



The Municipal Corporation of the Town of Fort Erie

Council-in-Committee Meeting Agenda

Monday, September 12, 2022 - 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**

- (a) Open House

Re: Proposed Combined Official Plan and Zoning By-law Amendment - 214 Windmill Point Road South - Owner: Joseph Moore - Applicant: Steven Rivers (South Coast Consulting) - Tuesday, September 20, 2022 - 5:00 p.m. - Town Hall Atrium

- (b) Proposed Draft Plan of Subdivision and Zoning By-law Amendment

Re: 613 Helena Street - Owner: Hunain Siddiqui & Mohammad Feroz - Agent: Tracy Tucker (IBI Group) - Monday, October 3, 2022 - 6:00 p.m. - Council Chambers, Town Hall. The information report will be available by 5:00 p.m. on Wednesday, September 28, 2022.

- (c) Proposed Draft Plan of Subdivision - 0-10972 Seymour Avenue - Owner: Rukksana Moin (FINA Construction Ltd.) - Applicant: M. Arshad Siddiqui (C-Architecture) - Monday, October 3, 2022 - 6:00 p.m. - Council Chambers, Town Hall. The information report will be available by 5:00 p.m. on Wednesday, September 28, 2022.

6. Public Meetings

- (a) Proposed Zoning By-law Amendment & Plan of Subdivision

Re: Peace Bridge Village Phase 4 Subdivision (0-10268 Louisa Street) - Owner: Ashton Homes (Western) Ltd. (Aldo Vercillo) - Agent: Upper Canada Consultants (William Heikoop). The Applicant's request is to develop 29 lots for single detached dwellings, 6 blocks for a total of 36 townhouse dwellings, and 1 block for a future road connection. The lands are currently designated Urban Residential and Environmental Conservation, and zoned Neighbourhood Development (ND) Zone and Environmental Conservation (EC) Overlay Zone. The request is to change the zoning to a site-specific Residential 2A (R2A) Zone for the single detached dwellings and a site-specific Residential Multiple 1 (RM1) Zone for the townhouse dwellings. R2A Zone would permit reduced lot frontage for a corner lot and reduced lot area, and the RM1 Zone would permit reduced lot area, increased density, increased lot coverage and a reduced planting strip width where it abuts a street. Removal of the Environmental Conservation (EC) Overlay Zone from the subject lands is also being requested. *(Presentation by Daryl Vander Veen, Intermediate Development Planner)*

To participate residents can attend in person in Council Chambers, Town Hall, OR virtually via audio/video, web or telephone. Send an email to Daryl Vander Veen, Intermediate Development Planner (dvanderveen@forterie.ca) or 905-871-1600 ext. 2509 for information on joining the zoom meeting.

Link: <https://www.forterie.ca/pages/CurrentPublicNotices>

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PDS-63-2022

Proposed Draft Plan of Subdivision and Zoning By-law Amendment - Peace Bridge Village Phase 4 - 0-10268 Louisa Street - Ashton Homes (Western) Ltd (Aldo Vercillo) - Owner - Upper Canada Consultants (William Heikoop) - Agent

Recommendation:

That: Council receives for information purposes Report No. PDS-63-2022 regarding a proposed Draft Plan of Subdivision and Zoning By-law Amendment for Peace Bridge Village Phase 4 Subdivision (0-10268 Louisa Street).

[PDS-63-2022 Peace Bridge Village Phase 4 Information Report - FINAL](#)

- (b) Proposed Official Plan, Zoning By-law and Site Plan Control By-law Amendments

Re: To Regulate Commercial and Medical Cannabis Operations. These amendments will include updated definitions for both commercial and medical cannabis operations, provisions that the use be permitted indoors only, emit no odour and other various setback and study requirements to further regulate the use. *(Presentation by Chris Millar, Senior Neighbourhood Planner/Urban Designer Planner)*

To participate residents can attend in person in Council Chambers, Town Hall, OR virtually via audio/video, web or telephone. Send an email to Chris Millar, Senior Neighbourhood Planner/Urban Designer Planner (cmillar@forterie.ca) or 905-871-1600 ext. 2504 for information on joining the zoom meeting.

Link: <https://www.forterie.ca/pages/CommunityPlanningPublicNotices>

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PDS-64-2022 Proposed Combined Official Plan, Zoning By-law and Site Plan Control By-law Amendments - Commercial Growth of Cannabis for Medical and Recreational Purposes

Recommendation:

That: Council receives Report No. PDS-64-2022 for information purposes regarding a proposed Official Plan Amendment, Zoning By-law Amendment and Site Plan Control By-law Amendment to regulate the commercial growth of cannabis for medical and recreational purposes.

[PDS-64-2022 Cannabis OPA,ZPA,SPC Information Report FINAL](#)

7. Consent Agenda Items

7.1 Request to Remove Consent Agenda Items

7.2 Consent Agenda Items for Approval

190 - 215

PDS-62-2022 Nigh Road Draft Plan of Subdivision – Extension of Draft Plan Approval,

Subdivision Agreement & Pre-Servicing Approval – 1589 Nigh Road, North of Stephens Road, Upper Canada Consultants (William Heikoop & Ethan Laman) – Agent – 2538070 Ontario Limited (Bryce Ivanchuk) – Owner/Developer ***(Postponed from August 22, 2022 Regular Council Meeting - Previously Moved by Councillor Noyes and Seconded by Councillor McDermott as Resolution No. 1A)***

Recommendation:

That: Council extends draft plan approval for the Nigh Road draft plan of subdivision until November 12, 2023, and the Owner and Regional Municipality of Niagara Planning and Development Services be so advised, and further

That: Council directs that the conditions of approval for the Nigh Road draft plan of subdivision be amended as detailed in Appendix “5” to Report No. PDS-62-2022, and further

That: Council directs that written notification of the amended conditions is not required due to the minor nature of the changes in accordance with Section 51(47) of the *Planning Act*, and further

That: Council authorizes the entry into a Subdivision Agreement with 2538070 Ontario Limited for the Nigh Road draft plan of subdivision, and further

That: Council permits the Developer to pre-service the subdivision prior to registration of the Subdivision Agreement subject to receipt of the drawings, security deposit, cash payment, approvals, insurance certificate, and letter of indemnification to the satisfaction of the Town, and further

That: Council authorizes staff to submit a by-law to execute the Subdivision Agreement and associated documents.

[PDS-62-2022 Nigh Road Draft Plan of Subdivision FINAL](#)
[MEMO - PDS-62-2022 - Nigh Road Draft Plan of Subdivision](#)

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PDS-66-2022

Proposed Zoning By-law Amendment and Draft Plan of Subdivision - 726 Gorham Road - Urban in Mind - Jacob Dickie (Agent)

- 2655321 Ontario Ltd. - Mark Spadafora
(Owner)

Recommendation:

That: Council approves the amendment to the Town's Zoning By-law No. 129-90 as detailed in Report No. PDS-66-2022 for the lands known as 726 Gorham Road, and further

That: Council approves the Draft Plan of Subdivision for 726 Gorham Road dated December 23, 2021, showing 8 lots for single detached dwellings, as attached as Appendix "2" of Report No. PDS-66-2022, 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 "5" of Report No. PDS-66-2022, and further

That: Council directs staff to circulate the Conditions of Draft Plan Approval in Appendix "5" of Report No. PDS-66-2022 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-66-2022 726 Gorham Road - Recommendation Report - FINAL](#)

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PDS-67-2022 Lions Sugarbowl Park Pavilion Funding Request

Recommendation:

That: Council consider the allocation of funds for the Lions Sugarbowl Park pavilion installation through the 2023 Capital Budget deliberations, and further

That: Council consider acceptance of the donations of \$50,000 from the Fort Erie Lions Club and \$20,000 from the Underwater Recovery Unit towards the installation of the Lions Sugarbowl Park pavilion through the 2023 capital budget deliberations.
[PDS-67-2022 Lions Sugarbowl Park Pavilion Funding Request FINAL](#)

251 - 254

IS-31-2022 Award of Contract for the Supply and Installation of a Building Automation System at the E.J. Freeland Community Centre - Contract ISF-22P-EJFP22

Recommendation:

That: Council accepts and approves the proposal from Trane Canada ULC. to supply and install a building automation system at the EJ Freeland Community Centre (Contract No. ISF-22P-EJFP22) to the upset limit of \$94,952.77 (including 13% HST).
[IS-31-2022 - EJFCC BAS Supply and Instal - RFP Award](#)

255 - 258

IS-32-2022 Award of Tender for a 2022 F-250 4x4 - Contract No. ISO-22T-P14422

Recommendation:

That: Council accepts the tender submission for the purchase of a 2022 F-250 4x4 SD Regular Cab 8' box 142" WB XL - Contract ISO-22T-P14422 from Brock Ford Sales of Niagara Falls, Ontario for a total upset limit of \$59,890.00 (inclusive of H.S.T.), and further

That: Council amends the 2022 Fleet Capital Budget to supplement the purchase of the 2022 Parks Pickup Truck, Capital Account CA-83800-P14422 by \$27,000 with funding from the Fleet Equipment Reserve.
[IS-32-2022 - Award of Purchase of PARKS Pick-Up P14422](#)

259 - 262

IS-33-2022 Award of Tender for a 2023 Freightliner Tandem Unit - Contract No. ISO-22T-R43522

Recommendation:

That: Council accepts the tender submission for the purchase of a 2023 Freight Liner Tandem Axle Cab and Chassis with Sander Unit, Snow Plow and Wing Installed - Contract ISO-21T-R43421 from Metro Truck Group in the amount of \$361,507.34 (including 13% HST), and further

That: Council amends the 2022 Fleet Capital Budget to supplement the purchase of the 2022 Roads Dump/Plow, Capital account CA-83800-R43522 by \$38,000 with funding from the Fleet Equipment Reserve.
[IS-33-2022 - Award of Purchase of Replacement Tandem](#)

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IS-34-2022 Award of Tender for a 2022 F-150 - Contract No. ISO-22T-R13322

Recommendation:

That: Council accepts the tender submission for the purchase of a 2022 F-150 4x4 SuperCrew Cab 5.5' box 145" WB XL - Contract ISO-22T-R13322 from Brock Ford Sales of Niagara Falls, Ontario for a total upset limit of \$55,370.00 (inclusive of H.S.T.), and further

That: Council amends the 2022 Fleet Capital Budget to supplement the purchase of the 2022 Roads Pickup Truck, Capital Account CA-83800-R13322 by \$11,000 with funding from the Fleet Equipment Reserve.

[IS-34-2022 - Award of Purchase of ROADS Pick-Up R13322](#)

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IS-35-2022 Award of Tender for a 2022 F-150 - Contract No. ISO-22T-U11322

Recommendation:

That: Council accepts the tender submission for the purchase of a 2022 F-150 4x4 Regular Cab 8' box 141" WB XL - Contract ISO-22T-U11322 from Brock Ford Sales of Niagara Falls, Ontario for a total upset limit of \$52,658.00 (inclusive of H.S.T.), and further

That: Council amends the 2022 Fleet Capital Budget to supplement the purchase of the 2022 Utilities Pickup Truck, Capital Account CA-83800-U11322 by \$16,000 with funding from the Fleet Equipment Reserve.

[IS-35-2022 - Award of Purchase of UTILITIES Pick-Up U11322](#)

271 - 274

CS-14-2022 Adjustments, Rebates, Under Section 357 and 358 for 2020. 2021 and 2022

Recommendation:

That: Council approves the cancellation, reduction or refund of taxes and penalties in the amount of \$30,469.26 as per Appendix "1" to Report No. CS-14-2022 in accordance with Section 357 and 358 of the *Municipal Act, 2001* and directs staff to submit a by-law to Council.

[CS-14-2022 - Adjustments, Rebates Under 357 & 358 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

275 - 294

PDS-19-2021

Proposed Zoning By-law Amendment - 0 - 13365 Pettit Road - D.C. McCloskey Engineering Ltd. - Mark McCloskey (Agent) - KRS Holdings Inc. - Gary Singh (Owner) ***(Postponed from March 8, 2021, April 12, 2021, June 14, 2021, September 13, 2021, January 10, 2022, March 21, 2022, July 11, 2022 and August 8, 2022 Council-in-Committee Meetings - Previously Moved by Councillor Zanko as Recommendation No. 4)***

Recommendation:

That: Council receives for information purposes Report No. PDS-19-2021 regarding a proposed amendment to the Town's Comprehensive Zoning By-law No. 129-90 for 0-13365 Pettit Road.

[PDS-19-2021-13365 Pettit Road ZBA Information Report FINAL MEMO - PDS-19-2021 0-13365 Pettit Road Sept 12, 2022](#)

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PDS-65-2022

Proposed Zoning By-law Amendment - 0-15850 Rebstock Road - Mary Lou Tanner (NPG Planning Solutions Inc.) (Applicant) - M5V Inc. (Sherard McQueen) (Owner)

Recommendation:

That: Council denies the amendment to the Town's Zoning By-law No. 129-90 as detailed in Report No. PDS-65-2022 for the lands known as 0-15850 Rebstock Road.

[PDS-65-2022 - 0-15850 Rebstock Recommendation Report FINAL](#)

8.3 New Business/Enquiries

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[PDS BS
Report-Sept12-
22 - Final](#)

8.4 Business Status Report

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 -
12SEP2022](#)

10. Corporate and Community Services

10.1 Presentations and Delegations

10.2 Reports

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CS-12-2022

Procurement Policy (*Postponed from August 8, 2022 Council-in-Committee Meeting - Previously Moved by Councillor Zanko as Recommendation No. 5*)

Recommendation:

That: Council approves the Procurement Policy attached as “Appendix 1” to Report No. CS-12-2022, and directs that Purchasing By-law No. 2-10, as amended, be repealed, and further

That: Council directs that Budget Policy By-law No. 127-09 as amended, be further amended to adjust the dollar value limits of sections 8.1, 9.1 and 9.2 from \$25,000 to \$100,000 to align with the new Procurement Policy.

[CS-12-2022 - Procurement Policy combined](#)

10.3 New Business/Enquiries

382 - 447

- (a) Memorandum - Chris McQueen, Chief Administrative Officer - NPCA Final Land Securement Strategy Deadline for Review

Recommendation:

That: Council requests that the NPCA extend the Final Land Securement Strategy deadline to January 31, 2023 in order to provide sufficient time for the Town of Fort Erie to undertake a review and provide comments.

[MEMO - NPCA Land Strategy - September 7, 2022](#)

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[CS-COS-FES-BSR-Sept12](#)

10.4 Business Status Report

11. Scheduling of Meetings

12. Adjournment



Planning and Development Services

Prepared for	Council-in-Committee	Report No.	PDS-63-2022
Agenda Date	September 12, 2022	File No.	350302-0127 & 350309-0544

Subject	PROPOSED DRAFT PLAN OF SUBDIVISION AND ZONING BY-LAW AMENDMENT PEACE BRIDGE VILLAGE PHASE 4 - 0-10268 LOUISA STREET ASHTON HOMES (WESTERN) LTD (ALDO VERCILLO) - OWNER UPPER CANADA CONSULTANTS (WILLIAM HEIKOOP) - AGENT
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Recommendation	THAT Council receives for information purposes Report No. PDS-63-2022 regarding a proposed Draft Plan of Subdivision and Zoning By-law Amendment for Peace Bridge Village Phase 4 Subdivision (0-10268 Louisa Street).
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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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Prepared by:	Submitted by:	Approved by:
Original Signed		
Daryl Vander Veen Intermediate Development Planner		
Reviewed by:		
Original Signed	Original Signed	Original Signed
Anamika Dilwaria, M.Pl., MCIP, RPP Manager, Development Approvals	Alex Herlovitch, MCIP, RPP Interim Director, Planning & Development Services	Chris McQueen, MBA Chief Administrative Officer

Purpose

Applications for a Draft Plan of Subdivision and a Zoning By-law Amendment were submitted by William Heikoop of Upper Canada Consultants, Agent for Ashton Homes (Western) Limited (Aldo Vercillo), Owner of the subject property located at 0-10268 Louisa Street. A location map showing the area subject to the applications is attached as **Appendix “1”**.

The proposal is known as Peace Bridge Village Phase 4 Draft Plan of Subdivision. The development is proposing 29 lots for single detached dwellings, 6 blocks for a total of 36 townhouse dwellings and one block for a future road connection. The proposed draft plan of Subdivision is attached as **Appendix “2”**.

The Zoning By-law amendment is required to change the zoning of the subject land from Neighbourhood Development (ND) Zone and Environmental Conservation (EC) Overlay Zone to specific Residential 2A (R2A) Zone for the single detached dwellings and a site-specific Residential Multiple 1 (RM1) Zone for the townhouse dwellings. The site-specific R2A Zone is proposing special provisions to permit reduced lot frontage for a corner lot and reduced lot area for 12 of the lots. The site-specific RM1 Zone is proposing special provisions to permit reduced lot area, increased density, increased lot coverage and a reduced planting strip width along a street.

The purpose of this report is to provide information on the proposed Draft Plan of Subdivision and Zoning By-law amendment applications. A recommendation report will be brought forward for Council's consideration at a future Council-in-Committee meeting.

Nature of the Site

The subject site is located on the south side of Louisa Street in the Garrison neighbourhood of Fort Erie and is 2.64 hectares in area. The property is municipally known as 0-10268 Louisa Street and is vacant land.

The following are the land uses surrounding the subject property:

- North:** Vacant, wooded residential land, an existing non-conforming commercial use and Peace Bridge Village Phases 1 and 2.
- South:** Vacant, wooded residential land, single-detached dwellings, an apartment building and a stormwater detention pond owned by the Town but currently maintained by the developer.
- East:** Single detached dwellings.
- West:** An existing, non-conforming commercial use, vacant, wooded residential land and 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.

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.

2014 Regional Official Plan

The subject property is designated Urban Area in the Region Official Plan (ROP) and is located within the Built-Up Area. The proposed development is located in an area of anticipated growth and development and makes efficient use of existing and proposed infrastructure.

The subject property is affected by the Region's Core Natural Heritage System consisting of Significant Woodland. The Agent has submitted an environmental impact study and a tree saving plan to satisfy the requirements of the Regional Official Plan in this regard.

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. 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. Planning staff will provide analysis with respect to these criteria in the future recommendation report to Council.

The Environmental Conservation designation requires environmental review and the Agent has completed an [Environmental Impact Study](#) that is summarized later in this report.

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. The subject property is not within 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 property as being part of Woodlands Over 2 Hectares. Schedule C1 of the Official Plan does not identify any natural hazard area or fish habitat on or near the subject property. The property is not within area under the regulation of the Niagara Peninsula Conservation Authority (NPCA).

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 a [Stage 1 Archaeological Assessment](#) and a Stage 2 Assessment is currently in progress. Niagara Region has commented that completion of the Stage 2 assessment will be required prior to the applications returning for recommendation.

Plan of Subdivision Design

The proposed draft plan of subdivision is attached as **Appendix “2”** and consists of the following elements:

- 29 lots intended for single detached dwellings
- 6 blocks intended for 36 street townhouse dwellings
- 1 block for a future road connection to the land to the south

The draft plan features a crescent-shaped road shown as Street ‘A’ that aligns with the Arthur Street and Burwell Street road allowances. The majority of the proposed dwellings will front onto Street ‘A’. 18 of the townhouse dwellings and 9 of the single detached dwellings will front onto Louisa Street directly. Louisa Street will need to be constructed from Burwell Street to Arthur Street as a result of this proposal as the road is currently untravelled between those two road allowances. The overall density of the plan of subdivision is 24.62 units/ha.

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 2A (R2A) Zone for the proposed single detached dwellings and a new site-

specific Residential Multiple 1 (RM1) Zone for the proposed townhouse dwellings. The Zoning By-law Amendment also proposes to remove the Environmental Conservation (EC) Overlay Zone from the site.

The proposed site-specific R2A Zone contains special provisions for reduced lot frontage for a corner lot (Lot 7) and reduced lot area (Lots 2 & 3, 7 through 16). The proposal will comply with all other provisions of the R2A zoning. The density of the R2A areas is 22.69 units/ha. Departures from the base R2A zoning regulations are highlighted in grey in the table below.

Table 1: Zone Comparison Chart - Proposed Site-specific R2A Zone		
Zoning Regulation	Base Regulations	Proposed Regulations
Minimum Lot Frontage	12.00 m for an interior lot 15.00 m for a corner lot	No change for interior lots 13.90 m on a corner lot
Minimum Lot Area	375.00 sq m	325.00 sq m
Maximum Lot Coverage	50%	No change
Minimum Front Yard	6.00 m to garage 3.00 m to other parts of dwelling	No change
Minimum Interior Side Yard	1.20 m 3.00 m on one side if no attached garage or carport	No change
Minimum Exterior Side Yard	3.00 m 6.00 m if an attached garage or carport faces the exterior lot line	No change
Minimum Rear Yard	6.00 m	No change
Maximum Building Height	2.5 storeys and 10.50 m	No change

The proposed site-specific RM1 Zone contains special provisions for reduced lot area, increased lot coverage for exterior street townhouses, increased density and a reduced planting strip width along a street line (Blocks 30 to 35). The proposed site-specific zone regulations are outlined in the following tables. The density of the R2A areas is 50.63 units/ha. Departures from the base zoning regulations are highlighted in grey in the table below.

Table 2: Zone Comparison Chart - Proposed Site-specific RM1 Zone		
Zoning Regulation	Base Regulations	Proposed Regulations
Minimum Lot Frontage	6.00 m for an interior street townhouse lot 6.00 m for an interior street townhouse lot	No change
Minimum Lot Area	200.00 sq m for an interior street townhouse lot	170.00 sq m for an interior street townhouse lot

	270.00 sq m for an exterior street townhouse lot	265.00 sq m for an exterior street townhouse lot
Minimum Front Yard	6.00 m to garage 3.00 m to other parts of dwelling	No change
Maximum Lot Coverage	60% interior street townhouse 40% exterior street townhouse	No change for interior street townhouse 50% for exterior street townhouse
Minimum Interior Side Yard	1.50 m	No change
Minimum Exterior Side Yard	3.00 m 6.00 m if an attached garage or carport faces the exterior lot line	No change
Minimum Rear Yard	6.00 m	No change
Maximum Building Height	3 storeys and 12.00 m	No change
Minimum Landscaped Area	25% for street townhouse lots	No change
Maximum Number of Units in a Row		No change
Maximum Density	35 units per hectare	50.63 units per hectare
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 4.50 m	No change
Planting Strips	In accordance with Section 6.21 and 4.5m where it abuts a street, except for points of ingress/egress.	3.00 m

The overall density of the proposed development is 24.62 units/ha. Planning analysis for the proposed zoning will be provided in the future recommendation report to Council.

Studies

Archaeological Assessment

A [Stage 1 Archaeological Assessment](#) was completed by Detritus Consulting Ltd. in support of this project in May 2022. The Stage 1 is a background research study and concluded that the subject property exhibited moderate to high potential for cultural

heritage features resources and therefore a Stage 2 Archaeological Assessment is recommended. The Agent has indicated that the Stage 2 assessment is underway and will be completed shortly.

Planning staff reached out to Niagara Region to clarify if the applications can be deemed complete without completion of the Stage 2 Archaeological Assessment. Niagara Region planning staff confirmed that it is acceptable to move the application forward at this time however completion of the Stage 2 Archaeological Assessment will be required prior to a recommendation report being submitted to Council.

Environmental Impact Study (EIS)

An [Environmental Impact Study](#) was completed by Beacon Environmental Limited in May 2022 for the subject property. The study concluded that there the subject property is not part of Niagara Region's Core Natural Heritage System and that there are no natural heritage features on site as identified in the Town's Official Plan. Therefore the proposed plan of subdivision is in conformity with the Town and Regional Official Plans. Adjacent lands to the south are consistent with an Environmental Conservation Area designation and mitigation measures are recommended in the EIS to protect this area.

The report recommends the installation of paige wire fencing with filter fabric along the southern property line during the duration of the construction phase. Site grading directly along the woodland edge should be limited and placement of soil, if required, should be at depth that is <10.00 cm and excavation work below the existing surface, if required, should not exceed 0.50 m.

Functional Servicing Brief (FSR)

A [Functional Servicing Report](#) was prepared by Upper Canada Consultants in May 2022 for this proposal. The conclusions of the FSR are as follows:

- The existing sanitary and storm sewer systems in the area are adequately sized for this development. The sewers will connect to infrastructure installed during the Peace Bridge Village Phase 1 that were designed to accommodate additional capacity from future phases of the Peace Bridge development and the surrounding area.
- Watermains are available for this development and are adequately sized for this proposal. The Arthur Street watermain will be connected to the watermain along Louisa Street to provide adequate looping for the proposed crescent road.
- Water, sanitary sewer and storm sewer infrastructure will need to be constructed along with the road extension of Louisa Street to Arthur Street. The cost of constructing the infrastructure will be the responsibility of the developer.

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 meeting was circulated in accordance with the *Planning Act* by placing an advertisement in the August 18, 2022 edition of the *Fort Erie Post*.

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 Combined Official Plan and Zoning By-law amendment was circulated to relevant Departments/Community and Corporate Partners on August 18, 2020. Comments received to date are summarized below and are attached as **Appendix "3"**.

Agency Comments

Bell Canada

No objection. Several conditions of approval were requested that are attached in **Appendix "3"**.

Enbridge and Hydro One

No objection.

Niagara Region

Niagara Region notes that their final comments will be contingent on the outcome of the Stage 2 Archaeological Assessment. The Stage 2 Archaeological Assessment should be submitted for review prior to the application being brought forward for a Council decision. Niagara Region also requested some conditions of approval which are attached with their comments for review as part of **Appendix "3"**.

Staff Comments

Chief Building Official

No objection.

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. Comments and feedback from the public are outlined below. Email correspondence was also received and is attached for review as **Appendix “4”**.

Traffic, Parking and Speeding

Several of the residents expressed concern regarding traffic impacts in the area resulting from the proposed development and in particular speeding along Louisa Street at the bend at the eastern limit of the subject property. Several suggestions were made such as installation of a three-way stop sign where Louisa Street intersects with Jordyn Drive and restricting on-street parking on Louisa Street to improve visibility at the corner.

Staff Response

It was noted during the information open house that once Louisa Street is extended to Arthur Street the additional access will provide an alternate route and a more direct path to Garrison Road for residents heading northbound. This should alleviate some of the traffic flow through the adjacent neighbourhoods. Planning staff will confirm with Infrastructure Services if there is potential for a traffic calming study once the neighbourhood has achieved build-out. As a reminder, the Ontario Traffic Manual states stop controls should not be used as a traffic calming device.

Concern About Tree Removal

Several residents expressed concern regarding the tree removal that occurred on the subject property prior to this application submission and had questions regarding how the Environmental Conservation designation on the lands will be addressed.

Staff Response

The tree clearing occurred as part of an operation to remove dead ash trees from the site that were impacted by the emerald ash borer. The Agent contacted Niagara Region's Regional Forester and received permission to remove the dead ash trees from the site. The subject property was not under the regulation of the NPCA. The clearing did occur prior to submission of this draft plan of subdivision application. Email correspondence from Niagara Region's Forester/Forest Conservation By-law Officer is attached as part of **Appendix “3”**.

The Environmental Conservation designation is reflective of the site formerly being part of a Woodland Over 2 Hectares as identified in the Town's Official Plan. The Agent has completed an Environmental Impact Study that confirms that the site is suitable for development and that there are no significant natural heritage features or species at risk on the premises. This application has been circulated to the Town's Environmental Advisory Committee (EAC) for review and comment. Removal of the Environmental Conservation (EC) Overlay Zone will be required if this development is to proceed.

Issues with Sump Pump Discharge

Several residents noted that there are issues in Peace Bridge Village Phase 1 with dwellings discharging their sump pumps via overland flow onto the public road allowance. Email correspondence was received noting that in the winter this causes the roadway to ice over and become difficult for pedestrians to walk in the area and increases the risk of a fall. It was suggested that sump pumps discharge directly into storm sewers to alleviate this problem.

Staff Response

There do not appear to be any active CRMs for this issue but the sump pump discharge was mentioned by several members of the public. It is current Town policy to not permit direct discharge of sump pumps into Town storm sewers. Instead, Sump pump discharge is to occur via overland flow into rear yard swales/catchbasins or to catchbasins located in the street.

Maintenance of the sidewalks in the winter season is the responsibility of the developer until the Town formally assumes ownership of the roads and sidewalks. If icing occurs on the sidewalks residents are encouraged to contact the Town's Customer Service Unit at (905) 871-1600 so the issue can be resolved.

Tall Grass in Rear of Lots along Jordyn Drive

Several residents noted that the area where a storm sewer runs southwest to the Town's stormwater pond on Albany Street has very tall grass and is in need of maintenance.

Staff Response

The area where the storm sewer is located at the rear of Jordyn Drive is part of a former road allowance and is still owned by the Town. The intent for the road allowance is for it to vegetate naturally.

Neighbourhood Park in the Area

Several members of the public had questions regarding if the Town had any plans for a neighbourhood park in the area. Some residents had thought that the subject property was intended for future development of a public park.

Staff Response

A neighbourhood plan for the area was approved by Council in 2007 that envisions the land to the north as public open space but this designation is not currently in place in the Official Plan. Currently the lands to the north are designated Urban Residential and Environmental Conservation. Use of these lands for future parkland is not a set outcome and would be contingent on the private landowners being willing to sell the land to the Town. Staff would also have to review if the property is suitable for park purposes. With the existing land use designations in place the owners of the lands to the north may also pursue development options by submitting a development plan to the Town and entering into pre-consultation.

Future park provision in the Garrison neighbourhood is planned and the location of the new park will be refined through a Parks and Open Space Master Plan to be initiated by the Town at a future date. Collection of funds for cash in lieu of parkland dedication from this development will assist the Town in securing land for parkland purposes in the area.

Alternatives

N/A.

Communicating Results

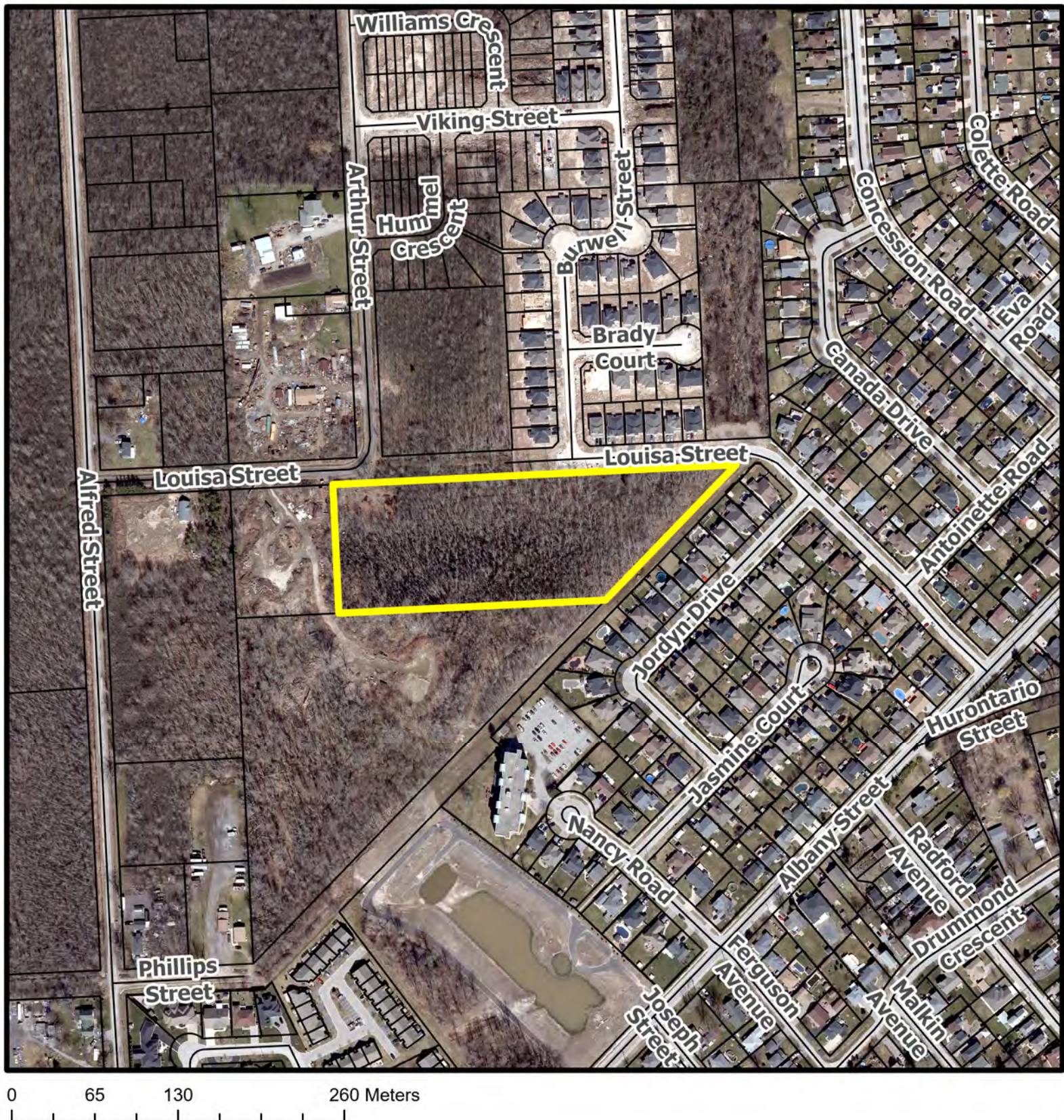
There are no communication requirements at this time.

Conclusion

This report is submitted for information purposes. A report with recommendations on the proposed Draft Plan of Subdivision and Zoning By-law Amendment will be presented to Council at a future Council-in-Committee meeting.


Attachments

- Appendix “1”** - Location Plan
- Appendix “2”** - Draft Plan of Subdivision
- Appendix “3”** - Comments from Staff/Agencies
- Appendix “4”** - Comments from the Public



LOCATION PLAN

Proposed Plan of Subdivision & Zoning By-law Amendment - Peace Bridge Village Phase 4

 Subject Lands - Peace Bridge Village Phase 4 Subdivision (0-10268 Louisa Street)





Draft Plan of Subdivision (350309-0544) & ZBLA (350302-0127), 0-10268 Louisa St.,
 Town of Fort Erie circulations to DVanderVeen 2022-08-23 10:11 AM
 From <circulations@wsp.com>
 To <DVanderVeen@forterie.ca>
 Please respond to <circulations@wsp.com>

2022-08-23

Darryl Vander Veen

Fort Erie

, ,

Attention: Darryl Vander Veen

**Re: Draft Plan of Subdivision (350309-0544) & ZBLA (350302-0127), 0-10268 Louisa St.,
 Town of Fort Erie; Your File No. 350302-0127,350309-0544**

To Whom this May Concern,

We have reviewed the circulation regarding the above noted application. The following paragraphs are to be included as a condition of approval:

“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.

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.”

Upon receipt of this comment letter, the Owner is to provide Bell Canada with servicing plans/CUP at their earliest convenience to planninganddevelopment@bell.ca to confirm the provision of communication/telecommunication infrastructure needed to service the development.

It shall be noted that it is the responsibility of the Owner to provide entrance/service duct(s) from Bell Canada’s existing network infrastructure to service this development. In the event that no such network infrastructure exists, in accordance with the Bell Canada Act, the Owner may be required to pay for the extension of such network infrastructure.

If the Owner elects not to pay for the above noted connection, Bell Canada may decide not to provide service to this development.

To ensure that we are able to continue to actively participate in the planning process and provide detailed provisioning comments, we note that we would be pleased to receive circulations on all applications received by the Municipality and/or recirculations.

We note that WSP operates Bell Canada's development tracking system, which includes the intake and processing of municipal circulations. However, **all responses to circulations and requests for information, such as requests for clearance, will come directly from Bell Canada, and not from WSP.** WSP is not responsible for the provision of comments or other responses.

Should you have any questions, please contact the undersigned.

Yours truly,

Juan Corvalan

Senior Manager - Municipal Liaison

Email: planninganddevelopment@bell.ca92;#Infrastructure|99ba27ae-002d-47ab-aa90-899ac195e6e7

Bell Canada Bell Canada

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-LAEmHhHzdJzBITWfa4Hgs7pbKI



RE: Request for comments - proposed Peace Bridge Village Phase 4 Plan of Subdivision & Zoning By-law Amendment application, 0-10268 Louisa Street, Town of Fort Erie (file nos. 350309-0544 & 350302-0127) CARRIGAN, Andrew to Daryl Vander Veen 2022-08-26 11:12 AM

From "CARRIGAN, Andrew" <andrew.carrigan@canadapost.postescanada.ca>

To "Daryl Vander Veen" <DVanderVeen@forterie.ca>

1 Attachment



Peace Bridge Village P4 Comments.doc

Hi Daryl,

CPC comments attached.

Thanks

Andrew Carrigan | Delivery Services Officer | Canada Post | Delivery Planning | 955 Highbury Ave, London, ON N5Y 1A3 | 226-268-5914

 Please consider the environment before printing this email.

From: Daryl Vander Veen <DVanderVeen@forterie.ca>

Sent: August-22-22 12:48 AM

Subject: Fw: Request for comments - proposed Peace Bridge Village Phase 4 Plan of Subdivision & Zoning By-law Amendment application, 0-10268 Louisa Street, Town of Fort Erie (file nos. 350309-0544 & 350302-0127)

This email is from an EXTERNAL sender. Please be CAUTIOUS, particularly with links and attachments. | Ce courriel est d'un expéditeur EXTERNE. Soyez PRUDENT, en particulier avec des liens et des pièces jointes.

Hello everyone,

Please see the corrected title for this circulation.

Regards,

Daryl

Daryl Vander Veen, BES

Junior Development Planner
Planning & Development Services
The Corporation of the Town of Fort Erie
1 Municipal Centre Drive
Fort Erie, Ontario L2A 2S6
Phone: (905) 871-1600 ext. 2509
Email: dvanderveen@forterie.ca

-----Forwarded by Daryl Vander Veen/FortErie on 08/22/2022 12:43AM -----



CANADA POST
955 Highbury Ave N
London ON N5Y 1A3

CANADAPOST.CA

POSTES CANADA
955 Highbury Ave N
London ON N5Y 1A3

POSTESCANADA.CA

AUGUST 26, 2022

DARYL VANDER VEEN
TOWN OF FORT ERIE
1 MUNICIPAL CENTRE DRIVE
FORT ERIE, ONTARIO, L2A 2S6

Re: **Peace Bridge Village Phase 4 Plan of Subdivision**

Daryl,

This development will receive mail service to centralized mail facilities provided through our Community Mailbox program.

I will specify the conditions which I request to be added for Canada Post Corporation's purposes.

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.

Should the description of the project change, I would appreciate an update in order to assess the impact of the change on mail service.

If you have any questions or concerns regarding these conditions, please contact me.

I appreciate the opportunity to comment on this project.

Regards,

A. Carrigan

Officer, Delivery Planning
(226) 268-5914

Andrew.Carrigan@Canadapost.ca



Enbridge Gas Inc.
500 Consumers Road
North York, Ontario M2J 1P8
Canada

August 31, 2022

Daryl Vander Veen, BES
Junior Development Planner
Planning & Development Services
Town of Fort Erie
1 Municipal Centre Drive
Fort Erie, ON L2A 2S6

Dear Daryl,

Re: Draft Plan of Subdivision Application, Zoning By-Law Amendment
Ashton Homes (Western) Limited
97 Gorham Road
Town of Fort Erie
File No.: 350309-0501, 350302-0133

Enbridge Gas Inc. does not object to the proposed application(s) however, we reserve the right to amend or remove development conditions.

This response does not constitute a pipe locate, clearance for construction or availability of gas.

The applicant shall contact Enbridge Gas Inc.'s Customer Connections department by emailing CustomerConnectionsContactCentre@Enbridge.com to determine gas availability, service and meter installation details and to ensure all gas piping is installed prior to the commencement of site landscaping (including, but not limited to: tree planting, silva cells, and/or soil trenches) and/or asphalt paving.

If the gas main needs to be relocated as a result of changes in the alignment or grade of the future road allowances or for temporary gas pipe installations pertaining to phased construction, all costs are the responsibility of the applicant.

In the event that easement(s) are required to service this development, and any future adjacent developments, the applicant will provide the easement(s) to Enbridge Gas Inc. at no cost.

Sincerely,

A handwritten signature in black ink, appearing to read 'Jasleen Kaur'.

Jasleen Kaur
Municipal Planning Coordinator
Engineering

ENBRIDGE
TEL: 437-929-8083
500 Consumers Rd, North York, ON M2J1P8
enbridge.com
Safety. Integrity. Respect. Inclusion.



Fort Erie - 0-10268 Louisa Street - 350309-0544LANDUSEPLANNING to
 DVanderVeen@forterie.ca 2022-08-24 03:07 PM
 From "LANDUSEPLANNING" <LandUsePlanning@HydroOne.com>
 To "DVanderVeen@forterie.ca" <DVanderVeen@forterie.ca>

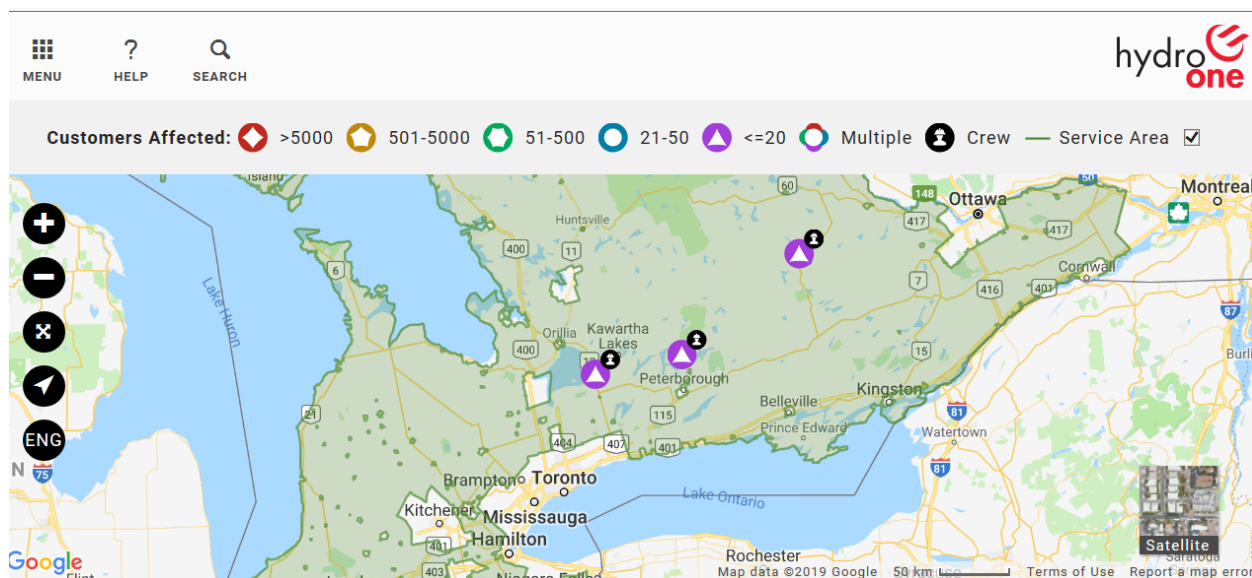
Hello,

We are in receipt of your Draft Plan of Subdivision Application, 350309-0544 dated August 22, 2022. We have reviewed the documents concerning the noted Plan and have no comments or concerns at this time. **Our preliminary review considers issues affecting Hydro One's 'High Voltage Facilities and Corridor Lands' only.**

For proposals affecting 'Low Voltage Distribution Facilities' please consult your local area Distribution Supplier. To confirm if Hydro One is your local distributor please follow the following link:

[Stormcentre \(hydroone.com\)](https://stormcentre.hydroone.com)

Please select "Search" and locate address in question by entering the address or by zooming in and out of the map



If Hydro One is your local area Distribution Supplier, please contact Customer Service at 1-888-664-9376 or e-mail CustomerCommunications@HydroOne.com to be connected to your Local Operations Centre

Thank you,

Kitty Luk

Real Estate Assistant | Land Use Planning

Hydro One Networks Inc.

185 Clegg Road

Markham, ON | L6G 1B7

Email: landuseplanning@hydroone.com

From: Daryl Vander Veen <DVanderVeen@forterie.ca>
Sent: Monday, August 22, 2022 12:48 AM
Subject: Fw: Request for comments - proposed Peace Bridge Village Phase 4 Plan of Subdivision & Zoning By-law Amendment application, 0-10268 Louisa Street, Town of Fort Erie (file nos. 350309-0544 & 350302-0127)

*** Exercise caution. This is an EXTERNAL email. DO NOT open attachments or click links from unknown senders or unexpected email. ***

Hello everyone,

Please see the corrected title for this circulation.

Regards,

Daryl

Daryl Vander Veen, BES

Junior Development Planner
 Planning & Development Services
 The Corporation of the Town of Fort Erie
 1 Municipal Centre Drive
 Fort Erie, Ontario L2A 2S6
 Phone: (905) 871-1600 ext. 2509
 Email: dvanderveen@forterie.ca

-----Forwarded by Daryl Vander Veen/FortErie on 08/22/2022 12:43AM -----

From: Daryl Vander Veen/FortErie
 Date: 08/19/2022 05:38PM
 Subject: Request for comments - proposed Peace Bridge Village Phase 4 Plan of Subdivision & Zoning By-law Amendment application, 97 Gorham Road, Town of Fort Erie (file nos. 350309-0501 & 350302-0133) Email 1 of 2

Good afternoon,

A complete application for a Plan of Subdivision and Zoning By-law Amendment has been received from William Heikoop of Upper Canada Consultants for the proposed Peace Bridge Village Phase 4 Subdivision. The Owner is Ashton Homes (Western) Limited (Aldo Vercillo). The development is proposing 29 lots for single detached dwellings, 6 blocks for a total of 36 townhouse dwellings and one block for a future road connection.

The lands are located within the Urban Area and are currently designated Urban Residential and Environmental Conservation in the Town's Official Plan. The lands are currently zoned Neighbourhood Development (ND) Zone and Environmental Conservation (EC) Overlay Zone in accordance with the Town's Comprehensive Zoning By-law No. 129-1990. The zoning is proposed to change the Neighbourhood Development (ND) Zone to a site-specific Residential 2A (R2A) Zone for the single detached dwellings and a site-specific Residential Multiple 1 (RM1) Zone for the townhouse dwellings. The site-specific R2A Zone is proposing special provisions to permit reduced lot frontage for a corner lot and reduced lot area. The site-

specific RM1 Zone is proposing special provisions to permit reduced lot area, increased density, increased lot coverage and a reduced planting strip width where it abuts a street. The Zoning By-law Amendment also proposes to remove the Environmental Conservation (EC) Overlay Zone from the subject lands.

The following documents are submitted for review:

0. Pre-consultation Agreement - Peace Bridge Village Phase 4
1. Cover Letter & Applications for Plan of Subdivision & Zoning By-law Amendment
2. Proposed Draft Plan of Subdivision
3. Planning Justification Report
4. Archaeological Assessment
5. Environmental Impact Study
6. Functional Servicing Report

Please provide any comments you have on the application no later than **Thursday, September 8, 2022**. If your agency has a review fee it has been mailed to your attention. Please contact me if you have any questions or require any further information.

Regards,

Daryl

Daryl Vander Veen, BES
Junior Development Planner

Planning & Development Services
The Corporation of the Town of Fort Erie
1 Municipal Centre Drive
Fort Erie, Ontario, L2A 2S6
Phone: 905-871-1600 ext. 2509
Email: dvanderveen@forterie.ca

(See attached file: 0. Pre-consultation Agreement Peace Bridge Village Phase 4.pdf)

(See attached file: 1. Cover Letter and Application Forms.pdf)

(See attached file: 2. Proposed Draft Plan of Subdivision.pdf)

(See attached file: 3. Planning Justification Report.pdf)

(See attached file: 4. Archeological Assessment.pdf)

(See attached file: 5. Environmental Impact Study.pdf)

(See attached file: 6. Functional Servicing Report.pdf)

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Planning and Development Services

1815 Sir Isaac Brock Way, Thorold, ON L2V 4T7
(905) 980-6000 Toll-free: 1-800-263-7215

Via Email

September 2, 2022

Region Files: D.11.0.1.SD-22-0035
D.18.01.ZA-22-0069

Daryl Vander Veen
Junior Development Planner
Town of Fort Erie
1 Municipal Centre Drive
Fort Erie, ON L2A 2S6

Dear Mr. Vander Veen:

Re: Regional and Provincial Comments
Draft Plan of Subdivision & Zoning By-law Amendment Applications
Town Files: 350309-0544 & 350302-0127
Applicant: Aston Homes (Western) Limited (c/o Aldo Vercillo)
Agent: Upper Canada Consultants (c/o Ethan Laman)
0-10268 Louisa Street (Peace Bridge Village Subdivision – Phase 4)
Town of Fort Erie

Regional Development Services staff has reviewed the proposed Draft Plan of Subdivision and Zoning By-law Amendment Application materials for Phase 4 of the Peace Bridge Village Subdivision. The Region received circulation of the Applications from the Town on August 19, 2022.

The proposed Subdivision consists of 29 lots for single-detached dwellings, with six blocks for a total of 36 townhouse dwellings, and one block for a future road connection. The lands are located within the Urban Area and are designated "Urban Residential" and "Environmental Conservation" in the Town of Fort Erie's Official Plan, and zoned "Neighbourhood Development (ND) Zone" and "Environmental Conservation (EC) Overlay Zone" in accordance with the Town's Zoning By-law (No.129-1990).

The Zoning By-law Amendment proposes to change the ND Zone to a site-specific "Residential 2A (R2A) Zone" to permit single-detached dwellings, as well as proposes a site-specific "Residential Multiple 1 (RM1) Zone" to permit the townhouse dwellings. The site-specific R2A Zone includes special provisions to permit a reduced lot frontage and lot area for a corner lot, while the site-specific RM1 Zone is proposing special provisions to permit reduced lot area, increased density, increased lot coverage and a reduced planting strip width where the Zone abuts a street. The Amendment also proposes to remove the EC Zone from the subject lands.

D.11.01.SD-22-0035

D.18.01.ZA-22-0069

September 2, 2022

A pre-consultation meeting for the proposed development occurred on January 13, 2022 with Town staff, Regional staff, the Applicant, and Agent in attendance. The following comments are provided from a Regional and Provincial perspective to assist the Town in considering these Applications.

Provincial and Regional Policies

The lands are located within a "Settlement Area" under the *Provincial Policy Statement, 2020* ("PPS"), are "Designated Greenfield Area" under the *A Place to Grow: Growth Plan for the Greater Golden Horseshoe, 2020 Consolidation* ("Growth Plan"), and "Urban Designated Greenfield Area" under the *Regional Official Plan* ("ROP").

Provincial and Regional policies direct growth to the Urban Area and supports development that contributes to the overall goal of providing a sufficient supply of housing that is affordable, accessible, and suited to the needs of a variety of households and income groups in Niagara. A full range of residential, commercial and industrial uses are permitted generally within the Urban Area, subject to the availability of adequate municipal services and infrastructure, and other policies relative to urban design, compatibility and environmental conservation.

The subject lands are identified and delineated as Designated Greenfield Area ("DGA") in accordance to Provincial and Regional Plans. DGA policies set out for these lands to be developed at a minimum density of 50 people and jobs per hectare ("ppj/ha") across the municipality (Town of Fort Erie). Based on total developable area of the site, proposed density of the subject lands is approximately 60 ppj/ha, which achieves the DGA target of 50 ppj/ha as set out in Provincial and Regional policies.

Regional staff has reviewed the "*Planning Justification Report*" ("PJR") prepared by Upper Canada Consultants (dated May 2022) and finds its contents acceptable. Staff concur that the proposed development will make better use of existing underutilized urban lands while improving the efficiency of available municipal services and contributing to the diversification of Niagara's housing supply (townhouses). Town staff should be satisfied that the proposed development compatible with the surrounding urban fabric.

Archaeological Potential

The PPS and ROP provide direction for the conservation of significant cultural heritage and archaeological resources. Specifically, Section 2.6.2 of the PPS and Policy 10.C.2.1.13 of the ROP state that development and site alteration are not permitted on lands containing archaeological resources or areas of archaeological potential, unless significant archaeological resources have been conserved.

At the pre-consultation meeting, staff identified that the property exhibited the potential for the discovery of archaeological resources given its location within 300m of a

D.11.01.SD-22-0035

D.18.01.ZA-22-0069

September 2, 2022

registered archaeological site, as well as being located within the Town's mapped area of 'Archaeological Potential' as set out in Schedule D of the Town's Official Plan.

Regional staff has reviewed the "*Stage 1 Archeological Assessment*" prepared by Detritus Consulting Ltd. (dated May 25, 2022) which included a Study Area of approximately 2.66 ha and consisted of a background review of the property and surrounding historical context. The Assessment determined that the property exhibits moderate to high archaeological potential and recommends that a Stage 2 Archaeological Assessment be completed for the entirety of the Study Area.

Based on previous correspondence with the Agent, it is understood that the Stage 2 Assessment is currently being undertaken. The Applicant is advised that the findings and recommendations of the Stage 2 Assessment could result in changes to subdivision design, as well as zoning provisions. As such, staff recommends that the Stage 2 Archaeological Assessment, plus any subsequent recommended assessments, be submitted for review prior to the Town's approval of the proposed Applications.

The required applicable Letter(s) of Acknowledgement from the Ministry of Heritage, Sport, Tourism and Culture Industries ("MHSTCI") confirming that all archaeological resource concerns have met licensing and resource conservation requirements can be addressed through a condition of Draft Plan Agreement. Additionally, in recognizing that no archaeological survey, regardless of its intensity, can entirely negate the possibility of deeply buried archaeological materials, the inclusion of a standard archaeological resource warning clause will be required with the Subdivision Agreement.

As previously discussed with the Applicant, Regional staff requires that the outstanding archaeological assessment work for the subject lands be submitted for review prior to these Applications being considered for approval. The assessment work is required to ensure consistency with the PPS, and conformity with Provincial and Regional growth management policies. In absence of this work, a condition is provided in the attached Appendix to safeguard Provincial and Regional interests. This condition will be updated upon review of these materials at the time of future submission.

Core Natural Heritage System

The property is impacted by the Region's Core Natural Heritage System ("CNHS"), consisting of Significant Woodland. As such, consistent with ROP Policy 7.B.1.11, an Environmental Impact Study ("EIS") was required in support of development.

Staff note that the subject lands had been cleared of vegetation prior to commencement of the EIS. As such, the field work program completed in support of this application was focused primarily on adjacent lands. Staff has reviewed "*Environmental Impact Study*" the prepared by Beacon Environmental Ltd. (dated May 2022), which characterized any remaining features on and adjacent to the subject property and assessed potential impacts associated the proposed development to demonstrate that there will be no significant negative impacts to the features and associated ecological and hydrological

D.11.01.SD-22-0035

D.18.01.ZA-22-0069

September 2, 2022

functions. The EIS determined that based on existing conditions the subject lands do not support natural features or functions of the Region's CNHS. However, the EIS does conclude that the cultural woodland located adjacent to the southern boundary of the property achieves Regional criteria to be designated Significant Woodland and candidate Significant Wildlife Habitat. The EIS recommends that a Tree Preservation Plan ("TPP") be prepared to ensure protection of the adjacent woodland during the construction phase of the development. Based on our review, Regional Environmental Planning staff are satisfied that the EIS adequately addresses Provincial and Regional natural heritage policies.

As it relates to the proposed Zoning By-law Amendment Application, staff does not object to the Amendment, as the EIS has confirmed that there are no Regionally-designated CNHS features on the property. As it relates to the Draft Plan of Subdivision, appropriate conditions with respect to natural environment requirements are provided in the attached Appendix.

Servicing

Site servicing will be under the jurisdiction of the Town of Fort Erie. As a condition of Draft Plan Approval, the Region must review and approve any new / extended sanitary sewer services under the Ministry of Environment, Conservation and Parks' ("MECP") Transfer of Review Program or the pending Linear Consolidated Environmental Compliance Approval ("ECA") Program. Detailed engineering design drawings with calculations for the services must be submitted to this department for review and approval. Appropriate conditions to this effect are provided in the attached Appendix.

Stormwater Management

Regional staff has reviewed the "*Functional Servicing Report*" prepared by Upper Canada Consultants (dated May 2022) which indicates that stormwater from the site will outlet to the existing stormwater management pond north of Albany Street (between Albert Street and Nancy Road). The pond is registered with the MECP (ECA #6466-B96RU5) to provide a Normal standard water quality treatment and necessary flow control prior to discharge to the storm sewer on Albany Street. Therefore, staff does not object, in principle, to the proposed Stormwater Management Plan. Appropriate conditions for the review of stormwater management requirements are provided in the attached Appendix.

The following comments are offered to Town staff to assist with the review of the Town's stormwater infrastructure:

- Clarification should be provided as to whether the development will require the stormwater management pond be extended, or, if the existing pond had been built as the ultimate configuration outlined in the ECA.
- Based on the "*Stormwater Management Plan Peace Bridge Village*" (dated July 2018, revised February 2019), the site is in the area 'A61' (a 5.73 ha land) that is

D.11.01.SD-22-0035

D.18.01.ZA-22-0069

September 2, 2022

designated to an Impervious Weighted Average of 50%. The total impervious land of the subject 2.64 ha development may be over 50 percentage. It may require the future impervious cover of the remaining vacant land in 'A61' be balanced or on-site control measures in order to ensure the Town storm infrastructure not to be impacted. It is recommended that the impervious land percentage within the subject development be clarified.

Waste Collection

The Niagara Region provides curbside waste and recycling collection for developments that meet the requirements of the Region's Waste Collection Policy. The proposed development is eligible to receive Regional curbside waste and recycling collection provided that the Owner(s) bring their waste and recycling to the curbside on the designated pick up day, and that the following limits are met:

- Recycling blue/grey bins – no limit (collected weekly).
- Organic green bins (no limit collected weekly).
- Garbage/waste bags or cans – 2 maximum per unit (collected every-other-week).

A condition with respect to waste collection is provided in the attached Appendix.

Conclusion

In conclusion, additional information with respect to outstanding archaeological assessment work is required in order to complete a fulsome review of the proposed Draft Plan of Subdivision and Zoning By-law Amendment Applications. This information is critical to ensure consistency with the PPS, and conformity with Provincial and Regional growth management policies. Accordingly, Regional staff recommend that the proposed Applications not be considered by the Town until such time that Regional staff have reviewed and commented on the requested information.

Additional comments, including updated Conditions of Draft Plan Approval, will be provided upon review of this information. Please contact the undersigned at Alexander.Morrison@niagararegion.ca for any questions related to this letter.

Respectfully,



Alexander Morrison, MCIP, RPP
Senior Development Planner

cc: Mr. Pat Busnello, Manager of Development Planning, Niagara Region
Ms. Susan Dunsmore, Manager, Development Engineering, Niagara Region
Mr. Adam Boudens, Senior Environmental Planner / Ecologist, Niagara Region

Appendix: Niagara Region's Conditions of Draft Plan Approval

D.11.01.SD-22-0035

D.18.01.ZA-22-0069

September 2, 2022

APPENDIX

Niagara Region's Conditions of Draft Plan Approval

Peace Bridge Village Subdivision – Phase 4 (0-10268 Louisa Street), Fort Erie

1. That the Owner completes a Stage 2 Archaeological Assessment (plus any subsequent recommended assessments) and submits a copy of the Assessment(s) to the Town of Fort Erie, the Niagara Region, and the Ministry of Heritage, Sport, Tourism and Culture Industries (MHSTCI) for review and approval. A copy of all applicable Letters of Acknowledgement from the MHSTCI shall be provided to the Town of Fort Erie and Niagara Region which confirms that all archaeological resource concerns have met licensing and resource conservation requirements prior to any development on the site.
2. That the Owner agrees to include the following warning clause within the Draft Plan Agreement to protect for any potential archaeological resources that may be discovered 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 (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 (416-326-8800) must be contacted. In situations where human remains are associated with archaeological resources, the Ministry of Heritage, Sport, Tourism and Culture and Industries should also be notified to ensure that the site is not subject to unlicensed alterations which would be a contravention of the Ontario Heritage Act."
3. That an Erosion and Sediment Control (ESC) Plan be prepared for review and approval by the Niagara Region. 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.
4. That a Tree Preservation Plan (TPP) be provided to the satisfaction of the Niagara Region as required under Policy 7.B.1.19 of the Regional Official Plan. The TPP shall be prepared by a qualified professional, preferably by a Certified Arborist or qualified member of the Ontario Professional Foresters Association, in accordance with the Niagara Region's Woodland Conservation By-law.

D.11.01.SD-22-0035

D.18.01.ZA-22-0069

September 2, 2022

5. That the Subdivision Agreement contain wording wherein the Owner agrees to implement the approved Erosion and Sediment Control (ESC) Plan and Tree Preservation Plan (TPP).
6. That the Owner provides a written acknowledgement to Niagara Region Planning and Development Services Department stating that Draft Approval of this Subdivision does not include a commitment of servicing allocation by Niagara Region as servicing allocation will not be assigned until the Plan is registered and that any pre-servicing will be at the sole risk and responsibility of the Owner.
7. That the Owner provides a written undertaking to Niagara Region Planning and Development Services Department stating that all Offers and Agreements of Purchase and Sale or Lease, which may be negotiated prior to registration of this Subdivision shall contain a clause indicating that servicing allocation for the 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.
8. That prior to final approval for registration of this Plan of Subdivision, the Owner shall submit the design drawings [with calculations] for the new sanitary and storm sewers required to service this development and obtain the necessary Ministry of the Environment Compliance Approval (ECA) under the Transfer of Review Program or the pending Consolidated Linear ECA Program.
9. 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, Conservation and Parks' documents entitled *Stormwater Management Planning and Design Manual March 2003* and *Stormwater Quality Guidelines for New Development, May 1991*, or their successors to Niagara Region Planning and Development Services for review and approval:
 - a) Detailed lot grading, servicing and drainage plans, noting both existing and proposed grades and the means whereby overland flows will be accommodated across the site.
 - b) Detailed erosion and sedimentation control plans.
10. 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 condition above.
11. That the Owner ensures that all streets and development blocks can provide an access in accordance with the Regional Municipality of Niagara policy and by-laws relating to the curbside collection of waste and recycling throughout all phases of development. If developed in phases, where a through street is not maintained, the owner shall provide a revised draft plan to reflect a proposed temporary turnaround/cul-de-sac with a minimum curb radius of 12.8 metres.

D.11.01.SD-22-0035

D.18.01.ZA-22-0069

September 2, 2022

Clearance of Conditions

Prior to granting final approval, the Town of Fort Erie must be in receipt of written confirmation that the requirements of each condition have been met satisfactorily and that all fees have been paid to the satisfaction of Niagara Region.

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.

Note: 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.

RE: Peace Bridge Village - Phase 4

William Heikoop ^t_o Daryl Vander Veen, Ethan Laman

2022-09-01 11:27 AM

From "William Heikoop" <WHeikoop@ucc.com>
To "Daryl Vander Veen" <DVanderVeen@forterie.ca>, "Ethan Laman" <ethan@ucc.com>

Hi Daryl,

See attached for correspondence previously received.

Regards,

William Heikoop, B.U.R.Pl., MCIP, RPP
Planner
Upper Canada Planning & Engineering Ltd.
30 Hannover, Unit #3
St. Catharines, ON, L2W 1A3
Office: (905) 688-9400
Cell: (289) 228-5825
Email: wheikoop@ucc.com

Vacation Notice: I will be away from Sept. 3rd through Sept. 10th, returning to the office Sept. 12th.

From: Daryl Vander Veen <DVanderVeen@forterie.ca>
Sent: September 1, 2022 11:00 AM
To: William Heikoop <WHeikoop@ucc.com>; Ethan Laman <ethan@ucc.com>
Subject: RE: Peace Bridge Village - Phase 4

Hello William and Ethan,

Do you have any correspondence you can provide from Niagara Region regarding the removal of the trees from the subject property? We are going to try to deal with that issue in the information report if possible.

Thanks,

Daryl

Daryl Vander Veen, BES
Intermediate Development Planner

Planning & Development Services
The Corporation of the Town of Fort Erie
1 Municipal Centre Drive

Fort Erie, Ontario, L2A 2S6
Phone: 905-871-1600 ext. 2509
Email: dvanderveen@forterie.ca

----- Message from Dan Drennan <ddrennan@npca.ca> on Wed, 2 Dec 2020 22:54:24 +0000 -----

To: Aaron Butler <AButler@forterie.ca>, William Heikoop
<WHeikoop@ucc.com>

Subject: Re: FW: PBV PH4 trees

Hello William,

The wording in the Niagara Region Tree & Forest Conservation Bylaw states that dead trees are exempt (4.13). Therefore, as the Bylaw Officer have no jurisdiction in what happens to dead trees located on this property. I have walked through the area and observed a significant amount of dead ash trees and agree it is a safety concern. I would suggest bringing this concern up with the Town of Fort Erie and their EAC as they are putting conditions on dead tree removal on this property.

Thanks,

<https://www.niagararegion.ca/government/bylaws/tree/pdf/tree-by-law-niagara-region.pdf>

Tree By-law for Niagara Region 30-2008

bill 30 page 1 of 17 the regional municipality of niagara by-law no. 30-2008 a by-law to prohibit or regulate the harvesting, destruction or injuring
www.niagararegion.ca

Dan Drennan, R.P.F.
Forester/Forest Conservation Bylaw Officer
Niagara Peninsula Conservation Authority
905.788.3135 Ext 247

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]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>

For mapping on features regulated by the NPCA please go to our GIS webpage at <https://gis-npca-camaps.opendata.arcgis.com/> and utilize our Watershed Explorer App or GIS viewer.

To send NPCA staff information regarding a potential violation of Ontario Regulation 155/06 please go to the NPCA Enforcement and Compliance webpage at <https://npca.ca/administration/enforcement-compliance>

From: Aaron Butler <AButler@forterie.ca>
Sent: Wednesday, December 2, 2020 4:57 PM
To: William Heikoop <WHeikoop@ucc.com>
Cc: Dan Drennan <ddrennan@npca.ca>
Subject: Re: FW: PBV PH4 trees

Hi William,

I would suggest that you continue to deal with Dan Drennan in terms of his administration of the Region's Tree By-law.

It would continue to be the Town's position that only edge trees be removed that may be creating an unsafe condition for surrounding properties. We would recommend that they be fallen and left in place on the lands so long as they are not creating an unsafe condition.

Hope that helps.

Aaron

Aaron Butler, MCIP, RPP
Manager, Development Approvals

The Corporation of the Town of Fort Erie | Planning and Development Services
1 Municipal Centre Drive, Fort Erie, Ontario L2A 2S6
T: 905-871-1600 x 2502 | F: 905-871-6411

From: "William Heikoop" <WHeikoop@ucc.com>
To: "Aaron Butler" <AButler@forterie.ca>
Date: 12/01/2020 12:39 PM
Subject: FW: PBV PH4 trees

Hi Aaron,

I got this note from Jay Gilmour a couple weeks ago and didn't deal with it, they're hoping to clean up some of the tree's that have blown over.

I know previously you commented to Dan Drennan on the property, and quoted unsafe conditions, see below, there is a concern from Ashton Homes.

They'd like to get in there now that we are out of bird breeding season to do some clean up, around the edges and to remove any unsafe blown over dead tree's.

They have had an arborist review the site and have reviewed the dead ash tree's some of which are a major concern along the rear of the houses fronting Jordyn Drive.

In the email attached you mentioned you would be circulating to EAC, just wondering if anything came out of this and if there were further concerns.

Ashton would like to do this in the next couple weeks leading up to Christmas.

Let me know if you'd like to discuss further or have concerns.
Regards,

William Heikoop, B.U.R.Pl.
Planner
Upper Canada Planning & Engineering Ltd.
30 Hannover, Unit #3
St. Catharines, ON, L2W 1A3
Office: (905) 688-9400
Cell: (289) 228-5825
Email: wheikoop@ucc.com

From: Jay Gilmour [<mailto:jason.ashtonhomes@gmail.com>]
Sent: Wednesday, November 18, 2020 11:21 AM
To: William Heikoop <WHeikoop@ucc.com>
Subject: PBV PH4 trees

Hi Will, see attached images of trees blown over in the windstorm on Sunday (Nov 15) in PBV PH4.

As mentioned over the phone, this is of considerable concern to us as it poses significant safety concerns. The adjacent subdivision (Peace Bridge Village Phase1) is now complete and fully occupied, where there are many young families with children who may be tempted to explore these woods.

Kind regards,

Jay Gilmour
Ashton Homes
(Western) Limited
O: 416.740.5700



Please consider the environment before printing this email

The contents of this communication, including any attachment(s), are confidential and may be privileged. If you are not the intended recipient (or are not receiving this communication on behalf of the intended recipient), please notify the sender immediately and delete or destroy this communication without reading it, and without making, forwarding, or retaining any copy or record of it or its contents. Thank you. Note: We have taken precautions against viruses, but take no responsibility for loss or damage caused by any virus present.

[attachment "image-1.pdf" deleted by Aaron Butler/FortErie] [attachment "image-4.pdf" deleted by Aaron Butler/FortErie] [attachment "image-2.pdf" deleted by Aaron Butler/FortErie] [attachment "image-3.pdf" deleted by Aaron Butler/FortErie]

----- Message from Dan Drennan <ddrennan@npca.ca> on Tue, 16 Jun 2020 20:05:08 +0000 -----

To: William Heikoop
<WHeikoop@ucc.com>
Subject Fwd: Dead tree removal plans: Lousia
: Street

Hi William,

Got a response from the town. Sounds like only trees along the edge of the woodland can be felled, not the entire woodland. See the email below.

Dan Drennan, R.P.F.

From: Aaron Butler <AButler@forterie.ca>

Sent: Tuesday, June 16, 2020 3:32:45 PM

To: Dan Drennan <ddrennan@npca.ca>

Cc: Jason Culp <jculp@npca.ca>; Keegan Gennings <KGennings@forterie.ca>; Anamika Dilwaria <ADilwaria@forterie.ca>

Subject: Re: Dead tree removal plans: Lousia Street

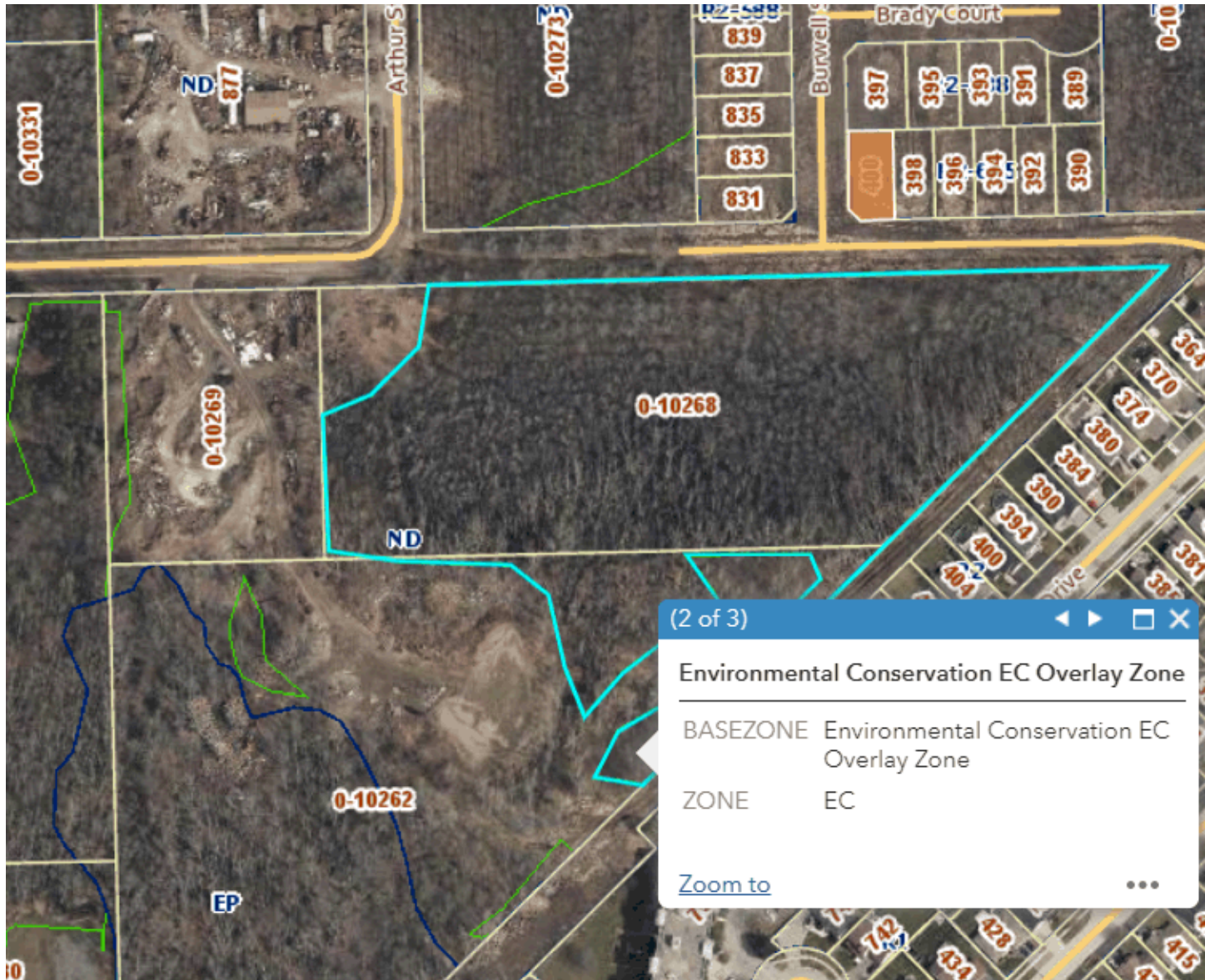
Hi Dan,

Thanks for reaching out. This property contains an Environmental Conservation (EC) Overlay in the Town's Zoning By-law (see outline in turquoise below). Prior to any development occurring, the EC Overlay would need to be reviewed and removed in consultation with the Town's Environmental Advisory Committee (EAC).

In the past when EAC has reviewed ash removal within woodlots, they have recommended that they be felled into the property and be left in place. Under the Town's Lot Maintenance By-law ([92-2019](#)) owners are required to keep their land and structures clear from dead, fallen and damaged trees and branches which may create an unsafe condition. Therefore, it is generally the Town's position that only edge trees be removed as they may be creating an unsafe condition for surrounding properties. As per EAC's direction, we would recommend that they be felled and left in place on the lands so long as they are not creating an unsafe condition.

I will be circulating your inquiry to EAC for their information. I would appreciate receiving a copy of any approvals from you for our files. Thanks!

Aaron



Aaron Butler, MCIP, RPP

Manager, Development Approvals

The Corporation of the Town of Fort Erie | Planning and Development Services

1 Municipal Centre Drive, Fort Erie, Ontario L2A 2S6

T: 905-871-1600 x 2502 | F: 905-871-6411

From: "Dan Drennan" <ddrennan@npca.ca>

To: "Aaron Butler" <AButler@forterie.ca>, "Keegan Gennings" <KGennings@forterie.ca>

Cc: "Jason Culp" <jculp@npca.ca>

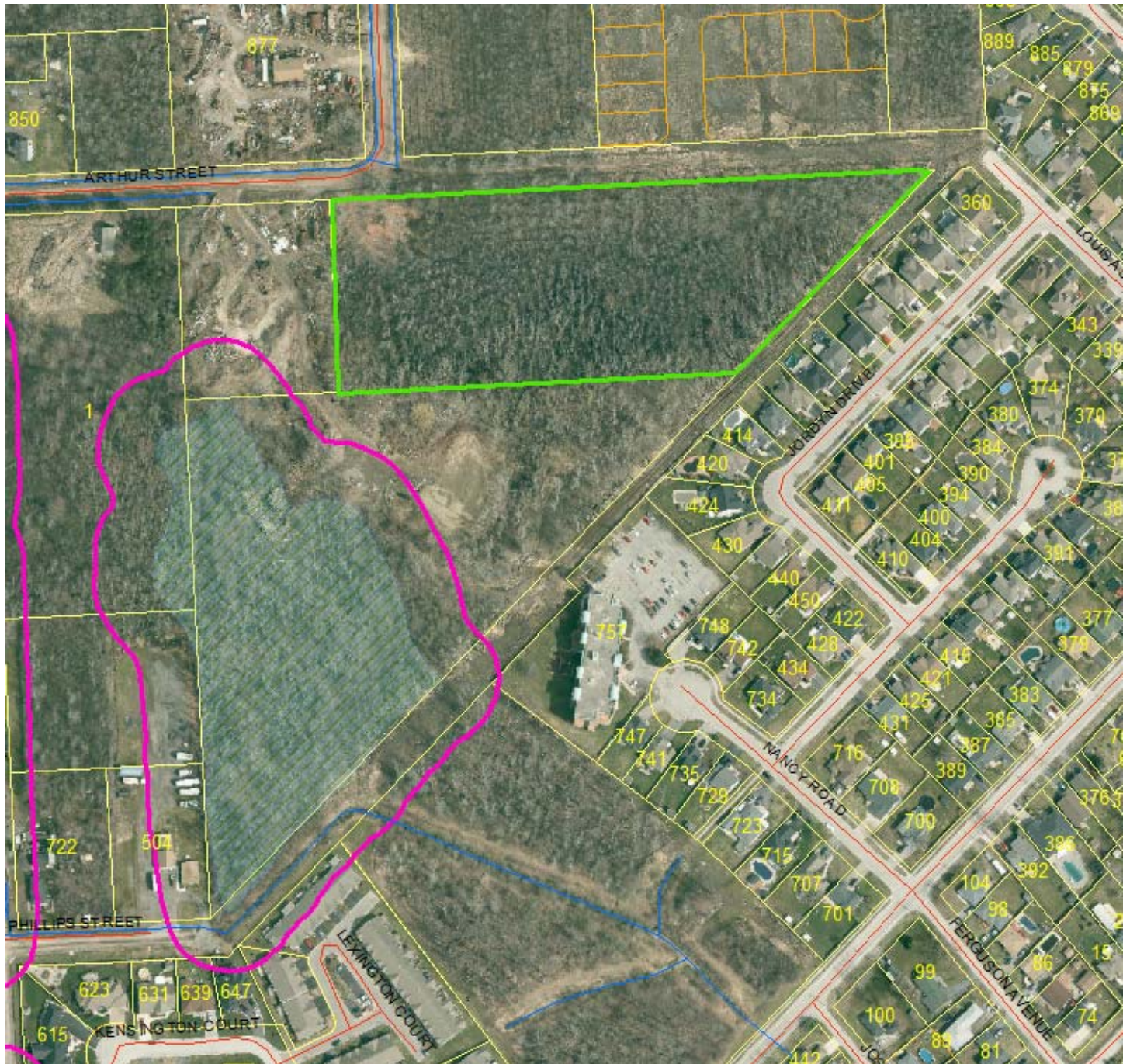
Date: 06/13/2020 11:06 AM

Subject: Dead tree removal plans: Lousia Street

Hello Aaron and Keegan,

A landowner is requesting to remove dead trees from the property highlighted in green below. The dominate tree species is ash with a lesser component of red maple and American elm. The mature ash are dead and have been for a few years. The site is not designated as a wetland but had lots of ponded water during my visit on June 12. There is PSW nearby to the west (see purple line). Not sure why one is mapped wetland and the other is not. For what I administer under the Region's Forest Bylaw, a landowner can remove dead trees under an exemption. I'm contacting you guys since you might have your own designation/regulation for this property and you may want to have input into the removal request. It is similar to the situation that occurred on a property at 3285 Thunder Bay Rd.

The NPCA may have additional concerns because of the conditions of the site (wetland characteristics)



Dan Drennan, R.P.F.
Forester / Forest Conservation Bylaw Officer
Niagara Peninsula Conservation Authority
250 Thorold Road West, Welland ON. L3C 3W2
905-788-3135 ext. 247
ddrennan@npca.ca
www.npca.ca
[Good Forestry Practices NPCA webpage](#)

When necessary, it's OK to print this e-mail. Paper is a recyclable, biodegradable, renewable, and sustainable

product made from trees.

Growing and managing forests is good for the environment providing clean air, clean water, wildlife habitat, carbon storage, and spiritual respite. Working forests provide jobs and support communities for millions of people.

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Thanks for connecting.

For up-to-date information about the Town of Fort Erie's response to the COVID-19 virus, please visit <https://www.forterie.ca/pages/Covid19News>

We also strongly encourage you to stay-up-to-date with the latest advice from Niagara Region Public Health at <https://www.niagararegion.ca/health/covid-19/default.aspx>

All critical services, including water and wastewater and road operations as well as fire services will continue to operate to support our community. For after-hours services, including road or wastewater operations, please call 905-871-1600. For emergency assistance from fire services please call 911.

As many Town staff are focusing on emergency management at this time, we thank you in advance for your patience.

Thanks for connecting.


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We also strongly encourage you to stay-up-to-date with the latest advice from Niagara Region

Public Health at <https://www.niagararegion.ca/health/covid-19/default.aspx>

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Re: Request for comments - proposed Peace Bridge Village Phase 4 Plan of Subdivision & Zoning By-law Amendment application, 97 Gorham Road, Town of Fort Erie (file nos. 350309-0501 & 350302-0133) Email 1 of 2 

Keegan Gennings to Daryl Vander Veen

2022-09-01 08:30 AM

From Keegan Gennings/FortErie
To Daryl Vander Veen/FortErie@TownOfFortErie

Hi Daryl,

I have reviewed the proposed plan of subdivision and zoning by-law amendment for Peace Bridge Village phase 4 and I have no comments.

Regards,

Keegan Gennings C.B.C.O
Chief Building Official
Town of Fort Erie
905-871-1600 ext. 2515

Daryl Vander Veen Good afternoon, A complete application for a Pl... 08/19/2022 05:38:30 PM

From: DVanderVeen@forterie.ca
To:
Date: 08/19/2022 05:38 PM
Subject: Request for comments - proposed Peace Bridge Village Phase 4 Plan of Subdivision & Zoning By-law Amendment application, 97 Gorham Road, Town of Fort Erie (file nos. 350309-0501 & 350302-0133) Email 1 of 2

Good afternoon,

A complete application for a Plan of Subdivision and Zoning By-law Amendment has been received from William Heikoop of Upper Canada Consultants for the proposed Peace Bridge Village Phase 4 Subdivision. The Owner is Ashton Homes (Western) Limited (Aldo Vercillo). The development is proposing 29 lots for single detached dwellings, 6 blocks for a total of 36 townhouse dwellings and one block for a future road connection.

The lands are located within the Urban Area and are currently designated Urban Residential and Environmental Conservation in the Town's Official Plan. The lands are currently zoned Neighbourhood Development (ND) Zone and Environmental Conservation (EC) Overlay Zone in accordance with the Town's Comprehensive Zoning By-law No. 129-1990. The zoning is proposed to change the Neighbourhood Development (ND) Zone to a site-specific Residential 2A (R2A) Zone for the single detached dwellings and a site-specific Residential Multiple 1 (RM1) Zone for the townhouse dwellings. The site-specific R2A Zone is proposing special provisions to permit reduced lot frontage for a corner lot and reduced lot area. The site-specific RM1 Zone is proposing special provisions to permit reduced lot area, increased density, increased lot coverage and a reduced planting strip width where it abuts a street. The Zoning By-law Amendment also proposes to remove the Environmental Conservation (EC) Overlay Zone from the subject lands.

APPENDIX "4" TO ADMINISTRATIVE REPORT PDS-63-2022 DATED SEPTEMBER 12, 2022

Peace Bridge Village Phase 4AJ Vance to dvanderveen 2022-08-02 08:45
PM From "AJ Vance" <[redacted]>
To dvanderveen@forterie.ca

Hi,

I am a local resident and interested in learning about this development.

Could you please share all of the drawings and studies that have been submitted to date which are part of the public record.

Please also advise when staff are looking to provide the planning recommendation?

Thanks,
AJ



APPENDIX "4" TO ADMINISTRATIVE REPORT PDS-63-2022 DATED SEPTEMBER 12, 2022

Re: Sept 12 meeting at 6:00 pm (0-10268)benoit nolet to Daryl Vander Veen 2022-08-23
12:21 PM
From "benoit nolet" <[redacted]>
To "Daryl Vander Veen" <DVanderVeen@forterie.ca>

Yes I am 343 Louisa, but the issue is occurring in the recent developments to the north of us, the ones that were built in the last 2 years and continue to get built.

This kind of mistake cannot get repeated at other developments.

Get [Outlook for iOS](#)

From: Daryl Vander Veen <DVanderVeen@forterie.ca>
Sent: Tuesday, August 23, 2022 12:17:01 PM
To: benoit nolet <[redacted]>
Subject: Re: Sept 12 meeting at 6:00 pm (0-10268)

Hello Benoit,

Thanks for the comments. I'll forward it to Council and include it in the information report as well.

I'll reach out to our Infrastructure Services staff as well for comment on the Town's policy for sump pump discharge. Do you mind providing your address to pinpoint where the issue is occurring?

Regards,

Daryl

Daryl Vander Veen, BES
Junior Development Planner

Planning & Development Services
The Corporation of the Town of Fort Erie
1 Municipal Centre Drive
Fort Erie, Ontario, L2A 2S6
Phone: 905-871-1600 ext. 2509
Email: dvanderveen@forterie.ca

From: "benoit nolet" <[redacted]>
To: "Daryl Vander Veen" <DVanderVeen@forterie.ca>
Date: 2022-08-23 12:10 PM
Subject: Re: Sept 12 meeting at 6:00 pm (0-10268)

Thank you,

My main concern is the surface discharging of sump pump water which inevitably ends up on the sidewalk, which in the winter, ends up icing up the sidewalks which makes using them hazardous.

There were numerous slipping incidents which will inevitably end up in a law suit against the city and not against the homeowners, as the city approved the surface discharge of sump water in the neighboring development.

APPENDIX "4" TO ADMINISTRATIVE REPORT PDS-63-2022 DATED SEPTEMBER 12, 2022

My main point to make at both upcoming meetings is to ensure that no future developments are allowed the surface discharge of sump water. That it should always be hard piped to the storm sewer. Please confirm that this point will be tabled at the upcoming meetings, to ensure my presence is not essential.

Otherwise I have no objection to the proposed re-zoning, conditional on the sump water point made above.

Thank you

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From: Daryl Vander Veen <DVanderVeen@forterie.ca>

Sent: Tuesday, August 23, 2022 10:42:54 AM

To: benoit nolet <[redacted]>

Subject: Re: Sept 12 meeting at 6:00 pm (0-10268)

Hello Benoit,

They are two separate meetings so please feel free to attend both if you wish to do so. The meeting this evening (August 23) is an initial question and answer meeting that will be lead by the Applicant. The intent of the meeting tonight is to obtain some initial feedback from the public in advance of the meeting on Sept 12th. I will be in attendance as well to assist and answer questions from a staff perspective.

The meeting on September 12th is the formal public meeting mandated by the Planning Act. This public meeting occurs during a Council session and members of the public have the opportunity to speak directly to Council if they wish to do so.

You can also submit any comments you have to me via email. They will be placed on public record and will be provided to Council.

Regards,

Daryl

Daryl Vander Veen, BES
Junior Development Planner

Planning & Development Services
The Corporation of the Town of Fort Erie
1 Municipal Centre Drive
Fort Erie, Ontario, L2A 2S6
Phone: 905-871-1600 ext. 2509
Email: dvanderveen@forterie.ca

From: "benoit nolet" <[redacted]>
To: "dvanderveen@forterie.ca" <dvanderveen@forterie.ca>
Date: 2022-08-22 07:50 PM
Subject: Sept 12 meeting at 6:00 pm (0-10268)

Is the meeting planned for Sept 12 at 6:00 pm in replacement of the one planned for August 23 at 5:00

APPENDIX "4" TO ADMINISTRATIVE REPORT PDS-63-2022 DATED SEPTEMBER 12, 2022

or in addition?

We received a second notice with the only difference being the date, and there is no mention to clarify if it is a replacement or an addition.

Get [Outlook for iOS](#)

Subdivision Proposal for Peace Bridge Village

Stacey-Lynn Pronik ^t_o dvanderveen

2022-09-02 08:16 PM

From "Stacey-Lynn Pronik" <[redacted]>
To dvanderveen@forterie.ca

Hi Daryl,

As per our discussion at your open house regarding the proposal for the Peace Bridge Village Subdivision expansion, I wanted to once again bring forward the issue of increased traffic on Louisa St. The initial development of Peace Bridge Village has brought a significant amount of traffic to the existing Louisa Street. The traffic likes to speed around the corner on Louisa and somebody is going to get hurt! I am not against the subdivision expansion however I would like to see a stop sign put at the corner of Louisa Street and Jordyn Dr.

I would appreciate it if you brought this concern forward in your meeting on September 12. I would also love it if you could bring forward to someone else's attention now to address the current situation and possibly put a stop sign at Louisa Street and Jordyn Drive.

Thank you! I look forward to hearing the results of the meeting.

Stacey-Lynn Pronik

Sent from my iPhone



Planning and Development Services

Prepared for	Council-in-Committee	Report No.	PDS-64-2022
Agenda Date	September 12, 2022	File No.	110401

Subject	PROPOSED COMBINED OFFICIAL PLAN, ZONING BY-LAW AND SITE PLAN CONTROL BY-LAW AMENDMENTS – COMMERCIAL GROWTH OF CANNABIS FOR MEDICAL AND RECREATIONAL PURPOSES
----------------	---

Recommendation	THAT Council receives Report No. PDS-64-2022 for information purposes regarding a proposed Official Plan Amendment, Zoning By-law Amendment and Site Plan Control By-law Amendment to regulate the commercial growth of cannabis for medical and recreational purposes.
-----------------------	--

Relation to Council's 2018-2022 Corporate Strategic Plan	<p>Priority: Managed Growth through Responsibility, Stewardship and Preservation</p> <p>Initiative: 5.2 Review the Town's policies to ensure responsible growth principles guide development approvals.</p>
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List of Stakeholders	<p>The Corporation of the Town of Fort Erie</p> <p>Economic Development Stakeholders</p> <p>Residents and Property Owners in the Town of Fort Erie</p>
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Prepared by:	Submitted by:	Approved by:
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Purpose

Council through the recommendations of [PDS-53-2021](#) authorized Staff to initiate an Official Plan Amendment, Zoning By-law Amendment and Site Plan Control By-law Amendment in accordance with the Planning Act, to implement the recommendations outlined in the Cannabis Legislation and Policy Review Study (the “Study”) as approved on July 12, 2021. The Study is attached to this report as **Appendix “1”** for ease of reference.

Staff has initiated Official Plan Amendment No. 61 (OPA 61), Zoning By-law Amendment No. XX (ZBA XX) and Site Plan Control By-law Amendment No. XX (SPCBA XX) to establish new policies and regulations regarding permissions for the cultivation of cannabis and related processing uses within specific designations and zones in the Town. (“XX” By-law numbers will be assigned at a future date).

The purpose of this report is to provide Council and the public with information on the proposed changes to the Town’s official documents in advance of the September 12, 2022 Public Meeting.

Analysis**Background**

In 2014, the Council approved amendments to the Town of Fort Erie Official Plan and Zoning By-law to include provisions for Medical Marihuana Grow and Production Facilities that were licensed under the 2013 Marihuana for Medical Purposes Regulations (MMPR).

While the production of cannabis is addressed in the Fort Erie Official Plan through Official Plan Amendment No. 18 and the Town’s Comprehensive Zoning By-law No. 129-90, these permissions are only in the context of marihuana for medical purposes permitted under the earlier *Marijuana for Medical Purposes Regulations, 2013*.

The Town’s Official Plan and Zoning By-law have not been updated in response to the *Access to Cannabis for Medical Purposes Regulations, 2018* (ACMPR) or the *Cannabis Act, 2018*, which are the two current pieces of federal legislation governing the production of cannabis in Canada.

With the change in legislation, cannabis production is now permitted for commercial growth for both medical and recreational purposes, and as such, the existing zoning by-law provisions no longer capture the full range of legal permitted uses.

On May 19, 2020, Council approved the Term of Reference for the Cannabis Study through Report No. [PDS-23-2020](#), that guided the RFP development and identified the

scope of the study parameters. It can be noted that the study does not address personal growth for recreation or growth for personal medical use.

On July 20, 2020 Council approved the recommendations of [PDS-33-2020](#) to award consulting services for the preparation for the Town of Fort Erie Cannabis Legislation and Policy Study to SGL Planning and Design Inc.

On July 12, 2021, Council approved the Study and recommendations of [PDS-53-2021](#), and subsequently authorized Staff to initiate an Official Plan Amendment, Zoning By-law Amendment and Site Plan Control By-law Amendment in accordance with the Planning Act, to implement the recommendations. For reference, the approved Study is attached as **Appendix “1”** for detailed background information on this topic.

The Study recommended moving forward with formal amendments under the *Planning Act* that will update the existing policies and regulations contained in the Town's Official Plan, Zoning By-law and Site Plan Control By-law. The focus of the approved Study was the consideration of land use permissions related to commercial growth and the processing of cannabis regulated under the *Cannabis Act*. Personal growth (4 plants per household) and licenced retail sales were not part of the study scope as these are permitted as-of-right or licenced by the federal legislation and the Provincial government respectively.

A summary of the approved Study components that lead to the proposed amendments is provided below.

Phase 1 (August 2020 to March 2021)

- **Section 2 of the Study:** A review of cannabis production in Canada and the legal framework of cannabis production in Canada, including the Cannabis Act Regulations and other Acts, Policies and Guidelines;
- **Section 3 of the Study:** A review of the existing planning framework for the Town including a review of the Official Plan, Zoning By-law, Site Plan Control By-law and any other applicable by-laws at the Town. This review also included a brief analysis of existing cannabis facilities in the Town;
- **Section 4 of the Study:** A best practices review of 5 local municipalities and 13 other Ontario municipalities who have planning permissions in place for cannabis production. This best practice review compared official plan permissions, cannabis facility definitions, zoning permissions for both indoor and outdoor cultivation, and zoning and site plan requirements; and
- **Section 5 of the Study:** A case law review of appeals and decisions from the Ontario Lands Tribunal, the Normal Farm Practices Protection Board, the Assessment Review Board, the Ontario Superior Court of Justice and the Federal Court of Canada.
- **Section 6 of the Study:** Provided options for the Town's consideration through consolidation of findings of Sections 1 through 5, and were presented in a Public Open House on March 4, 2021.

Phase 2 (March 2021 to July 2021)

- **Section 7 of the Study:** Reviewed the public comments from Public Open House No. 1 and LTFE survey including those heard at the public information session and an analysis of the Let's Talk Fort Erie survey results; and
- **Section 8 of the Study:** Provided final recommendations relative to: the production types to be regulated; outdoor cultivation; indoor cultivation and cannabis related uses; and setbacks and other planning permissions. The recommendations were presented to the public for final review and comment through Let's Talk Fort Erie and at a second public open house held on June 9, 2021. The final Recommendation Report was approved by Council on July 12, 2021.

Phase 3 (July 2021 to Present)

The final phase of this project involves the formal process of bringing forward an Official Plan Amendment, Zoning By-law Amendment and Site Plan Control By-law Amendment to Council with recommend provisions for setbacks, storage, lighting, security, parking etc. and the requirement of additional study submissions for new or expanding cannabis production facilities.

Public Open House

The Planning Act requires that a Public Open House and a statutory Public Meeting be held to collect feedback from the community, stakeholders and partner agencies, relative to proposed changes to the Official Plan, Zoning Bylaw or Site Plan Control Bylaw.

A Public Open House was held virtually on November 9, 2021. The consulting team from SGL provided a background review of the Study work, a summary of the various levels of government involved in the process, specific details and requirements of the proposed amendments, and a summary of the proposed changes to the Town's planning documents. Each participant was given the opportunity to ask questions and provide comments which have been summarized below.

- *Why are retail sales not permitted on farm in Agricultural areas?*

There was a question around permitting retail sale as part of a "Farm Product Market" in the Agriculture Zone and the rationale behind prohibiting this use. The proposed amendment restricts the sale of cannabis products to the public at the source operation. In other words, if someone has a licence to grow cannabis in the agricultural area, why can't they sell it on the farm, or as part of a value-added use permitted as part of the farm operation?

Staff note that a licenced cannabis facility in the agricultural area would be required to obtain a Provincial licence to sell their product retail (per Federal *Cannabis Act*) as part of any value-added uses provided for in the zone.

Staff are not opposed to farm product market sales from licenced producers, so long as they have acquired the appropriate licence from the Province to sell and the Site Plan Control Agreement reflects any such value-added use demands related to the site plan design. In this instance, the approach is intended to ensure unlicensed sales are not occurring in the agricultural area from licenced or unlicensed growers without a Provincial licence. This measure respects the federal *Cannabis Act* requirements related to sale of cannabis.

- *Separation Distance – What was the basis of setting 150m to sensitive land uses and 500m to schools?*

Staff noted that the separation distance requirements to sensitive land uses reflect current Ministry of the Environment D6 Guidelines and the best practices review that was part of Phase I of the Cannabis Legislation and Policy Study. Respecting the separation requirement to a school zone, this was the result of Council direction on an approved motion to amend the recommendations of Report No. PDS-53-2021 prior to approving the report.

- *How far can odour travel from outdoor growth?*

It was noted by the Consultants that odour from outdoor growth is difficult to measure as it can vary from day to day based on the weather conditions, but generally speaking is significantly more impactful than mitigated indoor growth.

- *Who is in charge of Enforcement?*

The proposed amendments recommend that Licenced Cannabis Production Facilities and the Designated Medical Growth of Cannabis be wholly enclosed in a building and that they do not emit any odour. Enforcement of these regulations will fall to the Town's By-law Enforcement Division.

- *Concern for personal and designated medical growth to emit odour, specifically in proximity to licenced cannabis facilities who would be blamed for personal growth in the area.*

The proposed amendments do not apply to personal growth of cannabis or medical growth for personal use with an approved license. The Town is only able to regulate odour for Licensed Cannabis Production Facilities and Designated Medical Growth of Cannabis as defined.

- *How these proposed distances will impact current legally existing operations*

Once the new regulations are approved, any existing legally established cannabis operation will become "legal non-conforming" which means that the use and existing setbacks may not meet the new regulations but can continue to operate under the previous zoning requirements. Any expansion or addition to the operation will be required to comply with the new zone regulations.

- *Question on why the restriction of "outdoor storage" for cannabis facilities;*

The proposed recommendations do not permit outdoor growing or outdoor storage to minimize nuisance concerns. The consultant had noted that outdoor storage is not even permitted in some industrial zones and the recommendation is consistent with that approach to site planning for all licenced facilities, agricultural or not.

A Public Meeting on the proposed amendments had previously been scheduled for December 6, 2021 but was postponed due to staffing changes. With resource now able to advance the amendments, the process has resumed and the Public Meeting re-scheduled for September 12, 2022.

Proposed Official Plan Amendment (OPA) No. 61

The purpose of the proposed Official Plan Amendment is to establish new policies and direction for cannabis production facilities regulated by the Federal *Cannabis Act, 2018*. This amendment removes reference to Medical Marihuana Grow and Production Facilities as introduced in OPA No. 18 back in 2014. The currently proposed OPA No. 61 is attached as **Appendix “2”** and details all the policy additions, deletions, or modifications that are proposed to be made to the Official Plan.

The proposed Policy changes are summarized below:

- Updating outdated terms and nomenclature such as, “growing of marihuana plants” and “Marihuana for Medical Purposes”, to reflect the current terms of legislation such as, “cannabis cultivation” and “cannabis production” in the designations that permit the use;
- Identifies where licenced production may occur (Agricultural, Rural and Industrial-Business Park designations);
- What requirements will need to be met, such as having a licence, indoor growth only, separation distances from sensitive land uses as defined in the zoning by-law and zero emissions of odour; and
- Identifies Site Plan Control will be a requirement.

Zoning By-law Amendment (ZBA No. XX)

The purpose of the proposed Zoning By-law Amendment is to implement the new Official Plan policies which includes establishing new definitions and to set specific zoning regulations for these uses. The proposed ZBA No. XX is attached as **Appendix “3”**. The following summarizes the changes being considered through this amendment:

- New Definitions for “Licenced Cannabis Production Facility” and “Designated Medical Growth of Cannabis” would be added to Section 5 of the Town’s Zoning By-law to capture and define the new terms to be found in subsequent zoning regulations being introduced with the proposed amendments.
- Redundant definition for “Medical Marihuana Grow and Production Facilities” would be deleted. Any reference to this outdated term remaining in the By-law will be replaced prior to the final amendment being presented to Council for consideration of approval.

- The proposed changes to the zoning regulations of the Agricultural, Rural, Industrial and Prestige Industrial Zones, to replace older wording and set out regulation for the licenced commercial production of both recreational and medical cannabis.
- New regulations have been added / adjusted including separation distances from sensitive land uses, requirements for indoor production only and zero odour emission requirements.

Site Plan Control By-law Amendment (SPCBA No. XX)

Minor amendments are being proposed to the Town's Site Plan Control Exemption Policy to exclude Cannabis Production Facilities and the Designated Medical Growth of Cannabis (By-law 134-86, as amended). In other words, no matter where a licenced Cannabis Production Facility is proposed, it will be required to go through the Site Plan Control process.

The proposed SPCBA No. XX is attached as **Appendix "4"**.

Through Site Plan Control, and in accordance with proposed Official Plan Amendment No. 61, the establishment or expansion of a Cannabis Production Facility or Designated Medical Growth of Cannabis will be subject to Site Plan Control. As part of any submission, applicants will be required to prepare and submit supporting studies as determined through pre-consultation, which may include but not be limited to:

- Study Requirement
- Air Quality Study
- Noise Impact Study
- Traffic/Parking Impact Analysis
- Stormwater Management Plan
- Hydrogeological Study
- Private Servicing Plans
- Environmental Impact Study
- Lighting/Photometrics Plan

Issues such as odour, traffic, water quality and quantity, lighting and environmental impacts will be addressed through these studies and ultimately through the site plan design and agreement. Additional items such as security (fencing, buffers etc.) can also be addressed through the site plan design and site plan agreement.

Summary of Recommendations

The proposed OPA No. 61, ZBA No. XX and SPCBA No. XX are being made to update the existing Town documents to reflect the 2018 Cannabis Act and to put in place appropriate regulations to permit and regulate the use within the Town. These amendments will implement a number of requirements including:

- The requirement of a separation distance minimum of 150 metres from a sensitive land use and 500 metres from a school;
- The prohibition of outdoor storage;
- The prohibition of retail sales in the Agricultural and Rural Zones without a provincial licence;
- The permission of retail sales in the Industrial Zone with a provincial licence;
- The requirement that commercial growth and production occur in an entirely enclosed building;
- The prohibition of the use(s) within a dwelling;
- The requirement for Site Plan Control and
- The requirement for the use to not emit any odour

By regulating the commercial growth of cannabis through the Official Plan, Zoning By-law requirements and Site Plan Control, the Town can continue to permit the legal growing of cannabis, while mitigating the impacts on surrounding lands. As indicated earlier, these policies and regulations do not impact the as-of-right personal growth or personal medical use per dwelling as provided for in the Federal regulation.

Financial/Staffing and Accessibility (AODA) Implications

The preparation of the proposed amendments to the Town's Official Plan, Zoning By-law and Site Plan Control By-law were approved as part of the overall Study work. There are no additional financial, staffing or AODA considerations at this time.

Policies Affecting Proposal

Notice of the 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 previous open house participants, interested stakeholders (including local cannabis producers, and members of the public who had made enquires on establishing cannabis facilities in the past several years) and anyone who indicated they wished to be kept informed through Let's Talk Fort Erie Cannabis webpage were emailed or mailed a "Notice of Public Meeting" on the same date. In total 82 persons described above were sent notice.

The proposed amendments have been prepared with consideration to the *Cannabis Act, 2018*, the *Farming and Food Production Act, 1998*, the *Provincial Policy Statement, 2020* and Ontario Regulation 332/12 under the *Building Code Act, 1992* related to farm buildings and requirements for those where cannabis operations are located.

Comments from Relevant Departments/Community and Corporate Partners

A request for comments regarding these proposed amendments was first circulated to relevant Departments/Community and Corporate Partners on November 9, 2021. With

postponement and re-scheduling of the Public Meeting, circulation for comment was undertaken again on August 18, 2022.

Comments received from department and agency circulations are summarized below and are attached as **Appendix “5”**. Any comments received after the report cycle deadline will be made available to the Clerk at the Public Meeting to be entered into record and addressed at the time of a recommendation report to Council.

Agencies

Comments received from partner agencies prior to this information report deadline are included in **Appendix “5”**. Any comments received up until the Public Meeting will be provided to the Clerk for record and addressed in the next report.

Niagara Region

Originally received January 7, 2022, Niagara Region have cited aspects of the proposed agricultural controls for awareness of Town staff and Council in relation to the Region’s policies. More specifically, the following excerpt captures the cautionary position of Regional staff:

“Both Regional Council and the Region’s Agricultural Policy and Action Committee (“APAC”) have been consistent with requests and comments to the Province that all commodity groups will be treated equally. The proposed OPA regulations specify that the cultivation of cannabis in the ‘Agricultural’ area can only occur indoors. By creating policy sets that identify individual crop types, there can be implications that result in disadvantages to growers and operators within the agricultural sector.”

Town staff respect the Region’s position on the proposed controls, however Town staff must also seek to address the concerns of its constituency, most notably the concerns over odour have been by far the predominant concern. The requirement for indoor growth, along with other mitigation measures, will assist in the ability to balance interests of both the agricultural community and residents. Other aspects of the cannabis growth are also considered in that a federal licence is required to grow at commercial volume, which separates it from general farm cropping and by extension, not viewed equally to others. The Town is aware of other local municipalities in Niagara who have either implemented indoor only in agricultural areas, or are in the process of seeking amendments to their own documents to this same end.

Niagara Parks Commission (NPC)

Originally received on December 1, 2021, the NPC raised concerns with nighttime lighting (sky glow) and impacts on sensitive uses beyond those of the immediate area, migratory bird impacts and nighttime processional quality of the Niagara Parkway. The NPC suggested the requirements for light curtains to reduce impacts. There was also suggestion of a *Municipal Act* by-law being introduced that dealt with light pollution.

Staff can appreciate the concerns raised by NPC and would offer that lighting studies can be requested through Site Plan Control. It can also be noted that the Town has

adopted Bird Friendly Design Standards and have sought certification as a Bird Friendly City, the latter promoting criteria / guidelines aimed at reducing light pollution impacts on migratory birds. With these initiatives and the requirement of Site Plan Control, staff is confident lighting concerns can be assessed and addressed going forward.

Bell Canada

No specific comments or concerns pertaining to this initiative at this time. Bell requests to be kept informed and continue to be circulated on any future materials and/or decisions related to this matter.

Enbridge

Enbridge Gas Inc. does not object to the proposed amendments and be kept informed and continue to be circulated on any future materials and/or decisions related to this matter.

Department Comments

Development Planning, Development Approvals

Advises the Clerk's Correcting clause is absent from the proposed amending SPC By-law and should be added for consistency with all of the Town's by-laws.

Public Comments

Public comments received on the proposed amendments are found in a summary matrix attached as **Appendix "6"**. Telephone inquiries are noted in the matrix together with all written submissions received after the Notice release, which added following the matrix (redacted where appropriate).

All comments, including written submissions, received prior to reporting deadline are included in the Appendix. All comments received after will be submitted at the Public Meeting for record and addressed as part of a future recommendation report to Council.

Alternatives

N/A

Communicating Results

There are no communication requirements at this time.

Conclusion

This report is submitted to Council for information purposes. Following all input received from circulations and public commenting at the Public Meeting, and unless otherwise directed by Council, staff will consider the input received, make any required

adjustments or minor edits, and present final proposed amendment documents to Council at a later date for consideration on approval.

Attachments

Appendix “1” – Cannabis Legislation and Policy Study Recommendations Report

Appendix “2” – Draft Official Plan Amendment

Appendix “3” – Draft Zoning By-law Amendment

Appendix “4” – Draft Site Plan Control By-law Amendment

Appendix “5” – Agency Comments

Appendix “6” – Public Comments

Town of Fort Erie

Cannabis Legislation and Policy Study

Recommendations Report

June 2021

Prepared by: SGL Planning & Design with

input from Aird and Beris LLP
Proposed Combined Official Plan, Zoning By-law and Site Plan Control By-...

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1 Introduction



The Cannabis Act came into effect in October 2018. It had the effect of legalizing the production, sale and use of cannabis (sometimes referred to as marihuana or marijuana) for recreational purposes in Canada.

While the production of cannabis is addressed within the Fort Erie Official Plan through Official Plan Amendment No. 18 and the Town's Comprehensive Zoning By-law No. 129-90, these permissions are only in the context of marihuana for medical purposes permitted under the earlier Marijuana for Medical Purposes Regulations. With the change in legislation, cannabis production is now permitted for commercial growth for both medical and recreational purposes, and as such, the existing zoning by-law provisions no longer capture the full range of legal uses.

The main purpose of this Study is to examine the opportunities for the Town of Fort Erie to regulate activities permitted under the Cannabis Act, specifically the commercial growing and production of cannabis. The purpose is also to assess and recommend changes to the Official Plan and/or Zoning By-law, as needed, to regulate cannabis production as a land use.

The scope of the Study includes land use regulation for the cultivation and production of cannabis, but not the personal growth of cannabis nor the sale of cannabis in a retail store format. The Cannabis Act permits, without a license, the personal growth of up to 4 cannabis plants per dwelling for the purpose of recreation. As this Study is specific to commercial growth, the personal growth of cannabis within a household falls outside its scope. Also, while retail sale of cannabis from a provincially licensed store is legal and is a permitted use in zones in Fort Erie where retail uses are permitted, this Study does not consider the sale of cannabis in retail stores, as the focus of this Study is production.

Section 2 of this report discusses the relevant Acts and policies related to cannabis production in Canada and Ontario.

Section 3 describes the current Fort Erie planning framework as it relates to cannabis production.

Section 4 outlines the Study's best practice review of current standards and policies from other municipalities.

Section 5 provides a case law review.

Section 6 provides options for the Town to consider in order to permit, regulate and control the use.

Section 7 summarizes the Public Comments.

Section 8 sets out the Study recommendations.

Section 9 describes the next steps.

2 Cannabis Production in Canada



2.1 Legal Framework of Cannabis Production in Canada

2.1.1 Previous Medical Marijuana Permissions

Prior to the introduction of the Cannabis Act in 2018, cannabis was an illegal substance and only permitted to be grown and sold for medical purposes. There were rules in place for the personal growth and consumption of medical cannabis, as well as rules for the commercial growth, processing and sale of cannabis for medical purposes.

The Marijuana for Medical Purposes Regulations (MMPR) were enacted in 2013 which controlled the production, distribution and use of medical cannabis within Canada. Currently, the Town of Fort Erie Official Plan (through OPA No. 18) and Comprehensive Zoning By-law No. 129-90 reference medical marihuana and medical marihuana grow and production facilities in alignment with the permissions of the MMPR.

The MMPR was replaced by the Access to Cannabis for Medical Purposes Regulations (ACMPR) in 2016, which further permitted individuals or their designated growers to produce a specific amount of cannabis for their own medical purposes as prescribed by their health care practitioner.

2.1.2 The Cannabis Act

With the introduction of the Cannabis Act in 2018, the consumption of cannabis for non-medical purposes became legal. This is sometimes referred to as “recreational” cannabis, as opposed to “medical” cannabis. With this legalization, came a new permission framework for cannabis production and distribution, which is generally described in this section. As well, the previous ACMPR is now covered under the Cannabis Act.

The Cannabis Act permits the commercial growth of cannabis by licence holders in Canada. There are a number of licences which can be applied for:

- Cultivation,
- Processing,
- Analytical Testing,
- Sale,
- Research, and
- Cannabis Drug Licence.

Cultivation licences are broken down into 3 classes:

- Micro-cultivation (surface area of cannabis less than 200 m²),
- Standard cultivation, and
- Nursery.

Under this framework, a person is required to obtain a license issued by Health Canada to conduct various cannabis-related activities. Federal licenses do not permit sales to the general public, rather only sale of medical cannabis, through the mail and not in a store format, although a separate permission for retail sale can be applied for through the Province. **Figure 1** provides a summary of the types of licences that can be applied for under the Cannabis Act.

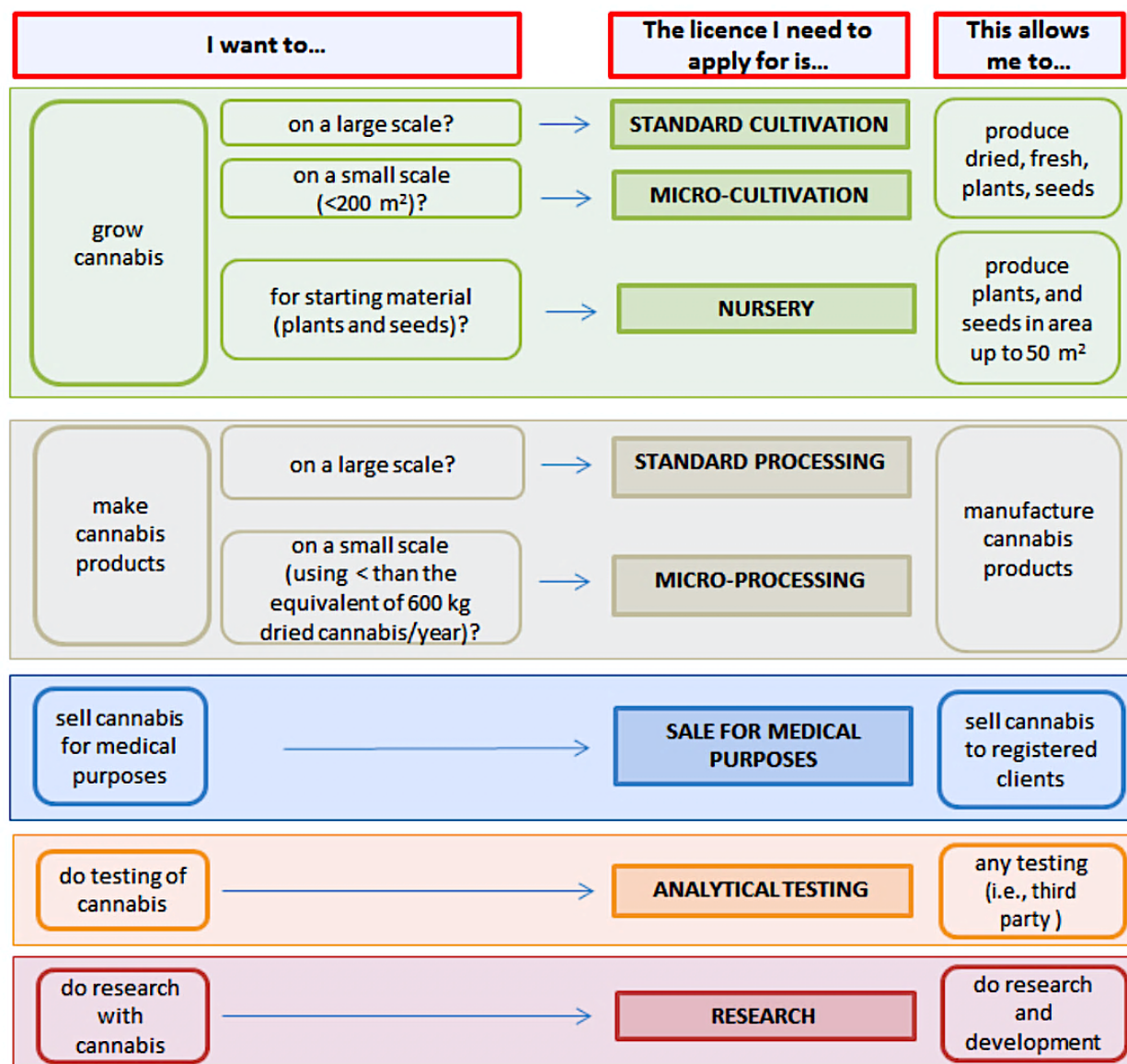


Figure 1: Types of licences Under the Cannabis Act

Source: Cannabis Licensing Application Guide (Government of Canada)

The sale of recreational cannabis to the public is regulated at the Provincial level. In Ontario, recreational cannabis can either be purchased from the online Ontario Cannabis Store or from privately-run authorized dealers in a retail store. The privately-run authorized dealers in Ontario are licenced by the Alcohol and Gaming Commission of Ontario (AGCO) and, at the beginning of 2019, municipalities in Ontario had a one-time chance to opt out of having cannabis retail stores in their municipality.

The Town of Fort Erie did not opt out and chose to allow retail sales of recreational cannabis. While retail sale of cannabis from a provincially licensed store is legal and is a permitted use in zones where retail uses are permitted, this Study does not consider the sale of cannabis in retail stores, as the focus of this Study is production.

The focus of this Study and report is the consideration of land use permissions related to commercial growth, processing, analysing and medical sales of cannabis regulated under the Cannabis Act. These are broadly referred to as “cannabis-related uses” in the report.

The changes brought by the Cannabis Act necessitate the need for this Study.

2.2 Cannabis Act Regulations

2.2.1 Licenced Facilities

The Federal Government released both the Cannabis Act and Cannabis Regulations. Under the Act, someone may not “cultivate, propagate or harvest any cannabis plant at a place that is not their dwelling-house or to offer to do so” (Part 1, Section 12 (6) of the Act). Thus, there is no legal permission for cannabis growth outside of a home for personal use if not in a licenced facility/area.

The Act also permits licences issued under the previous Access to Cannabis for Medical Purposes Regulations to continue under the Cannabis Act.

The Cannabis Regulations set out a number of requirements related to land use as follows:

- Prior to an individual submitting an application for a licence for cultivation, processing or sale, the applicant must notify the local government, the local fire authority and the local police force. The notice must contain a number of elements, including the address, and if applicable, the buildings where the cannabis related activities will be conducted. The notice must be addressed to a senior official at the local government (i.e. the Town of Fort Erie) (Part 2 (Licensing) Section 7). A licence holder must also notify the local municipality if the licence is granted, suspended, revoked, reinstated or amended (Part 2, Section 35 (1), and Part 2 Section 34 (1, 2 and 3)).
- A licence holder is required to notify the Minister of any changes to a site plan within 5 days of these occurring, except if the changes relate to meeting the

required security measures, in which case, the Minister must be notified in advance (Part 2, Section 24 (1)).

Location of uses

- No activity authorized by a licence can take place in a dwelling. (Part 2, Section 40)
- Only cultivation, propagation and harvesting may occur outdoors, while testing, storage, packaging and labeling of cannabis cannot occur outdoors. (Part 2, Section 41)

Security

- The site must be designed in a manner that prevents unauthorized access. (Part 4, Section 63)
- The perimeter must be monitored by a visual recording device capable of recording any unauthorized access attempt, must have an intrusion detection system to detect intrusions at all times and this system must be monitored at all times. (Part 4, Sections 64,65)
- Operation and storage areas are to be designed with a physical barrier to only permit access to those individuals who require access to perform their work and these areas are to be monitored by a visual recording device. The entrance and exits to the growth area must also be monitored by a visual recording device. Operation and storage areas must also have an intrusion and movement detections systems. For growing areas, intrusion into but not movement within needs to be monitored. (Part 4, Sections 68 and 69, 70(2))
- The security measures for micro-cultivation, micro processing and nurseries are somewhat less stringent, requiring only physical barriers to the site and storage areas. (Part 4, Section 75)

Air filtration

- There must be an air filtration system that prevents the escape of odors from any building where cannabis is produced, packaged, labelled and stored. This requirement applies to both standard cultivation and micro-cultivation.

2.2.2 Cannabis Licence Application Requirements

The Cannabis Licensing Application Guide provides guidance to those applying for a license from Health Canada for the cultivation and processing of cannabis (among other licenses) under the Cannabis Regulations. According to the Guide, the applicant should be familiar with the applicable federal requirements, as well as all applicable municipal by-laws (including zoning and building permits).

Applications to Health Canada require a range of information including company details, site ownership, notice to local authorities, key personnel and specific facility and

operating requirements. As it applies to site and land use regulations, the application requires information regarding site details, physical security and good production practice measures.

Site Details

Site details to be submitted generally include:

- complete site address including latitude and longitude coordinates;
- a site survey including building location prepared by a qualified land surveyor;
- an aerial view of the proposed site and surrounding lots within 500 meters;
- an estimate of the proposed annual production amount and capacity; and
- areas and activities including outdoor areas (if applicable) and indoor areas; including labeled rooms based on their purpose related to cannabis uses.

Physical Security

Requirements for an organizational security plan apply to all license classes. Plans require detailed scheduling and monitoring information, business plans and organizational charts as well as key personnel information relating to security measures and tracking. Physical security requirements must be shown on site and floor plans for cultivation and processing facilities, which differ depending on classes and applicable subclasses (for example, Standard Process and Cultivation vs. Micro-Cultivation, Micro-Processing and Nursery Licenses).

All site and floor plans for must generally identify:

- the perimeter of the site;
- footprint of the building;
- locations of all storage areas;
- location of any outdoor cultivation with latitude and longitude coordinates for all four corners;
- clear delineation of rooms where operations, grow and storage activities take place; and
- cannabis flow between rooms.

Licenses for Standard Cultivation and Standard Processing must additionally identify the locations of, and area covered by, security devices and visual monitoring devices for the site perimeter, all storage areas and any outdoor cultivation areas.

Security reports for cultivation and processing licenses are required to demonstrate how the intrusion detection system requirements will be met and visual security evidence must include a guided video tour of the entire site. Video and photographic evidence must highlight all security features, operation areas and storage areas in order to demonstrate complete and clear security coverage and the prevention of unauthorized access.

Good Production Practices

A Good Production Practices Report based on the Good Production Practices Guide for Cannabis must be submitted as part of the licencing application process that clearly demonstrates how requirements relating to the following will be met:

- **Storage**
 - How and where cannabis and related ingredients will be stored, including storage procedures.
- **Building**
 - Description and/or depiction of the facility including details of construction surfaces such as walls, ceilings (non-porous panels, sealant, etc.), floors (polished, concrete, epoxy sealant, etc.) and seams (caulking, joints between floor, walls and ceiling, etc.); and
 - Process flow diagram detailing the movement of cannabis through the building.
- **Air Filtration and Ventilation Systems**
 - Description of an adequate filtration and ventilation system demonstrating how it will filter air to prevent the escape of odours to the outdoors;
 - Description of how the filtration and ventilation system is accessible for cleaning, maintenance, or inspection, and is able to withstand repeated cleaning and functions, where required;
 - Type, number and location of air filters installed that are sufficient in preventing the escape of odours from the building, and maintain air quality; and
 - Diagrams and/or floor plans detailing the filtration and ventilation system.

The Health Canada guide provides no specific technical requirements for the form or type of air filtration system; it simply requires implementation of a system that successfully blocks the escape of odours.

- **Water Supply**
 - Description of the water supply source, and if not municipal water, evidence that the water is appropriate for the activities conducted; and
 - Description of any non-potable water sources and how cross connection with potable water sources will be eliminated or contamination risks mitigated.
- **Lighting**
 - Description of lighting in operation and storage areas, demonstrating how cannabis or ingredients will not be affected in the event of breakage; and
 - Description of how light fixtures will be able to withstand repeated cleaning and sanitizing.

2.2.3 Enforcement

Through our review of cannabis facilities within Niagara Region, Health Canada was contacted and asked how odour concerns and enforcement measures with regards to cannabis production will be addressed. Health Canada generally stated that in order to ensure cannabis is produced, sold and distributed in accordance with the Cannabis Regulations, all licence holders are inspected on a regular basis. According to Health Canada, the Department takes issues and complaints seriously and ensures that appropriate actions are taken to correct any potential non-compliance with the regulations.

During the regular inspections by Health Canada, the report will include a citation under the Regulations if any strong odours are prominent outside of the licensed facility. If odours occur, the regulated party will be required to address the situation as part of a corrective action plan. While Health Canada has indicated that complaints are taken seriously and corrective actions taken, there is currently no information available on the number of complaints that have been filed nor on the investigation of complaints.

Based on the above information, odour from indoor cultivation facilities where a proper ventilation system is in place and is appropriately maintained should not be a concern. However, there could be interpretation differences with regards to what is considered an appropriate level of odour mitigation and what constitutes a “strong odour”.

Federal licence holders are required to comply with all relevant provincial and municipal laws, including local zoning by-laws, odour controls and electrical and fire safety. Accordingly, odour issues are a shared responsibility between Federal, Provincial and Municipal governments, and all levels of government may verify compliance with their respective regulations and can apply their individual compliance and enforcement measures as necessary.

2.2.4 Personal Medical Growth

In addition to the above permitted means of cannabis cultivation, the Access to Cannabis for Medical Purposes Regulations (ACMPR) allow individuals, or their designated growers, to register to produce a specific amount of cannabis for their own medical purposes as prescribed by their health care practitioner. Persons who have obtained a registration certificate from Health Canada may grow the number of plants allowed to fulfill their medical needs as prescribed. In the case of production for medical purposes, an individual can possess up to a 30 day supply of the dose recommended by their health care practitioner. Production is allowed both indoors and outdoors at the registered person’s place of residence, land owned by the registered person or land owned by another with authorization from the owner.

If production is occurring outdoors, the boundary of the land where a person is authorized to produce cannot have any points in common with the boundary of a school, public playground, daycare facility or other public place frequented mainly by persons under 18 years of age.

Health Canada's website clearly states that holders of registration certificates "are also expected to comply with all relevant provincial/territorial and municipal laws including local bylaws about zoning, electrical safety, fire safety, together with all related inspection and remediation requirements (emphasis added)."

An individual may grow for medical purposes for up to two people, either themselves and one other person or for two other people. Medical growth for up to four people can occur in one location, if two people who are designated to grow for others pair up and grow in one co-location. Such clustering of designated growth for medical cannabis can raise odour and concerns.

2.3 Other Acts, Policies and Guidelines

2.3.1 Farming and Food Production Protection Act, 1998

The Farming and Food Production Protection Act in Ontario is an Act that serves to protect the agricultural use of land. Under the Act, the term "agricultural operation" is defined to include:

"the production of agricultural crops, greenhouse crops, maple syrup, mushrooms, nursery stock, tobacco, tree and turf grass, and any additional agricultural crops prescribed by the Minister"

and

"the processing by a farmer of the products produced primarily from the farmer's agricultural operation;

From these definitions and based on personal communication with the Ministry, the cultivation of cannabis, as well as the processing of the same, where legal through the licencing process, appears to be captured in the definition of agricultural operation.

Under section 6 of the Act, the Act states,

"No municipal by-law applies to restrict a normal farm practice carried on as part of an agricultural operation."

Accordingly, any restriction on the cultivation of cannabis may need to stand up to the test of whether "normal farm practices" have been restricted. The Act defines "normal farm practice" as a practice that:

"is conducted in a manner consistent with proper and acceptable customs and standards as established and followed by similar agricultural operations under similar circumstances,

or

makes use of innovative technology in a manner consistent with proper advanced farm management practices;..."

2.3.2 Provincial Policy Statement, 2014

The Provincial Policy Statement (PPS), which provides direction for planning in Ontario, supports the viability of rural areas and agricultural uses in municipalities and seeks to balance economic growth and prosperity.

Policy 1.1.4.1 states in part that healthy, integrated and viable rural areas should be supported by:

- promoting diversification of the economic base and employment opportunities through goods and services, including value-added products and the sustainable management or use of resources; and
- providing opportunities for economic activities in prime agricultural areas.

Section 2.3 of the PPS contains policies applying to agricultural areas. Section 2.3.1 states that prime agricultural areas shall be protected for long-term agricultural use. Policy 2.3.3.1 states that agricultural uses, agriculture-related uses and on-farm diversified uses are permitted in prime agricultural areas, and that proposed uses are to be compatible with, and shall not hinder, surrounding agricultural operations. According to Policy 2.3.3.2, in accordance with provincial standards, all types, sizes and intensities of agricultural uses and farm practices shall be promoted in prime agricultural areas.

The PPS provides the following definition for ‘agricultural use’:

“the growing of crops, including nursery, biomass, and horticultural crops; raising of livestock; raising of other animals for food, fur or fibre, including poultry and fish; aquaculture; apiaries; agro-forestry; maple syrup production; and associated on-farm buildings and structures, including, but not limited to livestock facilities, manure storages, value-retaining facilities, and accommodation for full-time farm labour when the size and nature of the operation requires additional employment”.

The PPS defines ‘on-farm diversified uses’ as the following:

“uses that are secondary to the principal agricultural use of the property, and are limited in area. *On-farm diversified uses* include, but are not limited to, home occupations, home industries, *agri-tourism uses*, and uses that produce value-added agricultural products.”

2.3.3 Ontario Regulation 332/12 under the Building Code Act, 1992

Ontario Regulation 332/12 under the Ontario Building Code Act sets out requirements for farm buildings, which outlines requirements for buildings involving cannabis operations within Section 1.3.1.2.7. The Regulations set out requirements for cannabis operations involving extraction relating to locking, latching and other fastening devices for doors, as well as to ventilation.

2.3.4 Land Use Compatibility Guidelines

The Ontario Ministry of the Environment, Conservation and Parks recently released a document entitled “Land Use Compatibility Guidelines”, as a draft for comment. These would update the previous existing Guidelines often referred to as the D-6 Guidelines (D-6 Compatibility Between Industrial Facilities).

Unlike the previous Guidelines, the new draft guidelines specifically address cannabis facilities. The guidelines apply to indoor production facilities within settlement areas and all cannabis processing facilities. Cannabis production and processing facilities are identified as Class 5 facilities, which are “Operations with the most significant adverse effects, that may be difficult to mitigate. May include larger outdoor operations.”

The Guidelines recommend a minimum separation distance of 500 metres to sensitive land uses and further that a compatibility study be undertaken for any facility within 2000 metres of a sensitive land use. The guidelines allow for reduced separation distance through measures that mitigate the adverse effects of a facility. In the case of a cannabis facility, that would mean mitigation measures to address the odour impacts

2.3.5 Summary

Figure 2 provides an overview of the various levels of government who control the regulation of cannabis, as it relates to the Town of Fort Erie.

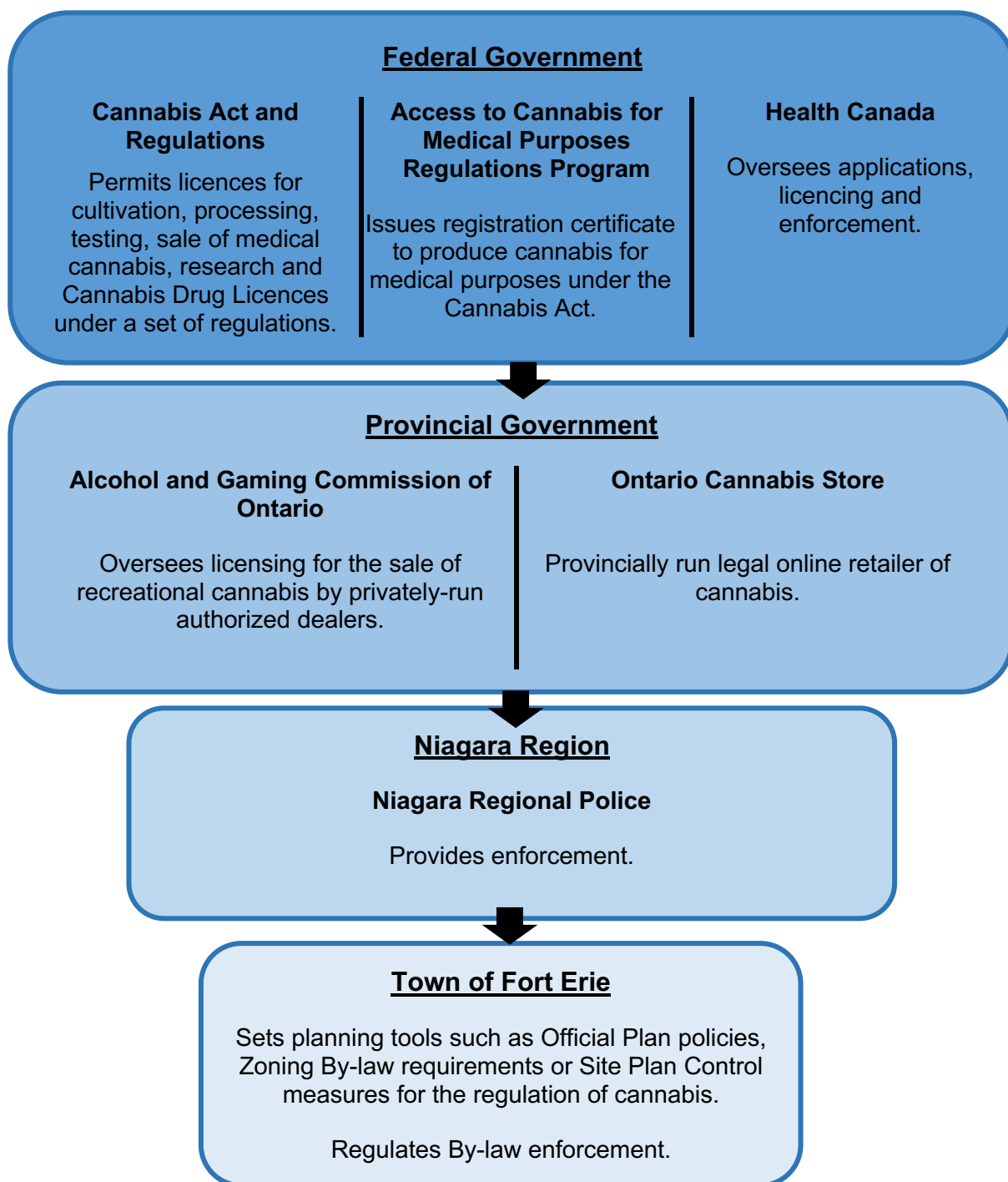


Figure 2. Federal, Provincial and Municipal Involvement in Cannabis Regulations

3 Fort Erie Planning Framework



This section examines the current policy and zoning permissions related to Cannabis production in Fort Erie.

3.1 Official Plan

3.1.1 Official Plan Amendment No. 18

Official Plan Amendment (OPA) No. 18 (By-law No. 06-2014) introduced medical marihuana policies to the Town's Official Plan, in response to the Marihuana for Medical Purposes Regulations passed under the Controlled Drug and Substances Act.

It is noted that since the writing of this by-law, the Marijuana for Medical Purposes Regulations was replaced by the Access to Cannabis for Medical Purposes Regulations and is now covered under the Cannabis Act.

The basis of OPA 18 outlines that "the proposed use [medical marihuana grow and production facilities] has been interpreted as being agricultural and permitted within the Agricultural, Rural and Open Space designations. The amendment proposes to permit the facilities within lands designated as Industrial Business Park and to limit these facilities to Open Space destinations outside the Urban Settlement Area."

Amendment No. 18 made the following changes to the Official Plan designations:

- Permitting growing of marijuana plants within buildings licensed and operated in accordance with the Marijuana for Medical Purposes Regulations in the Industrial Business Park designation; and
- Permitting agricultural uses in the Open Space designations outside of the Urban Area;

No changes to the Rural or Agricultural designations are made as part of this OPA. Based on the discussion in the "basis of amendment" section of the OPA, it appears the Town interprets these designations to already permit medical marihuana grow and production facilities as-of-right as agricultural uses.

A further amendment to Section 10.5: Separation Distances of Sensitive Land Uses from Industrial Operations included the following policy addition:

"It is important that facilities for the production of Marihuana for Medical Purposes, licensed and operated accordance with the Marihuana for Medical Purposes Regulations and permitted as an agricultural or industrial use be appropriately distanced from sensitive land uses, including residences, schools, churches etc. Policy 10.5.1 shall provide guidance on distance separation in this

regard. Further as permitted by Policies 13.4.1 and 13.4.II, these facilities shall be put under Site Plan Control to enhance land use and operational compatibility.”

Section 10.5.1 further requires that Council have regard to the Ministry of Environment D6 Guidelines in determining appropriate separation distances and necessity of more detailed compatibility studies.

Section 13.4.II of the Official Plan (Site Plan Control) was amended to specifically require site plan control for medical marihuana grow and production facilities.

Figure 3 was included in Official Plan Amendment No. 18 to illustrate potential lands for medical marijuana production facilities and identifies the Town’s existing Open Space Zones outside of the Urban Boundary as well as the zones associated with the Industrial Business Park Designation.

Figure 4 illustrates the Town’s current land use designations, which highlights the locations of agricultural, rural, industrial and open space areas.

OPA 18 has not yet been consolidated into the latest version of the Official Plan, though it is in effect.

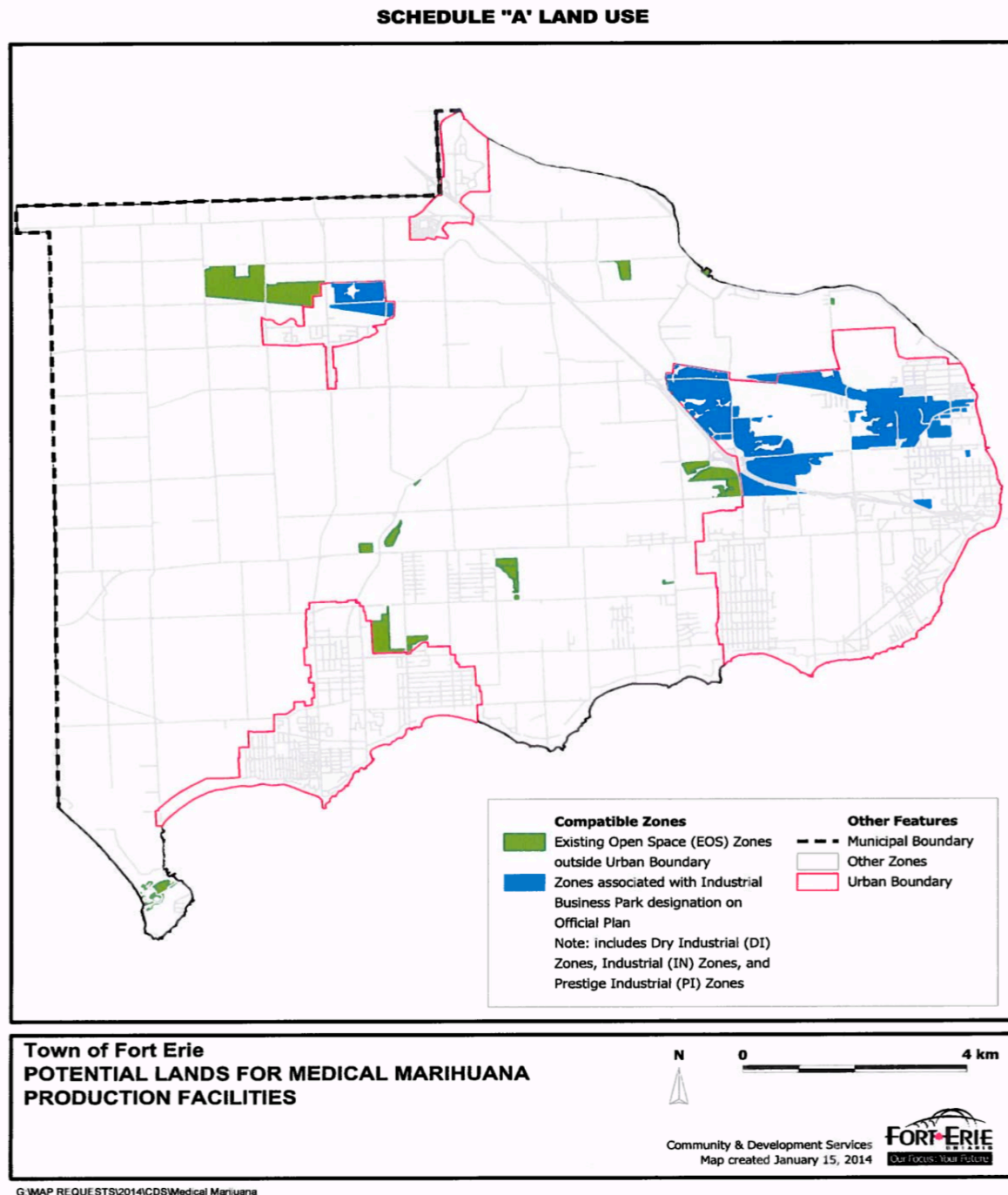


Figure 3. Official Plan Amendment No. 18 Potential Lands for Medical Marihuana Production Facilities Map

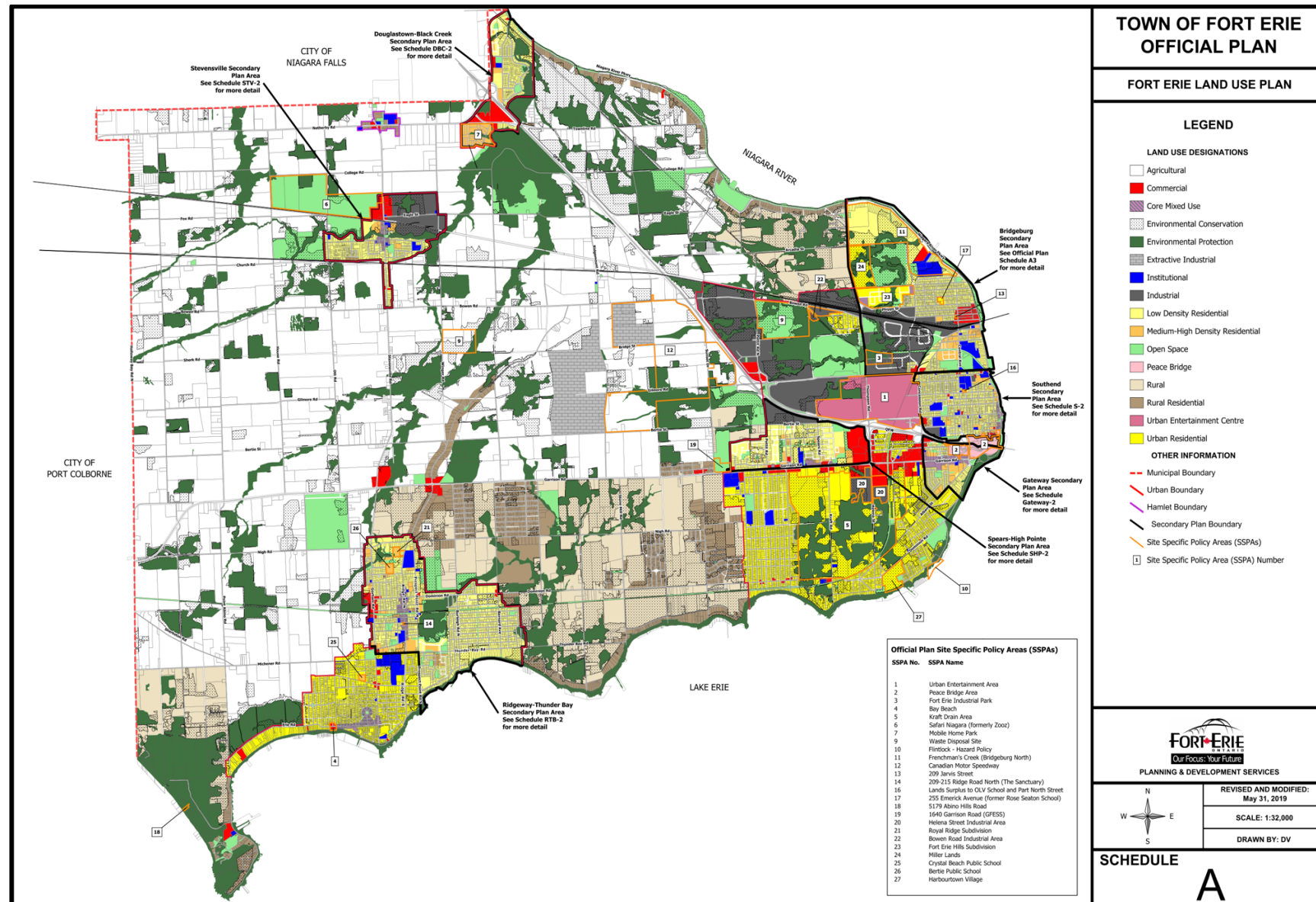


Figure 4. Fort Erie Official Plan Land Use Plan

3.1.2 Agricultural

Policies for the Town's Agricultural areas are outlined in Section 4.5 of the Fort Erie Official Plan. The intent of the Official Plan policies are to prevent urban development and preserve designated areas for agricultural areas. The predominant use of land shall be for agriculture, which includes:

"the growing of crops, nursery and horticultural crops; raising of livestock; raising of other animals for food, fur or fibre, including poultry and fish; aquaculture; apiaries; agro-forestry; maple syrup production; and associated on-farm buildings and structures, including accommodation for full-time farm labor when the size and nature of the operation requires additional employment."

Section 4.5.2.III of the Plan outlines a list of criteria which all permitted agricultural related-uses shall comply with. Among other criterion, this generally includes the requirement to locate uses in a manner that minimizes any adverse impacts on surrounding agricultural lands and operations. As well, agricultural uses should be located a suitable distance away from incompatible land uses.

Section 4.5.2.IV addresses secondary uses, which are "permitted as accessory and subordinate uses to the principle use of the property in the agricultural designation" in accordance with a list of criteria. Generally, the Official Plan requires that the use is small in scale and ancillary to the principle use, and that any value-added agricultural productions are from the same property. The whole property must remain designated and zoned agricultural and the new use must be compatible with and not negatively impact any surrounding agricultural areas.

3.1.3 Rural

Policies for the Rural designation are outlined within Section 4.6 of the Official Plan. Agriculture of all types are permitted within this designation in addition to other uses permitted by the policies of this section which includes agriculture related uses as outlined by Section 4.6.1.I.a.

3.1.4 Industrial

The Town has two different Industrial designations: Industrial Business Park and Extractive Industrial. The Industrial Business Park Designation is labeled and shown as Industrial on the Town's Land Use Schedule A (**Figure 3**), while the Extractive Industrial designation is specifically labelled as Extractive Industrial and only permits licenced extractive aggregate operations. According to Section 4.10 of the Official Plan, the Industrial Business Park designation permits "an integrated mix of industrial/manufacturing operations and business activities. Lands designated in this category shall be predominately used for manufacturing, assembly, processing, fabrication, warehousing and storage of goods and materials". As previously discussed,

Official Plan Amendment No. 18 permits the growing of marihuana plants within buildings within this designation.

Section 4.10.VI outlines that permitted uses should not be obnoxious and where necessary, must mitigate emissions relating to odour, dust, smoke, gas, fumes, particulate matter, noise and/or vibration. Development is directed to operate according to the applicable noise and emissions standards set out by the Ministry of Environment.

According to Section 4.10.VIII, all industrial development shall be regulated by adequate provisions within the Town's Zoning By-law including setbacks, parking and loading requirements, landscaped areas, screening and buffering requirements where applicable, the prohibition of nuisances, and outdoor storage requirements.

3.1.5 Open Space

As discussed, Official Plan Amendment No. 18 introduced the following permission to the end of Section 4.13.1.I: "Outside of the urban area boundary agricultural uses, except intensive animal operations and accessory dwellings will be permitted". The policies of this designation do not outline any further direction related to agricultural uses nor medical marihuana grow and production facilities.

3.2 Comprehensive Zoning By-law No. 129-90

Currently, the Town's Comprehensive Zoning By-law No. 129-90 defines a medical marihuana and grow production facility as:

"a building or structure used for the cultivation, processing, testing, destruction, packaging and shipping of marihuana used for medical purposes as permitted under the federal government's Marihuana for Medical Purposes Regulations (MMPR) as amended from time to time, or any successors thereto."

A medical marihuana and grow production facility is listed as a permitted use in the Agricultural, Rural, Industrial and Prestige Industrial Zones. Medical marihuana and grow production facilities are also included within a list of uses under the by-law's definition of "agricultural". The Extractive Industrial (EI) Zone, Existing Open Space (EOS) Zone and the Hazard (H) Zone also permit Agricultural uses, which results in medical marijuana grow and production facilities also being permitted in those zones.

The cultivation of medical marihuana is only permitted indoors within these zones.

3.2.1 Agricultural Zone

The Town's Agricultural Zone (A) permits "agricultural uses including greenhouses and medical marihuana grow and production facilities". Section 7.9. of the by-law outlines the following regulations for greenhouses and medical marihuana grow and production facilities:

Minimum lot area	Permitted only on an existing lot having a minimum size of 2 ha
Minimum Lot Frontage	60 m
Minimum Front Yard	15m except: i) that where the yard abuts a Residential Zone, residential use or other sensitive land use, 70m is required but this setback does not apply to existing buildings or structures.
Minimum Interior Side Yard And Rear Yard	6m, except: i) that where the yard abuts a Residential Zone, residential use or other sensitive land use, 70m is required but this setback does not apply to existing buildings or structures.
Minimum Exterior Side Yard	15m except: i) that where the yard abuts a Residential Zone, residential use or other sensitive land use, 70m is required but this setback does not apply to existing buildings or structures
Maximum Lot Coverage	60%
Maximum Building Height	12m
Minimum Landscaping Requirements	A landscaping area in the form of a 3m wide planting strip shall be provided and maintained adjacent to every portion of any lot line that abuts a Residential Zone, or the extent of an abutting existing residential use not located in a Residential Zone.
Outside Storage Requirements for Greenhouses	Outside storage of goods, materials or supplies is permitted in the rear yard or side yard only, provided it is screened from view from any street.
Outside Storage Requirements for Medical Marihuana Grow and Production Facilities	Outside storage of goods, materials or supplies is not permitted.
Maximum Gross Floor Area for Processing and Packaging	20% of the gross floor area of the operation
Visible Nighttime Lighting	Where a building or structure consists of more than 40% of glass and where artificial lighting is required a closed wood board on board or composite/vinyl fence shall be provided and maintained adjacent to every portion of any lot line that abuts a Residential Zone, residential use or other sensitive land use.
Parking	1 parking space for every 100 sq. m. of gross floor area or every 2 employees, whichever is the greater.

3.2.2 Rural Zone

The Rural Zone (RU), in Section 8 of the by-law, permits among other uses, agricultural uses including greenhouses and medical marihuana grow and production facilities. According to Section 8.7, greenhouses and medical marihuana grow and production facilities are subject to the regulations outlined by Section 7.9 of the by-law, which are outlined above in reference to the Agricultural Zone.

3.2.3 Industrial Zone

The Town's Industrial Zone (IN) lists "medical marihuana grow and production facilities" as a permitted use, and outlines a table of specific regulations for the use within Section 27.6 as follows:

Minimum Lot Frontage	40m
Minimum Front Yard	15m, except: i) that where the yard abuts a Residential Zone, residential use or other sensitive land use, 70m is required but this setback does not apply to existing buildings or structures.
Minimum Interior Side Yard And Rear Yard	6m, except: ii) that where the yard abuts a Residential Zone, residential use or other sensitive land use, 70m is required but this setback does not apply to existing buildings or structures.
Minimum Exterior Side Yard	10.5m except: i) that where the yard abuts a Residential Zone, residential use or other sensitive land use, 70m is required but this setback does not apply to existing buildings or structures.
Maximum Lot Coverage	60%
Maximum Building Height	12m
Minimum Landscaping Requirements	A landscaping area in the form of a 3m wide planting strip shall be provided and maintained adjacent to every portion of any lot line that abuts a Residential Zone, residential use or other sensitive land use.
Minimum Loading Requirements	No loading space shall be established in any front yard or any yard adjacent to a residential zone or QEW.
Outside Storage Requirements	Outside storage of goods, materials or supplies is not permitted.
Building Façade Regulations	No exterior walls that face a street shall be constructed of concrete blocks unless the same are decorative masonry units or are used in a decorative pattern form

	or are surfaced with stucco or with a permanent coloured finish (does not include paint).
Visible Nighttime Lighting	Where a building or structure consists of more than 40% of glass and where artificial lighting is required a closed of wood board on board or composite/vinyl fence shall be provided and maintained adjacent to every portion of any lot line that abuts a Residential Zone, residential use or other sensitive land use
Parking	1 parking space for every 100 sq. m. of gross floor area or every 2 employees, whichever is the greater.

3.2.4 Prestige Industrial Zone

The Town's Prestige Industrial Zone (PI) lists "medical marihuana grow and production facilities" as a permitted use, and outlines a table of specific regulations for the use within Section 27.6 as follows:

Minimum Lot Frontage	40m
Minimum Front Yard	15m
Minimum Interior Side Yard And Rear Yard	6m, except: i) that where the yard abuts a Residential Zone, residential use or other sensitive land use, 70m is required but this setback does not apply to existing buildings or structures.
Minimum Exterior Side Yard	10.5m except: i) that where the yard abuts a Residential Zone, residential use or other sensitive land use, 70m is required but this setback does not apply to existing buildings or structures.
Maximum Lot Coverage	50%
Maximum Building Height	9m
Minimum Landscaping Requirements	A landscaping area in the form of a 3m wide planting strip shall be provided and maintained adjacent to every portion of any lot line that abuts a Residential Zone, residential use or other sensitive land use.
Minimum Loading Requirements	No loading space shall be established in any front yard or any yard adjacent to a residential zone or QEW.
Outside Storage Requirements	Outside storage of goods, materials or supplies is not permitted.
Building Façade Regulations	No exterior walls that face a street shall be constructed of concrete blocks unless the same are decorative masonry units or are used in a decorative pattern form

	or are surfaced with stucco or with a permanent coloured finish (does not include paint).
Nighttime Lighting	A closed fence shall be provided and maintained adjacent to every portion of any lot line that abuts a Residential Zone, residential use or other sensitive land use
Parking	1 parking space for every 100 sq. m. of gross floor area or every 2 employees, whichever is the greater.

3.3 Site Plan Control

According to the Town's Site Plan Control By-law No. 133-86, the entire Town of Fort Erie is designated as a Site Plan Control Area. By-law No. 134-86 establishes site plan control exceptions, which was later amended by By-law No. 08-2014 to require site plan control for medical marihuana grow and production facilities.

As previously discussed, licensing applications to Health Canada require a broad range of site, security and good production practice measures to be implemented, with specific requirements for storage, building layout, air filtration and ventilation systems, water supply and lighting. Based on these existing federal requirements, the Town will need to consider if additional site plan control measures are required to effectively control and regulate facilities. If nothing else, the Town may choose to require site plan control for cannabis facilities in order to be able to enter a site plan control agreement and have more tools with regards to enforcement if any issues arise.

3.4 Other By-laws

The Town of Fort Erie has additional by-laws that regulate the use of land and nuisance concerns including: Property Standards By-law 186-08; Lot Maintenance By-law 92-2019; Public Nuisance By-law 30-09; Fence By-law 71-2016; and Sign By-law 199-2-1. None of these include any provisions for cannabis or marijuana, however there may be opportunities to introduce regulations.

3.5 Cannabis Facilities in the Town

The Town of Fort Erie currently has two cannabis cultivation facilities in operation. Over the past year, the Town has received 8 inquiries about cannabis facilities. Four of these are active site plans and the other 4 have had pre-consultation meetings with the Town.

4 Best Practice Review



4.1 Summary of Best Practice Review

The available information from 19 municipalities was reviewed in order to analyze and assess the various approaches that other municipalities have taken to deal with the permission for cannabis growing facilities in Ontario. Six municipalities within Niagara Region were reviewed, which include: the Town of Niagara-on-the-Lake, the City of Port Colborne, the Township of Wainfleet, the Town of Lincoln, the Township of West Lincoln and the Town of Pelham. Other Ontario municipalities were chosen to represent urban and rural approaches. These include the Town of Milton, the Town of Georgina, the Township of Oro-Medonte, the Town of Amherstburg, the Municipality of Chatham-Kent, the Town of Halton Hills, the Municipality of Leamington, Norfolk County, the Town of Oakville, the Town of Arnprior, the City of Ottawa, Haldimand County, the City of Barrie and Brant County.

At the time of the review, a number of municipalities were in different stages of approval of amendments related to cannabis uses including:

- The Township of Wainfleet has an Interim Control By-law in place, expiring November 2020, while it assesses current land use planning policies and ensure the provision of adequate tools to regulate the growing and processing of cannabis. According to previous discussions with Staff, it was anticipated that an Issues and Opportunities Report would go to Council in October 2020 outlining options for draft zoning, site plan and licencing agreements and the Interim Control By-law is not anticipated to be extended. However, Wainfleet's report was not yet available during the writing of this report;
- The Town of Niagara-on-the-Lake passed a Zoning By-law Amendment in June 2020, which is currently under appeal, with its Interim Control By-law extended until an LPAT decision is reached;
- The Town of Lincoln recently passed new Official Plan and Zoning By-law Amendments in mid-September 2020, with no appeals received; and
- The Town of Georgina Council recently approved a Zoning By-law Amendment in August 2020, however the passing of the by-law was subject to a revision regarding setback requirements for outdoor cultivation. Changes to the amendment have been made and are available on the Town's website, however the Town's Interim Control By-law is still in place until the updated by-law comes into force and effect. A by-law to repeal the Interim control By-law is scheduled was scheduled for passing in late January 2021.

4.2 Official Plan Permissions

Of all the municipalities reviewed, six currently address cannabis facilities within their Official Plans: Pelham, Port Colborne, Lincoln, Milton, Halton Hills and Chatham Kent.

Pelham passed an Official Plan Amendment in July 2020, permitting Indoor Cannabis and Industrial Hemp Cultivation in the Town's Good General Agricultural, Specialty Agricultural and Industrial Designations through a Zoning By-law Amendment. According to Section 4: Basis of the Amendment, the Official Plan Amendment does not deal with outdoor cultivation as this is already permitted in the agricultural designation and recognized as an agricultural use. A number of studies are required at no expense to the Town to support the establishment of indoor facilities including an Emission Summary and Dispersion Modelling Report, a Contingency Odour Mitigation Plan, a Light Mitigation Plan, and a Traffic Impact Study. Development criteria for new facilities is outlined, which includes:

- designing the building in conformity with its surrounding agricultural and rural context;
- avoiding any adverse noise, dust, odour and light impacts;
- protecting sensitive surface and ground water features;
- providing adequate parking facilities;
- providing appropriate servicing;
- providing stormwater management; and
- providing appropriate waste management systems.

The amendment also discusses value-added components, which must demonstrate that they are compatible with surrounding agricultural operations and directly related to the farm operations on site. Additionally, the use of appropriate setbacks is required for facilities according to guidelines set out by the amendment, which may be lower or higher depending on a set of facility criteria. This includes a minimum of 300 to 500 metres from sensitive land uses and a minimum of 2,000 to 4,000 metres from other facilities.

The Official Plan Amendment for Port Colborne allows a Cannabis Production Facility in the Industrial/Employment, Economic Gateway Centre, Agricultural and Rural designations. The Official Plan was amended to ensure compatibility with neighbouring land uses through installation and operation of odour and light mitigation systems; maintenance and monitoring plans, servicing; and maintaining appropriate setbacks from sensitive receptors.

The Town of Lincoln passed an Official Plan Amendment in September 2020. Accordingly, cannabis production facilities are permitted in Lincoln's Specialty Agricultural and Prime Agricultural designations and are subject to site plan control. In part, the regulations: prohibit activity within a dwelling, permit both indoor and outdoor cultivation, but indoor storage and processing, require mitigation measures as well as buffering, screening and security requirements.

The Town of Milton passed an Official Plan Amendment in June 2020, introducing Cannabis Production and Processing as a permitted use within the Business Park Area, Industrial Area, Agricultural Area and Mineral Resource Extraction Area designations. The Official Plan Amendment requires a minimum 70 metre setback to sensitive land uses for new facilities in Business Park and Industrial Area designations and a minimum 150 metre setback to sensitive land uses for new facilities in the Agricultural and Mineral Resource Extraction Area designations. It also requires facilities to be subject to Site Plan Control, and as part of a complete application, a number of studies are required related to odour, light impacts, traffic and hydrogeological systems. A standalone cannabis processing facility is not permitted within the Town's rural areas.

The Chatham-Kent Official Plan lists cannabis production as a permitted use within the Employment Area, Agricultural Area and Rural Industrial designations. Cannabis production is addressed as its own section, providing the objective of supporting and promoting new industry through diversification and requiring setbacks from sensitive land use, site plan approval and impact mitigation in accordance with Federal regulations and a Health Canada licence.

The Halton Hills Official Plan permits, through OPA 35, cannabis cultivation and processing in the General Employment Area and Prestige Industrial Area designations. Outdoor cultivation is also permitted in the Protected Countryside Area and Agricultural Area, subject to setbacks of 150 metres to sensitive uses and 50 metres to lot lines for outdoor uses. The Official Plan permits indoor cultivation of cannabis and processing of cannabis in the Protected Countryside Area and Agricultural Areas through a Zoning By-law Amendment and Site Plan control.

4.3 Cannabis Facility Definitions

Various approaches have been taken to define cannabis growing, production and harvesting. The following terms have been used within zoning by-laws and official plans reviewed:

- Cannabis Production
- Cannabis Production Facility
- Cannabis Growing and Harvesting Facility
- Cannabis Production and Processing
- Cannabis Related Facility
- Cannabis and Industrial Hemp Cultivation

The definitions of these terms all seek to describe the specific cannabis related uses that are encompassed by the term, these often being cultivation, growing, processing, production, testing, destruction, packaging and shipping of cannabis etc. Many of the definitions had a structure similar to the following example from Chatham-Kent:

"Cannabis Production Facility: means any building structure, or lands licensed by, Health Canada to undertake cultivation, processing, sale, analytical testing, and

research of cannabis, pursuant to the Cannabis Regulations under the Cannabis Act, or successor legislation.”

Some of the municipalities have chosen to restrict outdoor cultivation through new definitions for facilities, specifically defining a cannabis facility as an “indoor structure”, “wholly enclosed building” or “building or structure” and excluding any reference to “lands”. The City of Barrie provides the following definition:

“Cannabis Production Facility: shall mean a wholly enclosed building, structure, or part thereof, used to possess, produce, sell, provide, ship, deliver, transport or destroy marihuana or cannabis”

Approximately half of the definitions mention that the cannabis related uses must be done pursuant to applicable regulations and provisions, some of them naming the Act and Regulations directly, and a few mention that retail sale is not to be permitted on the premises.

Some municipalities have also chosen to revise their current definition of other uses, such as “agricultural use” and “industrial use” to either include or specifically exclude cannabis facilities and production:

- Oro-Medonte amended their definition of “Agricultural Use” and “Agricultural Use: Specialized” to state that “an Agricultural Use does not include a Cannabis Production and Processing Facility or the outdoor growing of Cannabis”;
- Norfolk County amended definitions within their zoning by-law for “farm”, “garden centre”, and “wholesale outlet” to specifically exclude “cannabis production and processing”; and
- Chatham-Kent amended their definition of “Agricultural Use” to include “a Cannabis Production Facility” and their definition of “Industrial Use” to include “a Cannabis Production Facility excluding the outdoor cultivation of cannabis”.

The Town of Halton Hills introduced 6 different definitions relating to cannabis production into the zoning by-law, which mirror the various definitions associated with the licences available. These include:

- Cannabis Analytical Testing Facility;
- Cannabis Cultivation – Indoor;
- Cannabis Cultivation – Outdoor;
- Cannabis Drug Production Facility;
- Cannabis Processing Facility; and
- Cannabis Research Facility.

With the introduction of new regulations for cannabis facilities, some municipalities have also introduced new definitions for “Air Treatment Control” and “Sensitive Land Use”, in order to more effectively administer the new regulations. The Town of Georgina has also chosen to introduce a definition for a “Gatehouse”, which pertains to a security building to monitor the lot, as well as for a “Registered Person” which includes an

individual who is authorized to cultivate, propagate and harvest cannabis in accordance with Federal regulations.

4.4 Mechanism for Zoning Permissions

Most of the municipalities reviewed permit cannabis growing facilities in some way, whether as-of-right (i.e. without a need for a special application) or through a zoning by-law amendment process (i.e. with the need for a zoning by-law amendment application), as illustrated within **Table 1**. The zones within each municipality where the indoor and outdoor growth of cannabis and related uses are permitted are described within **Table 1**. These zones are generally grouped by: agricultural and rural areas; and employment and industrial areas.

Unique in our review, the Town of Oakville does not refer to cannabis specifically at all. It is our understanding from a review of their website and discussion with the Manager of Zoning that cannabis facilities and their uses are considered to be captured by the existing defined terms of “agriculture” and “manufacturing” within the zoning by-law. According to the Town’s “Cannabis Legalization – One Year Review” dated February 2020 from the Municipal Enforcement Services and Legal Department, “production facilities, whether medical or recreational cannabis, are regulated exclusively by the Federal government.” The report additionally states the following:

“At present, staff direct notices to the Chief Building Official so that the application can be reviewed for zoning compliance. In Oakville, applications for cultivation, processing and/or sale of cannabis will be reviewed to determine what the primary use is in accordance with existing use definitions such as Agriculture or Manufacturing, and the applicable zoning permissions.”

The Municipality of Leamington is also unique, as they have chosen to implement a stand-alone Cannabis Regulation By-law, which sets aside similar provisions to those of the other municipality’s zoning by-laws, however it is a by-law independent of their zoning by-law.

The Town of Pelham has considered additional by-laws to accompany implementation of an official plan and zoning by-law amendment, including a Draft Fence By-law, a Draft Fortification By-law, a Draft Cannabis Nuisance By-law and a Draft Odour By-law. In July 2020 the Town passed an Odorous Industries Nuisance By-law, and according to the Town, they are still contemplating a future Noise Nuisance By-law and a Light Nuisance By-law. The Odorous Industries Nuisance By-law outlines that an odorous industrial facility must not cause an adverse effect or public nuisance and provides definitions for a cannabis operation and cannabis. According to the by-law, the owner and/or operator of an odorous facility must employ air filtration systems where cannabis is present to prevent obnoxious odours from escaping and during inspection, and must provide all licences, registrations and other forms of authorization which permit the cannabis operation on the property. The by-law outlines and defines specific Odour Unit measurements, with numerical parameters for odour strength and proximity to

sensitive land uses. Regulations and penalties are addressed, with fines ranging from \$500 to \$50,000 for a first conviction.

Table 1. Summary of Municipal Cannabis Facility Zoning Permissions

Municipality	Indoor Cultivation Permitted		Outdoor Cultivation Permitted	
	Agricultural and Rural Areas	Employment and Industrial Areas	Agricultural and Rural Areas	Employment and Industrial Areas
Niagara Region				
Niagara-on-the-Lake¹	As-of-right			
Lincoln	As-of-right			
Port Colborne	As-of-right	As-of-right	As-of-right outside the Urban Boundary	
Pelham	Through a ZBA	Through a ZBA	Outdoor growth defined but not permitted anywhere	
West Lincoln	Through a ZBA	Through a ZBA		
Other Municipalities				
Milton	As-of-right	As-of-right	As-of-right	As-of-right
Georgina²	As-of-right	As-of-right	As-of-right	
Oro-Medonte	As-of-right	As-of-right		
Amhurstberg	As-of-right	As-of-right	As-of-right	
Chatham-Kent	As-of-right	As-of-right	As-of-right	
Halton Hills	As-of-right	As-of-right	As-of-right	
Ottawa		As-of-right	As-of-right	
Leamington	As-of-right	As-of-right		
Norfolk County	As-of-right	As-of-right		
Arnprior		As-of-right		As-of-right
Haldimand County	As-of-right	As-of-right		
Brant County	As-of-right	As-of-right		
Barrie		As-of-right		

¹ Passed by Council June 2020 and under appeal: Interim Control By-law in place until LPAT decision

² Council approved but passing subject to minimum setback revision: Interim Control By-law in effect

4.5 Zoning Permissions – Indoor Cultivation

The majority of the municipalities permit the indoor cultivation of cannabis as-of-right within their zoning by-laws, in agricultural, employment or industrial zones as noted in **Table 1**.

In comparison to permitting the use as-of-right, the Town of Pelham requires a site-specific Zoning By-law Amendment to permit indoor cultivation within its newly established Agricultural Cannabis and General-Industrial Cannabis zones. When an

amendment is proposed within either an agricultural or industrial zone, one of these new zones would be applied. The Town of West Lincoln also requires a site specific/zoning by-law amendment to permit the indoor cultivation of cannabis along with processing, testing, destruction and packaging.

4.6 Zoning Permissions – Outdoor Cultivation

Outdoor Cultivation Permitted

Only some of the municipalities reviewed specifically allow the outdoor cultivation of cannabis. Milton, Chatham-Kent, Georgina, Amherstburg, Halton Hills and Ottawa permit outdoor cultivation as of right within their Agricultural, Rural and/or Protected Countryside Zones. The Town of Georgina's recent Zoning By-law Amendment specifically permits outdoor cultivation in the Rural Zone, as follows:

“Cultivation, propagation and harvesting of cannabis outdoors shall be permitted subject to these uses complying with the minimum separation distances from sensitive land uses and the minimum yard setbacks for non-residential uses as outlined in this section.”

While the Town of Pelham has introduced extensive Official Plan and zoning permissions for indoor cultivation, according to their Official Plan Amendment and Town reports prepared for the Cannabis Control Committee, outdoor cultivation is considered to be permitted as an agricultural within agricultural areas. However, the defined term of outdoor cultivation of cannabis in their zoning is not permitted anywhere. This is also true for the City of Port Colborne, who chose to delete their draft prohibition of outdoor cultivation in the rural and agricultural zone, because, according to Recommendation Report 2020-09, the “growing of cannabis is seen as an agricultural use as indicated by the Region of Niagara”. However, the report states that “the prohibition will remain for any facility permitted within the City’s urban boundary as agricultural use is not supported in the City’s Official Plan”.

Unique to Ottawa’s permissions, cannabis cultivation within the City’s Agricultural and Rural Countryside zones is specifically limited to outdoor and greenhouse cultivation. As previously discussed, the Town of Oakville considers cannabis facilities as an agricultural use, and according to discussion with the Manager of Zoning, outdoor cultivation facilities would therefore be permitted where agricultural uses are permitted.

The Town of Lincoln, Norfolk County and the Town of Arnprior zoning by-laws make no reference to indoor or outdoor cultivation, however Lincoln and Norfolk County both prohibit outdoor storage.

Outdoor Cultivation Not Permitted

Within the zoning by-laws of West Lincoln, Niagara-on-the-Lake (passed and under appeal), Oro-Medonte, Leamington, Haldimand County, Barrie and Brant County, specific reference is made that either directly prohibits the outdoor storage and growing of cannabis or only permits indoor cultivation.

4.7 Zoning and Site Plan Requirements

While specific zoning provisions and requirements for facilities differ across municipalities, the following summary captures the provisions that are commonly referenced:

- Requiring setback or separation regulation for cannabis facilities from sensitive land uses, typically, from residential, institutional and open space zones;
- Setback distances vary depending on which zone the use is permitted within (i.e. setbacks for facilities within the agricultural zone will differ from those for facilities within employment zones). Setbacks range from 40 metres to 300 metres but are often set at 150 metres within by-laws that only specify one requirement. Niagara-on-the-Lake is a unique exception to this range, as their zoning by-law requires a separation distance of 600 metres from sensitive land uses;
- Separation distance between greenhouses, buildings and structures within a cannabis facility operation;
- Requirement of a security fence around the premises to a certain standard. Many regulations also state that security buildings will require the same setbacks as facilities;
- Parking requirements including number of spaces and maximum coverage, which depend on the size of the facility and number of employees;
- Loading requirements, requiring either hidden or fully enclosed spaces to be provided;
- Subjecting cannabis facilities to site plan control;
- Requirement for mitigation of potential impacts such as light, air and odour emissions, which may include the submission of studies to the municipality.
- Design and operation of facilities in accordance with Federal regulation, a licence from Health Canada, and any other requirements of the Province or competent authority;
- Prohibition on retail stores and sales;
- Planting strip requirements;
- Restriction on outdoor signage or advertisement of the facility; and
- Restriction on residential uses or dwelling units located on the same lot as a cannabis facility.

Table 2 provides a summary of the specific reoccurring zoning regulations implemented by the different municipalities reviewed.

Table 2. Summary of Municipal Cannabis Facility Zoning Requirements

Requirement	Municipality	Regulation
Minimum Setback to Sensitive Land Use or Zone	Niagara-on-the-Lake	<ul style="list-style-type: none"> 600 m
	Lincoln	<ul style="list-style-type: none"> 300 m
	Port Colborne	<ul style="list-style-type: none"> 150 m
	Pelham	<ul style="list-style-type: none"> For outdoor uses: 300 m
	Milton	<ul style="list-style-type: none"> Within industrial areas: 70 m Within agricultural areas: 150 m
	Georgina	<ul style="list-style-type: none"> Facilities containing air treatment control: 150 m Rural zoned lots less than 8,000 m²: 150 m Facilities with no air treatment control: 300 m To a school site: 300 m
	Oro-Medonte	<ul style="list-style-type: none"> 150 m
	Amherstburg	<ul style="list-style-type: none"> 150 m to residential use on separate lot 225 m to institutional or open space zone
	Chatham-Kent	<ul style="list-style-type: none"> Within institutional zones: 75 m Within agricultural and rural zones: 100 m
	Halton Hills	<ul style="list-style-type: none"> 150 m
	Ottawa	<ul style="list-style-type: none"> 300 m Facility may be located within 300 metres of a sensitive use zone if the only permitted uses of the zone are environmental preserve and education area, emergency service, municipal service centre, office, storage yard and warehouse
	Leamington	<ul style="list-style-type: none"> 200 m
	Norfolk	<ul style="list-style-type: none"> From sensitive zones for facilities containing air treatment control in industrial zones: 70 m From sensitive zones for facilities containing air treatment control in agricultural zones: 150 m From existing sensitive uses for facilities containing air treatment control in industrial or agricultural zones: 150 m

Requirement	Municipality	Regulation
		<ul style="list-style-type: none"> From existing sensitive uses for facilities containing no air treatment control in industrial or agricultural zones: 300 m
	Arnprior	<ul style="list-style-type: none"> 100 m
	Haldimand County	<ul style="list-style-type: none"> 150 m Increased setbacks based on building size: <ul style="list-style-type: none"> Less than 6,967 m²: 150 m Less than 9,260 m²: 200 m Greater than 9,260 m²: 300 m No air treatment control provided: 300 m
	Brant County	<ul style="list-style-type: none"> 150 m
Minimum Building and Structure Setback from Property Lot Lines	Lincoln	<ul style="list-style-type: none"> 30 m
	West Lincoln	<ul style="list-style-type: none"> Where located in employment zones: 45 m Where located in agricultural zones: 50 m
	Halton Hills	<ul style="list-style-type: none"> Outdoor growth: 50 m
	Haldimand County	<ul style="list-style-type: none"> 30 m
Lot Requirements	Port Colborne	<ul style="list-style-type: none"> Minimum lot frontage: 75 m Minimum lot area: Permitted only on an existing lot having a minimum size of 3 hectares Maximum lot coverage: <ul style="list-style-type: none"> Lots less than 5 ha: 30% Lots less than 10 ha: 10% Lots greater than 10 ha: 5% Minimum front yard: 30 m Minimum interior side yard: 16 m Minimum corner side yard: 30 m Minimum rear yard: 30 m
	Pelham	<ul style="list-style-type: none"> Maximum lot coverage: 30%
	Georgina	<ul style="list-style-type: none"> Maximum lot coverage: 30% Maximum height in Rural Zone: 11 m
	Haldimand County	<ul style="list-style-type: none"> Minimum lot area: Greater than 4.0 ha

Requirement	Municipality	Regulation
Security and Fencing	Niagara-on-the-Lake	<ul style="list-style-type: none"> Security buildings may be located in the required front yard and do not have to comply with setbacks
	Lincoln	<ul style="list-style-type: none"> Security buildings located in the front yard do not have to comply with setbacks
	Port Colborne	<ul style="list-style-type: none"> Security buildings may be located in the front yard Where a building or structure consists of more than 40% glass and where artificial lighting is required an opaque fence shall be provided and maintained adjacent to every portion of any lot line that abuts a sensitive land use
	West Lincoln	<ul style="list-style-type: none"> Minimum 1.8 m high solid fence required around the perimeter of the lot
	Milton	<ul style="list-style-type: none"> Security buildings are permitted in any yard and are not subject to setbacks
	Georgina	<ul style="list-style-type: none"> Gatehouse buildings are permitted in front or exterior side yard with a maximum floor area of 20 m
	Norfolk	<ul style="list-style-type: none"> Security buildings may be located in the front yard and does not have to comply with setbacks
	Brant County	<ul style="list-style-type: none"> Security buildings may be located in the front yard
Outdoor Storage	Niagara-on-the-Lake	<ul style="list-style-type: none"> No outdoor storage
	Lincoln	<ul style="list-style-type: none"> No outdoor storage
	Port Colborne	<ul style="list-style-type: none"> No outdoor storage
	Pelham	<ul style="list-style-type: none"> No storage area within 30 m of a street or the lot line or an adjacent residential use
	West Lincoln	<ul style="list-style-type: none"> No outdoor storage
	Milton	<ul style="list-style-type: none"> No outdoor storage
	Georgina	<ul style="list-style-type: none"> No outdoor storage
	Ottawa	<ul style="list-style-type: none"> No outdoor storage
	Norfolk	<ul style="list-style-type: none"> No outdoor storage
	Arnprior	<ul style="list-style-type: none"> No outdoor storage
	Brant County	<ul style="list-style-type: none"> No outdoor storage
	Lincoln	<ul style="list-style-type: none"> 1 space per employee on the largest shift Wholly enclosed loading spaces

Requirement	Municipality	Regulation
Parking and Loading	Pelham	<ul style="list-style-type: none"> 1 parking space for every employee on the largest shift
	Port Colborne	<ul style="list-style-type: none"> 1 parking space per 100 m² of GFA for indoor
	Chatham-Kent	<ul style="list-style-type: none"> Two spaces per three employees (maximum enrollment) or one space per 18 m² floor area used for office, whichever is greater, plus one space per 1,000 m² floor area used for production
	Halton Hills	<ul style="list-style-type: none"> 1 space per 30 m² for the first 1,000 m² 1 space per 100 m² for the floor area between 1,000 and 5,000 m² plus 1 per 200 m² in excess of 5,000 m² Wholly enclosed loading spaces
	Arnprior	<ul style="list-style-type: none"> 1 space per 100 m²
	Haldimand County	<ul style="list-style-type: none"> 1 parking space per 100 m² GFA Loading spaces must be within a wholly enclosed building
	Brant County	<ul style="list-style-type: none"> 1 space per 100m² Wholly enclosed loading spaces may be located within the rear yard, not adjacent to a street
Residential Uses on the Same Lot	Lincoln	<ul style="list-style-type: none"> Not permitted on a lot containing a residence
	Ottawa	<ul style="list-style-type: none"> Not permitted in a dwelling
	Arnprior	<ul style="list-style-type: none"> No residential uses permitted on the same lot
	Haldimand County	<ul style="list-style-type: none"> Dwelling units not permitted on site
Retail Store and Signage Restrictions	Pelham	<ul style="list-style-type: none"> Retail stores are prohibited
	Amherstburg	<ul style="list-style-type: none"> Advertising restrictions
	Arnprior	<ul style="list-style-type: none"> Retail sales are not permitted
	Haldimand County	<ul style="list-style-type: none"> Outdoor signage is prohibited
	Lincoln	<ul style="list-style-type: none"> 1,000 minimum separation distance between other facilities
	Port Colborne	<ul style="list-style-type: none"> Greenhouses should be shielded so no light escapes between sunset and sunrise when abutting a sensitive land use Servicing for the facility shall be designed by a Qualified Professional, identifying the source of irrigation water, water quantities required and the

Requirement	Municipality	Regulation
Nuisance Mitigation Requirements		effects of same on the groundwater table and nearby wells.
	Ottawa	<ul style="list-style-type: none"> No nuisance permitted due to odour or fumes
	Leamington	<ul style="list-style-type: none"> Operate with an Odour Abatement Protocol to eliminate the mitigation of any Noxious Odour off its Premise Be inspected by the Municipality's Fire Department and comply with the provisions of the Fire Protection and Prevention Act

The following municipalities have subjected cannabis facilities to the site plan control process:

- Niagara-on-the-Lake;
- Lincoln;
- Port Colborne;
- Pelham;
- Milton;
- Georgina;
- Amhurstberg;
- Chatham-Kent;
- Halton Hills;
- Norfolk County;
- Haldimand County; and
- Brant County.

5 Case Law Review



To date, both tribunals and courts have had occasion to consider cannabis-related land use planning matters. Additional legal challenges are expected in the coming years as more municipalities begin to regulate in this area.

5.1 Local Planning Appeal Tribunal

5.1.1 Interim Control By-laws

An interim control by-law ("ICBL") is a tool provided for in the *Planning Act* which permits a municipality to temporarily freeze the development of certain land uses while it undertakes a review or study of its land use planning policies. The *Planning Act* mandates this review or study as a required condition of an ICBL. In many cases, a municipality will make amendments to its zoning by-law or official plan as a result of the review or study.

In the lead up to and following the legalization of recreational cannabis, a number of Ontario municipalities passed ICBLs prohibiting cannabis-related land uses pending the completion of a review or study with respect to land use planning policies in the municipality. Many of these municipalities subsequently amended their original ICBLs to extend the period of prohibition to provide additional time to complete the relevant reviews or studies.

Prior to amendments to the *Planning Act* in 2018, any person or public body who was given notice of the passing of an ICBL could appeal its passage to the Local Planning Appeal Tribunal ("LPAT"). As amended, however, the *Planning Act* permits only the Minister to appeal the original passage of an ICBL. The *Planning Act* continues to permit any person or public body to appeal the extension of an ICBL to the LPAT. To date, the LPAT has yet to hold a hearing on the merits regarding an appeal of an extension to a cannabis-related ICBL. The LPAT has, however, considered certain important preliminary matters with respect to an appeal of the Town of Niagara-on-the-Lake's extension ICBL.¹

The Town of Niagara-on-the-Lake passed an ICBL restricting the use of all lands in the municipality for any cannabis-related land use for a period of one year pending the completion of a review or study in respect of land use planning policies in the municipality. The Town later passed a by-law extending the period of prohibition of

¹ *Tweed Farms Inc. & 2470689 Ontario Inc. v. Niagara-on-the-Lake (Town)*, 2020 Carswell Ont 4530, 100 M.P.L.R. (5th) 230 (LPAT).

cannabis-related land uses for another year. Two appellants appealed the extension of the ICBL to the LPAT.

Subsequently, both the Town and the appellants filed motions with the LPAT to express their respective positions in the matters raised in the appeal. The Town brought a motion seeking an order from the Tribunal that the only issue before it was whether the decision to extend the ICBL was permissible in the circumstances. The appellants brought a motion for approval of a procedural order establishing a list of issues to be considered at the hearing. In hearing these motions, the Tribunal considered whether it had the jurisdiction pursuant to the *Planning Act* to consider and adjudicate on the underlying reasons and issues for the enactment of the original ICBL at the hearing of the appeal of the extension ICBL.

The Tribunal took a broad and purposive approach to the provisions of the *Planning Act* which permit a challenge to a by-law extending an ICBL. The Tribunal found that it has the jurisdiction under the *Planning Act* to consider and adjudicate on the underlying reasons and issues for the enactment of the ICBLs in the appeals. The Tribunal allowed the procedural order with some modifications.

It is notable that the Tribunal declined to rule on whether a cannabis-related land use is a normal farm practice, finding that this is an issue for another forum.

The Town sought leave to appeal the decision of the Tribunal.² The Divisional Court found that the Town's motion for leave to appeal was premature because an appeal of the procedural order would not have the potential to dispose of the appeal before the Tribunal, would not resolve the issue respecting development rights of landowners within a defined geographical area, and would not result in any significant saving of time and expense. As such, the Divisional Court found it was not necessary to address the issues of whether there was good reason to doubt the correctness of the LPAT's decision and whether the decision was of sufficient importance to merit the attention of the Divisional Court.

In June 2020, the Town passed a zoning by-law amendment with respect to cannabis production and processing. This zoning by-law amendment has been appealed to the LPAT. By operation of the *Planning Act*, the interim control by-law will continue to be effect until all appeals of the zoning by-law amendment have been withdrawn or the LPAT has issued its final order with respect to the appeals.

² *Tweed Farms Inc. & 2470689 Ontario Inc. v. Niagara-on-the-Lake (Town)*, 2020 ONSC 3664, 100 M.P.L.R. (5th) 242 (Ont. Div. Ct.).

5.1.2 Appeals of Municipal Zoning By-law or Official Plan Amendments

In recent years, a number of municipalities have passed zoning by-law amendments and official plan amendments regulating cannabis-related land uses. A number of these instruments have been appealed to the LPAT. To date, however, we are not aware of any appeal that has proceeded to a contested hearing before the Tribunal.

Consequently, at this time, there is a lack of specific guidance from the Tribunal regarding what constitutes good land use planning in the context of cannabis-related zoning regulations and planning policies.

5.1.3 Appeals of Private Zoning By-law Amendments

The LPAT (constituted as the OMB) has had occasion to consider appeals of private applications for zoning by-law amendments to permit cannabis production facilities.³ These appeals are dealt with in the same manner as appeals of zoning by-law amendments involving other land uses. Specifically, consideration is had to whether the proposed instrument is consistent with the Provincial Policy Statement, conforms to the Growth Plan and other applicable provincial plans and whether it conforms to the relevant official plan(s).

In *Garbutt v. Mulmur (Township)*, the OMB considered an appeal of the Township's decision to approve a zoning by-law amendment to permit the development of a medical marijuana production facility which was to be licenced by Health Canada. The appellants in this case were the owners of properties located in the vicinity of the proposed facility. The appellants expressed a number of objections to the proposal including concerns regarding security, increased traffic, inadequate sightlines on the municipal road servicing the property, impacts on groundwater and compatibility with the rural character of the area, in light of their view that the facility was an industrial operation. The Board considered the evidence of the applicant's planner who explained that the facility would be required to operate under Health Canada regulations which address security measures and the minimization of odour. The applicant's planner addressed the policies of the Provincial Policy Statement, the Growth Plan as well as the County and Township official plans and opined that the proposed zoning by-law amendment did not give rise to any issues of non-conformity or inconsistency. The Board preferred the evidence of the applicant's planner and dismissed the appeal. In particular, the Board found that the proposed facility was not constrained by servicing issues and that a detailed site plan would adequately address any issues with respect to sightlines on the municipal road. The Board also found that the proposed facility would not interfere with any agricultural operations in the area and would not result in any unacceptable visual impacts. The Board questioned whether security was a legitimate planning issue but nonetheless determined that the Health Canada regulations which

³ *Garbutt v. Mulmur (Township)*, 2017 Carswell Ont 6478 (Ont. LPAT); *Hurley v. Brock (Township)*, 2017 Carswell Ont 16122 (LPAT).

contain detailed requirements for security go well beyond what is normally implemented for a commercial enterprise.

In *Hurley v. Brock (Township)*, the OMB considered an appeal of the Township's decision to approve an application for a temporary use by-law which proposed to amend the Township's zoning by-law to permit a medical marijuana production facility until a site for a larger facility could be found in the area. The appellant raised concerns about the consistency of the proposal with the Provincial Policy Statement, conformity with the Regional and Township official plans and compatibility of the proposal with the surrounding area. Partway through the hearing, the parties informed the Board that all issues in dispute had been settled and the appellant no longer opposed the temporary use by-law. The Board considered the evidence and found that the Health Canada requirements would provide for security and monitoring of the site; air quality would be controlled and emissions were not expected to create any issues; and traffic generated from the facility would not be substantial and could be accommodated on the streets without need for any improvements. The Board also found that noise generated by the facility would be well below the standards for the area. The Board found that the temporary use by-law complied with the requirements of the *Planning Act*, was consistent with the Provincial Policy Statement, and complied with the Greenbelt Plan, Growth Plan and Regional and Township official plans. The Board approved the by-law in principle but withheld its final order pending the execution of a site plan agreement.

5.1.4 Appeals of Minor Variances to Permit Cannabis-Related Uses

In *Hines v. Port Colborne (City)*, the Ontario Municipal Board (now the LPAT) considered an appeal from the decision of the City's Committee of Adjustment to approve two minor variances to permit the development of a medical marijuana production facility.⁴ The Board evaluated the variances under the required four tests: whether they maintain the general intent and purpose of the official plan; whether they maintain the general intent and purpose of the zoning by-law; whether they are desirable for the appropriate development or use of the land, building or structure; and whether they are minor. The Board found that the variances maintained the general intent and purpose of the official plan which was supportive of new forms of agriculture to respond to new markets and opportunities. The Board also found that the variances maintained the general intent and purpose of the zoning by-law which had been amended following the federal government's adoption of regulations for medical cannabis. Additionally, the Board found that the variances were desirable for the appropriate development of the land in an agricultural area. In this regard, the Board considered the appellants' concerns regarding odour and security and found they were addressed by the federal regulations and conditions of the Health Canada licence. Similarly, the Board found concerns about site lighting could be addressed through the site plan approval process. The Board further found the appellants' concerns about adverse impacts on water, fish and species at risk were not accepted by the agency charged with protecting those resources and that the appellants provided no evidence

⁴ *Hines v. Port Colborne (City)*, 2016 Carswell Ont 9554, 89 O.M.B.R. 432 (OMB).

to call into question the conclusions of that agency. Likewise, the Board found that the appellants submitted no evidence to prove that the proposal would negatively affect their property values. The Board dismissed the appeal and authorized the variances, concluding that they satisfied the four tests.

In Cosimal Investments Inc. v. Welland (City), the LPAT considered an appeal of a decision of the City's Committee of Adjustment to refuse an application for a minor variance to permit reduced separation distances between a proposed medical cannabis production facility and various sensitive land uses.⁵ Neither the appellant nor the municipality came to the hearing prepared with any expert land use planning evidence. As a result, the Tribunal determined that the appellant would not be able to satisfy its onus of demonstrating that its proposal satisfied the tests for a minor variance. Accordingly, the Tribunal dismissed the appeal.

5.2 Normal Farm Practices Protection Board

Subsection 6(1) of the *Farming and Food Production Protection Act, 1998*⁶ provides that no municipal by-law applies to restrict a normal farm practice carried on as part of an agricultural operation. Subsection 6(2) permits an application to be brought before the Board for a determination as to whether a practice is a normal farm practice for the purposes of the non-application of a municipal by-law.

In *Burnstown Farms Cannabis Company v. Township of Beckwith*⁷ the Normal Farm Practices Protection Board was asked to consider whether its home statute, the *Farming and Food Production Protection Act, 1998* was "repugnant" to the federal *Cannabis Act*.⁸ This decision was made in the context of proceedings brought by a company which had applied for a federal licence to produce cannabis on a farm in the Township.

Section 95 of the *Constitution Act* provides concurrent jurisdiction to the provinces and the federal government with respect to agriculture but only as long as provincial laws are not repugnant to any federal law.⁹ In this context, a provincial law would be "repugnant" to a federal law if it was inconsistent with or contradictory to it.

The Normal Farm Practices Protection Board determined that until the farm practices for the proposed operation were defined, it was unable to consider constitutional questions concerning whether the *Farming and Food Production Protection Act, 1998* is in conflict with or repugnant to the *Cannabis Act* and its regulations.

⁵ *Cosimal Investments Inc. v. Welland (City)*, 2019 Carswell Ont 17681 (LPAT).

⁶ *Farming and Food Production Protection Act, 1998*, S.O. 1998, c. 1.

⁷ *Burnstown Farms Cannabis Company v Township of Beckwith*, 2019 CanLII 57318 (NFPPB).

⁸ *Cannabis Act*, S.C. 2018, c. 16.

⁹ *The Constitution Act, 1867* (UK), 30 & 31 Victoria, c 3, s. 95.

5.3 Assessment Review Board

5.3.1 Impact of Cannabis Production Facilities on Property Value

Cannabis production facilities have also been considered in the context of municipal taxation.

In *Zwiep Municipal Property Assessment Corp., Region 18, Re*, the appellants filed an appeal of their tax assessment arguing that the Municipal Property Assessment Corporation's ("MPAC's") assessment of current value was too high.¹⁰ Among the issues considered by the Assessment Review Board was whether nearby cannabis production facilities had a negative effect on the current value of the subject property.

The appellants argued that it was logical that a negative effect on property values would occur due to nearby cannabis production activities and resulting odours. The Board found that there was no evidence that property values had been negatively affected by the cannabis industry. The Board declined to make a finding of an effect on value that had not occurred and determined that it could not speculate on whether this new industry affected property values nor could it quantify a value without evidence.

5.4 Ontario Superior Court of Justice

5.4.1 Injunctions to Restrain the Contravention of a Municipal By-law

Tay (Township) v. Fan, dealt with a motion by the Township to the Ontario Superior Court of Justice for an injunction, restraining the respondents from growing, cultivating, processing or otherwise producing cannabis at their property.¹¹ The respondents were growing over 800 cannabis plants and purported to be doing so under a Personal Production Licence for Marihuana for Medical Purposes. The Township submitted that the respondents' growing activities contravened the Township's zoning by-law because such activities were taking place in a commercial zone which did not include permissions broad enough to encompass cannabis growing.

The Court applied the test for an interlocutory injunction and determined that one was required to issue in order to prevent the respondents from growing, cultivating, processing or otherwise producing marijuana at the subject property. The Court found the Township had a strong *prima facie* case that its zoning by-law was valid and that the respondents' use was not permitted in the zone in which they operated. The Court further found that the Township would suffer irreparable harm if the respondents' contravention was permitted to continue. On this branch of the test, the court found that Township's zoning by-law was enacted for the public good and that the Township had

¹⁰ *Zwiep Municipal Property Assessment Corp., Region 18, Re*, 2019 CarswellOnt 4532 (ARB).

¹¹ *Tay (Township) v. Fan*, 2018 ONSC 6375, 82 M.P.L.R. (5th) 112 (Ont. Sup. Ct.).

the duty to enforce it. Finally, the Court found that the balance of convenience favoured the municipality. The Court acknowledged concerns relating to odour complaints and also noted electrical and fire hazards associated with the use of the property. The Court found any breach of the zoning by-law would impact on the public good and undermine the orderly government of the Township. The injunction permitted the respondents some time to move their operation to another licenced facility in a properly zoned area.

5.5 Federal Court of Canada

5.5.1 Federal Licencing and Municipal Zoning By-laws

P. & S. Holdings Ltd. v. Canada is a pre-legalization decision that contains relevant discussion regarding the interplay of local and federal powers with respect to land use planning and cannabis licencing.¹²

The applicants in this case were a corporation and trade union who conducted business on a property adjacent to the site of a proposed medical marijuana production facility. The proponents of the facility had applied to the federal government for a licence from Health Canada to produce medical marijuana.

The applicants applied to the Federal Court of Canada for a declaration that they were entitled to be heard as part of the federal cannabis licensing process and for an order of *mandamus* compelling the Minister to grant them participatory standing in the process.

The Federal Court found that the applicants' concerns were not in fact related to the licensing process but instead to the uses to which the adjacent property could be put. The Federal Court concluded that these concerns related to what were essentially land use planning issues, and that the appellants had the right to participate in the municipal zoning process if they had concerns regarding a proposed use for a neighbouring property. The Federal Court found that applicants did not, however, have either a statutory or common-law right to participate in the federal licencing process.

The applicants appealed to the Federal Court of Appeal.¹³ In upholding the decision of the Federal Court, the Federal Court of Appeal made the following observations regarding the federal and provincial roles in relation to cannabis production:

30...Parliament would exceed its jurisdiction and trench upon the provincial heads of power if it were to determine delegate to the Minister, either directly or indirectly, the power to determine where marijuana production facilities may be geographically located. This is a pure zoning issue, one that falls either within the power of the provincial legislatures to make laws in relation

¹² *P & S Holdings Ltd. v. Canada*, 2015 FC 1331, 2015 CF 1331, 261 A.C.W.S. (3d) 252 (FC).

¹³ *P. & S. Holdings Ltd. v. Canada*, 2017 FCA 41, 23 Admin. L.R. (6th) 49 (FCA).

to municipal institutions or in relation to local or private matters (see s. 92(8) and (16) of the *Constitution Act, 1867*).

31 No doubt in recognition of these constitutional constraints, and in the spirit of cooperative federalism, the two levels of government have harmonized their legislation and deferred to one another for those matters that do not squarely fall within their jurisdiction...

This decision reaffirms the authority of municipalities to apply their zoning powers to federally licensed cannabis operations.

6 Consideration of Options



Licensed facilities must adhere to local laws, thus there is an ability to regulate cannabis growing facilities. It is important to note however, that defensible regulations require justified planning grounds. This section of the report discusses options for considering cannabis facilities in Fort Erie's planning documents. Based on the background discussed in the previous sections of this report, a number of options are explored and the pros and cons of the different options are discussed.

6.1 Permitting the Use

6.1.1 Should cannabis related uses be permitted in Agricultural and/or Industrial Areas?

Option 1a. Permit indoor cultivation of cannabis in Agricultural and Rural Areas as-of-right.

The basis of Official Plan Amendment (OPA) 18 specifically outlines that "medical marihuana grow and production facilities have been interpreted as being an agricultural use and permitted as-of-right within the Town's Agricultural and Rural designations" and OPA 18 permitted the use in Open Space designations outside of the Urban Area.

Additionally, in the zoning by-law, medical marihuana grow and production facilities are specifically permitted as-of-right within the Agricultural and Rural zones. As-of-right zoning means that the zoning by-law permits the use on the property and no further zoning application is required.

The following outlines the pros and cons of permitting indoor cultivation in the Agricultural and Rural Areas of Fort Erie:

Pro	Con
<ul style="list-style-type: none"> Permitting the indoor cultivation of cannabis would align with permitting indoor cultivation of other crops in greenhouses, agricultural and rural areas This approach aligns with that of the existing Official Plan and zoning by-law, which already permits medical marihuana grow and production facilities in Fort Erie's Agricultural and Rural areas. 	<ul style="list-style-type: none"> Little information is available from Health Canada on the complaint/mitigation system related to indoor cannabis cultivation. Nuisance concerns related to noise, odour, security, lighting, etc. may occur. Regulations and complaint mechanisms for indoor uses may not be sufficient to enforce mitigation of an odour nuisance.

Mechanisms for permitting indoor cultivation of cannabis in agricultural areas would include:

- Remove the reference to medical marihuana grow and production facilities from the Official Plan and zoning by-law, with the interpretation that the indoor cultivation of cannabis and associated uses are already permitted through the definition of an agricultural use; **or**
- Amend the Official Plan to clarify that the indoor cultivation of cannabis is permitted in the Agricultural and Rural designations, by updating the existing references to medical marihuana grow and production facilities to include any licensed cannabis facilities;

and

- Amend the Town's zoning by-law to clarify that the indoor cultivation of cannabis and associated uses are permitted within Agricultural and Rural zones, by amending the existing reference to medical marihuana grow and production facilities to reflect licenced cannabis facilities.

Option 1b: Require a zoning by-law amendment application to permit indoor cultivation of cannabis in Agricultural and Rural Areas

Alternatively, the Town could require a site specific zoning by-law amendment in order to permit a facility on any site.

The requirement of a site-specific zoning by-law amendment to permit cannabis cultivation and/or associated activities would provide the municipality with additional review of the particulars of each application and ensure a public review process. The Town could require completion of studies that assess potential nuisances and identify mitigation measures. Pelham and West Lincoln are examples of municipalities that require a site-specific zoning by-law amendment to permit the use.

The following outlines the pros and cons of requiring a zoning by-law amendment to permit cannabis related uses:

Pro	Con
<ul style="list-style-type: none"> • Provides the Town with the opportunity to consider the use on a case by case basis and involve the public each time. • Gives the Town the opportunity to request studies of potential nuisances. 	<ul style="list-style-type: none"> • Different from current approach for medical marihuana

The most straightforward mechanism for permitting the use through a site-specific zoning by-law amendment would be to define the use in the zoning by-law, but not list it as a permitted use in any of the zones. Further, the Official Plan could be amended to permit cannabis-related uses but specifically require a site specific zoning by-law amendment and set out the study requirements for any such application.

Option 1c. Do not permit indoor cultivation of cannabis in Agricultural and Rural Areas

When licenced, the production of cannabis is a legal undertaking in Canada. In order to prohibit the uses outright, planning grounds would be required for why the use is not appropriate anywhere within the Town of Fort Erie. While there are nuisance concerns, as discussed within the previous sections of this report, it must be determined whether such concerns are sufficient grounds for outright prohibition of cannabis cultivation and production.

The Ontario Ministry of Agriculture, Food and Rural Affairs (OMAFRA) has been considering this matter. Communication with staff at the Ministry has indicated that they consider the growth of cannabis to be subject to the Farming and Food Production Protection Act, 1998. Any restriction on the cultivation of cannabis may need to stand up to the test of whether “normal farm practices”, as defined by the Farming and Food Production Protection Act, have been restricted.

Also of relevance, the Province publishes the Minimum Distance Separation Guidelines for separation of livestock operations and sensitive land uses. These Guidelines are based on the potential nuisance effect cause by odour from livestock operations. It is used to restrict the location of new or expanded livestock operations, and vice-versa the location of new residential dwellings and other sensitive uses. The restrictions exist despite the Farming and Food Production Protection Act requirements not to restrict normal farm practice. These guidelines are an example where normal farm practices can be restricted due to concerns for odours.

The following outlines the pros and cons of not permitting indoor cultivation in Agricultural and Rural Areas in Fort Erie:

Pro	Con
<ul style="list-style-type: none"> Alleviates nuisance concerns related to indoor cultivation of cannabis. 	<ul style="list-style-type: none"> No planning grounds for outright prohibition of legal use were discovered in the best practice research; making defending the recommendation more difficult. By-laws that prohibit indoor cultivation may be deemed to not apply by the Normal Farm Practices Protection Board, anywhere agricultural uses are currently permitted. Indoor cultivation for medical marijuana is already permitted in the zoning.

The mechanisms for removing the permission of indoor cultivation of cannabis in agricultural areas would include amending both the Official Plan and zoning by-law to

define the use and list it as a prohibited use, as well as to remove the reference to medical marihuana grow and production facilities.

Option 2a. Permit outdoor cultivation of cannabis in Agricultural and Rural Areas.

Outdoor cultivation is not currently contemplated in the Town's planning documents for medical marihuana, as the previous legislation did not permit it.

The key concern associated with outdoor cultivation is odour. However, there is currently limited information available to assist in understanding the nuisances related to outdoor cultivation of cannabis. As discussed further in the report, none of the literature reviewed with regards to odour speaks directly to outdoor cultivation; however, it is understood that odours generally occur when the plant flowers and produces the buds.

The following outlines the pros and cons of permitting outdoor cultivation in Agricultural and Rural Areas in Fort Erie:

Pro	Con
<ul style="list-style-type: none"> Permitting outdoor cultivation would align with permitting the cultivation of other crops in Agricultural and Rural areas. 	<ul style="list-style-type: none"> Little information is available about the nuisance effects of outdoor cultivation. Little information is available from Health Canada on complaint/mitigation systems related to outdoor cannabis cultivation. Nuisance concerns related to odour, security, lighting etc. may occur.

The mechanisms for permission of outdoor cultivation in Agricultural Areas are similar to those discussed in Option 1a for permitting indoor cannabis growth.

Option 2b: Do not permit outdoor cultivation of cannabis in Agricultural and Rural Areas

As previously discussed, the licenced production of cannabis is a legal undertaking, and planning grounds would be required as to why the outdoor cultivation of cannabis is not appropriate within any of Fort Erie's Agricultural and Rural Areas. While there are nuisance concerns, little information is available on outdoor cultivation to inform the potential potency of this nuisance.

Only some of the municipalities we reviewed actually permit outdoor cannabis cultivation. However, it is important to note that the Ontario Ministry of Agriculture, Food and Rural Affairs (OMAFRA) considers cannabis cultivation a normal farm practice. Therefore, a municipal by-law preventing outdoor cultivation could potentially be challenged at the Normal Farm Practices Protection Board.

The following outlines the pros and cons of not permitting outdoor cultivation in Agricultural and Rural Areas in Fort Erie:

Pro	Con
<ul style="list-style-type: none"> Alleviates nuisance concerns related to the outdoor cultivation. 	<ul style="list-style-type: none"> By-laws preventing outdoor cultivation of cannabis may be deemed to not apply anywhere agricultural uses are currently permitted by the Normal Farm Practices Protection Board.

The mechanisms for restricting outdoor cannabis cultivation in Agricultural Areas are similar to those discussed in Option 1b for not permitting indoor cannabis cultivation.

Option 3a: Permit cannabis related uses in Industrial Areas

Cannabis related uses are similar to many industrial processing functions such as testing, drying, packaging, etc. While nuisance concerns associated with the processing of cannabis may occur, these concerns are not unlike the concerns associated with other industrial functions. A certain level of nuisance is expected and accepted in industrial areas, hence the typical separation from sensitive uses and one of the reasons cannabis related uses may be suited for employment areas.

OPA 18 permits indoor medical marihuana grow and production facilities within the Business Park designation. Within the Town's zoning by-law, a medical marihuana and grow production facility is listed as a permitted use in the Industrial and Prestige Industrial zones and is also included within a list of uses under the zoning by-law's definition of "agricultural".

The following outlines the pros and cons of permitting cannabis related uses in Industrial Areas in Fort Erie:

Pro	Con
<ul style="list-style-type: none"> The post-cultivation uses (processing, packaging, etc.) are not that different from other industrial uses and have similar nuisance potential. Industrial areas are typically removed from sensitive uses, thus there may be less potential for nuisance impacts. This approach aligns with that of the existing Official Plan and zoning by-law, which already permits medical marihuana grow and production facilities in Industrial Areas in Fort Erie. 	<ul style="list-style-type: none"> Nuisance concerns related to odour, security, lighting, etc. may occur. Little information is available from Health Canada on complaint systems or mitigation related to cannabis cultivation and processing. Regulations and complaint mechanisms may not be sufficient to enforce mitigation of an odour nuisance.

Mechanisms for the permission of indoor cannabis cultivation in Industrial areas would include:

- Amend the Official Plan to specifically clarify that cannabis cultivation/processing /packaging etc. is permitted in Business Park Designation, by updating the

existing reference to medical marihuana grow and production facilities to include any licensed cannabis facilities;

and

- Amend the Zoning by-law to clarify that cannabis cultivation and processing /packing/testing etc. are permitted in Industrial Zones, by updating the existing reference to medical marihuana grow and production facilities to include any licensed cannabis facilities.

Option 3b: Do not permit cannabis related uses in Industrial Areas

Limiting certain uses in employment areas are typical official plan and zoning provisions.

The following outlines the pros and cons of not permitting cannabis related uses in Industrial Areas in Fort Erie:

Pro	Con
<ul style="list-style-type: none"> • Alleviates nuisance concerns related to the uses. 	<ul style="list-style-type: none"> • The post-cultivation uses (processing, packaging, etc.) are not that different from other industrial uses and have similar nuisance potential. • Both the Official Plan and zoning by-law already currently permit medical marihuana grow and production facilities within Industrial Areas, which the permission would have to be removed.

If the Town of Fort Erie decided to restrict the use in Industrial Areas, the most transparent mechanism for prohibiting indoor cultivation would be to amend the Official Plan and zoning by-law to define the use and list it as a prohibited use, as well as to remove the reference to and permission for medical marihuana grow and production facilities.

6.2 Regulating the Use

6.2.1 What specific provisions should the By-law address?

Option 1: Implement a separation distance requirement to sensitive uses or zones

While more than one reason may exist for separating cannabis-related uses from sensitive uses, odour is often raised as the primary consideration. The difficulty, however, lies in determining an appropriate setback to address odour concerns.

Section 10.5: Separation Distances of Sensitive Land Uses from Industrial Operations of the Town's Official Plan was amended by OPA 18 to specify that medical marihuana grow and production facilities, permitted as an agricultural or industrial use, shall be appropriately distanced from sensitive land uses, such as residences, schools and churches. Policy 10.5.1 of the Official Plan requires Council to have regard for the Ministry of Environment D6 Guidelines in determining appropriate distances.

As previously described within this report, the Cannabis Act Regulations require "a system that filters air to prevent the escape of odours". In addition, Health Canada has produced a guide entitled "Good Production Practices Guide for Cannabis", which provides additional direction to fulfilling the Regulations related to air filtration. A Good Production Practices Report must be submitted as part of a Cannabis License Application, that clearly demonstrates how requirements to the following will be met including:

- "The building or part of the building used for the production, packaging labelling and storage of cannabis is equipped with an adequate ventilation system that is capable of maintaining air quality within it.
- The number and quality of air filters is sufficient for preventing the escape of odours from the building or part of the building where all activities with cannabis are taking place, as well as to maintain air quality within these areas.
- Ventilation and air filtration is maintained in accordance with a schedule.
- Maintenance operations are carried out in a manner that does not present any risk to the quality of the cannabis.
- The presence of odours surrounding the facility is monitored in accordance to a schedule and responded to if necessary.
- Inspection and repair activities occur when required."

The Health Canada guide provides no specific technical requirements for the form or type of air filtration system; it simply requires implementation of a system that successfully blocks the escape of odours. However, as previously described, Health Canada inspects all licence holders on a regular basis to ensure cannabis is produced, sold and distributed in accordance with the Cannabis Regulations. According to personal communication with Health Canada, the Department takes issues and complaints seriously and ensures that appropriate actions are taken to correct any potential non-compliance with the regulations. Therefore, odour from indoor cultivation facilities where a proper ventilation system is in place and is appropriately maintained

should not be a concern. However, it is not clear what is considered an appropriate level of odour mitigation and what constitutes a “strong odour”. It is also not clear how Health Canada deals with odour complaints or what the ramifications are for producers that produce an odour. As well, odour related to outdoor cultivation is not addressed in the regulations or guidelines.

A best practice review of other municipalities approach to separation distances found that a number of municipalities have implemented separation requirements for cannabis growing facilities in their Zoning by-laws. One of the concerns with implementing a setback and/or separation distance in the Zoning By-law is that the requirement could be appealed. For example, the City Hamilton implemented Official Plan and Zoning by-law changes to address cannabis facilities and the following provisions were under appeal:

- A policy of the Official Plan requiring that an appropriate setback between cannabis facilities and sensitive land uses be established in the Zoning by-law;
- A Zoning by-law requirement for a building setback of 30 metres for cannabis facilities in the Agricultural and Rural Zones; and
- In the Agricultural and Rural Zones, a separation distance requirement for cannabis facilities of 150 metres to residential dwellings and zones which permit sensitive uses.

However, the appeal was later dismissed on the grounds that the appellant had failed and/or refused to comply with directions from the Local Planning Appeals Tribunal.

The zoning by-law amendment passed by the Town of Niagara-on-the-Lake was also recently appealed.

A range of setback distances from cannabis facilities to sensitive land uses or zones are used by other municipalities within their planning documents. The majority of these range from 150 metres to 300 metres. While a number of municipalities have set a singular minimum separation distance requirement, as was detailed in Section 4.7 of this report, others have set a range of distances based on a set of parameters such as:

- the location of the facility (within an agricultural vs. industrial area); or
- the presence/lack of air treatment control; or
- building size.

Greater distances of up to 300 metres are generally required for facilities with no air treatment control. As previously discussed, air treatment control is a requirement of indoor licenced facilities. The greater distance requirements appear to be geared to medical facilities that are not subject to the same stricter licence requirements, but permitted through the registration certificates. For the municipalities that provide a distinction, separation distances in agricultural areas are larger than in industrial areas.

Should the implementation of separation distances for cannabis-related uses be desired within the Town's Zoning by-law, a minimum separation distance of either 150 metres or 300 metres is the most common, with the additional option to provide a range based on the location of the facility (within an agricultural vs. industrial area) or size of the facility.

The following outlines the pros and cons of implementing a separation distance for cannabis-related uses in the zoning by-law:

Pro	Con
<ul style="list-style-type: none"> Provides some level of nuisance mitigation by separating uses that may not be compatible. 150 m to sensitive uses and/or zones is standard across many municipalities reviewed. 	<ul style="list-style-type: none"> Difficult to determine appropriate setback as lack of evidence/studies exist around nuisance related to Cannabis facilities. Health Canada enforces where "strong odours" occur so separation distance may not be needed. Provisions may be appealed to the Normal Farm Practices Protection Board. An application for a minor variance or zoning by-law amendment could potentially reduce/modify the setback

Mechanisms for implementing a separation distance would be implemented through the zoning by-law.

Option 2: Provide a requirement for fencing in the by-law

A fencing or barrier system around a facility may assist in addressing security concerns. The following outlines the pros and cons of implementing a use-specific fencing requirement for cannabis related uses in the Zoning by-law:

Pro	Con
<ul style="list-style-type: none"> Provides an additional security measure. 	<ul style="list-style-type: none"> Health Canada reviews facility applications to assess the adequacy of the security measures proposed. This provision may not be needed.

Option 3: Provide parking rates specific to the use

Some municipalities have added specific parking rates for cannabis facilities, while others have let this use be captured under the existing rates for similar agricultural or industrial uses. The following outlines the pros and cons of implementing use-specific parking rate requirements for cannabis related uses in the zoning by-law:

Pro	Con
<ul style="list-style-type: none"> Parking requirements for cannabis facilities would help to regulate the size of lots and number of spaces. 	<ul style="list-style-type: none"> Limited information is available on appropriate parking rates for cannabis related uses.

Option 4: Require loading spaces to be enclosed in a building

In order to address concerns of security, and perhaps odour, some municipalities have required that a loading space be entirely enclosed within a building. The following outlines the pros and cons of requiring enclosed loading spaces for cannabis related uses in the zoning by-law:

Pro	Con
<ul style="list-style-type: none"> As a security measure, some by-laws also require that the loading bays be wholly enclosed within a building. 	<ul style="list-style-type: none"> Health Canada reviews the applications to assess the adequacy of the security measures proposed. This provision may not be needed.

Option 5: Restriction on outdoor signage of the facility

Select municipalities have implemented requirements restricting signage of the use. The following outlines the pros and cons of implementing signage requirements for cannabis related uses in the zoning by-law:

Pro	Con
<ul style="list-style-type: none"> The restriction of outdoor signage would reduce concerns for perception of living near a cannabis facility or concerns with security. 	<ul style="list-style-type: none"> Any use would also be subject to the Town's Sign By-law, thus this provision may not be required.

Option 6: Restrict outdoor storage

While cannabis product is not permitted to be stored out of doors, some municipalities have also specifically re-iterated in their requirements that outdoor storage is not permitted. The following outlines the pros and cons of restricting outdoor storage related to cannabis uses in the Zoning by-law:

Pro	Con
<ul style="list-style-type: none"> The specific restriction on outdoor storage of cannabis product would provide additional clarity to the public and applicants as to what the permitted uses entail. 	<ul style="list-style-type: none"> Prohibition of outdoor storage is already addressed in the Act and Regulations already, and therefore it may not be needed.

Option 7: Prohibit residential uses or dwellings located on the same lot

As a mechanism to mitigate nuisance potential, some municipalities have restricted residential uses on the same lot as cannabis uses. The following outlines the pros and cons of prohibiting dwellings on lots containing licenced cannabis uses in the zoning by-law:

Pro	Con
<ul style="list-style-type: none"> The restriction of residential uses on the same lot as a cannabis related facility would ensure that all operations occur in non-residential buildings. 	<ul style="list-style-type: none"> The Cannabis Act does not allow any of the licenced activities to take place in a dwelling so it is already address by the Act. Agricultural operations typically have a dwelling on the property.

6.3 Site Plan Control

6.3.1 Should the Site Plan Control By-law be updated to address cannabis related uses?

Option 1: Update the Site Plan Control By-law to specifically address the use

According to the Town's Site Plan Control By-law No. 133-86, the entire Town of Fort Erie is designated as a Site Plan Control Area. By-law No. 134-86 establishes site plan control exceptions, which was later amended by By-law No. 08-2014 to require site plan control for greenhouses and medical marihuana grow and production facilities.

In order to require site plan control for cannabis related facilities, the provision of the site plan by-law could be amended to change medical marihuana facilities to include all cannabis related uses.

Site plan control for cannabis facilities would allow the Town more control in ensuring sites are designed in a way that mitigate impact and nuisance. As greenhouses and medical marihuana facilities are already subject to site plan control, it is not unreasonable to require cannabis related buildings to be subject to site plan control. Outdoor cultivation is not typically covered by site plan control, however given the need for fencing and or security measures, it may be worth considering.

The following outlines the pros and cons of making cannabis related uses subject to site plan control:

Pro	Con
<ul style="list-style-type: none"> Site Plan control would allow the Town better opportunity to mitigate nuisance potential. Since medical marihuana facilities are currently subject to site plan control, it is reasonable to extend this to a similar use, such as an indoor cannabis cultivation facility. A site plan agreement can address matters such as odour control allowing for easier enforcement. 	<ul style="list-style-type: none"> Health Canada reviews the site plans and layouts of proposed facilities to ensure compliance with the Act and Regulations.

Option 2: Leave the Site Plan Control By-law as it stands today

Health Canada reviews the site plans and layouts of proposed cannabis facilities to ensure compliance with the Act and Regulations. The Town may choose to leave the design of the site, subject to meeting any by-law requirements, to the Health Canada application/licencing process. This option would likely require the Town to remove reference to medical marihuana facilities.

The following outlines the pros and cons of not making cannabis related uses subject to site plan control:

Pro	Con
<ul style="list-style-type: none"> Health Canada already reviews the site plans and layouts of proposed facilities. 	<ul style="list-style-type: none"> The Town will lack the ability to control placement of buildings on site and also the ability to require additional study requirements such as odour control measures.

6.4 Summary Discussion

As with all planning matters, a balance will need to be struck between regulation and flexibility. In Ontario, Cannabis related uses are unique to other uses owing to the interplay of Provincial and Federal legislation. The Cannabis Act and Regulations clearly outline that municipal by-laws apply to any cannabis related use, giving the Town some control of this use through their planning processes. However, the Ontario Farming and Food Production Protection Act stipulates that by-laws which restrict normal farm practices do not apply and OMAFRA has indicated that cannabis is a crop subject to the Act. However, the Minimum Distance Separation Guidelines provide an example of where normal farm practices are limited where there is potential for odours from livestock facilities. As cannabis cultivation is a new use, there is not yet a clear standard for normal farm practice in the context of nuisance concerns.

From a planning perspective, regulating any use must be justified with a rationale of what makes a use unique and what steps are appropriate to regulate nuisance and concerns related to that use.

The purpose of this section of the report is to identify options for addressing cannabis related uses in Town of Fort Erie Planning documents. The next step of this process is to seek public consultation on the options in order to inform the recommendations developed in the next phase of this Study.

7 Summary of Public Comments



7.1 Public Open House and Written Survey Responses

A virtual public open house was held by the Town of Fort Erie on March 4, 2021 to present the study's Background, Analysis and Options Report, gather feedback on the work completed so far and address questions.

SGL made a presentation which described the research conducted to date and potential policy options for the Town. The presentation was followed by a question and answer period. Four people provided comments during the open house. Additionally, an online survey was posted on the Town's public engagement website, Let's Talk Fort Erie, from February 17 to March 12, which received 30 responses. The following provides a summary of the general comments and concerns raised at both the open house and the online survey.

Nuisance Concerns

Concern for odour was the most prevalent public nuisance concern raised. These concerns related to the general use and enjoyment of nearby properties, specifically residential areas and homes and how individuals may be impacted by odour. Other nuisance concerns and their potential impact included noise, lighting, fencing, traffic and views of facilities.

Ground Water

Members of the public expressed concerns about water consumption, the potential contamination of ground water from cannabis facilities on nearby properties and farms and the effect on well water supply.

Security

Concern for the security of cannabis facilities was raised as a general concern. Additionally, the impacts of security systems on the privacy of neighbouring properties were raised as a concern.

Industrial vs. Agricultural Areas

The online survey posed the following question, with the opportunity to provide an open written response: "Recognizing that Cannabis production is federally legislated and will occur within the community, where do you think cannabis production is most appropriate in Fort Erie?". Based on written survey responses and comments received

at the Open House, there was more public support for allowing the indoor production of cannabis in industrial areas as these areas already have the capacity to better mitigate odour, sounds, lighting and other nuisance concerns more typically associated with industrial uses, and there is opportunity to utilize vacant and underutilized lands. However, there was also public support for permitting the use within agricultural areas, with the biggest concern being the separation distance of cannabis facilities from residential uses.

Separation from Sensitive Land Uses and Residential Areas

During the Open House and through written response to the online survey, participants raised concern for separation distances of cannabis facilities from residential areas and other sensitive land uses such as schools and recreation areas. Some members of the public indicated that facilities should be located far away from sensitive uses, including rural residential uses in order to ensure residential areas are not affected.

Legal Cannabis Facilities

A representative from the micro-cultivation industry suggested at the Open House that many compliance and nuisance issues stem from cannabis production facilities that grow for medical purposes under the Access to Cannabis for Medical Purposes Regulations (ACMPR), as well as other illegal non-licenced facilities, and not from licenced cannabis production facilities under the Cannabis Act and Regulations.

The concern was raised at the Open House as well as through written comment that too many regulations at the Town-level on licenced facilities under the Cannabis Act may encourage growers to illegally grow or go through the ACMPR process instead.

7.2 Survey Results

The following provides a summary of survey results by question, listed in order as they appeared. The final three questions of the survey provided an opportunity for additional comments, including where cannabis production may be most appropriate in Fort Erie and concerns relating to specific properties. These general written comments are summarized in the previous section of this Report.

Do you currently reside within close proximity (0-150 metres) of a cannabis production facility?

The majority of respondents indicated that they do not live within close proximity of a cannabis production facility (**Figure 1**).

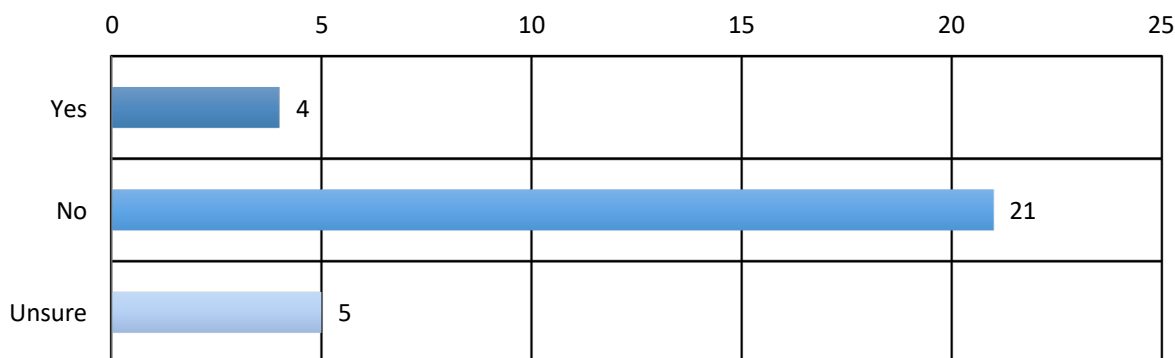


Figure 1. Survey Responses to “Do you currently reside within close proximity (0-150 metres) of a cannabis production facility?”

Should cannabis production (growing and processing) be permitted indoors in agricultural areas?

As shown in **Figure 2**, 54% of survey responses indicated that cannabis production **should be** permitted indoors in agricultural areas. Of the remaining responses, 33% indicated that cannabis production **should not** be permitted indoors in agricultural areas, and 13% indicated they were **unsure**.

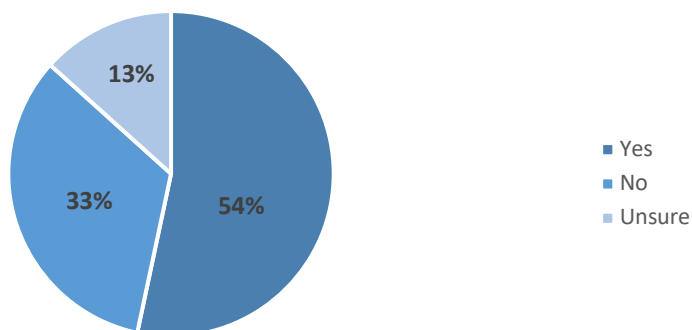


Figure 2. Survey Responses to “Should cannabis production (growing and processing) be permitted indoors in agricultural areas? (Please check your preference)”

Should cannabis production (growing and processing) be permitted indoors in industrial areas?

The majority of survey responses (80%) indicated that cannabis production **should be** permitted indoors in Fort Erie's industrial areas, as shown in **Figure 3**. 13% indicated indoor production **should not** be permitted in industrial areas, and 7% were **unsure**.

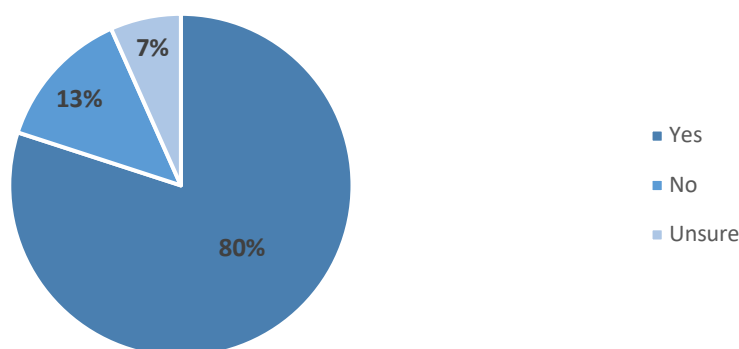


Figure 3. Survey Responses to “Should cannabis production (growing and processing) be permitted indoors in industrial areas? (Please check your preference)”

Should cannabis production (growing only) be permitted outdoors?

Responses were closely split between whether cannabis production should be permitted outdoors, with 50% responding “**yes**”, 47% responding “**no**” and 3% responding “**unsure**” (**Figure 4**).

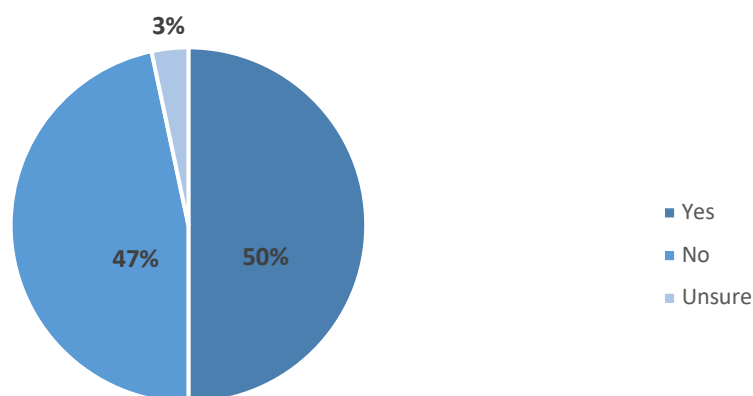


Figure 4. Survey Responses to “Should cannabis production (growing only) be permitted outdoors? (Please check your preference)”

Should a separation distance be required between cannabis production facilities and sensitive uses such as residential areas?

The majority of survey responses (76%) indicated a **separation distance of 200+ metres** should be required between cannabis production facilities and sensitive land uses (**Figure 5**).

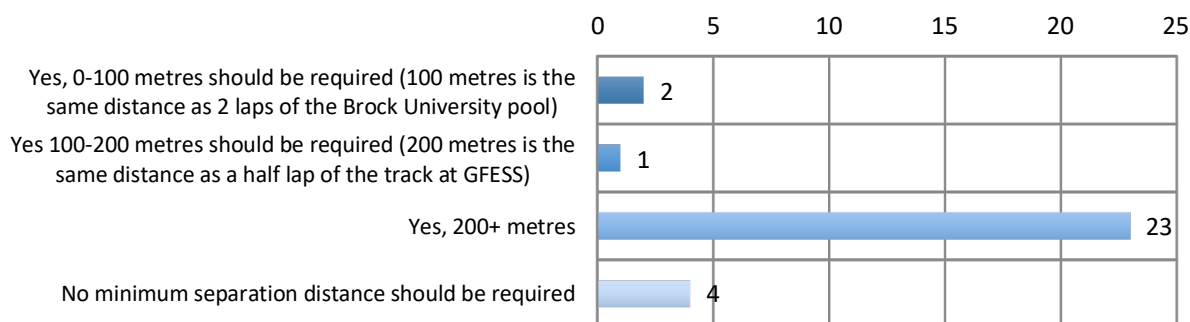


Figure 5. Survey Responses to “Should a separation distance be required between cannabis production facilities and sensitive uses such as residential areas? (Please check your preference)”

What are your top concerns when it comes to cannabis production in the Town?

A range of concerns relating to cannabis production were provided to choose from. As shown in **Figure 6**, odour is a top concern of the public. Other prevalent concerns include light pollution, groundwater and security which are also reflected in the written responses received from the public. Of those that provided an “other” response, a few specified that they have no concerns at all. Other responses included devalued residential properties, not enough production, lack of response to compliance, loss of trees near residential areas and health impacts.

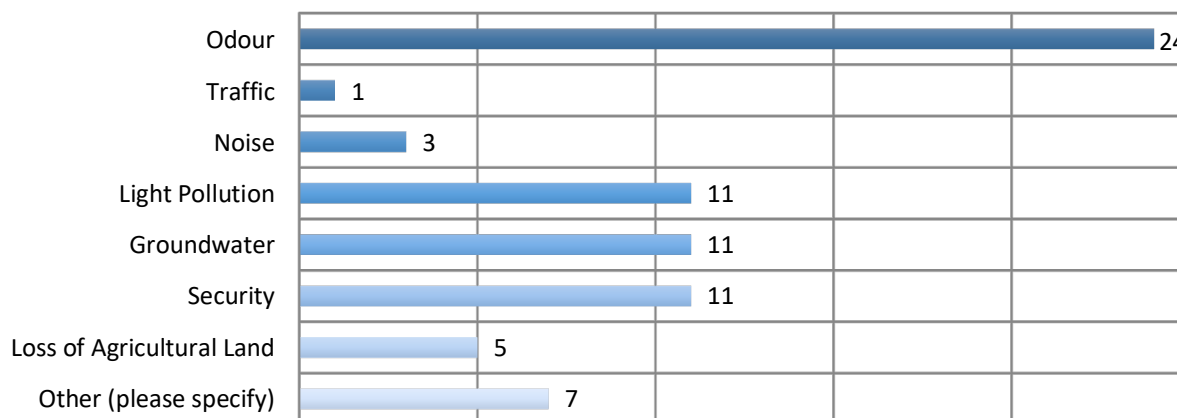


Figure 6. Survey Responses to “What are your top concerns when it comes to cannabis production in the Town? (Please select your top three concerns)”

Should cannabis production be subject to Site Plan Control (a tool used to regulate site features and characteristics)?

As shown in **Figure 7**, the majority of responses (83%) indicated that cannabis production facilities **should be** subject to Site Plan Control in order to regulate site features and characteristics.

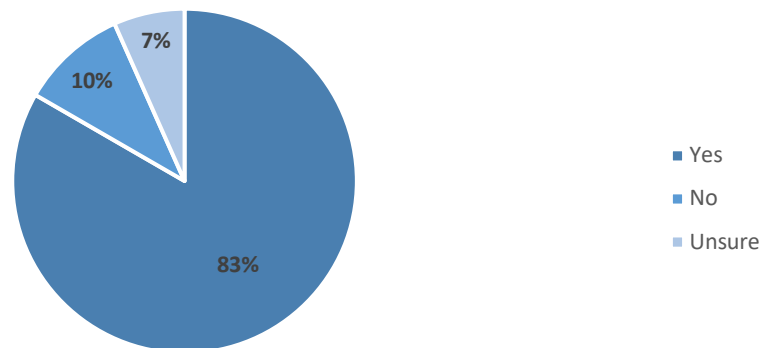


Figure 7. Survey Responses to “Should cannabis production be subject to Site Plan Control (a tool used to regulate site features and characteristics)? (Please check your preference)”

8 Recommendations



The following describes the recommendations for the Town of Fort Erie to address cannabis production uses in their planning documents and processes.

8.1 Production Types to be Regulated

It is recommended that the following two different types of cannabis production be addressed.

The first type of production that should be regulated is commercial cannabis production which requires a licence from Health Canada (referred to as “licenced facilities”) including micro-cultivation. This type of production has been the focus of this study.

The second type of production is cannabis cultivation for those who are acting as a designated grower for medical purposes under the Access to Cannabis for Medical Purposes Regulations (ACMPR). The ACMPR allows individuals or designated growers to register to produce a specific amount of cannabis for medical purposes as prescribed by their health care practitioner, referred to as “designated medical growth”. Production is allowed both indoors and outdoors at the registered person’s place of residence, land owned by the registered person or land owned by another with authorization from the owner. Under the ACMPR, cannabis growth for medical purposes may only be carried out by those holding a registration certificate from Health Canada. Health Canada’s website clearly states that holders of ACMPR registration certificates “are also expected to comply with all relevant provincial/territorial and municipal laws including local bylaws about zoning, electrical safety, fire safety, together with all related inspection and remediation requirements.”

Designated medical growth is recommended to be subject to the policy and zoning requirements set out in this Report owing to the potential for large production amounts where an individual may be growing for their own medical purposes and that of someone else’s or for two other people. It is not recommended to apply policy and zoning requirements where an individual is growing only for themselves or only as a designated grower for one other person, unless this is being done on the same premise as a second grower for either personal or designated purposes as growth related to up to four registration certificates can occur in one location. In summary, regulations would be intended to apply in Fort Erie anywhere where growth related to more than one registration certificate occurs in one location.

Growth of up to four plants in a dwelling is also not proposed to be regulated by the Official Plan or Zoning By-law.

The recommendations in the following sections of this Report apply to both licensed facilities and designated medical growth under the ACMPR.

8.2 Outdoor Cultivation

The Cannabis Act and Regulations require odour reduction measures for indoor cultivation. However, the Act and Regulations do not set out any specific odour control methods or requirements for outdoor cultivation nor is it possible to control odour from outdoor cultivation.

Little data was uncovered during this study on the odour potential from outdoor cultivation of cannabis or the physical extent to which that odour is noticeable. We understand that there is no way to mitigate odour from outdoor cultivation of cannabis without enclosing the plants in a building. While some municipalities permit outdoor cultivation, many do not. It is understood that the Ontario Ministry of Agriculture, Food and Rural Affairs (OMAFRA) is intending to study the odour effects of cannabis growth, but no information was available at this time. As such, there is insufficient information upon which to base regulations to manage odour from outdoor cultivation. Thus, outdoor cultivation is not recommended to be permitted in Fort Erie at this time. It is recommended that the Town's Official Plan and Comprehensive Zoning By-law be updated to specifically prohibit the outdoor cultivation of cannabis.

8.3 Indoor Cultivation and Cannabis Related Uses

The indoor cultivation of cannabis and its related uses are recommended to be permitted as-of-right in Fort Erie's agricultural and rural areas, as well as appropriate industrial areas. An as-of-right permission for cannabis and its related uses within the Town's agricultural and rural areas aligns with the permission for the indoor cultivation of other types of crops in greenhouses in these areas. This permission also aligns with the Town's Zoning By-law which specifically permits medical marijuana grow and production facilities within the Agricultural and Rural zones.

In these areas, indoor cultivation should be permitted as the primary use, with processing, packaging, testing, etc. only permitted as an accessory use to a cultivation use. Without cultivation, these other uses (i.e., processing, packaging of cannabis) should not be permitted.

Cannabis related uses, such as the packaging, processing etc. are already permitted as-of-right within the Town's Industrial Business Park designation, which currently permits manufacturing, assembly, processing, fabrication, warehousing and the storage of goods and materials as set out by the Official Plan. OPA 18 also currently permits the growing of marijuana plants indoors within this designation, which would align with the new permission for the indoor growth of cannabis and its related uses in this area.

While it is recommended that the use be permitted as-of-right within both the Town's agricultural and rural areas, as well as industrial areas, without the need to go through a site-specific zoning by-law amendment, the use should be regulated through the introduction of appropriate zoning requirements regarding setbacks, separation from sensitive land uses, outdoor storage and other requirements as well as through the site plan control process. The benefit of requiring the use to go through the site plan control process is that this allows the Town to request and review studies to ensure odour control is appropriate and that other potential nuisances can be appropriately mitigated.

In order to implement these recommendations, updates to planning documents would be required, as described to follow.

8.3.1 Official Plan Updates

A cannabis facility policy should be included in the Official Plan that addresses:

- That the use is to occur within a wholly enclosed building;
- That the use must not emit any odour;
- That the use is to operate pursuant to all applicable regulations;
- That buildings shall be appropriately distanced from sensitive uses;
- That the use shall be subject to site plan control, which may require submission of detailed studies; and
- A description of the cannabis related uses such as processing, packaging, testing etc. that are permitted.

Agricultural, Rural and Open Space Outside the Urban Area Boundary

To permit the use within the Town's Agricultural and Rural designations, it is recommended that the Official Plan be updated to specify that indoor, but not outdoor, cultivation is permitted.

In these designations, the use would be referred to as "cannabis cultivation", with policy explaining that associate uses, such as processing or packaging, are only permitted as accessory uses and must occur on the same lot as the cultivation.

It is recommended that the permissions of the Open Space designation be updated to specify that cannabis and its related uses are not permitted as an agricultural use in Open Space areas within the Town's Urban Area Boundary (UAB).

Industrial Areas

It is recommended that the Town permit the indoor cultivation of cannabis within the Industrial-Business Park designation, but that outdoor cultivation is not permitted. This should replace the current permission for the growing of marihuana plants within buildings as introduced within OPA 18.

In this designation, the use would be referred to as “cannabis production” and permit processing, packaging, testing, destruction, research which are permitted and may occur independent of cultivation of cannabis occurring on the same lot.

Separation Distances from Sensitive Land Uses

Section 10 of the Official Plan addresses human-made hazards and nuisances. Official Plan Policy 10.5.II, as amended by OPA 18, currently provides the following guidance on appropriate separation distances for Medical Marihuana Grow and Production Facilities from sensitive land uses:

“It is important that facilities for the production of Marihuana for Medical Purposes, licensed and operated accordance with the Marihuana for Medical Purposes Regulations and permitted as an agricultural or industrial use be appropriately distanced from sensitive land uses, including residences, schools, churches etc. Policy 10.5.1 shall provide guidance on distance separation this regard. Further as permitted by Policies and these facilities shall be put under Site Plan Control to enhance land use and operational compatibility.”

This policy should be removed and specific separation distances should be set out in each of the Agricultural, Rural, Open Space (outside the UAB) and Industrial designations.

Site Plan Control

It is also recommended that Section 13.4.II of the Official Plan (as amended by OPA 18), which speaks to site plan control, be updated to replace the reference to medical marihuana grow and production facilities and instead specify that cannabis cultivation and production are not exempt from site plan control. It should be specified that the process may require submission of studies relating to matters such as, but not limited to, air quality control (odour), groundwater protection, environmental impacts, security, traffic and lighting.

8.3.2 Zoning By-law Updates

The following recommendations apply to Comprehensive Zoning By-law No. 129-90.

It is recommended that the Zoning By-law be updated to define and permit two different types of cannabis cultivation which should replace the current definition for “medical marihuana grow and production facility”:

1. Licenced Cannabis Production Facilities; and
2. Dedicated Medical Growth of Cannabis.

These definitions should indicate that cultivation may occur within a fully enclosed building or greenhouse.

It is also recommended that the definition for “agricultural” within the Zoning By-law be amended to exclude these facilities. This will ensure facilities are only permitted as-of-right where they are specifically listed as a use and not simply anywhere where agricultural uses are permitted.

It is recommended that general provisions for cannabis cultivation and its related uses be introduced to the Zoning By-law. The provisions should address the following:

- The requirement of a minimum separation distance of 150 metres from sensitive land uses;
- The prohibition of outdoor storage;
- The requirement of an enclosed building;
- The prohibition of the use within a dwelling; and
- The requirement for the use to not emit any odour.

Agricultural and Rural Zone Permitted Uses

It is recommended that Licenced Cannabis Production Facilities and the Dedicated Medical Growth of Cannabis be listed as a permitted use within the Agricultural and Rural zones. These uses will replace the permission for Medical Marijuana Grow and Production Facilities. The details of the amendments will specify that other uses, such as processing, packaging etc. can only occur as accessory uses to cannabis cultivation.

Retail Sales in Agricultural and Rural Zones

Currently, the Agricultural Zone permits a:

- Farm Product Outlet, defined as “... a building or structure accessory to a farm where farm products produced on the farm are offered for retail sale on the same lot as the farm”; and
- Greenhouse Product Outlet: defined as “...a building or structure accessory to a greenhouse when greenhouse products are offered for retail sale on the same lot as the greenhouse.”

The Rural Zone permits a:

- Farm product market: defined as...”a building or structure where farm products are offered for retail sale.”

The Town recently approved a Housekeeping Amendment to the Official Plan (OPA 51) which added a definition for value-added uses and included this use as an additional use in the Rural and Agricultural designations. Specific to cannabis, the definition prohibits cannabis related value-added uses. It is therefore recommended that the retail sale of cannabis products be prohibited in the Agricultural and Rural Zones in keeping with the recently approved value-added official plan amendment.

Industrial Zone Permitted Uses

It is recommended that Licenced Cannabis Production Facilities and Dedicated Medical Growth of Cannabis be listed as permitted uses within the Industrial and Prestige Industrial Zones. These uses will replace the permission for Medical Marihuana Grow and Production Facilities.

Retail Sales in Industrial Zones

Currently, a factory outlet is permitted in Industrial Zones in Zoning By-law 79-200. A "factory outlet", is "a building, or part thereof, accessory to, and clearly secondary to, a manufacturing plant, food processing establishment, warehouse, petty trade or merchandise service shop, wherein products manufactured, produced, processed or stored on the premises are kept for display and offered for wholesale or retail sale, or wherein orders are taken for the delivery of such products, and such area shall not exceed 10% of the gross floor area of the principal structure."

It is recommended that the accessory retail sale associated with cannabis production in the industrial zones be permitted.

8.3.3 Site Plan Control Updates

According to the Town's Site Plan Control By-law No. 133-86, the entire Town of Fort Erie is designated as a Site Plan Control Area. By-law No. 34-86 establishes site plan control exceptions, which was later amended by By-law No. 08-2014 to require site plan control for medical marihuana grow and production facilities. It is recommended that this reference be replaced so that site plan control is required for any cannabis related use, including licenced facilities and designated medical growth. As previously stated, this change includes amending Official Plan Policy 13.4 to specify that the use is not exempt from the provisions of the Site Plan Control By-law. Through site plan control, the Town can enter an agreement with the owner requiring that the use not emit any odour. The Town can then enforce the agreement, if necessary.

Through site plan control, cannabis related uses will be required to prepare and submit supporting studies, as determined through pre-consultation which will include, but not be limited to:

Study Requirement	Potential Issue to be Addressed
Air Quality	Odour and/or Air Quality
Noise	Noise,
Traffic/Parking Impact Analysis	Traffic
Stormwater Management Plans Hyrdogeological Study	Stormwater run-off Water supply/ Groundwater impacts
Private Servicing Plans	Wastewater/septic feasibility

Environmental Impact Study	Environmental Impacts
Lighting/Photometrics plan	Lighting

Issues such as security (fencing, buffers etc) will be addressed through the site plan design and site plan agreement.

8.4 Summary of Recommendations

We are recommending that only indoor cannabis related uses be permitted as-of-right in Fort Erie's Agricultural and Rural Areas, as well as Industrial Areas. Outdoor cultivation is not recommended to be permitted. In order to implement these changes, updates to the Town's Official Plan and Comprehensive Zoning By-law are required to permit the use, as well as to implement a number of requirements, including:

- The requirement of a separation distance of 150 metres from sensitive land uses
- The prohibition of outdoor storage;
- The prohibition of retail sales in the Agriculture and Rural Zones;
- The permission of retail sales in the Industrial Zone;
- The requirement of an enclosed building;
- The prohibition of the use within a dwelling; and
- The requirement for the use to not emit any odour.

It is also recommended that the use be subject to site plan control.

9 Next Steps



The next step in the Study process is to bring this report forward to Council. If approved, the Study would proceed to Phase 4, which entails the formal public process to implement the recommendations through amendments to the Official Plan, Zoning By-law and Site Plan Control By-law.



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Municipal Corporation of the Town of Fort Erie By-law No. --

**Being A By-law To Enact an Amendment To The
Official Plan Adopted By By-law No. 150-06
For The Town Of Fort Erie Planning Area**

**Amendment No. 61
Cannabis Production Facilities
Town of Fort Erie**

The Municipal Council of The Corporation of the Town Of Fort Erie in accordance with the provisions of Section 17 of the Planning Act R.S.O. 1990 enacts as follows:

1. **That** amendment No. 61 to the Official Plan for the Town of Fort Erie consisting of the attached explanatory text is hereby adopted and approved.
2. **That** this by-law shall come into force and take effect on the day of the final passing thereof.
3. **That** the Clerk of the Town of Fort Erie is authorized to effect 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.

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

Mayor

Clerk

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

**AMENDMENT NO. 61 TO THE
OFFICIAL PLAN FOR
THE
CORPORATION OF THE TOWN OF FORT ERIE**

DRAFT

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PART "A" - THE PREAMBLE

SECTION 1

TITLE AND COMPONENTS

This document, when approved in accordance with Sections 17 and 21 of The Planning Act, 1990, shall be known as Amendment No. 61 to the Official Plan adopted by By-law No. -- of the Fort Erie Planning Area.

Part "A", the Preamble does not constitute part of this amendment.

Part "B", the Amendment, consisting of the following text constitutes Amendment No. 61 to the Official Plan adopted by By-law No. -- for the Fort Erie Planning Area.

SECTION 2

PURPOSE OF THIS AMENDMENT

The purpose of this Amendment to the Town's Official Plan is to establish new policies and direction for cannabis production facilities regulated by the Federal Cannabis Act. This amendment removes reference to Medical Marihuana Grow and Production Facilities as introduced within Official Plan Amendment 18 to the Official Plan.

SECTION 3

LOCATION OF THIS AMENDMENT

The lands, which are the subject of this amendment, include the entirety of the Town.

SECTION 4

BASIS OF THIS AMENDMENT

Subsection 13.7(III) of the Official Plan adopted by By-law No. 150-06 of the Fort Erie planning area provides that amendments may be made to the Official Plan. Policies in Subsection 13.7(III) have been considered in the preparation of this amendment and the following factors have been reviewed in supporting this amendment to the Official Plan:

a) The need for the proposed amendment

The proposed policy amendment establishes new policies and direction regarding permissions for the cultivation of cannabis and related processing uses within the Agricultural, Rural and Industrial-Business Park designations of the Official Plan. A Cannabis Facilities Land Use Study was undertaken in 2020 and 2021 by SGL Planning and Design Inc. The Study recommended a

number of policy and zoning changes to address cannabis cultivation and related uses such as processing, packaging, storage, testing, research, shipping, etc. within the Town of Fort Erie. While the production of cannabis is addressed within the Fort Erie Official Plan through Official Plan Amendment No. 18, these permissions are only in the context of marihuana for medical purposes permitted under the earlier Marijuana for Medical Purposes Regulations. With the change in legislation, cannabis production is now permitted for commercial growth for both medical and recreational purposes, and as such, the existing Official Plan provisions no longer capture the full range of legal uses.

This amendment provides policies related to cannabis to ensure the use is only permitted through permission granted by Health Canada and operated in accordance with all applicable Federal Regulations. Policies have been established to ensure appropriate separation distances from sensitive land uses are established and specify that the use is subject to the Site Plan Control process, which may require the submission of studies to the Town relating to matters including, but not limited to, air quality control, environmental impacts, traffic and lighting.

b. The extent to which the existing areas in the proposed categories are developed, and the nature and adequacy of such existing *development*

The proposed policy amendment applies to the entirety of the Town. Its policies are not a reflection of any existing development, rather they provide new permissions and direction for cannabis production facilities now permitted under the Federal Cannabis Act.

c. The physical suitability of the land for such proposed use, and in the case of lands exhibiting or abutting a Natural Heritage feature, demonstration of compliance with the Natural Heritage policies of this plan

The proposed policy amendment introduces permissions for the cultivation of cannabis and related processing uses within the Agricultural, Rural and Industrial-Business Park designations. Application processes to permit the use will ensure development has regard for all Natural Heritage features and the Natural Heritage policies of the Official Plan. The amendment requires that cannabis cultivation be subject to Site Plan Control, which may require the submission of studies relating, but not limited to, environmental impacts, to the satisfaction of the Town. Any development would be subject to all other applicable policies of the Official Plan and Comprehensive Zoning By-law.

d. The location of the area under consideration with respect to:

- i. The adequacy of the existing and proposed highway system in relation to the *development* of such proposed areas;
- ii. The convenience and accessibility of the site for vehicular and pedestrian traffic and the traffic safety in relation thereto, and
- iii. the adequacy of the potable water supply, sewage disposal facilities, and other municipal services in view of the policies contained in this Plan and in accordance with technical reports or recommendations of the Ministry of the Environment and the Regional Niagara Public Health Department and any other appropriate authority deemed advisable.

The proposed policy amendment applies to the entirety of the Town. The amendment requires that cannabis cultivation be subject to Site Plan Control, which will address matters of access and site servicing and may require the submission of studies relating to, but not limited to, traffic and

servicing, to the satisfaction of the Town. Any development would be subject to all other applicable policies of the Official Plan and Comprehensive Zoning By-law.

e. The compatibility of the proposed use with uses in adjoining areas

The proposed policy amendment introduces permissions for the cultivation of cannabis and related processing uses within the Agricultural, Rural and Industrial-Business Park designations. Policies have been established to ensure appropriate separation distances from sensitive land uses and specify that the use is subject to the Site Plan Control process, which may require the submission of studies to the Town relating to nuisance matters that impact on land use compatibility including, but not limited to, air quality control, environmental impacts, traffic and lighting.

f. The effects of such proposed use on the surrounding area in respect of the minimizing of any possible deprecating or deteriorating effect upon adjoining properties

The proposed policy amendment introduces permissions for the cultivation of cannabis and related processing uses within the Agricultural, Rural and Industrial-Business Park designations. Policies have been established to ensure appropriate separation distances from sensitive land uses are established and specify that the use is subject to the Site Plan Control process, which may require the submission of studies to the Town relating to matters including, but not limited to, air quality control, environmental impacts, traffic and lighting.

g. The potential effect of the proposed use on the financial position of the municipality

The proposed amendments are not expected to impact significantly on municipal resources in the short or long term.

h. The potential effect of the proposed use in relation to the intent and implementing regulations of the Environmental Protection Act.

There are no new perceived issues arising out of the proposed approval of this amendment in relation to the Environmental Protection Act. The proposed Official Plan policies do not relieve any proposed facility from any obligations under the Environmental Protection Act.

SECTION 5

IMPLEMENTATION AND INTERPRETATION

The relevant policies of the Official Plan adopted by By-law No. 150-06 of the Fort Erie planning area shall apply to the implementation and interpretation of this Amendment.

PART "B" - THE AMENDMENT

All of this part of the document entitled "Part "B" - "The Amendment" consisting of the following policies constitute Amendment No. 61 to the Official Plan adopted by By-law No. -- for the Fort Erie Planning Area.

1. Policy 4.5.1.I of the Agricultural policies is amended by the addition of the words "the indoor, but not outdoor, cultivation of cannabis" between the words "agro-forestry" and "maple syrup production".
2. New policy 4.5.2.VIII is added to the Agricultural policies with the following wording:

"4.5.2.VIII Permitted cannabis cultivation shall be in accordance with the following:

- a. Cultivation is only permitted to occur within an enclosed building and the use may not emit any odour.
- b. Cultivation of cannabis shall be in accordance with all applicable Federal Regulations, as amended from time to time.
- c. Buildings should be appropriately distanced a minimum of 150 metres away from any sensitive land uses, including but not limited to existing day care facilities, hospitals, places of worship, playgrounds and residential uses or zones where these uses are permitted.
- d. Buildings should be appropriately distanced a minimum of 500 metres away from any schools.
- e. Notwithstanding, Section 4.5.2 VII c) the 150 metre separation distance is not required from a residence located on the same lot as the cannabis cultivation.
- f. Cannabis cultivation shall be subject to Site Plan Control, which may require the submission of studies relating to relevant matters including, but not limited to, air quality control, environmental impacts, traffic and lighting.
- g. Accessory land uses and activities related to cannabis cultivation such as processing, packaging, testing, destruction, research and shipping must occur on the same lot as cultivation and are subject to the policies of this section that apply to cultivation."

3. New policy 4.6.2 VII is added to the Rural policies with the following wording:

"4.6.2.VII Permitted cannabis cultivation shall be in accordance with the following:

- a. Cultivation is only permitted to occur within an enclosed building and the use may not emit any odour.
- b. Cultivation of cannabis shall be in accordance with all applicable Federal Regulations, as amended from time to time.

- c. Buildings should be appropriately distanced a minimum of 150 metres away from any sensitive land uses, including but not limited to existing day care facilities, hospitals, places of worship, playgrounds and residential uses or zones where these uses are permitted.
 - d. Buildings should be appropriately distanced a minimum of 500 metres away from any schools.
 - e. Notwithstanding, Section 4.6.2.VII c) the 150 metre separation distance is not required from a residence located on the same lot as the cannabis cultivation.
 - f. Cannabis cultivation shall be subject to Site Plan Control, which may require the submission of studies relating to relevant matters including, but not limited to, air quality control, environmental impacts, traffic and lighting.
 - g. Accessory land uses and activities related to cannabis cultivation such as processing, packaging, testing, destruction, research and shipping must occur on the same lot as cultivation and are subject to the policies of this section that apply to cultivation."
4. Policy 4.10.1.I of the Industrial-Business Park designation is amended by the addition of the words "the indoor production of cannabis" between the words "dairies" and "printing establishments".
5. Delete Policy 4.10.1.III, which references growing of marihuana plans in accordance with the Marihuana for Medical Purposes Regulations.
6. Policy 4.10.1.XI is added with the following wording:
- "4.10.1.XI Permitted production of cannabis shall be in accordance with the following:
- a. Production of cannabis is only permitted to occur within an enclosed building and the use may not emit any odour.
 - b. Production of cannabis shall be in accordance with all applicable Federal Regulations, as amended from time to time.
 - c. Buildings should be appropriately distanced a minimum of 150 metres away from any sensitive land uses, including but not limited to existing day care facilities, hospitals, places of worship, playgrounds and residential uses or zones where these uses are permitted.
 - d. Buildings should be appropriately distanced a minimum of 500 metres away from any schools.
 - e. Cannabis production shall be subject to Site Plan Control, which may require the submission of studies relating to relevant matters including, but not limited to, air quality control, environmental impacts, traffic and lighting.
 - f. Production of cannabis may include cultivation of cannabis and/or activities related

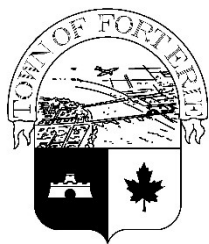
to cannabis cultivation such as processing, packaging, testing, destruction, research and shipping."

7. Policy 4.13.I of the Open Space designation is amended by the addition of the words "cannabis cultivation and its related uses" between "animal operations" and "and accessory dwellings".
8. Policy 10.5 – Subject Heading is amended by removing **"AND MEDICAL MARIHUANA GROW AND PRODUCTION FACILITIES"**.
9. Policy 10.5.II is removed.
10. Policy 13.4.II b) is amended by replacing the words "medical marihuana grow and production facilities" with "cannabis cultivation and/or cannabis production".

PART "C" - THE APPENDICIES

- Appendix 1 - Notice of Public Meeting
- Appendix 2 - Public Meeting Minutes
- Appendix 3 - Circulation Comments

DRAFT



The Municipal Corporation of the Town of Fort Erie

By-law No. –

Being a By-law to Amend Zoning By-law No. 129-90 Cannabis Production Facilities

File No. --

Whereas amendments to the Town's Comprehensive Zoning By-law No. 129-90 have been introduced in accordance with the introduction of the Cannabis Act to provide updated land use permissions related to the commercial growth of cannabis for both medical and recreational purposes.

Whereas a Public Meeting pursuant to Section 34(12) of the *Planning Act*, R.S.O. 1990, c.P.13 was held on [DATE] and

Whereas it is deemed desirable to amend the Comprehensive Zoning By-law No. 129-90 as amended, pursuant to the recommendations of Report No. PDS-XX-2021 considered and approved at the Regular Council meeting of [DATE];

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

1. **That** By-law No.129-90 as amended, is further amended by adding to "Section 5 - Definitions" the following definitions where appropriate alphabetically, with all other definitions renumbered accordingly:

"LICENCED CANNABIS PRODUCTION FACILITY" means lands, a building or greenhouse licenced by Health Canada in accordance with the applicable Federal Regulations, as amended from time to time, which is used for the cultivation, processing, packaging, testing, destruction, research and/or shipping of cannabis. Any licenced cannabis production facility that is also within a greenhouse is subject to the requirements that apply to licenced cannabis production facilities. "

"DESIGNATED MEDICAL GROWTH OF CANNABIS" means lands, a building or greenhouse used for the cultivation, processing or storing of cannabis for personal medical purposes on a single lot under the permission of two to four registration certificates provided by Health Canada, where one or more prescriptions are being grown by someone other than the person for whom the prescription is for. However, a person designated to grow for another person both living at the same dwelling does not constitute designated medical growth of cannabis. Any designated medical growth of cannabis that is also in a

greenhouse is subject to the requirements that apply to designated medical growth of cannabis."

2. **That** By-law No.129-90 as amended, is further amended by deleting within "Section 5 - Definitions" the definition "Medical Marihuana Grow and Production Facilities".
3. **That** By-law No.129-90 as amended, is further amended by deleting from the definition of "agricultural" in Section 5.6 "medical marihuana grow and production facilities" and replacing it with the following: "but not including Licenced Cannabis Production Facilities or the Designated Medical Growth of Cannabis".
4. **That** By-law No. 129-90 as amended, is further amended by replacing within "Section 7.2(a)" "medical marihuana grow and production facilities" with "Licenced Cannabis Production Facilities and the Designated Medical Growth of Cannabis".
5. **That** "Section 7.4" is amended by replacing "**MEDICAL MARIHUANA GROW AND PRODUCTION FACILITIES**" with "**LICENCED CANNABIS PRODUCTION FACILITIES AND DESIGNATED MEDICAL GROWTH OF CANNABIS**" in the Subject Heading.
6. That "Section 7.9" is deleted and replaced with:

7.9 REGULATIONS FOR GREENHOUSES

Minimum Lot Area	Permitted only on an existing lot having a minimum size of 2 ha
Minimum Lot Frontage	60m
Minimum Front Yard	15m
Minimum Interior Side Yard and Rear Yard	6m
Minimum Exterior Side Yard	15m
Maximum Lot Coverage	60%
Maximum Building Height	12m
Outside Storage Requirements	Outside storage of goods, materials or supplies is permitted in the rear yard or side yard only, provided it is screened from view from any street
Maximum Gross Floor Area for Processing and Packaging	20% of the gross floor area of the operation
Visible Nighttime Lighting	Where a building or structure consists of more than 40% of glass and where artificial lighting is required, a fence of closed construction shall be provided and maintained adjacent to every portion of any lot line that abuts a

	Residential Zone, residential use or other sensitive land use
Parking	1 parking space for every 180 sq. m. of gross floor area or every 2 employees, whichever is the greater

7. **That** By-law No. 129-90 as amended, is further amended by adding "Section 7.11":

7.11 REGULATIONS FOR LICENCED CANNABIS PRODUCTION FACILITIES AND DESIGNATED MEDICAL GROWTH OF CANNABIS

Minimum Lot Area	Permitted only on an existing lot having a minimum size of 2 ha
Minimum Lot Frontage	60m
Minimum Front Yard	15m
Minimum Interior Side Yard and Rear Yard	6m
Exterior Side Yard	15m
Separation Distance	<p>i) a separation distance of 150m is required from a Residential Zone, residential use, other sensitive land use or zone that permits a sensitive land use but the separation distance does not apply to a dwelling on the same lot as the Licenced Cannabis Production Facilities and the Designated Medical Growth of Cannabis, and</p> <p>ii) notwithstanding subsection i), a separation distance of 500m is required from a school.</p> <p>iii) For the purposes of i. and ii. Separation distance will be measured as the shortest distance from the licenced cannabis production facility or designated medical growth of cannabis to the lot line of a sensitive land use or school.</p>
Maximum Lot Coverage	60%
Maximum Building Height	12 m
Outside Storage	Outside storage of goods, materials or supplies is not permitted

Maximum Gross Floor Area for Processing and Packaging	20% of the gross floor area of the operation
Visible Nighttime Lighting	Where a building or structure consists of more than 40% of glass and where artificial lighting is required, a fence of closed construction shall be provided and maintained adjacent to every portion of any lot line that abuts a Residential Zone, residential use or other sensitive land use
Parking	1 parking space for every 180 sq. m. of gross floor area or every 2 employees, whichever is the greater
Odour	The use shall not emit any outside odours
Processing of Material	The processing, packaging, testing, destruction, research and/or shipping of cannabis are not permitted unless the cultivation of cannabis is occurring on the same lot
Enclosed building	All cultivation, processing, packaging, testing, destruction, research and/or shipping of cannabis shall occur within a fully enclosed building
Farm Product Market	A farm product market is not permitted as a secondary use to cannabis production facilities and designated medical growth of cannabis.
Dwelling	Licensed Cannabis Production Facilities cannot be contained, either in whole or in part, within a dwelling.

8. **That** By-law No. 129-90 as amended, is further amended by replacing within "Section 8.2(a)" "medical marihuana grow and production facilities" with "Licensed Cannabis Production Facilities and the Designated Medical Growth of Cannabis".
9. **That** "Section 8.8" is amended by deleting "**MEDICAL MARIHUANA GROW AND PRODUCTION FACILITIES**"
10. That By-law No. 129-90 as amended, is further amended by adding "Section 8.11":

8.11 REGULATIONS FOR LICENCED CANNABIS PRODUCTION FACILITIES AND DESIGNATED MEDICAL GROWTH OF CANNABIS

The provisions of Subsection 7.11 shall apply.

11. **That** By-law No. 129-90 as amended, is further amended by replacing within "Section 27.2(a) "Medical Marihuana Grow and Production Facilities" with "Licenced Cannabis Production Facilities and the Designated Medical Growth of Cannabis".
12. **That** Section 27.6. deleted and replaced with:

27.6 REGULATIONS FOR LICENCED CANNABIS PRODUCTION FACILITIES AND DESIGNATED MEDICAL GROWTH OF CANNABIS

Minimum Lot Frontage	40m
Minimum Front Yard	15m
Minimum Interior Side Yard and Rear Yard	6m
Minimum Exterior Side Yard	10.5m
Separation Distance	<p>i) a separation distance of 150m is required from a Residential Zone, residential use, other sensitive land use or zone that permits a sensitive land use.</p> <p>ii) notwithstanding subsection i), a separation distance of 500m is required from a school.</p> <p>iii) For the purposes of i. and ii. Separation distance will be measured as the shortest distance from the licenced cannabis production facility or designated medical growth of cannabis to the lot line of a sensitive land use or school.</p>
Maximum Lot Coverage	60%
Maximum Building Height	12m
Minimum Landscaping Requirements	A landscaping area in the form of a 3m wide planting strip shall be provided and maintained adjacent to every portion of any lot line that abuts a Residential Zone, residential use or other sensitive land use
Minimum Loading Requirements	No loading space shall be established in any front yard or any yard adjacent to a residential zone or QEW
Outside Storage	Outside storage of goods, materials or supplies is not permitted

Building Façade Regulations	No exterior walls that face a street shall be constructed of concrete blocks unless the same are decorative masonry units or are used in a decorative pattern form or are surfaced with stucco or with a permanent coloured finish (does not include paint)
Visible Nighttime Lighting	Where a building or structure consists of more than 40% of glass and where artificial lighting is required, a closed or wood board on board or composite/vinyl fence shall be provided and maintained adjacent to every portion of any lot line that abuts a Residential Zone, residential use or other sensitive land use
Parking	1 parking space for every 180 sq. m. of gross floor area or every 2 employees, whichever is the greater
Odour	The use shall not emit any outside odours
Enclosed building	All cultivation, processing, packaging, testing, destruction, research and/or shipping of cannabis shall occur within a fully enclosed building.

13. That By-law No. 129-90 as amended, is further amended by replacing within "Section 28.2(a) "Medical Marihuana Grow and Production Facilities" with "Licenced Cannabis Production Facilities and the Designated Medical Growth of Cannabis".

14. That Section 28.5. deleted and replaced with:

28.5 REGULATIONS FOR LICENCED CANNABIS PRODUCTION FACILITIES AND DESIGNATED MEDICAL GROWTH OF CANNABIS

Minimum Lot Frontage	40m
Minimum Front Yard	15m
Minimum Interior Side Yard and Rear Yard	6m
Minimum Exterior Side Yard	10.5m
Separation Distance	<p>i) a separation distance of 150m is required from a Residential Zone, residential use, other sensitive land use or zone that permits a sensitive land use.</p> <p>ii) notwithstanding, subsection i), a separation distance of 500m is required from a school.</p>

	iii) For the purposes of i. and ii. Separation distance will be measured as the shortest distance from the licenced cannabis production facility or designated medical growth of cannabis to the lot line of a sensitive land use or school.
Maximum Lot Coverage	50%
Maximum Building Height	9m
Minimum Landscaping Requirements	A landscaping area in the form of a 3m wide planting strip shall be provided and maintained adjacent to every portion of any lot line that abuts a Residential Zone, residential use or other sensitive land use
Minimum Loading Requirements	No loading space shall be established in any front yard or any yard adjacent to a residential zone or QEW
Outside Storage	Outside storage of goods, materials or supplies is not permitted
Building Façade Regulations	No exterior walls that face a street shall be constructed of concrete blocks unless the same are decorative masonry units or are used in a decorative pattern from or are surfaced with stucco or with a permanent coloured finish (does not include paint)
Visible Nighttime Lighting	Where a building or structure consists of more than 40% of glass and where artificial lighting is required, a closed or wood board on board or composite/vinyl fence shall be provided and maintained adjacent to every portion of any lot line that abuts a Residential Zone, residential use or other sensitive land use
Parking	1 parking space for every 180 sq. m. of gross floor area or every 2 employees, whichever is the greater
Odour	The use shall not emit any outside odours
Enclosed building	All cultivation, processing, packaging, testing, destruction, research and/or shipping of cannabis shall occur within a fully enclosed building.

By-Law No. --

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- 15. That** the Clerk of the Town is authorized to effect 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.

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

Mayor

Clerk

I, Carol Schofield, Clerk, of The Corporation of the Town of Fort Erie certifies the foregoing to be a true copy of By-law No. XX of the said Town. Given under my hand and the seal of the said Corporation, this [#] day of [month], [year]

DRAFT



The Municipal Corporation of the Town of Fort Erie

By-law No. –

BEING A BY-LAW TO AMEND THE SITE PLAN CONTROL EXEMPTION POLICY BY-LAW 134-86 TO EXCLUDE CANNABIS PRODUCTION FACILITIES

WHEREAS Section 41 of the Planning Act, Subsection (3) provides that a council may, by by-law designate a site plan control area by reference to one or more land use designations contained in a by-law passed under Section 34, and

WHEREAS By-Law No. 134-86, was passed on July 14, 1986 to establish a site plan control exemption policy; and

WHEREAS the Council of the Town of Fort Erie at its meeting of X approved Report X proposing to amend the site plan control exemption policy to exclude Licenced Cannabis Production Facilities and the Designated Medical Growth of Cannabis and directed staff to submit a By-law to Council; NOW THEREFORE the Municipal Council of the Town of Fort Erie hereby enacts as follows:

1. THAT 1. (a) and (d) of By-law 134-86, as amended, are hereby repealed and replaced with the following:
 - (a) agricultural buildings and structures except greenhouses and Licenced Cannabis Production Facilities and the Designated Medical Growth of Cannabis as defined in Zoning By-law No. 129-90; and
 - (d) industrial developments or additions which are in areas designated Industrial in the Official Plan and zoned Industrial in Zoning By-law No. 129-90 except:
 - i) Licenced Cannabis Production Facilities and the Designated Medical Growth of Cannabis; and
 - ii) development that abuts a residential zone.

By-Law No. --

Page 2

READ A FIRST, SECOND AND THIRD TIME AND FINALLY PASSED THIS -- DAY OF --, --.

MAYOR

CLERK

I, Carol Schofield, Clerk, of The Corporation of the Town of Fort Erie certifies the foregoing to be a true copy of

By-law No. -- of the said Town. Given under my hand and the seal of the said Corporation, this
day of _____, 20____

DRAFT

PARTNER AGENCY AND DEPARTMENT COMMENTS



Planning and Development Services

1815 Sir Isaac Brock Way, Thorold, ON L2V 4T7
(905) 980-6000 Toll-free: 1-800-263-7215

Via Email Only

January 7, 2022

File No.: D.10.01.OPA-21-0055
D.18.01.ZA-21-0124

Mr. Aaron Butler
Manager, Development Approvals
Town of Fort Erie
1 Municipal Centre Drive
Fort Erie, ON, L2A 2S6

Dear Mr. Butler:

**Re: Regional and Provincial Comments
Amendments to the Town of Fort Erie's Official Plan, Zoning By-law, and
Site Plan Control By-law
Town-Initiated Amendments - Cannabis Regulations
Town of Fort Erie**

Regional Planning and Development Services staff have reviewed the information circulated for the proposed Town-wide amendments to the Town's Official Plan ("OP"), Zoning By-law, and Site Plan Control By-law ("SPC By-law"). Regional staff received the circulation of the notice on November 9, 2021. The purpose of these amendments is to:

- Establish new policies and direction regarding permissions for the cultivation of cannabis and related processing uses within "Agricultural", "Rural", and "Industrial-Business Park" designations of the Town's OP.
- Amend the Town's Zoning By-law to update land use permissions related to the commercial growth of cannabis for both medical and recreational purposes. And,
- Amend the Town's SPC By-law Exemption Policy to exclude Licensed Cannabis Production Facilities ("LCPF") and Dedicated Medical Growth of Cannabis ("DMGC").

Regional staff acknowledge that the Town of Fort Erie had completed a "*Cannabis Legislation and Policy Study*" prepared by SGL Planning and Design and (dated June 2021) to inform the proposed changes provide recommendations to support the Town with the implementation of cannabis production facilities that are regulated by the Federal *Cannabis Act, 2018*.

Regional staff recognize that the proposed local official plan amendment ("OPA") removes reference to "Medical Marihuana Grow and Production Facilities" as introduced within the previous OPA No. 18 (By-law No. 06-2014), as well as the previous Zoning By-law Amendment ("ZBA") (Zoning By-law No. 129-90) which introduced medical marihuana policies into the Town's OP. As proposed, the amendments will establish the following new requirements:

- That growth and production occur in an entirely enclosed building.
- A separation distance of 150 metres from a sensitive land use and 500 metres from a school.
- The prohibition of outdoor storage.
- The prohibition of retail sales in the Agriculture and Rural Zones.
- The permission of retail sales in the Industrial Zone.
- The prohibition of the use(s) within a dwelling.
- A mandatory Site Plan Control process for this type of proposed use / development.
- That this type of use / development not emit any odour.

Regional staff met virtually with Town staff on December 15, 2021 to discuss the content and direction of the proposed amendments. As a result of the discussion that occurred, Regional staff offer the following comments from a Provincial and Regional perspective to assist Town staff in their consideration of drafting these amendments.

Provincial and Regional Policies

Provincial and Regional policies permit agricultural uses, agriculture-related uses, and on-farm diversified uses within Agricultural and Rural Areas. The *Provincial Policy Statement, 2020* ("PPS"), *A Place to Grow: Growth Plan for the Greater Golden Horseshoe, 2020 Consolidation* ("Growth Plan"), and Regional Official Plan ("ROP") all consider the growing of crops as well as associated on-farm buildings and structures to be an agricultural use, including value-retaining facilities. Provincial and Regional policies also permit value-added uses (i.e., agriculture-related uses and on-farm diversified uses) provided such uses are compatible with, and do not hinder, surrounding agricultural operations. In "Prime Agricultural Areas", all types, sizes and intensities of agricultural uses and normal farm practices shall be promoted and protected in accordance with Provincial standards (PPS, 2.3.3.2).

The Ontario Ministry of Agriculture, Food and Rural Affairs ("OMAFRA") has published *Guidelines for Permitted Uses in Ontario's Prime Agricultural Areas, Publication 851* ("OMAFRA Guidelines") to assist in evaluating compatibility and appropriateness of agriculture-related uses and on-farm diversified uses in Prime Agricultural Areas (PPS, Policy 2.3.3.1).

Provincial and Regional policies also encourage municipalities to promote a mix of employment opportunities to provide for a competitive and diversified economic base within employment areas. The ROP also sets out a number of objectives aimed at maintaining a sustainable agricultural industry and notes that a wide range of crops are important in maintaining the agricultural industry's diversity. ROP Objective 5.A.7 supports uses that enable farming and farmers to:

- a) Become more competitive, sustainable and environmentally friendly;
- b) Adapt to new and changing markets;
- c) Diversify into and take advantage of new agricultural opportunities;
- d) Improve the understanding of agriculture by the general public; and
- e) Broaden operations to diversity economic activity and add value to their primary products.

Recommendations and Analysis

Provincial and Regional policy permit all types and methods of agricultural uses and production. Both Regional Council and the Region's Agricultural Policy and Action Committee ("APAC") have been consistent with requests and comments to the Province that all commodity groups will be treated equally. The proposed OPA regulations specify that the cultivation of cannabis in the 'Agricultural' area can only occur indoors. By creating policy sets that identify individual crop types, there can be implications that result in disadvantages to growers and operators within the agricultural sector. Town staff may consider permitting the storage and production of cannabis without the requirement of an OPA and/or ZBA, and instead incorporate specific development criteria (such as an odour impact analysis) through Site Plan Control.

Regional staff observe that the proposed amendments include separation distances for lands designated as "Agricultural", "Rural", and "Industrial" with respect to cannabis cultivation or production. Regional staff recognize the implementation of these separation distances are, in part, due to concerns related to odour. This matter is managed through Health Canada's published *Good Production Practices Guide for Cannabis* document. Regional staff have no concern with the requirement that cannabis facilities are required to go through Site Plan Control, which is consistent with the requirement for greenhouse development. Given that a specific minimum separation standard has not been established by the Province or otherwise, Regional staff is unable to provide insight on whether these distances (if any) are appropriate for these amendments.

Further, staff note that cannabis operations can be considered as an "Industrial" use. Accordingly, the Town's proposed amendments to the OP and Zoning By-law to permit the production of cannabis within industrial areas is appropriate.

Conclusion

Regional Planning and Development Services staff appreciate the opportunity to review and comment on the draft amendments related to the cultivation and processing of cannabis within the Town of Fort Erie.

The cultivation and processing of cannabis is an agricultural use and the production of cannabis can be considered an agriculture-related use or on-farm diversified use based on Provincial and Regional policies and guidance. Regional staff would caution the Town against creating policies that restrict and/or prohibit the types of crops that can be planted outdoors.

The reviewed OPA is exempt from Regional Council Approval, in accordance with ROP Policies 14.E.7 and 14.E.8, the MOU, and By-law No. 2019-73. Should you have any questions or wish to discuss these comments, please contact the undersigned at Alexander.Morrison@niagararegion.ca.

Respectfully,



Alexander Morrison, MCIP, RPP
Senior Development Planner

cc: Diana Morreale, MCIP, RPP, Director, Development Approvals, Niagara Region
Pat Busnello, MCIP, RPP, Manager, Development Planning, Niagara Region
Erik Acs, MCIP, RPP, Manager of Community Planning, Niagara Region
Katie Young, Development Planner, Niagara Region
Johnpaul Loiacono, Development Planner, Niagara Region

From: "Ellen Savoia" <esavoia@niagaraparks.com>
To: "Lindsay Richardson" <LRichardson@forterie.ca>, "Aaron Butler" <AButler@forterie.ca>
Date: 12/01/2021 09:42 AM
Subject: RE: Official Plan, Zoning By-law and Site Plan Control By-law Amendments - Cannabis

Hello Lindsay

Niagara Parks has reviewed the draft cannabis Planning Act amendments and would comment as follows:

Visible nighttime lighting is a concern. It is noted that the draft by-law addresses this for directly adjacent sensitive land uses however sky glow is a significant concern. Cannabis operations that may even be located a distance from sensitive land uses can have negative impacts due to light pollution. The Niagara River is an important migratory bird area. Migratory birds can be impacted by sky glow and other light pollution. In addition, sky glow could negatively impact the nighttime processional quality of the Niagara Parkway for both visitors and residents. Sky glow could be addressed through requiring a % of the roof be provided with light curtains or similar structures to prevent sky glow.

The Town of Kingsville ON recently addressed these issues which they addressed through a Municipal Act bylaw October 26, 2020. As an alternative to including requirements within the zoning by-law, sky glow/light pollution could be considered as through a Municipal Act by-law, creating a more comprehensive Cannabis regulation framework. Kingsville's bylaw is attached for your reference.

Thank you for your consideration.

Yours truly,
Ellen

Ellen Savoia, MCIP, RPP (she/her)

Senior Manager, Planning & Environmental Sustainability

P 905-295-4396 x3258 **M** 289-241-8375 **F** 905-356-7262
7805 Niagara River Parkway, P.O. Box 150
Niagara Falls, Ontario, Canada L2E 6T2
esavoia@niagaraparks.com
niagaraparks.com

APPENDIX "5" TO ADMINISTRATIVE REPORT PDS-64-2022 DATED SEPTEMBER 12, 2022

FW: Proposed Official Plan, Zoning By-law and Site Plan Control By-law Amendments ?
 Cannabis Production Facilities and Designated Medical Growth of CannabisCA -
 Circulations to CMillar@forterie.ca 2022-08-29 10:54 AM
 From "CA - Circulations" <CA.Circulations@wsp.com>
 To "CMillar@forterie.ca" <CMillar@forterie.ca>

4 Attachments



Notice of Public Meeting - Cannabis - September 12, 2022.pdf



Cannabis Draft SPC - As Posted for Sept 12-2022 Public Meeting.pdf



Cannabis Draft ZBA - As Posted for Sept 12-2022 Public Meeting.pdf



Cannabis Draft OPA - As Posted for Sept 12-2022 Public Meeting.pdf

Thank you for circulating Bell Canada on this initiative. Bell appreciates the opportunity to engage in infrastructure and policies initiatives across Ontario. While we do not have any specific comments or concerns pertaining to this initiative at this time, we would ask that Bell continue to be circulated on any future materials and/or decisions related to this matter at CA.circulations@wsp.com.

If you have any other specific questions, please contact planninganddevelopment@bell.ca directly.

Please note that this circulations email account is managed by WSP on behalf of Bell Canada. All reviews and responses are always undertaken by Bell Canada.



wsp.com

From: Chris Millar <CMillar@forterie.ca>

Sent: August 18, 2022 10:17 AM

To: aazouz@csdcs.edu.on.ca; Andrew.Carrigan@Canadapost.ca; Ash.Neville@rci.rogers.com; cara.lampman@niagararegion.ca; CA - Circulations <CA.Circulations@wsp.com>; CA - Circulations <CA.Circulations@wsp.com>; clerk@niagararegion.ca; craig.krueger@cogeco.com; devtplanningapplications@niagararegion.ca; dolores@wellandpelhamchamber.com; erik.acs@niagararegion.ca; esavoia@niagaraparks.com; executivedirector@fenfc.org; Mark.LaFrome@mncfn.ca; Abby.LaFrome@mncfn.ca; karen.singer@bell.ca; kathy.levinski@ncdsb.com; kris.watson@cnpower.com; LandUsePlanning@HydroOne.com; mr18enquiry@mpac.ca; MunicipalPlanning@enbridge.com; planification@csdcs.edu.on.ca; Randy.Leppert@cogeco.com; scott.whitwell@ncdsb.com; smastroianni@npca.ca; sue.mabee@dsbn.org; Planning@ncdsb.com; Alex.Morrison@niagararegion.ca; pontdj@hotmail.com; John.Armstrong@rci.rogers.com

APPENDIX "5" TO ADMINISTRATIVE REPORT PDS-64-2022 DATED SEPTEMBER 12, 2022

Cc: Fahima Begum <FBegum@forterie.ca>

Subject: Proposed Official Plan, Zoning By-law and Site Plan Control By-law Amendments ? Cannabis Production Facilities and Designated Medical Growth of Cannabis

Good Morning,

The Town of Fort Erie is considering proposed amendments to its Official Plan, Zoning By-law and Site Plan Control By-law relative to cannabis production facilities policies and provisions. These proposed amendments were the subject of a prior circulation of Notice of Public Meeting and to solicit any comments from our partner agencies. You or your agency will have received notification on November 9, 2021 via e-mail circulation.

The previously scheduled statutory Public Meeting had to be postponed for reasons unrelated to the proposed amendments, but rather resources and priority setting during the COVID 19 impacted period. Staff are now proceeding to complete the proposed amendments.

It is important to note that since the original circulation in November 2021, there have not been any modifications to the proposed amendments other than very minor grammatical improvements and correction. The intent remains entirely as proposed previously.

If you or your agency had issued comments to the Town previously, you may wish to review once again to see if there are any additional comments you may wish to make. However, as mentioned, the proposed amendments for all intent and purpose remain unchanged.

To refresh, the proposed amendments are intended to update the Town's documents as they relate to government policy and regulation relating to Licenced Cannabis Production Facilities and Designated Medical Growth of Cannabis. To summarize, the amendments:

- Establish new policies and direction regarding permissions for the cultivation of cannabis and related processing uses within "Agricultural", "Rural", and "Industrial-Business Park" designations of the Town's Official Plan, and
- Amend the Town's Zoning By-law to update land use permissions related to the commercial growth of cannabis for both medical and recreational purposes, and
- Amend the Town's Site Plan Control By-law Exemption Policy to exclude Licensed Cannabis Production Facilities and Dedicated Medical Growth of Cannabis.

The proposed amendments follow completion of a land use study by SGL Planning and Design (June 2021) and extensive public engagement.

Copies of the proposed amendments are attached. Should you wish to re-submit comments or provide new comments, **staff respectfully request they be received no later than September 12, 2022** (prior to the Public Meeting) so they may be added to the record of the Public Meeting.

Should you have any questions regarding the previous postponement or the proposed amendments, please feel free to contact the undersigned at your earliest convenience.

Sincerely,

Chris Millar, MCIP, RPP, CNU-A
Senior Community Planner
Town of Fort Erie
1 Municipal Centre Drive
Fort Erie, Ontario
Canada
L2A 2S6

TEL: 1-905-871-1600 ext.2504
FAX: 1-905-871-6411

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APPENDIX "5" TO ADMINISTRATIVE REPORT PDS-64-2022 DATED SEPTEMBER 12, 2022

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-LAEmHhHzdJzBITWfa4Hgs7pbKI

APPENDIX "5" TO ADMINISTRATIVE REPORT PDS-64-2022 DATED SEPTEMBER 12, 2022

RE: [External] Proposed Official Plan, Zoning By-law and Site Plan Control By-law Amendments ? Cannabis Production Facilities and Designated Medical Growth of Cannabis
Municipal Planning to Chris Millar 2022-08-29 12:00 PM
From "Municipal Planning" <MunicipalPlanning@enbridge.com>
To "Chris Millar" <CMillar@forterie.ca>

Thank you for your circulation.

Enbridge Gas Inc. does not object to the proposed application however, we reserve the right to amend our development conditions.

Please continue to forward all municipal circulations and clearance letter requests electronically to MunicipalPlanning@Enbridge.com.

Regards,

Casey O'Neil (she/her)
Sr Analyst Municipal Planning
Engineering

ENBRIDGE
TEL: 416-495-5180
500 Consumers Rd, North York, ON M2J1P8
enbridge.com
Safety. Integrity. Respect. Inclusion.

From: Chris Millar <CMillar@forterie.ca>
Sent: Thursday, August 18, 2022 11:17 AM
To: aazouz@csdccc.edu.on.ca; Andrew.Carrigan@Canadapost.ca; Ash.Neville@rci.rogers.com; cara.lampman@niagararegion.ca; circulations@mmm.ca; circulations@wsp.com; clerk@niagararegion.ca; craig.krueger@cogeco.com; devtplanningapplications@niagararegion.ca; dolores@wellandpelhamchamber.com; erik.acs@niagararegion.ca; esavoia@niagaraparks.com; executivedirector@fenfc.org; Mark.LaFrome@mncfn.ca; Abby.LaFrome@mncfn.ca; karen.singer@bell.ca; kathy.levinski@ncdsb.com; kris.watson@cnpower.com; LandUsePlanning@HydroOne.com; mr18enquiry@mpac.ca; Municipal Planning <MunicipalPlanning@enbridge.com>; planification@csdccc.edu.on.ca; Randy.Leppert@cogeco.com; scott.whitwell@ncdsb.com; smastroianni@npca.ca; sue.mabee@dsbn.org; Planning@ncdsb.com; Alex.Morrison@niagararegion.ca; pontdj@hotmail.com; John.Armstrong@rci.rogers.com
Cc: Fahima Begum <FBegum@forterie.ca>
Subject: [External] Proposed Official Plan, Zoning By-law and Site Plan Control By-law Amendments ? Cannabis Production Facilities and Designated Medical Growth of Cannabis

CAUTION! EXTERNAL SENDER

Were you expecting this email? TAKE A CLOSER LOOK. Is the sender legitimate?

DO NOT click links or open attachments unless you are 100% sure that the email is safe.

Good Morning,

The Town of Fort Erie is considering proposed amendments to its Official Plan, Zoning By-law and Site Plan Control By-law relative to cannabis production facilities policies and provisions. These proposed amendments were the subject of a prior circulation of Notice of Public Meeting and to solicit any comments from our partner agencies. You or your agency will have received notification on November 9, 2021 via e-mail circulation.

The previously scheduled statutory Public Meeting had to be postponed for reasons

APPENDIX "5" TO ADMINISTRATIVE REPORT PDS-64-2022 DATED SEPTEMBER 12, 2022

unrelated to the proposed amendments, but rather resources and priority setting during the COVID 19 impacted period. Staff are now proceeding to complete the proposed amendments.

It is important to note that since the original circulation in November 2021, there have not been any modifications to the proposed amendments other than very minor grammatical improvements and correction. The intent remains entirely as proposed previously.

If you or your agency had issued comments to the Town previously, you may wish to review once again to see if there are any additional comments you may wish to make. However, as mentioned, the proposed amendments for all intent and purpose remain unchanged.

To refresh, the proposed amendments are intended to update the Town's documents as they relate to government policy and regulation relating to Licenced Cannabis Production Facilities and Designated Medical Growth of Cannabis. To summarize, the amendments:

- Establish new policies and direction regarding permissions for the cultivation of cannabis and related processing uses within "Agricultural", "Rural", and "Industrial-Business Park" designations of the Town's Official Plan, and
- Amend the Town's Zoning By-law to update land use permissions related to the commercial growth of cannabis for both medical and recreational purposes, and
- Amend the Town's Site Plan Control By-law Exemption Policy to exclude Licensed Cannabis Production Facilities and Dedicated Medical Growth of Cannabis.

The proposed amendments follow completion of a land use study by SGL Planning and Design (June 2021) and extensive public engagement.

Copies of the proposed amendments are attached. Should you wish to re-submit comments or provide new comments, **staff respectfully request they be received no later than September 12, 2022** (prior to the Public Meeting) so they may be added to the record of the Public Meeting.

Should you have any questions regarding the previous postponement or the proposed amendments, please feel free to contact the undersigned at your earliest convenience.

Sincerely,
Chris Millar, MCIP, RPP, CNU-A
Senior Community Planner
Town of Fort Erie
1 Municipal Centre Drive
Fort Erie, Ontario
Canada
L2A 2S6

TEL: 1-905-871-1600 ext.2504
FAX: 1-905-871-6411

PUBLIC COMMENTING

APPENDIX "6" TO ADMINISTRATIVE REPORT PDS-64-2022 DATED SEPTEMBER 12, 2022

PUBLIC COMMENTS RECEIVED FOLLOWING RELEASE OF NOTICE FOR STATUTORY PUBLIC MEETING				
Date	Name	Form of Contact	Comment or Concern	Town Response
August 17, 2022	Russ Young	V-mail	Mr. Young expressed many points related to Cannabis production and that he is planning to speak at the Public Meeting. Mr. Young advised he is not pleased that the Town is spending money on consultants.	None at this time. Many comments left on voicemail were comments made at previous meetings, the Open House in November and were being reiterated for new attending staff. Mr. Young advocates strongly for cannabis and seeks educating the public with respect to odour and alternatives that are less intrusive and disruptive to enjoying property. Staff are responding to Council's direction to process the amendments, which it had supported through outcome of the SGL study.
August 18, 2022	Shawn Schertzing	Phone	Wanted to know what was going on. Had been involved previously with commenting.	Explained this Public Meeting is picking up from previously postponed Public Meeting. There have not been any changes to the draft documents other than a couple grammatical changes and a correction in zoning wording for industrial (residential not permitted use). For all intents and purposes, this initiative is one that picks up where things were left through staffing changes.
August 18, 2022	Masood Mohajar (Alvit Pharma)	Phone	Wanted to understand what was happening. He is well on his way to completion of his House Road facility and has an approved Site Plan. Is concerned over two aspects - zero emissions of odour and no outdoor growing. His Consultant will be in touch (Greg Taras - UEM)	Staff advised they will look into his Site Plan Agreement, but also the caller should be advised this is simply completing the process that was started a couple years ago and the Public Meeting that was postponed late last year. Whatever permission Alvit has in their Site Plan Agreement will be considered legal non-conforming at the outcome of these amendments. Should Alvit seek changes to their operations, not identified in their agreement or on their plans, they will become subject to the new policies and regulation.
August 20, 2022	Anoo Solomon	E-mail	Inquired about the Public Meeting whether there should be a representation made.	Staff welcome participation in public meetings however do not require/request public to speak at a statutory public meeting, and should anyone choose to do so, it is out of their own interest and volition.

APPENDIX "6" TO ADMINISTRATIVE REPORT PDS-64-2022 DATED SEPTEMBER 12, 2022

August 22, 2022	Robert & Helma Holmes	E-mail	Clarification sought on the term proposed "setbacks"	<p>Questions posed in the submission related to clarifying setbacks. the questions dealt with interpretation of where the measurement was taken from.</p> <p>Essentially, is the setback measured from lot line to lot line or from the facility to the lot line or zone limit?</p> <p>Staff advised that present wording in the proposed zoning has specific sentence in the regulation that defines what the measurement is taken from. It was conveyed that staff reads the statement to mean measured from the facility to the lot line of the property containing the sensitive use (residential in the commenter's case). This is not zone to zone. but rather use.</p> <p>It was also clarified that for agricultural and rural zones, if there is a residence on the parcel of land associated with the cannabis facility, it would not be subject to the proposed minim setback of 150m to a residence.</p>
August 22, 2022	Robert & Helma Holmes	E-mail	Clarification sought on if a residence is a "sensitive land use"	As noted above, a residence is a "sensitive land use".
August 23, 2022	Russ Young	Phone	Mr. Young expressed many points related to Cannabis production and that he is planning to speak at the Public Meeting. He advised he is not pleased that the Town is spending money on consultants.	<p>Telephone discussion with Mr. Young who spoke on the topics outlined in his voicemail of August 17, 2022.</p> <p>Mr. Young delivered a news article on the commercial cannabis industry for the information of staff. Staff note there may be some misunderstanding over the Town efforts to make these amendments. Staff are updated outdated policies to be current with newer legislation and the changes are not aimed at enticing new corporate cannabis producers to Fort Erie, but rather, what commercial producers can expect if seeking a municipality such as Fort Erie to locate.</p>
August 24, 2022	Keith Overend	E-mail	<p>Mr. Overend notes his comments have been made previously on the proposed amendments. A summary of issues expressed include:</p> <ul style="list-style-type: none"> - negative view on impacts of greenhouses in agricultural area and on the environment. - separation issues being too much. - Attributes worse smells than cannabis in agricultural or some urban areas. - supports farm product market permissions. - cites Town being over zealous on "normal farm practices". 	<p>Mr. Overend has made previous comment on the proposed amendments during the consultation phases of the SGL Study.</p> <p>While expressing his opinions on aspects of the proposal, Council has accepted the study recommendations, modified staff recommendations respecting separation in relation to schools, and directed staff to proceed with the formal process of amending the Town's documents. Staff are carrying out Council's direction to process these amendments with Council's position of support for changes to be inline with its direction.</p>

APPENDIX "6" TO ADMINISTRATIVE REPORT PDS-64-2022 DATED SEPTEMBER 12, 2022

August 25, 2022	Councillor Marina Butler	E-mail	Indicating agreement on many of Mr. Overend's points made in his submission copied to Council.	Staff are acting on direction of Council to undertake the process of amending Town documents that reflect those which were approved through the Town recommendation report PDS-53-2021. Any change in this course of action or recommendations previously approved by Council would need new direction of Council.
August 26, 2022	Robert & Helma Holmes	Phone	Inquiring about submissions and receiving response.	Advised Ms. Holmes that her e-mails were received. Staff provided information to Ms. Holmes that as outlined in the earlier submission (Line 5 in comments above) and that her submissions and a response would be included in the report Appendix.
August 30, 2022	Jon Kristjanson	E-mail	Seeking Council leverage Site Plan Control to ensure residential and rural residential dwellings adjacent to proposed cannabis facilities are given appropriate protections in terms of quality of life, lighting impacts and surveillance extending beyond the site.	Staff appreciate the comments and believe the use of Site Plan Control will provide for the concerns identified during the process to be appropriately addressed. For instance, Staff can request a series of studies to ensure impacts are mitigated and have implemented a required separation of a minimum 150m from facility to property line of a residential use.

From: "Anoo Solomon" <[REDACTED]>
To: "Chris Millar" <CMillar@forterie.ca>

Date: Saturday, August 20, 2022 01:30PM
Subject: Re: Public Meeting Notice - Proposed Official Plan, Zoning By-law and Site Plan Control By-law Amendments ? Cannabis Production Facilities and Designated Medical Growth of Cannabis

History: ↩ This message has been replied to.

Hi Chris,

Is there a particular role you would like me to take on this?

Anoo Solomon
Owner, CannaProtect IPM Solutions
Director of Operations and Education
[REDACTED]

www.cannaprotectipm.com
#WeProtectYourCannabis
IG: @cannaprotectipm

On Thu., Aug. 18, 2022, 11:16 a.m. Chris Millar, <CMillar@forterie.ca> wrote:
Good Morning,

Please see the attached Notice of Public Meeting for the proposed Official Plan, Zoning By-law and Site Plan Control By-law amendments respecting Licenced Cannabis Production Facilities and Designated Medical Growth of Cannabis.

Copies of the proposed amendments are available in the "Documents" box on the Let's Talk Fort Erie - [Policy Review for Cannabis Production](#).

The Public Meeting is scheduled for September 12, 2022 at 6 pm.
An Information Report will be available by 5 pm September 7, 2022.

Sincerely,
Chris Millar, MCIP, RPP, CNU-A
Senior Community Planner
Town of Fort Erie
1 Municipal Centre Drive
Fort Erie, Ontario
Canada
L2A 2S6

TEL: 1-905-871-1600 ext.2504
FAX: 1-905-871-6411

APPENDIX "6" TO ADMINISTRATIVE REPORT PDS-64-2022 DATED SEPTEMBER 12, 2022

From: "Robert & Helma Holmes" [REDACTED]
To: cmillar@forterie.ca
Cc: "Bonnie Rohe" [REDACTED]

Date: Monday, August 22, 2022 09:18AM
Subject: Cannabis Production Setback requirements

Chris, please clarify the term proposed "setbacks".

1. Is the setback distance calculated from the property line of the two properties or from the location of a neighboring residential home?
2. Is the setback distance determined by the proposed "production site" property line, or the location of the actual grow building/greenhouses?
2. Does the zoning enter into the setback....ie. residential vs rural or agricultural

Thank you,
Bob & Helma Holmes
[REDACTED]

From: "Robert & Helma Holmes" [REDACTED]

To: cmillar@forterie.ca

Date: Monday, August 22, 2022 09:35AM

Subject: Definition of "sensitive land uses"

Further to our previous questions

- Minimum separation distance for indoor operations of 150m from "sensitive Land uses" (lot to lot);

Would a residence be considered a "sensitive land use"?

Thank You

Bob & Helma Holmes

Comments on the Proposed Official Plan, Zoning By-Law and Site Plan Control By-Law Amendments for the new Fort Erie Cannabis Production Policy

August 24, 2022

I have commented before on the proposed policies, so I might be repeating myself to some extent, but apparently the comments bear repeating.

New policy 4.5.2.VIII

a. Cultivation is only permitted to occur within an enclosed building and the use may not emit any odour.

Growing anything in an indoor facility is far more expensive than outdoor farms, and is an environmental disaster. The proposed policies deliberately and dramatically increase the environmental cost to the residents of Fort Erie. Think of the large costs of constructing the specialty buildings, huge electricity bills and far more water usage than outdoors. This will also discourage most farmers from even investing in Fort Erie's future.

d. Buildings should be appropriately distanced a minimum of 500 metres away from any schools.

I can smoke a joint on my front porch, in full view of every pedestrian walking by, child or adult. I can do this all day and all night. The Federal government, in its wisdom, has decided that this is not a problem.

But children walking within a half kilometre of a cannabis farm will obviously be driven insane with desire and will immediately become junkies. Farms can do that you know.

This is the stupidest in a long series of stupid ideas.

Outdoor Cultivation

- **Not recommended.**
- **There is no way to mitigate odour without enclosing the cultivation of cannabis within a building.**

There is no way of mitigating any agricultural odours. Pig farms, chicken farms even spreading manure on fields (especially biosolids from the Regional sewage treatment plants) all create far more odour of a far worse nature than any cannabis farm ever will.

Social conservatives just use the bugaboo of odour as a way to continue to repress cannabis use and culture. Give up. You lost.

- **Additional requirements in Agricultural and Rural Zones**
- **Uses must be accessory to cultivation; and**
- **Farm product market not permitted.**

Farm product markets, farm tours, on-site restaurants and other related activities have been the salvation of many a winery. Why persecute cannabis facilities? There could be a very positive economic impact related to these accessory uses.

“no municipal by-law applies to restrict a normal farm practice carried on as part of an agricultural operation”

Somebody is eventually going to sue the Town because of its over zealous policies. The Town will **lose** and therefore have to pay all of the applicants legal and expert costs as well as the Town’s fees. Each \$250,000 wasted on this process will cost every man, woman and child in Fort Erie \$8.00, money which won’t be available for any other purpose.

Once again, Port Colborne proves itself to be far more progressive and willing to accept new businesses and the resultant jobs and taxes than stodgy old Fort Erie (Bertie Golf Cart ring a bell?)

Thank you for your time.

Keith Overend



APPENDIX "6" TO ADMINISTRATIVE REPORT PDS-64-2022 DATED SEPTEMBER 12, 2022

From: Marina Butler/FortErie
To: Carol Schofield/FortErie@TownOfFortErie
Cc: Alex Herlovitch/FortErie@TownOfFortErie, Chris McQueen/FortErie@TownOfFortErie, Chris Millar/FortErie@TownOfFortErie, Jonathan Janzen/FortErie@TownOfFortErie, Kelly Walsh/FortErie@TownOfFortErie, Mayor and Council

Date: Thursday, August 25, 2022 01:08PM
Subject: Re: Fw: Comments on Proposed Cannabis By-Laws - Sept. 12 Public Meeting

I happen to agree with many of the points Mr. Overend makes.

Marina Butler- Councillor Ward 4

[1 Municipal Centre Drive](#)

[Fort Erie, ON](#)

L2A 2S6

mbutler@forterie.on.ca

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----- Original message -----

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, Chris Millar/FortErie@TownOfFortErie

Subject: Fw: Comments on Proposed Cannabis By-Laws - Sept. 12 Public Meeting

Date: Wed, Aug 24, 2022 6:21 PM

Please refer to Mr. Overend's comments below.

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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----- Forwarded by Carol Schofield/FortErie on 08/24/2022 06:20 PM -----

From: [REDACTED]
To: "Carol Schofield, Manager, Legislative Services/Clerk" <cschofield@forterie.ca>
Date: 08/24/2022 03:09 PM
Subject: Comments on Proposed Cannabis By-Laws

Carol,
attached please find a .pdf file which contains my comments on the above mentioned proposed bylaw.

I hope to attend the September 12th meeting in person, health permitting.

Thanks for your time.

-Keith

--

Keith Overend
"the **retired** map guy"

ps of



on Proposed Cannabis By-Laws.pdf)

Fw: Cannabis Official Plan, Zoning By-law and Site Plan Control By-law Amendments

Carol Schofield to Mayor and Council

2022-08-30 10:46 AM

Cc Chris McQueen, Kelly Walsh, Jonathan Janzen, Alex Herlovitch, Chris Millar

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, Chris Millar/FortErie@TownOfFortErie
History: This message has been forwarded.

Good morning,

Please refer to the comments received below.

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 08/30/2022 10:44 AM -----

From: "Kristjanson, Jon" [REDACTED]
To: "cschofield@forterie.ca" <cschofield@forterie.ca>
Date: 08/30/2022 07:58 AM
Subject: Cannabis Official Plan, Zoning By-law and Site Plan Control By-law Amendments

Hello Carol;

If I can request that the following consideration and concerns with respect to the Cannabis Official Plan, Zoning By-law and Site Plan Control By-law Amendments be shared with Town Council for the upcoming September 12th meeting:

- Where agricultural lands abut residential / rural residential family homes, that consideration be given to existing residents that their quality of life will not be adversely affected with future building and operating of a cannabis grow facility. That the Town leverage the Site Plan Control process to conduct a level of due diligence to protect the quality of life of its residents, in advance of the approval of a future building and operation of a cannabis grow facility.
- Where residential/ rural residential dwellings are in close proximity to a cannabis grow operation, that outdoor security lighting be regulated, in terms of lumens and direction, such that it doesn't create an untenable situation for families being able to sleep at night
- Where residential/ rural residential dwellings are in close proximity to a cannabis

grow operation, that security cameras be regulated as to not allow viewing and or recording of private family dwelling spaces and the people therein

Respectfully submitted,

Jon Kristjanson

[Redacted signature block]

[Redacted line]

[Redacted block]





Planning and Development Services

Prepared for	Regular Council	Report No.	PDS-62-2022
Agenda Date	August 22, 2022	File No.	350308-0077

Subject
NIGH ROAD DRAFT PLAN OF SUBDIVISION EXTENSION OF DRAFT PLAN APPROVAL, SUBDIVISION AGREEMENT & PRE-SERVICING APPROVAL 1589 NIGH ROAD, NORTH OF STEPHENS ROAD UPPER CANADA CONSULTANTS (WILLIAM HEIKOOP & ETHAN LAMAN) - AGENT 2538070 ONTARIO LIMITED (BRYCE IVANCHUK) – OWNER/DEVELOPER

Recommendations
<u>THAT</u> Council extends draft plan approval for the Nigh Road draft plan of subdivision until November 12, 2023, and the Owner and Regional Municipality of Niagara Planning and Development Services be so advised, and further
<u>THAT</u> Council directs that the conditions of approval for the Nigh Road draft plan of subdivision be amended as detailed in Appendix “5” to Report No. PDS-62-2022, and further
<u>THAT</u> Council directs that written notification of the amended conditions is not required due to the minor nature of the changes in accordance with Section 51(47) of the <i>Planning Act</i> , and further
<u>THAT</u> Council authorizes the entry into a Subdivision Agreement with 2538070 Ontario Limited for the Nigh Road draft plan of subdivision, and further
<u>THAT</u> Council permits the Developer to pre-service the subdivision prior to registration of the Subdivision Agreement subject to receipt of the drawings, security deposit, cash payment, approvals, insurance certificate, and letter of indemnification to the satisfaction of the Town, and further
<u>THAT</u> Council authorizes staff to submit a by-law to execute the Subdivision Agreement and associated documents.

Relation to Council’s 2018-2022 Corporate Strategic Plan
Priority: Managed Growth through Responsibility, Stewardship and Preservation

List of Stakeholders

Owner/Developer – 2538070 Ontario Limited (Bryce Ivanchuk)
Agent – Upper Canada Consultants (Ethan Laman)
Residents and Property Owners in Fort Erie

Prepared by:

Original Signed

Mackenzie Ceci
Junior Development
Planner

Submitted by:

Original Signed

Alex Herlovitch, MCIP, RPP
Director, Planning and
Development Services

Approved by:

Original Signed

Chris McQueen, MBA
Chief Administrative Officer

Prepared by:

Original Signed

Jeremy Korevaar, C.E.T.
Coordinator,
Development Approvals

Reviewed by:

Original Signed

Anamika Dilwaria,
MCIP, RPP
Manager, Development
Approvals

Purpose

The purpose of this report is to obtain Council's authorization to extend draft plan approval for the Nigh Road draft plan of subdivision, and enter into a Subdivision Agreement with 2538070 Ontario Limited for the development of the subdivision. A Location Map of the subject lands is included as **Appendix "1"**.

Background

A draft plan of subdivision application for the lands municipally known as 1589 Nigh Road was submitted to the Town of Fort Erie in March of 2008. In December of 2008, the Regional Municipality of Niagara (Niagara Region) identified an issue with the Developer's hydrogeological study and requested a peer review. The peer review concluded in October of 2011 and resulted in a disagreement among hydrogeologists. Ultimately, the Owner opted to proceed with the development of ten lots, as recommended by the Niagara Peninsula Conservation Authority (NPCA) at the time.

The Nigh Road draft plan of subdivision received draft approval from Town Council on January 16th, 2012. The development site is 9.51 hectares (23.5 acres) in size and contains a total of ten lots for single detached dwellings and two blocks for environmental protection, as detailed in **Appendix "2"**. The subdivision is located outside of the urban area boundary on the south side of Nigh Road, between Buffalo

Road and Rosehill Road. The lots will be serviced with private septic systems and water cisterns.

Council last extended draft plan approval for the Nigh Road draft plan of subdivision in June of 2021 to November 12, 2021. This is the sixth request for extension of draft plan approval since the plan was approved by Council in 2012.

In order to allow the development of the Nigh Road draft plan of subdivision and to satisfy the conditions of draft plan approval granted by the Town, the Developer is required to enter into a Subdivision Agreement with the Town. Council had previously approved a Subdivision Agreement for this development at the October 1, 2018 Council-in-Committee meeting through Report No. [PDS-69-2018](#) and the passing of By-law No. [134-2018](#). The Developer did not execute the Subdivision Agreement within the required one-year time frame. Council approved a subsequent Subdivision Agreement on July 12th, 2021, shortly after granting the most recent extension of draft plan approval in June of 2021, through Report No. [PDS-56-2021](#) and the passing of By-law No. [87-2021](#), which expired on July 19th, 2022. A temporary extension has been granted by Staff to allow time to process the current request.

This report and its recommendations are being presented to Council for their consideration as draft plan approval has expired, and the Developer did not execute the Subdivision Agreement prior to the deadline of July 19th, 2022.

Analysis

Extension of Draft Plan Approval

The Agent is requesting a two-year extension of draft plan approval for the Nigh Road draft plan of subdivision. The request letter contained in **Appendix “3”** notes that the Developer has been unable to procure the securities that are required to satisfy their condition of draft plan approval and as a result, has not been able to enter into a Subdivision Agreement with the Town. The Agent notes that the extension has been requested to provide additional time for the Developer to make the financial arrangements to procure the required securities.

Planning Staff circulated the Niagara Region for comments relative to the request for extension. Niagara Regional Planning Staff provided comments, which are included as **Appendix “4”**. Regional Staff note that it is their practice to consider extensions to draft plan approval for up to two years. With respect to the natural environment, Regional Environmental Planning Staff identified concerns with the length of time that has transpired since the original draft plan approval was granted. Typically, Regional Staff would request that an updated Environmental Impact Study (EIS) be prepared in support of the application to ensure conformity with Provincial and Regional natural heritage policies. However, based on a site-specific review, Regional Staff are in a position to waive the requested EIS in favour of the completion of a Restoration Plan, illustrating the active restoration of the environmental protection blocks (Blocks 11 and

12) using native trees, shrubs and groundcover. Invasive species management should also be incorporated as appropriate. Regional Staff do not object to the proposed extension, subject to the inclusion of two new conditions of draft plan approval in relation to the Restoration Plan. The updated conditions of draft plan approval are contained in **Appendix “5”**.

Staff note that the *Planning Act* permits minor changes or additions to conditions of draft plan approval without the need to provide written notice if the approval authority deems the changes to be minor. Staff are of the opinion that the proposed changes to the conditions are minor and that written notification of the amended conditions is not necessary.

As it relates to any future requests to extend draft plan approval, Regional Environmental Planning Staff note that a fulsome update to the EIS will be recommended to ensure consistency with both Provincial and Regional natural heritage policies.

Planning Staff support the extension of draft plan approval for a period of two years. This will provide the Developer with sufficient time to make the necessary financial arrangements to procure the securities, enter into a Subdivision Agreement with the Town, and ultimately register the subdivision. If approved, the two-year extension request will be granted from the expiry date of November 12th, 2021. As such, draft plan approval would be extended until November 12th, 2023 through this request.

Subdivision Agreement

The subject development will include the construction of a new municipal road with associated drainage. In support of their application for final approval, the Developer's engineering consultant has provided plans for review by Planning and Development Services Staff. The municipal road will be designed and constructed in accordance with the Municipal Design Standards.

Since the subdivision is located outside of the urban area boundary, the lots will be serviced with private cisterns and septic systems. In order to ensure that the lots only use cisterns as a private water source, the following Special Provision has been included in Schedule “I” (**Appendix “6”**) of the Subdivision Agreement: “The Developer acknowledges and agrees that all Offers to Purchase and Agreements of Purchase and Sale shall contain the following clause: “Purchasers/tenants are advised that lots within this subdivision must be developed using cisterns only as a drinking water source in order to meet water quality and/or supply standards”.

Through the course of the plans review, the Developer has also provided cost estimates for the proposed work. The cost estimates have been reviewed and accepted by Planning and Development Services Staff and have been used to calculate the required security deposits. Schedule “F” of the Subdivision Agreement is attached as **Appendix**

“7”. This Schedule outlines the security and financial obligations of the Developer for the services required to develop the subdivision.

The development of this subdivision is also subject to various special provisions in addition to the general conditions of the Subdivision Agreement. Schedule “I” of the Subdivision Agreement, which includes the Special Provisions, is attached as **Appendix “6”**.

In addition to the construction of the new subdivision road, the Developer is required, as a condition of draft plan approval, to reconstruct Royal York Road from the new road to Rosehill Road at their expense. The reconstruction of the road is required to be completed as a Primary Service prior to the issuance of building permits.

The Developer has received the Environmental Compliance Approval from the Ministry of the Environment, Conservation and Parks for the storm water management system. Storm water run-off generated by the subdivision development will be directed through a series of overland grassed swales and ditches and will discharge to an existing ditch within an unopened road allowance at the south end of the subdivision.

The subdivision land is currently zoned Rural Residential RR-223 (H) with a holding provision. The “H” holding symbol can be removed upon approval by Council of a Subdivision Agreement for the lands.

Subject to final registration of the Subdivision Agreement and the subsequent clearing of conditions of draft plan approval by other agencies, Planning Staff are now in a position to recommend the final approval of the Nigh Road draft plan of subdivision. Staff recommends that pre-servicing of the subdivision be permitted subject to the following requirements:

1. Receipt of the drawings to the satisfaction of the Town;
2. A Letter of Credit received from the Developer in the amount of **\$835,730.00** representing 15% of the estimated construction costs of On-Site Primary Services, 100% of the estimated costs of Off-Site Primary Services, 120% of the estimated construction costs of Secondary Services and other required deposits;
3. A Liability Insurance in the amount of \$2,000,000 from the Developer be taken out, naming the Town of Fort Erie as additional insured;
4. A cash payment made to the Town of Fort Erie in the amount of **\$149,499.00** for engineering, administration and inspection fees; cash-in-lieu of parkland dedication, holding provision removal fees, street and traffic signs, and legal expense deposit as detailed in **Appendix “7”**; and
5. A Letter from the Developer indemnifying the Town of Fort Erie from risk be submitted.

Financial/Staffing Implications

All costs associated with the development of the subdivision are the responsibility of the Owner/Developer and are incorporated into the Subdivision Agreement. The Developer will be required to provide securities in an acceptable form as specified in the Subdivision Agreement to ensure that all of the works are completed to the satisfaction of the Town.

Policies Affecting Proposal

The development of this draft plan of subdivision is set out in accordance with the requirements of the *Planning Act*. Section 51(33) of the *Planning Act* contains a regulation relative to the lapsing of draft plans of subdivision, noting that the approval authority may extend the approval for a specified period of time, however, no extension is permitted if the approval lapses before the extension is given. The Nigh Road draft plan of subdivision conforms with this *Planning Act* regulation.

Section 51(47) of the *Planning Act* states that an approval authority is not required to give written notice under Section (45) if, in the opinion of the approval authority, the change to conditions is minor.

Comments from Relevant Departments/Community and Corporate Partners

The engineering drawings, reports and securities have been reviewed by the Town's Planning and Development Services Department.

The Subdivision Agreement along with the security requirements have been reviewed and accepted by the Developer. A By-Law will be prepared authorizing the Town to enter into a Subdivision Agreement with the Developer.

The Subdivision Agreement will not be registered until the Developer addresses all the conditions of draft plan approval, and the provisions of the Subdivision Agreement.

Niagara Region

Regional Staff do not object, in principle, to the extension of draft plan approval for the Nigh Road draft plan of subdivision for up to two years, subject to the inclusion of two new minor conditions of draft plan approval. Detailed comments are attached as **Appendix "4"**, and the updated conditions of draft plan approval are contained in **Appendix "5"**.

Communicating Results

No additional communication is required at this time.

Alternatives

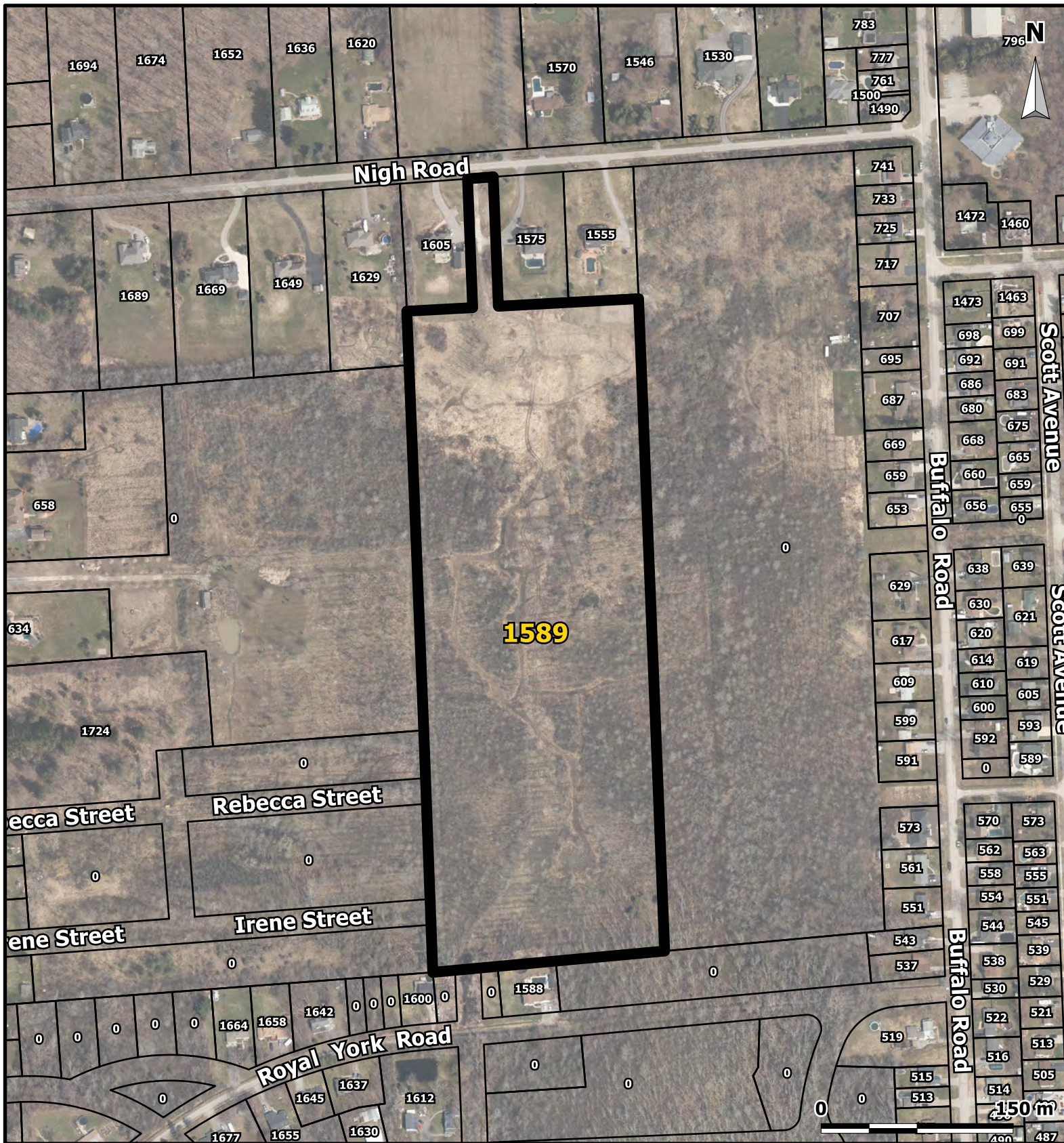
Council may elect to deny the request to extend draft plan approval and enter into a Subdivision Agreement, at which point the draft plan of subdivision will lapse.

Conclusion

Planning Staff recommend that Council authorizes the extension of draft plan approval and entry into a Subdivision Agreement until November 12, 2023 for the Nigh Road draft plan of subdivision. Further, Staff recommend that the conditions of approval for the draft plan of subdivision be amended, and that written notification of the amended conditions is not required due to the minor nature of the changes in accordance with Section 51(47) of the *Planning Act*.

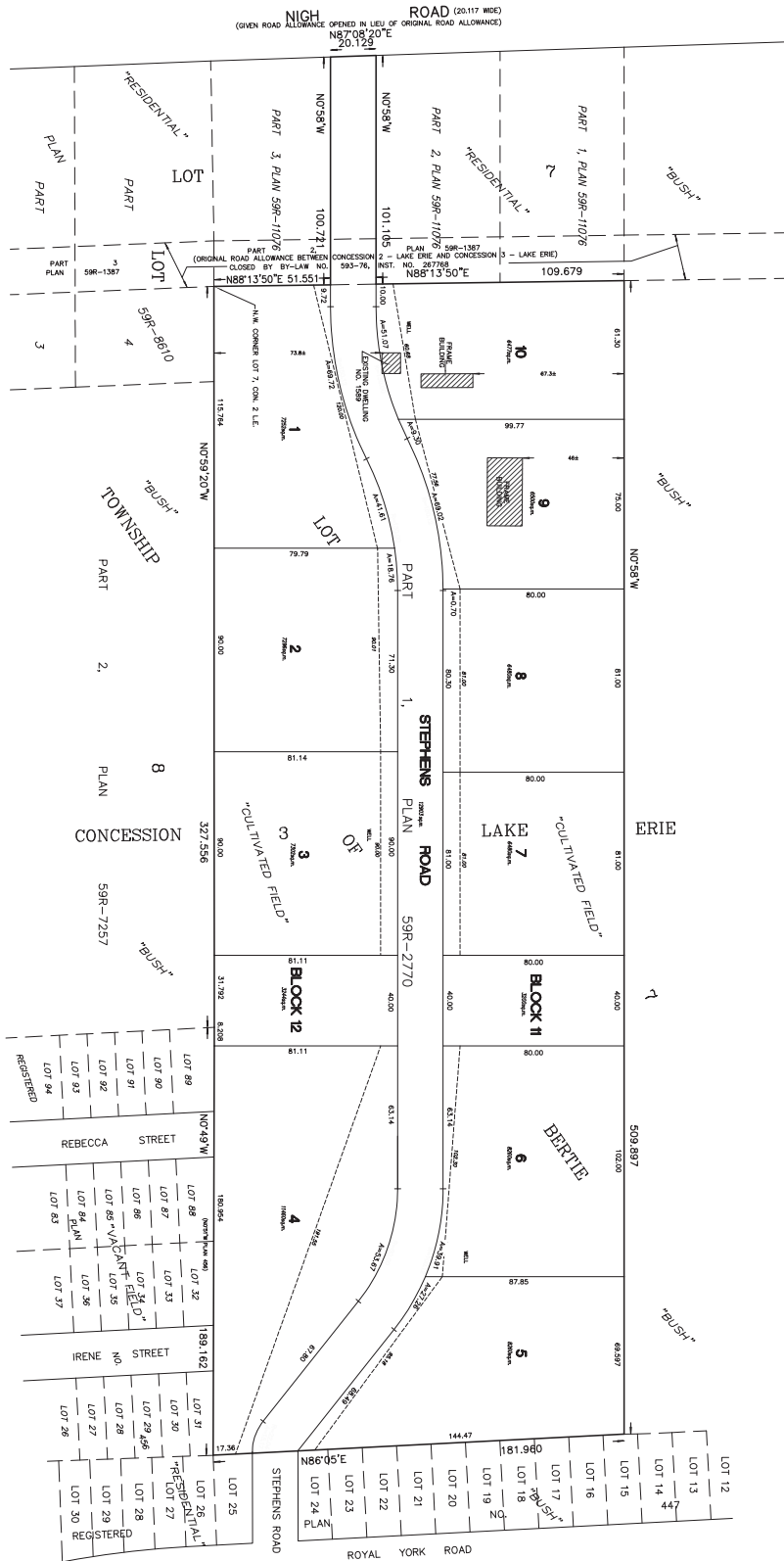
Attachments

- Appendix “1”** - Location Plan
- Appendix “2”** - Nigh Road Draft Plan of Subdivision
- Appendix “3”** - Extension Request Letter from Agent
- Appendix “4”** - Comments from Niagara Region
- Appendix “5”** - Updated Conditions of Draft Plan Approval
- Appendix “6”** - Schedule “I” - Special Provisions
- Appendix “7”** - Schedule “F” - Security and Financial Requirements



NIGH ROAD DRAFT PLAN OF SUBDIVISION Location Plan

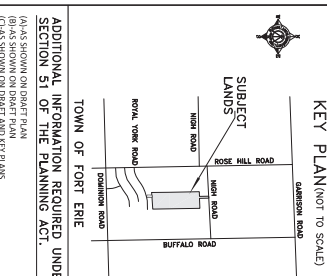
 Subject Lands - Nigh Road Draft Plan of Subdivision



Draft Plan of Subdivision of
PART OF LOT 7, CONCESSION 2 - LAKE ERIE
AND
PART OF LOT 7, CONCESSION 3 - LAKE ERIE
AND
PART OF THE ORIGINAL ROAD ALLOWANCE
BETWEEN CONCESSION 2 - LAKE ERIE AND CONCESSION 3 - LAKE ERIE
(CLOSED BY BY-LAW)
(GEOGRAPHIC TOWNSHIP OF BERTIE)
TOWN OF FORT ERIE
REGIONAL MUNICIPALITY OF NIAGARA

Mathews, Cameron, Heywood - Kerry T. Howe
SURVEYING LIMITED
L101-37378
2011

SCALE 1 : 1000
1" = 100'



LAND USE ANALYSIS

NUMBER OF LOTS: 10 + 2 BLOCKS

AREA OF SINGLE FAMILY LOTS: 7,598 sq. ft. (18,272 sq. ft.)

AREA OF MULTIPLE CONDOMINIUM BLOCKS: 0,645 sq. ft. (1,584 sq. ft.)

AREA OF ROAD: 1,290 sq. ft. (1,188 sq. ft.)

TOTAL AREA OF SUBDIVISION = 9,513 sq. ft. (21,564 sq. ft.)

Legend: ■ denotes boundary of subdivision

NOTE

ORIGINAL SUBDIVISION FOR REVIEW DECEMBER 22, 2005

OWNER'S CERTIFICATE

I HEREBY AUTHORIZE MATTHEWS, CAMERON, HEYWOOD - KERRY T. HOWE SURVEYING LIMITED TO PREPARE THIS PLAN TO THE TOWN OF FORT ERIE FOR THEIR APPROVAL.

SURVEYOR'S CERTIFICATE

I HEREBY CERTIFY THAT THE BOUNDARIES OF THE LAND TO BE SUBDIVIDED ARE CORRECTLY SHOWN.

DATE _____

SURVEYOR _____

DATE _____

OWNERS, CERTIFICATE

MATTHEWS, CAMERON, HEYWOOD - KERRY T. HOWE SURVEYING LIMITED

Drawn By: C.D./A.T. Checked By: A. Heywood



**UPPER CANADA
CONSULTANTS**
ENGINEERS / PLANNERS

June 10, 2021

UCC File No. 1676

Town of Fort Erie
1 Municipal Centre Drive
Fort Erie, ON L2A 2S6

Attn: Anamika Dilwaria, M.Pl., MCIP, RPP – Acting Manager, Development Approvals

**Re: Request for Draft Plan Extension
Nigh Road Subdivision (26T-15-2006-02) Town of Fort Erie**

Please accept this letter and included payment as a formal request to extend Draft Plan approval for the Nigh Road Draft Plan of Subdivision located at 1589 Nigh Road (26T-15-2006-02) for a period of **2 years**, (until November 12, 2023). This request also pertains to the re-approval of the Subdivision Agreement for this development.

At this time, the developer has been unable to procure the necessary Securities and has therefore not entered into a Subdivision Agreement with the Town. This extension is being requested to provide additional time for the developer to make the necessary financial arrangements for the required Subdivision Securities to allow for the execution of the Subdivision Agreement with the Town and the commencement of on-site works. A Securities Cost Estimate updated for 2022 has also been included with this request to inform the required security deposit.

The fees required for Town (\$1,100.00) and Regional (1,345.00) review of this application are included with this letter. If there are any further questions or concerns please do not hesitate to contact the undersigned.

Sincerely,

Ethan Laman, B.U.R.Pl.
Junior Planner
Upper Canada Consultants

Encl.

cc. Bryce Ivanchuk, owner
William Heikoop, Upper Canada
Jeremy Korevaar, Town of Fort Erie



Planning and Development Services

1815 Sir Isaac Brock Way, Thorold, ON L2V 4T7
(905) 980-6000 Toll-free: 1-800-263-7215

Via Email

July 18, 2022

Region File: D.11.01.SD-22-0029

Mackenzie Ceci
Junior Development Planner
Town of Fort Erie
1 Municipal Drive
Fort Erie, ON, L2A 2S6

Dear Ms. Ceci:

**Re: Regional and Provincial Comments
Request for Extension of Draft Plan of Subdivision Approval
Town File: 350308-0077
Owner: 2538070 Ontario Limited (c/o Bryce Ivanchuk)
Agent: Upper Canada Consultants (c/o Ethan Laman)
1589 Nigh Road, North of Stephens Road (Nigh Road Subdivision)
Town of Fort Erie**

Regional Planning and Development Services staff has reviewed the request for an extension of Draft Plan of Subdivision Approval as it relates to the Nigh Road Subdivision located in the Town of Fort Erie. The Region was circulated the request for extension from the Town of Fort Erie on June 13, 2022, with the associated review fees received on July 15, 2022. The current Draft Plan Approval was set to expire on November 12, 2021; however, the Town has temporarily extended the Draft Plan Approval in order to process this extension request.

The proposed development consists of 10 single-detached residential lots, 2 blocks for environmental protection, and a new road. The development was originally granted Draft Plan Approval on February 10, 2012. Several subsequent draft plan extension have been granted for the development since its original approval.

The correspondence from the Agent that was submitted with the request states that Owner needs additional time to make necessary financial arrangements to procure the required subdivision securities in order to enter into the Subdivision Agreement and commence on-site works. Therefore, the Applicant is requesting an extension of Draft Plan Approval for a period of 2-years in order to complete this process.

It is the Region's practice to consider an extension to Draft Plan approval for up to 2-years. This allows for regular review of the proposal in context of the most recent

D.11.01.SD-22-0029

July 18, 2022

policies and/or infrastructure considerations, and to modify and/or update conditions of approval if necessary.

Regional staff has reviewed the “*Nigh Road Subdivision – Conditions of Draft Plan Approval*” that was circulated by the Town with the request. With respect to the natural environment, Regional Environmental Planning staff has identified concern with the length of time that has transpired since the original Draft Plan Approval (February 2012). Typically staff would request that an updated Environmental Impact Study (“EIS”) be prepared in support of the application to ensure conformity with Provincial and Regional natural heritage policies. However based on site-specific review, staff is in a position to waive the requested EIS in favour of the completion of a Restoration Plan. The Restoration Plan shall illustrate the active restoration of Blocks 11 and 12 using native trees, shrubs and groundcover. Invasive species management should also be incorporated as appropriate. Regional staff requests that the conditions as provided in the Conclusion of this letter to be added to the Conditions of Draft Plan Agreement.

As it relates to any future requests to extend Draft Plan Approval, Environmental Planning staff note that a fulsome update to the EIS will be recommended to ensure consistency with both Provincial and Regional natural heritage policies.

Conclusion

In conclusion, Regional Planning and Development Services staff does not object to the proposed extension of Draft Plan Approval for a period of 2-years provided that the following conditions are added to the Conditions of Draft Plan Approval:

- That a Restoration Plan be prepared for Blocks 11 and 12, to the satisfaction of the Niagara Region. 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 Restoration Plan should be completed by a qualified environmental professional.
- That the Subdivision Agreement contain wording wherein the Owner agrees to implement the approved Restoration Plan.

In addition to the above conditions, staff requests that the Region’s contact information as detailed on page 7 of the Conditions of Draft Plan Approval be replaced with the following information:

Director, Development Approvals
Planning and Development Services Department
The Regional Municipality of Niagara
1815 Sir Isaac Brock Way
Thorold, ON, L2V 4T7
Phone: (905) 980-6000
Toll Free: 1-(800) 263-7215
Email: devtplanningapplications@niagararegion.ca

D.11.01.SD-22-0029

July 18, 2022

Provided that the above matters are addressed, Regional staff is satisfied that Provincial and Regional interests will not be compromised by the request for extension. Should you have any questions or wish to discuss these comments, please contact the undersigned at alexander.morrison@niagararegion.ca. Please send notice of Council’s decision on this application when available.

Respectfully,



Alexander Morrison, MCIP, RPP
Senior Development Planner, Niagara Region

cc: Adam Boudens, Senior Environmental Planner / Ecologist, Niagara Region
Susan Dunsmore, Manager, Development Engineering, Niagara Region
Anthony LaSelva, Development Approvals Intern, Niagara Region

Conditions of Draft Plan Approval

NIGH ROAD SUBDIVISION

The conditions of final approval and registration of the Nigh Road Subdivision ~~by Sergey Kashin~~ File No. 350308-0077 Town of Fort Erie are as follows:

1. That this approval applies to the Nigh Road Plan of Subdivision - Part Lot 7, Concession 2, Concession 3, Part of the Original Road Allowance Between Concession 2-Lake Erie, Concession 3- Town of Fort Erie, prepared by Matthew, Cameron, Heywood, Kerry T. Howe Surveying Ltd. and signed by Allan Heywood dated November 10, 2011 showing 10 lots for single detached dwellings, a new roadway and two blocks for environmental protection.
2. That in accordance with By-law 69-08 Policy for Parkland Dedication, the owner shall pay to the Town of Fort Erie cash in lieu of parkland dedication an amount equal to 5% of the value of the land to the satisfaction of the Town.
3. That the owner agrees in writing to satisfy all of the requirements, financial and otherwise, of the Town of Fort Erie concerning the provision of roads, watermain, sewers, drainage, storm water management, daylight triangles, sidewalks, fire hydrants, streetlighting, including the upgrading of existing services and the restoration of existing roads damaged during the development of the Plan of Subdivision.
4. That the owner agrees in writing to deed any required lands for roads, free and clear of any mortgages, liens and encumbrances.
5. That the owner deed a land Block, to the Town for stormwater management facility, free and clear of any mortgages, liens and encumbrances, as per the stormwater management report once approved by the Town.
6. That the owner agrees to deed any and all easements that may be required for access utility and drainage purposes be granted to the appropriate authorities and utilities.
7. That all roads within the subdivision be conveyed to the Town of Fort Erie as public highways.
8. That the subdivision agreement include a clause requiring that each agreement of purchase and sale state that “Roof downspouts shall discharge only to ground surface via splash pads to either side or rear yards, with no direct connection to the storm sewer or discharge directed to the driveway or roadway”.

9. 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.”
10. That the owner submit for review and approval by the Town a Geotechnical Study and Hydrogeological Study, prepared by a qualified engineer, that verifies the soil bearing capacity, assesses bedrock elevations and groundwater conditions and recommends appropriate sewer pipe design, pipe bedding, backfill and roadway designs and appropriate mitigation measures to address groundwater issues encountered. This study will also thoroughly assess groundwater conditions, identify building constraints or modifications and identify determine basement and footing elevations that will ensure that groundwater is not a nuisance to the proposed dwellings.
11. That the Owner provide a detailed Subdivision Grade Control Plan showing existing and proposed grades, overland flow routes, tree preservation areas and building envelope and septic system elevations and the means whereby major storm flows will be accommodated across the site to an approved outlet is to be submitted by the Owner for review and approval by the Town.
12. That the Subdivision Servicing, if phased, be to the satisfaction of the Town.
13. That the owner shall enter into any agreement as required by utility companies for installation of services including the provision of street lighting all in accordance with the standards of the Town of Fort Erie. All utilities servicing the subdivision shall be underground.
14. That the streets be named to the satisfaction of the Town.
15. Existing wells on subject lands, if not intended to be used to service new lot, shall be decommissioned as per Ministry of Environment and Climate Change requirements.
16. That the design drawings for the storm water drainage systems, including storm water management, to service this development be submitted to the Town of Fort Erie for review and approval.
17. That prior to final approval for registration of this plan, the owner shall obtain Ministry of the Environment and Climate Change Certificates of Approval to the satisfaction of the Director of Infrastructure Services, for the necessary servicing (storm sewers, and storm water management) for this development.

18. That prior to approval of the final plan or any on-site grading, the owners submit to the Town of Fort Erie, the Niagara Peninsula Conservation Authority, and the Regional Municipality of Niagara Planning & Development Services Department, 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 and Climate Change documents entitled “Stormwater Management Planning and Design Manual” as amended and updated, and “Stormwater Quality Guidelines for New Development”, as amended and updated, 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; and,
- b) Detailed sediment and erosion control plans.

Note: The Region will request the Niagara Peninsula Conservation Authority review the stormwater management plan and other related plans detailed on the Regions behalf and to submit comments to the Planning & Development Services Department regarding the approval of these plans and the subsequent clearance of related conditions by Regional Staff. Please note that the NPCA’s fee for review of stormwater management plans is in addition to the Region’s final clearance fee.

19. 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 18 above.

20. That the draft plan of subdivision be revised to show 10 residential lots and 2 blocks for natural heritage and be submitted to the Region.

21. That the two blocks identified for natural heritage be rezoned to an environmental protection category to ensure the blocks remain naturally vegetated and to prohibit development and site alteration within the blocks.

22. That a Restoration Plan be prepared for Blocks 11 and 12, to the satisfaction of the Niagara Region. 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 Restoration Plan should be completed by a qualified environmental professional.

23. That the Subdivision Agreement contain wording wherein the Owner agrees to implement the approved Restoration Plan.

21.24. That an updated Engineering Report which assesses site servicing, stormwater management/drainage, sediment and erosion control, and sanitary sewage systems based on the redesigned subdivision be submitted to the Niagara Region for review and approval.

22.25. That the subdivision agreement include that an individual lot grading/drainage plan providing for a building envelope, a sewage envelope including the spare area, and the amenities envelope for the proposed development be submitted to the Niagara Region for review and approval.

23.26. That a drawing showing the following information be submitted to the Niagara Region for review and approval:

- All the proposed lots and lot sizes;
- Lot building envelopes, accessory building envelopes, amenity area and sewage system envelopes including a 100% spare area;
- Grading/drainage/stormwater management facility;
- The location and type of water supply. Please note that for this development cisterns must be utilized for the drinking water supply.

24.27. That the lot grading and drainage plans for the proposed development be submitted to the Niagara Region for review and approval.

25.28. That the design of the subdivision be in accordance with the Niagara Region’s waste collection policies to the satisfaction of the Niagara Region.

26.29. That the subdivision agreement between the Owner and the Town of Fort Erie and all Agreements of Purchase and Sale or Lease contain the following clauses:

Purchasers/tenants are advised that lots within this subdivision must be developed using cisterns only as a drinking water source in order to meet water quality and/or supply standards.

Purchasers/tenants are advised that Blocks xx and xx within the subdivision plan are protected natural heritage corridors that must remain

in a naturally vegetated state. Development and site alteration is not permitted within these blocks.

~~27.~~30. That the Subdivision Agreement between the owner and the Town be registered by the Municipality against the lands to which it applies in accordance with the Planning Act.

~~28.~~31. Secondary access must be provided by extending Stephens Road to Royal York Road and upgrading Royal York Road to a municipal standard, to Rosehill Road. The developer is responsible for all associated costs for these works. (These roadworks are considered local services and not identified in the Development Charges Background Study and Development Charge credits are not available.)

~~29.~~32. Blocks 11 and 12 of the plan be rezoned to an environmental zoning to protect the natural heritage corridor.

~~30.~~33. Existing wells on subject lands, be formally abandoned in accordance with Ontario Regulation 903.

Note: The Region will request that the Niagara Peninsula Conservation Authority (NPCA) review submissions related to the clearance of this condition and submit comments to the Regional Municipality of Niagara Planning & Development Services Department regarding the clearance of this condition.

~~31.~~34. 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 centralized mail box locations prior to the closing of any home sales.

~~32.~~35. The owner further agrees to:

- i. Install a concrete pad in accordance with the requirements of, and in locations to be approved by, Canada Post to facilitate the installations of Community mail boxes.
- ii. Identify the pads above on the engineering servicing drawings. The pads are to be poured at the time of the sidewalk and/or curb installation within each phase of the plan of subdivision.
- iii. Determine the location (municipal easement adjacent to Lot 10) of all centralized mail facilities in cooperation with Canada Post and to post

the location of these sites on appropriate map, information boards and plans.

~~33.36.~~ That no tree removal, grading or soil disturbance to take place during the bird nesting season between May 1 and July 31 in accordance with the *Federal Migratory Birds Convention Act 1994* or as determined by the Town of Fort Erie.

~~34.37.~~ That no tree removal, grading or soil disturbance shall take place until Council has given final approval to the subdivision; Council has permitted the developer to pre-service the subdivision; all of the servicing approvals have been given; and the owner has given to the Town all of the securities deposits required by the subdivision agreement or as determined by the Town of Fort Erie.

~~35.38.~~ 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.

Clearance of Conditions

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:

- Regional Municipality of Niagara Planning & Development Services Department for Conditions 18, 20 to ~~2927~~, and ~~3331~~.
- Canada Post for Conditions ~~3432~~ and ~~3533~~.

1. THE LANDS REQUIRED TO BE REGISTERED UNDER THE LAND TITLES ACT:

- a. Section 160(1) of the Land Titles Act which 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

Environment 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 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:

Mr. Jeff Hoover, Engineering Supervisor
Canadian Niagara Power Company Limited
1130 Bertie Street, P.O. Box 1218
Fort Erie, Ontario L2A 5Y2
Phone: (905) 871-0330

Director, Development Approvals
Planning and Development Services Department
The Regional Municipality of Niagara
1815 Sir Isaac Brock Way
Thorold, ON, L2V 4T7
Phone: (905) 980-6000
Toll Free: 1-(800) 263-7215
Email: devtplanningapplications@niagararegion.ca
~~Ms. Teresa Gray, Senior Development Planner~~
~~Planning & Development Services~~
~~The Regional Municipality of Niagara~~
~~2201 St. David's Road, P.O. Box 1042~~
~~Thorold, Ontario, L2V 4T7~~
~~Phone: 1-800-263-7215~~

Ms. Suzanne McInnes
Niagara Peninsula Conservation Authority
250 Thorold Road West, 3rd Floor
Welland, Ontario, L3C 3W2
Phone: (905) 788-3135

Mr. Tony Filice, Delivery Planning
Canada Post - Central Region

955 Highbury Avenue North
London, Ontario N5Y 1A3
Phone: (519) 282-5199

Mr. William Coldicott, Manager – Land Services
Enbridge Gas Distribution Inc.
P.O. Box 650
Toronto, Ontario L2A 5Y2

Mr. Bill McKenzie, Implementation Manager
Bell Canada
P.O. Box 190
St. Catharines, Ontario L2R 6S9

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 the Regional Planning and Development Department for verification that the appropriate clauses pertaining to any of these conditions of approval have been included.

Note: The Regional Planning Department recommends that a copy of the draft agreement also be provided in order to allow for the incorporation of any necessary revisions prior to execution.

7. NOTE

The owner is advised that the appropriate Regional permits must be completed prior to any construction occurring within the regional right of-way. The owner is advised that Service Connection Permits must be obtained from the Town for connection to existing sewers and watermain.

SCHEDULE “I”

Special Provisions

1. Prior to registration of this Agreement by the Town, the Developer shall file with the Director of Planning and Development Services, an Ontario Land Surveyor's Certificate verifying all Lots as laid out on the proposed Plan of Subdivision meet or exceed the minimum Lot area and Lot frontage provisions of the Town Zoning By-Law.
2. An Inhibiting Order shall be registered on the lands until such time that all conveyances to the Town and other agencies are completed and the Director of Infrastructure Services issues the Completion Certificate for Primary Services for the lands.
3. Notwithstanding the requirement of Sub-Paragraph 9.17 of the Subdivision Agreement, the Developer shall be responsible for tree plantings and tree maintenance within the road allowance fronting the lots in the subdivision as guaranteed by the Letter of Credit, in accordance with the agreement and to the satisfaction of the Director of Infrastructure Services. Prior to planting street trees, Developer shall confirm species and location with the Director of Infrastructure Services.
4. The Developer shall provide detailed lot grading and drainage plans noting both existing and proposed grades and the means whereby overland flows will be conveyed across the site to the satisfaction of the Town of Fort Erie.
5. The Developer acknowledges and agrees that all Offers to Purchase and Agreements of Purchase and Sale shall contain a clause clearly indicating that *“Roof downspouts shall discharge only to ground surface via splash pads to either side or rear yards, with no direct connection to the storm sewer or discharge directed to the driveway or roadway.”*
6. The Developer acknowledges and agrees that all Offers to Purchase and Agreement of Purchase and Sale shall contain a clause clearly indicating that the *“The Owner (Developer) shall be responsible for installing paved driveway aprons (maximum 6.0m wide) from curb to the property line or from the curb to the sidewalk within municipal road allowances.”*
7. The Developer shall make arrangements satisfactory to the Town of Fort Erie, Canada Post, Bell Canada, Enbridge Gas and other Public Utilities including Cable TV, for the provision of underground utility services internal and external to this development. Upon installation and acceptance by the Town, streetlights will be added to the Town's inventory.

8. The Developer acknowledges and agrees to enter into an agreement with Canadian Niagara Power Inc. (CNPI) with respect to the design and installation of electrical facilities and street lighting (where required) and to provide CNPI with a construction schedule and a complete set of drawings including the final plan of subdivision and the servicing plans showing all grading and drainage, all storm and sanitary sewer, all water lines and all road, curb and sidewalk construction including road cross sections.
9. Prior to the execution of this Agreement by the Town, the Developer shall have filed with the Town, a Geotechnical and Hydrogeological Study to verify soil bearing capacity, bedrock depth and groundwater conditions and recommends, pond decommissioning procedures and fill specifications, appropriate sewer pipe design, pipe bedding and backfill and roadway designs and appropriate mitigation measures to address groundwater issues encountered.
10. The Developer agrees to prepare a streetscape plan detailing street lighting, fencing, and enhanced landscaping treatment to be approved by the Director of Planning and Development Services prior to construction of the Works, and the Developer further agrees to implement same in accordance with the Plans including the streetscape plan at the Developer's expense, all to the satisfaction of the Director of Planning and Development Services.
11. The Developer shall carry out or cause to be carried out all stormwater management techniques and works including re-vegetating all disturbed areas and maintaining erosion and sediment control to the satisfaction of the Town of Fort Erie, the Regional Niagara Planning & Development Department, the Regional Niagara Public Works Department and the Niagara Peninsula Conservation Authority (NPCA) in accordance with the Ministry of Environment documents entitled “*Stormwater Management Planning and Design Manual*”, March 2003, and “*Stormwater Quality Guidelines for New Development*”, May 1991 and in accordance with the approved plans.
12. The Developer acknowledges and agrees to implement the lot grading and drainage in accordance with the approved plans.
13. Should archaeological resources be discovered during construction, the owner shall agree to immediately cease construction and undertake an archaeological assessment by a licensed archaeologist and adverse impacts to any significant archaeological resources found on the site shall be mitigated through preservation or resource removal and documentation. No further demolition, grading or other soil disturbances shall take place on the subject property prior to the issuance of a letter from the Ministry of Tourism, Culture and Sport through the Niagara Region Planning and Development Services Department, confirming that all archaeological resource concerns have met licensing and resource conservation requirements. Note: A copy of the archaeological assessment report is to be submitted to the Niagara Region Planning and Development Services Department.

14. Should deeply buried archaeological remains be found on the property during construction activities, the Heritage Operations Unit of the Ontario Ministry of Tourism, Culture and Sport shall be notified immediately. In the event that human remains are encountered during construction, the Developer shall immediately notify the police or coroner and the Registrar of Cemeteries or the Ministry of Small Business and Consumer Services.
15. The Developer acknowledges and agrees to submit to the Niagara Peninsula Conservation Authority for review and approval, detailed grading, storm servicing, stormwater management, and construction sediment control plans.
16. The developer agrees to include in all offers of purchase and sale a statement which advises the purchaser that mail will be delivered via Community Mail Box. The developer also agrees to note the locations of all Community Mail Boxes within the development, and to notify affected homeowners of any established easements granted to Canada Post to permit access to the Community Mail Box.
17. The Developer acknowledges and agrees to decommission the existing wells located on the subject lands in accordance with prevailing legislation and shall provide evidence of such decommissioning to the Town of Fort Erie and Niagara Region prior to registration of the Subdivision Plan.
18. The Developer acknowledges and agrees to submit to the Niagara Region an individual lot grading/drainage plan providing for a building envelope, a sewage envelope including the spare area, and the amenities envelope for the proposed development.
19. The Developer acknowledges and agrees that all Offers to Purchase and Agreements of Purchase and Sale shall contain the following clause:
“Purchasers/tenants are advised that lots within this subdivision must be developed using cisterns only as a drinking water source in order to meet water quality and/or supply standards.”
20. The Developer acknowledges and agrees that all Offers to Purchase and Agreements of Purchase and Sale shall contain the following clause:
“Purchasers/tenants are advised that Blocks 11 and 12 within the subdivision plan are protected natural heritage corridors that must remain in a naturally vegetated state. Development and site alteration is not permitted within these blocks.”
21. The Developer acknowledges and agrees to reconstruct Royal York Road from Forest Glen Drive to Rosehill Road, at their expense, in accordance with the approved plans.

SCHEDULE “F”

**Security and Financial Requirements
(Includes 10% Engineering, 10% Contingency and 13% HST)**

ON-SITE PRIMARY SERVICES

Road Drainage including Storm Water Management System	\$86,290.00
Site Preparation, Grading and Granular 'A' Base	\$297,060.00
HL8 Base Course Asphalt	\$96,560.00
Electrical Distribution System and Streetlighting	\$136,730.00
	<hr/>
	\$616,640.00
15% of On-Site Primary Services	\$92,500.00 (1)

OFF-SITE PRIMARY SERVICES (Royal York Road - West Section)

Roadside Drainage System	\$123,870.00
Site Preparation, Grading and Granular 'A' Base	\$319,790.00
	<hr/>
	\$443,660.00
100% of On-Site Primary Services	\$443,660.00 (2)

ON-SITE & OFF-SITE SECONDARY SERVICES

HL3 Surface Course Asphalt	\$116,040.00
Royal York Road - West Section Double Surface Treatment	
Canada Post Mailbox Pad	\$1,210.00
Grading and Sodding of Boulevards	\$94,350.00
Landscaping & Plantings	\$10,650.00
Driveway Paving	\$27,390.00
	<hr/>
	\$249,640.00
120% of On-Site & Off-Site Secondary Services	\$299,570.00 (3)

TOTAL CONSTRUCTION OF SERVICES **\$1,309,940.00**

ENGINEERING, ADMINISTRATION and INSPECTION FEES **\$29,120.00 (4)**
[Calculated at 3.0% of construction estimate]

CASH-IN-LIEU OF PARKLAND DEDICATION **\$116,500.00 (5)**

REMOVAL OF HOLDING PROVISION **\$523.00 (6)**

DEPOSIT FOR LEGAL EXPENSES **\$2,000.00 (7)**

STREET, TRAFFIC & INFORMATION SIGNS

2 STOP Signs	\$ 200.00 + HST	\$452.00
4 Streetname Signs	\$ 200.00 + HST	\$904.00
		<hr/>
		\$1,356.00 (8)

SUMMARY:

A. LETTER OF CREDIT REQUIRED

Total of (1) + (2) + (3) **\$835,730.00**

B. CASH PAYMENT REQUIRED

Total of (4) + (5) + (6) + (7) + (8) **\$149,499.00**

Interoffice Memorandum

August 30, 2022
File No. 350308-0077

To: Mayor and Council
From: Mackenzie Ceci, Intermediate Development Planner and Jeremy Korevaar,
Coordinator, Development Approvals
Subject: **PDS-62-2022 – SUPPLEMENTARY INFORMATION RE: PRE-SERVICING**

Council received Administrative Report No. PDS-62-2022 at the Monday, August 22, 2022 Regular Meeting wherein staff recommended the following:

“Council permits the Developer to pre-service the subdivision prior to registration of the Subdivision Agreement subject to receipt of the drawings, security deposit, cash payment, approvals, insurance certificate, and letter of indemnification to the satisfaction of the Town, and further”

Upon the report being put on the floor of Council, members of Council expressed concerns with the recommendation to permit pre-servicing without the subdivision agreement being in place in the event that the Developer does not proceed and the site development stalls. A motion was put forward to defer consideration of the report to the September 12, 2022 Council-in-Committee meeting which was moved, seconded and carried.

Planning staff contacted the Developer to understand if there were any issues whereby the Developer may not be in a position to enter into the agreement immediately upon providing the required securities to the Town. The Developer has confirmed that the he is prepared to enter into the subdivision agreement and the pre-servicing approval is not necessary.

Given the foregoing, staff recommend that Council-in-Committee may want to consider dealing with the recommendation of Administrative Report No. PDS-62-2022 individually so that recommendation number 5 of the report can be defeated thereby requiring the developer to enter into the subdivision agreement prior to commencement of construction.

All of which is respectfully submitted,

Original Signed

Mackenzie Ceci, BSc, MSc PI
Intermediate Development Planner

Original Signed

Jeremy Korevaar, C.E.T.
Coordinator, Development Approvals



Planning and Development Services

Prepared for	Council-in-Committee	Report No.	PDS-66-2022
Agenda Date	September 12, 2022	File Nos.	350309-0543, 350308-0125

Subject
PROPOSED ZONING BY-LAW AMENDMENT AND DRAFT PLAN OF SUBDIVISION 726 GORHAM ROAD URBAN IN MIND – JACOB DICKIE (AGENT) 2655321 ONTARIO LTD. – MARK SPADAFORA (OWNER)

Recommendation
<u>THAT</u> Council approves the amendment to the Town's Zoning By-law No. 129-90 as detailed in Report No. PDS-66-2022 for the lands known as 726 Gorham Road, and further
<u>THAT</u> Council approves the Draft Plan of Subdivision for 726 Gorham Road dated December 23, 2021, showing 8 lots for single detached dwellings, as attached as Appendix “2” of Report No. PDS-66-2022, in accordance with the provisions of the <i>Planning Act</i> , R.S.O. 1990 c. P. 13 and the Regulations thereunder, subject to the conditions contained in Appendix “5” of Report No. PDS-66-2022, and further
<u>THAT</u> Council directs staff to circulate the Conditions of Draft Plan Approval in Appendix “5” of Report No. PDS-66-2022 to the applicable agencies in accordance with the requirements of the <i>Planning Act</i> , and further
<u>THAT</u> 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
Urban in Mind – Jacob Dickie (Agent) 2655321 Ontario Ltd. – Mark Spadafora (Owner) Residents and Property Owners in the Town of Fort Erie

Prepared by:	Submitted by:	Approved by:
Original Signed	Original Signed	Original Signed
Mackenzie Ceci Intermediate Development Planner	Alex Herlovitch, MCIP, RPP Director, Planning and Development Services	Chris McQueen, MBA Chief Administrative Officer
Reviewed by:		
Original Signed		
Anamika Dilwaria, MCIP, RPP Manager, Development Approvals		

Purpose

Mark Spadafora of 2655321 Ontario Ltd., Owner of the subject property at 726 Gorham Road, has submitted Zoning By-law Amendment and Draft Plan of Subdivision applications. Jacob Dickie of Urban in Mind has been retained to represent the Owner. The purpose of this report is to provide recommendations to Council with respect to the proposed applications. The statutory Public Meeting for this proposal was held on July 11, 2022. Council received the related Report No. [PDS-46-2022](#) for information purposes on July 11, 2022.

A Location Plan of the property that is subject to the proposed applications is attached as **Appendix “1”**.

The Draft Plan of Subdivision application proposes the creation of a subdivision containing a total of eight lots, each with frontage on Gorham Road. Lot 7, which is the largest of the eight lots, is proposed to retain the existing single detached dwelling, and all of the lands impacted by the floodplain associated with the Beaver Creek watercourse, whereas Lots 1 to 6 and 8 are intended for the future development of single detached dwellings. The proposed Draft Plan of Subdivision is attached as **Appendix “2”**.

In order to facilitate the creation of the proposed subdivision, the Applicant has submitted a concurrent Zoning By-law Amendment application that proposes to rezone a portion of the subject property that is currently zoned Residential 1 (R1) Zone to a site-specific Residential 2 (R2) Zone in order to permit the proposed lot frontages, as shown on **Appendix “2”**. The Hazard (H) Zone will be maintained on the portion of the property that is impacted by the Beaver Creek floodplain. In consultation with Town and Regional Staff, the Applicant is proposing to introduce a site-specific Environmental Conservation (EC) Overlay Zone that corresponds with the fish habitat buffer and

proposed rain gardens. A schedule showing the proposed zoning for the subject property is included as **Appendix “3”**.

Nature of the Site

The subject property is located in the Ridgeway-Thunder Bay neighbourhood of the Town of Fort Erie, north of Nigh Road. The subject property is 6,807.00 m² (1.68 ac or 0.68 ha) in size, with roughly 120.00 m of frontage on Gorham Road. The property partly contains the floodplain associated with Beaver Creek, which is located to the east of the subject property. The property currently contains a single detached dwelling and corresponding septic system, which is located north of the dwelling. A vegetative buffer associated with Beaver Creek is located along the east property line, and the remaining land area largely consists of a manicured lawn.

The following summarizes the land uses surrounding the subject property:

North:	Rural lands and single detached dwelling at 792 Gorham Road
South:	Single detached dwellings at 710 Gorham Road and south of Nigh Road, and vacant residential lands at 0-18880 and 0-18881 Gorham Road. The Niagara Regional Nigh Road Sewage Pumping Station is located southeast of the subject property
East:	Beaver Creek watercourse and associated floodplain
West:	Single detached dwellings on the west side of Gorham Road

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 opportunities for intensification, the redevelopment of underutilized lands, and infill development where appropriate.

The proposal complies with the policies outlined in the PPS as it will facilitate intensification on a municipally-serviced and underutilized parcel.

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 identified as a Designated Greenfield Area. Designated Greenfield Areas are located within Settlement Areas (not including rural settlements) and are required to accommodate forecasted growth, and will be planned, designated, zoned and designed

in a manner that supports the achievement of complete communities, supports active transportation, and encourages the integration and sustained viability of transit services. The minimum density target applicable to Designated Greenfield Areas is 50 residents and jobs combined per hectare.

The proposal complies with the policies outlined in the Growth Plan. Although the proposal will produce a density target of 36 residents and jobs per hectare, Staff note that this is an improvement over the existing density, and that the target is to be achieved across all Designated Greenfield Areas. As such, the density shortfall can be compensated for through a future development in the Town. Further, as the proposal involves the rezoning and designing of the lands to accommodate growth, Staff are satisfied that the proposal is consistent with the Growth Plan.

2014 Regional Official Plan (ROP)

The 2014 Regional Official Plan (ROP) identifies this property as being within a Designated Greenfield Area. The ROP states that Designated Greenfield Areas will be planned as compact, complete communities that accommodate a range of land uses, including residential uses, make a significant contribution to the growth of the respective Urban Areas as a complete community, provide opportunities for integrated, mixed land uses, support transit and active transportation, and the provision of municipal services, and development that is orderly, sequential and contiguous with existing built-up areas. The ROP requires a minimum combined gross density target of 50 people and jobs per hectare across all Designated Greenfield Areas, excluding environmental features identified in the Region's Core Natural Heritage System and non-developable features that are designated in municipal Official Plans.

The proposal complies with the policies outlined in the ROP. The proposal represents an efficient use of urban residential land and existing services, and is compatible with, and responsive to the adjacent watercourse and surrounding low density residential uses. The proposal aligns with Regional growth management policies, and assists the Town with achieving its intensification target.

Town of Fort Erie Official Plan & Ridgeway-Thunder Bay Secondary Plan

The subject property is designated Low Density Residential and Environmental Protection in the Town of Fort Erie Official Plan and the Ridgeway-Thunder Bay Secondary Plan.

Lands designated Environmental Protection are associated with the Beaver Creek floodplain and watercourse. No development is proposed in this area.

Schedule C1 of the Official Plan identifies the subject property as containing a natural hazard. The natural hazard is a floodplain associated with the Beaver Creek watercourse. Beaver Creek, which is located immediately east of the subject property, contains a Type 1 Critical Fish Habitat. No development is proposed in the floodplain.

An Environmental Impact Study has been submitted with the applications and has been reviewed by Niagara Regional Environmental Planning Staff and the Niagara Peninsula Conservation Authority (NPCA). Comments from the NPCA are attached as **Appendix “4”** and are summarized under *Comments from Relevant Departments/Community and Corporate Partners*.

The Secondary Plan states that lands designated Low Density Residential are reserved for single detached, semi-detached and duplex dwellings, and a density range of up to 25 units per hectare. The proposed draft plan of subdivision has a gross density of 11.76 units per hectare, and a net density of 17.0 units per hectare, upon excluding lands impacted by the floodplain and fish habitat buffer. Subsection 4.18.6 (c) of the Secondary Plan notes that new or redeveloping low density development can be expected to comprise smaller lot area and dimension, providing for the efficient use of existing infrastructure and a variety of housing.

The Secondary Plan is also guided by the following objectives under Section 4.18.4:

- Encourage new development and re-development that respects the unique history of the neighbourhood and is compatible with the existing built environment. *Compatibility does not mean the same as.*
- New housing development and re-development will be integrated with existing built up areas, open spaces and natural heritage features.
- Promote conservation of natural areas together with sensitive development.
- Encourage development forms which are compact, to utilize urban land and services efficiently.

The proposal complies with the intent and objectives of the Official Plan & Secondary Plan. The proposed Draft Plan of Subdivision and accompanying Zoning By-law Amendment propose a compact development form that utilizes urban land and municipal services efficiently, and is comprised of smaller lot dimensions, specifically with respect to frontage. The proposed zoning and lot fabric represent an innovative and sensitive development approach that responds to, and respects the natural environment, alongside Provincial, Regional and Town policies. Lastly, Staff are satisfied that the proposal is consistent with the existing built environment of the community as the proposal will introduce low density residential development, specifically single detached dwellings, which aligns with the uses and built form that exist throughout the surrounding community.

Comprehensive Zoning By-law No. 129-1990

The subject property is currently zoned Residential 1 (R1) Zone in part, and Hazard (H) Zone in part, in accordance with the Town of Fort Erie's Comprehensive Zoning By-law No. 129-1990, as amended.

The schedule shown in **Appendix "3"** illustrates the proposed zoning changes. The lands currently zoned R1 Zone and shown in yellow on **Appendix "3"** are proposed to be changed to a site-specific Residential 2 (R2) Zone with provisions that address the proposed lot frontages, as shown on **Appendix "2"**. The lot frontages of the proposed lots range from 13.00 m (Lot 8) to 16.45 m (Lot 7), with an average lot frontage of 14.82 m, whereas the R2 Zone has a minimum lot frontage requirement of 15.00 m.

The Hazard (H) Zone will be maintained on the portion of the property that is impacted by the Beaver Creek floodplain, shown in solid green on **Appendix "3"**. The floodplain currently impacts the rear of proposed Lots 7 and 1. In order to contain the floodplain wholly on Lot 7, the Applicant is proposing to relocate the floodplain and corresponding Hazard Zone by bringing in fill, as permitted through the Niagara Peninsula Conservation Authority (NPCA) work permit that was obtained by the Applicant.

Further, in consultation with Town and Regional Staff, the Applicant is proposing to introduce a site-specific Environmental Conservation (EC) Overlay Zone that corresponds with the fish habitat buffer and proposed rain gardens, shown in green shading on **Appendix "3"**. Town and Regional Staff proposed this additional zoning to ensure that future development cannot occur within the fish habitat buffer, and to ensure that the rain gardens, as proposed through the Applicant's Environmental Impact Study, cannot be decommissioned by future landowners.

Lastly, in response to the concerns raised by some members of Council, specifically with respect to vehicular safety concerns on Gorham Road and the proposed lot fabric, Staff have introduced two additional site-specific zoning provisions that will require a minimum lot area of 600.00 m², and a minimum front yard setback of 7.50 m. The rationale for including these provisions is discussed in detail in the "Public Comments" section of this report.

The proposed site-specific regulations are highlighted in red in **Table 1** below.

Table 1. Zoning requirement comparison – proposed vs. as-of-right

Zoning Regulation	Existing R1 Zone Requirements	Standard R2 Zone Requirements	Site-Specific R2 Zone Requirements
Minimum Lot Frontage	18.00 m	15.00 m	<ul style="list-style-type: none"> • 13.00 m (Lot 8) • 16.54 m (Lot 7) • 14.52 m (Lots 1 - 6)
Minimum Lot Area	600.00 m ²	510.00 m ²	600.00 m ²
Maximum Lot Coverage of Dwelling	30.00 %	35.00 % / 40.00%	35.00 % / 40.00%
Minimum Front Yard	7.50 m	6.00 m	7.50 m
Minimum Interior Side Yard	1.50 m for a one-storey dwelling 2.00 m for a two-storey dwelling	1.20 m for a one-storey dwelling 1.50 m for anything above a one-storey dwelling	1.20 m for a one-storey dwelling 1.50 m for anything above a one-storey dwelling
Minimum Rear Yard	10.00 m	8.00 m	8.00 m
Maximum Height	2.5 storeys 9.00 m	2 storeys 9.00 m	2 storeys 9.00 m

Draft Plan of Subdivision Design

The proposed Draft Plan of Subdivision contains a total of eight lots, each with frontage on Gorham Road. The frontage and area of each lot is presented in **Table 2** below. Lot 7, which is the largest of the eight lots, is proposed to retain the existing single detached dwelling, and all of the lands impacted by the floodplain associated with the Beaver Creek watercourse. Lots 1 to 6 and 8 are intended for the future development of single detached dwellings and will be located entirely outside of the floodplain and Hazard Zone.

Staff note that the existing septic system will have to be decommissioned, and that extensions of the municipal sanitary sewer and watermain are required. The Developer will be responsible for all associated costs to extend required municipal services for the development. Further, the Developer will be required to construct a 1.50 m wide concrete sidewalk across the entire frontage of the subject property.

Table 2. Lot areas and frontages for proposed Draft Plan of Subdivision

Lot No.	Area	Frontage
1	614.00 m ²	14.90 m
2	626.00 m ²	14.52 m
3	670.00 m ²	14.87 m
4	688.00 m ²	14.90 m
5	702.00 m ²	14.93 m
6	735.00 m ²	14.95 m
7	2,107.00 m ²	16.45 m
8	665.00 m ²	13.00 m

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](#);
- [Functional Servicing and Stormwater Management Report](#); and
- [Noise Impact Study](#)

Staff note that the findings of these studies are discussed in detail throughout Report No. [PDS-46-2022](#).

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 July 11th, 2022 Public Meeting was circulated in accordance with the *Planning Act* by placing an advertisement in the June 16th, 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 June 17th, 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 May 18th, 2022. Comments received prior to the Public Meeting are included in Information Report No. [PDS-46-2022](#) for review.

Comments from the Niagara Peninsula Conservation Authority were received on August 8, 2022, which are summarized below. Detailed comments are attached as **Appendix “4”**.

Niagara Peninsula Conservation Authority (NPCA)

The subject lands are traversed by Beaver Creek and are therefore impacted by the floodplain hazard associated with this section of the Creek. As such, development on these lands is subject to NPCA policies and regulations.

NPCA policies do not permit the creation of new lots that contain flood hazards. To avoid having new lots created that contain the floodplain hazard, the Applicant has proposed to do certain NPCA approved works through a Work Permit, namely the relocation of the floodplain so that all floodplain hazard lands remain on one lot and are not further fragmented or contained on the newly created lots. The NPCA has issued Work Permit PLPER202200266 to permit such works.

Further, all works within 15.00 m of the Creek itself must be assessed through further environmental work to ensure that there are no negative impacts to the watercourse or its functions. An Environmental Impact Study (EIS) was completed to address the encroachment into the 15.00 m buffer from the Creek. NPCA staff are satisfied with the EIS and have included conditions of draft plan approval to ensure the recommendations of the environmental studies are adhered to.

In summary, the NPCA is supportive of the proposed development, subject to the inclusion of conditions of draft plan approval, namely conditions 40-47, as contained in **Appendix “5”**.

Public Comments

A Public Information Open House for these applications was held on June 7th, 2022. All property owners within 120 metres of the subject property were notified of the Open House via mailed notice. One member of the public was in attendance and comments were received by email from two additional area residents. Public comments and correspondence received prior to the Information Report, and responses from Town Planning Staff and the Agent are available for review through Report No. [PDS-46-2022](#).

At the July 11th, 2022 Public Meeting, additional concerns and questions were raised by

a member of the public and some members of Council. The concerns and responses are summarized below.

Safety on Gorham Road

Concerns about safety on Gorham Road, specifically with respect to the proposed number of driveways, and accidents at the intersection of Nigh Road and Gorham Road.

Staff's Response

Staff note that Gorham Road is an arterial Regional Road. Arterial roads are roadways that are designed to carry moderate volumes of medium distance inter-regional and inter-municipal traffic, as well as traffic en route to and from the Provincial highway system. No safety concerns were identified by Regional Staff.

With respect to the concern related to the number of driveways, Planning Staff, in consultation with the Applicant, have included a site-specific zoning provision that would require the Applicant to provide a minimum front yard setback of 7.50 m, whereas 6.00 m, in accordance with the Residential 2 (R2) Zone, was originally proposed. Staff note that this 7.50 m setback aligns with the minimum front yard setback requirement of the existing Residential 1 (R1) Zone, and will address safety concerns by providing sufficient space in front of the future dwellings to accommodate a hammer-head driveway turnaround, which would allow cars to exit onto Gorham Road front-first.

With respect to the accidents at the intersection of Nigh Road and Gorham Road, over a period of ten years, a total of ten accidents have occurred at, or in the proximity of the intersection, as listed in **Table 3** and displayed in **Image 1**. Only three of the ten accidents have occurred at the two-way stop intersection of Nigh Road and Gorham Road, and were as a result of driver negligence. Based on this historical information, Staff are satisfied that the seven additional lots will not impact vehicular safety on Gorham Road.

Table 3. Accident reporting at, and in proximity to the intersection of Nigh Road and Gorham Road

Point Reference	Year	Location
1	2020	Gorham Road Between Nigh Road & Highway 3
2	2018	Gorham Road at Nigh Road
3	2021	Gorham Road at Nigh Road
4	2019	Gorham Road at Nigh Road
5	2021	Nigh Road Between Gorham Road & Cauthard Road
6	2019	Nigh Road Between Ridge Road North & Gorham Road
7	2018	Gorham Road Between Christina Court & Nigh Road
8	2013	Gorham Road Between Christina Court & Nigh Road
9	2022	Gorham Road Between Christina Court & Nigh Road
10	2019	Gorham Road Between Christina Court & Nigh Road



Image 1. Map of accident locations at, and in proximity to the intersection of Nigh Road and Gorham Road

Grading

Concerns about the grading of the site, specifically with respect to the driveway slopes, and the portion of Lot 1 that is subject to the work permit under the Niagara Peninsula Conservation Authority (NPCA).

Staff's Response

With respect to driveway slopes and site grading in general, these details are reviewed and finalized through the final subdivision approval process. However, Planning Staff note that the Council-approved Lot Grading Policy permits a driveway slope of 6.00%, and that the Applicant's Engineer has reduced the slopes to 4.00% to satisfy this Policy.

With respect to the NPCA work permit that was issued on May 11, 2022 for the subject property, the Applicant is proposing to bring in 30.00 m³ of fill to facilitate the relocation of the floodplain. This will allow all of the floodplain hazard lands to remain on one lot and under single ownership, which satisfies the policies of the NPCA. The scope of this work is under the jurisdiction of the NPCA. All of their requirements, including the

submission of an Erosion and Sediment Control Plan, have been satisfied by the Applicant in order to facilitate the issuance of the permit.

Fencing

Questions related to proposed fencing, specifically with respect to maintenance, ownership, and location.

Planning Staff have implemented the provision of a 1.80 m wood board privacy fence along the north and south property lines of the subject property as a condition of draft plan approval. Staff note that the privacy fence along the north property line will be located partly on Lot 1, and partly on Lot 7, and will be under the ownership of those respective owners. Similarly, the privacy fence along the south property line will be located partly on Lot 8, and partly on Lot 7, again being under the ownership of those respective owners.

Further, Staff note that the Applicant's Environmental Impact Study notes that a permanent rear yard fence is proposed across the entire east property line to separate the subdivision from Beaver Creek. This fence would be located entirely on Lot 7, and would be under ownership of the respective owner. Regional Environmental Planning Staff have included the provision of this fencing as a condition of draft plan approval (Condition 22).

Rain Gardens

Questions and concerns about the proposed rain gardens, specifically with respect to their long-term maintenance and functionality.

Staff's Response

Staff note that a rain garden is a form of green infrastructure, and is considered a stormwater management feature, as they provide a positive contribution to water quality and quantity control. The proposed rain gardens were designed by an Engineer to ensure that they are appropriately sized to retain runoff and preserve pre-development stormwater conditions. The proposed rain gardens also complement the function of the fish habitat buffer associated with Beaver Creek, and assist with mitigating erosion.

To ensure that these rain gardens remain in place in perpetuity, Planning Staff have included the following site-specific provisions under the Environmental Conservation (EC) Overlay zoning that is proposed for the site:

- (a) Notwithstanding the Permitted Uses in Subsection 35B.2, these lands shall be used for no other purpose than the conservation of plant and wildlife associated with the Beaver Creek fish habitat buffer, and the installation and maintenance of rear yard rain gardens that have a

minimum depth of 150.00 mm, minimum length of 7.20 m, and a minimum width of 3.60 m; and

- (b) Notwithstanding the Regulations in Subsection 35B.3, rear yard rain gardens are to be maintained in perpetuity, and removal or decommissioning is prohibited.

Further, Niagara Regional Environmental Planning Staff have included a condition of draft plan approval (Condition 12) which states *“that the subdivision agreement between the owner and the Town of Fort Erie contain provisions whereby the owner and subsequent owners agree to the maintenance of the proposed rain gardens as a stormwater management feature to be maintained in perpetuity”*.

Planning Staff are satisfied that these measures address the questions and concerns that were raised.

Proposed Density and Number of Lots

Questions and concerns with respect to the proposed density and number of lots, and what is permitted as-of-right.

Staff's Response

Staff have prepared **Table 4** below which provides lot and density information based on two scenarios: 1) if the Developer were to proceed with a Draft Plan of Subdivision under the current Residential 1 (R1) zoning, and 2) if the proposed site-specific Residential 2 (R2) Zone was implemented.

Table 4. Comparative total lot and density information.

Zoning	Number of Lots	Gross Density (units/ha)	Net Density (units/ha)
Existing Residential 1 (R1) Zone	6	8.82	12.75
Proposed Site-Specific Residential 2 (R2) Zone	8	11.76	17.00

Planning Staff are of the opinion that the proposed Zoning By-law Amendment and Draft Plan of Subdivision represent a compact form of development that will better utilize the Town's existing urban land and municipal infrastructure, and align with the intent and objectives of the Ridgeway-Thunder Bay Secondary Plan, alongside Provincial and Regional policies. The proposed density falls within the density range of up to 25 units per hectare that was allocated for the site through the Secondary Plan process, and responds to the Secondary Plan policy that states that *“new or redeveloping low density development can be expected to comprise smaller lot area and dimension, providing for the efficient use of existing infrastructure while broadening choice”*.

As each lot will exceed the 600.00 m² lot area requirement of the R1 Zone and will be utilized for low density residential development, specifically the construction of single detached dwellings, Staff are of the opinion that the proposal is compatible with the built form and lot fabric of the surrounding community, and note that as per the Secondary Plan, *“compatibility does not mean the same as”*.

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 are of the opinion that the proposed Zoning By-law Amendment and Draft Plan of Subdivision applications represent good planning. The applications will facilitate the creation of a subdivision containing a total of eight lots, which represents a compact form of development that will better utilize the Town's existing urban land and municipal infrastructure, and aligns with the intent and objectives of the Ridgeway-Thunder Bay Secondary Plan, alongside Provincial and Regional policies. Staff are of the opinion that the proposed zoning and lot fabric represent an innovative and sensitive development approach that responds to, and respects the natural environment, and is consistent with the existing built environment of the community. Planning Staff recommend that Council approves the Zoning By-law Amendment and Draft Plan of Subdivision as proposed.

Attachments

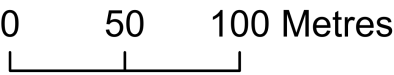
Appendix “1” - Location Plan

Appendix “2” - Proposed Draft Plan of Subdivision

Appendix “3” - Proposed Zoning By-law Schedule


Appendix “4” - Niagara Peninsula Conservation Authority Comments

Appendix “5” - Conditions of Draft Plan Approval

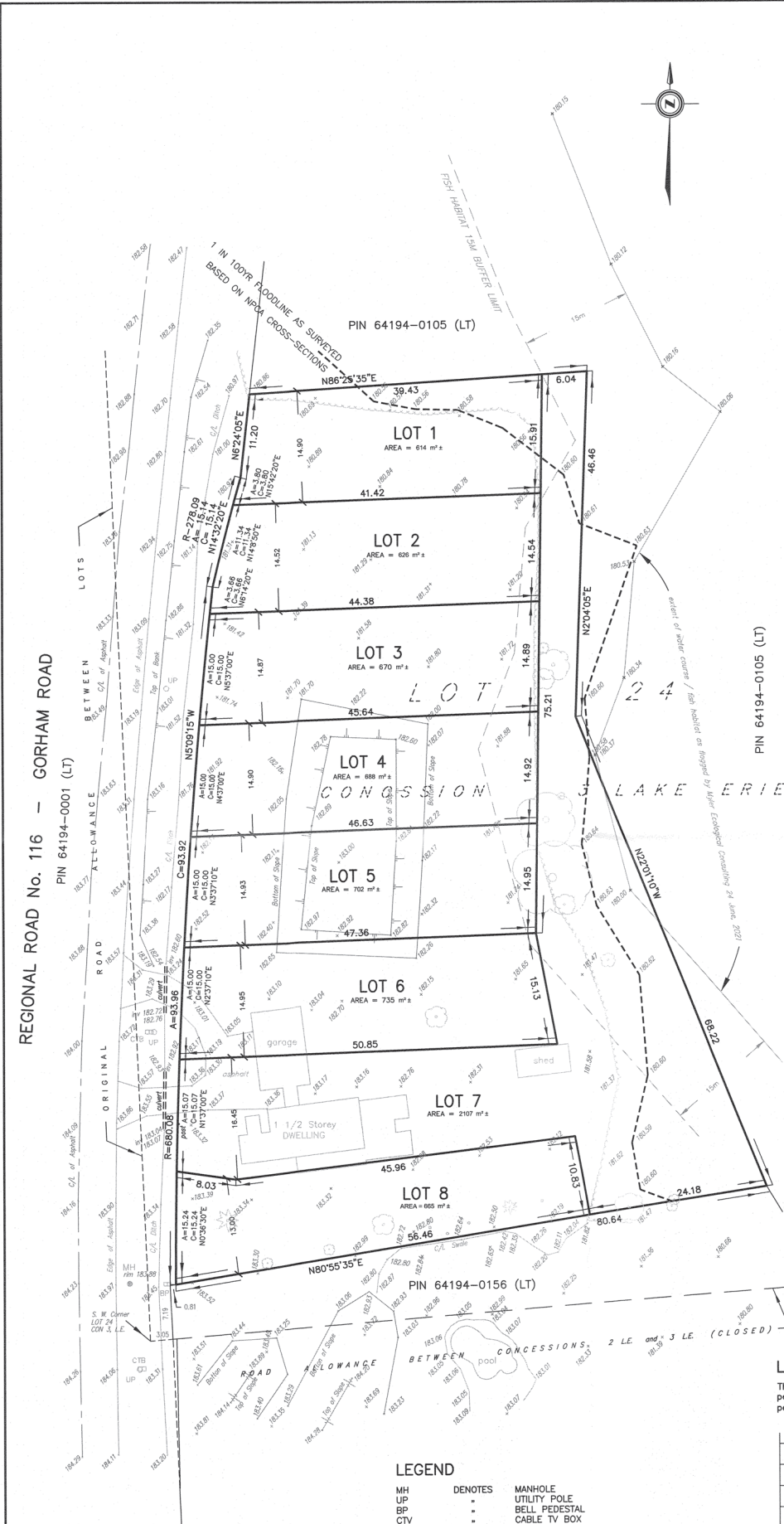


LOCATION PLAN

Zoning By-law Amendment & Plan of Subdivision - 726 Gorham Road

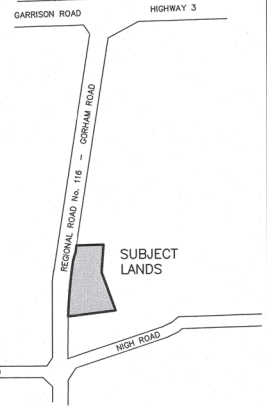
 Subject Lands - 726 Gorham Road





KEY PLAN

not to scale



DRAFT PLAN OF SUBDIVISION PART OF LOT 24 CONCESSION 3 LAKE ERIE GEOGRAPHIC TOWNSHIP OF BERIT TOWN OF FORT ERIE REGIONAL MUNICIPALITY OF NIAGARA

SCALE 1 : 400
10 0 10 20 metres

A Division of J.D. Barnes Limited
Kirkup Mascoe Ure Surveying
ONTARIO LAND SURVEYORS

THE REPRODUCTION, ALTERATION OR USE OF THIS REPORT, IN WHOLE OR IN PART, WITHOUT THE PERMISSION OF KIRKUP MASCOE URE SURVEYING IS PROHIBITED.

REQUIREMENTS OF SECTION 51(17) OF THE PLANNING ACT

- | | | |
|-----------------|--------------------|-----------------------|
| a) SEE PLAN | e) SEE PLAN | i) CLAY LOAM |
| b) SEE PLAN | f) SEE PLAN | j) SEE PLAN |
| c) SEE PLAN | g) SEE PLAN | k) MUNICIPAL SERVICES |
| d) SEE SCHEDULE | h) MUNICIPAL WATER | l) SEE PLAN |

LAND USE SCHEDULE 8 SINGLE FAMILY LOTS

SURVEYOR'S CERTIFICATE

I HEREBY CERTIFY THAT THE BOUNDARIES OF THE LANDS TO BE SUBDIVIDED ARE CORRECTLY SHOWN

ROY S. KIRKUP
ONTARIO LAND SURVEYOR

DECEMBER 23, 2021
DATE

OWNER'S CERTIFICATE

BEING THE REGISTERED OWNER, WE HEREBY AUTHORIZE KIRKUP MASCOE URE SURVEYING TO PREPARE AND SUBMIT THIS DRAFT PLAN OF SUBDIVISION TO THE TOWN OF FORT ERIE FOR APPROVAL.

OWNER : 2644352 ONTARIO LIMITED

FRANK SPADAFORA, DIRECTOR / PRESIDENT
I HAVE THE AUTHORITY TO BIND THE CORPORATION

DATE

LOT FRONTAGE NOTE

The lot frontage was measured by a line 7.5m back on a line perpendicular to a line joining midpoints of front and rear lot lines as per 5.196(Definitions) Town of Fort Erie Zoning by-Law 129-90

LEGEND

- | | | |
|-----|---------|-----------------|
| MH | DENOTES | MANHOLE |
| UP | | UTILITY POLE |
| BP | | BELL PEDESTAL |
| CTV | | CABLE TV BOX |
| | | DECIDUOUS TREE |
| | | CONIFEROUS TREE |
| | | SHRUB |

BENCHMARK NOTE

ELEVATIONS ARE GEODETIC AND WERE DERIVED FROM TOWN OF FORT ERIE BENCH MARK 001197U037, HAVING A PUBLISHED ELEVATION OF 200.338 metres.

METRIC

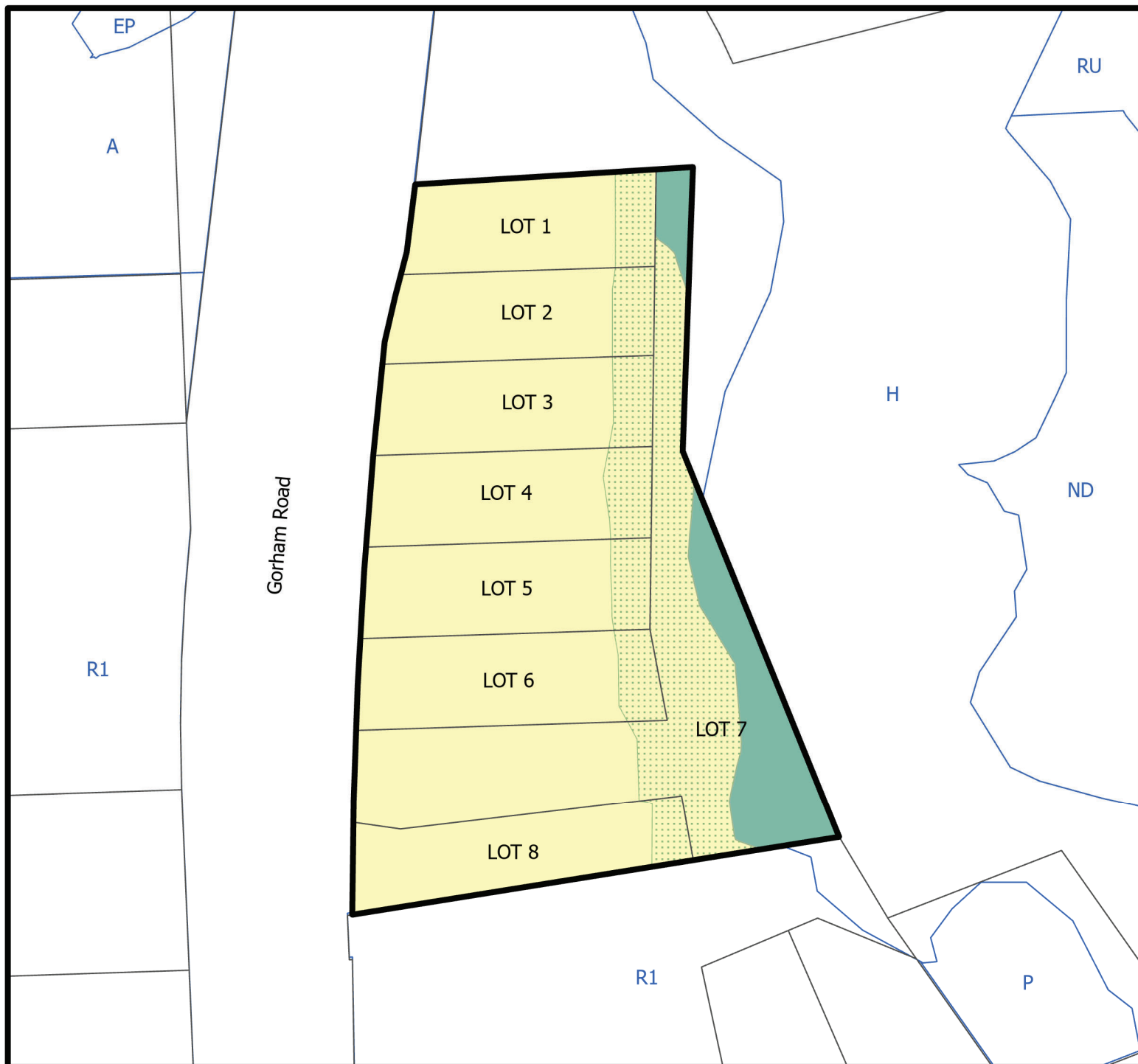
CONVERSION OF METRIC TO FEET BY DIVIDING BY 0.3048.

A	26/MAY/22	LOT FRONTAGES ADDED
	23/DEC/21	INITIAL RELEASE
REVISION	DATE	REMARKS

Kirkup Mascoe Ure Surveying
A Division of J.D. Barnes Limited


4318 PORTAGE ROAD, UNIT 2, NIAGARA FALLS, ON L2E6A4
T: (905) 641-1007 F: (905) 641-4424 www.jdbarnes.com


DRAWN BY: GP	CHECKED BY: RSK	REFERENCE NO: 49-104-00_3draftplan
PLOTTED: DECEMBER 23, 2021	PAGE 232 OF 448	DATED: DECEMBER 23, 2021




By-law No. XX-2022

**THIS SKETCH FORMS PART OF SCHEDULE "A" TO BY-LAW NO. 129-90
PASSED THIS 19th DAY OF SEPTEMBER, 2022**

 Subject Lands - 726 Gorham Road

 Part 1 - Change from Residential 1 (R1) Zone to Residential 2 (R2-753) Zone

 Part 2 - Change from Residential 1 (R1) Zone to Environmental Conservation (EC-754) Overlay Zone

 Part 3 - Hazard (H) Zone

Proposed Zoning By-law Amendment and Draft Plan of Subdivision - 726 Gorham Road



Planning and Development Services
Page 233 of 448
Map Created August 24, 2022



250 Thorold Road West, 3rd Floor, Welland, Ontario L3C 3W2
Telephone 905.788.3135 | Facsimile 905.788.1121 | www.npca.ca

August 8, 2022

Via Email Only

Ms. Mackenzie Ceci, BSc, MSc PI
Junior Development Planner
The Corporation of the Town of Fort Erie
Planning and Development Services
1 Municipal Centre Drive, Fort Erie, Ontario L2A 2S6

Our File: PLSUB202200841

Dear Ms. Ceci

**Re: Niagara Peninsula Conservation Authority (NPCA) Comments
Proposed Zoning By-law Amendment & Draft Plan of Subdivision
Applications for 726 Gorham Road**

Further to the circulation of the above applications, we offer the following comments for your consideration.

These applications propose the creation of a subdivision with a total of 8 lots fronting onto Gorham Road. Lot 7 will retain the existing single detached dwelling, and Lots 1 to 6 and 8 are intended for the future development of single detached dwellings. NPCA staff understand through correspondence from Town staff that the subject lands fall within the Urban Boundary and are designated Low Density Residential within the Ridgeway-Thunder Bay Secondary Plan. The subject property is currently zoned Residential 1 Zone in part, and Hazard Zone in part, in accordance with the Town of Fort Erie Comprehensive Zoning By-law No. 129-90, as amended. The Applicant is proposing to rezone part of the lands to a site-specific Residential 2 Zone to address the lot frontage deficiencies of the proposed lots. The Applicant is also proposing to modify the flood line and associated Hazard Zone.

The Niagara Peninsula Conservation Authority (NPCA) regulates watercourses, flood plains (up to the 100 year flood level), Great Lakes shorelines, hazardous land, valleylands, and wetlands under *Ontario Regulation 155/06 of the Conservation Authorities Act*. The NPCA's *Policies, Procedures and Guidelines for the Administration of Ontario Regulation 155/06 and Land Use Planning Policy Document* (NPCA policies) provides the direction for managing these regulated features. The following comments are offered in that context. The comments below also reflect the NPCA's delegated responsibility to provide comments on Planning Applications as they relate to Section 3.1 of the Provincial Policy Statement.

The subject lands are traversed by Beaver Creek and are therefore impacted by the floodplain hazard associated with this section of the Creek. As such, development on these lands is subject to the above noted NPCA policies and regulations.

NPCA policies do not permit the creation of new lots that would contain flood hazards. Further, all works within 15m of the creek itself must be assessed through further environmental work to ensure no negative impact to the watercourse or its functions. An EIS was completed to address the encroachment into the 15m buffer from the creek. NPCA staff were satisfied with the EIS and have included Draft Plan conditions below to ensure the recommendations of the environmental studies are adhered to.

To avoid having new lots created that contain the floodplain hazard, the Applicant has proposed to do certain NPCA approved works through a Work Permit from this office to relocate the floodplain so that all floodplain hazard lands remain on one lot and are not further fragmented or contained on the newly created lots. The NPCA has issued Work Permit PLPER202200266 to permit such works. Staff have included Draft Plan conditions below to ensure the approval of this development are in line with the approved permit.

Based on the above, the NPCA is supportive of the proposed development subject to the following Conditions of Draft Plan Approval:

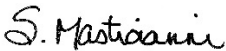
1. That the Developer provide detailed grading and construction sediment and erosion control drawings to the Niagara Peninsula Conservation Authority for review and approval clearly delineating the revised floodplain location (as per NPCA Permit PLPER202200266), watercourse and buffer area.
 - a. The Erosion and Sediment Control Plan shall be consistent with the plan approved in NPCA permit PLPER202200266 which was revised to reflect the correct OPSD for silt fencing.
 - b. Limit of Work Fencing along the approved watercourse buffer shall be shown on all plans.
2. That the Developer provide a detailed Buffer Planting Plan to the NPCA for review and approval.
 - a. The Buffer Plan shall follow the guidance outlined on Page 11 of the EIS.
3. That the Developer obtain all Work Permit(s) from the NPCA for any works within the NPCA regulated features and associated buffer areas (including but not limited to: buffer enhancements, grading, servicing, storm water outlets, fill, etc.).
4. That the Developer provide confirmation from a qualified Consulting Firm that the floodplain works as per NPCA permit PLPER202200266 have been completed on site and are in conformity with the approved permit to the NPCA's satisfaction. This confirmation should take the form of a formal letter from the Consulting firm along with a Plan showing the revised location of the floodplain.
5. That all lands within the revised regulatory floodplain associated with this section of Beaver Creek be placed in a Hazard zone category or similar which prohibits all forms of development or site alterations?

6. That Subdivision Agreement between the owner and the Town of Fort Erie contain the following warning clause, to the satisfaction of the Niagara Peninsula Conservation Authority: "The Owner of Lot 7 is hereby advised that the property contains the Regulatory floodplain associated with Beaver Creek which is regulated by the Niagara Peninsula Conservation Authority. Any development or site alterations requires approval from the Niagara Peninsula Conservation Authority".
7. That the Subdivision Agreement between the owner and the Town of Fort Erie contain provisions wherein the owner agrees to implement the recommendations and mitigation measures found the Scoped EIS prepared by Mylar Ecological Consulting, dated March 2022 and the Tree Inventory and Protection Plan prepared by Jackson Arboriculture, dated January 6, 2022.
8. That conditions 1-7 above be incorporated into the Subdivision Agreement between the Developer and the Town of Fort Erie to the satisfaction of the NPCA. The Town shall circulate the draft Subdivision Agreement to the NPCA Authority for its review and approval.

Conclusion

At this time, NPCA staff have no objections to the applications subject to the Conditions of Draft Plan Approval. I hope this information is helpful. Please send a copy of any staff reports to Committee/Council once they are available. If you have any questions, please let me know.

Regards,



Sarah Mastroianni
Manager, Planning and Permits
NPCA

CONDITIONS OF DRAFT PLAN APPROVAL
726 GORHAM ROAD

The conditions of final approval and registration of the Draft Plan of Subdivision at 726 Gorham Road File No. 350309-0543 Town of Fort Erie are as follows:

1. That this approval applies to the Draft Plan of Subdivision at 726 Gorham Road – Concession 3 Lake Erie Part Lot 24 RP 59R436 Part 2, prepared by Kirkup Mascoe Ure Surveying Limited, dated May 26, 2022, and signed by Roy S. Kirkup on December 23, 2021, showing 8 lots for single detached dwellings.
2. 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.
3. 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."*
4. 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 edge of asphalt to the sidewalk or in the absence of a sidewalk from the edge of asphalt to the property line."*
5. 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.
6. 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.
7. 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.
8. That the owner agrees to construct a 1.50 metre wide sidewalk across the entire frontage of the development lands to the satisfaction of the Town.
9. That the subdivision agreement include a clause requiring that each agreement of purchase and sale state that *"Public sidewalk installation will be in accordance*

with the terms of the subdivision agreement and as per the approved plans on file at Town Hall."

10. 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.
11. 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.
12. 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 9 above.
13. That the subdivision agreement between the owner and the Town of Fort Erie contain provisions whereby the owner and subsequent owners agree to the maintenance of the proposed rain gardens as a stormwater management feature to be maintained in perpetuity.
14. That the Owner agrees to install a 1.80 m wood board privacy fence along the north and south property lines of the subject property, in accordance with By-law No. 150-08, as amended from time to time, and to the satisfaction of the Director, Planning and Development Services.
15. That the Owner submits the "Stage 1-2 Archaeological Assessment" prepared by Seguin Archaeological Services (dated December 30, 2021) to the Ministry of Heritage, Sport, Tourism and Culture Industries (MHSTCI) for review and approval. A copy of the Stage 1-2 Archaeological Assessment, as well as the Letter 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.

NOTE: No demolition, grading, or other soil disturbances shall take place on the subject property prior to the issuance of all applicable Letters of Acknowledgement from the Ministry confirming that all archaeological resource concerns have been mitigated and meet licensing and resource conservation requirements.

16. That the Owner agrees to include the following warning clause with respect to the potential discovery of archaeological resources in the Subdivision Agreement:

a) *"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."

17. That the Subdivision Agreement between the Owner and the Town contain a provision whereby the Owner agrees to implement the approved noise mitigation measures / devices and ensure that the required warning clauses be included in all Agreements of Purchase and Sale or Lease or Rental in accordance with the "Noise Impact Study" prepared by Pinchin Ltd. (dated November 16, 2021).

18. That the Owner agrees to include the following warning clauses in the Subdivision Agreement and in all Agreements of Purchase and Sale or Lease or Occupancy for Units in the Plan of Subdivision:

a) *Purchasers / Tenants are advised that sound levels due to increasing road traffic on Gorham Road may occasionally interfere with some activities of the dwelling unit occupants as the sound level exceed the Municipality's and the Ministry of Environment, Conservation and Parks' noise criteria."*

b) *"The lands in the Plan of Subdivision may be exposed to noise, reduced air quality, odour, and/or dust from the nearby Nigh Road Sewage Pumping Station, agricultural uses / operations, and/or*

vehicle traffic that may interfere with some activities of the Owners / Tenants who occupy these lands."

19. That the Subdivision Agreement contain wording wherein the Owner agrees to implement the following mitigation measures:
 - a) That vegetation removals be undertaken between October 1st and March 14th, outside of both the breeding bird nesting period and active bat season. A survey for active bird nests should be conducted by a qualified professional 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 temporary fencing be installed at the development limit to prevent intrusion into existing riparian vegetation.
20. That the Subdivision Agreement contain wording wherein the Owner agrees to implement the "Sediment and Erosion Control Plan" prepared by Premier Engineering Solutions (dated October 30, 2021, revised date May 2, 2022).
21. That the Subdivision Agreement contain wording wherein the Owner agrees to implement the "Tree Inventory and Preservation Plan Report" prepared by Jackson Arboriculture Inc. (dated January 6, 2022).
22. That the Subdivision Agreement contain wording wherein the Owner agrees to implement the "Site Servicing & Grading Plan" prepared by Premier Engineering Solutions (dated October 30, 2021, revised date February 14, 2022).
23. That permanent rear-lot fencing be provided adjacent to the natural heritage features, to the satisfaction of the Niagara Region. A No-Gate By-law is recommended to reduce human encroachment and limit the movement of pets into the adjacent natural areas.
24. That a Watercourse Restoration and Enhancement Plan be prepared to the satisfaction of the Niagara Region. 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 Watercourse Restoration and Enhancement Plan should be completed by an environmental professional.
25. That the Subdivision Agreement contain wording wherein the Owner agrees to implement the approved Watercourse Restoration and Enhancement Plan.
26. That the Subdivision Agreement contain wording wherein the Owner agrees to monitor all plantings for 2 years post installation, and replace any unsuccessful plantings.

27. That a Rain Garden Design Plan be prepared for Lots 1-8 to the satisfaction of the Niagara Region. Each rain garden shall include a plaque describing the purpose and benefits of the installations and a clear delineation between the gardens and adjacent amenity area be provided on each lot.
28. That the Subdivision Agreement contain wording wherein the Owner agrees to implement the approved Rain Garden Design Plan.
29. That prior to any construction taking place within the Regional Road Allowance, the Owner shall obtain a Construction Encroachment Permit.
30. That prior to any new or altered site entrances onto Regional Road 116 (Gorham Road) are created, the Owner shall obtain a Regional Entrance Permit.
31. That the Owner provides a written acknowledgement to Niagara Region Planning and Development Services Department stating that draft approval of this subdivision does not include a commitment of servicing allocation by Niagara Region as servicing allocation will not be assigned until the plan is registered and that any pre-servicing will be at the sole risk and responsibility of the Owner.
32. That the Owner provides a written undertaking to Niagara Region Planning and Development Services Department stating that all Offers and Agreements of Purchase and Sale or Lease, which may be negotiated prior to registration of this subdivision shall contain a clause indicating that servicing allocation for the 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.
33. That prior to final approval for registration of this subdivision, the Owner shall submit the design drawings [with calculations] for the new sanitary and storm sewers required to service this development and obtain the necessary Ministry of the Environment Compliance Approval (ECA) under the Transfer of Review Program or the pending Consolidated Linear ECA Program.
34. That the Owner will be required to decommission the existing private septic system through a permit with the Region.
35. 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, Conservation and Parks documents entitled *Stormwater Management Planning and Design Manual, March 2003* and *Stormwater Quality Guidelines for New Development, May 1991*, or their successors to the Niagara Region for review and approval:
 - a) Detailed lot grading, servicing and drainage plans, noting both existing and proposed grades and the means whereby overland flows will be accommodated across the site; and

b) Detailed erosion and sedimentation control plans.

36. 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 approved Stormwater Management Plan.
37. 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.
38. 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.
39. Include on all offers of purchase and sale, a statement that advises the prospective purchaser:
- a) that the home/business mail delivery will be from a designated Centralized Mail Box.
 - b) 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.
40. The owner further agrees to:
- a) 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.
 - b) 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
 - c) 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.
 - d) 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.
41. 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.

42. That the Developer provide detailed grading and construction sediment and erosion control drawings to the Niagara Peninsula Conservation Authority for review and approval clearly delineating the revised floodplain location (as per NPCA Permit PLPER202200266), watercourse and buffer area.

a) The Erosion and Sediment Control Plan shall be consistent with the plan approved in NPCA permit PLPER202200266 which was revised to reflect the correct OPSD for silt fencing.

b) Limit of Work Fencing along the approved watercourse buffer shall be shown on all plans.

43. That the Developer provide a detailed Buffer Planting Plan to the NPCA for review and approval.

a) The Buffer Plan shall follow the guidance outlined on Page 11 of the EIS.

44. That the Developer obtain all Work Permit(s) from the NPCA for any works within the NPCA regulated features and associated buffer areas (including but not limited to: buffer enhancements, grading, servicing, storm water outlets, fill, etc.).

45. That the Developer provide confirmation from a qualified Consulting Firm that the floodplain works as per NPCA permit PLPER202200266 have been completed on site and are in conformity with the approved permit to the NPCA's satisfaction. This confirmation should take the form of a formal letter from the Consulting firm along with a Plan showing the revised location of the floodplain.

46. That all lands within the revised regulatory floodplain associated with this section of Beaver Creek be placed in a Hazard zone category or similar which prohibits all forms of development or site alterations.

47. That Subdivision Agreement between the owner and the Town of Fort Erie contain the following warning clause, to the satisfaction of the Niagara Peninsula Conservation Authority: "The Owner of Lot 7 is hereby advised that the property contains the Regulatory floodplain associated with Beaver Creek which is regulated by the Niagara Peninsula Conservation Authority. Any development or site alterations requires approval from the Niagara Peninsula Conservation Authority".

48. That the Subdivision Agreement between the owner and the Town of Fort Erie contain provisions wherein the owner agrees to implement the recommendations and mitigation measures found the Scoped EIS prepared by Mylar Ecological

Consulting, dated March 2022 and the Tree Inventory and Protection Plan prepared by Jackson Arboriculture, dated January 6, 2022.

49. That conditions 40-46 above be incorporated into the Subdivision Agreement between the Developer and the Town of Fort Erie to the satisfaction of the NPCA. The Town shall circulate the draft Subdivision Agreement to the NPCA Authority for its review and approval.

Clearance of Conditions

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 Planning & Development Department for Conditions 15-36 (inclusive)
- ◆ Bell Canada for Conditions 37 and 38 (inclusive)
- ◆ Canada Post for Conditions 39-41 (inclusive)
- ◆ Niagara Peninsula Conservation Authority 42-49 (inclusive)

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 with 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:

Director, Development Approvals
Planning and Development Services Department
The Regional Municipality of Niagara
1815 Sir Isaac Brock Way
Thorold, ON, L2V 4T7
Phone: (905) 980-6000
Toll Free: 1-(800) 263-7215
Email: devtplanningapplications@niagararegion.ca

Ryan Courville
Bell Canada
Manager – Planning and Development
Network Provisioning
Email: planninganddevelopment@bell.ca

Andrew Carrigan
Canada Post
Officer, Delivery Planning
Canada Post
955 Highbury Avenue North
London, Ontario N5Y 1A3
Phone: 226-268-5914
Email: andrew.carrigan@canadapost.ca

Sarah Mastroianni
Manager, Planning & Development
250 Thorold Road West, 3rd Floor
Welland, ON
L3C 3W2
(905) 788-3135 ext. 249
smastroianni@npca.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 the Regional Planning and Development Services Department for verification that the appropriate clauses pertaining to any of these conditions of approval have been included.

7. NOTES

- 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
- 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.
- The Owner is advised to contact Bell Canada at planninganddevelopment@bell.ca during the detailed utility design stage to confirm the provision of communication/telecommunication infrastructure needed to service the development.
- It is the responsibility of the Owner to provide entrance/service duct(s) from Bell Canada's existing network infrastructure to service this development. In the event that no such network infrastructure exists, in accordance with the Bell Canada Act, the Owner may be required to pay for the extension of such network infrastructure.
- If the Owner elects not to pay for the above noted connection, Bell Canada may decide not to provide service to this development.



Planning and Development Services

Prepared for	Council-in-Committee	Administrative Report No.	PDS-67-2022
Agenda Date	September 12, 2022	File No.	130102

Subject

LIONS SUGARBOWL PARK PAVILION FUNDING REQUEST

Recommendations

THAT Council consider the allocation of funds for the Lions Sugarbowl Park pavilion installation through the 2023 Capital Budget deliberations, and further

THAT Council consider acceptance of the donations of \$50,000 from the Fort Erie Lions Club and \$20,000 from the Underwater Recovery Unit towards the installation of the Lions Sugarbowl Park pavilion through the 2023 capital budget deliberations.

Relation to Council's 2018-2022 Corporate Strategic Plan

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

Goal 1.5: Capital investment plan to include healthy living infrastructure (trails, parks/recreation, transit connections etc.)

Priority: Managed Growth through Responsibility, Stewardship and Preservation

Goal 5.1: Approve and implement recommendations identified in the Active Transportation Master Plan and Parks Master Plan

Goal 5.3: Capital investment plan to include cultural & natural heritage preservation, recreation, active transportation and infrastructure investments

List of Stakeholders

Residents of the Town of Fort Erie
The Corporation of the Town of Fort Erie
Park Visitors and Stakeholders
Fort Erie Lions Club
Fort Erie Underwater Recovery Unit

Prepared by:	Submitted by:	Approved by:
ORIGINAL SIGNED	ORIGINAL SIGNED	ORIGINAL SIGNED
Signe Hansen, OALA, CSLA, MBA Manager, Community Planning	Alex Herlovitch, MCIP, RPP Director, Planning & Development Services	Chris McQueen, MBA Chief Administrative Officer

Purpose of Report

As directed by Council pursuant to a delegation at its July 18, 2022 Regular meeting, the purpose of this report is to present a recommendation relative to the installation of a pavilion in Lions Sugarbowl Park, and the request for \$130,000 to supplement the \$70,000 donation from the Fort Erie Lions Club and the Fort Erie Underwater Recovery Unit.

Analysis

Background

By way of [Report CDS-15-13](#), dated February 4, 2013, Council gave permission to Heritage Arts Legacy of Fort Erie to construct a public pavilion in Lions Sugarbowl Park, subject to the organization raising the necessary funds. Upon meeting the fundraising target, the Town would be responsible for design control and management of construction of the pavilion on Town property, such that it would meet Town standards and relevant regulations.

While the original plan for Lions Sugarbowl Park did not identify a large pavilion, the intent is to provide a focal point, a location for shade and a central gathering place in one of Fort Erie's most prominent parks.

By way of [Report PDS-44-2018](#) dated July 9, 2018, Council confirmed its support for the installation of a pavilion in Lions Sugarbowl Park by way of a community partnership, and authorized a change in the lead organization to the Fort Erie Lions Club.

The report outlined that the Fort Erie Lions Club, with support from Heritage Arts Legacy of Fort Erie, would be responsible for raising all of the funds necessary to supply and construct the pavilion through various fundraising efforts. At that time, aside from providing land upon which the pavilion could be constructed, there was to be no capital cost implications to the Town. It was identified that a pavilion of appropriate scale for Lions Sugarbowl Park could range in cost from \$100,000 to \$250,000, depending on materials, design and size.

July 18, 2022 Regular Council Meeting

At the Regular Council meeting of July 18, 2022, Stephen Passero, on behalf of the Fort Erie Lions Club, provided Council with an update on the Club's fundraising efforts and requested that Council fund the remainder of anticipated project costs.

Mr. Passero provided that the Fort Erie Lions Club has raised \$50,000 and the Fort Erie Underwater Recovery Unit has raised \$20,000 for the pavilion installation. Due to economic conditions associated with the COVID 19 pandemic, Mr. Passero expressed that the organizations have reached the limit of their fundraising capacity.

Staff recently obtained budgetary quotations for the installation of several models of pavilions. The cost to supply and install a large pavilion, including the concrete pad and footings, stamped structural drawings, electrical supply and lighting, and site works is currently estimated at a minimum of \$200,000. This cost could increase, if material and supply costs continue to escalate.

Mr. Passero requested that Council consider and approve the allocation of \$130,000 towards the project, to supplement the \$70,000 raised to date, for a total project cost of \$200,000.

Financial/Staffing and Accessibility (AODA) Implications

The allocation of funds for this capital project has not been previously identified in the Town's capital parks forecast, as funds were to be raised by the community. Funds would be derived wholly from the Parkland Reserve, as the Development Charges Study does not identify this as an eligible project. The allocation of \$130,000 from the Parkland Reserve will result in the deferral of a similarly priced 2023 project such as a playground replacement or a play court replacement, or a future project.

The addition of the pavilion as a park asset will have operating implications. Maintenance costs for the pavilion are expected to include depreciation, cleaning and minor repairs. In the short term, annual operating costs are estimated at \$1,200 for electricity to the pavilion, \$6,667/year in amortization and \$3,000 for cleaning, repairs, event setup, etc. Beyond 20 years, the pavilion may require more intensive maintenance such as replacement of the roof, structure repairs, repainting, etc.

Staff recommend the funding request be considered through the 2023 Capital Budget process, in the context of other capital park considerations.

Policies Affecting Proposal

The donation of \$70,000 towards the installation of a pavilion in Lions Sugarbowl Park should be considered relative to Section 8.0 of Budget Policy By-Law No. 127-09, as following:

- Projects to be funded by donations in the upcoming year shall be incorporated into the Department or Board's budget presentation for Council approval. Where community groups approach the Town following the budget process, an administrative report to Council is required before acceptance of the project. For

administrative ease, the requirements of this section don't apply to donations less than \$5,000.

- Donations in excess of \$25,000 require an administrative report to Council for acceptance of the project, as they are deemed significant enough to represent a potential increase in scope.
- Projects funded by donations, will require the collection of donations in advance of making a financial commitment to purchase goods or services, unless otherwise approved by Council.

The procurement of the pavilion will occur pursuant to Purchasing By-Law No. 2-10. The pavilion will meet the requirements on the Ontario Building Code and the Accessibility for Ontarians with Disabilities Act.

Comments from Relevant Departments/Community and Corporate Partners

The Fort Erie Lions Club, Fort Erie Underwater Recovery Unit and Heritage Legacy Arts have been involved in the ongoing development of this project, and will continue to be engaged with the selection of a pavilion.

Staff have worked with the above organisations to define the scope of the project and attain budgetary pricing.

Communication Requirements

No communication requirements are anticipated at this time.

Alternatives

Council may elect to approve the allocation of funds at this time, through a 2022 Capital Budget amendment of \$200,000, accepting the \$70,000 community donation and allocating \$130,000 from the Parkland Reserve.

Council may alternatively defer back to the original funding model, and request that the community partners raise the entirety of the costs

Attachments

None



Infrastructure Services

Prepared for
Agenda Date

Council in Committee
September 12, 2022

Report No.
File No.

IS-31-2022
230803

Subject

AWARD OF CONTRACT FOR THE SUPPLY AND INSTALLATION OF A BUILDING AUTOMATION SYSTEM AT THE E.J. FREELAND COMMUNITY CENTRE - CONTRACT ISF-22P-EJFP22

Recommendations

THAT Council accepts and approves the proposal from Trane Canada ULC. to supply and install a building automation system at the EJ Freeland Community Centre (Contract No. ISF-22P-EJFP22) to the upset limit of \$94,952.77 (including 13% HST).

Relation to Council's 2018-2022 Corporate Strategic Plan

Priority: 2: Effective, 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) Residents of the Town of Fort Erie
- 3) Boys and Girls Club of Niagara
- 4) Patrons of the EJ Freeland Community Centre
- 5) Trane Canada ULC.
- 6) Remaining bidders on this project

Prepared by:

Submitted by:

Approved by:

Original Signed:

Original Signed:

Original Signed:

Sean Hutton
Manager, Parks and
Facilities

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

Chris McQueen
Chief Administrative
Officer

Purpose of Report

The purpose of this report is to advise Council of the proposal call process for the supply and installation of a building automation system (BAS) at the E.J. Freeland Community Centre (EJFCC), Contract ISF-22P-EJFP22, and to request Council's authorization to award Trane Canada ULC. (Trane) of Toronto, Ontario the contract at a total upset limit of \$94,952.77 (including 13% HST).

Analysis

Background

With Council's adoption of the 2022 capital budget, Town staff were authorized to proceed with the preparation of the Request for Proposal (RFP) in order to make repairs the mechanical system of the pool at the EJFCC. The majority of complaints received from patrons and staff at the EJFCC relate to the space temperature and humidity. The first step to correct this concern is to replace the obsolete 29-year old BAS. A new BAS will allow staff to regain control of the mechanical systems that control the climate within the pool and other occupied spaces in the facility.

A BAS is a computerized system that monitors, schedules and controls the mechanical systems. A BAS enables for energy savings through scheduling based on occupancy, improves patron comfort by providing more consistent space temperatures and provides early notification of breakdowns through built in alarms. Inconsistent temperatures within the pool space has increased humidity, causing damage to the building walls and ceiling. The spalling block walls in the pool area need repair as a result. The proposal requested an automated system that would control, schedule and monitor all components of the buildings environmental systems.

Proposal Call

The proposal call was initiated on June 10, 2022. The Request for Proposal for Contract ISF-22P-EJFP22 was posted on Bidding.com and on the Town website, pursuant to the Town of Fort Erie Purchasing By-law No. 2-10, as amended. Proposals were accepted until 2:00 p.m. local time, Tuesday, July 12, 2022 through Bidding.com. Three (3) submissions for this project were received.

Table 1 shows the RFP Summary:

Table 1: RFP Summary

Company Name	Technical Score (maximum 700 points)	Cost Score (maximum 300 points)	Cumulative Score
Trane Canada ULC.	660	135	795
VT Controls Ltd.	460	280	740
Honeywell Limited	390	300	690

Trane has been operating in Ontario since 1959 with extensive industry experience over the past 60 plus years. They have provided similar services to the Town of Fort Erie for out Town Hall BAS for over 25 years. Trane has indicated that the system will be fully operational within the specified timeframe.

Financial/Staffing Implications and Accessibility (AODA) Implications

EJFP22 EJFCC Pool Repairs is the funding source for this project.

Funding for the BAS portion of the project is \$100,000 from a total project budget of \$365,000.

A summary of Construction costs is outlined in Table 2.

Table 2: Construction Costs

EJ Freeland Community Centre (Contract No. ISF-22P-EJFP22)		
Contractor	Bid Price (including 13% HST)	Bid Price
Trane Canada ULC.	\$94,952.77	\$84,029.00

**the EJFCC is ITC, HST is fully rebatable.*

Table 3 identifies the project costs, funding and project surplus.

Table 3: Variance Projection (BAS portion)

Estimated Construction Costs	Total Funding	Variance
\$84,029.00	\$100,00.00	\$15,971.00

All amounts include non-rebated HST

As shown in Table 3, the total approved design budget of \$100,000.00 is sufficient to complete the BAS component of the project based on proposal submission from Trane for a cost of \$84,029.00 (including non-rebated HST).

Funds not expended during design will be returned to the respective reserve when construction is complete.

There are no AODA aspects or concerns related to this project.

Policies Affecting Proposal

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

Effective and sustainable infrastructure is a priority in the plan. The award and completion of this project supports the ongoing Infrastructure Priority in addressing the initiatives.

The provisions of the Town of Fort Erie Purchasing Policy By-law No. 2010-002 were adhered to during the tender process for this project.

Comments from Relevant Departments/Community and Corporate Partners

The Town of Fort Erie's Corporate Services Department were consulted throughout the Request for Proposal development and evaluation process.

Communicating Results

No communications are required for this project.

Alternatives

Council has the option of not authorizing the award of this contract and cancelling the project. This alternative is not recommended by staff as the project funds have already been approved and the infrastructure improvements will address the need to improve the building environmental controls within the EJFCC.

Conclusion

Council's authorization of Trane Canada ULC. based on their proposal and experience with similar work to supply and install a Building Automation System at the EJFCC (EJFP22) project will support 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
Agenda Date

Council-in-Committee
September 12, 2022

Report No.
File No.

IS-32-2022
240102

Subject

AWARD OF TENDER FOR A 2022 F-250 4X4, CONTRACT NO. ISO-22T-P14422

Recommendations

THAT Council accepts the tender submission for the purchase of a 2022 F-250 4x4 SD Regular Cab 8' box 142" WB XL - Contract ISO-22T-P14422 from Brock Ford Sales of Niagara Falls, Ontario for a total upset limit of \$59,890.00 (inclusive of H.S.T.); and further

THAT Council amends the 2022 Fleet Capital Budget to supplement the purchase of the 2022 Parks Pickup Truck, Capital Account CA-83800-P14422 by \$27,000 with funding from the Fleet Equipment 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 serves 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) Brock Ford Sales of Niagara Falls, Ontario

Prepared by:

Submitted by:

Approved by:

Original Signed:

Original Signed:

Original Signed:

Michael Turner
Supervisor, Fleet
Services

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

Chris McQueen, MBA
Chief Administrative Officer

Original Signed:

George Stojanovic,
P.Eng. Manager, Roads &
Fleet

Purpose of Report

The purpose of this report is to seek Council's approval to award the purchase of a 2022 F-250 4x4 SD Regular Cab 8' box 142" WB XL from Ford Brock Sales of Niagara Falls, Ontario.

Additionally, staff seek Council's approval for a budget amendment to the 2022 Fleet Capital Budget to supplement the purchase of the 2022 F-250 4x4 SD Regular Cab 8' box 142" WB XL from the Fleet Equipment Reserve.

Analysis

The 2022 Fleet capital replacement program identified the requirement to replace the 2008 Dodge Pickup Truck(P155) with a similar unit. The tender summary is found in Table 1.

Tenders were issued in accordance with the Town of Fort Erie Purchasing By-Law 2-10. The electronic bid opportunity closed on Wednesday, June 15, 2022 at 2:00 p.m. and were publicly opened through telephone conference. The tender was checked for mathematical errors and tender specification conformance.

Table 1: Tender Summary

Tender Summary		
Bidder	Tender (including 13% H.S.T.)	Tender (Net of non-rebatable HST)
Brock Ford Sales	\$59,890.00	\$53,932.80

Financial/Staffing and Accessibility (AODA) Implications

Through the 2022 Capital Budget, Council has approved allocation of \$46,000 to the 2022 F-250 4x4 SD Regular Cab 8' box 142" WB XL. Funding sources for this project include \$46,000 from the Fleet Equipment Reserve, Capital Account CA-83800-P14422. A summary of the total project costs and funding sources are noted below in Table 2 and Table 3.

Table 2: Available Funding

Replacement Vehicle	Division	Capital Project ID	Replacing	2022 Budget
2008 Pickup Truck	Parks	P14422	P155	\$46,000

Table 3: Vehicle Costs

Vehicle Costs	
Vehicle Purchase (Brock Ford Sales)	\$ 53,932.80
Outfitting Cost (Snow Plow, Lighting Package, Undercoating, Lettering, Radio, etc.)	\$ 19,300.00
TOTAL	\$73,232.80

All amounts include non-rebated HST

Table 4: Variance

Total Project Cost (Net of non-rebatable HST)	Budget	Variance
\$ 73,232.80	\$ 46,000	\$ (27,232.80)

All amounts include non-rebated HST

The only bid received was from Ford Brock Sales of Niagara Falls ON. Ford Brock Sales have successfully supplied vehicles to the Town in the past.

As shown in Table 4, there is a projected negative variance for the purchase of the 2022 F-250 4x4 SD Regular Cab 8' box 142" WB XL in the amount of \$26,932.80. Staff are seeking Councils approval to transfer of \$27,000 from the Fleet Equipment Reserve to cover this deficit. Any surplus funds, following completion of the outfitting and determination of actual costs, will be returned to the Fleet Equipment Reserve Fund.

The averages prices of new vehicles have increased significantly in Canada due to a lack of supply related to the pandemic. Low inventory, high demand and a computer chip shortage are all causing price increases for new vehicles.

There are no AODA considerations for this purchase.

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. The replacement of the Parks Division Pickup Truck will facilitate parks and cemetery maintenance and winter operations at Town facilities.

Council adopted the 2022 Preliminary Capital Budget that included the 2022 Fleet Replacement Plan, through By-law No. 149-2021.

Comments from Relevant Departments/Community and Corporate Partners

The Manager, Procurement and Finance was directly involved with the tender process for this Fleet Capital purchase. Only electronic bid submissions were permitted.

Alternatives

Council had previously approved a Fleet Replacement Plan outlined in the 2022 Capital Budget that included the purchase of a new pickup truck for the Parks Division. No alternative to the tender process for the pickup truck is available.

Conclusion

Staff recommends that Contract No. ISO-22T-P14422 for a 2022 F-250 4x4 SD Regular Cab 8' box 142" WB XL be awarded to the only bidder, Ford Brock Sales in the amount of \$59,890.00 (including 13% H.S.T.).

Staff also recommend to amend the 2022 Fleet Capital Budget to supplement the purchase of the 2022 F-250 4x4 SD Regular Cab 8' box 142" WB XL, Capital account CA-83800-P14422 by \$27,000 with funding from the Fleet Equipment Reserve.

Attachments

N/A



Infrastructure Services

Prepared for	Council-in-Committee	Report No.	IS-33-2022
Agenda Date	September 12, 2022	File No.	240102

Subject

AWARD OF TENDER FOR A 2023 FREIGHTLINER TANDEM UNIT, CONTRACT NO. ISO-22T-R43522

Recommendations

THAT Council accepts the tender submission for the purchase of a 2023 Freight Liner Tandem Axle Cab and Chassis with Sander Unit, Snow Plow and Wing Installed - Contract ISO-21T-R43421 from Metro Truck Group in the amount of \$361,507.34 (including 13% HST); and further

THAT Council amends the 2022 Fleet Capital Budget to supplement the purchase of the 2022 Roads Dump/Plow, Capital account CA-83800-R43522 by \$38,000 with funding from the Fleet Equipment 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 serves 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) Metro Truck Group
- 4) Other Vehicle and Equipment Suppliers

Prepared by:	Submitted by:	Approved by:
<i>Original Signed:</i>	<i>Original Signed:</i>	<i>Original Signed:</i>
Original Signed:	Kelly Walsh, P.Eng., Director, Infrastructure Services	Chris McQueen, MBA Chief Administrative Officer
Michael Turner Supervisor, Fleet Services		
Original Signed:		
George Stojanovic, P.Eng. Manager, Roads & Fleet		

Purpose of Report

The purpose of this report is to seek Council's approval to award the purchase of a 2023 Freight Liner Tandem Axle Cab and Chassis with Sander Unit, Snow Plow and Wing Installed from Metro Truck Group.

Additionally, staff seek Council's approval for a budget amendment to the 2022 Fleet Capital Budget to supplement the purchase of the 2023 Freight Liner Tandem Axle Cab and Chassis with Sander Unit, Snow Plow from the Fleet Equipment Reserve.

Analysis

The 2022 Fleet capital replacement program identified the requirement to replace a 2005 International Tandem Dump Plow (R423) with a similar unit. This project is summarized in Table 1.

Tenders were issued in accordance with the Town of Fort Erie Purchasing By-Law. The electronic bid opportunity closed on Wednesday, June 15, 2022 at 2:00 p.m. and were publicly opened through telephone conference. All tenders were checked for mathematical errors and tender specification conformance.

Table 1: Tender Summary

Tender Summary		
Bidder	Tender (including 13% H.S.T.)	Tender (net of non-rebatable taxes)
Metro Truck Group	\$361,507.34	\$325,548.55
Rush Truck Centres of Canada	\$355,032.64	\$319,717.89
Mack Sales & Service O/A Vision Truck Group	\$378,035.14	\$340,431.97

The lowest financial submission was received from Rush Truck Centres of Canada, but was rejected by the Manager of Procurement and Finance due to a Bid Irregularity as the respondent provided a qualifying statement for the financial and production provisions. Although the tender requested a 2022 or 2023 model, neither of the other bidders could commit to the timeline as specified in the tender. Metro Truck Group has committed to the chassis being built in 2022, but delivery will be dependent on body builders schedule.

Financial/Staffing and Accessibility (AODA) Implications

Through the 2022 Capital Budget, Council has approved allocation of \$300,000 to the 2023 Freight Liner Tandem Axle Cab and Chassis with Sander Unit. Funding sources for this project include \$300,000 from the Fleet Equipment Reserve, Capital account CA-83800-R43522. A summary of the total project costs and funding sources are noted below in Table 2 and Table 3.

Table 2: Available Funding

Replacement Vehicle	Division	Capital Project	Replacing	2021 Budget
2005 Dump/Plow Truck	Roads	R43522	R423	\$300,000

Table 3: Vehicle Costs

Vehicle Costs	
Vehicle Purchase (Metro Truck Group)	\$325,548.55
Outfitting Costs (Lighting Package, Undercoating, Lettering, Automatic Greaser, etc.)	\$ 11,600.00
TOTAL	\$337,148.55

All amounts include non-rebated HST

Table 4: Variance Projection

Total Project Cost (Net of non-rebatable HST)	Budget	Variance
\$ 337,148.55	\$300,000	\$ (37,148.55)

All amounts include non-rebated HST

As shown in Table 4, there is a projected negative variance for the purchase of the 2023 Freight Liner Tandem Axle Cab and Chassis with Sander Unit, in the amount of \$37,148.55. Staff are seeking Councils approval to transfer of \$38,000 from the Fleet Equipment Reserve to cover this deficit. Any surplus funds, following completion of the outfitting and determination of actual costs, will be returned to the Fleet Equipment Reserve.

The averages prices of new vehicles have increased significantly in Canada due to a lack of supply related to the pandemic. Low inventory, high demand and a computer chip shortage are all causing price increases for new vehicles.

There are no AODA considerations for this purchase needed.

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. The replacement of the Roads and Fleet Division Tandem Axle Cab and Chassis with Sander Unit, will facilitate roads and drainage maintenance and winter operations.

Council adopted the 2022 Preliminary Capital Budget that included the 2022 Fleet Replacement Plan, through By-law No. 149-2021.

Comments from Relevant Departments/Community and Corporate Partners

The Manager, Procurement, Finance & Risk was directly involved with the tender process for this Fleet Capital purchase. All comments from relevant departments were included throughout the report. Only electronic bid submissions were permitted.

Communicating Results

N/A

Alternatives

Council had previously approved a Fleet Replacement Plan outlined in the 2022 Capital Budget that included the purchase of a combination sander and plow truck. No alternative to the tender process for the combination sander and plow truck is available.

Conclusion

Staff recommends that Contract No. ISO-22T-R43522 for a 2023 Freight Liner Tandem Axle Cab and Chassis with Sander Unit, Snow Plow and Wing Installed be awarded to the second lowest bidder that met specifications, Metro Truck Group in the amount of \$361,507.34 (including 13% H.S.T.).

Staff also recommend to amend the 2022 Fleet Capital Budget to supplement the purchase of the 2023 Freight Liner Tandem Axle Cab and Chassis with Sander Unit, Snow Plow and Wing, Capital account CA-83800-R43522 by \$38,000 with funding from the Fleet Equipment Reserve.

Attachments

N/A



Infrastructure Services

**Prepared for
Agenda Date**

Council-in-Committee
September 12, 2022

**Report No.
File No.**

IS-34-2022
240102

Subject

AWARD OF TENDER FOR A 2022 F-150, CONTRACT NO. ISO-22T-R13322

Recommendations

THAT Council accepts the tender submission for the purchase of a 2022 F-150 4x4 SuperCrew Cab 5.5' box 145" WB XL - Contract ISO-22T-R13322 from Brock Ford Sales of Niagara Falls, Ontario for a total upset limit of \$55,370.00 (inclusive of H.S.T.); and further

THAT Council amends the 2022 Fleet Capital Budget to supplement the purchase of the 2022 Roads Pickup Truck, Capital Account CA-83800-R13322 by \$11,000 with funding from the Fleet Equipment 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 serves 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) Brock Ford Sales of Niagara Falls, Ontario

Prepared by:

Submitted by:

Approved by:

Original Signed:

Original Signed:

Original Signed:

Michael Turner
Supervisor, Fleet
Services

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

Chris McQueen, MBA
Chief Administrative Officer

Original Signed:

George Stojanovic,
P.Eng. Manager, Roads &
Fleet

Purpose of Report

The purpose of this report is to seek Council's approval to award the purchase of a 2022 F-150 4x4 SuperCrew Cab 5.5' box 145" WB XL from Ford Brock Sales of Niagara Falls, Ontario.

Additionally, staff seek Council's approval for a budget amendment to the 2022 Fleet Capital Budget to supplement the purchase of the 2022 F-150 4x4 SuperCrew Cab 5.5' box 145" WB XL from the Fleet Equipment Reserve.

Analysis

The 2022 Fleet capital replacement program identified the requirement to replace the 2011 Dodge Ram Pickup Truck (R120) with a similar unit. This project is summarized in Table 1.

Tenders were issued in accordance with the Town of Fort Erie Purchasing By-Law 2-10. The electronic bid opportunity closed on Wednesday, June 15, 2022 at 2:00 p.m. and were publicly opened through telephone conference. The tender was checked for mathematical errors and tender specification conformance.

Table 1:Tender Summary

Tender Summary		
Bidder	Tender (including 13% H.S.T.)	Tender (Net of non-rebatable HST)
Brock Ford Sales	\$55,370.00	\$49,862.40

The only bid received was from Ford Brock Sales of Niagara Falls ON. Ford Brock Sales have successfully supplied vehicles to the Town in the past.

Financial/Staffing and Accessibility (AODA) Implications

Through the 2022 Capital Budget, Council has approved an allocation of \$46,000 to the 2022 F-150 4x4 SuperCrew purchase. Funding sources for this project include \$46,000 from the Fleet Equipment Reserve, Capital Account CA-83800-R13322. A summary of the total project costs and funding sources are noted below in Table 2 and Table 3.

Table 2: Available Funding

Replacement Vehicle	Division	Capital Project ID	Replacing	2022 Budget
2011 Pickup Truck	Roads	R13322	R120	\$46,000

Table 3: Vehicle Costs

Vehicle Costs	
Vehicle Purchase (Brock Ford Sales)	\$ 49,862.40
Outfitting Cost (Lighting Package, Back Rack, Undercoating, Lettering, Radio, etc.)	\$ 7,000.00
TOTAL	\$56,862.40

All amounts include non-rebated HST

Table 4: Variance Projection

Total Project Cost (Net of non-rebatable HST)	Budget	Variance
\$ 56,862.40	\$ 46,000	\$ (10,862.40)

All amounts include non-rebated HST

As shown in Table 4, there is a projected negative variance for the purchase of the 2022 F-150 4x4 SuperCrew Cab 5.5' box 145" WB XL in the amount of \$10,862.40. Staff are seeking Councils approval to transfer of \$11,000 from the Fleet Equipment Reserve to cover this deficit. Any surplus funds, following completion of the outfitting and determination of actual costs, will be returned to the Fleet Equipment Reserve Fund.

The averages prices of new vehicles have increased significantly in Canada due to a lack of supply related to the pandemic. Low inventory, high demand and a computer chip shortage are all causing price increases for new vehicles.

There are no AODA considerations for this purchase.

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. The replacement of the Roads Division pickup truck will facilitate roads patrol and pulling trailers for road and ditch maintenance work.

Council adopted the 2022 Preliminary Capital Budget that included the 2022 Fleet Replacement Plan, through By-law No. 149-2021.

Comments from Relevant Departments/Community and Corporate Partners

The Manager, Procurement and Finance was directly involved with the tender process for this Fleet Capital purchase. Only electronic bid submissions were permitted.

Alternatives

Council had previously approved a Fleet Replacement Plan outlined in the 2022 Capital Budget that included the purchase of a new pickup truck for the Roads Division. No

alternative to the tender process for the pickup truck is available.

Conclusion

Staff recommends that Contract No. ISO-22T-R13322 for a 2022 2022 F-150 4x4 SuperCrew Cab 5.5' box 145" WB XL be awarded to the only bidder, Ford Brock Sales in the amount of \$55,370.00 (including 13% H.S.T.).

Staff also recommend to amend the 2022 Fleet Capital Budget to supplement the purchase of the 2022 F-150 4x4 SuperCrew Cab 5.5' box 145" WB XL, Capital account CA-83800-R13322 by \$11,000 with funding from the Fleet Equipment Reserve.

Attachments

N/A



Infrastructure Services

Prepared for	Council-in-Committee	Report No.	IS-35-2022
Agenda Date	September 12, 2022	File No.	240102

Subject	
AWARD OF TENDER FOR A 2022 F-150, CONTRACT NO. ISO-22T-U11322	

Recommendations	
<u>THAT</u>	Council accepts the tender submission for the purchase of a 2022 F-150 4x4 Regular Cab 8' box 141" WB XL - Contract ISO-22T-U11322 from Brock Ford Sales of Niagara Falls, Ontario for a total upset limit of \$52,658.00 (inclusive of H.S.T.); and further
<u>THAT</u>	Council amends the 2022 Fleet Capital Budget to supplement the purchase of the 2022 Utilities Pickup Truck, Capital Account CA-83800-U11322 by \$16,000 with funding from the Fleet Equipment 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 serves 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) Brock Ford Sales of Niagara Falls, Ontario	

Prepared by:	Submitted by:	Approved by:
<i>Original Signed:</i>	<i>Original Signed:</i>	<i>Original Signed:</i>
Michael Turner Supervisor, Fleet Services	Kelly M. Walsh, P. Eng. Director, Infrastructure Services	Chris McQueen, MBA Chief Administrative Officer
<i>Original Signed:</i>		
George Stojanovic, P.Eng. Manager, Roads & Fleet		

Purpose of Report

The purpose of this report is to seek Council's approval to award the purchase of a 2022 F-150 4x4 Regular Cab 8' box 141" WB XL from Ford Brock Sales of Niagara Falls, Ontario.

Additionally, staff seek Council's approval for a budget amendment to the 2022 Fleet Capital Budget to supplement the purchase of the 2022 F-150 4x4 Regular Cab 8' box 141" WB XL from the Fleet Equipment Reserve.

Analysis

The 2022 Fleet capital replacement program identified the requirement to replace the 2011 Ford F-150 4X4 Pickup Truck (U108) with a similar unit. This project is summarized in Table 1.

Tenders were issued in accordance with the Town of Fort Erie Purchasing By-Law 2-10. The electronic bid opportunity closed on Wednesday, June 15, 2022 at 2:00p.m. and were publicly opened through telephone conference. The tender was checked for mathematical errors and tender specification conformance.

Table 1:Tender Summary

Tender Summary		
Bidder	Tender (including 13% H.S.T.)	Tender (Net of non-rebatable HST)
Brock Ford Sales	\$52,658.00	\$47,420.16

The only bid received was from Ford Brock Sales of Niagara Falls ON. Ford Brock Sales have successfully supplied vehicles to the Town in the past.

Financial/Staffing and Accessibility (AODA) Implications

Through the 2022 Capital Budget, Council has approved allocation of \$37,000 to the 2022 Utilities Pickup Truck purchase. Funding sources for this project include \$37,000 from the Fleet Equipment Reserve, Capital Account CA-83800-U11322. A summary of the total project costs and funding sources are noted below in Table 2 and Table 3.

Table 2: Available Funding

Replacement Vehicle	Division	Capital Project ID	Replacing	2022 Budget
2011 Pickup Truck	Utilities	U11322	U108	\$37,000

Table 3: Vehicle Costs

Vehicle Costs	
Vehicle Purchase (Brock Ford Sales)	\$ 47,420.16
Outfitting Cost (Lighting Package, Back Rack, Undercoating, Lettering, Radio, etc.)	\$ 5,000.00
TOTAL	\$52,420.16

All amounts include non-rebated HST

Table 4: Variance Projection

Total Project Cost (Net of non-rebatable HST)	Budget	Variance
\$ 52,420.16	\$ 37,000	\$ (15,420.16)

All amounts include non-rebated HST

As shown in Table 4, there is a projected negative variance for the purchase of the 2022 F-150 4x4 Regular Cab 8' box 141" WB XL in the amount of \$15,420.16. Staff are seeking Councils approval to transfer of \$16,000 from the Fleet Equipment Reserve to cover this deficit. Any surplus funds, following completion of the outfitting and determination of actual costs, will be returned to the Fleet Equipment Reserve Fund.

The averages prices of new vehicles have increased significantly in Canada due to a lack of supply related to the pandemic. Low inventory, high demand and a computer chip shortage are all causing price increases for new vehicles.

There are no AODA considerations for this purchase needed.

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. The replacement of the Utilities Division Pickup Truck will facilitate water and wastewater maintenance work and pulling trailers.

Council adopted the 2022 Preliminary Capital Budget that included the 2022 Fleet Replacement Plan, through By-law No. 149-2021.

Comments from Relevant Departments/Community and Corporate Partners

The Manager, Procurement and Finance was directly involved with the tender process for this Fleet Capital purchase. Only electronic bid submissions were permitted.

Alternatives

Council had previously approved a Fleet Replacement Plan outlined in the 2022 Capital Budget that included the purchase of a new pickup truck for the Utilities Division. No alternative to the tender process for the pickup truck is available.

Conclusion

Staff recommends that Contract No. ISO-22T-U11322 for a 2022 F-150 4x4 Regular Cab 8' box 141" WB XL be awarded to the only bidder, Ford Brock Sales in the amount of \$52,658.00 (including 13% H.S.T.).

Staff also recommend to amend the 2022 Fleet Capital Budget to supplement the purchase of the 2022 F-150 4x4 Regular Cab 8' box 141" WB XL, Capital account CA-83800-U11322 by \$16,000 with funding from the Fleet Equipment Reserve.

Attachments

N/A



Corporate Services

Prepared for	Council-in-Committee	Report No.	CS-14-2022
Agenda Date	September 12, 2022	File No.	230513

Subject
ADJUSTMENTS, REBATES, UNDER SECTION 357 AND 358 FOR 2020, 2021 AND 2022

Recommendation
THAT Council approves the cancellation, reduction or refund of taxes and penalties in the amount of \$30,469.26 as per Appendix "1" to Report No. CS-14-2022 in accordance with Section 357 and 358 of the <i>Municipal Act, 2001</i> and directs staff to submit a By-law to Council.

Relation to Council's 2018-2022 Corporate Strategic Plan
Priority: Not applicable

List of Stakeholders
Mayor & Council Municipal Staff Town of Fort Erie Ratepayers Region and School Boards

Prepared by:	Submitted by:	Approved by:
<i>Original Signed</i>	<i>Original Signed</i>	<i>Original Signed</i>
Gillian Corney, Manager, Revenue & Collections	Jonathan Janzen, CPA, CA Director, Corporate Services	Chris McQueen, MBA Chief Administrative Officer

Purpose of Report

In accordance with Section 357 and 358 of the *Municipal Act, 2001*, ratepayers may make application for cancellation, reduction or refund of taxes levied in the year in respect of an occurrence, which would materially change their assessment. These applications may be submitted for the current and previous two tax years. Council is being requested to authorize the reduction of taxation as per the attached Appendix "1".

Analysis

See Appendix "1" attached for a complete listing of all tax accounts receiving a credit adjustment. Explanations of adjustment codes are given below.

"FR" - Razed by fire is for assessment reductions for properties that have been damaged/razed by fire or demolition.

Financial/Staffing and Accessibility (AODA) Implications

The proportionate shares of the \$30,469.26 in tax adjustments between the Town, Region and School Boards are shown in the table below:

YEAR	MUNICIPAL	BIA CHARGES	INTEREST	REGION	SCHOOL BOARDS	TOTAL
2020	3,580.00	-	-	3,423.47	807.84	7,811.31
2021	3,591.37	-	-	3,482.20	807.84	7,881.41
2022	6,579.19	-	-	6,417.70	1,779.65	14,776.54
TOTAL	\$ 13,750.56	\$ -	\$ -	\$ 13,323.37	\$ 3,395.33	\$ 30,469.26

The 2022 budget for tax adjustments and write-offs including heritage and charitable rebate programs is \$276,000. The municipal share of the above write-off will bring the year to date tax write-off balance to \$139,920.

Policies Affecting Proposal

Sections 357 and 358 of the *Municipal Act, 2001*.

Comments from Relevant Departments/Community and Corporate Partners

Section 357 and 358 applications are forwarded to MPAC's Regional Assessment Office #18 for their investigation and recommendation.

Communicating Results

N/A

Alternatives

Council may choose not to approve the recommended adjustments of taxes. The decision could then be further appealed to the Assessment Review Board by the property owner. It would not generally be appropriate for Council to deny approval of these applications since they are not errors in judgment but errors in fact (i.e., clerical error or physical change such as demolition of a building).

Conclusion

The *Municipal Act, 2001* prescribes that tax adjustment applications under Section 357/358 are presented to and approved by Council.

Attachments

Appendix “1” – Tax Adjustment Summary

Appendix "1" to Administrative Report No. CS-14-2022

Tax Adjustment Summary

ADDRESS	ROLL NO.	CODE	TAXES 2020	TAXES 2021	TAXES 2022	PENALTY & INTEREST	TOTAL
17 LAVINIA	010 040 19700	FR			857.80		857.80
1380 PARKSIDE	020 009 05000	FR	1,553.38	1,567.32	1,601.78		4,722.48
2631 WINDMILL PT WEST	020 010 05900	FR	4,808.10	4,851.25	4,957.89		14,617.24
196 BERNARD	020 010 60900	FR			915.31		915.31
275 GORHAM	020 015 23500	FR			3,261.93		3,261.93
172 CHERRYHILL N	020 018 26402	FR			907.57		907.57
3308 NIGH	020 024 01000	FR			779.27		779.27
314 INGLEWOOD	030 001 29700	FR	1,449.83	1,462.84	1,494.99		4,407.66
			\$ 7,811.31	\$ 7,881.41	\$ 14,776.54	\$ -	\$ 30,469.26

Legend

BE	Became Exempt
CC	Change Property Class
ER	Gross Clerical Error
FD	Damaged by Fire or Demolition
FR	Razed by Fire or Demolition
RP	Repairs/Renovations Preventing Normal Use



Planning and Development Services

Prepared for	Council-in-Committee	Report No.	PDS-19-2021
Agenda Date	March 8, 2021	File No.	350309-0516

Subject	PROPOSED ZONING BY-LAW AMENDMENT 0-13365 PETTIT ROAD D.C. MCCLOSKEY ENGINEERING LTD. - MARK MCCLOSKEY (AGENT) KRS HOLDINGS INC. - GARY SINGH (OWNER)
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Recommendation	THAT Council receives for information purposes Report No. PDS-19-2021 regarding a proposed amendment to the Town's Comprehensive Zoning By-law No. 129-90 for 0-13365 Pettit Road.
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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	D.C. McCloskey Engineering Ltd. - Mark McCloskey (Agent) KRS Holdings Inc. - Gary Singh (Owner) Residents and Property Owners in the Town of Fort Erie
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Prepared by:	Submitted by:	Approved by:
Original Signed Daryl Vander Veen Junior Planner	Original Signed	Original Signed
Reviewed by:	Kira Dolch, MCIP, RPP, CNU-A Director, Planning and Development Services	Tom Kuchyt, C.E.T. Chief Administrative Officer
Original Signed Aaron Butler, MCIP, RPP Manager, Development Approvals		

Purpose

An application for a Zoning By-law amendment was submitted by Mark McCloskey of D.C. McCloskey Engineering Ltd. (Agent). KRS Holdings Inc. (Gary Singh) is the Owner of the subject property. A location map showing the subject property and the amendment area is attached as **Appendix “1”**.

The purpose of the application is to permit a commercial development on the west side of Pettit Road in the Gilmore neighbourhood of Fort Erie. The proposed development includes two restaurants with drive-thrus and a commercial refuelling station for transport trucks. A Zoning By-law is necessary as the current zoning of the property does not permit a commercial refuelling station. This proposal will change the zoning of a portion of the subject property from Highway Commercial C3-173(H) Zone to a new site-specific Highway Commercial C3 Zone that permits a commercial refueling station and contains several other provisions needed to implement the development plan. The restaurants with drive-thrus are already permitted by the base C3 zoning. A site plan illustrating the development plan for the property is attached as **Appendix “2”**.

The purpose of this report is to provide information on the proposed Zoning By-law amendment in support of the March 8, 2021 Public Meeting for this application. A recommendation report will be brought forward for Council’s consideration at a future meeting.

Nature of the Site

The subject property is located in the Gilmore neighbourhood of the Town of Fort Erie near the highway interchange located at Pettit/Gilmore Road and the Queen Elizabeth Way (QEW). The subject property is bounded by Pettit Road to the north and east, North Service Road to the northwest, Travel Centre Court to the west and Gilmore Road to the south. The following summarizes the land uses surrounding the subject property:

- North:** Pettit Road, vacant industrial land, and a large commercial site with a commercial refuelling station, a truck wash, a restaurant, a convenience store and a gasoline bar.
- South:** Gilmore Road, ramps associated with the QEW highway interchange, and Frenchman’s Creek.
- East:** Vacant industrial land, Provincially significant wetlands and an existing industrial use.
- West:** Vacant commercial land and an existing gasoline bar and convenience store.

Planning Context

2020 Provincial Policy Statement

Part IV of the Provincial Policy Statement focuses future growth and development within existing urban settlement areas and seeks to promote efficient development patterns that optimize the use of land, resources and infrastructure. The subject property is within the urban settlement area with access to full services, minimizing land consumption and servicing costs. The proposed development is located adjacent to an industrial business park and will utilize the existing road network.

2019 Growth Plan for the Greater Golden Horseshoe

The subject property is identified as Built-up Area in the Growth Plan. This proposal meets the general intent of the Growth Plan through efficient use of land and infrastructure in the designated Built-up Area. The subject property is also in close proximity to the Gateway Economic Zone. This application is an example of economic development that facilitates movement of goods.

Regional Official Plan (ROP)

The Regional Official Plan identifies the subject lands as Built-Up Area in the Urban Area Boundary of Fort Erie. The subject property is also within the Gateway Economic Zone under Section 3.A.1 of the Regional Official Plan. One of the primary objectives of the ROP is to direct new development within the existing urban boundaries first to ensure efficient use of land and infrastructure. The ROP also seeks to locate new commercial uses in designated employment areas including the Niagara Gateway Economic Zone.

2011 Town of Fort Erie Official Plan

Official Plan – Commercial General Policies

The General Policies section for Commercial in the Official Plan outlines a series of criteria that shall be considered for development in commercial areas. These policies are outline below with Staff commentary. A detailed evaluation of the policies will be complete in the future Recommendation Report.

- a) The need for such additional areas, the extent to which existing commercial areas are developed, and the nature and adequacy of such existing development;

The subject property is already designated Commercial in the Town's Official Plan and zoned Highway Commercial (C3-173(H)) Zone in Zoning By-law 129-1990. The overall proposal for a commercial development on this property is consistent with the land use designation and zoning. This Zoning By-law

amendment is required to permit the commercial refuelling station as an additional use on the site.

b) The physical suitability of the site for the proposed use;

The subject site is of sufficient size to accommodate the proposed uses. Several minor site-specific zoning provisions are required to implement the proposed development plan. The site is self-contained and bounded by roadways. Staff will analyze if there are specific physical attributes of the site that would create undue impacts.

c) The adequacy of the existing and proposed highway or street system serving the site;

The subject property is located in close proximity to the QEW provincial highway and Gilmore Road, a regional road. Staff note that the entrance to the site is off of Travel Centre Court, a low traffic local road that terminates in a cul-de-sac at the southern limit of the subject property. Traffic flow to and from the site will occur via North Service Road which provides connection from Travel Centre Court to Pettit Road. Pettit Road then connects to the Gilmore Road/QEW highway interchange to the south. A traffic study has been completed by the Agent that speaks to the anticipated traffic levels of passenger vehicles and transport trucks. The study finds that surrounding roads are in good condition and capable of accommodating passenger vehicle and transport truck traffic. Staff will provide full analysis of the traffic study in the Recommendation Report.

d) The convenience, accessibility and safety of the site for vehicular, pedestrian and bicycle traffic, especially in relation to nearby residential neighbourhoods;

The site is isolated from residential areas in the Town of Fort Erie and is adjacent to one of the Town's industrial business parks. It is anticipated that nearly all traffic to and from the site will be automotive in nature. Planning staff note that it is desirable to have convenient pedestrian connectivity on-site between the proposed uses. A detailed review of on- and off-site connections will occur as part of the site plan approval process.

e) The provision of adequate off-street parking facilities, and the limitation in the number and design of access points to such parking facilities so as to minimize the danger to vehicular, including bicycle, transit and pedestrian traffic;

There is adequate space on the property to accommodate the required amount of parking spaces as well as access driveways and parking aisles. Staff will review on-site pedestrian connections at the site plan stage. Ingress and egress to the site will occur off of Travel Centre Court, a low traffic local road.

- f) The adequacy of the potable water supply, sewage disposal facilities and other municipal services in accordance with technical reports or recommendations which Council shall request the appropriate approval authority;

The subject property is located within the urban boundary and municipal water main and sanitary sewer is available along North Service Road to the north and Pettit Road to the east. Detailed servicing review will occur as part of the site plan approval process.

- g) The compatibility of a commercial use with uses in adjoining areas and the effect of such use on the surrounding area in order that such use will not have a deprecating effect upon adjoining properties whether designated commercial or another category in this Plan, and appropriate regulations in this regard shall be included in the Zoning By-law;

0-13365 Pettit Road is located adjacent to one of the Town's industrial business parks. A variety of industrial and commercial uses exist in the area. The subject property is already designated and zoned for commercial use and the property is well situated to serve local residents as well as the travelling public on Gilmore Road and the QEW.

- h) Demonstration that development or site alteration will be consistent with the Natural Heritage Section of this Plan and comply with any regulations of the Niagara Peninsula Conservation authority under the Conservation Authorities Act; and

The subject property is within a Wildlife Corridor associated with the Frenchman's Creek. The creek flows through a series of culverts and drainage channels in the Gilmore Road/QEW highway interchange to the south. No other natural heritage features are identified on the subject property itself. Schedule C identifies an Environmentally Sensitive Area, Provincially Significant Wetland, Significant Natural Area and Woodlot over 2.00 Hectares northeast of the subject property but these features are located on the other side of Pettit Road. As part of the Town's Environmental Conservation study work for industrial lands, the Woodlot over 2.00 Hectares would be removed from the mapping (Environmental Conservation designation).

- i) All commercial development shall be adequately regulated by suitable provisions in the Zoning By-law including adequate setbacks from property lines, appropriate off-street parking requirements, including bicycles, landscaped area or buffering requirements to protect adjacent residential area, prohibition of nuisances, control over outside storage, and control of lighting for parking/walking areas in certain cases.

The development proposal meets the zoning regulations for its proposed uses aside from needing a reduction to the exterior side yard along Pettit Road. There

is adequate space for ingress/egress, access driveways and parking area on the site. Detailed review of the traffic flow, pedestrian connections and landscaping will occur at the site plan approval stage.

Official Plan – Highway Commercial

0-13365 Pettit Road is designated Commercial on Schedule A of the Town's Official Plan and is interpreted as consistent with the Highway Commercial subcategory. Section 4.9.4 of the Official Plan states that land categorized as Highway Commercial shall be reserved for commercial uses that serve the travelling public and rely heavily upon vehicular traffic for their economic existence. Highway Commercial areas are generally located along provincial highways and major roads with high vehicle traffic. The Official Plan requires that Council shall encourage the grouping of Highway Commercial uses in a planned development rather than the establishment of continuous strip development.

Schedule B – Mineral Aggregate & Petroleum Resources

The subject property is not located within area identified as having potential for mineral aggregate resources.

Schedule B of the Official Plan illustrates the subject property as being within a petroleum resource area. Staff note that the subject property is within the urban boundary and so is not intended for use for petroleum resources. Section 7.3 of the Official Plan requires protection of petroleum resource operations (wells) as identified by the Ministry of Natural Resources and Forestry (MNRF) by ensuring a minimum setback of 75.00 metres. Staff note that there are no wells within 75.00 metres of the subject property as identified on MNRF map data of petroleum resources.

Schedule C – Natural Heritage Features

The subject property is within a Wildlife Corridor associated with the Frenchman's Creek. The creek flows through a series of culverts and drainage channels in the Gilmore Road/QEW highway interchange to the south. No other natural heritage features are identified on the subject property itself. Schedule C identifies an Environmentally Sensitive Area, Provincially Significant Wetland, Significant Natural Area and Woodlot over 2.00 Hectares northeast of the subject property but these features are located on the other side of Pettit Road.

Schedule C1 – Natural Hazards & Fish Habitat

There are no natural hazard areas or fish habitat on the subject lands. Schedule C1 of the Official Plan identifies Natural Hazard Area and a Critical Fish Habitat along Frenchman's Creek drainage feature to the south within the Gilmore Road/QEW highway interchange. An Unclassified Fish Habitat drainage feature also exists to the south along the Toronto-bound ramp of the QEW.

Schedule D – Archaeological Potential

0-13365 Pettit Road is identified on Schedule D of the Official Plan as being with area with archaeological potential. The Agent has completed an archaeological assessment, including Stage 1 background research and Stage 2 field assessment. No archaeological material was recovered during the Stage 2 assessment and the study concluded that the site no longer has any archaeological potential or cultural heritage value. Provincial archaeological clearance will be required prior to development occurring.

Zoning By-law No. 129-90

0-13365 Pettit Road is currently zoned Highway Commercial Holding C3-173(H) Zone. The proposed restaurants with drive-thrus are already permitted by the existing zoning.

The commercial refuelling station use is not permitted by the current Highway Commercial C3-173(H) zoning and so a Zoning By-law amendment is required. A commercial refuelling station is typically permitted in the Automotive Service Station C4 Zone.

This application proposes to change the zoning from Highway Commercial C3-173(H) Zone to a site specific C3 zone that includes a commercial refuelling station as a permitted use. The new site-specific C3 zone will also contain several provisions that implement the proposed development plan as outlined in the chart below. Staff will further assess the proposed reductions in the recommendation report.

Provision	Zoning By-law Requirement	Proposal
Maximum Access Drive Width into a Commercial Property for Two-way Traffic (Subsection 6.20)	Minimum 7.50m; maximum 12.00 m	23.59 m for access driveway to commercial refuelling station
Minimum width of landscape buffers along the outer edges of a drive-thru lane (Subsection 18.6)	Minimum 3.00 m	2.23 m northwest edge; 1.50 m south boundary with commercial refuelling station
Minimum vehicle stacking capacity for a drive-thru restaurant (Subsection 18.6)	Minimum 10 vehicles	8 vehicles for the south east restaurant (proposed A&W)
Minimum side yard setback abutting a public street (Subsection 22.3)	Minimum 9.00 m	3.00 m

Financial/Staffing Implications

All costs associated with processing the application and the development of the property is the responsibility of the owner.

Studies

Archaeological Assessment

0-13365 Pettit Road is within an area identified as having archaeological potential by the Town's Official Plan Schedule D. The Agent obtained the services of an archaeological consultancy firm to conduct a Stage 1 analysis of the subject property. The results of the Stage 1 assessment found that no historic structures were noted on the land and no registered archaeological sites are within 1.00 km of the subject property. However, proximity to a concession road, Gilmore Road and to Frenchman's Creek resulted in potential for archaeological and cultural heritage value. The consultant therefore recommended completion of a Stage 2 field assessment.

The Stage 2 assessment involved shovel test pits at 5.00 m intervals across the entirety of the subject property. No artifacts or cultural material was recovered during the test pitting and so the Stage 2 assessment concluded that the subject property no longer has any archaeological potential for archaeological sites or cultural heritage value.

Planning staff will look to comments from Niagara Region on the archaeological assessment once they are available.

Transportation Impact Study

A Transportation Impact Study (TIS) was completed for the proposed commercial refuelling station and drive-thru restaurants on 0-13365 Pettit Road based on 56 parking spaces for the restaurants and 21 parking spaces for trucks associated with the commercial refuelling station. Traffic was modeled out to 2032 and analysis occurred at the following intersection points:

- Gilmore Road & Pettit Road/QEW Eastbound Off-ramp
- Gilmore Road & Pettit Road/QEW Westbound Off-ramp
- Pettit Road & North Service Road
- North Service Road and Travel Centre Court
- Site Access Points (consolidated) and Travel Centre Court

Planning staff will look to comments from the Niagara Region and the Ontario Ministry of Transportation (MTO) regarding the TIS once they are available. These will be provided to Council as part of the future Recommendation Report.

The results of the Agent's TIS indicate that the proposed developments would have minimal impact on the existing road network due to similarities in operations between future background traffic and traffic generated by the proposed development. The TIS notes that the five intersections listed above are expected to operate with minimal delays as a result of this proposal beyond 2032 and that vehicle queues will be contained on site through the weekday AM and PM peak hours. In total, the full build out is expected to generate 399 trips in the weekday AM peak hour and 231 trips in the weekday PM peak hour. This includes passenger vehicles visiting the proposed drive-thru restaurants and transport trucks visiting the commercial refuelling station. The study states that no additional improvements to the road network are required other than construction of the access driveways onto the site. The study also reviewed if a traffic signal was warranted at the intersection of Gilmore Road, Pettit Road and the QEW ramps to the southeast. The study concludes that a signalization is not warranted and the intersection can continue to operate as an unsignalized intersection. However, Staff will look to comments from the MTO and Niagara Region in this regard.

The Town's Coordinator, Development Approvals provided comments that noted that the Agent's TIS should include analysis of the impacts to background traffic resulting from other anticipated development in the nearby industrial business park in addition to the traffic generated by the proposed development. A TIS initiated by the Town that reviewed the impacts of anticipated industrial development in the area was completed in November 2020. Inconsistencies were found between the Agent's TIS and the Town's TIS, which has been reviewed and generally accepted by the MTO. It is recommended that the Agent's TIS be updated to include and consider the findings outlined in the Town's TIS. An update to the Agent's TIS will be required prior to submission of a recommendation to Council on this proposal. Some additional information is also required regarding the proposed commercial refuelling station and what impacts that specific use may have on the affected intersections. The updated TIS will be reviewed by the Town, Region and MTO prior to a Recommendation Report being brought forward for Council's consideration.

Policies Affecting Proposal

Notice of complete application and public meeting for this application was sent in accordance with the requirements of the *Planning Act* on February 11, 2021.

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 Zoning By-law amendment was circulated to relevant Departments/Community and Corporate Partners on February 12, 2021. Comments received to date are summarized below and are attached in full as

Appendix “3”. All comments from relevant agencies and departments will be included in the future Recommendation Report to Council.

Agency Comments

Canada Post

Canada Post has no comments or conditions regarding this development. Mail delivery will be provided via one of our existing community mailbox sites.

Cogeco

No objection.

Enbridge Gas Distribution

No objection.

Staff Comments

Coordinator, Development Approvals

The Town's Coordinator, Development Approvals noted that the transportation impact study (TIS) provided by the Agent should be updated to include the anticipated growth of local industrial sites in the area. The Town recently obtained a consultant to undertake a TIS in the area known as the Fort Erie Industrial District Coordinated Transportation Impact Study Update. This study was completed in November 2020. The Town's TIS provided analysis on the impact of anticipated industrial development in the area on future background traffic. This study will be provided to the Agent for reference. It is recommended that the Agent's TIS be updated to reflect the Town's study prior to staff making a recommendation to Council on this proposal.

The Coordinator, Development Approvals also requests that additional information be provided regarding the proposed commercial refuelling station and how transport truck traffic from the proposed use will impact nearby intersections.

Fort Erie Fire Department

No objection.

Public Comments

A virtual information open house for this application was held by Zoom on February 17, 2021 from 5:00 p.m. to 5:30 p.m. All property owners within 120 metres of the subject lands were notified of the information open house on February 3, 2021 via a notice

mailed by planning staff. No members of the public attended the information open house meeting. The Agent and their planning consultant were in attendance.

An employee of one of the corporations who own land adjacent to the subject property emailed a request to see the proposed site plan. Planning staff forwarded the site plan via email. No further comments or requests for additional information were received.

Notice of the March 8, 2021 Public Meeting was placed in the February 11, 2021 edition of the *Fort Erie Post* and mailed to all property owners on Wednesday, February 10, 2021. No comments or objections have been submitted as of the writing of this report.

No other comments from the public been received to date.

Alternatives

N/A.

Communicating Results

There are no communication requirements at this time.

Conclusion

This report should be received for information purposes. Staff will prepare a recommendation report to Council on the proposed Zoning By-law Amendment that will be scheduled for a future Council-in-Committee meeting.

Attachments

Appendix “1” - Location Plan


Appendix “2” - Proposed Site Plan

Appendix “3” - Agency and Staff Comments



LOCATION PLAN

Zoning By-law Amendment - 0-13365 Pettit Road

 Subject Lands - 0-13365 Pettit Road



PART OF PARK LOTS 5 AND 6
CONCESSIONS 4 & 5, N.R. AND
PART OF THE ROAD ALLOWANCE
BETWEEN CONCESSIONS 4 & 5, N.R.
FORMALLY IN THE TOWNSHIP OF MIDDLE, COUNTY OF WELLAND
NOW IN THE
TOWN OF FORT ERIE
REGIONAL MUNICIPALITY OF NIAGARA

[illegible][illegible]

LOCATION SHEET	DETAIL SHEET	DETAIL NUMBER
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DATE (dd/mm/yy)	27/7/20	09/12/20
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PROJECT	
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SITE DEVELOPMENT

TRAVEL CENTRE COURT
FORT FRID. ONTARIO

CLIENT

KRS HOLDINGS

DRAWING TITLE

CITE DI ANI

DATE : JULY 2020

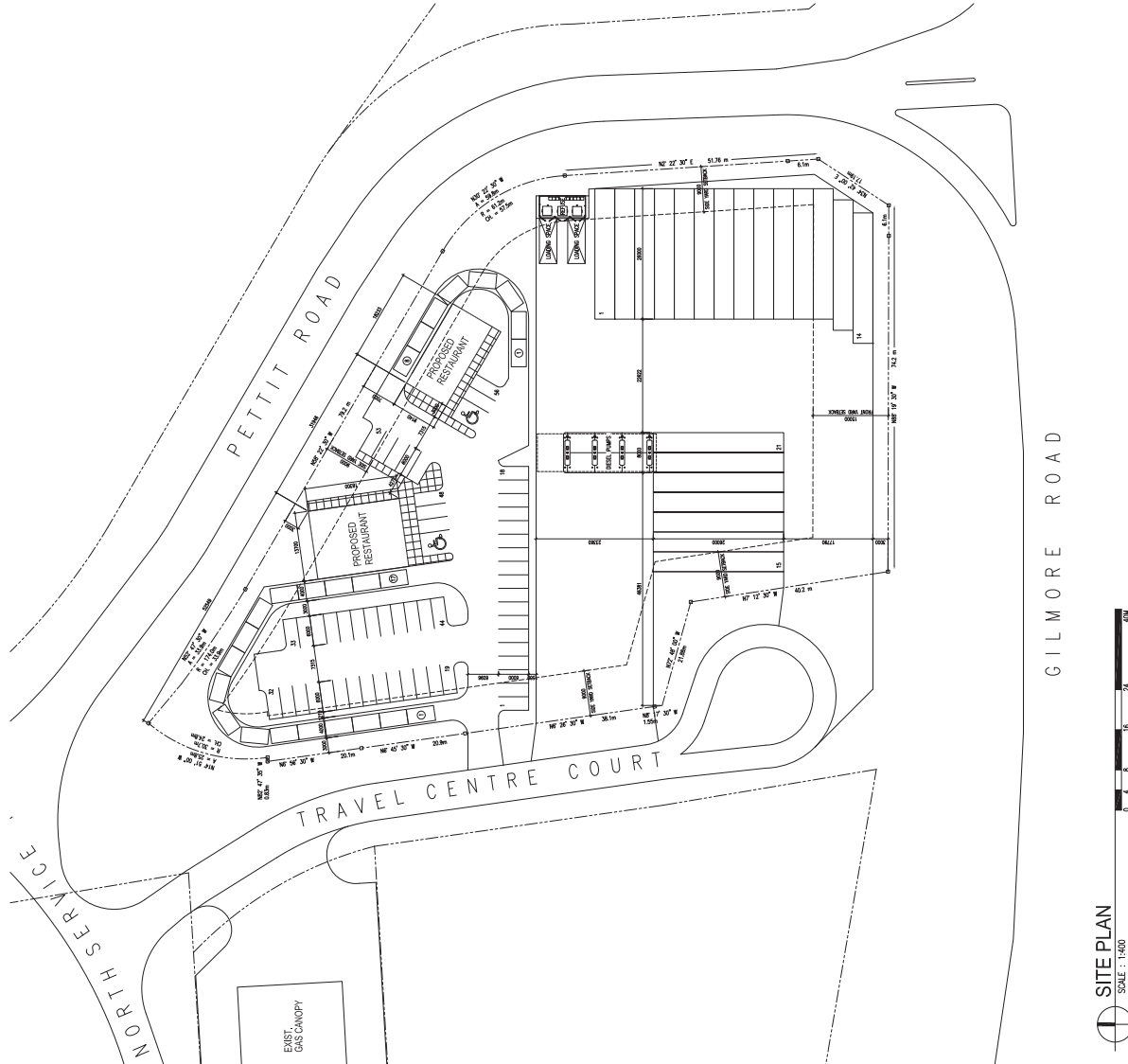
SCALE : AS NOTED

DRAWN BY : BC

CHECKED BY : MEM

PROJECT FILE NO. M20-203

C1.1



SITE PLAN
SCALE : 1:400

APPENDIX "3" TO ADMINISTRATIVE REPORT PDS-19-2021 DATED MARCH 8, 2021

RE: Request for comments - Proposed Zoning By-law amendment (0-13365 Pettit Road, Fort Erie, file no. 350309-0516)

CARRIGAN, Andrew to: Daryl Vander Veen 2021-02-15 01:06 PM

From: "CARRIGAN, Andrew" <andrew.carrigan@canadapost.postescanada.ca>

To: "Daryl Vander Veen" <DVanderVeen@forterie.ca>

Hi Daryl,

CPC has no comments or conditions regarding this development.

Mail delivery will be provided via one of our existing community mailbox sites.

Thank you

Andrew Carrigan | Delivery Services Officer | Canada Post | Delivery Planning | 955 Highbury Ave, London, ON N5Y 1A3 | 226-268-5914

 Please consider the environment before printing this email.

From: Daryl Vander Veen [<mailto:DVanderVeen@forterie.ca>]

Sent: February-12-21 5:53 PM

Subject: Re: Request for comments - Proposed Zoning By-law amendment (0-13365 Pettit Road, Fort Erie, file no. 350309-0516)

This email is from an EXTERNAL sender. Please be CAUTIOUS, particularly with links and attachments. | Ce courriel est d'un expéditeur EXTERNE. Soyez PRUDENT, en particulier avec des liens et des pièces jointes.

Good evening,

A complete application for a Zoning By-law amendment has been received from Mark McCloskey of D.C. McCloskey Engineering Ltd on behalf of KRS Holdings Inc. (Gary Singh) for 0-13365 Pettit Road, a commercial property located in the Gilmore neighbourhood of Fort Erie adjacent to the QEW.

This Zoning By-law amendment application will permit a commercial development that includes a card-locked commercial refueling station for transport trucks and two restaurants with drive-thrus.

The zoning of the subject property is proposed to change from Highway Commercial C3-173(H) Zone to a new site-specific Highway Commercial C3 Zone that permits a commercial refueling station. The proposed restaurants with drive-thrus are already permitted by the base C3 zoning.

Site-specific regulations are also requested for increased access driveway width, a decrease to the minimum width of landscape buffers along the outer edges of a drive-thru lane, a reduction to the minimum amount of vehicle storage in the drive-thru lane for one of the proposed restaurants and a reduction to the exterior side yard setback along Pettit Road.

The following is submitted for your review:

1. Application for Zoning By-law Amendment
2. Notice of Complete Application and Formal Public Meeting
3. Site Plan
4. Planning Justification Report
5. Archaeological Assessment
6. Traffic Impact Study

APPENDIX "3" TO ADMINISTRATIVE REPORT PDS-19-2021 DATED MARCH 8, 2021

Re: Request for comments - Proposed Zoning By-law amendment (0-13365 Pettit Road, Fort Erie, file no. 350309-0516)

Randy Leppert to: Daryl Vander Veen 2021-02-16 07:46 AM

From: "Randy Leppert" <randy.leppert@cogeco.com>

To: "Daryl Vander Veen" <DVanderVeen@forterie.ca>

Cogeco has no issues

RANDY LEPPERT

Lead, OSP Infrastructure Delivery

T 289-296-6228 | C 905-351-3771

7170 McLeod Rd

Niagara Falls, Ontario

L2G 3H2 Canada
cogeco.ca

On Fri, Feb 12, 2021 at 5:52 PM Daryl Vander Veen <DVanderVeen@forterie.ca> wrote:

Good evening,

A complete application for a Zoning By-law amendment has been received from Mark McCloskey of D.C. McCloskey Engineering Ltd on behalf of KRS Holdings Inc. (Gary Singh) for 0-13365 Pettit Road, a commercial property located in the Gilmore neighbourhood of Fort Erie adjacent to the QEW.

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Please provide any comments you have on the applications no later than **Thursday, March 4, 2021**. If your organization requires a review fee it has been mailed.

Please contact me if you have any questions or require further information.

Regards,

Daryl

APPENDIX "3" TO ADMINISTRATIVE REPORT PDS-19-2021 DATED MARCH 8, 2021

RE: [External] Re: Request for comments - Proposed Zoning By-law amendment (0-13365 Pettit Road, Fort Erie, file no. 350309-0516)
 Municipal Planning to: Daryl Vander Veen 2021-02-15 10:33 AM
 From: "Municipal Planning" <MunicipalPlanning@enbridge.com>
 To: "Daryl Vander Veen" <DVanderVeen@forterie.ca>

Thank you for your circulation.

Enbridge Gas Inc. does not object to the proposed application however, we reserve the right to amend our development conditions.

Please continue to forward all municipal circulations and clearance letter requests electronically to MunicipalPlanning@Enbridge.com.

Regards,

Alice Coleman
 Municipal Planning Analyst
 Long Range Distribution Planning

ENBRIDGE
 TEL: 416-495-5386 | MunicipalPlanning@Enbridge.com
 500 Consumers Road, North York, Ontario M2J 1P8

enbridge.com

Safety. Integrity. Respect.

From: Daryl Vander Veen <DVanderVeen@forterie.ca>

Sent: Friday, February 12, 2021 5:53 PM

Subject: [External] Re: Request for comments - Proposed Zoning By-law amendment (0-13365 Pettit Road, Fort Erie, file no. 350309-0516)

EXTERNAL: PLEASE PROCEED WITH CAUTION.

This e-mail has originated from outside of the organization. Do not respond, click on links or open attachments unless you recognize the sender or know the content is safe.

Good evening,

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Regards,

Daryl

Daryl Vander Veen, BES
 Planning Technician

Planning & Development Services
 The Corporation of the Town of Fort Erie
 1 Municipal Centre Drive
 Fort Erie, Ontario, L2A 2S6
 Phone: 905-871-1600 ext. 2509
 Email: dvanderveen@forterie.ca

Thanks for connecting.

For up-to-date information about the Town of Fort Erie's response to the COVID-19 virus, please visit https://secure-web.cisco.com/112d1CcEcnwVECFQQu8pBP2F703OUQIYxU2qrXeq8EGIZINr2O3Aydd87e5VOLL7qbF5oHQJ2D6I4drhegsnZlpQ1Z8KZFTNvXLQWHOMgWMmZi8IsEXuMUL6i7kyHsPAIKnV56a7bHrplxt1bE8dWlUT-koTSJLmDhQeCXyrQw3crzhQmG7e4QNCI_2Uegh1rU4zw7UaBdgmSgWQtzSATQNYtgi7vcDpH-HKErLoGRKD6c12ET87eI5D_vgi8SgC5hKmlfakhQC2gWkl58go7N2n2bA-RZpwTcjh6rolzakT/https%3A%2F%2Fwww.forterie.ca%2Fpages%2FCovid19News

We also strongly encourage you to stay-up-to-date with the latest advice from Niagara Region Public Health at <https://secure-web.cisco.com/1xHRnza84IL8gSKH6zhTQlumTePtoDWlwPJ43mBL->



Interoffice Memorandum

February 23, 2021
File No. 350309-0519

To: Daryl Vander Veen, Junior Planner
From: Jeremy Korevaar, Coordinator, Development Approvals
Subject: **Application for Zoning By-law Amendment – 0-13365 Pettit Road**

On behalf of the Infrastructure Services Department, Engineering Division, I have reviewed the proposed Zoning By-law Amendment for **0-13365 Pettit Road** and the supporting documentation and offer the following comments:

1. The development application indicates that the proposed amendment to the Zoning By-law is to permit a card-locked commercial refueling station for transport trucks, for increased access driveway width, a decrease to the minimum width of landscape buffers along the outer edges of a drive-thru lane, a reduction to the minimum amount of vehicle storage in the drive-thru lane for one of the proposed restaurants and a reduction to the exterior side yard setback along Pettit Road.
2. We have completed a high-level review of the Traffic Impact Study prepared by Trans-Plan Transportation Inc. dated October 23, 2020 and we have the following comments:
 - a. The future background traffic should be updated to reflect the anticipated growth at local industrial sites as outlined in the Fort Erie Industrial District Coordinated Transportation Impact Study Update prepared by Paradigm Transportation Solutions dated November 2020. A copy of the study is attached for the applicant's reference.
 - b. Provide some additional discussion regarding the proposed truck refueling use and the resulting impacts to the intersections, if any.

Given the foregoing comments and observations, we recommend that the Traffic Impact Study be updated to reflect the above and resubmitted for review by the Town prior to making a recommendation to Council.

Jeremy Korevaar, C.E.T.
Coordinator, Development Approvals

cc: Tim Marotta, Manager, Engineering Division; Aaron Butler, Manager, Development Approvals;



**Re: Request for comments - Proposed Zoning By-law amendment (0-13365
Pettit Road, Fort Erie, file no. 350309-0516)** 📎

Ed Melanson to: Daryl Vander Veen

2021-02-16 07:30 AM

From: Ed Melanson/FortErie
To: Daryl Vander Veen/FortErie@TownOfFortErie

Good Morning Daryl,

I have reviewed the attached request for comments on the proposed zoning bylaw amendment and have no objections, comments or questions at this time.

Thank you for reaching out.



Ed Melanson
Fire Chief / CEMC

Office: (905) 871-1600 ext. 2600

Cell: (905) 329-7255

Daryl Vander Veen

Good evening, A complete application for a Zon...

2021-02-12 05:52:37 PM

From: Daryl Vander Veen/FortErie
To:
Date: 2021-02-12 05:52 PM
Subject: Re: Request for comments - Proposed Zoning By-law amendment (0-13365 Pettit Road, Fort Erie, file no. 350309-0516)

Good evening,

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Interoffice Memorandum

September 12, 2022
File No. 350309-0516

To: Mayor and Council
From: Daryl Vander Veen, Intermediate Planner
Subject: **PDS-19-2021 – PROPOSED ZONING BY-LAW AMENDMENT FOR 0-13365
PETTIT ROAD – SUPPLEMENTARY MEMORANDUM**

Planning and Development Services originally presented Report No. PDS-19-2021 for consideration at the March 8, 2021 Council-in-Committee meeting. The information report was postponed several times in 2021 for a revised traffic study and further information regarding marketing research and the number of jobs that will be generated from the proposed commercial refuelling station on 0-13365 Pettit Road.

On January 10, 2022, supplemental information Report No. PDS-19-1-2021 was submitted to Council with additional information on these items. Council approved the supplemental report but requested that the Applicant provide a Market Impact Study to demonstrate the feasibility of the proposed development. Council also requested several other documents from staff that were part of the application submission. The following recommendation was approved:

*Recommendation No. 2
Moved by: Mayor Redekop*

That: Report No. PDS-19-2021 be postponed until the March 21, 2022 Council-in-Committee Meeting to receive a supplemental report in order for Council to receive the Terms of Reference for the Environmental Impact Study, Traffic Impact Study, Feasibility Study, and Planning Rationale Report. **(Carried)**

At the request of staff on August 8, 2022, Report No. PDS-19-2021 was postponed to September 12, 2022 to allow the Applicant more time to submit additional information regarding the Feasibility Study. The following recommendation as approved:

*Recommendation No. 8
Moved by: Mayor Redekop*

That: Report No. PDS-19-2021 be further postponed to the September 12, 2022 Council Meeting. **(Carried)**

Staff recently received the Feasibility Study information from the Applicant and are hereby requesting further postponement of Report No. PDS-19-2021 to October 3, 2022 to provide time for staff to circulate the requested documents to Council and to prepare a recommendation report for the October 3, 2022 Council-in-Committee meeting.

...../2

All of which is respectfully submitted,

Original Signed

Daryl Vander Veen
Intermediate Development Planner



Planning and Development Services

Prepared for	Council-in-Committee	Report No.	PDS-65-2022
Agenda Date	September 12, 2022	File No.	350309-0522

Subject

**PROPOSED ZONING BY-LAW AMENDMENT
0-15850 REBSTOCK ROAD
MARY LOU TANNER (NPG PLANNING SOLUTIONS INC.) (APPLICANT)
M5V INC. (SHERARD MCQUEEN) (OWNER)**

Recommendation

THAT Council denies the amendment to the Town's Zoning By-law No. 129-90 as detailed in Report No. PDS-65-2022 for the lands known as 0-15850 Rebstock Road.

Relation to Council's 2018-2022 Corporate Strategic Plan

Priority: Managed Growth through Responsibility, Stewardship and Preservation

Prepared by:	Submitted by:	Approved by:
<i>Original Signed</i>	<i>Original Signed</i>	<i>Original Signed</i>
Alex Herlovitch MCIP, RPP Director, Planning and Development Services	Alex Herlovitch MCIP, RPP Director, Planning and Development Services	Chris McQueen, MBA Chief Administrative Officer

Purpose

This report provides background information and a staff recommendation to Council on the proposed Zoning By-law Amendment application that has been submitted by NPG Planning Solutions, Applicant for M5V Inc c/o Sherard McQueen, owner of the subject property known as 0-15850 Rebstock Road. The application was deemed complete on June 16, 2021. The subject lands are located on the north side of Rebstock Road between Ridge Road South and Ridgeway Road, as illustrated in **Appendix "1."**

The applicant is requesting to rezone the subject lands to construct a 6-block stacked back-to-back townhouse development with a total of 154 dwelling units. The proposed development provides a residential density of 103 units per hectare.

The statutory Public Meeting for this proposal was held on April 11, 2022. Council received the related [PDS-20-2022](#) for information purposes that evening.

The lands are currently designated Urban Residential in the Official Plan. The Urban Residential designation allows the proposed residential development. The lands are currently zoned Neighbourhood Development (ND) Zone, in accordance with the Zoning By-law No. 129-90.

The applicant is requesting to rezone the subject property to a site-specific Residential Multiple 1 (RM1) Zone. The site-specific RM1 regulations are requested for adding stacked back-to-back townhouses to the list of permitted uses, eliminating the requirement for privacy area, a reduction in the minimum lot frontage, minimum rear yard setback, minimum landscaped area and the number of parking spaces, and an increase in the maximum building height and maximum density. A site plan and renderings illustrating the details of the proposed development are attached as **Appendix “2”** and **Appendix “3”**, respectively.

Nature of the Site

The subject lands consist of approximately 1.5 hectares of land that is currently vacant. The following summarizes the land uses surrounding the subject property:

North: Crystal Beach Community Centre, Crystal Beach Library and single-detached dwellings
South: Rebstock Road and single detached dwellings
East: Single-detached dwellings and Ridge Road South
West: Crystal Ridge Park and single-detached dwellings.

Planning Context

2020 Provincial Policy Statement

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, infrastructure and public service facilities that are planned or available. The PPS promotes the intensification and redevelopment of underutilized lands through a compact built form that diversifies the economic base.

The proposed development is considered an infill development and will result in residential intensification within the built-up area that will make efficient use of designated urban land and existing infrastructure. The proposal complies with the policies outlined in the PPS.

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

The subject lands are located within the Delineated Built-Up Area under the 2020 Growth Plan for the Greater Golden Horseshoe (Growth Plan). The Growth Plan contains policies that encourage the development of complete communities with a diverse mix of land uses that promote economic development and competitiveness and provide a range of housing types. The policies further state that until the Region completes a municipal comprehensive review that is approved and in effect, the annual minimum intensification target contained in the Regional Official Plan for the Delineated Built-Up Area, being fifteen per cent (15%), will continue to apply. The proposal will help the Town meet the intensification target.

2014 Regional Official Plan (ROP)

The subject lands are designated Urban Area in the Regional Official Plan (ROP), which permits a full range of residential, commercial and industrial uses and promotes infill as the preferred form of residential development subject to the availability of adequate municipal services and infrastructure. The ROP promotes higher density development in the urban area and supports growth that contributes to the overall goal of providing a sufficient supply of housing that is affordable, accessible, and suited to the needs of a variety of households and income groups in Niagara. A full range of residential, commercial and industrial uses are permitted generally within the urban area, subject to the availability of adequate municipal services and infrastructure, and other policies relative to urban design, compatibility and environmental conservation.

The proposed application will facilitate an alternative form of development which will diversify housing options. Therefore, it can be considered to be in conformity with Regional growth management policies for lands within the urban area. The proposal will also contribute towards the Town's 15% intensification target and conforms with the growth management policies of the ROP and will contribute to, and diversify the housing supply in the community.

Official Plan

Since the subject Zoning By-law Amendment application was filed prior to the passing of the Secondary Plan, the application will be reviewed for conformity with the Official Plan policies in effect at the time of application. This is known as the *Clergy Principle*, a policy of the Ontario Land Tribunal (formerly Ontario Municipal Board and Local Planning Appeal Tribunal) which generally provides that a *Planning Act* application should be reviewed against the policy documents in effect at the date the application was submitted.

The subject lands are designated Urban Residential on Schedule A of the Town's Official Plan. The Urban Residential designation allows for a variety of housing types including townhouses, multiple-unit dwellings and apartments, among others. The existing Urban Residential policies do not have prescribed densities by housing type nor are there imposed maximum densities. Rather good planning principles should be used to guide development. As a general principle, there should be a gradation in housing densities to provide a transition from low to high. The abutting residential properties have a net density of 9.6 units per hectare while the proposed development would have a net density of 103 units per hectare. The current R1 zoning of the adjacent lands would provide for a net density of 16.6 units per hectare if developed to the maximum. The proposal does not provide a gradation in density and as such does not meet good planning principles.

The Official Plan, under Section 4.7.4.1 II, states that regard shall be given to the following policies with respect to medium-density and high-density residential uses, redevelopment and infill residential intensification on vacant land:

- 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 maximum building height of the units will be 3 ½ storeys, however, the Applicant has designed the end units of Block B and D to be 2 storeys in an attempt to provide a transition in height between the 3-storey portion of the buildings and the adjacent 1 storey dwellings. It is a generally accepted planning principle that a transition between building heights be provided.

The Applicant is proposing to construct 6 blocks of stacked back-to-back townhouse units. The back-to-back arrangement results in a building of significant size or bulk. In order to reduce the negative impact of the building mass, the proposal provides a setback of 6.5 m (21.3 ft) between the end of Block B and the residential property line to the east. The proposal provides a setback of 8.5 m (27.8 ft) between the end of Block D and the property line of the houses to the south.

- b. Appropriate open space, including landscaping and buffering to maximize privacy and minimize the impact on adjacent lower density uses;

The proposal provides 37.9% ground level landscaped space including amenity areas located between Blocks E and F and in the northwest corner of the development. The Applicant proposes to meet the balance of the 50% landscape requirement by providing green roofs located above the parking area and on the rooftop of the buildings. While the proposed landscape space on the rooftop and roof deck over the parking area may technically meet the Town's definition in the Zoning By-law, however, in staff's opinion does not meet the intent of the by-law

as it would do little to contribute to the usable amenity area and would not provide any additional landscape buffer between the adjacent properties. Staff does not support the landscaping as presented.

The proposal provides buffer strips of 3 m (9.8 ft) between the rear yards of the existing residential properties to the north and south and the proposed parking areas. A landscape strip of 3 m (9.8 ft) is provided on the east side of the parking and entrance driveway and 4.08 m (13.3 ft) on the west side of the entrance and parking. A proposed closed board fence at the back of the existing residential properties and along the property lines on either side of the entrance driveway area will help to mitigate some of the privacy concerns of neighbours and impacts of headlights.

- 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;

The Applicant has requested a reduced parking ratio per unit and has provided a Parking Study to support this position. The Applicant is proposing to locate the majority of the parking spaces in the centre of the site. The majority of the parking spaces along the entrance driveway should be designated for visitor parking to possibly reduce the frequency of use of these spaces.

- d. The design and location of refuse pick-up and recycling service areas meet Regional Waste Collection design requirements;

The current site layout does not meet the Regional waste collection requirements. Although the Applicant is proposing to construct a waste collection area, enhanced services are not available in the Town of Fort Erie. The waste collection services will be the owner's responsibility. To ensure that the waste collection service is addressed to the satisfaction of the Town, clauses regarding waste collection can be addressed through the Site Plan Approval process.

- e. Driveway access, internal roadways and pedestrian walkways that are safe and properly designed;

The proposal provides a driveway access that is wider than the prescribed minimum for two-way traffic. The proposed access driveway is 8.5 m in width. This may assist with movement of cars in and out of parking spaces. The plan also provides a pedestrian sidewalk connecting the proposed development with Rebstock Road and also provides a walkway within the site.

- f. Convenient access to a collector or arterial road;

The subject lands have frontage on Rebstock Road which is an arterial road.

- g. Location in regard to the elements of traditional neighbourhood design and within convenient walking distance of the central focus of the neighbourhood;

The subject lands abut the Crystal Beach Community Centre and newly constructed Crystal Ridge Park.

- h. Building designs that place windows and balconies to overlook pedestrian routes and parking areas to encourage “eyes on the street”;

The proposed back-to-back stacked townhouses will have balconies which will overlook the parking areas and internal driveways and will also overlook the Community Centre and Crystal Ridge Park and associated parking areas, thereby helping in providing passive surveillance.

- i. Site planning considerations that facilitate walking and cycling activities such as secured bike storage, lighting and bikeways.

The Applicant is proposing to provide a bicycle parking area on-site.

Crystal Beach Secondary Plan (CBSP)

The CBSP was approved by Council on September 13, 2021, and By-law No 143-2021 to enact the Official Plan Amendment was passed by Council on November 22, 2021. As By-law No 143-2021 is currently under appeal, the CBSP is not in effect.

The CBSP cannot be used by Council to form the basis of its decision on this application since the Secondary Plan was not adopted until after the submission date of the subject application. Nonetheless, at the Public Meeting on April 11, 2022, Council directed staff to provide an analysis regarding the conformity of the current development proposal with respect to the CBSP.

Section 4.22.9.9 of CBSP, designates the subject lands Medium Density Residential which is to be reserved for semi-detached dwellings, townhouses and low-rise apartments. The Medium Density Residential designation, for the subject lands permits a minimum site density of 25 units per hectare and a maximum density of 50 units per hectare. The proposed stacked back to back townhouses and the density of 103 units per hectare does not meet the intent of CBSP.

The Town's population is forecast to increase in the order of 12,600 new residents by the year 2041. The CBSP was developed to accommodate approximately 1100 new units (approximately 2,000 to 2,200 new residents) primarily through infilling and general intensification. As part of the CBSP preparation, Staff had identified an area along Erie Road for intensification, however, during the public consultation process, the residents of Crystal Beach expressed concerns regarding allowing additional density along Erie Road. To address the residents' concerns, Staff removed density from Erie Road and identified certain sites for possible increased densities. Staff identified the subject property as the site for Medium Density based on its size, location on an arterial road and public transit route, and convenient access to the existing community facilities.

Staff note that Fort Erie is no longer serviced by a regular transit system, having been replaced with an on-demand service. Staff recommended a residential density range between 50 to 100 units per hectare for the Medium Density designation as outlined in the Information Report [PDS-47-2021](#), accepted by Council on June 21, 2021. The Recommendation Report [PDS-86-2021](#), which proposed a maximum density of 100 units per hectare, was approved by Council on September 13, 2021. However, prior to the passing of the amending Official Plan and Zoning By-laws, Council at the November 22, 2021 meeting directed Staff to reduce the density for the subject property to a maximum 50 units per hectare. The proponent appealed this decision of Council to the Ontario Land Tribunal.

A density of 50 units per hectare would result in a maximum of 75 units on the subject property, whereas the density of 100 units per hectare will allow for the construction of 150 dwelling units on the property. The Applicant is proposing 154 units which results in a density of 103 units per hectare.

While Staff's report recommended a density of 100 units per hectare in the CBSP, the ability to attain maximum densities are usually achieved on regular shaped lots. The subject property is an irregular flag shaped lot. It is only through the use of stacked back-to-back townhouses and reduced parking ratios, not anticipated through the Secondary Plan, that the Applicant has reached the density of 103 units per hectare.

General Policies 4.22.5 of the CBSP also state that intensification is not to be viewed in isolation, but that existing use, land use designation and zoning of adjacent lands shall be considered. The policies continue by stating development shall be sensitively planned in the community having considered factors as setbacks, interface, building height, built form massing and access. New development is to be subject to the Accessibility for Ontarians with Disabilities Act, 2005. While the proposed development does address some of the policies, it does not adequately address significant aspects of the policy.

Zoning By-law 129-90

The subject lands are currently zoned Neighbourhood Development (ND) Zone, in accordance with Zoning By-law No. 129-90. The Applicant is requesting that the subject property be rezoned to a site-specific Residential Multiple 1 (RM1) Zone with the following provisions:

Zoning Regulation	Zoning Requirement	Proposal
Permitted Uses	a) Single-detached dwellings b) Semi-detached dwellings (c) Duplexes (d) Triplexes (e) Fourplexes (f) Street townhouse dwellings (g) Block townhouse dwellings (h) Residential uses existing at the date of passing of this by-law (i) Uses, buildings and structures accessory to the foregoing permitted use	Stacked back-to-back townhouse dwelling
Minimum Lot Frontage	50 m	27 m (existing)
Minimum Rear Yard	6 m	4.5 m (Block A) pinch point
Minimum Landscaped Area	50%	50% 37.9 % at grade (after the requested 1.5 m road widening) 11.1% roof top
Maximum Density	35 units per hectare	103 units per hectare
Maximum Building Height	i) 3 storey ii) 12 m	3.5 storeys 13 m
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	Eliminate the requirement
Parking spaces	154 units x 1.5 parking spaces per unit = 231 spaces	154 units x 1.25 parking spaces per unit = 194 spaces

Stacked back-to-back townhouse dwelling units are a form of housing which is not defined in the Town's Zoning By-law and not a listed use in the RM1 Zone. The Applicant has requested that back-to-back townhouse dwellings be added as a permitted use. The Applicant proposes a new definition to be added which will be defined as "a dwelling containing four or more dwelling units divided horizontally and vertically, including a common rear wall, each with an entrance that is independent or through a shared landing and/or external stairwell".

Back-to-back townhouses and stacked townhouses are a recent phenomenon. The Applicant proffers that back-to-back stacked townhouses provide a more affordable housing type because it uses less expensive construction methods, has reduced maintenance fees, and has a lower land cost per unit. In staff's opinion, the proposed built form results in an over-intensification of the site beyond the intent of the Zoning By-law, as such is not supported.

The request to increase density from 35 units per hectare to 103 units per hectare represents a significant increase. It does not provide a transition between the density of the existing detached dwellings on the adjacent lands. Development of the lands using one of the listed forms of development in the RM1 Zone should be explored to provide a better density gradation. The requested back-to-back stacked townhouse use is not supported.

The reduction in the frontage can be supported, as the Applicant is requesting that the existing situation be recognized. The lot frontage of 27 m (88.58 ft) is adequate to provide two-way traffic flow. The existing frontage is similar in width to a standard municipal road allowance.

The Applicant is requesting a reduction in the rear yard setback for only the westerly portion on Block A, as shown in **Appendix "4"**. For the majority of Blocks A and B, the rear yard setback exceeds the requirement of 6 m. The reduction in the rear yard setback is requested due to the irregular shape of the subject parcel, where the rear lot line slopes from east to west. The Applicant moved the buildings toward the west edge and northern limit of the property as directed by Staff to reduce proximity of the multi-unit buildings to the single detached dwellings. The Applicant is also providing side yard setbacks between the proposed building Blocks B and D and the existing detached dwellings which are above the minimum requirement of the Zoning By-law.

The intent of requiring the minimum landscaped area is to ensure that an adequate amenity area is provided on-site for the future residents of the residential development and to serve as a buffer to adjacent uses. The layout provides a ground level landscaped area of 37.9%, after the road widening. The balance of the 50% landscape requirement is to be provided in the form of rooftop amenity areas, as shown on **Appendix "5"**. While these areas technically meet the Town's definition of Landscaped Area, they do little to buffer adjacent properties or provide outdoor amenity space, as previously discussed.

To support the 154-unit development, the Applicant submitted supporting studies that include traffic and functional servicing studies. The traffic study confirms that the number of dwelling units will not have an adverse impact on the existing road network. In order to accommodate the additional sanitary discharge generated by the proposed development, the Applicant is proposing to upgrade the sanitary sewers at their own expense.

The increase in the height by half a storey and 1 metre (39 inches) is considered minimal. The Applicant has submitted shadow drawings (**Appendix “7”**) for the proposed development that shows the shadowing impact on the abutting properties will be minimal for the majority of the day. For instance:

- During the spring months, for the majority of the day, the shadows from the proposed development will be confined within the property limits of the subject property. During the evening hours, the rear yard of the residential dwellings located along the east lot line will be impacted.
- For the summer months, the shadow from the proposed development will have no impact on the abutting properties for the majority of the day. During the late evening hours, the rear yards of the residential dwellings located along the east property line will be impacted.
- For the Fall, during the morning hours, a small easterly portion of Crystal Ridge Park and in the late evening hours, the rear yards of the residential dwellings located along the easterly lot line of the subject property will be impacted. For the majority of the day, there will be no shadowing impacts on the abutting properties.
- Lastly, for the winter months during the morning hours, a small easterly portion of Crystal Ridge Park and in the late evening hours, the rear yards of the residential dwellings located along the easterly lot line of the subject property will be impacted. For the majority of the day, there will be no shadowing impacts on the abutting properties.

The Applicant has requested the elimination of privacy area because in the back-to-back stacked built form it is not possible to achieve an exclusive landscaped privacy area. Removal of the privacy area requirement has a negative impact on the ground level landscaped area as such cannot be supported.

The Zoning By-law requires 1.5 parking spaces per dwelling unit, which provides 1 parking space per dwelling unit and 0.5 parking spaces for visitor parking. The Applicant is proposing 1.25 parking spaces per dwelling unit. One parking space will serve the dwelling unit and the remaining 0.25 will contribute to visitor parking. In both scenarios, there is one parking space per dwelling unit. The Applicant submitted a traffic study prepared by GHD in support of the reduction in the number of parking spaces. At April 11, 2022, Public Meeting, Council directed staff to have the traffic study peer-reviewed. Staff had the report peer-reviewed by Paradigm Transportation Solution Ltd (PTSL). As a result of the peer review by PTSL, GHD was asked to review a comparable local development to assess the parking demand. GHD reviewed the townhouse development located at 340 Prospect Point Road North in Fort Erie as this site is comparable to the subject site in terms of local travel patterns and is without a fixed transit route. At 340 Prospect Point Road North, the peak visitor parking demand was found to be 0.12 visitor parking spaces per unit, supporting the proposed supply of 0.25 visitor parking spaces per unit.

The site plan drawing shows 39 parking spaces located along both sides of the entrance driveway. It is Staff's recommendation that these spaces be reserved for visitors, which will be less frequently used, thereby minimizing any vehicular conflict with abutting houses.

Zoning By-law Amendment to Implement Crystal Beach Secondary Plan

The CBSP was approved by Council on September 13, 2021, and the Amending By-law No. 144-2021 to implement the Secondary Plan was passed on November 22, 2021. The subject lands are zoned a site-specific Residential Multiple 1 (RM1-684) Zone in the Amending By-law. However, the Applicant has appealed the Amending By-law No. 144-2021 and it is currently not in effect.

While the Amending Zoning By-law No.144-2021 permits the stacked townhouse development, albeit not back-to-back, the By-law was not in effect at the time the application was submitted. The By-law allows a maximum density of 50 units per hectare (75 units), a maximum building height of 3 storeys or 12 metres, and a minimum rear yard setback of 6 m.

The Applicant is proposing a density of 103 units per hectare which results in 154 dwelling units. The Applicant is proposing to construct 6 blocks of stacked townhouses with a maximum building height of 3.5 storeys and 13 m. The Applicant is requesting a reduction to the rear yard setback for a portion of Block A, from the required 6 m to 4.5 m. For the majority of Blocks A and B, the proposal meets or exceeds the required 6 m setback.

Financial/Staffing and Accessibility (AODA) Implications

All costs associated with processing the application and the development of the property are the responsibility of the Owner and no impediments to the AODA legislation are expected to be developed through the amendment proposed. The Owner will be responsible for the cost associated with the sewer upgrade.

Studies

The detailed information regarding the studies submitted with the Zoning By-law Amendment application are included in the Information Report [PDS-20-2022](#).

Policies Affecting Proposal

Notice of the meeting was circulated in accordance with the *Planning Act* by placing an advertisement in the March 17, 2022 edition of the Fort Erie Post. In addition, all property owners within 120 metres of the subject lands were also mailed a "Notice of Complete Application and Public Meeting" on the same date.

Land use policies for the subject lands are contained in the Official Plan as well as applicable Regional and Provincial regulations.

Comments from Relevant Departments/Community and Corporate Partners

Comments received from the relevant Departments/Community and Corporate Partners are included in the Information Report [PDS-20-2022](#).

Additional Concerns were raised at April 11, 2021, Public Meeting

Fire Safety

At the Public Meeting, Council noted concerns regarding accessing the townhouse blocks during a fire and if the proposed built-form proposes any challenges regarding fire safety.

Staff response

Staff has reviewed Council's request with the Town's Fire Services Staff and the comments provided and included in **Appendix "6"** confirm that there are no concerns regarding the access for fire trucks and water. The Town's Fire Service Staff are confident that in case of fire, Staff will be able to conduct suppression activities in a professional and expedient manner.

Community Benefit Contribution for an increase in density and height

Council directed Staff to review whether the proposed development can be subject to Community Benefit Contribution.

Staff response

Section 13.10.2 allows Council to pass a by-law in accordance with the *Planning Act* R.S.O. 1990, to establish increases in the height and/or density of development in return for the provision of certain facilities, services or other matters. The lands are designated Urban Residential, in the Official Plan which does not limit the residential density, however, the standard Multiple 1 (RM1) Zone, limits the maximum density to 35 units per hectare. The Applicant is proposing to increase the density to 103 units per hectare. The Council has an option to subject the proposed development to Community Benefits Agreement. Section 13.10.2 I identify areas or zone categories in which the bonus provisions would apply and are listed below:

- a) Provide for housing units which assist in meeting the housing targets established in the Municipal Housing Statement;
- b) Provide parkland dedication greater than the legislative requirement;

- c) Improve traffic and pedestrian movement;
- d) Provide hard servicing facilities that are more than are required to service the development;
- e) Increased buffering or landscaping beyond the requirements set out in the Zoning By-law;
- f) Use or re-use vacant land and buildings, particularly in the urban area; and
- g) Improve the compatibility of existing land uses.
- h) The Town will require that the owner of the development involving bonus provisions enter into an agreement with the Town which details the bonusing exchange.

If Council was to approve the application and wishes to proceed with the Section 37 Agreement or Community Benefit Contribution (CBC), the payment would be based on the appraised value of the property. Staff obtained an appraisal which placed a value of \$246,400 based on a 154-unit townhouse proposal. The Applicant has indicated that he is willing to provide a CBC contribution which would equate to \$6,160,00 based on a rate of 4% of the land value.

Town's Intensification Target

Council requested staff to provide information regarding the current mix of housing and the intensification targets that the Town is required to achieve.

Staff response

The current housing mix in the Town of Fort Erie, based on Statistics Canada, May 2021, is included below:

Total -Occupied Private dwellings by structural type of dwellings	Total dwelling units-14080	
Single-detached dwelling	11620	82.52%
Semi-detached dwellings	295	2.09%
Row housing	340	2.41%
Apartment or flat in a duplex	470	3.3%
Apartment in a building that is fewer than 5 storeys	995	7.06%
Apartment in a building that is five or more storeys	310	2.2%
Other single-attached houses	40	0.28%
Movable dwelling	5	0.03%

The Town is currently required to meet the annual minimum intensification target for the Delineated Built-Up Area, of fifteen per cent (15%). Once the new Regional Official Plan is approved, the Town will be required to meet an intensification target of 50%.

Peer Review of the Traffic Study

Council directed staff to peer review the Traffic Study submitted by GHD.

Staff response

The Traffic Study submitted by GHD has been peer-reviewed and updated to reflect the comments provided by Paradigm Transportation Solutions Ltd. The updated report has analysed the intersections of both Rebstock Road and Ridgeway Road, and Rebstock Road and Ridge Road South. Based on the findings of the report, the intersections are currently operating satisfactorily with substantial reserve capacity, acceptable levels of delay, and negligible queuing. Under future background 2026 traffic conditions, the intersection is expected to continue to operate satisfactorily without a significant degradation in capacity. With site traffic added, the intersection is expected to continue operating satisfactorily with significant reserve capacity, acceptable levels of delay, and no noticeable increase in queuing. There are no improvements required at these intersections in response to the subject development.

The report also analysed the intersection of Rebstock Road and site access. The proposed site access is expected to operate satisfactorily with reserve capacity, acceptable levels of delay, and negligible queuing.

Apartment building vs Stacked Townhouses

Members of Council requested information from the Applicant regarding whether a low-rise apartment building can be constructed on-site instead of the proposed stacked back-to back townhouses.

Applicant's response

An apartment will cost 20-25% more due to larger footings to support the weight of the building and loss of saleable area to hallways, stairways and elevator shafts. These also take longer to build so it increases the carrying cost. Apartment buildings are at \$300/sqft to build and stack towns (which have 100% efficiency) cost \$240/sqft to build.

The selling price of the proposed dwelling units

Some residents requested information regarding the selling price of the proposed units

Applicant's response

The starting price will be \$399,900 and 20% of the units will be under \$500,000.

Shadowing impact if the daylight-saving time is made permanent

One member of Council requested information regarding shadowing on the abutting residential properties in an event the daylight-saving time is made permanent.

Applicant's response

There will be a minimal impact on the abutting residential dwellings located along the east property line. At 4 PM in the evening during the spring and fall months, a small portion of the rear yard of one dwelling will be impacted. During the summer months, there will be no impact on the abutting properties. In the winter month, a small portion of the rear yard of the existing dwellings will be impacted.

Provision of accessible units

At the Public Meeting, members of Council requested information regarding the accessibility of the proposed units.

Staff response

Provincial, Regional and Town policies promote the construction of accessible housing development. The proposed development is a multi-storey residential development, however, does not provide any accessible features that will allow someone with disability to access the future residential units.

Communicating Results

There are no communication requirements at this time.

Alternatives

Council could choose not to defer the proposed Zoning By-law Amendment.

Second Opinion Clause

Should a motion be placed before Council that does not support Planning Staff's Recommendation, 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.

Conclusion

Staff recommend that the proposed Zoning By-law Amendment be denied as it does not provide an appropriate transition in density and proposed built form is not compatible with the abutting residential uses and the landscaped open space provided on-site will not meet the needs of the future residents.

Attachments

Appendix “1” - Location Plan

Appendix “2” - Revised Site Plan (with road widening)

Appendix “3” - Renderings

Appendix “4” - Site Plan showing requested Zoning Changes

Appendix “5” - Site Plan showing requested Landscaping

Appendix “6” - Comments from Town’s Fire Services

Appendix “7” - Sun-shadow diagram – Daylighting saving time



0 20 40 Meters

LOCATION PLAN - 0-15850 REBSTOCK ROAD

ZONING BY-LAW AMENDMENT

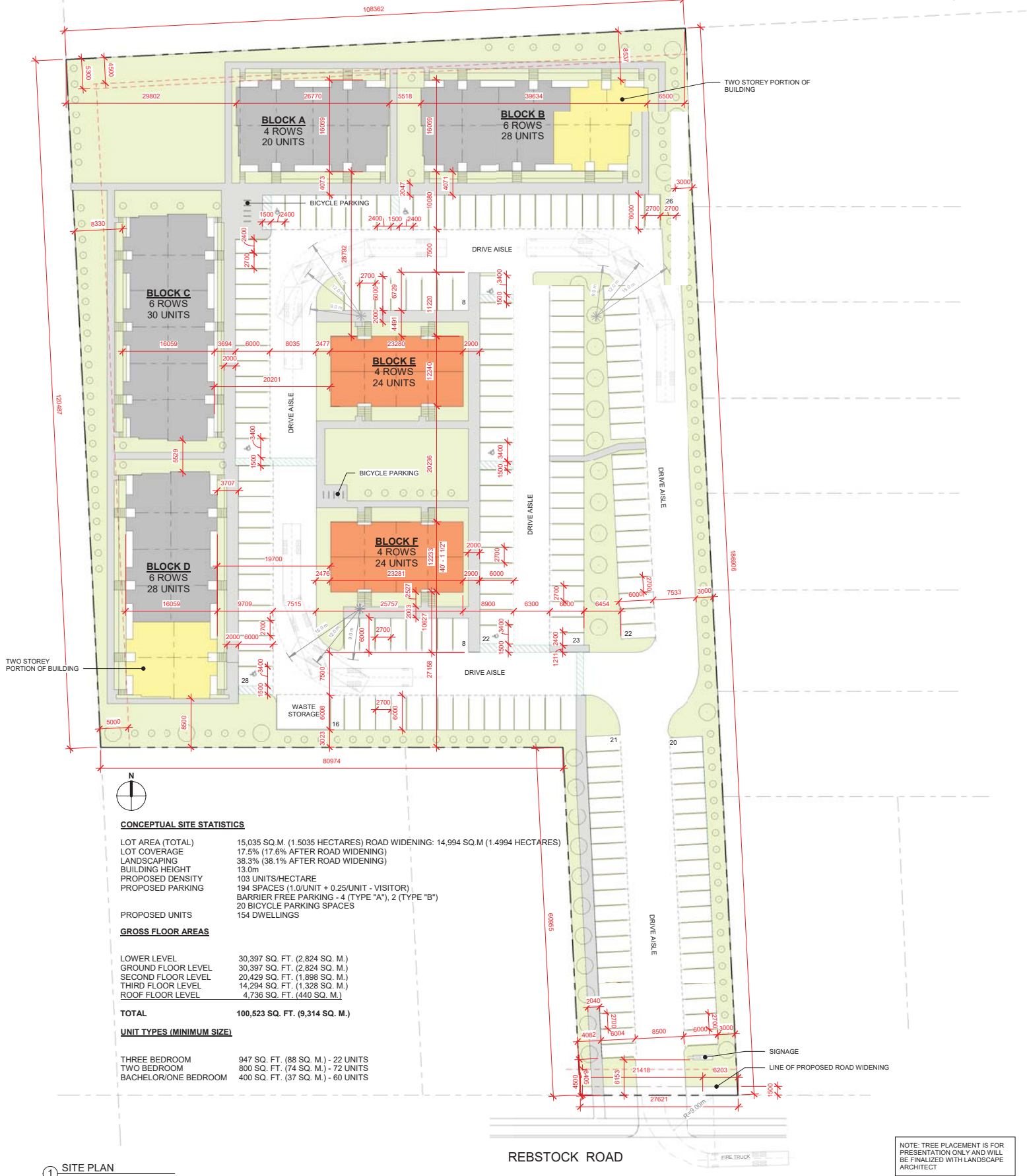


Subject Parcel - 0-15850 Rebstock Road



Planning and Development Services
Map Created March 28, 2022













APPENDIX "4" TO ADMINISTRATIVE REPORT PDS-65-2022 DATED SEPTEMBER 12, 2022

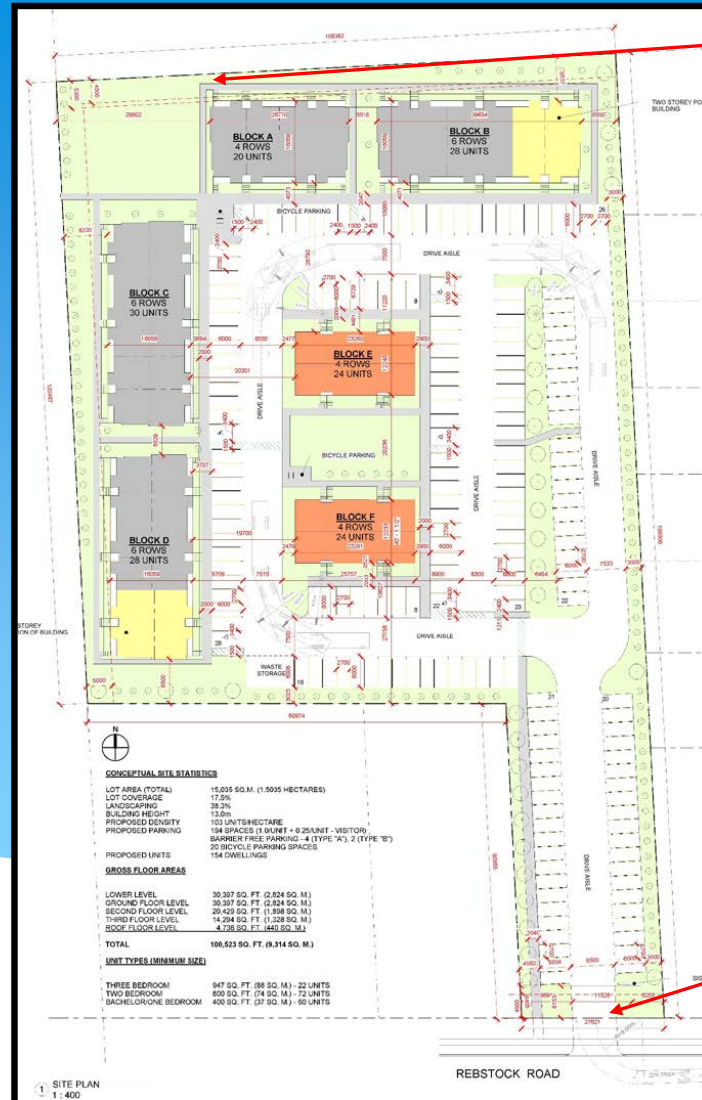
Proposed Zoning By-law Amendment - 0-15850 Rebstock Road - Mary [REDACTED].of 448

Request to add
Stacked back-to-
back townhouses to
the list of permitted
uses

Maximum
Density
35 units per
hectare/ **103
units per
hectare**

Minimum
landscaped
area
50%/ **38.3%**

Privacy area
4.5 m/
**request to
eliminate the
requirement**

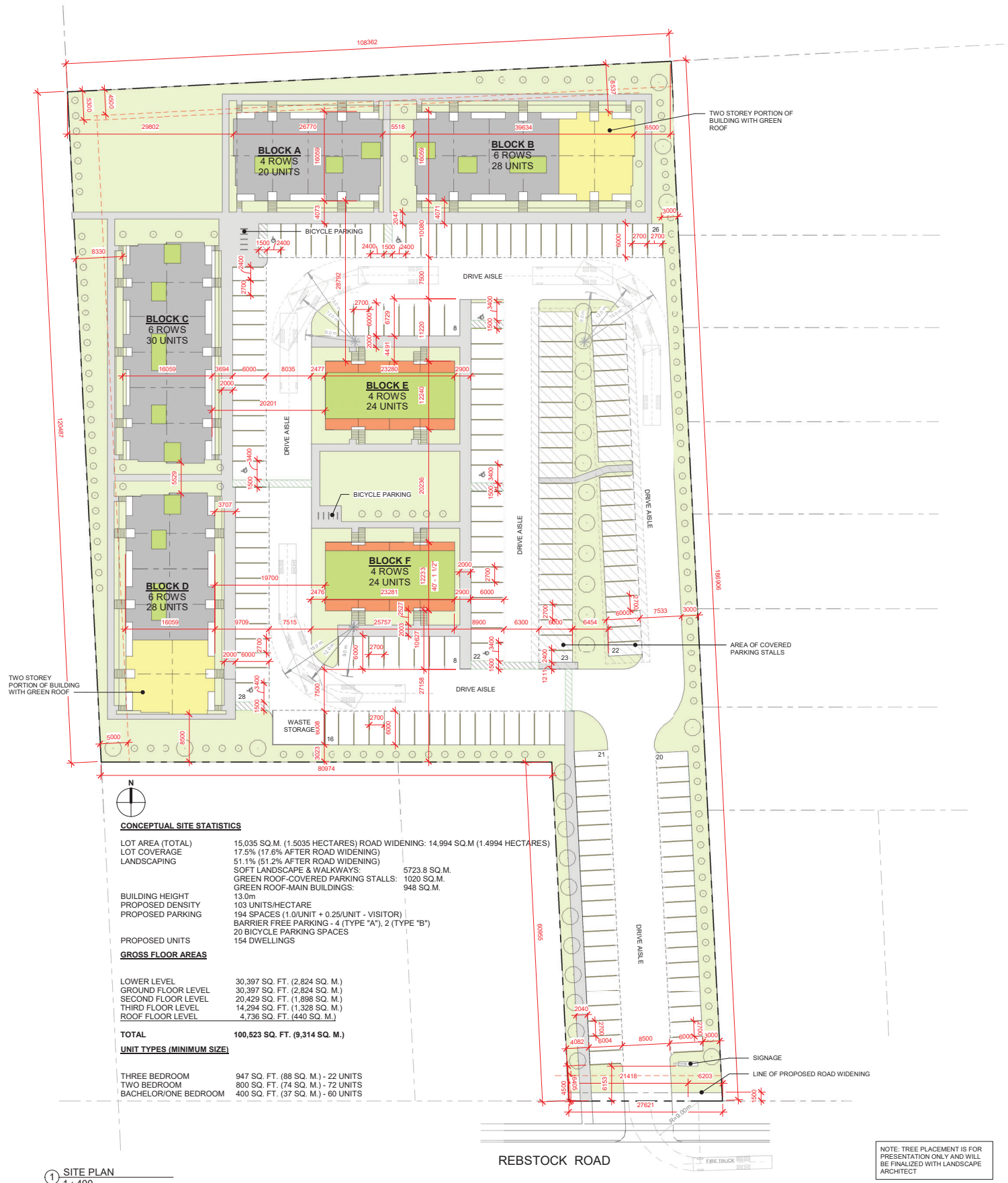


Minimum
rear yard
6m / **4.5 m**
(Block A)

Parking required
154 units x 1.5
parking spaces
= 231 spaces
**154 units x 1.25
parking spaces
= 194 spaces**

Maximum
building
height
3 storey and
12 m/ **3.5
storeys and
13 m**

Minimum lot
frontage
50m / **27 m**








Re: Rebstock Development 
Ed Melanson to: Anamika Dilwaria
Cc: Mark Schmitt

06/28/2022 07:40 AM

From: Ed Melanson/FortErie
To: Anamika Dilwaria/FortErie@TownOfFortErie
Cc: Mark Schmitt/FortErie@TownOfFortErie

		Anamika Dilwaria	Rebstock Development
		Ed Melanson	<i>Good Morning Anamika, I apologize for the delay, I was on vacation last w</i>

Good Morning Anamika,

I apologize for the delay, I was on vacation last week. We have reviewed this situation several times and although not ideal, any actual firefighting impedance is minimal. The access for trucks, access to water and an acceptable distance to stretch hose from our trucks gives us the confidence required to conduct suppression activities in a professional and expedient manner.

I hope this helps.



Ed Melanson
Fire Chief / CEMC
Office: (905) 871-1600 ext. 2600
Cell: (905) 329-7255

Anamika Dilwaria Hi Ed, You may recall couple of months back, I...

06/20/2022 01:40:18 PM

From: Anamika Dilwaria/FortErie
To: Ed Melanson/FortErie@TownOfFortErie
Date: 06/20/2022 01:40 PM
Subject: Rebstock Development

Hi Ed,

You may recall couple of months back, I had presented a zoning by-law amendment application for 0-15850 Rebstock Road at Council . The development proposal includes stacked back-to-back townhouses. At the Council meeting, some members of Council

and Public had concerns regarding the fire fighting for the proposed developments. I have attached a copy of the site plan for your convenience. As the questions raised by Council were regarding the fire safety and problems the proposed stacked back-to-back townhouses may pose from a fire fighting perspective, It would be greatly appreciated, if you can provide your comments or concerns you foresee with the proposed development by Friday, June 24, 2022.

Please feel free to contact me, if you have any questions or require additional information.

Thanks,

Anamika Dilwaria, M.Pl., MCIP, RPP
Acting Manager, Development Approvals
The Corporation of the Town of Fort Erie
1 Municipal Centre Drive
Fort Erie, Ontario L2A 2S6
TEL: 1-905-871-1600 ext.2507

E-mail-adilwaria@forterie.ca

[attachment "3720 Rebstock Road - Jan 14, 2022- SITE PLAN.pdf" deleted by Ed Melanson/FortErie]







APPENDIX "7" TO ADMINISTRATIVE REPORT PDS-65-2022 DATED SEPTEMBER 12, 2022





The Municipal Corporation of the Town of Fort Erie
Business Status Report
 Planning and Development Services
 September 12, 2022

Forecasted Reports	Status	Source
Bird Friendly City Certification Status Update	Sept 19	Council Request
PLC Memo & By-law - 4110 Rebstock Road and 18 & 22 Loganberry Court	Sept 19	Application
613 Helena Street - Draft Plan of Subdivision - Public Meeting & Information Report	Oct 3	Application
0-10972 Seymour Avenue - Draft Plan of Subdivision - Public Meeting & Information / Recommendation Report	Oct 3	Application
644 Garrison Road - OPA/ZBA - Recommendation Report	Oct 3	Application
0-13365 Pettit Road - ZBA - Recommendation Report	Oct 3	Application
124 Windmill Point Road South OPA & ZBA - Recommendation Report	Oct 3	Application
Cannabis - OPA/ZBA/SPC - Recommendation Report	Oct 3	Legislative
Town of Fort Erie Official Plan Update Strategy	Oct 3	Legislative
1 Burns Place - Consideration of Notice of Objection	Oct 3	Legislative
Affordable Housing CIP Information Report/Public Meeting	Oct 3	Legislative
Q1and Q2-2022 - Subdivision Building Status Report (tentative)	Oct 3	Town-Initiated
63 Idylewylde Street - ZBA - Public Meeting & Information Report	Oct 17	Application

214 Windmill Point Road South - OPA & ZBA - Public Meeting & Information Report	Oct 17	Application
1811 Dominion Road - OPA & ZBA - Recommendation Report	Oct 17	Application
Peace Bridge Village Phase 4 - Draft Plan of Subdivision & ZBA - Recommendation Report (tentative)	Oct 17	Application
Designated Heritage Grant Program	Oct 17	Staff Initiative
Bridgeburg North Secondary Plan Community Focus Group (tentative)	Oct 17	Staff Initiative
Affordable Housing CIP Recommendation Report (tentative)	Oct 17	Staff Initiative

Prepared By:

Original Signed

Alex Herlovitch, MCIP, RPP
Director, Planning & Development Services

Respectfully Submitted By:

Original Signed

Chris McQueen, MBA
Chief Administrative Officer

Forecasted Reports	Source	Status
Wayfinding Signage – Roads/Friendship Trail – Tender Award	Capital Budget	October 3, 2022
Non-Conforming Water Meter Rates	Operating Budget	October 3, 2022
AWOMS Procurement and Implementation Report	Operating Budget	December 5, 2022
Lindbergh, Burbank Reconstruction Tender Award	Capital Budget	December 5, 2022
Idylewylde Street Reconstruction Tender Award	Capital Budget	December 5, 2022
Prospect Point Road North Upgrade – Tender Award	Capital Budget	December 5, 2022

Prepared By:

Original signed:

Kelly Walsh, P.Eng
Director, Infrastructure Services

Respectfully Submitted By:

Original signed:

Chris McQueen, MBA
Chief Administrative Officer



Corporate Services

Prepared for	Council-in-Committee	Report No.	CS-12-2022
Agenda Date	August 8, 2022	File No.	2308

Subject	
PROCUREMENT POLICY	

Recommendations	
That	Council approves the Procurement Policy attached as “Appendix 1” to Report No. CS-12-2022, and directs that Purchasing By-law No. 2-10, as amended, be repealed, and further
That	Council directs that Budget Policy By-law No. 127-09 as amended, be further amended to adjust the dollar value limits of sections 8.1, 9.1 and 9.2 from \$25,000 to \$100,000 to align with the new Procurement Policy.

Relation to Council’s 2018-2022 Corporate Strategic Plan	
The Procurement Policy supports various strategic priorities	

List of Stakeholders	
<ul style="list-style-type: none">• Mayor & Council• Municipal Staff• Potential Bidders and Contractors• Town of Fort Erie Ratepayers	

Prepared by:	Submitted by:	Approved by:
<i>Original signed</i>	<i>Original signed</i>	<i>Original signed</i>
Justin Kelly Manager, Procurement and Finance	Jonathan Janzen, CPA, CA Director, Corporate Services	Chris McQueen, MBA Chief Administrative Officer

Purpose of Report

This report seeks council approval to update the Town's Procurement Policy and related sections of the Budget Policy.

Analysis

The Town's [Procurement Policy](#), currently called the Purchasing Policy, was adopted in 2010 by By-law No. 2-10. It was amended most recently in 2017 to adopt the Contractor Safety Program. The time to bring forward updates is ideal at the end of the term of Council and reflects previous input from the Corporate and Community Services Sub-Committee, as it helps to ensure greater familiarity with procurement matters.

The proposed new Policy is attached as Appendix "1" to this report. Proposed changes include increases to dollar limits which were compared with other regional municipal policies and also updated to reflect inflationary changes since the existing limits were implemented in 2010. Other changes generally seek to update language, legislation, authorities, and provide housekeeping. The following is a summary of key changes:

a) Purposes, Goals and Objectives

- to ensure objectivity and integrity in the Procurement process;
- maximize efficiencies in procurement processes (i.e., e-bidding);
- obtain "Best Value";
- avoid real and perceived conflicts of interest;
- adhere to the code of ethics of the Ontario Public Buyers Association and the National Institute of Government Purchasing;
- to maintain timely and relevant policies and procedures.

b) Electronic Bidding System

- eliminate the need for suppliers to deliver hard copy submissions;
- ease of advertising and distribution of solicitations;
- encourage participation and access to a wider range of suppliers;
- reduce or eliminate bid failure through system controls (e.g., bid securities and e-bonding);
- improved audit and control of bid submissions;
- eliminate barriers due to weather, time and other unexpected factors;
- align with supplier expectations of ecommerce options.

c) Trade Agreements and Legislation

- Canadian Free Trade Agreement (CFTA);
- Canada-European Union Comprehensive Economic and Trade Agreement (CETA);
- Accessibility for Ontarians with Disabilities Act;
- Prompt Payment legislation as prescribed by the Construction Act;
- *Discriminatory Business Practices Act* regarding Local Preference;
- *Emergency Management and Civil Protection Act*.

- d) Roles and Responsibilities, Communications and Lobbying
- Define and update the Roles and Responsibilities of Town disciplines;
 - Provide direction on communications and avoidance of lobbying during procurement processes.
- e) Debriefing & Dispute Resolution
- Describe and provide direction to suppliers regarding the process for debriefing and the Town's Bid Dispute process. This information was absent in previous versions of the Procurement policy.
- f) Schedule A – Exemptions: Additions
- Acquisition and Disposal of Real Property;
 - Appraisal Fees;
 - Banking Services and Charges;
 - Contract Employees;
 - Customs Brokerage fees;
 - Integrity Commissioners;
 - Licensing Agreements for ongoing maintenance and software licensing agreements;
 - Payments to Social Services & Health Agencies;
 - Resale Items.
- g) Schedule B – Purchasing and Execution Authority
- Staff review of existing authority limits recognized the need to reduce administrative demands on staff and Council for reporting and reduce delays to the procurement process. Council approval is currently required for all purchases \$50,000 or greater, despite Council's approval during the budget process. Increased all \$50,000 maximum "Dollar Value" requirements to \$100,000 which relates to both determining Procurement Method and Council approval. Section 6.1b) has also been added to allow procurement authorization should the award not exceed the approved budget by the lesser of \$100,000 or 10%.

Budget Policy impacts

Proposed changes noted above in (g) regarding "Purchasing and Execution Authority" need to be aligned with the Town's Budget Policy. Section 9.1 currently states that all adjustments to allocate funds to operating activities or capital projects not previously approved by Council shall be reported to Council for approval, with the exception that the CAO is authorized to approve mid year variances up to the lesser of 10% of the departmental budget or capital project budget and \$25,000.

If this provision were to remain unchanged, then Budget Policy would still require additional reporting to Council than what the Procurement Policy is aiming to adjust. This fixed dollar reference is also used to increase project scope where donations (Section 8.1) and other external contributions (Section 9.2) were not previously approved. It is therefore proposed that the Budget Policy be amended to increase the fixed dollar amount in each of these three sections to \$100,000 to align with the Procurement Policy. It is important to note that the Policy still requires the lesser of the

fixed amount and 10% which has the effect of requiring variances more significant to the size of the project to be brought to Council.

Financial/Staffing and Accessibility (AODA) Implications

The proposed Procurement Policy in Appendix “1” supports goals of competitive pricing.

Policies Affecting Proposal

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

By-law No. 2-10, as amended, Being a By-law respecting the purchase of goods, services and construction ([Purchasing Policy](#)).

Section 271 of the *Municipal Act S.O. 2001 C25* provides that municipalities will have policies regarding the procurement of goods and services.

By-law No. 127-09, as amended, adopted the [Budget Policy](#).

Comments from Relevant Departments/Community and Corporate Partners

This Procurement Policy update has been developed with input from all departments and presented to the July 28, 2022 Corporate and Community Services Sub-Committee.

Communicating Results

The Town [Procurement website](#) will be updated with the revised Procurement Policy.

Alternatives

Council may wish to amend certain proposed policy changes. However, the alternative to not maintain the existing Procurement Policy is not recommended as the updates contain important changes to assist the corporation in managing risk while encouraging competitive bidding to maximize value and ensuring integrity, fairness, accountability and transparency.

Summary of procurement activities.

The Manager of Procurement will prepare and submit to the CAO an annual report summarizing the Town’s procurement activities in areas prescribed by the CAO and Director Corporate Services / Treasurer.

Conclusion

The new Procurement Policy provides important updates to language, legislation, dollar limits, and provides housekeeping.

Attachments

Appendix “1” – Procurement Policy

Procurement Policy



The Corporation of
the Town of Fort Erie

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1. Part 1 - Purposes, Goals and Objectives

- 1.1. The purposes, goals and objectives of this policy and of each of the methods of Purchasing authorized herein are:
- (a) to encourage competitive bidding;
 - (b) to ensure objectivity and integrity in the Procurement process;
 - (c) to ensure fairness between Bidders;
 - (d) to maximize efficiencies in the Procurement Process, including through electronic Procurement means;
 - (e) to authorize a variety of purchasing methods, and to use the most appropriate method depending on the particular circumstances of the Procurement;
 - (f) to the extent possible, ensure openness, accountability and transparency while protecting the best interests of the Town;
 - (g) to ensure compliance and consistency with all applicable legislation and trade agreements, policies and procedures;
 - (h) to obtain the Best Value for the Corporation when procuring Goods and/or Services;
 - (i) to avoid real and perceived conflicts between the interests of the Corporation and those of the Corporation's employees and elected officials and to ensure compliance with the *Municipal Conflict of Interest Act*, R.S.O. 1990, c.M.50, as amended;
 - (j) to encourage the Purchase of Goods and/or Services with due regard to the preservation of the natural environment;
 - (k) to promote, and incorporate wherever possible in Purchasing activities of the Corporation, the requirements of the *Ontarians with Disabilities Act*, 2005, S.O. 2005, c. 11, as amended;
 - (l) to adhere to the code of ethics of the Ontario Public Buyers Association and the National Institute of Government Purchasing;

(m) to maintain timely and relevant policies and procedures;

(n) to delegate the appropriate level of authority to enable Town departments to meet services requirements.

2. Part 2 – Definitions

2.1. For the purposes of this policy:

Award or Awarded means selection to enter into a Contract with a chosen Supplier;

Best Value means the best combination of cost, technical merit, and quality as determined by the Town. The Best Value may not be the lowest cost;

Bid means a Tender, Proposal or Quotation or other formal offer or submission from a Bidder in response to a Bid Solicitation from the Town;

Bidder means the legal entity that submits a Bid in response to a Bid Solicitation;

Bidding System means the Corporation's website-based solution for issuing Bid Solicitations and/or receiving Bid submissions and posting Bid results;

Bid Irregularity means a potential or actual non-compliance with a Bid submission that may lead to the disqualification of a Bid, or that may require corrective action to take place in order to make the Bid compliant;

Bid Security means the form of security required by the terms and conditions of Bid Solicitations to guarantee that the successful Bidder enters into a Contract with the Corporation as required;

Bid Solicitation means a formal request for Bids issued by the Town, which describes what is needed and how it will be obtained. Bid Solicitations include but may not be limited to Requests for Quotation, Requests for Tender, Requests for Proposal, Requests for Pre-Qualification and Requests for Expression of Interest;

CAO means the Chief Administrative Officer of the Corporation or designate;

Clerk means the appointed employee from the Corporation who without note or comment, records all resolutions, decision and other proceedings of council, who keeps originals or copies of all by-laws and all minutes of the proceedings of the council;

Compliant means in relation to a Bid or the Supplier making a Bid in response to a particular method of Procurement being used under this policy, that the Bid or the Supplier as the case may be, complies or has complied in all material respects with the requirements of the particular method of Procurement as reflected in the documents issued for that purpose and is not liable to disqualification for failure to comply;

Conflict of Interest means a situation or circumstance, real or perceived, which could give a Supplier an unfair advantage during a procurement process, or compromise the ability of the Supplier to perform its obligations under its Contract. A situation where a personal, business or other interest of an elected or appointed official, officer or employee of the Town is, or can be reasonably be perceived to be, in conflict with the interests of the Town, this includes, but is not limited to:

- a) the giving or receiving of a Direct or Indirect Interest, or a direct or indirect advantage or privilege, by any person or business that offers Goods, Services or Construction to the Town;
- b) a Direct or an Indirect interest in any business that provides Goods, Services or Construction to the Town;
- c) a Conflict of Interest as defined in the *Municipal Conflict of Interest Act*;
- d) a Conflict of Interest as defined in the **Town's Employee Guide to Ethical Conduct Policy #PC-005**, as may be amended

Construction means a construction, reconstruction, demolition, repair or renovation of a building, structure or other infrastructure or engineering or architectural work and includes site preparation, excavation, drilling, soil or seismic investigation, the supply of products and materials and the supply of equipment and machinery incidental to the Construction, and the installation and repair of fixtures of a building, structure or other engineering or architectural work;

Consulting Services, Professional or Specialized Services or Consultants means those Services of an advisory or professional nature required by the Town to support Construction, policy development, decision making, administration, or the general management of the Town, and are generally provided by persons who possess specific knowledge, expertise, advice, technical skills or unique abilities in a particular field of science or business, which include:

- a) Architects, engineers, designers, surveyors, geoscientists, project managers, financial management, communications or public relations consultants, recruiters, auditors, accountants, appraisers, legal service providers and healthcare professionals;

- b) Firms or individuals having specialized competence in environmental, planning or similar disciplines; and
- c) Software consultants and any other persons providing similar services.

Contract means a binding agreement between two or more parties that creates an obligation to Procure Goods, Services, or Construction and includes both a Purchase Order and a Formal Agreement;

Corporation means The Corporation of the Town of Fort Erie;

Council means the Council of the Town of Fort Erie;

Council Approved Budget or Budget means Council approved departmental budgets including authorized revisions, or where applicable, Council approved budgets for local boards or committees to which this policy applies;

Delegate or Delegation means the formal process of a Department Head delegating authority in writing to a Delegate;

Delegate also means a Town employee who through a formal process, has been authorized to act on behalf of another either:

- a) during a temporary absence; or
- b) on a permanent basis to support operational effectiveness.

Department means an area of operation within the Town, provided with a Budget to deliver Goods, Services or Construction to the public;

Department Head means the most senior manager responsible for a Town Department or Delegate. The position may be identified by the title, Director;

Department Representative means a Town employee authorized to Procure and Dispose of Goods, Services or Construction on behalf of the Department up to a specified dollar value;

Designate means a person authorized or appointed to act on their behalf;

Direct Interest arises when an employee may derive or be seen to derive some personal benefit or avoidance of a personal loss. These interests are generally financial in nature;

Director of Corporate Services / Treasurer means the Director of Corporate Services / Treasurer of the Corporation or designate;

Disability or Disabilities shall have the same meaning as that in the *Ontarians with Disabilities Act, 2001*, as amended, or any successor legislation thereto;

Disposal or Dispose means the sale, trade, redeployment, and/or destruction or donation of surplus personal property, vehicles or equipment;

Emergency means a situation, or the threat of an impending situation, which may affect the environment, the life, safety, health and/or welfare of the general public, or is likely to cause significant loss or damage to the property of the Corporation or the residents of the Town of Fort Erie or to prevent serious damage, disruption of work or to restore or to maintain essential services to a minimum level;

Evaluation means the process that takes place after the Bid submission deadline to determine if the Bids submitted are Compliant and to evaluate the Bids using the evaluation criteria included in the Bid Solicitation;

Fairness Monitor means an independent third party whose role is to observe all or part of a Procurement process, to provide feedback on fairness issues;

Formal Agreement means a written Contract outlining the terms and conditions for the Procurement of Goods and/or Services or Construction and executed by the Town and the Supplier;

Formal Quotation means an offer in writing by way of a call for Quotation to execute certain specified work or to supply certain specified Goods and/or Services or Construction in response to the information contained in the call for quotation. This method requires that the solicitations are published and received using the Towns Bidding System.

Goods means, in relation to Procurement, moveable property (including the costs of installing, operating, maintaining or manufacturing such moveable property), including raw materials, products, equipment and other physical objects of every kind and description whether in solid, liquid, gaseous or electronic form, unless they are procured as part of a general Construction Contract but does not include Real Property;

Group Purchasing Organization or “GPO” means an entity whose goal is to leverage the power of a group of businesses or organizations to obtain discounts from Suppliers based on the collective buying power of its members;

Indirect Interest arises when the potential benefit or loss would be experienced by another person or corporation having a relationship with the employee. These interests are generally financial in nature;

Informal Quotation mean a competitive Bid or price quotation for Goods and/or Services or Construction that is conveyed by letter, fax, e-mail, or other means and does not require a sealed Bid, public opening, or public reading of Bids;

Lease means a contract by which one party (lessee) enters into a contract with a second party (lessor) for possession and use of Goods for a specified period of time at a pre-determined cost;

Litigation means any unresolved dispute between the Town and any other party or related party adverse in interest, including third party and cross claims, where either a legal proceeding has been commenced or a threat of legal action has been made in writing for an injunction, a mandatory order, a declaration or for the payment of damages or recovery of money;

Lobbying means any attempt by individuals or interest groups to communicate with government personnel influence or attempt to influence their actions or decisions regarding procurement matters.

Lowest Compliant Bid means the Bid that would provide the Corporation with the desired Goods, Services or Construction at the lowest Total Contract Price, meets all the specifications and contains no irregularities requiring automatic rejection;

Manager of Procurement means the person or designate who manages and supervises the procurement function on behalf of the Corporation, reporting to the Director of Corporate Services / Treasurer;

Negotiated Request for Proposal or “NRFP” means a non-binding flexible format public request for Proposal by the Corporation made in accordance with this policy, seeking Proposals to supply Goods and/or Services or Construction which may or may not result in an Award by the Corporation;

Negotiation means a process whereby the Town may negotiate directly with one or more Suppliers with the intent to Award a Contract or extend an existing Contract;

Petty Cash means a relatively small amount of cash kept on hand for making immediate payment for small, non-reoccurring, miscellaneous expenses;

Procedure means internal instructions or guidelines to departments, issued by the Manager of Procurement on supply and service management and/or procurement matters;

Procure or Procurement or Purchase means to acquire Goods, Services or Construction by purchase, rental, lease or trade;

Procurement Representative means the representative of the Town specified in the Bid Solicitation document;

Procurement Division means the group of employees responsible for Procurement and Disposal of all Goods and/or Services and Construction for the Town and for the administration of this policy;

Proposal means a submission received in response to a Request for Proposal (RFP);

PCard or Purchasing Card means a credit card issued in the name of both the Town and an authorized Department Representative for Procuring Goods and Services on behalf of the Town;

Purchase Order or “**PO**” means a standard Contract used by the Town to formalize a Procurement with a Supplier of Goods and/or Services or Construction;

Purchase Requisition means a request for Goods and/or Services or Construction prepared by the requisitioning Department, for which the Budget has been approved;

Quotation or **Quote** means a binding statement of price, terms of sale, and description of the Goods and/or Services or Construction offered by a Supplier;

Real Property means land, or land and buildings, and includes fixtures attached to such land or buildings;

Request for Expressions of Interest or “**RFEOI**” means a public request made by the Corporation seeking responses from potential suppliers for the purposes of compiling a list of potential suppliers who may be interested in providing Goods and Services to the Corporation from time to time. Receipt of an Expression of Interest by the Corporation shall not create any obligation on the potential Supplier or Corporation;

Request for Pre-Qualification or “**RFPQ**” means a request for the submission of information from potential Bidders including the qualifications, experience, financial capability, education, background and staffing of any Supplier who may qualify to supply deliverables to the Town;

Request for Proposal or “**RFP**” means a solicitation to provide Goods and/or Services or Construction to the Corporation. The solicitation is intended to open competition and encourage a variety of alternative proposals that may be considered by the Corporation. Request for proposals are normally evaluated in 2 separate stages (technical and financial). In general terms, the RFP process includes but is not limited to, issuing the RFP, collecting proposals and evaluating submissions. The intention is to select to submission which is provides

the best solution to the Corporations requirement to overcome a challenge or achieve a strategic objective. It is the Corporations intention to consider award to the Supplier who has achieved the highest evaluation score, not necessarily the lowest cost solution.

Request for Quotation or “RFQ” means a document that details the Corporation’s needs and seeks Suppliers to respond with a detailed pricing proposal. Generally, the Corporation issues and RFQ when looking for the lowest possible price for the specific Goods and/or Services or Construction which is being sought;

Request for Tender or “RFT” means a solicitation by the Corporation which details in specific terms what is required. The solicitation document contains detailed specification for the performance of the work as well as detailed qualifications and requirements for Suppliers to meet. Award (if any) is made to the Supplier who has met all requirements and has submitted the lowest financial submission. This process is often evaluated in 2 separate stages (technical and financial);

Roster means a list of Suppliers that have participated in and successfully met the requirements of a Request for Pre-Qualification (RFPQ), and have been pre-qualified to perform work assignments involving the delivery of a particular type of Goods, Services or Construction;

Services means activities that do not have a physical presence and includes Consulting, Professional and Specialized Services and Services procured as part of a Construction Contract;

Single Source means the non-competitive Procurement process to acquire Goods and/or Services or Construction from a specific Supplier even though there may be more than one Supplier capable of delivery of the same Goods and/or Services or Construction;

Sole Source means there is only one Supplier of the Goods and/or Services or Construction that meets the requirements of the Town;

Standing Order means a Purchase Order to procure repetitively ordered Goods, Services or Construction for a defined period of time at an established price, under set terms and conditions if they are required;

Supplier means a person or organization offering, providing or contractually required to provide Goods, Services or Construction to the Town;

Tender means a written detailed offer from a Supplier to supply Goods, Services or Construction where there are clearly defined criteria or specifications;

Total Contract Price means the Contract cost for the full term of the Contract and in the case of a Contract containing renewal or extension provisions the Total Contract Price for the initial term and all potential renewal or extended terms including the non-refundable portion of Harmonized Sales Tax (HST), where applicable, but including all other applicable fees charges and disbursements, less applicable rebates and discounts;

Town means The Corporation of the Town of Fort Erie;

Town Solicitor means a solicitor or a firm of solicitors which the Town may retain or employ from time to time to perform such legal services on behalf of the Town as may be required for the purposes of representing the Town;

Trade Agreements means any agreements with respect to access to government procurement opportunities as may be applicable to the Corporation, e.g. Canadian Free Trade Agreement "[CFTA](#)" and Canadian-European Union Comprehensive Economic and Trade Agreement "[CETA](#)";

Unsolicited Proposals means Proposals received by the Town from a Supplier(s) who have approached the Town with a Proposal that has not been requested through a regular procurement process.

3. Part 3 - Application

3.1. This policy applies to all Procurement and Disposal carried out by the Town or any of its officers, and employees with the exception of:

- a) those Goods and Services outlined in Schedule 1; or,
- b) where an applicable trade agreement or statute of Ontario or Canada supersedes or is in conflict with this policy, in which case the requirements of the trade agreement or statute shall take precedence; or,
- c) when a Council Resolution requires that the Procurement or Disposal be carried out in some manner other than by this policy.

3.2. A Council Resolution adopted by Council:

- a) shall be made after receipt of a written administrative report describing the nature of the Procurement, or Disposal and including advice and recommendations from both the Town Solicitor and the Department Head of the requisitioning department;

- b) shall state that Council is satisfied that it is necessary in the public interest and shall give the reason or reasons for so concluding.
- 3.3. Where the authority to enter into a Contract for the Procurement of Goods, Services or Construction is a decision entirely within the jurisdiction of a local board of the Town the local board may use the Services of the Procurement Division. In this case all terms and conditions of this policy will apply except:
- a) Any reference to “Council” shall be read as a reference to the “Board”; and,
 - b) Any reference to a Department Head, Department Representative or CAO shall be read as the head of the administrative function of any Board, or their Delegate created by a formal process in writing and provided to the Procurement Division.

4. Part 4 - Integrity of Procurement Process

4.1. Code of Conduct

- a) With regard to Procurement, elected officials shall adhere to the **Town Code of Conduct for Members of Council**.
- b) With regard to Procurement, employees shall adhere to the **Employee Guide to Ethical Conduct**.

4.2. Conflict of Interest

- (a) Personal purchases shall not be made for any elected or appointed officials, members of a board or commission, or for Town officers, employees, their families or non-arm's length businesses.
- (b) An employee of the Town who has the responsibility for declaring surplus assets shall not bid on or personally obtain any goods that he or she has declared as surplus.
- (c) Every elected official, employee of the Town or their families (as defined in the *Municipal Conflict of Interest Act*) is expressly prohibited from accepting, directly or indirectly, from any person, company, firm or corporation to which any Purchase Order or Contract is, or might be awarded, any rebate, gift or money, except:
 - i. gifts of a very small intrinsic value; or

- ii. moderate hospitality during the normal course of business that would not significantly exceed what would be perceived by others as influencing the making of a business decision.
- (d) All elected officials, officers or employees of the Town shall declare any Conflicts of Interest to the Manager of Procurement and shall not be involved in a Bid Solicitation process where a real or perceived Conflict of Interest has been found or deemed to exist, including, but not limited to:
 - i. requesting the Goods and/or Services, setting the parameters of the Purchase, evaluating Bids or recommending, deciding or making Awards;
 - ii. direct contact with those making those Purchasing decisions, both in Procurement and the user Department.

4.3. Supplier Conflict of Interest

- a) All Suppliers contracted by the Town, acting as a Consultant or as a Professional Representative of the Town, shall immediately disclose any actual or perceived conflict of interest, in writing to the Procurement Division.
- b) Suppliers shall be precluded from submitting a Bid for any Bid Solicitation in which the Supplier or its employees has participated in the preparation of the Bid Solicitation. In this situation, any submitted Bid shall be rejected or disqualified.
- c) Failure by a Supplier to have disclosed in their Bid an actual or perceived Conflict of Interest may result in cancellation or suspension of the Award, or termination of the Contract at the Town's discretion, without compensation.

4.4. Lobbying Restrictions

- a) Lobbying restrictions shall apply to Suppliers, their staff members, or anyone involved in preparing a Bid. No Suppliers, their staff members or anyone involved in preparing a Bid shall engage in any form of political or other Lobbying whatsoever or seek to influence the outcome of the Bid Solicitation process or subsequent Award. This restriction extends to all the Corporation's staff and anyone involved in preparing a Bid Solicitation or participating in a Bid evaluation process and members of Council;

- b) The Corporation may reject any Bid by a Supplier that engages in such Lobbying, without further consideration, and may terminate that Supplier's right to continue in the Procurement process;
- c) During a Procurement process, all communications for formal solicitations shall be made through the Procurement Division via the Town's Bidding System. No supplier or person acting on behalf of a Supplier or group or Suppliers, shall contact any elected official, consultant or any employee of the Corporation to attempt to seek information or to influence the Award;
- d) Elected officials shall refer any inquiries about a Bid Solicitation to the Manager of Procurement;
- e) The Director of Corporate Services / Treasurer may reject or disqualify any Bid from a Supplier that engages in such lobbying at any stage of the Bid Solicitation process.

4.5. Local Preference

- a) In order to comply with applicable law and trade agreements, including the *Discriminatory Business Practices Act*, R.S.O., 1990, the Town shall not discriminate between Suppliers based on location, whether it be; Town, Region, or Province or Country, resulting in no local preference.

5. Part 5 – Roles and Responsibilities

5.1. Director of Corporate Services / Treasurer

- a) shall be appointed all necessary authority to administer this policy and duties authorized within the policy on behalf of the Town;
- b) shall be responsible to:
 - i. develop and implement Administrative Policies and Procedures supporting the ongoing compliance with this policy;
 - ii. monitor compliance with this policy;
 - iii. notify Council of non-compliance with this policy if the non-compliance cannot be rectified; and
 - iv. review Bids where there have been allegations of Lobbying, Conflict of Interest, or other inappropriate behavior and report to

the CAO on the outcome of such reviews.

5.2. Department Representatives

a) All Department Representatives shall:

- i. comply with the provisions of this policy in the performance of their duties and report non-compliance with the Policy to the Director of Corporate Services / Treasurer;
- ii. ensure that all Contract terms and conditions comply with the Bid Solicitation;
- iii. prepare and approve all specifications and terms of reference in consultation with the Manager of Procurement. Specification shall be definitive as to quantity, quality and/or function;
- iv. manage contracts to ensure Goods and/or Services and Construction are received by the Corporation and comply with Contract terms and conditions;
- v. monitor all Contract expenditures to ensure that all financial limitations have been complied with and that all accounts are paid within the times set out in the Contract;
- vi. monitor the performance of Suppliers;
- vii. promote standardization of Goods and/or Services and Construction, where such standardization supports the purpose, goals and objectives of this policy;
- viii. ensure that all Goods and/or Services and Construction procured have in fact been received and recorded such receipts in the manner prescribed by the Manager of Procurement; and
- ix. attend Procurement training as required.

5.3. Manager of Procurement

- ### a) The Manager of Procurement is responsible for and has the authority to:

- i. act as the Procurement Representative for the Town, for the purposes of purchasing or selling Goods and/or Services and Construction;
- ii. dispose of Town assets and other property, excluding Real Property;
- iii. call for, receive, open and review Bids;
- iv. provide professional procurement advice and services to requisitioning Departments including the application of this policy to Procurement and Disposals and exercise discretion as prescribed when alternative courses of action are permitted;
- v. require a requisitioning Department to use a specific method of Procurement;
- vi. establish through consultation with the requisitioning Department and the Town Solicitor standards, and terms and conditions (as applicable) for Bid Solicitations, Contracts and other documents;
- vii. review specifications to determine if they are in the appropriate form, indicate the minimum acceptable quantity level, are commercially practical and in sufficient generic form to ensure competitive bidding;
- viii. establish and update the necessary procedures, and related documents and forms to carry out the objectives and requirements of this policy;
- ix. co-ordinate the standardization of specifications for similar items ordered by different Departments, resulting in benefits to the Town through reduced costs and common standards;
- x. advise the requisitioning Department when a Procurement process may not conform to an applicable trade agreement as early as possible in the Bid Solicitation process;
- xi. provide ongoing training and education related to this policy;
- xii. retain documentation evidencing procurement processes;
- xiii. monitor adherence to this policy, and report non-compliance in writing, to the Director of Corporate Services / Treasurer and appropriate Department Heads;

- xiv. collaborate with Group Purchasing Organizations and participate in opportunities where deemed beneficial to the Town; and
- xv. issue corporate credit cards to Department Representatives and Department Heads for the acquisition of Goods and/or Services and Construction to impose terms and conditions on their use.

5.4. Department Heads

- a) Department Heads are responsible for the Procurement of Goods, Services and Construction for their Department and have responsibility within their Department operations to:
 - i. ensure that all Procurement activities and decisions are Compliant with all applicable sections of this policy;
 - ii. ensure that spending authorities provided to Delegates support effective and efficient Procurement;
 - iii. ensure that all authority to Award a Contract is subject to the identification and availability of sufficient funds in the appropriate Council Approved Budget;
 - iv. prepare accurate and complete market-ready specifications, scope of work and terms of reference;
 - v. report to Council on proposed Procurement which requires Council approval, as outlined in Schedule 2;
 - vi. review Contract documents to ensure the scope of work and/or service sought in the Bid Solicitation is accurately represented in the executed Contract;
 - vii. ensure that the Goods, Services or Construction Procured or Disposed of are being delivered or removed in accordance with the scope of work and or other terms of the applicable Contract;
 - viii. support the timely payment of accounts within the times set out in the Contract and prompt payment legislation as prescribed by the *Construction Act*, R.S.O. 1990, c. C.30 as amended (provided the Supplier has met all conditions of the Contract and precluding processes undertaken by Accounts Payable); and
 - ix. review Supplier performance, and take appropriate steps after the review.

5.5. Chief Administrative Officer

- a) The CAO is responsible for and has the authority to:
 - i. impose restrictions on Procurement activities from time to time where they consider it necessary and in the best interests of the Town; and
 - ii. support Council in satisfying Council's role.

5.6. Council

- a) In accordance with best practices in municipal procurement, there is a need for a clear separation of political and administrative functions in relation to the Town's procurement functions.
- b) Members of Council shall approve the Budget and scope of projects as part of the annual operating and capital budget process or individual project approval submissions from Departments throughout the year. Approval of the project scope and Budget by Council shall be deemed to be approval for the subsequent Award of a Contract in accordance with the procurement processes and staff Delegations of Authority to Award detailed in this Policy and where the cost amount of the Contract is within the Budget previously approved by Council.
- c) In keeping with municipal procurement best practices, members of Council shall have no involvement in specific procurements, including not receiving any related information or documents from the time those procurements have been advertised or solicited until the Contract has been entered into except where the recommendation for Award has been forwarded to Council for approval as noted above.
- d) The Mayor and Members of Council who receive inquiries from Suppliers related to any specific procurement are required to advise the Suppliers to communicate with the contact individuals identified in the procurement document, if any, or with the Town's Procurement Division.

6. Part 6 – Requirement for Approval

Except as provided in Section 6.1, the exercise of authority to Award a Contract is subject to the identification and availability of sufficient funds in appropriate accounts within the Budget.

- 6.1. Notwithstanding any other provision of this policy, any of the following situations require Council Approval to proceed with an Award:

- a) Where a requirement exists to initiate a project for which Goods, Services or Construction are required and funds are not contained within the Council Approved Budget to meet the proposed expenditure, the Department Head shall prior to commencement of the Procurement process, submit a report to Council containing:
 - i. information surrounding the requirement to contract;
 - ii. the terms of reference to be provided in the contract;
 - iii. information on the availability of the funds within existing estimates, which were originally approved by Council for other purposes, or on the requirement of additional funds; or
 - b) the recommended Award exceeds the approved Budget by the lesser of \$100,000 or 10%; or
 - c) the recommended Award is not the lowest Compliant Bid for a Request for Tender; or the highest ranked respondent for a Request for Proposal, or
 - d) the recommended Award would result in a Contract term, including renewals exceeding ten years, or
 - e) when recommended by the CAO, or
 - f) the Award is for a Sole or Single Source Contract and the Total Contract Price exceeds \$100,000.
- 6.2. Employees of the Town identified in Schedule 2 shall have the authority to Procure, Award and execute Contracts and all other documents necessary to effect the Award or Purchase complies with this policy.
- 6.3. Formal approval of the annual Budget constitutes Council's approval to proceed with the Procurement process. No further authorization by way of a policy or resolution to Award or execute a Contract is required, except as specifically stipulated in Schedule 2.
- 6.4. The authority in Schedule 2 to Procure, and execute related Contracts is established based on the Total Contract Price at the time the Contracts were originally executed. The Total Contract Price for the purposes of determining the necessary approvals and procedures shall:
- a) be the Total Contract Price at the time the Contract was originally executed; and,

- b) include the non-refundable portion of taxes and duties;
 - c) in the case of multi-year Contracts, the Total Contract Price will be the estimated total expenditure under the Contract, including all renewals or option years.
- 6.5. In the case of Goods and/or Services or Construction of a similar type being supplied on a repetitive basis over the year or season, the Total Contract Price will be determined based on the estimated cost of such Goods and/or Services or Construction supplied in the whole calendar year or season.
- 6.6. No Procurement, or Contract shall be divided in an effort to reduce the Total Contract Price or to otherwise avoid or circumvent the application of any of the provisions of this policy.
- 6.7. Where all the requirements of this policy have been met, the employees or officers of the Corporation identified in Schedule 2 have the authority to execute Contract documents and all other documents necessary to effect the Award or Purchase of Good and/or Service, up to the prescribed limits, provided that:
 - a) the documents being in a form satisfactory to the Town Solicitor; and
 - b) any proof of insurance and the provision of financial securities required under the Contract are satisfactory to the Town Solicitor; and
 - c) the Procurement is in compliance with this policy.

7. Part 7 - Procurement Planning

7.1. Planning

- a) Except for the exemptions in Schedule 1 and Direct Purchase, all Procurements shall be conducted through or reviewed by the Procurement Division.
- b) Requisitioning Departments planning large and/or complex Construction projects which meet financial thresholds covered in Trade Agreements for the Procurement of Goods and/or Services or Construction shall be required to:
 - i. engage the Procurement Manager during the planning phase;

- ii. address the applicability of trade agreements identified by the Procurement Division. Purchasing by the Corporation may be subject to the provision of Trade Agreements. Where an applicable Trade Agreement is in conflict with this policy, the Trade Agreement shall take precedence to the extent only of the conflict;

The Procurement Division shall advise the applicable Department Head when a Purchase may not conform to an applicable Trade Agreement as early as possible in the Bid Solicitation process;

- iii. determine if a Fairness Monitor is required for the Procurement; and
- iv. address any other requirements set out in procedures prepared by the Procurement Division for large and/or complex Procurements covered by Trade Agreements.

7.2. Selection of Method of Procurement

- a) The selection of the appropriate Procurement method will be based on the specific circumstances of the Procurement including the recommended Procurement Method for the dollar value of the transaction as set out in Schedule 2.
- b) The Procurement Division shall be responsible for confirming the Procurement Method to be used.
- c) Procurement authorized under Parts 8 and 9 shall be aligned with the Procurement Objectives in Part 1.
- d) Requisitioning Departments are responsible for identifying and complying with all the requirements applicable to the specific method of Procurement being undertaken as outlined in Parts 8 and 9 of the Procurement Division's policies and procedures.

7.3. Specifications and Evaluation Criteria

- a) Requisitioning Departments are responsible to provide all the specifications necessary for the Bid Solicitation including:
 - i. the scope of work, and relevant information such as provisions, terms, and minimum requirements for the Procurement;
 - ii. ensuring the specifications provide a clear and accurate description of requirements to be met in the Contract;

- iii. Identify and consider the application of financial securities and insurance requirements for intended contract are appropriate;
 - iv. determining the Evaluation criteria for a response to a RFP Bid Solicitation; and
 - v. Ensure that funding is available in the Budget
- b) The Procurement Division and the Town Solicitor may review and recommend improvements or clarifications to both specifications and Evaluation criteria, to improve the likelihood of attracting and selecting the best suited Bidder.
 - c) If specifications are developed by an external consultant, that consultant shall be precluded from submitting a Bid in response to the Bid Solicitation for which the Specifications were prepared.
 - d) The Procurement Division may issue an RFEOI for the purpose of informing specifications and to improve the likelihood of a subsequent Bid Solicitation resulting in Best Value.

7.4. Request for Expressions of Interest (RFEOI)

- a) A RFEOI may be undertaken to gather information from Suppliers related to the types of Goods, Services or Construction available and/or the scope of business requirements.
- b) RFEOIs shall not be used to pre-qualify Suppliers or obtain specific costs for specified Goods, Services or Construction.
- c) Receipt of a response to a RFEOI issued by the Town shall not create any Contract or obligation between the Town and the Supplier.

7.5. Request for Pre-Qualification (RFPQ)

- a) The intent of a RFPQ is to pre-qualify Suppliers that are most likely to provide a positive outcome or response to a Bid Solicitation. A RFPQ may be undertaken to qualify Suppliers who meet specified criteria and include them in a list or Roster (Part 9). These listed Suppliers may be invited to participate and compete in a subsequent Bid Solicitation.
- b) Planning for the Issuance of a RFPQ shall be conducted in accordance with Part 7.

- c) Issuance of the RFPQ as well as receipt, and Evaluation of the responses shall be conducted in accordance with Part 10.
- d) Receipt of a response to a RFPQ issued by the Town does not create any Contract or obligation between the Town and the Supplier.

8. Part 8 – Methods of Procurement

8.1. Any person Purchasing or Disposing of Goods and/or Services or Construction, except those identified in Schedule 1, on behalf of the Corporation shall do so using one of the following Methods of Procurement. The Method of Procurement may be used individually or in combination with one another, as may be appropriate in the circumstances.

8.2. Direct Purchase (Low Dollar Value Procurement ≤\$10,000)

- a) Department Representatives may make a direct purchase from one Supplier for Goods and Services for a Total Contract Price ≤\$10,000 which results in a Procurement without a competitive bidding process.
- b) This method of Procurement is appropriate when the administrative burden of another Procurement method is significant in relation to the price or value of the Goods and/or Services or Construction being procured and associated risks are assessed as low.
- c) Department Representatives shall use Standing Orders or Rosters when available (Part 9).
- d) Department Representatives may enter into Negotiations with a specific Supplier (in accordance with Part 10).
- e) The Requisitioning Department is responsible for ensuring that Suppliers providing Goods, Services or Construction to the Town, where applicable, provide comprehensive liability insurance, workers' compensation certificate and comply with the *Occupational Health and Safety Act*, and declaration of compliance with the *Accessibility for Ontarians with Disabilities Act 2005*, as amended.
- f) Payment for Goods, Services and Construction up to ≤\$10,000 may be made through the following means:
 - i. Voucher ≤\$1,000.00;

- ii. PCard use is encouraged and should be used when possible without the need to issue a purchase order;
- iii. Purchase Order for transactions >\$1,000 is required where PCard has not been utilized; or
- iv. Petty Cash

- g) The Director of Corporate Services / Treasurer may authorize Departments to maintain a Petty Cash float. All expenditures from Petty Cash floats are to be authorized by Department Directors or designates. Petty Cash expenditures shall be recorded in the manner prescribed by the Director of Corporate Services / Treasurer and are subject to internal audit procedures.

8.3. Informal Quotation (Procurement greater than >\$10,000 and less than ≤\$50,000)

- a) An Informal Quotation shall be used for Procurement with a Total Contract Price greater than >\$10,000 and less than ≤\$50,000 to obtain competitive bidding in an expeditious and cost-effective manner.
- b) The Requisitioning Department will solicit, without formal advertising, at least three (3) written Quotations (if possible).
- c) Quotations received will be evaluated on cost and criteria outlined in the informal Bid Solicitation to select the preferred Supplier.
- d) The Requisitioning Department is responsible for ensuring that Suppliers providing Goods, Services or Construction to the Town, where applicable, provide comprehensive liability insurance, workers' compensation certificate and comply with the *Occupational Health and Safety Act*, and declaration of compliance with the *Accessibility for Ontarians with Disabilities Act 2005*, as amended.
- e) In accordance with Schedule 2, the Requisitioning Department is authorized to create a Purchase Requisition for the successful bidder.
- f) The Procurement Division may review the Quotations and the Purchase Requisition for compliance with the policy, prior to issuance of the Contract.

8.4. Formal Request for Quotation (Procurement >\$50,000 to ≤\$100,000)

- a) A Formal Request for Quotation shall be used for Procurement with a Total Contract Price value >\$50,000 to ≤\$100,000.

- b) The Requisitioning Department will provide the requirements relevant to the Procurement such as specifications, provisions, terms, and supplemental general conditions for the Bid Solicitation.
- c) The Requesting Department will prepare the Bid Solicitation by using either:
 - i. a Roster of Suppliers compiled by the Procurement Division in conjunction with the Requisitioning Department; or,
 - ii. publicly advertising the Bid Solicitation in compliance with Part 10; or,
 - iii. both a) and b) of this section above, if deemed beneficial.
- d) Suppliers shall submit only one Quotation which cannot be altered after submission.
- e) If possible at least three Quotations shall be solicited and subsequently evaluated:
 - i. on cost and Evaluation criteria outlined in the Bid Solicitation to select the preferred Supplier.
 - ii. by the Requisitioning Department. Prior to award, the Purchasing Division may review the purchase requisition, quotations received and other applicable contract documents to ensure accuracy and transparency of the intended award.
- f) The Procurement Division shall ensure the Purchase Requisition contains the relevant information such as specifications, provisions, terms, and supplemental general conditions for the Procurement; and, is authorized appropriately as per Schedule 2.
- g) After the Purchase Requisition has been authorized, Procurement Division will issue a Contract and provide it to the Supplier confirming the terms of the Procurement.

8.5. Request for Tender (Procurements >\$100,000)

- a) For Procurement with a Total Contract Price >\$100,000, a Request for Tender shall be published by the Procurement Division or designate, provided all of the following conditions apply:
 - i. two or more sources are considered capable of supplying the requirements;

- ii. the requirements are adequately defined to permit the Evaluation of Bids against clearly stated Evaluation criteria;
 - iii. the Town intends to accept the lowest compliant Bid without Negotiations.
- b) If the conditions in Part 8.5 a) do not apply, the appropriateness of procuring through a RFP shall be evaluated.
- c) The Requisitioning Department shall prepare the Bid Solicitation after completing the Procurement planning including determination of all the specifications necessary for the Bid Solicitation, in compliance with Part 7.
- d) Specifications as well as specific processes and procedures that will be followed for the Procurement will also be outlined in the Bid Solicitation including but not limited to:
 - i. the scope of work and relevant information such as specifications, provisions, terms, and minimum requirements for the Procurement;
 - ii. procedures for communication during the Procurement (Part 10);
 - iii. process for receipt and opening of Bids (Part 10);
 - iv. the basis of Award (Part 10);
 - v. opportunity for post Award debriefing (Part 13); and
 - vi. requirements for security, insurance and indemnification (Part 11).
- e) The Procurement Division will review the Bid Solicitation and arrange for its issuance.
- f) The Procurement Division will advertise the Bid Solicitation in accordance with Part 10 advertising, except where a list of pre-qualified Suppliers has been compiled in accordance with Part 7 on RFPQ.
- g) Where an RFPQ has previously been conducted, only pre-qualified Suppliers where applicable shall be notified and Bids shall only be accepted from pre-qualified Suppliers.

- h) RFT submissions will be evaluated by staff to ensure compliance with terms and conditions of the solicitation and recommendation will be made to Award to the lowest compliant Bidder.
- i) Upon Award of the Contract, the Requisitioning Department will:
 - i. ensure that for Contracts which exceed \$100,000 and prior to the Award of the Contract, the Requisitioning Department will ensure that the Contract has been reviewed through the Town Solicitor and provided to the Procurement Division;
 - ii. ensure the Contract is executed in accordance to the provisions of this policy and provided to the Procurement Division, where applicable; and/or,
 - iii. create and provide to the Procurement Division an approved Purchase Requisition in accordance with Schedule 2, containing all relevant information such as specifications, provisions, terms and supplemental general conditions.
- j) Upon receipt of an approved Purchase Requisition and an executed Contract where applicable, the Procurement Division will execute a Purchase Order confirming the terms of the Procurement to the Supplier and applicable Department Representative(s).

8.6. Request for Proposal or Negotiated Request for Proposal (Procurement >\$100,000)

- a) For Procurement with a Total Contract Price >\$100,000 an RFP or a NRFP shall be published by the Procurement Division or designate provided one or more of the following conditions apply:
 - i. Two or more sources are considered capable of supplying the requirements;
 - ii. The Procurement is required as a result of a problem, requirement or objective for which there is no clear solution; or
 - iii. The precise Goods and/or Services or Construction are not known and the Bidder is expected to define them so as to provide the Best Value solution; or
 - iv. The selection of the successful Bidder is based on the effectiveness of the proposed solution rather than on cost alone; or

- v. Procurement is in competitive format for requirements such as a design or a design build solicitation.
- b) The Requisitioning Department shall prepare the Bid Solicitation after completing the Procurement planning including determination of all the specifications necessary for the Bid Solicitation, in compliance with Part 7.
- c) Specifications as well as specific processes and procedures that will be followed for the Procurement will also be outlined in the Bid Solicitation, including:
 - i. the scope of work and relevant information such as provisions, terms, and minimum requirements for the Procurement;
 - ii. procedures for communication during the procurement (Part 10);
 - iii. process for receipt and opening of Bids (Part 10);
 - iv. the basis of Award;
 - v. opportunity for post Award debriefing (Part 13); and
 - vi. Requirements for security, insurance and indemnification (Part 11).
- d) The Procurement Division will review the Bid Solicitation and arrange for its issuance.
- e) The Procurement Division will advertise the Bid Solicitation in accordance with Part 10, except where a list of prequalified Suppliers has been compiled in accordance with Part 7.
- f) All RFPs will be evaluated consistently with specified processes which includes a specified Evaluation team, and criteria identified in the Bid Solicitation.
- g) Ensure that for Contracts which are >\$100,000, and prior to the Award of the Contract, the Requisitioning Department will ensure that the Contract has been reviewed through the Town Solicitor and provided to the Procurement Division.
- h) Award of an RFP shall comply with Part 10 and Schedule 2.

9. Part 9 - Special Circumstance Procurement

9.1. Unsolicited Proposals

- a) Unsolicited Proposals, and/or communications regarding potential Unsolicited Proposals, are Proposals received by the Town from a Supplier or Suppliers who have approached the Town, i.e. any Department Representative or Councillor, without solicitation. Unsolicited Proposals can be new or innovative ideas that could assist the Town in achieving its goals and have not been requested through the regular procurement process;
- b) Department Representative or Council shall not accept an Unsolicited Proposal and/or communication with respect to a potential Unsolicited Proposal. The Supplier shall be advised to direct the Unsolicited Proposal to the Manager of Procurement;
- c) The Manager of Procurement will log the Unsolicited Proposal and direct it to the appropriate Department Head. The Department Head shall first assess such Proposals on the basis of whether they align with the Town's strategic goals and objectives, do not circumvent the Town's regular procurement processes, and the Proposal's scale and scope aligns with the requirements and funding ability of the Town.
- d) If it is determined by the Department Head that there is a legitimate need for the Goods, Services and/or Construction offered by way of the Unsolicited Proposal and that funding is available, then it will be reviewed together by the Department Head, the Director of Corporate Services / Treasurer and, where appropriate, any other Department Head to determine the applicable acquisition process to be conducted in accordance with this policy.

9.2. Single and Sole Source Procurement

- a) Provided that a Department Representative does not use this provision for the purpose of avoiding competition among suppliers or in a manner that discriminates against suppliers, a Department Representative may use Single or Sole Source Procurement in the following circumstances:
 - i. the compatibility of a Purchase with existing equipment, product standard, facilities or service is a paramount consideration;
 - ii. a Good and/or Service is Purchased for testing or trial use;

- iii. there is an absence of competition for technical reasons and the Goods and/or Services can only be supplied by a particular Supplier, i.e. sole source;
- iv. a serious and unforeseeable situation of urgency exists and the Goods and/or Services and Construction cannot be obtained in time by an open Procurement process. Instances of inadequate or uncoordinated planning shall not constitute cause for approval;
- v. the Corporation has a rental contract with a purchase option and the exercise of such purchase option is beneficial to the Corporation;
- vi. for matters involving security, police matters or confidential issues in which case a Purchase may be made in a manner that protects the confidentiality of the Supplier or the Corporation;
- vii. for work to be performed on or about a leased building or portions thereof that may be performed only by the lessor;
- viii. for the purchase of Real Property;
- ix. for work to be performed on property by a Contractor according to provisions of a warranty or guarantee held in respect to the property or original work;
- x. for the Purchase of Goods under exceptionally advantageous circumstances such as bankruptcy or receivership, but not for routine Purchases;
- xi. to ensure compatibility with existing Goods and/or Services or Construction. Compatibility with existing Goods and/or Services or Construction may not be allowable if the reason for compatibility is the result of one or more previous non-competitive procurements;
- xii. to recognize exclusive rights, such as exclusive licences, copyright and patent rights, or to maintain specialized products that must be maintained by the manufacturer or its representatives;
- xiii. for the Procurement of Goods and Services the supply of which is controlled by a Supplier that has a statutory monopoly;
- xiv. there are no Compliant Bids in response to a Bid Solicitation; or

xv. a Roster for Professional Services has been developed in accordance with this policy and the services to be purchased are from a Supplier named in the Roster.

- b) All purchases shall be authorized in accordance with the Purchasing Authorities and Contract Execution Authorities set out in Schedule 2;
- c) Where required by applicable Trade Agreement, Single or Sole Source Procurements shall be published on the Town's Bidding System.

9.3. Rosters for Professional or Specialized Services

- a) a RFPQ or a RFEOI may be conducted for the purposes of developing Rosters of qualified Supplier of Professional Services or Specialized Services for projects requiring similar and particular expertise. While the use of Rosters is strictly optional, the associated RFPQ or RFEOI shall be conducted in accordance with the provisions of this policy.
- b) All RFPQs and RFEOIs shall be advertised in accordance with this policy;
- c) An evaluation team shall analyze and evaluate the responses received using the criteria outlined in the RFPQ or RFEOI to select a number of qualified Suppliers of Professional Services Specialized Services to be placed on Roster;
- d) On subsequent projects, Suppliers of Professional Services or Specialized Services may be selected from the Roster to submit detailed proposals in response to a Bid Solicitation. The requesting Department shall invite Suppliers on the Roster to provide Services, using best efforts to equally distribute opportunities among the Suppliers on the Roster. In the event that the Roster includes only one (1) Supplier, the Town shall reserve the right to invite other Suppliers to submit bids;
- e) Alternatively, a Supplier may be selected from a Roster to submit a Bid for Professional Services or Specialized Services in accordance with Part 9.2 or 10.7 of this policy;
- f) Rosters shall be compliant with Trade Agreements and shall only be valid to a maximum of three (3) years from the date of formation;

- g) If in the opinion of the Manager of Procurement, the Roster is misused or ineffective the Manager of Procurement shall have the authority to terminate and or reestablish the Roster.

9.4. Emergency Procurement

- a) The Town may be required to respond to an emergency which shall mean either:
 - i. An emergency declared pursuant to *the Emergency Management and Civil Protection Act* 1990 (the “Act”); or
 - ii. An event or circumstance where the Town’s municipal Emergency Control Group established under the Act has been activated; or when immediate Procurement of Goods, Services or Construction is essential or necessary to prevent or alleviate serious delay, a threat to public health, safety, or welfare, the disruption of essential Services or damage to public property. This may include but is not limited to compliance with Laws such as fulfilling a statutory order such as an environmental, public health, or workplace safety compliance order.
- b) To respond to an emergency, Goods, Services or Construction may be procured by the most economical and expedient means, using where possible:
 - i. Standing Order; and/or
 - ii. Rosters
- c) Approval limits for Procurement shall comply with Schedule 2, except that:
 - i. the requirement for a Council Approved Budget shall be waived, and
 - ii. Procurement in an Emergency exceeding \$100,000 shall be approved by the CAO.
- d) Reporting is required as outlined under the Town’s Emergency Plan approved pursuant to the Act.

9.5. Leased Goods

- a) The acquisition of Goods through a Lease shall be completed in consultation with the Procurement Division.

- b) Depending upon the terms and conditions of a Lease, Lease payments may be included in the Town's debt and debt servicing costs, and as such decisions to Lease require a high level of scrutiny.
- c) Any decision to Lease Goods, which may include the Lease of office equipment, vehicles, machinery, and equipment, shall be based on the cost of leasing compared to another method of Procurement and an assessment of the risks associated with the Lease.
- d) Authority to incur expenditures through a Lease shall be subject to the spending authority levels as outlined in Schedule 2 of this policy and compliance with the Town's Lease Financing Policy and the *Municipal Act*, 2001. The Total Contract Price of Procurement shall be defined as the total payments that shall be made during the term of the Lease agreement plus any optional payments that may be made.

9.6. Co-Operative Procurement

- a) The Procurement Division may enter into arrangements with any publicly funded government body, ministry, agency, board, or authority on a co-operative or joint basis for Purchases of Goods, Services or Construction where there are economic advantages in so doing. Where a co-operative or joint basis Purchase occurs, such Purchases are deemed to comply with this policy. Co-operative Procurement for reporting purposes shall be considered a Request for Proposal or a Request for Tender based on the process undertaken by the originating agency.
- b) The appropriate level of Authorization on Schedule 2 will be determined by using the Total Contract Price of Procurement that would have been included in a Bid Solicitation if co-operative Procurement was not utilized.

10. Part 10 - Specific Processes Required for Procurement

10.1. Advertising of Bid Solicitations

- a) Purchases not covered under the monetary thresholds of applicable trade agreements shall be advertised on the Bidding System for a minimum of ten (10) calendar days preceding the stated closing date.
- b) When required by trade agreements, Purchases shall be advertised on the Bidding System for a minimum of twenty-five (25) calendar days preceding the closing date. This requirement may be reduced by Procurement to ten (10) calendar days provided that:

- i. a RFPQ has been previously issued for the Purchase or;
 - ii. a notice of planned Procurement has been posted for the Purchase using the Bidding System at least forty (40) calendar days (and not more than 12 months) in advance of the Bid posting.
- c) The Town shall advertise Bids that are impacted by trade agreements on any designated electronic Canada-wide single point of access as directed by the Government of Canada.
 - d) Any person involved in Purchases may advertise Purchases on multiple or alternative platforms in addition to those prescribed in this section if determined to be in the Town's best interest to do so.
 - e) Procurement of Goods, Services or Construction equal to or greater than \$50,000, for which Bidders have not been pre-qualified, shall at a minimum be advertised on the Town's website or a website authorized by the Procurement Division for posting Bid Solicitations, from the date the Bid Solicitation is issued up to and including the date on which the Bid Solicitation closes.
 - f) Where the Bidders have been previously pre-qualified in accordance with this policy no further advertising is required for Procurement.

10.2. Communication during the Blackout Period

- a) During the period of time from when the Bid Solicitation for an RFT or RFP is issued and until the Bid is Awarded by the Town (the blackout period), communication by the Bidders shall be through the Procurement Division, or as specified in the Bid Solicitation.
- b) Prior to the deadline for clarifications, as stipulated in the Bid Solicitation, the Bidders may seek clarification in writing from the Procurement Representative.

10.3. Addenda to a Bid Solicitation Document

- a) Adjustments, clarifications and changes to a Bid Solicitation shall be issued in writing by the Procurement Division as an addendum within the timeframe stipulated in the Bid Solicitation.
- b) Submission times and dates may be extended to allow for the issuance of an Addendum within a reasonable timeframe and not less than 48 hours prior to the submission deadline, as authorized by the

Procurement Division as outlined in the procedures and acceptable to the Procurement Division.

- c) The Supplier is responsible for obtaining and incorporating into a Bid any addenda issued.

10.4. Receipt and Opening of Bids

- a) All Bids (with the exception of submissions in response to Informal Solicitations) shall be received by the Procurement Division, in accordance with the instructions in the Bid Solicitation and opened at the time stated in the Bid Solicitation;
- b) Supplier names and bid amounts shall be posted on the Town's Bidding System for RFT. In the case of RFP, only the Supplier name shall be posted;
- c) Bid Irregularities shall be administered in accordance with this policy;
- d) The Town's standard Bid Solicitation documents shall provide that the Town shall have the right to reject the lowest or any Bid in its absolute discretion.

10.5. Bid Evaluation

- a) All Bid Evaluation criteria will be disclosed in the Bid Solicitation. In addition to Total Contract Price, criteria may include but not limited to the following:
 - i. comprehension and completion;
 - ii. experience and qualifications (organization and team);
 - iii. references;
 - iv. understanding of the project;
 - v. approach and methodology;
 - vi. work plan and schedule;
 - vii. warranty;
 - viii. maintenance, support and response time;
 - ix. accessibility standard and design features;
 - x. demonstrated financial stability;
 - xi. Supplier performance on previous Town Contracts;
 - xii. preservation of natural resources; waste reduction;
 - xiii. standardization;
 - xiv. sustainability.

10.6. Bid Irregularities

- a) The Procurement Division will maintain procedures to administer Bid Irregularities.
- b) Each Bid Solicitation document issued by the Town will outline irregularities with Bid Submissions that may lead to the disqualification of a Bid, or may require corrective action to take place in order to make the Bid Compliant as provided in Schedule 3.
- c) The process for administering irregularities arising from Bids shall be in the first instance, in accordance with Schedule 3 and in the event the Bid Solicitation does not provide a full answer to the irregularity in question, then in accordance with the procedures maintained by the Procurement Division.
- d) Notwithstanding sub-sections a), b) and c) of Part 10.6 and provided the Procurement Division and Requisitioning Department agree, prior to the issuance of the Bid Solicitation, Bid Irregularities may be governed by the provisions of other standard agreements in use such as, but not limited to, Niagara Peninsula Standard Contract Document or with the Canadian Construction Documents Committee in place of Schedule 3.

10.7. Negotiation

- a) Notwithstanding that some discussion and Negotiation with potential Suppliers may be a component of any Procurement Process, Negotiation may be used for Purchases of Goods and/or Services or Construction when any one or more of the following criteria apply:
 - i. the required Goods and/or Services or Construction are in short supply;
 - ii. competition is precluded due to the existence of any patent right, copyright, technical secret or control of raw material;
 - iii. a Single or Sole Source is being recommended;
 - iv. two (2) or more identical bids are received;
 - v. the Lowest Complaint Bid received meets all specifications and exceeds the Budget amount for the Procurement;
 - vi. the extension of an existing Contract would be more effective;

- vii. only one (1) Bid is received in response to a Bid Solicitation;
 - viii. a Roster for Professional Services has been developed in accordance with this policy and the Services to be purchased are from a person named in the Roster; or
 - ix. negotiation may be undertaken after the highest-ranked Bidder in an NRFP has been identified.
- b) Negotiation with more than one Bidder at the same time, for the same Procurement opportunity is prohibited.
 - c) All purchases shall be authorized in accordance with the Purchasing Authorities and Contract Execution Authorities set out in Schedule 2.

11. Part 11 – Security and Insurance

11.1. Security and Insurance

- a) The Town may require specified financial security and insurance and shall stipulate these requirements within the terms of the Bid Solicitation.
- b) The financial security may include the following:
 - i. Bid Security to ensure the successful Supplier on the Bid Solicitation enters into a Contract;
 - ii. Performance bonds to ensure the performance of the Contract;
 - iii. Labour and/or material bonds to ensure the payment of labour and materials supplied in connection with the Contract; and
 - iv. Other additional security that the Procurement Division deems appropriate relative to the terms of the Bid Solicitation.
- c) The acceptable forms of financial security shall be stipulated within the terms of Bid Solicitation.
- d) Prior to execution of the Contract the Supplier shall provide to the Town proof of insurance in accordance with the Bid Solicitation, satisfactory to the Town Solicitor.
- e) Failure to comply with terms and conditions of financial security and insurance within the Bid Solicitation, within the timeframes provided, shall be just cause for cancellation of the Award.

12. Part 12 – Contracts

12.1. Form and Execution of Contracts

- a) All Awards of greater than >\$50,000 Total Contract Price shall require the issuance of a Contract in the form of a PO and a Formal Agreement. Awards for greater than \$1,000 shall require the requesting department to issue a purchase requisition and subsequently have a PO approved.
- b) A PO which refers to the Town's standard terms and conditions outlined in the Bid Solicitation shall be used when the terms and conditions of the Procurement are unambiguous.
- c) A Formal Agreement shall be used when the terms of the Bid Solicitation are complex or are the result of Negotiation.
- d) It is the responsibility of the Manager of Procurement in consultation with the Town Solicitor to determine when it is in the best interest of the Town to establish a Formal Agreement with a Supplier.
- e) POs shall be executed in compliance with Schedule 2.
- f) If a Formal Agreement is required, it shall be executed in compliance with Schedule 2, providing the Formal Agreement is satisfactory in form and content to the Town Solicitor and in technical content to the Department Head.
- g) Contracts shall be executed prior to a Supplier commencing work. A PO shall be fully executed upon its provision to a Supplier.

12.2. Contract Renewals and Extensions

- a) Where a Contract contains an option for renewal or an extended term, the Department Head in conjunction with the Procurement Division shall confirm that:
 - i. the exercise of the option is in the best interest of the Town;
 - ii. Supplier performance is satisfactory, based on Contract terms and conditions;
 - iii. the Council Approved Budget is available to meet the proposed expenditure.

12.3. Contract Amendments

- a) Contract amendments to Total Contract Price shall only result from a change in the scope of work, or to address circumstances that were not foreseeable at the time of the Contract Award.
- b) Provided that the Director of Corporate Services / Treasurer and the requisitioning Department Head are jointly able to confirm an existing Budget for the specified expenditure they may provide their approval on any Procurement where the amended Total Contract Price is not greater than the lesser of \$100,000 or 10% of the Total Contract Price.
- c) Where Total Contract Price is greater than the lesser of \$100,000 or 10% of the Total Contract Price then it shall be authorized by the CAO with Council approval. All others shall be approved by Council as per Part 6.1 of this policy.
- d) Any amendment that cannot be funded from an existing approved Budget for the specific expenditure, shall be brought forward to Council for approval of the amendment and additional required funding, prior to completion of the work outlined in the amendment.

13. Part 13 - Supplier and Material Management

13.1. Supplier Performance

- a) The Requisitioning Department shall:
 - i. monitor and document the performance of Suppliers compared to the Contract; and
 - ii. advise the Procurement Division in writing on a timely basis when the performance of a Supplier has been unsatisfactory.
- b) Failure to meet specifications or timelines, or failure to comply with appropriate safety practices, or any applicable law or policy are grounds for unsatisfactory performance.
- c) A Supplier shall be given the opportunity to respond to an allegation of unsatisfactory performance, in accordance with the terms of the Contract if applicable.
- d) The Town may, in its sole discretion, disqualify a Supplier from bidding on any Bid Solicitation, or reject a Bid, or suspend a Supplier from future bid solicitations, if:

- i. a Supplier has, at any time, threatened, commenced or engaged in legal claims or Litigation against the Town;
- ii. a Supplier has been convicted of corruption, collusion, bid-rigging, any other anticompetitive activity or any other offence under the Criminal Code, for which a full pardon has not been granted;
- iii. a Supplier previously provided Goods and/or Services or Construction to the Town in an unsatisfactory manner;
- iv. a Supplier has failed to satisfy an outstanding debt to the Town or one of its local boards or corporations;
- v. a Supplier has a history of illegitimate, frivolous, unreasonable or invalid claims;
- vi. a Supplier is currently serving a suspension period;
- vii. a Supplier provides incomplete, unrepresentative references, or receives unsatisfactory external and/or internal references in a reference check undertaken by Town Staff;
- viii. a Supplier has engaged in conduct that leads the Town to determine that it would not be in the Town's best interests to accept the Bid;
- ix. the Town is likely to incur increased legal costs in the administration of the Contract if it is Awarded to the Supplier; and
- x. There are reasonable grounds to believe it would not be in the best interests of the Town to enter into a Contract with the Bidder.

13.2. Debriefing

All requests for a formal or informal Vendor debriefing to obtain feedback on why a Bid was not successful must be received by the Town in writing and directed to the Manager of Procurement. A request for a Vendor debriefing will not alter an Award decision.

13.3. Bid Dispute Resolution

- a) The Corporation encourages competitive bidding and an open, accountable and transparent process for the Procurement of Goods and/or Services or Construction.

- b) To maintain the integrity of the Bid Solicitation process, a Supplier that believes that it has been treated unfairly in a Bid Solicitation (including pursuant to the requirements of applicable Trade Agreements) may challenge the process by filing with the Manager of Procurement a substantive objection that details its complaints within:
 - i. two (2) business days from the date of posting the Bid results on the Bidding System website for a Request for Quotation or Request for Tenders; or
 - ii. two (2) business days of the Supplier being notified of the results of a Request for Pre-Qualification, Request for Expression of Interest, Request for Proposal or Negotiated Request for Proposal.
- c) Upon receipt of the substantive objection, the Manager of Procurement shall request a meeting with all persons named in the substantive objection to discuss the particulars of the claim within seven (7) business days. If agreed by those attending the meeting that the matter can be handled by written response only, the Manager of Procurement shall with the assistance of those named prepare a written response and send it to the Supplier that issued the substantive objection.
- d) If the matter cannot be conveyed by a written response, a meeting will be convened between those who have been named in the substantive objection and the originator of the substantive objection. The Manager of Procurement shall chair such meeting and appoint a meeting recorder to record all pertinent conversation. If the substantive objection can be resolved at this meeting a written report of such resolution shall be sent by the Manager of Procurement to all who were in attendance.
- e) In the event a resolution cannot be achieved at said meeting described in Part 13.3 d) above and the originator of the substantive objection requests to further prosecute the substantive objection, the Manager of Procurement shall contact the Town Solicitor. The substantive objection shall then be held by the Town Solicitor in accordance with established procedures for processing such claims.
- f) To ensure that the dispute resolution process for the particular Bid Solicitation process is seen to be fair and impartial, elected officials shall not advocate on behalf of Suppliers who have submitted a Substantive Objection.

14. Part 14 – Disposal of Surplus or Obsolete Assets

- 14.1. Disposal of surplus assets is the responsibility of the Procurement Division. The Procurement Division may delegate responsibility for Disposal of certain assets, if it is beneficial to the Town to do so.
- 14.2. Department Heads are responsible for submitting to the Procurement Division a list of surplus assets which may include:
 - a) surplus equipment and/or inventory; and,
 - b) obsolete or unrepairable items.
- 14.3. The Procurement Division shall have the authority to:
 - a) transfer surplus assets to other Departments who have a need for the Goods; and/or
 - b) sell or dispose of all surplus assets not required by the Town, using public sale, auction, or trade-in or donation.
- 14.4. The sale of surplus assets shall be made to the highest Bidder and in accordance with provisions of this policy.
- 14.5. Surplus assets shall not be sold directly to a Department Representative or Councilor, although this does not prohibit them from purchasing surplus assets through a public process, except in specified cases related to Information Technology equipment valued at under \$2,000, such as cell phones, laptop computers and tablets.
- 14.6. Surplus assets may be donated to nonprofit organizations for educational or teaching purposes, or as directed by Town Council. Recipients of donated items shall not receive Goods with the intention of resale. All donated assets must be approved by the CAO.
- 14.7. If it is determined that the Goods have no residual value, the Procurement Division may dispose of them as waste.
- 14.8. Disposal of unsafe or hazardous surplus items is the responsibility of the Requisitioning Department and shall be conducted in accordance with applicable laws and this policy.

15. Part 15 - General Administration of this Policy

15.1. In the interpretation and application of this policy, to the extent that is not clearly provided for herein, the Procurement Division shall have regard to the Purpose, Goals and Objectives set out in Part 1 herein, the Ontario Public Buyers Association Code of Ethics and any applicable law including the *Municipal Act, 2001* and *Municipal Conflict of Interest Act* in carrying out its responsibilities.

15.2. Schedules “1”, “2”, and “3” attached hereto shall form part of this policy.

15.3. Severability

If any Section or Sections of this policy or parts thereof are found by a Court of competent jurisdiction to be invalid or beyond the power of Council to enact, such Section or Sections or parts of the policy shall be deemed to be separate and independent therefrom and shall continue in full force and effect unless and until similarly found invalid or beyond the power of Council to enact.

15.4. Review of Policy

The Director of Corporate Services / Treasurer shall review the effectiveness of this policy at least every five years and report to Council as necessary.

15.5. Effective Date

This policy shall come into force and take effect on the (X) day of August X 2022.

15.6. Title

This policy shall be referred to as the Procurement policy.

Schedule 1 – Exemptions from Procurement Policies

The following Goods and Services are exempt from the application of this policy:

1. Petty Cash Items

2. Training and Education

- a) Conferences, conventions, courses and seminars;
- b) Magazines, subscriptions, books, periodicals;
- c) Memberships;
- d) Staff Development

3. Refundable Councillor and Department Representative Expenses

- a) Advances;
- b) Meal Allowances;
- c) Travel and Entertainment;
- d) Miscellaneous – Non-Travel

4. Employer's General Expenses

- a) Payroll Deduction Remittances;
- b) Medical and Dental Fees;
- c) Licenses (vehicles, etc.)
- d) Debenture Payments;
- e) Insurance Premiums, Claims Settlement and Adjuster Services;
- f) Grants to Agencies;
- g) Damage Claims;
- h) Customs Brokerage Fees;
- i) Tax Remittances;
- j) Lease Payments
- k) Charges to and from other government bodies;
- l) Payment for employment (i.e. Contract employees);
- m) Postage;
- n) Employee benefits

5. Professional and Special Services

- a) Medical and laboratory Services;
- b) Fees for professional legal or other expert Services engaged by the Town Solicitor in connection with the delivery of legal services including Integrity Commissioner;
- c) Payments to Social Service and Health Agencies that are subject to Purchase of Service Agreements, such as childcare providers;
- d) Legal settlements, disbursements and reimbursement of claimant expenses;
- e) Funeral and Burial expenses;
- f) Appraisal Fees;
- g) Expert Witness Fees related to legal proceedings;
- h) Honorariums;

- i) Advertising.

6. Banking Services and Charges

- a) Financial Services regarding the Management of Town financial assets and liabilities, treasury operations, including ancillary, and advisory Services. Includes expenses related to the borrowing and investing of money;
- b) Bailiff or collection agencies

7. Licensing Agreements

Ongoing maintenance and software licensing agreements for equipment such as computer hardware and software, telecommunications equipment, elevators, and HVAC Equipment.

8. Utilities (monthly charges)

- a) Water and Sewer;
- b) Hydro;
- c) Gas;
- d) Communication Infrastructure Services such as Bell, Cogeco, Rogers etc.;
- e) Utility relocations;
- f) Construction work completed by Railways;

9. Real Property

Acquisition or Disposal of Real Property including easements and right-of-ways through a rental, lease, purchase, or sale.

10. Resale Items

Schedule 2 – Purchasing and Execution Authority

Procurement Method	Dollar Value	Purchase Authority	Document Execution Authority	Type of Agreement with Supplier
Direct Purchase (Low Dollar Value Procurement) (Section 8.2)	≤\$10,000	Department Representative	Department Manager	Petty Cash, Purchase Order, PCard. For Transactions ≤\$1,000 payment by voucher may be permitted
Informal Quotation (3 Quotations) (Section 8.3)	>\$10,000 to ≤\$50,000	Department Manager	Department Head	Purchase Order, Authorized PCard
Formal Quotation (3 Quotations) (Section 8.4)	>\$50,000 to ≤\$100,000	Department Head	CAO	Purchase Order and Executed Agreement
Request for Tender / Proposal (Open) (Sections 8.5 & 8.6)	>\$100,000	Department Head	CAO	Purchase Order and Executed Agreement
When Part VI (Section 6.1) applies	Refer to Section 6.1	Council	Mayor & Clerk	Purchase Order and Executed Agreement
Emergency (Section 9.4)	≤\$100,000 >\$100,000	Department Head CAO	CAO Mayor & Clerk	Purchase Order and Executed Agreement

Single / Sole Source (Section 9.2)	≤\$100,000	Department Head	CAO	Purchase Order and Executed Agreement
	>\$100,000	CAO	Mayor & Clerk	
Negotiation (Section 10.7)	≤\$100,000	Department Head	CAO	Purchase Order and Executed Agreement
	>\$100,000	CAO	Mayor & Clerk	

Schedule 3 – Bid Irregularities

	IRREGULARITY	RESPONSE
1.	Late bids	Automatic rejection
2.	Unsealed envelopes	Automatic rejection
3.	Submission completed in an erasable medium	Automatic rejection
4.	Incomplete bids, part bids, or all items not bid	Automatic rejection except where the tender form clearly states that an award may be made for individual items or where in the opinion of the Purchasing Division and the Director of the Requesting Department the incomplete nature is trivial or insignificant
5.	Qualified bids, or bids restricted by an attached statement	Automatic rejection except where the change is requested by the Town or where, in the opinion of the Purchasing Division and the Director of the Requesting Department, the change is trivial or insignificant
6.	Financial security not submitted or insufficient	Automatic rejection
7.	Bid not properly signed	Automatic rejection
8.	Mathematical errors	May be accepted if corrected in the checking procedure. Unit prices shall ordinarily be used to correct extensions.
9.	Agreement to bond insufficient or not submitted	Automatic rejection
10.	Bids received on documents other than those provided by the Town	Automatic rejection unless, in the opinion of the Purchasing Division, the matter is trivial or insignificant
11.	Erasures, Overwriting or Strikeout Not Initialed	
	a) Changes which are minor e.g. address, clerical error	May be accepted, time limit given to initial
	b) Unit prices have been changed but not initialed and the contract totals are consistent with the price as amended	May be accepted, time limit given to initial

	c) Unit prices have been changed but not initialed and the contract totals are not consistent with the prices as amended	Automatic rejection
12.	Minor clerical errors	May be accepted, time limit given to correct and initial
13.	Documents, in which all necessary Addenda, which have financial implication, have not been acknowledged	Automatic rejection unless in the opinion of the Procurement Manager, and the applicable Department Head in consultation with the Town Solicitor, the Addendum (Addenda) does not significantly impact the bid, in which case the bidder will be provided two (2) business days to formally acknowledge the Addendum (Addenda) with no change or amendment permitted to the financial bid.
14.	Other Minor irregularities	May be accepted, Procurement Manager and the Department Head of the Requesting Department shall have authority to waive irregularities which they jointly consider to be minor.

Interoffice Memorandum

September 7, 2022
File No. 120809

To: Mayor and Council
From: Chris McQueen, Chief Administrative Officer
Subject: **NPCA Final Land Securement Strategy Deadline for Review**

The Niagara Peninsula Conservation Authority (NPCA) correspondence dated September 2, 2022, requests that staff reach out to set up a meeting and provide feedback on the final Land Securement Strategy by October 3, 2022.

It is the opinion of staff that the timeframe to provide feedback is not sufficient to allow for a comprehensive review of the strategy and to evaluate any impacts it may have on the Town, Town resources and/or its processes.

Staff respectfully request that Council approve a recommendation requesting that the NPCA extend the deadline to January 31, 2023 in order to provide sufficient time to undertake the review. Staff believe this would better align with the timing of the municipal election and subsequent re-appointment of municipal representatives to the new NPCA Board.

In the meantime, Town staff can initiate discussions with the NPCA staff, as they requested.

Respectfully submitted for your consideration,



Chris McQueen, MBA
Chief Administrative Officer

September 2, 2022

Mayor Wayne Redekop and Council
Town of Fort Erie
1 Municipal Dr.
Fort Erie ON L2A 2S6

SENT ELECTRONICALLY

Dear Mayor Redekop and Council,

Please be advised that at its meeting of June 17, 2022, the Board of Directors of the Niagara Peninsula Conservation Authority (NPCA) adopted the following as Resolution No. FA-56-2022:

*Moved by Member Ed Smith
Seconded by Member Jack Hellinga*

1. **THAT** Report No. FA-24-222 RE: Draft Land Securement Strategy 2022-2032, as appended, **BE ENDORSED** in principle to engage with external partners to obtain input before finalizing the Strategy.
2. **THAT** staff **CONSULT** with municipal partners, land trusts, Indigenous organizations, the Niagara Peninsula Conservation Foundation, and Public Advisory Committee to seek input and to explore partnerships toward future land securement.
3. **THAT** staff **DEVELOP** policy to guide decision-making regarding land acquisition and disposition, as per the Conservation Authorities Act, O. Reg 686/21 (Sec. 9 (2)(vi)).
4. **AND FURTHER THAT** staff **REPORT** back to the Board of Directors for final approval of the Land Securement Strategy 2022-2032 and implementation priorities during Q4 of 2022.

CARRIED

Accordingly, please find attached the subject NPCA Report No. FA-24-2022, in addition to the *Draft Land Securement Strategy 2022-2032*. As the NPCA moves forward with this initiative, we seek opportunities to enhance partnerships and encourage collaboration in securing and preserving public lands across the Niagara Peninsula watershed.

Please share this information with the appropriate staff and kindly reach out to Eric Baldin, Manager of Land Planning, by October 3, 2022, to set up a meeting or provide feedback on the final Land Securement Strategy document. Mr. Baldin can be reached by email at ebaldin@npca.ca or by phone at 905-788-3135, extension #283.

Sincerely,



Grant Bivol
NPCA Clerk

Report To: Board of Directors

Subject: Draft Land Securement Strategy 2022-2032

Report No: FA-24-22

Date: June 17, 2022

Recommendations:

1. **THAT** Report No. FA-24-222 RE: Draft Land Securement Strategy 2022-2032, as appended, **BE ENDORSED** in principle for the purpose of engaging with external partners to obtain input prior to finalizing the Strategy.
2. **THAT** staff **CONSULT** with municipal partners, land trusts, Indigenous organizations, the Niagara Peninsula Conservation Foundation, and Public Advisory Committee to seek input and to explore partnerships toward future land securement.
3. **THAT** staff **DEVELOP** policy to guide decision-making regarding land acquisition and disposition, as per the *Conservation Authorities Act*, O. Reg 686/21 (Sec. 9 (2)(vi)).
4. **AND FURTHER THAT** staff **REPORT** back to the Board of Directors for final approval of the Land Securement Strategy 2022-2032 and implementation priorities during Q4 of 2022.

Purpose:

The purpose of this report is to present the final Draft Land Securement Strategy 2022-2032 and obtain the Board of Directors' endorsement, in principle, for consultation with key stakeholders as well as the development of a land acquisition and disposition policy, as per the updated *Conservation Authorities Act*.

Background:

A land acquisition strategy was first prepared by the NPCA in 2007 and updated in 2015 (referred to as a Land Management Plan) aimed at securing ecologically-sensitive areas within the NPCA watershed. A recommendation from the Auditor General of Ontario's 2018 Special Audit of the NPCA specifically noted that a review and update of the 2015 Land Management Plan be conducted to improve its goals, criteria, funding options, implementation plan, and success measures. An updated draft Land Management Plan was presented to the Board of Directors in December 2019 (Report No. FA-163-19) and staff were further directed to expand on the program.

In May 2020, NPCA staff engaged the Board of Directors for input on developing a robust long-term land securement program aligned with the strategic plan and background research was completed. Further to the completion of NPCA 10-Year Strategic Plan in 2021, staff initiated the process of

developing the draft Land Securement Strategy to guide the securement of lands within the Niagara Peninsula watershed over the next decade for environmental, natural hazard protection, and societal (recreation, culture, health) benefits. The consulting firm, Orland Conservation, was retained to develop the Strategy with input from a staff team.

Discussion:

The draft Land Securement Strategy 2022-2032 (Appendix 1) provides the framework for the NPCA to secure public greenspace effectively using established best practices, sound decision-making, sustainable and innovative financial models, and collaboration.

The NPCA currently owns or manages 41 conservation areas which account for approximately 2,946 hectares (or 1.2%) of lands within its watershed jurisdiction. Despite having secured the most lands compared to other conservation organizations in the watershed, the NPCA falls significantly behind the land securement achievements of its two neighbouring conservation authorities. Further, according to the NPCA's 'Nature for Niagara's Future' study (2011), the Niagara Peninsula watershed only achieves 56% towards what science recommends is required to sustain a healthy and resilient landscape. A long-term land securement strategy, in combination with other watershed-based programs, is necessary to help the NPCA achieve its strategic goals related to increasing biodiversity, habitat connectivity, and natural cover while creating equitable access to greenspace for the health and well-being of people and building relationships with partners, stakeholders, and Indigenous peoples.

The watershed contains a multitude of important natural resources needing protection to sustain life. It is not feasible to secure all the important natural resources in the watershed with limited resources; therefore, land securement criteria are imperative to prioritize areas to be considered and actively pursued. The strategy guides the application of primary criteria focused on watershed features and functions while considering secondary criteria such as parcel size, securement method, and cost. Given that the amount of land meeting these criteria would be considered unwieldy to secure in any timeframe, the Land Securement Strategy identifies six landowner outreach areas (LOAs) to provide a manageable number of target areas as the focus of a proposed landowner outreach program within the Strategy's 10-year horizon.

By collaborating with other land securement organizations and partners, applying for funding where possible, and launching a targeted landowner outreach program within the six LOAs, the NPCA can expect to secure a minimum of 180 hectares (i.e., average 20 ha annually, 1 property per year secured) by 2032. As landowner outreach and land securement projects occur, momentum of the land securement program will likely increase and give rise to more landowner and funder/partner interest. If executed consistently, the more aggressive land securement target of 360 hectares secured by 2032 (i.e., average of 40 ha annually, two properties per year) may become attainable.

The Land Securement Strategy offers 8 recommendations to ensure the NPCA achieves its objectives:

1. Develop and adopt policies that guide decision-making regarding land acquisition and disposition, as per *Conservation Authorities Act*, O. Reg 686/21 (Sec. 9 (2)(vi)).
2. Develop and implement a land securement program including:
 - a. staff and financial resources
 - b. annual work plans and targets and performance measures
 - c. outreach and engagement plan and associated collaterals

- d. internal staff team to evaluate potential land securement projects from technical, operational, and financial perspectives
 - e. continued augmentation of land acquisition reserve in accordance with NPCA board-approved reserve policy
3. Ensure NPCA Indigenous engagement guidelines support opportunities to work together on land securement.
4. Engage with land securement partners to obtain feedback on the land securement strategy and establish connections that facilitate future securement collaborations.
5. Form a Land Securement Working Group (comprised of land securement partners and funders) to collaborate on potential securement projects. The group should meet a minimum of annually.
6. Collaborate with the Niagara Peninsula Conservation Foundation to develop and implement a stewardship fund.
7. Collaborate with the Niagara Peninsula Conservation Foundation to launch fundraising campaign(s) for land securement.
8. Proactively seek funding opportunities and explore the feasibility of non-conventional funding options for securement projects.

The next steps for implementation of the Land Securement Strategy in 2022 are to:

- consult with municipal partners, land trusts, Indigenous organizations, Niagara Peninsula Conservation Foundation, and Public Advisory Committee for feedback on the strategy and to build relationships toward future land securement;
- develop policies that guide decision-making regarding land acquisition and disposition, as per *Conservation Authorities Act* O. Reg 686/21 (Sec. 9 (2)(vi)); and
- develop a land securement program including a budget, outreach and engagement plan and associated materials, landowner contact list, and allocating staff resources.

Financial Implications:

The costs associated with land securement can vary greatly depending on the property and method of securement. There are numerous ways to fund land securement projects including municipal and other partnerships, government grants, and fundraising campaigns, among others. However, to access funding and successfully secure lands, it is imperative to fund a land securement program. For a successful and effective land securement program, an annual budget will be required to cover the associated costs of implementation (e.g., staff time, outreach materials, appraisal, assessment fees, etc.), as determined by an annual review by staff. Following endorsement by the Board of Directors, staff will develop a preliminary annual costing and work with partners to discuss financing options.

Links to Policy/Strategic Plan:

The NPCA strategic plan calls for the development and implementation of a land acquisition strategy to achieve Goal 1.4: “*Manage lands to increase biodiversity, habitat connectivity, and natural cover*”.

Implementing a land securement strategy will also directly support achieving Goal 3.1 “*Create equitable access to greenspace for the health and well-being of people*” as well as several other NPCA strategic goals and performance measures related to natural hazard protection, ecosystem improvements, and building relationships with partners, stakeholders, and Indigenous peoples.

Related Reports and Appendices:

Appendix 1: Draft Land Securement Strategy 2022-2032

Authored by:

Original Signed by:

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Reviewed by:

Original Signed by:

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Adam Christie
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Submitted by:

Original Signed by:

Chandra Sharma, MCIP RPP
Chief Administrative Officer/Secretary-Treasurer

Land Securement Strategy

2022-2032

DRAFT



DRAFT

Land Securement Strategy

2022 - 2032



Produced by Orland Conservation, 2022

orlandconservation.ca

Land Acknowledgment

The Niagara Peninsula watershed is situated within the traditional territory of the Haudenosaunee, Attiwonderonk (Neutral), and the Anishinaabeg, including the Mississaugas of the Credit—many of whom continue to live and work here today. This territory is covered by the Upper Canada Treaties: Niagara Purchase (Treaty No. 381), Between the Lakes Purchase (Treaty No. 3), and the Simcoe Patent or Haldimand Tract (Treaty No. 4) and is within the land protected by the Dish with One Spoon Wampum agreement. Today, the watershed is home to First Nations, Métis, and Inuit.

Through the 2021-2031 Strategic Plan and this land securement strategy, the NPCA is committed to improving engagement with local Indigenous peoples by implementing actions that support reconciliation and shared stewardship of the Niagara Peninsula watershed.

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Executive Summary

The conservation of greenspace has been used to improve environmental conditions, protect and improve biodiversity, promote outdoor activities and active lifestyles, increase social interaction and exchange, and provide healthy conditions for good physical and mental well-being. Since many areas containing such important natural features and functions are found on private property, working with landowners is important in the long-term protection of these lands.

This Land Securement Strategy is intended to complement other land and water conservation programs operated by the Niagara Peninsula Conservation Authority (NPCA) with a cost-effective approach. It expands on the NPCA's existing conservation area network while protecting delicate habitats and natural hydrologic and hydrogeologic functions.

The NPCA has secured the most land in the watershed compared to land trusts and other land conservation organizations working in the region; however, it falls significantly behind the land securement achievements of its two neighbouring conservation authorities. This strategy will outline a path for the NPCA to increase land securement effectively and notably within the watershed.

Criteria used to determine the areas within the watershed worthy of the NPCA securement has largely already been done by staff and by the Province in designations of certain environmental features, such as wetlands, Areas of Natural and Scientific Interest (ANSIs) and Environmentally Significant Areas (ESAs). These criteria will be of importance when considering public inquiries to convey land or conservation easements to the NPCA. The amount of land meeting the land securement criteria would be considered unwieldy to secure in any timeframe. This strategy identifies six landowner outreach areas to provide a manageable number of target areas as the focus of the landowner outreach program.

By partnering with other land securement organizations, applying for funding where possible, and launching a targeted landowner outreach program, the NPCA can expect to secure a minimum of 180 hectares within a ten-year timeframe. If implemented consistently, the NPCA could reasonably double this goal.

Introduction

Natural heritage and natural green infrastructure (e.g., forests, wetlands, rain garden, bioswales) provide critical services and benefits that sustain life for people and wildlife such as providing clean air and water, protection from flooding and erosion, as well as a source of food and habitats for wildlife species. However, there are growing pressures on the landscape due to increased urbanization, land use changes, and changing climatic conditions that continue to threaten and impact the integrity of these natural features. In addition, there is an increasing demand for access to greenspaces for the health and well-being of people. Together, these issues have highlighted the critical need to secure more natural areas to improve the environment, mitigate the impacts of climate change, and provide more opportunities for people to enjoy the outdoors.

The NPCA is one of 36 community-based natural resource management agencies in Ontario that protects, enhances, and sustains healthy watersheds. The NPCA currently owns or manages 41 conservation areas which account for approximately 2,946 hectares (or 1.2%) of lands within its watershed jurisdiction (Fig. 1). These conservation areas are held in public trust for the purpose of natural heritage protection and/or restoration (e.g., interior forests, wetlands, areas of natural and scientific interest (ANSIs)), passive recreation (e.g., hiking, birdwatching), active recreation (e.g., swimming, camping, boating), education programming, cultural heritage protection, and natural hazard protection (e.g., floodplains, valleylands, and dams). Most of these conservation lands are publicly accessible with a few exceptions in various municipalities. In addition to NPCA conservation areas, there are natural areas owned/managed by other stakeholders (e.g., municipalities, Province of Ontario, Nature Conservancy of Canada, other landowners) that help bolster natural heritage across the NPCA jurisdiction. These important natural areas support a rich biodiversity within the watershed (including rare plants and animals) and provide people with recreational, social, and economic benefits.

While the terms ‘land acquisition’ and ‘land securement’ are often used interchangeably, there are important differences. The term ‘land securement’ refers to the legal purchase of natural areas with the intent to maintain, protect, restore and/or enhance those natural features using a range of methods to facilitate permanent protection of land in perpetuity. The term ‘land acquisition’ refers to the purchase of land that may at some point be deemed a disposable asset by the public, non-profit funding partner, or land donor/seller.

The NPCA has an increasingly important role in the securement of lands for the purpose of conservation and restoration of natural areas. The *Conservation Authorities Act* (CA Act) provides guidance on the governance and purpose of conservation authorities, including the powers to “acquire by purchase, lease or otherwise any land that it may require, and, subject to subsection (2), to sell, lease or otherwise dispose of land so acquired” (Sec. 21 (1)(c)). As part of the *CA Act Regulation O. Reg 686/21*, there are only certain types of programs and services that can be provided in relation to the conservation and management of lands including (but not limited to) the development of one or more policies governing land acquisitions and land dispositions (Sec. 9 (2)(vi)).

In 2021, the NPCA completed its first 10-year strategic plan aimed at achieving its vision of ‘Nature for all’ to ensure a healthy and vibrant environment with shared greenspace and clean water that

sustains life for future generations. Through six overarching strategic priorities and twenty-one specific goals, the NPCA is committed to actions that aim to create healthy and climate-resilient watersheds, support sustainable communities, connect people to nature, strengthen relationships with partners and stakeholders, improve organizational practices, and ensure financial sustainability. Notably, the strategic plan calls for the development and implementation of a land acquisition strategy to achieve Goal 1.4: *“Manage lands to increase biodiversity, habitat connectivity, and natural cover”*. Implementing a land securement strategy will also directly support achieving Goal 3.1 *“Create equitable access to greenspace for the health and well-being of people”* as well as several other NPCA strategic goals and performance measures related to natural hazard protection, ecosystem improvements, and building relationships with partners, stakeholders, and Indigenous peoples.

Given the recent (2021) changes to the CA Act, the need to meet the Auditor General’s recommendation, and a new NPCA strategic plan, there was a clear and timely need to update the NPCA’s land securement strategy. The purpose of the Land Securement Strategy is to guide the securement of lands within the Niagara Peninsula watershed for environmental, natural hazard protection, and societal (recreation, culture, health) benefits.

To achieve the NPCA’s strategic goals, the Land Securement Strategy focuses on the following objectives:

- Secure public greenspace in the NPCA watershed using clear and concise decision-making;
- Collaborate with municipal partners, land trusts, stakeholders, and Indigenous communities on mutual land securement goals;
- Implement sustainable and innovative financial models that support land securement and stewardship

Regional Context

Since time immemorial, Indigenous peoples have been stewards of the lands within the Niagara Peninsula. It continues to be a place for sharing, trading, hunting, gathering, stewardship, and friendship. The Niagara Peninsula watershed is the traditional territory of the Haudenosaunee, Attiwoonderonk (Neutral), and Anishinaabeg including the Mississaugas of the Credit. Today, the watershed is home to many First Nations peoples, Métis citizens, and Inuit.

The NPCA’s watershed jurisdiction encompasses 2,424 km² and supports a population of 474,217 people situated within the entire regional municipality of Niagara, portions of the City of Hamilton (21%), and Haldimand County (25%). NPCA’s partner municipalities will experience significant increases in human population with the watershed by 2051. For example, the City of Thorold was in the top ten Ontario municipalities for population growth at 26.7% according to Statistics Canada from 2016 to 2021. In addition, the Niagara Region is set to accommodate a minimum of 674,000 people by 2051 (Growth Plan, May 2021 Forecast).

The watershed is uniquely situated between two Great Lakes with the Niagara River and is part of the Carolinian Life Zone, which supports a rich biodiversity including rare plants and animals

and provides people with recreational, social, and economic benefits. The watershed includes noteworthy natural features such as the Niagara Escarpment, Niagara Falls, Niagara gorge, Wainfleet Bog, Ball's Falls, and Willoughby Marsh. The unique microclimate created by the Niagara Escarpment and rich soils supports one of Ontario's most productive agriculture systems including vineyards, tender fruit orchards, livestock, and various specialty crops (greenhouses for flowers, vegetables, sod farms, and mushroom farms). Despite these incredible features, the NPCA's 'Nature for Niagara's Future' study indicates that the watershed only achieves 56% of the minimum natural cover target (30%) required to sustain a healthy and resilient landscape.

To date, NPCA has secured 41 properties totalling almost 3,000 hectares as shown in Table 1. NPCA's secured lands constitute 1.22% of the total watershed. All other land securement organizations have secured about 1,000 additional hectares or 0.42% land in the watershed. The combined secured land in the watershed is almost 4,000 hectares (1.64%).

Secured Land

Watershed Area 242,400 ha

NPCA Secured Land 2,946 ha / 1.22%

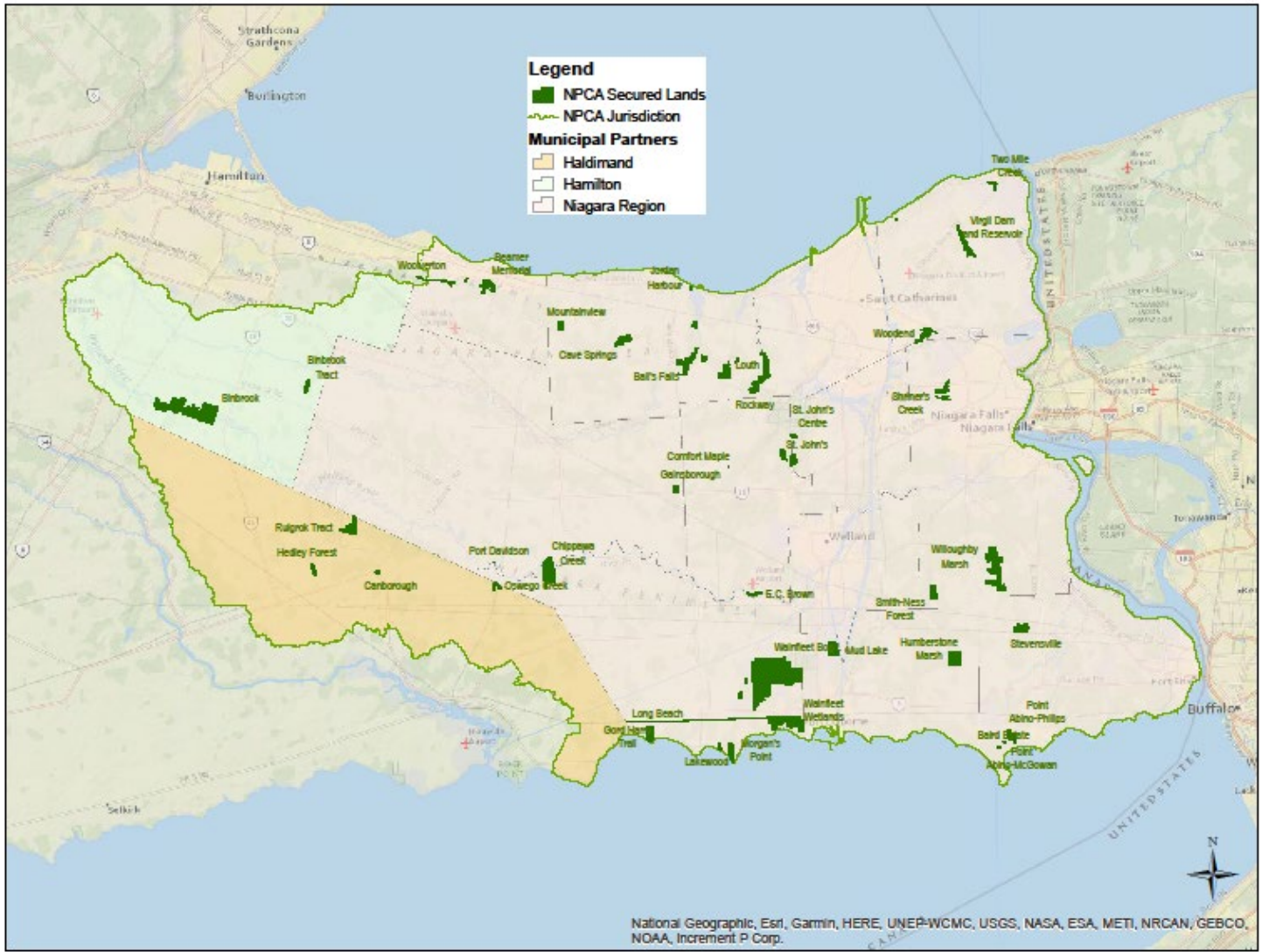
Total Secured Land (includes all partners) 3,967 ha / 1.64%

Table 1: NPCA Secured Lands

#	Name	Municipality	Ha
1	Wainfleet Bog	Wainfleet	805.27
2	Binbrook	City of Hamilton	374.28
3	Willoughby Marsh	Niagara Falls	230.13
4	Wainfleet Wetlands	Wainfleet	182.02
5	Chippawa Creek	Wainfleet	149.79
6	Rockway	Lincoln/St. Catharines	125.52
7	Ball's Falls	Lincoln	112.61
8	Humberstone Marsh	Port Colborne	82.39
9	Ruigrok Tract	Haldimand County	73.79
10	Mud Lake	Port Colborne	63.13
11	Louth	Lincoln	62.21
12	Beamer Memorial	Grimsby	57.22
13	Long Beach	Wainfleet	55.83
14	Virgil Dam and Reservoir	Niagara-on-the-Lake	49.70
15	Stevensville	Fort Erie	49.30
16	Woodend	Niagara-on-the-Lake	47.51
17	Cave Springs	Lincoln	43.37
18	Point Abino-Philips	Fort Erie	38.36
19	Smith-Ness Forest	Niagara Falls	37.77
20	Morgan's Point	Wainfleet	37.52
21	Shriner's Creek	Niagara Falls	36.02
22	St. John's	Thorold/Pelham	30.81
23	Mountainview	Lincoln	26.37
24	Gord Harry Trail	Wainfleet	26.92

25	Lathrop	Pelham	20.73
26	Binbrook Tract	City of Hamilton	20.29
27	Woolverton	Grimsby	18.59
28	Hedley Forest	Haldimand County	17.65
29	Gainsborough	West Lincoln	16.04
30	E.C. Brown	Pelham	13.77
31	Two Mile Creek	Niagara-on-the-Lake	8.51
32	Oswego Creek	Haldimand County	7.84
33	St. John's Centre	Thorold	7.44
34	Lakewood	Wainfleet	6.16
35	Canborough	Haldimand County	5.56
36	Baird Estate	City of Hamilton	2.07
37	Point Abino-McGowan	Fort Erie	2.00
38	Eight Mile Creek	Niagara-on-the-Lake	0.79
39	Jordan Harbour	Lincoln	0.72
40	Comfort Maple	Pelham	0.24
41	Port Davidson	West Lincoln	0.19
41	TOTAL		2,946.39

Figure 1: NPCA Secured Lands



Land Securement Partners

It is not uncommon to have several partners involved in the securement of a particular property. Sometimes additional partners are required for funding purposes or assistance with specific expertise (e.g., negotiating leverage, funding) required to secure a property. In other cases, involving title or an interest in title, a partner group may be a better suited land or conservation easement recipient than the original organization involved. There may be a better suited recipient of the land due to funding requirements or because the landowner has requested the involvement of another group based on personal preference. In addition, a landowner may not want to sell or donate their property but is instead willing to have the land secured through a conservation easement agreement. Some circumstances will depend on the unique characteristics of the property, the type of securement method involved, and the requests of the landowner (depending on whether it is a donation or purchase). It is important to note that any partnership involvement that NPCA has in the securement of a property should be viewed as a land securement success. This is also referred to as an “assist.” An assist can include the involvement of staff time, resources, technical expertise, mapping, or funding towards securement of a particular property. Even if NPCA does not end up holding title, an interest in title, or even managing a particular property, any contribution by NPCA is considered a victory. After all, the end goal is to secure these key properties for overall conservation in the watershed.

The following sections describe the various land securement partners and their primary benefits to NPCA as well as their strengths and weaknesses in terms of holding title or interests in title (i.e., conservation easement agreements) to land.

Federal Government

Environment and Climate Change Canada (ECCC) announced in late 2021 that they set a target to protect 25% of lands and oceans by 2025 and 30% by 2030. This commitment comes with funding; however, some monies would have to be accessed by partnering with land trusts. Additionally, conservation authorities are eligible to receive ECCC’s Nature Smart Climate Solutions Fund for land securement projects.

ECCC also administers the Ecological Gifts Program (Ecogifts) which can provide significant tax savings to landowners wishing to donate lands; NPCA is a qualified Ecogifts recipient.

Provincial Government

Provincial parks, and other park lands, are managed for the public by public agencies such as municipalities and the Ontario Ministry of the Environment, Conservation and Parks (MECP) through Ontario Parks. In NPCA’s jurisdiction, there are two provincially protected properties: Short Hills Provincial Park and Wainfleet Bog Conservation Reserve.

The Ontario Heritage Trust (OHT) is somewhat removed optically from the Province yet is still an arm’s length government agency. OHT has conserved several natural heritage properties within NPCA’s watershed.

Beginning in 2021, the Province has committed \$20,000,000 towards land securement until 2025 through a program called the Greenlands Conservation Partnership. Currently, this funding is awarded to the Nature Conservancy of Canada (NCC) and the Ontario Land Trust Alliance (OLTA). Through partnering with a local land trust, the funding could be accessible for NPCA to secure, restore, and manage a property.

Indigenous Governments

There is the potential for the NPCA to partner with local Indigenous organizations to secure lands for the establishment of Indigenous Protected and Conserved Areas (IPCAs) within the watershed. IPCAs are an important tool for reconciliation through conservation and can help the NPCA achieve habitat targets while supporting and maintaining Indigenous cultural knowledge systems. In 2021, the federal government pledged over \$166 million to support the establishments of IPCAs in Canada. This model would involve leadership from local Indigenous governments to secure and manage the IPCA with the NPCA assisting as a partner if the property is in the watershed.

Single and Upper-Tier Municipal Government

In early 2022, relevant staff from NPCA's partner municipalities were contacted to help inform the development of the Land Securement Strategy. The City of Hamilton has its own land securement strategy and Natural Areas Acquisition Fund to provide funding support to CAs and land trusts for eligible securement projects. The City will not use the fund to secure lands for itself to hold title or conservation easements. The funding model is 50 percent of the acquisition or \$50,000. The City has policies within both its Rural (RHOP) and Urban Official Plans (UHOP) that support a Natural Areas Acquisition Fund Strategy. These policies are: RHOP Volume 1 policies C.2.11.1, C.2.11.2 and C.2.11.3 and UHOP Volume 1 policies C.2.2.8, C.2.12.1, C.2.12.2 and C.12.3.

Although the Regional Municipality of Niagara does not have a land securement program in place, there have been staff-level discussions about the possibility of developing such a program like those of other regional Greenbelt municipalities.

The County of Haldimand expressed interest in land securement as they have also mapped their Natural Heritage System. The County has 13% forest cover and ideally wants 25%. Securing existing forests and non-forested lands with potential of reforestation will help them achieve their goal. If NPCA brings forward such a land securement project, municipal staff may consider bringing the project forward to Council for support on a case-by-case basis.

Lower-Tier Municipal Government

Although the lower tier municipalities do not typically secure land for conservation, they all expressed varying interest in land securement. could be securement partners that offer insight and facilitate introductions to key landowners. Additionally, most local area municipalities have Official Plan goals related to environmental protection, restoration, and sustainability. Lower-tier municipalities can be approached for funding support on a case-by-case basis, particularly if the potential securement project offers benefits to the local community and helps the municipality achieve its own strategic objectives.

Land Trusts

Most land trusts are primarily focused on securing natural heritage lands to protect significant ecological features; therefore, it is important for the NPCA to collaborate with land trusts to further its conservation goals through land securement.

Several land trusts operate within the watershed including the Bruce Trail Conservancy (BTC), Niagara Land Trust (NLT), Nature Conservancy of Canada (NCC), and Ontario Nature. Combined, these land trusts have secured over 241 hectares in the watershed. This number is expected to rise but most land trusts are not actively securing more land in the watershed. The BTC has targeted properties along their Optimum Route (OR) which they would very much like to secure but the opportunities are relatively few compared to other areas outside of NPCA's jurisdiction.

The following is a list of land trusts and their potential benefit to NPCA's securement efforts:

American Friends of Canadian Conservation (AFCC) is available to help NPCA with land securement involving American landowners. AFCC can receive donated land temporarily from landowners and issue a U.S. tax receipt. Land would later be transferred to NPCA. There may be few (if any) American landowners currently holding targeted lands in the watershed, but existing lands could be sold to Americans in the future. Additionally, AFCC can also issue U.S. tax receipts to American cash donors to NPCA or its Foundation. To date, there have not been any projects within the watershed that AFCC has been asked to help with.

Bruce Trail Conservancy (BTC) is one of the most active land trusts, but their interest is confined to a narrow corridor along the Niagara Escarpment which they refer to as the Optimal Route (OR). If NPCA takes on a project within the OR, BTC has proven to be a reliable partner. They are highly adept at raising funds to secure land.

Escarpment Biosphere Conservancy (EBC) primarily focuses on securing lands on the Niagara Escarpment and is highly active in their securement activity, but they have yet to secure land south of the 401 Highway. They have expressed interest in securing land in the NPCA watershed. EBC also executes securement projects relatively quickly and would be a potential securement partner both on and off the Escarpment.

Ducks Unlimited Canada (DUC) have a multitude of wetland restoration projects on private lands within the watershed which are in partnership with NPCA. DUC is not actively looking to secure land in the watershed but would consider helping NPCA with some ideal areas especially on coastal areas of the Great Lakes. Securement projects worthy of DUC's consideration must be ideal for waterfowl staging or breeding habitat (e.g., shallow, open water) and have a minimum project size of 40 hectares. DUC does not have a leveraging demand on funds that NPCA need to provide; therefore, they could potentially fund an entire project. DUC also has access to federal land securement funds.

Nature Conservancy of Canada (NCC) is not targeting any areas within NPCA's watershed for securement, but they would be open to help on projects that could expand on their current holding. Additionally, NCC has access to significant federal and provincial funds for securement; therefore,

discussions to access those funds through a partnership with another local land trust should be discussed.

Head-of-the-Lake Land Trust (HLLT) is Ontario's first land trust and acquired its first property for conservation in 1961. The HLLT, managed by the Hamilton Naturalists' Club, has secured ten properties to protect ecologically significant natural heritage in Southern Ontario. Two of the HLLT properties (Vinemount and Short Hills Nature Sanctuary) are situated in the Niagara Peninsula watershed. The group has a strong volunteer base, an active land securement program, and an endowment fund to support ongoing management and maintenance costs.

Niagara Land Trust (NLT) is the newest land trust to the area and has secured two properties so far. As with most relatively new land trusts, they operate entirely with volunteers. There is a high potential for partnering on land securement projects as this is the only land trust that has a watershed wide focus on land securement. While they have their own criteria by which they will accept projects, their geographic scope covers the watershed.

Ontario Farmland Trust (OFT) aims to secure prime agricultural land. Thus far, they have only secured land through donations of conservation easements. These easements have been certified as Ecogifts, which required that they have significant ecological merit. Partnering on securement projects that have prime agricultural land may suit having OFT as a partner. For example, OFT could arrange to retain the arable land for farming and manage it while NPCA takes title to any adjoining forest and/or marginal farmland better suited for ecological restoration.

Ontario Nature is a registered land trust in Ontario and owns the Harold Mitchell Nature Reserve, but securement is not this group's primary role. They are not targeting land to secure in the watershed but if a property has a particularly important ecological feature or function, Ontario Nature may consider assisting with securement and contributing funds.

Other Non-Governmental Organizations

Non-governmental organizations such as the local nature clubs, stewardship councils, and Carolinian Canada Coalition may be helpful to NPCA's securement efforts by providing the following:

- Introductions to key landowners
- Fundraising and community support efforts for protection of an area of specific public interest
- Ecological monitoring/inventory
- Gathering volunteers for invasive species removal
- Trail maintenance

Secured Land

Including lands secured by NPCA, the Province, and land trusts, there are almost 4,000 hectares (1.64%) of protected lands within the watershed (Figure 2). The NPCA has secured the most land in the watershed than all other land securement partners combined (Table 2). However, its neighbouring conservation authorities have secured significantly more land in their respective watersheds. The Grand River Conservation Authority has secured 19,400 ha equating to 2.8% of

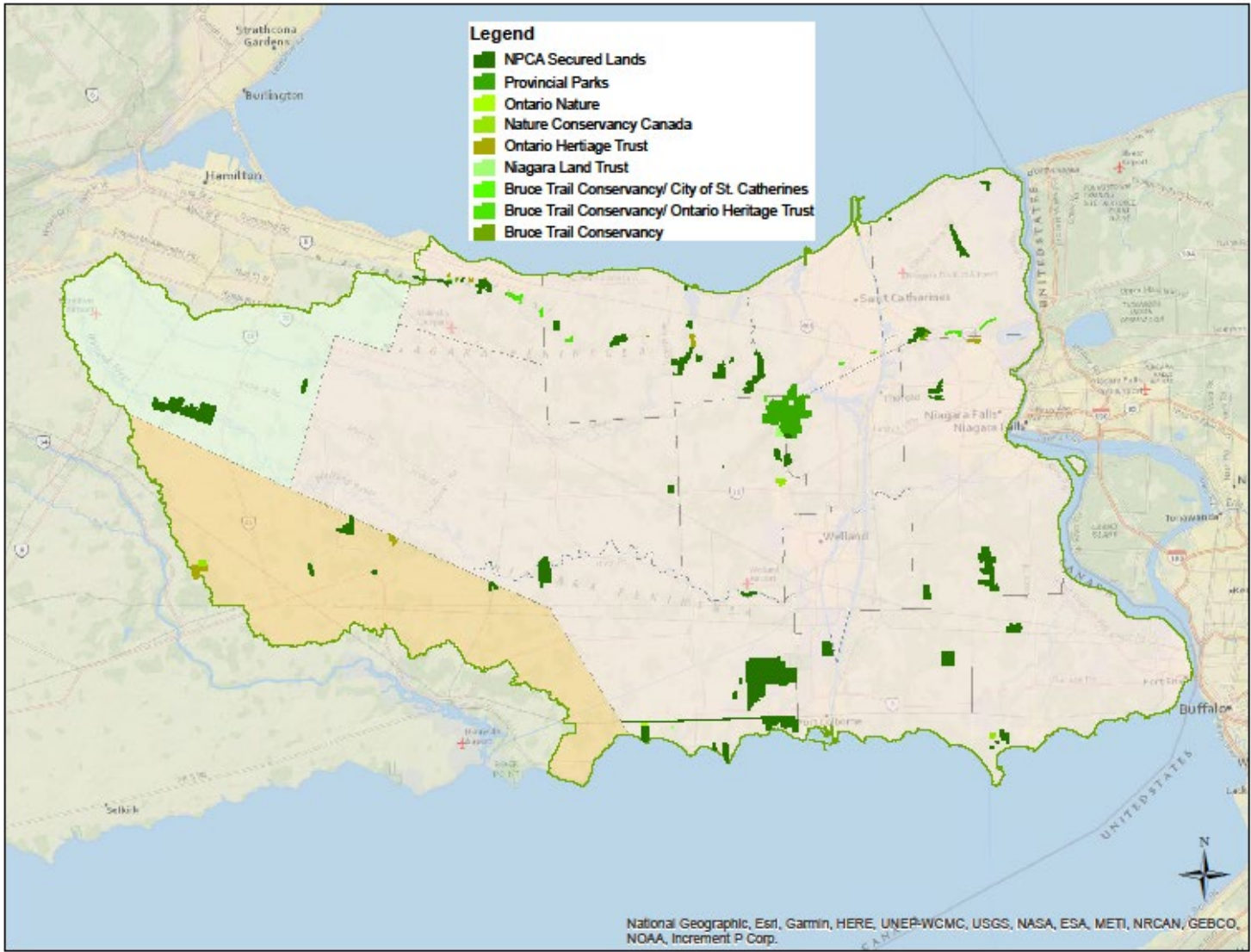
its watershed. Hamilton Conservation Authority has secured 4,603 ha equating to 9.2% of its watershed.

Once the NPCA's Land Securement Strategy is approved in principle, a meeting of all the partners is recommended. Inviting all the above listed partners to a meeting where NPCA staff present this report and receive feedback can lead into a brainstorming session which may bring helpful information towards achieving land securement goals faster and easier. Also, communication between partners can coordinate landowner outreach activities and firm up possible partnerships on upcoming projects. This meeting of partners may evolve into a Land Securement Working Group that could meet once or twice per year to give updates on securement activities and funding programs.

Table 2: Secured Land within Watershed

Partner Name	# of properties	Total area (ha)	% of watershed
NPCA	41	2,946.39	1.22
Ontario Parks	1	645.08	0.27
Bruce Trail Conservancy	48	151.67	0.06
Ontario Heritage Trust	9	133.87	0.06
Nature Conservancy of Canada	3	52.85	0.02
Niagara Land Trust	2	23.16	0.01
Ontario Nature	1	13.92	0.01
TOTAL	106	3,966.94	1.64

Figure 2: Secured lands (all partners)



Securing Land

There are two primary ways to secure lands: holding land title (fee simple) or holding land rights (conservation easement agreement). The following provides a brief overview of these securement tools.

Fee-Simple

The most used method of land securement is fee-simple purchase. In this case, NPCA would purchase full title and rights to a property from a willing seller. A landowner can also offer to donate property using the fee simple method; NPCA has a history of receiving such fee-simple donations.

Conservation Easement Agreement

Conservation easement agreements (CEs) are an effective tool for protecting the conservation values of a property without owning that property because they contain restrictive covenants intended to ensure the protection of ecological features. CEs are legally binding agreements registered on title whereby the landowner transfers specific rights to an easement holder such as a conservation authority such as the ability to create building lots or cut trees.. The easement holder has the right and responsibility to monitor the property (thus the term “easement”) and ensure that the terms of the conservation agreement are being respected. If no easement is granted under the agreement, the agreement can be referred to as simply a “restrictive covenant.”

The purpose of a CE is typically to prevent the destruction of a feature(s) on a particular property. The rights to the uses of a property (i.e., subdivision rights, development rights, and tree cutting rights) can be donated or purchased from the landowner; however, it is more common to have CEs donated. CEs can provide for the protection of a feature, trail construction, and construction and maintenance of rehabilitation works.

To aid in the protection of the natural features, a Baseline Documentation Report (BDR) is prepared and registered on title with the accompanying CE. The BDR takes an ecological inventory and pinpoints other pertinent features, improvements, and disturbances. This reporting at the time of securement identifies all issues for staff to observe and compare to for future monitoring of the property. The BDR offers proof, if needed, for enforcement of the CE restrictions.

Since a property with a CE remains in ownership with the private landowner, NPCA does not have maintenance responsibility nor property tax to pay. However, with the responsibility of monitoring, which is usually an annual minimum, comes the possibility of enforcement and legal defence should a present or future landowner contravene the restrictions of the CE. Even though there are often less upfront securement costs associated with a CE, the ongoing stewardship and possible costs are unpredictable. These costs do not include the need for a legal defense fund should the landowner (usually subsequent owner) breaches the restrictions of the CE.

Methods of Fee-Simple Land Securement

The following section outlines the various fee simple methods which could be employed in the securement of environmentally sensitive or significant lands. These options should be clearly communicated to landowners in person and through web-based media and print publications facilitated through the landowner outreach program discussed later in this strategy. In order to maximize available resources (i.e., financial and staff time), this strategy recommends fee simple donations first (full value or split-receipt), followed by important purchases.

Of all the land securement scenarios, a project often combines several tools. For example, a landowner may decide to donate the bulk of their property via direct conveyance while retaining a life interest on the severed parcel.

Donations

Donations of land or property rights (i.e., fee simple or conservation easement agreements) at appraised value may qualify as charitable donations under the Federal Income Tax Act through the Ecological Gifts Program (or Ecogifts Program). The Canada Revenue Agency (CRA) provides tax incentives to landowners willing to donate ecologically sensitive lands. All Ecogifts are subject to 0% capital gains tax. All lands donated outside of this program remain subject to 50% capital gains. In addition, as part of the program, all appraisals are reviewed by an expert panel of appraisers; therefore, landowners and NPCA can be assured that the appraisal's legitimacy is peer reviewed. These and other advantages of the program are outlined in Appendix 1. Donations can include receipt of lands under specific conditions such as a bequest or gratuitous dedication.

Bequest

Landowners may elect to provide for a gift of land to NPCA in their Will through a bequest. The advantage of making a bequest is that there is no cost during the landowner's lifetime. A bequest can be cost-effective from a tax perspective against the estate and create a legacy for the donor and their family. However, a Life-Interest Agreement (discussed later) serves the same objective and is often better for the donor and recipient because it protects the land sooner rather than later, prevents family members from contesting a Will, and offers the donor a tax receipt to use while alive rather than leaving it for the estate.

Gratuitous Dedication

Typically, Official Plans contain a provision which requires the dedication of environmentally protected lands to a public authority as part of the development process. Implemented through the conditions of draft approval for the subdivision, these lands are generally those associated with a riverine valley system and include the hazard lands associated with that system and the associated access allowances. Further, environmentally protected lands may contain a wetland feature and associated buffer habitats.

Should NPCA be the public authority to which these lands are dedicated, they shall be dedicated free and clear of all encumbrances and an easement(s) for access to these lands may be required. The donor of the property may also be required to pay a stewardship fee, to cover costs associated with the long-term maintenance of the lands, which may include such things as:

- Land management planning
- Research and monitoring
- Land operations
- Land administration

The exact figure of the stewardship fee can be calculated based on the actual costs associated with the property and based on expenditure requirements for an agreed upon timeframe. Alternatively, the industry standard of 15% of the land value could be used, or whichever is greater. The stewardship fee would be paid to the Niagara Peninsula Conservation Foundation (NPCF) in a lump sum payment upon the transfer of lands. Refer to the 'Financing Land Securement' section for more information.

Trade Lands

When a landowner wishes to either donate or bequeath their property but their property does not contain any significant environmental features, NPCA can accept the gift with the intention to sell it. The proceeds from the property sale should be directed into securement of more strategic lands, as agreed upon with the donor. A trade lands policy is recommended to guide this type of decision-making.

Exchanges

In this case, landowners who own property of interest to NPCA may exchange their parcels for surplus lands owned by NPCA that the landowner desires. For example, a landowner wants to expand their farm or have better access to it. In turn, they have a parcel of land that meets NPCA's securement criteria. If the parcel desired by the landowner is not of significant ecological value, NPCA may consider the exchange. While these transactions traditionally consist of the exchange of fee simple interests, they can consist of any combination of property interests. Note that land exchanges are not necessarily acre for acre and any exchange would be based on an appraised value as valley lands would not be valued the same as developable tableland.

Direct Conveyance

A direct conveyance is an acquisition of part of a property through either a fee simple purchase or donation scenario to a government agency. For example, if a landowner has a residence, they may be willing to dispose of most of the property while retaining the residence and amenity area (Figure 3). The advantage of this method is that usually the part of the property severed for conservation purposes does not include the bulk of the value of the property. Therefore, landowners can retain a residential lot and some acreage around their residence or building, allowing them to hold on to most of the property's value. The land severed is then owned and managed by the municipality or conservation authority. The landowner's residence, barn, or working farm field remain adjacent to the now publicly owned conservation lands without the

burden of the costs and liability associated with maintaining and managing a larger property. In addition, if the landowner wishes to sell the property in the future, it will be a significantly more saleable parcel size, which may attract more buyers.

In the situation of a direct conveyance, conservation authorities have an advantage over land trusts with their allowance under Section 50 (3)(e) of the *Planning Act* to create the conveyance without going through the formal severance process.

Figure 3: Direct Conveyance Example



Split-Receipt

A split-receipt can be viewed as either a donation of land or easement, with cash consideration back to the donor, or a purchase of land with a donation of land value in cash back to the purchaser. Once the land value is determined by a qualified appraiser, the percentage of the fair market value of the land to be donated versus the percentage of land to be accepted in cash will be negotiated. Through the Ecogifts Program, the donated portion must be a minimum of 20% of the value to qualify for a split-receipt. Conversely, the landowner cannot receive more than 80% cash for the appraised value.

Fee-Simple Purchase

The most used method of land securement is fee-simple purchase. In this case, NPCA would purchase full title and rights to a property from a willing seller. An Agreement of Purchase and Sale is signed between both parties to clarify the details of the transaction.

There are two additional agreement types that could be utilized in a fee simple purchase:

1. Option to Purchase
2. Right of First Refusal

Option to Purchase

An option to purchase is a contract that would allow NPCA to buy a property at a set price for a stipulated period. It is a written contract by the landowner to sell the property by which they agree to not withdraw the offer of sale during the stipulated deadline. NPCA would likely pay a fee for this option. This mechanism is often used as a means of “buying time” during an attempt to acquire a specific piece of land and allows time to fundraise for the purchase costs. For NPCA, the approach could be used to extend the “window” of buying time into the next fiscal year, if needed.

Right of First Refusal

A right of first refusal is an agreement between a landowner and the potential buyer to match any third party offer to buy the subject property. It sets out the conditions of sale and is registered on title to the property. It is an interim measure giving NPCA the option to acquire a key property in the future. It can be a good tool to use if negotiations have been halted (e.g., due to an unacceptable appraised value). The right of first refusal can also be registered on title allowing NPCA to buy a property that has an existing conservation easement agreement. In this case, NPCA would prefer to wait until they can secure title rather than be the easement holder. Right of first refusal is also a means by which to discourage other potential buyers (e.g., developers) as they will know they have competition and the holder of the first rights has priority. There may be a fee associated with the right of first refusal.

Life Interest Agreement or Lease Back Arrangement

When the vendor/donor wishes to retain an interest in the property, they can enter into either a life interest agreement or a lease back arrangement. A life interest agreement allows the landowner to retain an interest in the property for the duration of their life. This interest can take many forms including use of a family home, cottage, or recreational access to hiking trails. In a lease back arrangement, the landowner sells the property but remains in possession for a specified period while paying rent to the buyer, effectively making the landowner a tenant. In either case, the land can be donated, purchased, or split-receipted. The value of the retained interest would be determined by a qualified appraiser. The agreement would specify a set term or continue if the vendor uses the subject property as outlined in the agreement. Such retained interests can range from passive use (e.g., hiking), medium use (e.g., camping, removal of deadfall trees for firewood), to high use (e.g., residing, agricultural operation).

Land Securement Criteria

The watershed contains a multitude of important natural resources needing protection to sustain life, but it is not feasible to secure all these lands with limited resources. Thus, it is important to prioritize areas for securement by identifying a set of land securement criteria to guide which lands are to be considered and actively pursued for land securement. Overall, the NPCA will use a set of primary criteria focused on watershed features and functions while considering secondary criteria such as parcel size, securement method, and cost.

To be considered, every potential land securement project must pass the first and second criteria screening. There will be times when the NPCA should graciously reject an opportunity, even a donation of land is deemed ecologically important. If a property is relatively small to offer much benefit, is costly or problematic to secure, or is predicted to be more challenging than it is worth to the organization, it should not be a project for the NPCA. Passing it to another securement partner may be the best option.

Watershed Features and Functions

Previous provincial and NPCA-led scientific assessments have identified several key areas in the watershed required to conserve ecological integrity including Areas of Natural and Scientific Interest (ANSIs), Environmentally Significant Areas (ESAs), floodplains, wetlands, habitat of species at risk, etc. While it is understood that these areas are important, they are already mostly protected through policy. Thus, land securement criteria should also focus on protecting and restoring other important features and functions critical for watershed health.

Eligibility criteria of the Ecogifts program and the Conservation Land Tax Incentive Program (CLTIP) (Appendix 2) are suitable filters for determining NPCA's land securement criteria. These criteria apply regardless of if a securement project is to be donated or purchased.

In general, the NPCA will consider the securement of land if any of the following first-level criteria are met:

- Lands in proximity or adjacent to existing NPCA conservation areas;
- Flood control, flood vulnerable, erosion control and reservoir project lands, and their associated access lands;
- Valley and stream corridors, riparian habitat zones, wetlands;
- Great Lakes' waterfront;
- Highly vulnerable aquifers, significant groundwater recharge areas;
- Important woodland/vegetation/habitat linkages, interior forest areas, and/or lands which contribute to the expansion of interior forest habitats;
- Environmentally Significant Areas (ESAs), Areas of Natural and Scientific Interest (ANSI);
- Habitat for aquatic and terrestrial species of concern and sensitive species, including those listed under the *Species at Risk Act* and the *Endangered Species Act*;
- Relevant lands identified in NPCA's watershed and sub-watershed plans, municipal natural heritage systems, and in urban and near-urban areas suitable to provide residents with access to nature;

- Lands identified as Escarpment Natural Areas and Escarpment Protection Areas in the Niagara Escarpment Plan;
- Lands that provide terrestrial and aquatic habitat restoration opportunities, including lands identified as priority for ecosystem restoration;
- Areas that provide linkages for a regional trail system or to other nearby greenspaces (e.g., municipal natural areas, neighbouring conservation authorities).

This extensive list covers an enormous area of the watershed offering many passive land securement opportunities (landowners approaching the NPCA). Conversely, there is too much potential area to actively pursue (NPCA outreach to landowners) within a 10-year timeframe. Even when limiting the criteria for active land securement to only wetlands, ANSIs, and ESAs (in which many of the other criteria overlap) those three features alone cover a daunting area exceeding 19,200 ha or 7.9% of the watershed (Figure 4). While value is impressive, it falls woefully short of the International Union for Conservation of Nature's Aichi Biodiversity Targets of 17% applying to terrestrial lands and inland waters.

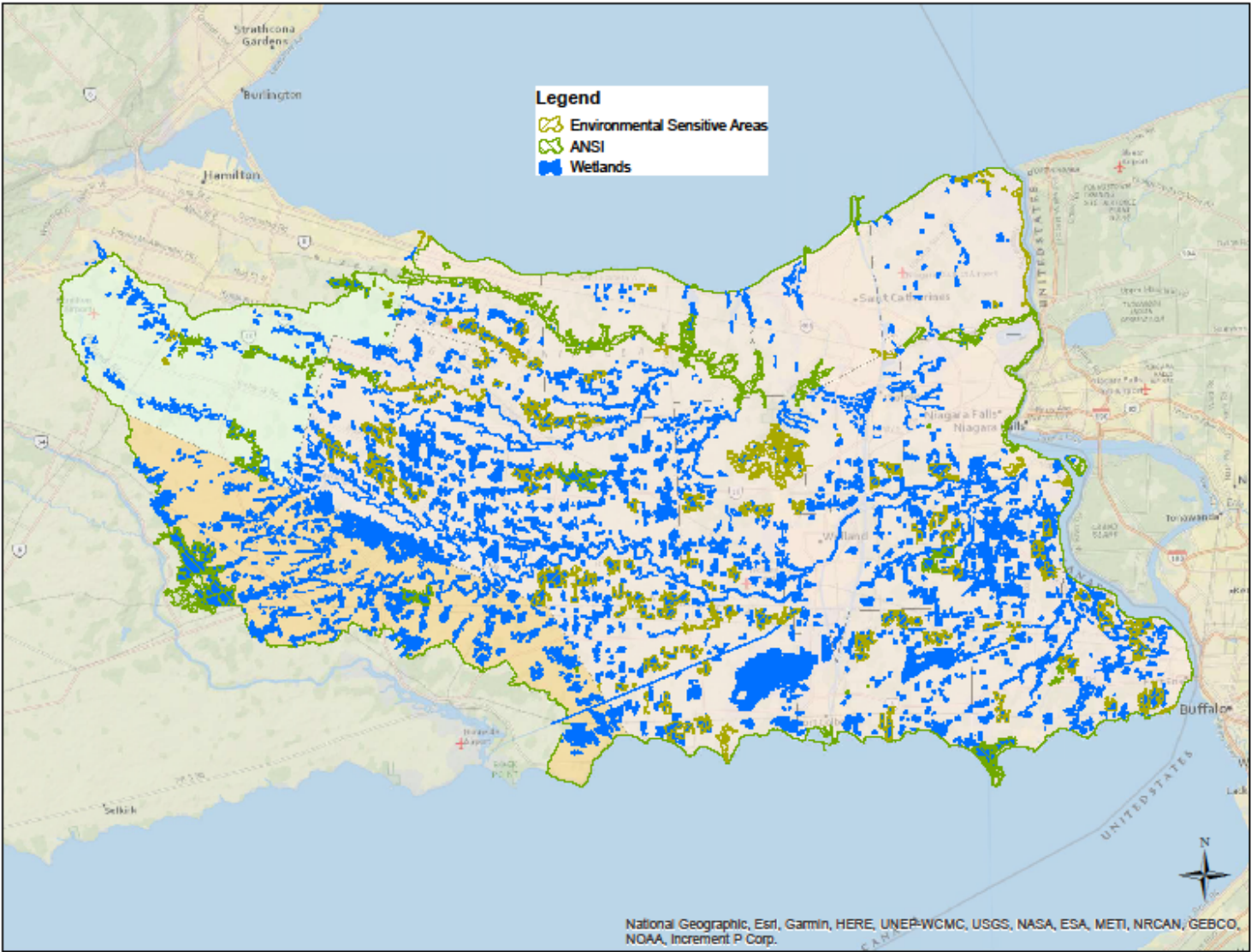
To make a land securement program effective and manageable, additional criteria must be considered. Even though some landowners may offer the NPCA land or a CE that meets the primary criteria, there are securement and stewardship costs that accompany each project. Being selective is important so that resources can be extended to the worthiest land securement projects. After a potential property passes the first screening, it still needs to pass an important secondary practical screening of the following criteria before a decision to secure can be made:

- Size of parcel
- Type of securement form and method landowner prefers
- Cost of stewardship

Parcel Size

Parcel size is one of the most important of the secondary criteria since the time and costs that are required to secure a property are largely independent of size. Therefore, securing large properties are most cost effective at further advancing NPCA's efforts to protect delicate habitats, maintain important natural function, and restore degraded areas. Exceptions to this criterion are when a small parcel is needed for access, to maintain terrestrial corridors or is strategic to secure in some way.

Figure 4: Natural features limited to ESAs, wetlands, and ANSIs



Securement Method

The NPCA needs to consider the securement method that will be most advantageous. In some cases, it may not be best for the NPCA to hold title or a CE. For example, the stewardship of the land may be deemed too costly or the landowner wishes to sell quickly and NPCA cannot foresee raising funds quickly enough. Instead of refusing the offer, the NPCA can still help by bringing in a partner better suited to the land securement method that the landowner prefers.

Alternatively, if a landowner offers to donate some land to the NPCA, the decision becomes much easier to accept, especially if the property passes the first level of screening.

Cost of Stewardship

The cost of managing properties can vary greatly. Passing up on land securement opportunities that are likely to have high ongoing costs is prudent. For example, the NPCA may choose to accept lands that are, or will be, exempt from property taxes through the provincial Conservation Land Tax Incentive Program (CLTIP), regardless of if the land is to be donated.

Additionally, the anticipated stewardship cost of holding title of land or a CE should be assessed. As previously mentioned, CEs have unpredictable stewardship costs whereas taking ownership of land can more easily be budgeted.

The proximity of lands near existing conservation areas is also a key factor in the cost of stewardship. Lands that abut existing NPCA lands should have the least stewardship costs because travel to the site is minimized and there are already stewardship activities on the original conservation area that the new parcel would be absorbed into.

Lands farther away from NPCA properties need to be closely inspected to determine existing and potential stewardship. The cost to address those issues would need to be estimated. If estimated stewardship costs are high, the securement project may be rejected or re-directed to another land securement partner. Before passing on such an opportunity, an investigation of accessing reliable long-term stewardship funds should happen. Additionally, opportunities for income generation that would have nominal or neutral impact on the land could be considered. In either case, a determination through a cost-benefit analysis is required.

Landowner Outreach

A primary goal of any land securement initiative should be to inform the targeted landowners about the various long-term conservation options that are available to them. Most landowners only know about two options when it comes to their land:

- Sell it, or
- Leave it to their children.

Deciding to protect one's property for the long term is a big decision and can take a landowner several years to make. Even if a landowner does not express interest in selling or donating their land when first approached, they will have increased awareness about long-term conservation

should they reconsider such options in the future. As in fundraising, approaching people for land donations also requires patient cultivation. Building relationships and patience is important for successful landowner outreach.

Types of proactive landowner outreach activities are listed below; however, it is possible that some landowners will take the lead in contacting the NPCA to discuss potential donation or sale of their land. This is especially likely if the NPCA maintains a good reputation with target landowners and the community and practices good communication of land securement programs and tax benefits to landowners.

Developing a Landowner Contact List

Landowner contact information (e.g., mailing address and contact person) must be collected so that packages can be mailed and followed-up on. Although landowner emails and phone numbers can be difficult to obtain, there will be a greater chance of connecting with landowners if this information can be collected.

Communication between partner conservation organizations is very important especially in areas where partners are directly involved in landowner outreach. These landowners can be included on the list but making contact should be left to the partner organization to reduce duplicative efforts.

The list should be in a format that is accessible to applicable NPCA staff to review and update and can be created with spreadsheet or database software. A blank example is provided in Appendix 3.

Property Listings

When funding is available, a search for property listings in the target areas should be conducted using www.realtor.ca. Communicating the NPCA's interest in a listing to a listing agent should include explaining the NPCA's conservation goal which should give the realtor and vendor encouragement of a possible sale. It is also an opportunity to explain the various scenarios to acquire the property, either whole or in part.

Land donation options are usually not appropriate to discuss as the realtor expects a commission. However, the landowner could entertain a donation of the bulk of the property while retaining a smaller parcel for the realtor to sell. It is best practice to request a three-way call or meeting (virtual or in person) with the landowner and listing agent.

Landowner Leads

Getting warm leads and introductions can significantly boost any landowner outreach initiative and improve the effectiveness of communications. An introduction bridges trust between parties. There are likely many landowners within the targeted areas that have already interacted with NPCA. Thus, the landowner list should be circulated throughout the applicable NPCA departments to identify any previous interactions between staff and landowners. For those identified landowners that already have shown an interest in conservation (e.g., participated in

tree planting program, wetland restoration), the staff member with the best relationship should approach and arrange an introduction.

Conversely, if past interactions with a particular landowner were not positive or well-received (e.g., denied a permit, violation issued), staff should be cognizant of those past interactions and give due consideration before reaching out to the landowner. If the property is also within an area of interest to a land securement partner, the NPCA could pass those leads to that partner for contact.

NPCA Board members, being well-connected to the community, should also be asked to provide leads and introductions to key landowners in their communities/wards. If a Board member does not know a specific landowner of interest in their area, they should be able to suggest someone who does.

Mail Campaigns

A mail campaign involves sending out an introductory letter (Appendix 4), a brochure outlining the various long-term securement options, and a photo mosaic map of the subject property (potentially showing ecological features). Ecogifts and NPCA program brochures should be excluded from the first mail out to avoid initial disinterest from the landowner. The primary objective is to introduce the landowner to the idea of long-term conservation and “break the ice” so that a telephone call, email, or drop-in visit can potentially be made a few weeks later. Other brochures can be given to the landowner if applicable and as rapport develops.

Telephone Contact

As more people are forgoing landlines, it is harder to find phone numbers for landowners. Nevertheless, Canada 411 can still be utilized. For phone numbers obtained, calling landowners to introduce them to long-term conservation options and other stewardship programs offered can be successful. The objective is to arrange a meeting, ideally on the property, rather than to discuss details over the phone. A face-to-face conversation is a much more engaging and trust-building format. It is highly recommended that this step follows the mail campaign so that the telephone call is not a “cold call”.

Drop-in Visits

Following mail campaigns, some mail is returned due to out-of-date address information or landowners undergoing a recent change of address. If there is no other way to contact the landowner, knocking on the door is prudent to bring the information to them.

Even when packages have been mailed out and presumably received, if a phone number is not available, dropping in is often very effective. Some landowners are interested in exploring the information mailed to them but do not often act on it immediately. The package may get placed in a drawer with good intentions to follow up, but often gets forgotten. Thus, making the effort to reach out personally to ensure the package was received and be available to answer questions or to arrange a meeting at their convenience is well-received.

Having another package on hand to leave at the gate or roadside mailbox for those properties that are gated or warn of no trespassing is suggested. Adding a note or postcard to the effect of

“We would like an opportunity to meet with you to discuss land conservation options that you may wish to take advantage of” may increase the likelihood of a favourable response.

Drop-in visits have been shown to be highly effective. The best times to drop-in are in the warmer weather months when landowners can be engaged outside or not holding the door open.

Landowner Forums

An effective way to meet and engage landowners was at a forum designed to provide them with information on a variety of land conservation and estate planning topics. Landowners can be invited to attend an in-person informational event with topics to learn about land conservation programs available and meet relevant NPCA staff.

To maximize attendance, the following guidelines should be considered:

- Select a date on a weekend or evening
- Include several topics that would be of interest to a rural landowner (e.g., tree planting, restoration, MFTIP, and invasive species such as Emerald Ash Borer), life estate planning
- Do not exceed three hours
- Host at a location near the targeted land securement zone
- Send postcard invitations requesting RSVP
- Follow-up with each landowner to ensure receipt of invitation and ask if they plan to attend, or if they would rather have a private visit/consultation

With the mass use of virtual mediums, landowner forums could be attempted while following the same format above. There are pros and cons to a virtual landowner forum; the best test is to host one. Costs to organize and host such an event would be less than an in-person forum and is likely worth the effort.

Scheduled Site Visits

Once a landowner is contacted and they express some interest in the program, a site visit or landowner visit can be scheduled (if necessary). Meeting with a landowner allows for more free-flowing dialogue. At this time, more information can be provided to the landowner about long-term land conservation options. If the landowner is interested, a Property Evaluation Form can be filled out by NPCA staff (Appendix 5).

Landowner Expectations

When interest is garnered, expectations of timing and value should be managed. Explaining the appraisal and approval process in the beginning is important to prepare landowners and realtors for several months of waiting. This explanation is often more important when dealing with land donation through the Ecogifts Program.

Appraisals can often be disappointing to a landowner's expectations. Having a third party perform a thorough appraisal will ensure the report is fair and unbiased. Giving a six-week approximation for appraisal completion and another week for internal review helps to explain the lengthy process.

Early Outreach Process

Attempts to contact all identified high priority landowners will commence in 2023. After assessing the uptake and time management of securement projects, the second priority landowners will be contacted.

Based on other landowner outreach programs, it is expected that an average of 10-20% of landowners will express an interest in learning more about land securement. Of these, a smaller percentage will be interested in more detailed discussions. The focus of the work in year 2 of the land securement program implementation not only involves contacting the secondary priority landowners but also requires follow-up with high priority contacts previously established in the first year. It can take several years to cultivate a relationship with a landowner before they are ready to decide to leave a legacy of their land. The landowner outreach process is repeated every year, with new contacts being established and continued relationship building with those expressing interest in the program.

Landowner Outreach Areas

The land securement criteria result in a substantial amount of area in the watershed to ideally be secured; however, as previously mentioned, this is an unsurmountable amount of area and number of projects to warrant active pursuit. Therefore, six Landowner Outreach Areas (LOAs) are proposed to concentrate landowner outreach efforts within the watershed over the next ten years. These LOAs are not given higher priority over other areas in the watershed that meet the land securement criteria; rather, they are intended to focus direct landowner contact to a manageable amount. It is usually simpler and more effective to give attention to specific areas rather than spread efforts thinly across all areas of the watershed.

Using a geospatial analysis together with the application of the specific attributes listed in Table 3, six LOAs were identified in the Niagara Peninsula watershed.

Table 3: Description of the attributes applied to identify LOAs

Attribute examined	Details and rationale
Proximity to existing conservation area(s)	Existing conservation areas are already in highly ecologically valuable areas. A parcel near an existing CA is easier and less expensive to maintain and offers greater ecological benefits.
Watershed features and functions	Parcels meeting multiple primary land securement criteria generally represent a more environmentally valuable area.
Land use	Orthoimagery provides insight into current land use. Parcels with active land use (e.g., gravel pit, golf course, intensive agriculture) should be avoided for landowner contact. Vacant lands that appear to be naturalized or properties with an existing residence, but no other apparent land use have a higher probability of being secured than those in active use.
Large parcel size	Areas containing large parcels (>20 ha) enable securement of a larger area with fewer transactions.
Funding opportunities	The potential funding source available in a particular area can facilitate a land securement project. The proposed LOAs spread out those potential funding sources and increase NPCA's chances of receiving funding.
Geographic distribution	Ensuring securement is distributed across each of the upper tier and single tier municipalities (i.e., Region of Niagara, City of Hamilton, Haldimand County) allows better access to greenspace and environmental benefits across the watershed.

Properties in the vicinity of the conservation areas less than three hectares were removed from the analysis as they would be less likely to be significant land securement targets to fulfil the previously outlined criteria. The exception was Cave Springs LOA because the number of properties within the boundaries are significantly less than the other LOAs. Properties less than 1 ha for the Cave Springs LOA was used as the minimum parcel size.

Within all the proposed LOAs, a total of 9,684 hectares were identified as shown in Table 4.

Table 4: Summary of proposed target LOA data

LOA name	Total Area (ha)	Average Size (ha)
Binbrook	1,792.27	35.85
Wainfleet	1,972.88	19.15
Short Hills/St. John's	1,415.54	11.23
Willoughby	1,757.38	17.06
Ruigrok	2,600.79	41.28
Cave Springs	145.38	10.38
TOTAL	9,684.23	21.10

The data excludes lands already secured by the NPCA and other land securement organizations. As can be seen from Table 4, there is a substantial amount of land just within the proposed LOAs that could be secured; however, as previously mentioned, some properties should be excluded during a more detailed investigation. Furthermore, properties in their entirety will not always be available to secure as some landowners may prefer to divest a portion of a property rather than the whole. Thus, the total area of eligible land to be secured may decrease after a more detailed analysis and the first wave of landowner outreach have been completed.

Land Securement Targets

Setting targets helps provide motivation for NPCA to work toward a measurable goal. An easily achievable target diminishes the importance of land conservation while setting the bar too high can lead to disappointment. The purpose of this section is to set achievable targets that significantly enhance NPCA's conservation efforts.

Land securement successes are often measured in hectares and/or number of properties secured. From Table 4, there are 9,864.23 hectares identified as potentially worthy of securing.

For landowner outreach efforts in the LOAs to commence in 2023, a reasonable minimum securement target is to **secure 10 properties or 200 hectares by 2032**. This target may be achieved earlier than the 10-year timeframe. If so, an updated goal to would be required.

A more aggressive yet reasonable target is to double the minimum target and aim to **secure 20 properties or 400 hectares by 2032**. This target requires regular landowner engagement and additional time for project management, but less than double the time involved. Much of the time is spent on initial landowner contact. By diligently following-up with landowners, the potential for more securement projects increases.

In addition, NPCA will likely continue to receive calls from landowners offering qualified land donations outside the LOAs. These securement projects would also contribute to either target.

Management & Implementation

To evaluate potential securement opportunities in an efficient manner, it is important to screen potential land securement opportunities using the Property Evaluation Form (Appendix 5) to assess each securement project. When landowner outreach commences, there will be multiple projects to assess and a system to track and rank them will be necessary.

Land Securement Project & Evaluation List

Developing and maintaining a list of land securement projects divided into category A for “active” securement projects and category B for “potential” properties for securement will help organize projects and help focus on projects at a glance. Projects in category A will have a signed commitment in the form of a Letter of Intent or an Agreement of Purchase and Sale. Category B would include those properties that have landowners expressing interest in land securement options and warrant further consideration.

Before placing a candidate property on either list, a property evaluation involving desktop analysis and, where necessary, a field investigation should be undertaken. This process will provide an assessment of the merit and stewardship issues of the property. Further, the desire to acquire the property and the landowner’s interest in working with NPCA will need to be assessed to develop a mutually acceptable transaction. The transaction could take the form of a fee-simple purchase, land donation, or split-receipt. Depending on the property history and preliminary site evaluation, additional environmental studies may also be required before completing a land securement transaction (e.g., Phase 1 and/or 2 Environmental Assessment).

When a property has moved to category A, staff should prepare a business case and recommendation for its purchase. Approval by the Board is required prior to any further negotiation. If financing the purchase is approved, the securement process continues (i.e., negotiate agreement, obtain appraisal, commission survey, etc.).

Land Securement Success & Promotion

The term “success breeds success” is highly applicable to any land securement program. Unless confidential, once there is the success of securing a property within a given area, NPCA should

consider the messaging and leveraging of successful land securement projects to generate additional successes. Whether the property was purchased or donated, a single success can be used to generate local, regional, or even provincial attention leading to increased funding, more interested landowners, and better partnership support. Especially in the case of land donations, other landowners may be encouraged to do the same. These landowners can in turn be invited to act as champions in their own communities. Below are best practices for communicating successes:

- Ensure that all partners involved in the securement of a property are given proper recognition
- Invite municipal politicians to the event (include federal representatives if a donation was made through the Ecogifts program)
- Ensure that the event or success is covered by all forms of local media (i.e., newspaper, television, radio, social media)
- Ensure that celebrations and donor recognitions are communicated through internal media such as newsletters, website, social media, etc.
- Use the media articles, newsletters, or other internal communications to send to other target landowners

Land Securement Budget

The NPCA has a current modest reserve dedicated to land securement. As landowner interest increases, more attention to the budget must be given. If there is more landowner interest to sell than the capacity of the budget, negotiations must adapt to ensure budget capacity is secured prior to scheduling property closings.

Relative to conservation land values, ranging from \$2,500 to 4,500 per hectare, the current budget may be insufficient to meet land securement requirements. Thus, an emphasis on landowner outreach to encourage land donations becomes necessary as well as seeking external funding sources to potentially increase the amount of land secured.

Securement Costs

Even with a land securement program that focused only on receiving land donations or taking on purchases that have the purchase price covered by outside funding sources, there are still securement costs. Just one fee-simple land donation has the following approximate associated securement costs (as of 2022):

\$4,500 - \$7,000	Appraisal
\$1,500 - \$4,000	Legal
\$2,500 - \$10,000	Survey (if required)
\$2,500 - \$4,000	Phase 1 Environmental Assessment (if required)
\$8,000 - \$13,000	Baseline Documentation Report (if required, see CE section)
\$5,000 - \$10,000	Staff/contractor time

Some of the costs noted above can be recovered through external programs and sources. Nevertheless, it would be prudent to budget at least \$30,000 per acquisition.

Program Implementation

Once the land securement strategy is approved and resources have been assigned for program development, implementation can begin. As previously mentioned, the first year of program implementation (2023) will be primarily devoted to landowner outreach. As outreach continues, land securement projects may occur concurrently, as a result of each previous year's outreach. The suggested program implementation work plan is as follows:

2022

- Obtain Board approval for the Land Securement Strategy
- Consult with municipal partners, land trusts, Indigenous organizations, NPCF, and Public Advisory Committee for feedback on the strategy and to build relationships toward future land securement
- Develop a land securement program including a budget, outreach and engagement plan and associated materials, landowner contact list, and allocating staff resources

Year 1 of implementation (2023)

- Scan for property listings in LOAs
- Populate a landowner contact list
- Circulate landowner list to people that could be helpful in facilitating introductions and providing background information
- Prepare and mail out landowner information packages in waves of one or two target areas per month
- Follow-up with phone calls and emails where possible
- Conduct drop-in visits with those landowners whose mail has been returned to sender and no other contact information is available
- Determine which landowners are most likely to work towards selling or donating and prioritize closings for the fiscal year and which to carry over, if needed
- Begin securement process, as required (e.g., retain appraiser)

The first year of implementation is primarily gearing up for the follow-through each subsequent year. Each year thereafter involves the same process with the addition of closing property transactions from the previous year, regularly updating the landowner contact list, and reporting on performance metrics.

Stewardship Fund

To provide adequate resources in perpetuity for stewardship related activities on owned properties, a detailing of stewardship costs is required for each new and existing property. There are more stewardships costs involved in the direct management of land that the NPCA owns versus lands under conservation easement agreement. Administrative and conservation stewardship-related costs can be short-term (e.g., tree planting) or long-term costs (e.g., insurance, clean-up, monitoring, etc.). Examples of stewardship costs are listed below as well as their likelihood for successful fundraising.

Land Administration - Carrying Charges

For owned properties: taxes, carrying charges including (but are not limited to) risk management, insurance, access, perimeter signage for adjacent neighbours or trespass. These disbursements are often difficult to fundraise for and are more reliant on operating costs or interest accrued from a stewardship fund.

Conservation Stewardship - Managing Sites

Stewardship costs are determined on a case-by-case basis following a site visit and discussion with the landowner. For owned properties, stewardship activities include (but are not limited to) burning (for ecosystem maintenance), removal of invasive species, restoration, interpretive signage, partner/volunteer support, and community relations. For both owned and CE properties, stewardship activities include (but are not limited to) inventory and site monitoring. These conservation stewardship costs have a greater likelihood of successful fundraising. Stewardship requirements should be assessed and detailed in the Property Evaluation Form (Appendix 5). Further, when the NPCA develops new or updated conservation area management plans, stewardship costs for these areas and any adjoining nature reserves should be identified and detailed accordingly.

Consideration should be given to developing and implementing a stewardship fund through the NPCF and based on the current and future costs of stewardship. The fund would consist of a pool of dollars used to support a specific operating objective consisting of stewardship of conservation lands. The stewardship fund would require a Board approved policy providing a governance framework and terms of reference to guide collection of funds and disbursement of eligible costs. Contributions to the fund may vary with each land purchase and the contribution from a landowner may be a negotiated item, in accordance with appropriate stewardship fund governance framework. For special projects that may be periodic and require additional funding, further fundraising would be required. The amount required in the fund would be determined from the projected stewardship costs and would change over time as the NPCA's property portfolio changes.

Enforcement or Legal Defence Funds

In addition to having a stewardship fund, it is important to consider having a legal defence fund for CE properties. For example, in the event a CE has been violated, the NPCA will take every measure possible to mitigate the situation with the landowner in a friendly way. However, this approach may not always be successful and may require the support of legal counsel or involvement in legal proceedings. The cost of defending a CE could range from thousands to tens of thousands of dollars per property, depending on the situation. By having a separate legal defence fund, resources could be properly allocated, tracked, and managed to ensure that they are in place when needed. The determination of the amount for the fund could be based on the number of CEs and the likelihood of risk of each.

It is the responsibility of the NPCA to uphold its CEs and set a precedent for other landowners. Having a legal defence fund shows the community and future easement landowners that the NPCA is serious about enforcing its easements and protecting the natural features of the watershed.

Land Disposition

The purpose of this Land Securement Strategy is to guide NPCA in conserving land that best fits the aforementioned criteria of maintaining healthy and well-functioning ecosystems. Although the disposition of land seems counter to such a strategy, there are instances whereby disposition would benefit the NPCA's conservation efforts and would provide resources that enable the NPCA to secure higher quantity and quality properties.

As the NPCA does not endorse the sale of lands containing significant features, a Land Disposition Policy should be developed. Where the land still warrants protection, but the NPCA determines that another conservation organization or government agency would be better suited to manage the property, such lands can be transferred with a land holding agreement to ensure the land remains protected.

In either case, for lands that are recommended for disposition, the following practices could be considered for NPCA's Land Disposition Policy:

- a) That all surplus lands be offered "as is".
- b) That a staff report be prepared detailing the technical concerns of the disposition, the environmental significance of the lands, potential impacts of the disposition, and any mitigation requirements associated with the lands and remaining NPCA land holdings. The proponent may be required to prepare an environmental review documenting the above noted matters. The scope of this assessment will be determined in consultation with the NPCA staff, agency staff, and/or their consultants prior to any work being undertaken.
- c) That the proposed disposition of land is first offered to the local municipality and upper tier municipality within which the lands are located for either purchase or lease. Where lands have been acquired through a donation or bequest of lands that do not contain environmentally significant lands and the owner has given permission for the NPCA to use or dispose of the lands as the NPCA desires, the staff report may not be required. This will be determined at the discretion of the Board.
- d) When the disposition involves any lands where the Ministry of Northern Development, Mines, Natural Resources and Forestry (NDMNR) provided funding for the acquisition of the subject lands under section 39 of the CA Act, that the proposed disposition be approved by the MECP (CA Act, Sec. 21 (2))
- e) That all land sales generally be appraised at market value by an Accredited Appraiser Canadian Institute (AACI) qualified appraiser. The sale may be subject to conditions to ensure objectives are met. Where an appraisal of land value is required, the appraisal will be commissioned by the NPCA. Generally, where lands were donated to the NPCA, the family who donated the property will be given first right of refusal or requested for consent to sell unless otherwise stated in the terms of the donation or bequest.
- f) Any proceeds from the sale of any lands shall be used to acquire other conservation lands or be used for the direct care of the existing conservation lands and CEs.

Financing Land Securement

Historically, NPCA hasn't had the benefit of a land securement program *per se*. Land securement has been opportunistic requiring staff and Board reaction. This Land Securement Strategy proposes a proactive approach through the implementation of a landowner outreach program. Random opportunities are still expected and welcomed if they meet the criteria laid out in this report, but such cases cannot be counted on and can distract from a focused approach to achieve the securement targets. Thus, it is important to distinguish between program and project costs.

Program Financing

With the adoption of this Land Securement Strategy there is an acknowledgement of the need for land protection efforts above and beyond NPCA's current conservation activities. To have an effective land securement program, an annual budget will be required to cover the associated costs of implementation. The cost for a land securement program, especially in the first few years, can be nominal compared to other programs by paying for just the essentials. Below are some of the essential program costs:

- One staff member or contractor to do landowner outreach and coordinate securement projects. Additional help from seasonal staff to maintain the landowner database, support mapping updates, conduct site visits, and mail packages.
- Supplies and printing costs for informational handouts and landowner packages (including envelopes and postage)
- Travel expenses to meet with landowners and conduct site visits
- Appraisals (also a project cost but is considered a program cost as not every project comes to a close). When an agreement is signed between the landowner and NPCA, the appraisal becomes a project cost. Prior to that, there should be some monies available for one or two appraisals each year.
- Event/celebration costs (e.g., refreshments if hosting a landowner outreach event or an event to celebrate a project closing), especially a purchase of a property for which there was a successful fundraising campaign.

Project Financing

A securement project is defined as the process of protecting an individual property. Securing land is never free of costs even when land or a conservation easement is donated. Land securement "soft" costs for projects were outlined in the preceding sections of this strategy. Financing land securement is important to be able to successfully execute this Land Securement Strategy.

Funding for securement projects can fluctuate. Additionally, funding sources have their own eligibility criteria. As such, some funding can be received directly while other sources need to be obtained through securement partners or combined from multiple sources. Traditionally, funding for land securement projects have been from government and charitable foundations.

Government Funding

As was stated in the Land Securement Partners section of this document, there are federal and provincial funds available to exclusively to land trusts requiring NPCA to establish a partnership. The partnership may require the land trust to be the primary or sole applicant and be the one to hold title to the property or hold the CE.

Some municipal funds are available on a case-by-case basis that would be beyond NPCA's regular levy. For example, the City of Hamilton has a fund earmarked for land securement applicants. The other upper tier and single tier municipalities in the watershed do not have land securement funds yet; nevertheless, partnering with a municipality on a land securement project that benefits their community should be brought forward. In most cases, municipalities will expect to have their funds leveraged.

Niagara Peninsula Conservation Foundation

The Niagara Peninsula Conservation Foundation (NPCF) raises funds exclusively for NPCA projects and programs. The NPCF should have a list of environmentally giving foundations and private individuals that would contribute funds towards land securement projects. The NPCF should be engaged to discuss raising funds for land securement projects and launching project campaigns.

Project Campaigns

When a property purchase can be made that could excite the community, NPCF and NPCA (possibly with partner support) should launch a fundraising campaign for the securement of that property. In such a case, a long closing date would be negotiated with the seller to allow sufficient time to fundraise (e.g., 9 - 12 month closing). Such campaigns have proven to be effective beyond just closing the intended property transaction. They also boost public awareness and support of the land securement project and overall program. Such "flagship" property acquisitions should be encouraged every couple of years to keep the public interest high.

When considering campaigning for a property purchase, it is prudent to have a high degree of confidence of closing the transaction in the proposed timeframe. If half the funds are reliably available, launching a successful fundraising campaign becomes easier. Knowing that more than half of the funds have been raised gives more assurance that the project will close. Furthermore, an exact closing date creates a sense of urgency and encourages people to donate.

People are motivated to donate cash towards a property that have a perceived benefit to them. If a property can be used by the public in a way while also protecting the bulk of the land from intrusion, the use can be promoted. For example, the Bruce Trail Conservancy (BTC) have been highly successful in its fundraising campaigns because each acquisition allows people to hike more trail. BTC typically runs two securement campaigns each year because of all the trail enthusiasts in its membership.

Conservation Impact Bond

The Conservation Impact Bond (CIB) is a new instrument being applied by multiple stakeholders in southern Ontario to address the conservation funding gap and create healthy landscapes in

the spirit and practice of reconciliation with Indigenous communities. The CIB initiative is facilitated by the Carolinian Canada Coalition. There is an opportunity for the NPCA to become a partner (e.g., habitat grower) as part of a Niagara Peninsula CIB. To date, there are no detailed eligibility criteria other than the project must further biodiversity efforts; however, it is possible that the CIB could be used to fund a land securement project.

Land Trusts

Beyond land trusts' eligibility to access government funding for securement projects, they are also able to fundraise for projects that are meaningful to them. For example, a land securement project that abuts an existing secured property held by a land trust such as NCC or Ontario Nature may be of great enough interest to them to want to contribute.

Even the smaller land trusts such as the Niagara Land Trust also have a role to play. They may be able to do some local fundraising on behalf of a securement project that is important to them.

Creative Financing

When funding partners are not enough, individual securement projects can also be funded creatively. Some examples follow:

Loans and Debentures

Though not desired, in some special circumstances, securing a loan may be appropriate as part of an acquisition process. A loan to close on a property should be considered in only two cases:

- There is income derived from the property that a cash flow analysis demonstrates will provide a positive cash flow
- The loan is zero or very low interest and there is sufficient time before the end term to raise the required amount

In either of the two cases, negotiations for closing dates of other purchases should be postponed until all loans have been paid in full.

Similar to a loan, a conservation authority may issue a debenture to raise long-term project capital. This approach can be considered for projects whereby funds need to be raised over a few years before payback of the debenture.

Flipping Land with a Conservation Easement

Some land trusts (primarily in the United States) have used the practice of flipping a property once an easement is applied to title. The concept is that they buy a property with conservation value, put a conservation easement on the property, then sell the property again. The funds from the sale go back into the land securement project fund.

Conservation Offsetting for Species at Risk

Some conservation authorities have been approached by the Ministry of Northern Development, Natural Resources and Forestry (NDMNRF) for land securement when a developer in their watershed requires a permit under the Lakes and Rivers Improvement Act. For example,

NDMNRF asked the Credit Valley Conservation Authority (CVC) to provide ideal locations suitable for Bobolink (*Dolichonyx oryzivorus*) habitat that CVC could likely secure with funding. The developer paid CVC to acquire and restore marginal farmland to provide suitable habitat, and the developer received a permit from NDMNRF. Conservation offsetting is common in the U.S. and becoming more popular in Canada in recent years. This approach recognizes that developers are already required to 'offset' impacts through legislation such as the *Species at Risk Act*. Land securement and restoration for sensitive habitat can be used as an opportunity through this approach.

Revenue Generation

Revenue generation potential is something to consider when acquiring a property. If the property can generate income beyond operating costs and such income-generating activities are congruent with NPCA's mission, then revenue generating capacity should be considered in both securement and financing of prospective properties. With recent changes to the *Conservation Authorities Act*, the NPCA will need to carefully evaluate if revenue generation is appropriate as it may have other implications. Table 5 below showcases some examples of potential activities that could generate income to help offset land securement and operational costs.

Land Sale Funding

As previously stated in the Land Disposition Policy section of this report, the sale of land could benefit land securement finances by raising funds in the following ways:

1. A donated property, which does not meet criteria and considerations, could be sold with proceeds used to purchase environmentally significant land. For example, land gifted simply as an asset to be sold for capital like donations of stock or annuities.
2. Securing the whole of a property and then severing and selling off the house/building lot. This approach would only be desirable if the seller did not wish to sell a conservation parcel to NPCA at the outset or if there are timing issues regarding a potential severance and the seller's need to sell. This scenario has been used successfully by BTC multiple times.

Summary

There are numerous ways to fund land securement projects, often with the use of partners. Partners and funders change over time. Some new ones show themselves and other fairly reliable sources can drop off. It is important to investigate status of partnerships, funding criteria and eligibility, and search for new prospects annually.

To access funding and have a successful land securement program, it is imperative to fund the land securement program first. This seed funding can go a long way to leverage hundreds of thousands or even millions of dollars over the next ten years.

Table 5: Potential Revenue Generation Activity

Activity	General Overview
Forest management	Sustainably managed forest activities. Money made from selling timber products.
Recreation – passive	Passive recreation like trails, photography, geocaching, etc. Money made from user, entry permit fees.
Accommodations	Camping and Bed & Breakfast type establishments. Reservation fees.
Green Burial / Memorial Forest	Using conservation land to bury people in a sustainable way and/or use unplanted open areas to plant trees in memoriam.
Retail/commercial permits	Using buildings to rent out for commercial / storage purposes which NPCA would receive rent and/or privatization of concession services which NPCA would receive a percentage of profit.
Landlords	Renting out existing houses to private individuals for housing. Money made through monthly rent.
Events	Permits for hosting corporate, filming, and wedding events on conservation areas. Money made by permit fees.
Agriculture – General	Either practicing agriculture or leasing out land to farmers.
Agriculture – Biofuel	Agricultural practices to produce biofuel which can be sold back to distributors.
Historical interpretative centers	Educational centers / historical interpretative centers open to public.
Community garden/orchard	Open spaces of portions of parcels could be converted to garden areas for those from urban areas without garden space.
Crowd funding	Encouraging park support from community through crowd funding platform.
Research / Academia	Research station offering to rent facilities, space, access.

Recommendations

The following is a list of recommendations to successfully implement and achieve the securement targets of this Land Securement Strategy:

1. Develop and adopt policies that guide decision-making regarding land acquisition and disposition, as per *Conservation Authorities Act Regulation O. Reg 686/21* (Sec. 9 (2)(vi)).
2. Develop and implement a land securement program including:
 - a. staff and financial resource allocations
 - b. annual work plans and targets and performance measures
 - c. outreach and engagement plan and associated collaterals
 - d. internal staff team to evaluate potential land securement projects from technical, operational, and financial perspectives
 - e. land acquisition reserve in accordance with NPCA board-approved reserve policy
3. Ensure NPCA Indigenous engagement guidelines support opportunities to work together on land securement.
4. Engage with land securement partners to obtain feedback on the land securement strategy and establish connections that facilitate future securement collaborations.
5. Form a Land Securement Working Group (comprised of land securement partners and funders) to collaborate on potential securement projects. The group should meet a minimum of annually.
6. Collaborate with the Niagara Peninsula Conservation Foundation to develop and implement a stewardship fund.
7. Collaborate with the Niagara Peninsula Conservation Foundation to launch fundraising campaign(s) for land securement.
8. Proactively seek funding opportunities and explore the feasibility of non-conventional funding options for securement projects.

Conclusions

As of early 2022, the NPCA has secured almost 3,000 hectares of ecologically significant land. In combination with lands protected by partner government agencies and land trusts, almost 4,000 hectares have been protected within the watershed. These joint efforts equate to over 1.6% of the total land area in the watershed being secured for conservation—far below the recommended federal and international biodiversity targets.

This Land Securement Strategy provides the criteria for the NPCA to react decisively to land donation offers and conservation easements. It also acts as a 10-year guideline for the NPCA to secure high-priority lands through proactive landowner outreach and strategic land securement. With a concerted effort in active targeted landowner outreach within the proposed six LOAs, NPCA can secure a minimum of 180 hectares by 2032. As landowner outreach and land

securement projects occur, momentum of the land securement program will likely increase and give rise to more landowner and funder/partner interest. If executed consistently, the more aggressive land securement target becomes attainable.

Minimum Securement Target

The securement of 180 hectares total by 2032 would aim for the following:

- Secure an average of 20 ha annually
- Secure an average of 1 property per year

Aggressive Securement Target

A target of 360 hectares total by 2032 can be achieved by increasing landowner outreach to all target areas and expedite the internal decision making and approval process.

- Secure an average of 40 ha annually
- Secure 2 properties per year

The information presented in this strategy is for a ten-year timeframe (2022-2032). Annual progress on land securement efforts will be highlighted in the NPCA's annual report. A review will occur after 5 years of implementation to assess progress and adjust accordingly. The NPCA Land Securement Strategy should be reviewed and revised in 2032.

Appendix 1: Ecological Gifts Program

The Ecological Gifts (Ecogifts) program enables owners of property with ecologically sensitive natural features to preserve wildlife habitat. Ecogifts are qualified charitable land donations that generate enhanced income tax benefits. Donations of fee simple title and partial interests, including conservation easements, are eligible. In many scenarios, the landowner can continue to hold title and/or live on the land.

To qualify as ecologically sensitive, the land must satisfy at least one criterion from the 'A' List of Specific Categories of Qualified Lands and one or more from the 'B' List of General Criteria for Other Ecologically Sensitive Lands (see below).

Gift recipients include land trusts and other conservation charities, and government agencies chosen by donors and approved by the federal government. Donors of Ecogifts receive a donation receipt for the fair market value of the gift.

Ecogifts receive tax treatment that is superior to most other charitable gifts. Program tax advantages include:

- Eliminated taxable capital gain on the disposition of the property
- No income limit for calculating the tax credit/deduction
- Donation value certified by the Government of Canada
- Tax liability for recipients that do not protect the gifted land

The process of making an Ecogift is relatively straightforward. The donor will basically have two steps to complete that include providing: (i) information to support the evaluation of the land as ecologically sensitive, and (ii) an appraisal of Fair Market Value by a qualified appraiser along with a signed Application for Appraisal Review and Determination. The donor and recipient will generally cooperate on the application to confirm that the property qualifies as ecologically sensitive. The recipient will also often help the donor arrange for the appraisal of fair market value.

Provincial Ecological Sensitivity Criteria for Ontario

A) Specific Categories of Qualified Lands

Lands, easements, or covenants relative to such lands, which fall into one or more of the following categories shall be deemed to be ecologically sensitive lands in Ontario provided the terms of easements or covenants protect the ecologically sensitive features of the land.

A1. Significant portions of the habitat of species determined to be endangered, threatened or vulnerable in Ontario, as specified in a recovery plan or other biological study;

A2. Areas designated as Provincially Significant Wetlands;

A3. Provincial or regional Areas of Natural and Scientific Interest;

A4. Designated Areas of Concern for biodiversity purposes as identified in Forest Management Plans;

- A5. Areas qualifying for the Conservation Land Tax Incentive Program;
- A6. Areas managed for wildlife habitat conservation purposes that qualify under the Managed Forest Tax Incentive Program;
- A7. Areas promoting the conservation of natural heritage and biodiversity that are identified within a regional or watershed plan or strategy developed by a recognized conservation organization;
- A8. Areas designated as a World Heritage Site for biodiversity conservation purposes, a core area of a UNESCO Biosphere Reserve, or a Wetland of International Importance under the Ramsar Convention;
- A9. Areas of biodiversity significance identified in a Canadian Heritage Rivers Management Plan or Strategy;
- A10. Areas designated in the Niagara Escarpment Plan as an Escarpment Protection Area or an Escarpment Natural Area;
- A11. Areas designated as Natural Core, Natural Linkage, Sensitive Hydrological Feature, High Aquifer Vulnerability, Significant Landform, Minimum Areas of Influence or Minimum Vegetation Protection Zones within the Oak Ridges Moraine Conservation Plan;
- A12. Areas designated Core Area, Corridor or Restoration Area in the Lake Ontario Greenway Strategy;
- A13. Areas designated for biodiversity conservation purposes within Management Plans or Strategies for the Trent-Severn or Rideau waterways;
- A14. Areas within a municipal official plan or zoning by-law under the *Planning Act* (Ontario) designated as an Environmentally Sensitive Area, Environmentally Significant Area, Environmental Protection Area, Restoration Area, Natural Heritage System or other designation for similar purposes that are compatible with the conservation of the biodiversity, ecological features and functions of the site;
- A15. Areas within or adjacent to a Provincial Park, Provincial Park Reserve, Conservation Reserve, Conservation Area, Wilderness Area, Provincial Wildlife Area, National Wildlife Area, Migratory Bird Sanctuary, National Park, National Park Reserve or Ecological or Nature Reserve managed by a government or non-government agency;
- A16. Municipal parks or other protected areas designated or managed for biodiversity conservation purposes;
- A17. Areas identified as Carolinian Canada sites or alternate sites;

A18. Areas designated as Core Natural Area, Natural Area Buffer, Natural Area Link, or Valued Ecosystem Component in the National Capital Greenbelt Master Plan by the National Capital Commission; and

A19. Areas designated for biodiversity purposes by regional agencies such as the Niagara Parks Commission, St. Clair Parkway Commission, St. Lawrence Parks Commission and the Waterfront Regeneration Trust.

B. General Criteria for Other Ecologically Sensitive Lands

Lands, easements, or covenants relative to such lands that meet one or more of the following general criteria may also be considered to be ecologically sensitive lands in Ontario -- subject to the approval of the federal Minister of the Environment and Climate Change (MOECC) or a person delegated by the Minister for this purpose (the term "significant" for the purposes below refers to definitions provided in Provincial Policy Statements): This is provided terms of easements or covenants regard and protect the ecologically sensitive features of the land.

B1. Significant habitats such as alvars, prairies, cliffs, Great Lakes coastal habitats, old growth forest areas, glacial relic communities and sites with enduring geological features that contribute to biodiversity;

B2. Areas of wildlife concentration such as bat caves, snake hibernacula, heronries, deer wintering yards and sites used by migratory water birds and other species for seasonal staging, feeding, breeding and like purposes;

B3. Areas identified, designated or protected as ecologically significant or ecologically important by a government or non-government local, provincial, national or international system or body;

B4. Significant water bodies, rivers, streams, shorelines, valleys, wetlands, groundwater recharge areas, headwaters and aquifers;

B5. Significant wildlife or fish habitats;

B6. Significant woodlands;

B7. Areas that have significant current or potential for enhanced ecological values through restoration, remediation, management or geographic proximity to other ecologically significant properties;

B8. Natural buffers and adjacent lands around areas identified under other ecologically sensitive lands categories or criteria that contribute to the conservation of biodiversity;

B9. Natural links or corridors between areas identified under other ecologically sensitive lands categories or criteria that contribute to the conservation of biodiversity;

B10. Areas used for long-term scientific study or baseline and benchmark monitoring of biodiversity; and

B11. Areas that contribute to Canada's environmental heritage through the maintenance of the genetic diversity of species, ecosystem health, or landscape biodiversity, and other natural spaces of significance to the environment in which they are located.

The categories and criteria listed above, for the purposes of implementation of provisions in the *Income Tax Act* for Ecogifts, have been agreed to by representatives of the governments of Ontario and Canada. This list and criteria may be further elaborated and amended by agreement between MOECC and the MECP.

DRAFT

Appendix 2: Conservation Land Tax Incentive Program

Only lands identified by the NDMNRF as provincially significant are eligible for the CLTIP. These are a small subset of lands found in a natural state in Ontario. The eligible types of land are:

Provincially Significant Wetland

Wetlands are lands covered by shallow water all the time, or in certain seasons, as well as lands where the water table is close to or at the surface. The abundant water causes the soil to be waterlogged and encourages growth of plants that either love the water or tolerate it well. Periodically soaked or wetlands that are being used for agricultural purposes and that no longer have the characteristics of wetlands are not considered wetlands under this program. Wetlands play a crucial role in the province. They:

- Provide vital habitat for rare and endangered wildlife and many other species;
- Maintain and improve water quality;
- Help stabilize shorelines and control flooding and erosion;
- Provide spawning grounds for fish;
- Help ensure a stable, long-term supply of water by functioning as groundwater recharge and discharge areas;
- Supply many social and economic benefits, such as opportunities for outdoor recreation and tourism; and
- Ensure opportunities for the renewable harvest of products such as timber, fuel wood, fish, wildlife and wild rice.

The NDMNRF has evaluated many wetlands more than 2 hectares in size, both in southern Ontario and parts of northern Ontario. Only wetlands that NDMNRF has identified as provincially significant are eligible under the CLTIP.

Provincially Significant Area of Natural and Scientific Interest (ANSI)

ANSIs are areas of land and water that represent significant geological (Earth Science, ANSI-ES) and biological (Life Science, ANSI-LS) features. Earth Science ANSIs include areas that contain examples of rock, fossil, and landform features in Ontario. These features are the result of billions of years of geological processes and landscape evolution. Life Science ANSIs are areas that contain examples of the many natural landscapes, communities, plants, and animals found in the 14 natural regions of the province. NDMNRF identifies ANSIs that are 'provincially significant' by surveying regions and evaluating sites to decide which have the highest value for conservation, scientific study, and education.

Habitat of Endangered Species

An endangered species is any native species that is at risk of extinction or extirpation throughout all or a significant portion of its Ontario range. For purposes of the Conservation Land Tax Incentive Program, endangered species are those listed in regulation under *Ontario's Endangered Species Act*.

The 2002 adoption of Canada's *Species at Risk Act* (SARA) completed the National Strategy for the Protection of Species at Risk. The purposes of SARA are to prevent wildlife species in Canada from disappearing, to provide for the recovery of wildlife species that are extirpated (no longer exist in the wild in Canada), endangered, or threatened as a result of human activity, and to manage species of special concern to prevent them from becoming endangered or threatened.

Through these initiatives, Canada is making its commitment under the United Nations Convention on Biological Diversity a reality.

Endangered species habitat is the habitat necessary for the survival of populations of endangered species. The specific requirements of the various endangered species are set out in NDMNRF guidelines for mapping this habitat. These guidelines are used to delineate endangered species habitat on a species-by-species and site-by-site basis.

A list of regulated endangered species in Ontario with NDMNRF rankings is published on the Species at Risk in Ontario (SARO) webpage: www.ontario.ca

Eligibility criteria for the new category are outlined in *Ontario Regulation 388/04* under the *Assessment Act*. Agencies interested in applying under this category should review this regulation.

Size

The conservation land must be at least 1/5 of a hectare in size. Therefore, if there is a building or structure on the property, the property must be greater in size.

Buildings and Improvements

The CLTIP does not provide tax relief for buildings or other improvements and associated land (the land associated with a structure or improvement is generally considered to be 2/5 hectares).

Appendix 3: Example Landowner Contact Database

[illegible]

Appendix 4: Sample Landowner Contact Letter

Date

Dear [insert landowner name]:

You may already be aware that the natural areas on your property are ecologically important. Have you ever thought about creating a conservation legacy by having the natural features of your property protected in perpetuity for future generations?

I have enclosed an information package about an environmental land conservation program offered by NPCA and its partnering land trusts. In accordance with your wishes, you can arrange for the natural features on your land to be protected in perpetuity. We are working with a wide range of conservation partners, both public and private, to provide land conservation opportunities to landowners, some of which offer tax advantages.

Please contact me at xxx-xxx-xxxx if you wish to learn more about the program. I would be happy to arrange a time to discuss land conservation options with you.

Yours in conservation,

[Insert NPCA Staff name]

Appendix 5: Sample Property Evaluation Form

A. Property and Owner Particulars

Owner Information (Name, Phone No., Email)	
Legal address	
Mailing address	
Roll No.	
Family members and/or agent contact info	
Primary contact	
Sub-Watershed	
Property Size	
Current Official Plan Designation(s)	
Current Zoning Designation(s)	
How was contact made?	
Motivation of landowner (e.g., cash sale, conservation, curiosity, tax benefits)	
Existing Mortgage (Y/N)	
Tax Assessed Value (note year)	
Comments	

B. Preliminary Property Investigation

Property Attributes	Yes/No/Not Applicable	Comments
Adjacent to other public lands or private conservation lands		
Tax Exempt (CLTIP, Easement)		
Contains features eligible for the Ecogifts Program		
Part of an identified municipal or provincial greenspace system		
History with the permits, complaints, and violations		
Previous positive NPCA involvement (e.g., stewardship or restoration projects, donor)		

The ecological sensitivity of the subject lands is based on the following priority and secondary land securement criteria:

C. Priority Securement Criteria

Property Attributes	Yes/No/Not Applicable	Comments
Provincially Significant Wetland		
Areas of Natural and Scientific Interest (Earth or Life Science)		
Habitat of Endangered Species (<i>Ontario Endangered Species Act</i>)		
Natural Heritage Features or Areas identified in the Provincial Policy Statement		
Regionally Significant ANSIs		

Property Attributes	Yes/No/Not Applicable	Comments
Habitats of species of special concern designated by MNRF (species at risk)		
NHIC species occurrences or ecological communities (S1, S2, S3).		
Designated Natural Area, Protection Area or Rural Area in the NEP		
Designated Natural Core, Natural Linkage		
Natural heritage areas identified within a regional or watershed plan or strategy developed by a CA under the CAA.		
Lands designated environmentally significant, environmental protection or equivalent in municipal Official Plans		
Areas within or adjacent to protected areas (i.e., provincial park, conservation reserve, or provincial wildlife area) that contribute to the natural heritage objectives of the protected area.		
Other criteria as may apply under the CLTIP program requirements.		
Distance to closest NPCA lands		
Identified NPCA property securement considerations		

D. Secondary Securement Criteria

Property Attributes	Yes/No/Not Applicable	Comments
Areas with enhanced ecological values through restoration and/or remediation (i.e., forest, stream, wetland)		
Groundwater recharge areas, headwaters and aquifers		

Property Attributes	Yes/No/Not Applicable	Comments
Lands under Forest Management Plans (designated areas of concern for biodiversity)		
Natural buffers and adjacent lands under other ecologically sensitive lands that contribute to conservation of biodiversity		
Natural links or corridors between areas identified under other ecologically sensitive lands that contribute to conservation of biodiversity (i.e., through Natural Heritage Programs or Watershed Plans)		
Regional Floodplain (flood and erosion risk)		
Significant waterbodies, rivers, streams, shorelines and valleys		
Significant wildlife or fish habitats		
Significant Woodlands		
Wetlands		

E. Determination whether securement is the most appropriate course of action to protect natural heritage lands

Criteria	Yes/No/Not Applicable	Comments
Are the lands significant in the context of the overall natural heritage system?		
Availability of funding for securement (purchase, donation, easement, appraisal, legal, survey etc.).		
Availability of funding for ongoing maintenance		
Is there an immediate threat to the lands?		

Criteria	Yes/No/Not Applicable	Comments
Proximity of property to lands already in public ownership		
Willingness of owner to enter into negotiations		
Sale price at fair market value		
Availability of maintenance access to the property		
Potential municipal lease agreement		
Preferred agency for securement (e.g., NPCA, Municipality, or other)		

Summary and Recommendation for Securement

Evaluated by: _____

Date: _____

Attach overview/locator map and property sized map

The Municipal Corporation of the Town of Fort Erie
Business Status Report
 Corporate Services; Community Services; Fire and Emergency Services
 September 12, 2022

Forecasted Reports	Source	Status
2022 Second Quarter Financial	Report	September 19
2023 Budget Planning	Report	September 19
DC Interest Policy [deferred from Aug 22] Bylaw No. 110-2022	By-law	September 19
Procurement Policy	By-law	September 19
Budget Policy amendment	By-law	September 19
Investment Policy amendment	By-law	September 19

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