINISTRATIVE REPORT PDS-39-2023 DATED MAY 8, 2023



Fw: Do not rezone 613 Helena - Public Meeting February 13

Carol Schofield to Mayor and Council

2023-02-08 04:25 PM

Cc Chris McQueen, Kelly Walsh, Jonathan Janzen, Alex Herlovitch, Daryl Vander Veen, Anamika Dilwaria

From Carol Schofield/FortErie
To Mayor and Council
Cc Chris McQueen/FortErie@TownOfFortErie, Kelly Walsh/FortErie@TownOfFortErie, Jonathan Janzen/FortErie@TownOfFortErie, Alex Herlovitch/FortErie@TownOfFortErie, Daryl Vander Veen/FortErie@TownOfFortErie, Anamika Dilwaria/FortErie@TownOfFortErie

Good afternoon,

Please find below comments received regarding the above-noted development.

Respectfully submitted,

Carol Schofield, Dipl.M.A.
Manager, Legislative Services / Clerk
Town of Fort Erie / 1 Municipal Centre Drive
Fort Erie, ON L2A 2S6
☎905-871-1600 Ext 2211

Our Focus: Your Future



Please consider the environment before printing this email.

----- Forwarded by Carol Schofield/FortErie on 02/08/2023 04:24 PM -----

From: "Judith Gr" <[redacted]>
To: "cschofield@forterie.ca" <cschofield@forterie.ca>
Date: 02/08/2023 02:51 PM
Subject: Do not rezone 613 Helena

To Dan Vander Veen , Mayor if Fort Erie and Town Council

Im replying in response to the upcoming council meeting Feb 13 2023 on the rezoning of 613 Helene St in the town of Fort Erie. This is important piece of property not only to the numerous wildlife there but the low land is important to drainage of the that areas watershed which helps control local flooding on Kraft Road . Also the proximity to the For Erie Race track of such property that could house horses is one of the few remaining sections of land that can do so .

Please keep this property zoned as it presently is and save our conservation areas that our previous planners had the intelligence to protect.

Judith Greaves
402 Parkdale Ave
Fort Erie ,On L2A4R4

Sent from my iPhone

Fw: Plan of Subdivision-613 Helena St - PUBLIC MEETING FEB. 13

Carol Schofield to Mayor and Council

2023-02-13 04:14 PM

Cc Chris McQueen, Kelly Walsh, Jonathan Janzen, Alex Herlovitch, Daryl Vander Veen

From Carol Schofield/FortErie
To Mayor and Council
Cc Chris McQueen/FortErie@TownOfFortErie, Kelly Walsh/FortErie@TownOfFortErie, Jonathan Janzen/FortErie@TownOfFortErie, Alex Herlovitch/FortErie@TownOfFortErie, Daryl Vander Veen/FortErie@TownOfFortErie

Please refer to the written submission received below concerning the above-noted Public Meeting.

Respectfully submitted.

Carol Schofield, Dipl.M.A.
Manager, Legislative Services / Clerk
Town of Fort Erie / 1 Municipal Centre Drive
Fort Erie, ON L2A 2S6
☎905-871-1600 Ext 2211

Our Focus: Your Future



Please consider the environment before printing this email.

----- Forwarded by Carol Schofield/FortErie on 02/13/2023 04:13 PM -----

From: "Taylor Lawrie" <[redacted]>
To: "cschofield@forterie.ca" <cschofield@forterie.ca>
Date: 02/13/2023 04:10 PM
Subject: Plan of Subdivision-613 Helena St

Good afternoon,

I am writing to you today in regards to the proposed draft plan of subdivision for 613 Helena Street in Fort Erie. Me, as well as many people that I am certain you've herd from, really hope this can be reconsidered as this property is home to so many different types of wildlife. Fort Erie is being built up so much and the animals don't have a place to go. It would be a shame to see this beautiful property turn into an eyesore of yet another subdivision. On behalf of all of the wildlife and the lovely people that currently reside on the property, please please reconsider and scrap the plan of subdivision. Fort Erie is loved for the small town vibe and the farms, not the hustle and bustle of a built up city.. people come here to get away from that. Again, please don't build a subdivision, or anything for that matter, on 613 Helena Street!!

Fw: Application Nos: 350308-0107 & 350309-0481

Carol Schofield to Daryl Vander Veen

2023-02-14 03:21 PM

From Carol Schofield/FortErie
To Daryl Vander Veen/FortErie@TownOfFortErie

Hi Daryl, here's a late submission for 613 Helena.

Carol Schofield, Dipl.M.A.
Manager, Legislative Services / Clerk
Town of Fort Erie / 1 Municipal Centre Drive
Fort Erie, ON L2A 2S6
☎ 905-871-1600 Ext 2211

Our Focus: Your Future



Please consider the environment before printing this email.

----- Forwarded by Carol Schofield/FortErie on 02/14/2023 03:20 PM -----

From: "Nadezda Dohnalova" <[redacted]>
To: "cschofield@forterie.ca" <cschofield@forterie.ca>
Date: 02/13/2023 05:50 PM
Subject: Application Nos: 350308-0107 & 350309-0481

To whom it may concern,

I am not a big writer but me and my family are strongly against this proposal. We drive by this property every day, sometimes several times a day as we own our home near Dominion Rd. and Washington Rd. It is a home for the wildlife. We enjoy seeing deer, turkeys, fox,... as we drive by. We were not against the development close to Waverly Beach but this one so close by is just too many. Where are we pushing the wild animals? Where they suppose to go? Please do not develop on this property. It is home to too many animals. We must protect it.

Thank you for listening.

Nadezda Dohnalova
[redacted]



Planning and Development Services

Prepared for	Council-in-Committee	Report No.	PDS-40-2023
Agenda Date	May 8 th , 2023	File No.	350309-0562 / ZBA-01-2023

Subject	PROPOSED ZONING BY- LAW AMENDMENT 3624 HAZEL STREET S.R. NIAGARA INVESTMENTS INC. (RITA AND SALVATORE VISCA) - OWNER ROBERT MARTIN ENGINEERING INC. (ROBERT MARTIN) – APPLICANT
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Recommendations	<p><u>THAT</u> Council approves the amendment to the Town's Zoning By-law No. 129-90 as detailed in Report No. PDS-40-2023 for the lands known as 3624 Hazel Street, and further</p> <p><u>THAT</u> Council directs Staff to submit the necessary By-law.</p>
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Relation to Council's 2018-2022 Corporate Strategic Plan	Priority: Managed Growth through Responsibility, Stewardship and Preservation
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List of Stakeholders	S.R. Niagara Investments Inc. – Rita and Salvatore Visca (Owner) Robert Martin Engineering Inc. – Robert Martin (Applicant) Residents and Property Owners in the Town of Fort Erie
-----------------------------	--

Prepared by:	Submitted by:	Approved by:
<i>Original Signed</i>	<i>Original Signed</i>	<i>Original Signed</i>
Mackenzie Ceci, RPP Senior Development Planner	Anamika Dilwaria, MCIP, RPP Director, Planning and Development Services	Chris McQueen, MBA Chief Administrative Officer

Purpose

The purpose of this Report is to provide recommendations to Council with respect to the proposed Zoning By-law Amendment application for the subject property known municipally as 3624 Hazel Street.

The Zoning By-law Amendment application was submitted by Robert Martin of Robert Martin Engineering Inc., Applicant for Rita and Salvatore Visca of S.R. Niagara Investments Inc. who is the Owner of the subject property. A Location Plan of the subject property is attached as **Appendix “1”**.

The subject property is designated Low Density Residential in the Ridgeway-Thunder Bay Secondary Plan and is correspondingly zoned Residential 1 (R1) Zone, in accordance with the Town of Fort Erie Comprehensive Zoning By-law No. 129-90, as amended. The Applicant's original proposal involved the retention of the existing single detached dwelling, and rezoning a portion of the subject property fronting on Prospect Point Road North to Residential 2A (R2A) Zone, and the remainder of the subject property that fronts onto Hazel Street to Residential 3 (R3) Zone to facilitate the construction of one semi-detached and four single detached dwellings, as detailed on the Site Plan contained in **Appendix “2”**. The proposed Amendment did not entail any site-specific zoning relief, and would ultimately result in a net increase of two lots, as the subject property is currently comprised of four existing lots of record.

In response to the comments provided by Council and area residents at the April 3rd, 2023 Public Meeting, Planning Staff worked closely with the Applicant and Owner to modify the proposal. The modified proposal, which yields the same number of dwelling units and lots, involves rezoning portions of the subject property fronting on Prospect Point Road North and Hazel Street to R2A Zone, and rezoning the northeast corner of the property to R3 Zone, as detailed on the Site Plan contained in **Appendix “3”**.

Nature of the Site

The subject property is located in the Ridgeway-Thunder Bay neighbourhood of the Town of Fort Erie, at the northwest corner of Hazel Street and Prospect Point Road North. The subject property is ~ 0.43 ha (1.05 ac) in size. The property is comprised of six existing lots of record (Lots 14 to 19 inclusive) from the original 1913 [Plan of Subdivision](#). In response to the comments raised by area residents, Planning Staff would like to clarify that no severances have been granted for the subject property, and that the six lots remain separate and conveyable having not been deregistered by way of a Deeming By-law.

The westernmost lots (Lots 14 and 15) contain an existing single detached dwelling, and are not subject to the proposed Zoning By-law Amendment application. The remaining lots (Lots 16-19 inclusive), representing a lot area of 0.29 ha (0.71 ac), are subject to the proposed application. Staff note that the rear of Lot 17 contains a

detached garage with a residential dwelling unit above, which is proposed to be removed.

The following summarizes the land uses surrounding the subject property:

North: Vacant and wooded Medium Density Residential lands (subject to an active Draft Plan of Condominium application);
South: Hazel Street and single detached dwellings;
East: Prospect Point Road North, Top of the Ridge Daycare, and single detached dwellings; and
West: Single detached dwellings

Planning Context

2020 Provincial Policy Statement (PPS)

The subject property is located within a Settlement Area under the 2020 Provincial Policy Statement (PPS). The policies of the PPS direct growth and development to Settlement Areas, and encourage the building of strong, sustainable, and resilient communities through the efficient use of land, resources, infrastructure, and public service facilities that are planned or available. The PPS also encourages development standards that facilitate intensification, redevelopment and compact forms.

The proposal complies with the policies outlined in the PPS as it will facilitate gentle density and intensification that provides for the efficient and optimal use of existing urban land and municipal infrastructure.

2020 Growth Plan for the Greater Golden Horseshoe (Growth Plan)

The subject property is located within the Greater Golden Horseshoe Growth Plan Area, and is contained within the Delineated Built-up Area. The Growth Plan contains policies that encourage intensification, support a range of housing options, and support the achievement of intensification targets and complete communities.

The proposal complies with the intent of the Growth Plan as it will facilitate gentle density and intensification, introduce a new built form to the neighborhood, and contribute to the achievement of intensification targets and a complete community.

2022 Niagara Official Plan (NOP)

The 2022 Niagara Official Plan (NOP) identifies the subject property as being located within the Urban “Built-up” Area of the Town. The Plan provides opportunities for the integration of gentle density, a mix and range of housing options that considers the character of established residential neighbourhoods, and the development of a mix of residential built forms in appropriate locations to ensure compatibility with established residential areas.

The proposal complies with the intent of the Niagara Official Plan. The proposal represents gentle density and intensification by facilitating the creation of two additional lots for residential development. Further, the modified proposal will contribute to, and diversify the neighbourhood's housing stock, and is responsive to the existing built and natural environment.

Town of Fort Erie Official Plan & Ridgeway-Thunder Bay Secondary Plan

The majority of the subject property is designated Low Density Residential, and the northerly portion of the property is designated Medium Density Residential in accordance with Schedule RTB-2 of the Ridgeway-Thunder Bay Secondary Plan. Section 14.1 – Interpretation of the Official Plan states that when determining the boundary of any designation as shown on any schedule forming part of the Official Plan, a boundary indicated as approximately following lot lines shown on a registered plan of subdivision or lot and concession lines shall follow such lines. For this reason, the Low Density Residential designation is interpreted to apply to the whole of the subject property.

The Low Density Residential designation is reserved for single detached, semi-detached and duplex dwellings, and uses accessory thereto, and provides for a residential density of up to 25 units per hectare. Section 4.18.6 c) of the Secondary Plan states that new or redeveloping lower density development can be expected to comprise smaller lot areas and dimensions, making efficient use of the existing infrastructure and broadening low density housing choices.

The subject property is not located within a zone of archaeological potential in accordance with Schedule D of the Town's Official Plan, nor is it impacted by natural heritage features or hazards in accordance with Schedules C and C1, respectively.

The property is located within a petroleum resource area in accordance with Schedule B of the Town's Official Plan, and within 71 m of a petroleum well. Records indicate that the well was established / spudded in 1939, and was plugged in 1970. The well is now located on the privately-owned property at 556 Prospect Point Road North, which contains a residential use, and is surrounded by other residential and institutional uses.

Planning Staff are of the opinion that the modified proposal complies with the intent and objectives of the Town's Official Plan and the Ridgeway-Thunder Bay Secondary Plan. The proposal represents gentle density and intensification that will produce a residential density of approximately 21 units per hectare, based on a lot area of 0.29 ha, whereas the Secondary Plan envisions a density of up to 25 units per hectare. Further, the proposed built forms (single and semi-detached dwellings) are consistent with the reserved uses of the Low Density Residential designation. Lastly, the proposed lot dimensions meet the intent of Section 4.18.6 c) of the Secondary Plan, and will support a compact development form that utilizes urban land and municipal services efficiently.

Planning Staff are satisfied that the modified proposal is consistent and compatible with the existing built and natural environment, and the surrounding neighbourhood.

Town of Fort Erie Comprehensive Zoning By-law No. 129-1990

The majority of the subject property is zoned Residential 1 (R1) Zone, and the northerly portion of the property is zoned Residential Multiple 1 (RM1-508) Zone in accordance with the Town of Fort Erie Comprehensive Zoning By-law No. 129-90, as amended. Similar to Section 14.1 of the Town's Official Plan, Subsection 1.3 of the Zoning By-law provides policies relating to the interpretation of zone boundaries. When determining the boundary of any zone, a boundary indicated as approximately following lot lines shown on a registered plan of subdivision or lot and concession lines shall follow such lines. For this reason, the R1 Zone is interpreted to apply to the whole of the subject property. The R1 Zone permits one single detached dwelling per lot, uses, buildings and structures accessory thereto, and home occupations.

The Applicant's original proposal involved retaining the existing single detached dwelling and R1 zoning of the lands highlighted in yellow in **Figure 1**, rezoning the lands highlighted in red to Residential 3 (R3) Zone to facilitate the construction of a semi-detached dwelling, and rezone the lands highlighted in blue to Residential 2A (R2A) Zone to facilitate the construction of four single detached dwellings. The original proposal did not involve any site-specific zoning relief, and would ultimately result in a net increase of two lots, as the subject property is currently comprised of four existing lots of record.

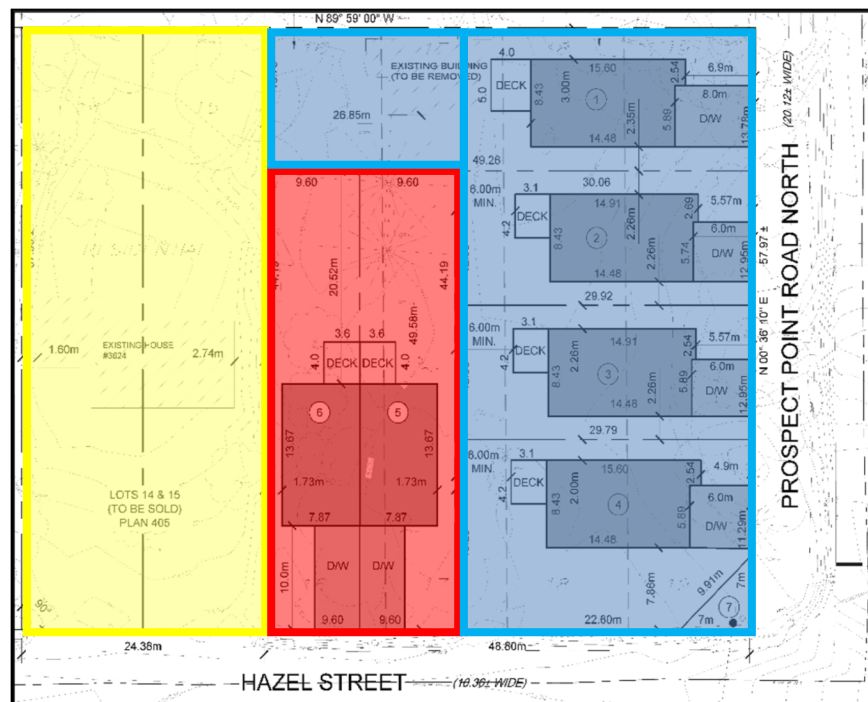
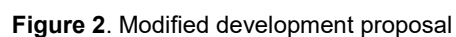


Figure 1. Original development proposal

The modified proposal relocates the semi-detached dwelling to the northeast corner of the subject property, adjacent to lands that are designated and zoned for Medium Density Residential development, and fronts a single detached dwelling on Hazel Street. The goal of this proposal is to maintain a consistent built form and streetscape on Hazel Street, preserve the existing mature maple tree, and compatibly integrate the development with the existing neighbourhood.



Page 233 of 247

assist with maintaining a consistent streetscape along Hazel Street, but it also positions the single detached dwelling outside of the dripline of the mature maple tree, thus allowing for the retention of the tree, and minimizing impacts thereto. Further, to minimize impacts on the root system of the maple tree, the proposed driveway on Lot 6 has been positioned to the west side of the lot. Staff recommend including site-specific provisions in the proposed R2A zoning for Lot 6 relative to the minimum front yard setback and minimum setback between the driveway and easterly interior side lot line to ensure that the future single detached dwelling on Lot 6 is responsive to the existing built and natural environment.

To facilitate the modified proposal, Planning Staff note that minor reductions to the lot frontages of Lots 1 and 2 are required. The Zoning By-law has a minimum lot frontage requirement of 9.5 m per interior semi-detached dwelling lot, whereas the Applicant is providing lot frontages of 9.4 m for each of the two lots. Staff support the requested reductions in lot frontage as they are fairly minor in nature. Further, the lots will exceed the lot area requirement of the R3 Zone, and will be of an adequate size to accommodate the proposed dwellings, amenity areas, services, and parking. Lastly, a reduction of 0.1 m will have a minimal impact on the streetscape.

Further, as a result of the lot frontage reductions, the Applicant is seeking relief for the interior side yard setbacks on either side of the proposed semi-detached dwelling units. The minimum interior side yard setback requirement ranges from 1.2 m to 2.2 m, depending on the ultimate height of the dwelling. The Applicant is proposing a setback of 1.57 m across-the-board. Planning Staff support the requested reductions as the setback will provide adequate separation between adjacent residential uses, and is consistent with the interior side yard setback requirements of other residential zones, including the R2A Zone.

In accordance with the modified conceptual Site Plan contained in **Appendix “3”**, Planning Staff note that the proposal can accommodate rear yard setbacks in excess of 10.0 m, which is consistent with the existing and surrounding R1 Zone. To ensure that this is achieved, Staff recommend the inclusion of a site-specific minimum rear yard setback provision of 10.0 m. This provision will also ensure that the proposed single detached dwelling on Lot 5 is generously setback from the mature maple tree.

In summary, Planning Staff are supportive of the modified proposal. Staff are of the opinion that the proposal represents good planning as it assists with maintaining a consistent built form and streetscape along Hazel Street, preserving the existing mature maple tree, and compatibly integrating the development with the existing neighbourhood.

Studies

An [Environmental Impact Study](#) was submitted with the application. The results of this Study are discussed in detail throughout Report No. [PDS-27-2023](#).

Financial/Staffing and Accessibility (AODA) Implications

All costs associated with processing the application is the responsibility of the Owner / Developer. No staffing implications are expected.

No impediments to the AODA legislation are expected to be developed as a result of the proposed application.

Policies Affecting Proposal

A Public Information Open House for this application was held on March 8th, 2023. All property owners within 120 m of the subject property were notified of the Open House via mailed notice.

Notice of the April 3rd, 2023 Public Meeting was circulated in accordance with the *Planning Act* by placing an advertisement in the March 9th, 2023 edition of the *Fort Erie Post*. In addition, all property owners within 120 m of the subject property were mailed a “Notice of Complete Application and Public Meeting” on March 14th, 2023. Further, area residents that provided their contact information at the Public Information Open House were emailed a “Notice of Complete Application and Public Meeting” on March 14th, 2023.

Land use policies that apply to the subject lands are contained in the Town’s Official Plan and applicable Regional and Provincial regulations.

Comments from Relevant Departments/Community and Corporate Partners

A request for comments regarding this application was circulated to relevant Departments/Community and Corporate Partners on February 2nd, 2023. Comments received prior to the finalization of the Information Report are contained in [PDS-27-2023](#) for review. Additional comments received following the finalization of the Information Report are summarized below.

Town of Fort Erie Environmental Advisory Committee (EAC)

Planning Staff note that the subject property is not impacted by the Environmental Conservation (EC) Overlay Zone. However, in accordance with EAC’s Terms of Reference, the Environmental Impact Study was circulated to the Committee for review and comment. The Committee inquired if a Tree Preservation Plan had been completed, and questioned the proposed removal of four trees along the north property line, directly adjacent to proposed Lot 1. Staff note that the completion of a Tree Preservation Plan will be required as a condition of the future consent applications. Further, the Applicant has indicated that the four trees along the north property line, adjacent to Lot 1 will be subject to removal due to their poor health and structural condition, and will likely be impacted as a result of grading and construction.

Public Comments

A Public Information Open House for this application was held on March 8th, 2023. The Open House was attended by Town Staff, Councillor Lewis, an Agent on behalf of the Owner, and four area residents. In addition, written submissions were submitted by two additional area residents, which are included in **Appendix “5”** for review. Another area resident contacted Staff by phone to express their concern and opposition.

The following areas of concern were identified by area residents:

- the preservation of trees and wildlife;
- the proposed built form, overdevelopment, and integration with the existing neighbourhood; and
- disruption as a result of eventual construction

Responses to the above-mentioned concerns are addressed in Report No. [PDS-27-2023](#).

At the April 3rd, 2023 Public Meeting, additional comments and concerns were raised by area residents and some members of Council with respect to the following:

- compatible integration;
- rear yard depth; and
- neighbourhood walkability

Responses to these comments and concerns are provided below.

Compatible Integration

Upon reviewing the Applicant’s original proposal, area residents and some members of Council expressed concerns with respect to the compatibility of the proposal.

Staff’s Response

The modified proposal relocates the semi-detached dwelling to the northeast corner of the subject property, adjacent to lands that are designated and zoned for Medium Density Residential development, and fronts a single detached dwelling on Hazel Street. The proposal aims to respond to the existing built and natural environment by maintaining a consistent built form and streetscape on Hazel Street, preserving the existing mature maple tree, and compatibly integrating the development with the existing neighbourhood.

Rear Yard Depth

Upon reviewing the Applicant’s original proposal, some members of Council expressed concern with respect to the size of the rear yards.

Staff's Response

Modifying the proposal has resulted in larger lot depths and rear yards for the proposed lots. Planning Staff recommend adding a site-specific minimum rear yard setback provision of 10.0 m to the proposed R2A and R3 zones. This will address the concern raised by some members of Council by achieving an amenity area that is of a sufficient size, while also ensuring that the proposed single detached dwelling on Lot 5 is generously setback from the mature maple tree.

Walkability

Area residents expressed that the neighbourhood experiences a lot of pedestrian activity.

Staff's Response

Staff note that there are currently no sidewalks in the area. As a condition of the future consent applications, Planning Staff will be requesting that the Applicant contribute cash-in-lieu of constructing a 1.50 m wide concrete sidewalk across the entire frontage along Prospect Point Road North, and the frontage along Hazel Street that is east of Lot 15. The cash-in-lieu contribution will be reflective of the Town's average cost for the construction of a 1.50 m wide concrete sidewalk. Infrastructure Services Staff have been consulted with respect to this approach. This contribution reflects a commitment to improve the neighbourhood's walkability and pedestrian safety.

Alternatives

Council may elect to deny the Zoning By-law Amendment application. Planning Staff do not recommend this as the proposal is consistent with Provincial, Regional, and Town planning policies, and represents good land use planning.

Second Opinion Clause

Should a motion be placed before Council that does not support Planning Staff's recommendations, Council is advised to table its decision to consider the matter further or until such time as a second planning opinion on the motion, from an independent planning consultant, can be obtained. If the Applicant has an opinion from an independent planning consultant then Council can consider their report as the second planning opinion. In the event, the second planning opinion, obtained by the Clerk or provided by the Applicant, is supported by Council, and Council makes a decision based on that second planning opinion, then the planner who has provided the second opinion shall be retained for the purpose of an Ontario Land Tribunal hearing. The procedures under PLA-06 shall be followed as well.

Communicating Results

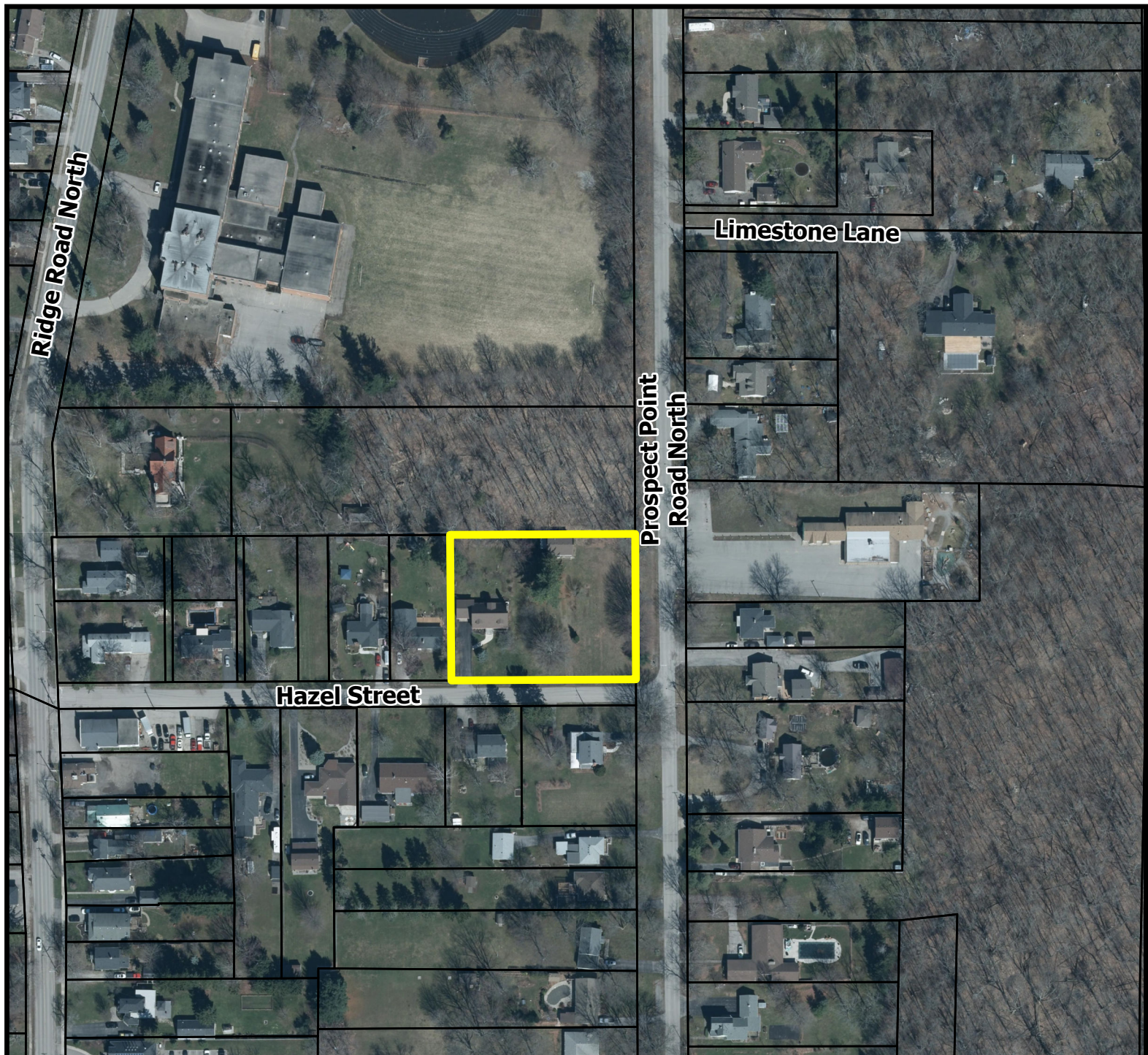
There are no communication requirements at this time.

Conclusion

Planning Staff are of the opinion that the modified proposal to amend the Zoning By-law represents good planning. The application will facilitate the construction of one semi-detached and four single detached dwellings, and a net increase of two residential lots. The proposal aligns with the intent and objectives of the Town's Official Plan and the Ridgeway-Thunder Bay Secondary Plan, alongside Provincial and Regional policies. Staff are of the opinion that the proposal is consistent and compatible with the existing natural and built environment. For these reasons, Planning Staff recommend that Council approves the Zoning By-law Amendment application, subject to the modifications and recommendations outlined in this Report.

Attachments

- Appendix "1"** - Location Plan
- Appendix "2"** - Original Site Plan
- Appendix "3"** - Modified Site Plan
- Appendix "4"** - Zoning Review and Comparison



0 25 50 Meters

LOCATION PLAN

Proposed Zoning By-law Amendment - 3624 Hazel Street



Subject Lands - 3624 Hazel Street

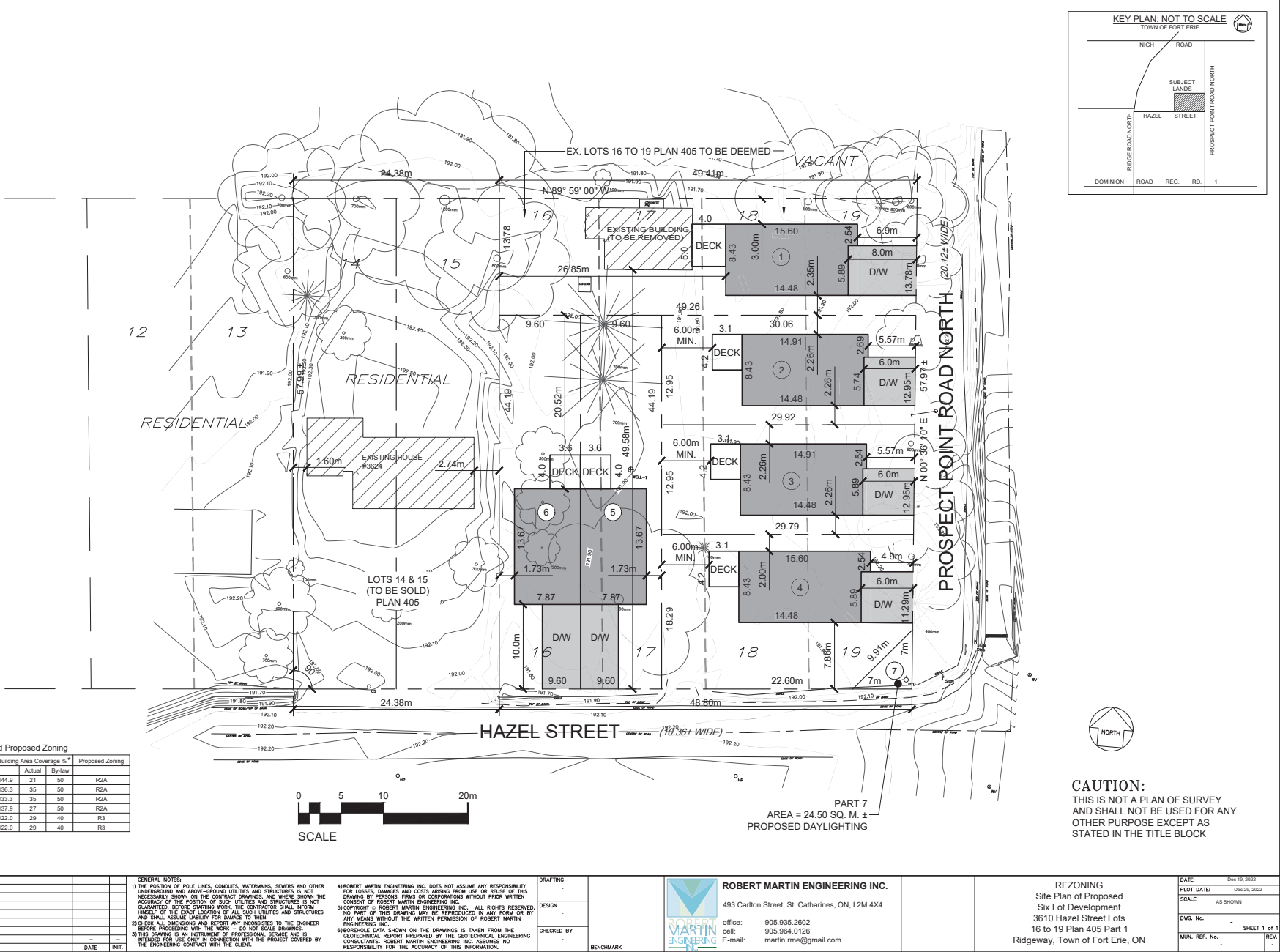


Planning and Development Services

Map Created March 16, 2023



APPENDIX "2" TO ADMINISTRATIVE REPORT PDS-40-2023 DATED MAY 8 2023



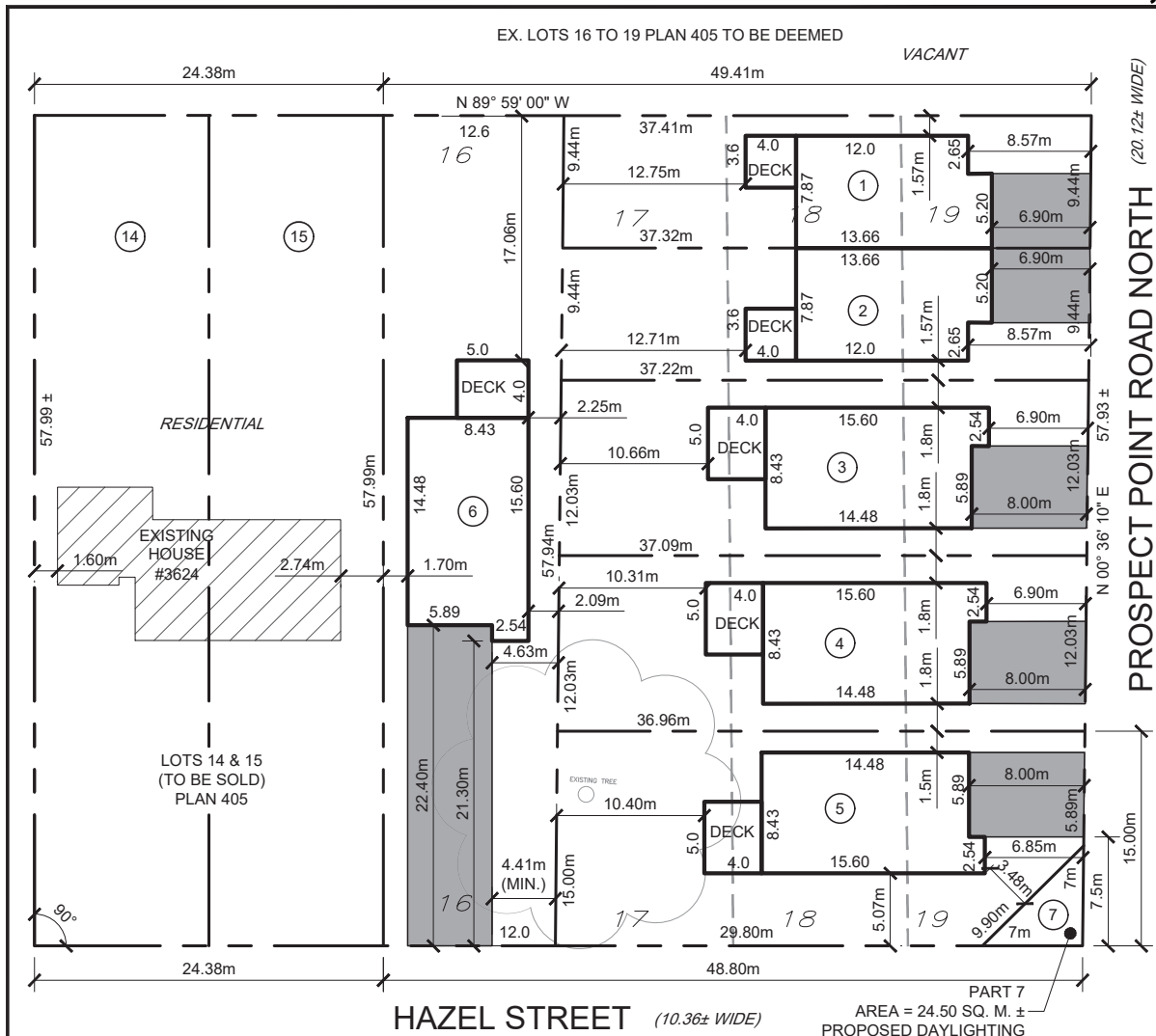


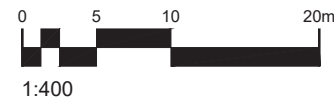
Table of Lot Details and Proposed Zoning

Lot No.	Area	Building Area Coverage % *	Actual		Proposed Zoning
			Actual	By-law	
1	352.8	122.0	35	40	R3 **
2	351.8	122.0	35	40	R3 **
3	447.0	144.9	33	50	R2A
4	445.5	144.9	33	50	R2A
5	528.3	144.9	28	50	R2A
6	695.7	144.9	21	50	R2A

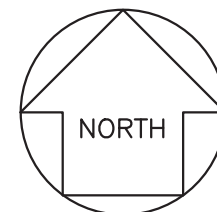
* INCLUDES DECK

** SIDE YARD AND FRONTAGE RELIEF REQUESTED FOR LOTS 1 & 2

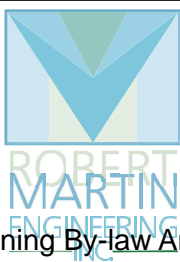
NOTE:
DIMENSIONS SHOWN MAY VARY ONCE A PLAN OF SURVEY IS
PREPARED BY AN O.L.S.



REVIEW COPY



REV 3 Apr.21/23 Lot's 5 & 6 RM
REV 2 Apr.19/23 Revised Concept RM
REV 1 Apr.4/23 Lot's 1 & 6 RM



ROBERT MARTIN ENGINEERING INC.
493 Carlton Street,
St. Catharines, ON,
L2M 4X4
office: 905.935.2602
cell: 905.964.0126

REVISED REZONING
Plan of Proposed
Six Lot Development
3610 Hazel Street Lots
16 to 19 Plan 405 Part 1
Ridgeway

DATE: Dec 19, 2022

PLOT DATE: Apr 21, 2023

SCALE AS NOTED

DWG. No. -

MUN. REF. No.

Page 241 of 247

Proposed Zoning By-law Amendment 3624 Hazel Street - Town of Fort Erie ON

APPENDIX "4" TO ADMINISTRATIVE REPORT PDS-40-2023 DATED MAY 8, 2023

Table 1. Review of the modified conceptual development proposal against the underlying Residential 1 (R1) Zone provisions and the standard Residential 2A (R2A) Zone provisions.

PROVISION	PERMITTED UNDER EXISTING R1 ZONE	PERMITTED UNDER STANDARD R2A ZONE	PROPOSED
Permitted Uses	One single detached dwelling	One single detached dwelling	One single detached dwelling
Minimum Lot Frontage	18.0 m (interior lot) 20.0 m (corner lot)	12.0 m (interior lot) 15.0 m (corner lot)	12.0 m (Lots 3, 4 & 6) 15.0 m (Lot 5)
Minimum Lot Area	600.00 m ²	375.0 m ²	<ul style="list-style-type: none"> Lot 3 - 447.0 m² Lot 4 - 445.5 m² Lot 5 - 528.3 m² Lot 6 - 695.7 m²
Maximum Lot Coverage	<ul style="list-style-type: none"> 25.0 % for lots less than 600.0 m² in size 30.0 % for lots between 600.0 m² and 800.0 m² in size 	50.0 %	<ul style="list-style-type: none"> Lot 3 - 33.0 % Lot 4 - 33.0 % Lot 5 - 28.0 % Lot 6 - 21.0 %
Minimum Front Yard Setback	7.5 m	6.0 m to garage 3.0 m to other parts of dwelling	<ul style="list-style-type: none"> Lot 3 - 8.0 m to garage, 6.9 m to other parts of dwelling Lot 4 - 8.0 m to garage, 6.9 m to other parts of dwelling Lot 5 - 8.0 m to garage, 6.9 m to other parts of dwelling Lot 6 - 22.4 m to garage, 21.3 m to other parts of dwelling
Minimum Interior Side Yard Setback	i) 1.5 m for a one-storey dwelling ii) 2.0 m for a two-storey dwelling iii) 2.5 m for a two-and-a-half-storey dwelling iv) On an interior lot where no attached garage or carport is provided, the minimum side yard on one side shall be 3.0 m	1.2 m however, on an interior lot where no attached garage or carport is provided, the minimum side yard on one side shall be 3.0 m	<ul style="list-style-type: none"> Lot 3 - 1.8 m Lot 4 - 1.8 m Lot 5 - 1.5 m Lot 6 - 1.7 m (west) & 2.1 m (east) <p><i>* attached garages are proposed for each dwelling</i></p>

APPENDIX "4" TO ADMINISTRATIVE REPORT PDS-40-2023 DATED MAY 8, 2023

Minimum Exterior Side Yard Setback	3.0 m, except that an attached garage or carport which faces the exterior side lot line shall be located no closer than 6 m to the exterior side lot line	3.0 m, except that an attached garage or carport which faces the exterior side lot line shall be located no closer than 6 m to the exterior side lot line	<ul style="list-style-type: none"> Lot 5 – 5.07 m and 3.48 m, except that an attached garage or carport which faces the exterior side lot line shall be located no closer than 6.0 m to the exterior side lot line
Minimum Rear Yard Setback	10.0 m	6.0 m	In excess of 10.0 m for each lot
Maximum Building Height	2.5 storeys / 9.0 m	2.5 storeys / 10.50 m	2.5 storeys / 10.50 m

Table 2. Review of the modified conceptual development proposal against the underlying Residential 1 (R1) Zone provisions and the standard Residential 3 (R3) Zone provisions.

PROVISION	PERMITTED UNDER EXISTING R1 ZONE	PERMITTED UNDER STANDARD R3 ZONE	PROPOSED
Permitted Uses	One single detached dwelling	<ul style="list-style-type: none"> One single detached dwelling Semi-detached dwelling Duplex dwellings 	<ul style="list-style-type: none"> Semi-detached dwelling
Minimum Lot Frontage	18.0 m (interior lot) 20.0 m (corner lot)	9.5 m (per semi-detached dwelling unit)	<ul style="list-style-type: none"> Lot 1 - 9.4 m Lot 2 - 9.4 m
Minimum Lot Area	600.0 m ²	305.0 m ² (per semi-detached dwelling unit)	<ul style="list-style-type: none"> Lot 1 – 352.8 m² Lot 2 – 351.8 m²
Maximum Lot Coverage	30.0 % (for lots between 600.0 m ² and 800.0 m ² in size)	Two storeys – 40.0%	35.0 %
Minimum Front Yard Setback	7.5 m	6.0 m to garage 3.0 m to other parts of dwelling	6.9 m to garage 8.6 m to other parts of dwelling

APPENDIX "4" TO ADMINISTRATIVE REPORT PDS-40-2023 DATED MAY 8, 2023

Minimum Interior Side Yard Setback	<p>v) 1.5 m for a one-storey dwelling</p> <p>vi) 2.0 m for a two-storey dwelling</p> <p>vii) 2.5 m for a two-and-a-half-storey dwelling</p> <p>viii) On an interior lot where no attached garage or carport is provided, the minimum side yard on one side shall be 3.0 m</p>	1.2 m, plus an additional 0.5 m for every storey or part thereof above the ground floor; except where no private garage or carport is provided, a side yard of not less than 3.0 m on one side of such semi-detached dwelling is required	1.57 m, except where no private garage or carport is provided, a side yard of not less than 3.0 m on one side of such semi-detached dwelling is required
Minimum Exterior Side Yard Setback	3.0 m, except that an attached garage or carport which faces the exterior side lot line shall be located no closer than 6 m to the exterior side lot line	3.0 m, except that an attached garage or carport which faces the exterior side lot line shall be located no closer than 6 m to the exterior side lot line	N/A
Minimum Rear Yard Setback	10.0 m	6.0 m	12.7 m
Maximum Building Height	2.5 storeys / 9.0 m	2.5 storeys / 9.0 m	2.5 storeys / 9.0 m



The Municipal Corporation of the Town of Fort Erie
Business Status Report
Planning and Development Services
May 8, 2023

Forecasted Reports	Status	Source
Harbourtown Subdivision Agreement – Recommendation Report	May 16	Application
Award of Contract – Official Plan Consulting Services	May 29	Legislative
Short Term Rental Study and Consultant Presentation	May 29	Legislative
Award of Contract – Heritage Consultant	May 29	Legislative
<i>By-law 3624 Hazel Street, ZBA</i>	May 29	Application
<i>By-law -525 Lake Avenue - ZBA</i>	May 29	Application
<i>By-law – 613 Helena Street – OPA & ZBA</i>	May 29	Application
<i>By-law – 010747 Kraft Road – ZBA & Draft Plan of Subdivision</i>	May 29	Application
<i>By-law – 272 Ridge Road South - ZBA</i>	May 29	Application
<i>By-law – 214 Courtwright Street – ZBA, OPA</i>	May 29	Application

Prepared By:

Original Signed

Anamika Dilwaria, MCIP, RPP
Director, Planning & Development Services

Respectfully Submitted By:

Original Signed

Chris McQueen, MBA
Chief Administrative Officer

The Municipal Corporation of the Town of Fort Erie
Business Status Report
Infrastructure Services
May 8, 2023

Forecasted Reports	Source	Status
Non-Revenue Water – Report	Operating Budget	May 16, 2023
402 Ridge Road (former works yard) – Soil Testing Report	Capital Budget	May 16, 2023
Closing Triangle Roads By-law	Operating Budget	May 29, 2023
Disher Street Watermain Replacement – NRFP Award	Capital Budget	June 12, 2023
Gibson Centre Expansion Architectural Service – NRFP Award	Capital Budget	June 12, 2023
Ridgeway Road Watermain Replacement – NRFP Award	Capital Budget	June 12, 2023
Traffic By-laws Update Report	Operating Budget	June 12, 2023
Ditching Maintenance Policy Report	Operating Budget	June 12, 2023
Parking Lot Policy Report	Operating Budget	June 12, 2023
Sims Ave – New Capital Project – Budget Amendment	Capital Budget	June 12, 2023
Ditching By-law	Operating Budget	June 26, 2023
Parking Lot By-law	Operating Budget	June 26, 2023
Load Restriction By-law	Operating Budget	June 26, 2023
2000-89 Traffic By-laws Update	Operating Budget	June 26, 2023

Prepared By:

Original signed:

Respectfully Submitted By:

Original signed:

Kelly Walsh, P.Eng
Director, Infrastructure Services

Chris McQueen, MBA
Chief Administrative Officer



The Municipal Corporation of the Town of Fort Erie
Business Status Report
Corporate Services; Community Services; Fire and Emergency Services
May 8, 2023

Forecasted Reports	Source	Status
Code of Conduct	Report	June 12

Prepared by:

“original signed”

Chris McQueen, MBA
Chief Administrative Officer

Prepared by:

“original signed”

Mark Schmitt,
Fire Chief

Prepared by:

“original signed”

Jonathan Janzen, Director, Corporate
Services/Treasurer