



**The Municipal Corporation of the
Town of Fort Erie**

BY-LAW NO. 28-13

**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. 12**

**119 BERTIE STREET (FIRE STATION NO. 1)
NORTHEAST CORNER OF BERTIE STREET AND NORTH STREET
PART OF PLAN 9218, HAWKES TRACT**

Roll No. 010040019000000

File No. 350302-0074 & 350309-0356

**THE MUNICIPAL COUNCIL OF THE CORPORATION OF THE TOWN OF FORT ERIE IN
ACCORDANCE WITH THE PROVISIONS OF SECTION 17 & 21 OF THE PLANNING ACT
S.O. 1990 HEREBY ENACTS AS FOLLOWS:**

1. Amendment No. 12 to the Official Plan adopted by By-law No. 150-06 for the Town of Fort Erie Planning Area consisting of the attached map Appendix "1" and explanatory text is hereby adopted and approved.
2. This by-law shall come into force and take effect on the day of the final passing thereof.
3. Pursuant to the provisions of Sections 23.1 to 23.5 inclusive of the Municipal Act, 2001, as amended, the Clerk of the Town of Fort Erie is hereby authorized to effect any minor modifications or corrections solely of an administrative, numerical, grammatical, semantical or descriptive nature or kind to this by-law or its schedules as such may be determined to be necessary after the passage of this by-law.

**READ A FIRST, SECOND AND THIRD TIME AND FINALLY PASSED THIS 18TH DAY OF
MARCH, 2013**

MAYOR

CLERK

I, the Clerk, Carolyn J. Kett, of The Corporation of the Town of Fort Erie hereby certify the foregoing to be a true certified copy of By-law No. 28-13 of the said Town. Given under my hand and the seal of the said Corporation this ____ day of _____, 2013.

AMENDMENT NO. 12

TO THE

OFFICIAL PLAN

FOR THE

CORPORATION OF THE TOWN OF FORT ERIE

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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.12 to the Official Plan adopted by By-law No. 150-06 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 and map (Appendix "1") constitutes Amendment No. 12 to the Official Plan adopted by By-law No. 150-06 for the Fort Erie Planning Area.

Also attached is Part "C", the Appendices, which do not constitute part of this amendment. These Appendices (1 through 3 inclusive) contain the background data, planning considerations and public involvement associated with this amendment.

SECTION 2

PURPOSE OF THIS AMENDMENT

The purpose of this Amendment is to change the land use designation of certain lands shown on Appendix "1" attached hereto from "Institutional" to "Urban Residential" to permit future residential use.

SECTION 3

LOCATION OF THIS AMENDMENT

The lands, which are the subject of this amendment, are located on the north side of Bertie Street, east of North Street as shown on Appendix "1" attached hereto.

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 use:

With the transition of the operations of Fire Station 1 to the Central Avenue Facility, the lands located at 119 Bertie Street will be surplus to the Town's needs and could be sold in accordance with Council's Sale of Land Policy. This area of Town is adequately serviced by commercially designated properties, in the Bridgeburg commercial core, along the Niagara Boulevard and along Gilmore and Central Avenue. The proposed residential use is needed to provide housing alternatives and residential intensification in a predominantly residential neighbourhood.

b) The extent to which the existing areas in the proposed categories are developed, and the nature and adequacy of such existing development:

This area of Town is predominantly residential. The neighbourhood is comprised of mostly older single family homes.

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 site is approximately 2,000 square metres (0.5 acres) in size and is flat. The site is adequately sized to accommodate a variety of residential uses. No physical changes to the site are proposed. There are no existing or potential physical hazards on the site.

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 Health Services Department and any other appropriate authority deemed advisable;**

The surplus institutional building has access and frontage Bertie Street and North Street which are municipal roads. The subject lands are located within a built up area with convenient access to Regional and municipal roads, transit, physical, social and commercial services, and educational facilities.

The subject site is fully serviced with municipal services.

e) The compatibility of the proposed use with uses in adjoining areas:

The best use of the subject site is for residential purposes, as the surrounding land uses are predominantly residential. The proposed residential uses on the subject site are compatible with the adjacent residential and neighbourhood commercial uses in the area.

f) The effects of such proposed use on the surrounding area in respect of the minimizing of any possible depreciating or deteriorating effect upon adjoining properties:

The proposed stand-alone residential use will not depreciate adjoining properties.

g) The potential effect of the proposed use on the financial position of the Municipality:

The current Official Plan and Zoning designations for the subject property severely restrict the use of the lands and consequently their marketability. Prospective purchasers that are not the government or a public agency would be required to make an application for a combined Official Plan and Zoning Amendment to permit the use of the lands for purposes other than Institutional. These restrictions would reduce the value of the lands and not provide for full marketability in accordance with Council's Sale of Land Policy.

The redesignation of the subject property to Urban Residential will increase marketability and revenue the Town will generate from the sale of the sale of the property.

h) The potential effect of the proposed use in relation to the intent and implementing regulations of the Environmental Protection Act.

None.

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 and attached maps designated as Appendix "1" and constitutes Amendment No. 12 to the Official Plan adopted by By-law No. 150-06 for the Fort Erie Planning Area. The Official Plan adopted by By-law No. 150-06 for the Fort Erie Planning Area is hereby amended as follows:

1. The subject lands described on the attached Appendix "1" is hereby redesignated from "Institutional" to "Urban Residential".

PART “C” - THE APPENDICES

- Appendix 1 - Notice of Public Meeting
- Appendix 2 - Public Meeting Minutes
- Appendix 3 - Circulation comments



TOWN OF FORT ERIE

NOTICE OF PUBLIC MEETING OFFICIAL PLAN AND ZONING BY-LAW AMENDMENT FIRE STATION NO. 1: 119 BERTIE STREET OWNER/APPLICANT: TOWN OF FORT ERIE

Application: 350309-356

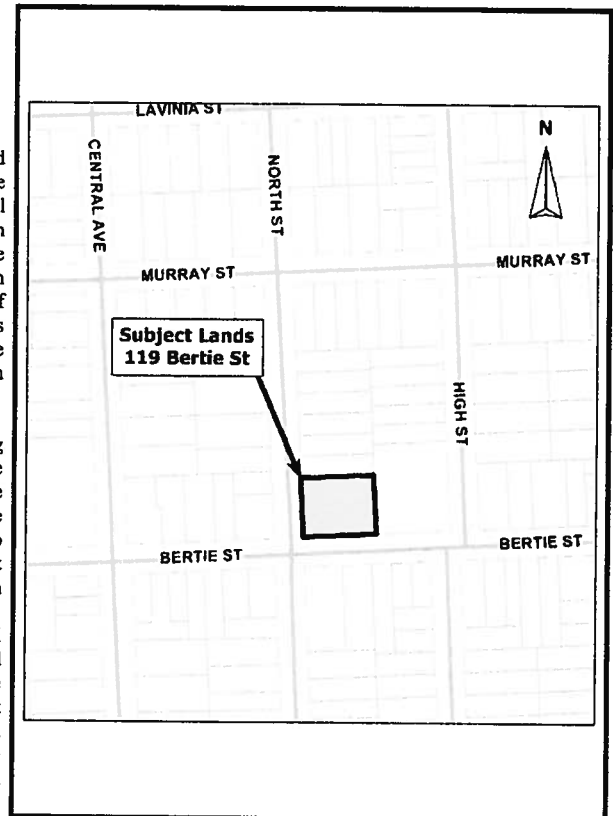
DATE: FEBRUARY 4TH, 2013
TIME: 6:00PM
LOCATION: TOWN HALL, COUNCIL CHAMBERS

PROPOSED CHANGE

The Town of Fort Erie has initiated a combined Official Plan and Zoning by-law Amendment for Fire Station No. 1 located at 119 Bertie Street. The Central Avenue Fire Station is scheduled to begin operations in May 2013. Operations at Fire Station No.1 on Bertie Street will transition to the Central Avenue Fire Station once it opens. With the transition of the operations of Fire Station 1 to the Central Avenue Facility, the lands located at 119 Bertie Street will be surplus to the Town's needs and could be sold in accordance with Council's Sale of Land Policy.

The Town has initiated an Official Plan and Zoning By-law Amendment to redesignate and rezone the Fire Station for its best use as a residential property. The proposed Official Plan Amendment will change the designation of the Fire Station from Institutional to Residential. The proposed Zoning by-law amendment will change the zoning of the Fire Station from Institutional to a site specific Residential Multiple 1 RM1 Zone which would permit a variety of residential uses including single detached, semi-detached and townhouse dwellings, duplexes, triplexes and the conversion of the existing building into an apartment house. The proposed changes in the Official Plan and zoning will help improve the marketability of the site by providing prospective purchasers with increased flexibility for the site's development.

LOCATION OF SUBJECT LANDS



HAVE YOUR SAY

Input on the proposed Official Plan and Zoning By-law Amendment is welcome and encouraged. You can provide input by speaking at the Public Meeting or by making a written submission to the Town. Please note that unless you do one of the above now, you may not be able to appeal the decision later.

MORE INFORMATION

For further information please contact Matt Kernahan, Senior Development Planner at (905) 871-1600 extension 2507. A copy of the Information Report will be available to the public on February 1st, 2013. The information report will be available in the Council agenda portion of the Town's Web Site: www.town.forterie.on.ca or from the Community and Development Services Department.

WRITTEN SUBMISSION

To provide input in writing, or to request written notice of the decision of the Zoning By-law Amendment, please send a letter c/o the Town Clerk Carolyn Kett, 1 Municipal Centre Drive, Fort Erie, Ontario, L2A 2S6

PLANNING ACT LEGAL NOTICE REQUIREMENTS

The Town of Fort Erie has not yet made a decision regarding this application.

After considering any written comments and the comments from the public meeting, a Recommendation Report will be prepared for a future Council-in-Committee meeting.

If a person or public body does not make oral submissions at a public meeting or make written submissions to the Town of Fort Erie before the By-law is passed, the person or public body is not entitled to appeal the decision of the Town of Fort Erie to the Ontario Municipal Board.

If a person or public body does not make oral submissions at a public meeting or make written submissions to the Town of Fort Erie before the By-law is passed, the person or public body may not be added as a party to the hearing of an appeal before the Ontario Municipal Board, unless in the opinion of the Board, there are reasonable grounds to do so.

If you do not attend the public meeting but wish to be notified of the adoption of the Official Plan and Zoning By-law Amendment, you are required to make a written request to the Carolyn Kett, Town Clerk and such request should include the name and address to which such notice should be sent.

Dated this 12th day of January, 2013

Carolyn Kett, Town Clerk

Richard F. Brady, MA, MCIP, RPP, Director of Community and Development Services

**PUBLIC WORKS DEPARTMENT
Development Services Division**

2201 St. David's Road, P.O. Box 1042

Thorold, ON L2V 4T7

Tel: 905-685-4225

Toll-free: 1-800-263-7215

Fax: 905-687-8056

www.niagararegion.ca

February 8, 2013

Files: D.10.01.OPA-13-002
D.18.01.ZA-13-006**VIA EMAIL ONLY**Mr. Matt Kernahan, MCIP, RPP
Senior Development Planner
Town of Fort Erie
1 Municipal Centre Drive
Fort Erie, ON
L2A 2S6

Dear Mr. Kernahan:

**Re: Proposed Official Plan and Zoning By-law Amendments
119 Bertie Street, Fire Station No. 1
Town of Fort Erie**

A pre-consultation meeting was held on January 10, 2013 at the Fort Erie Town Hall with Town and Niagara Regional staff for the subject property. Regional Development Services staff has reviewed the information circulated for the above noted official plan and zoning by-law amendment applications. The proposed amendments are to rezone and redesignate the existing fire station property from Institutional to a site specific Residential Multiple 1 RM1 Zone which would permit a variety of residential uses as well as the conversion of the existing building into an apartment. Regional staff offers the following Provincial and Regional comments to assist the City in considering the application.

Provincial and Regional Policies

The subject property is within the Urban Area Boundary for the Town of Fort Erie according to the Regional Policy Plan. In addition, the lands are located within the Built Boundary according to Regional Policy Plan Amendment 2-2009 (Sustainable Community Policies) which is currently subject to appeals to the Ontario Municipal Board. The Urban Area policies provide for a range of industrial, commercial, and residential uses. The Regional Policy Plan, Provincial Policy Statement, and Greater Golden Horseshoe Growth Plan all contain policies that support intensification, including the conversion of existing building stock, in the urban area where appropriate levels of services and infrastructure exist.

In addition, municipalities are encouraged to develop a diverse mix and range of housing types and densities, including affordable housing, housing for special needs (i.e. housing for the elderly) and easy access to local services. Built-up Areas are lands within Urban Areas that will

be the focus of residential and employment intensification and redevelopment within the Region over the long-term.

The subject property, formerly the site of a fire station, will become surplus as a result of the transition to the new fire station located at 444 Central Avenue. The proposed Official Plan and zoning by-law amendments will facilitate the development of the subject lands and support intensification in the Town's Built-up Area. In addition, the amendments will provide for an appropriate range of housing types in the neighbourhood.

Change of Use

The Province's brownfields legislation/regulation requires that any change to a more sensitive land use (including a residential or institutional) would require the filing of a Record of Site Condition (RSC) on the Ministry of the Environment's Brownfields Environmental Site Registry in accordance with Ontario Regulation 153/04, as amended. Regional staff has confirmed the requirement for the RSC with the MOE with regard to this site.

An RSC will, therefore, need to be filed prior to the issuance of a building permit for the residential units. The Town may wish to consider a Holding provision with respect to the establishment of residential uses that can be removed once the RSC has been filed.

Regional Technical/Engineering Comments

Development Services Technical staff has completed an engineering review of the proposed applications. In general, they have no objection to the proposed amendments. Staff noted that waste collection for future multiple residential use will be addressed through subsequent development applications.

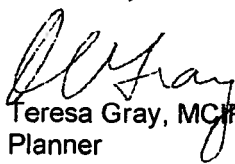
Furthermore, it is noted that the subject property has frontage on a roadway (Bertie Street) designated as being within the Regional Niagara Bicycling Network Plan. The bicycle route is currently not established and identified with signage, however, it is the intent of the Region to make provisions for doing so when an appropriate opportunity arises. This may involve additional pavement width, elimination of on-street parking, etc., if required on this street section.

Conclusion

Provincial and Regional policies support intensification and redevelopment in urban and Built-up Areas. Regional staff has no objection to the approval of the proposed amendments from a Provincial or Regional perspective subject to any local concerns. Regional staff has reviewed the draft official plan amendment forwarded by email by the Town on February 7, 2013. The proposed Official Plan amendment is exempt from Regional Council approval in accordance with the Memorandum of Understanding. Please forward notice of Town Council's decision on these applications and a copy of the amendments as adopted for our files.

If you have any questions, wish to discuss these comments or would like a hard copy of the comments, please contact Teresa Gray, Planner at extension 3430, or Marilyn Radman, Manager of Development Services Division at extension 3485.

Yours truly,

A handwritten signature in black ink, appearing to read 'T. Gray', is written over the printed name and title.

Teresa Gray, MCIP, RPP
Planner

cc: Ms. K. Dolch, MCIP, RPP, Manager, Development Approvals, Town of Fort Erie
Mr. P. Colosimo, MCIP, RPP, Director of Development Services, Niagara Region
Ms. M. Radman, MCIP, RPP, Manager, Development Planning, Niagara Region
Mr. P. Lambert, P. Eng., Manager, Development Engineering, Niagara Region

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request a provincially appointed integrity commissioner or Ministry supervisor to be assigned by the MMAH to oversee and mitigate the parliamentary procedures in closed session and to ensure those sessions are necessary, appropriate and within policy. The Mayor further indicated, in his opinion there have been serious breaches of ethical and moral issues that confound his integrity. He suggested things going on behind closed doors are not right and the *Municipal Act* was never intended to provide sanctuary to politicians from public scrutiny and accountability. The Mayor addressed confidentiality in closed meetings and the purpose of closed meetings.

In closing, the Mayor advised he would be writing to the new Minister of Municipal Affairs and Housing as soon as the new cabinet has been appointed. He is also sharing a copy with Kim Craiton, M.P.P. who he will be asking to follow-up with the Minister.

To this end, the Mayor stated he would not be attending the closed session meeting scheduled prior to adjournment of this meeting.

4) DISCLOSURES OF PECUNIARY INTEREST AND GENERAL NATURE

(a) Councillor Shular

Councillor Shular disclosed a pecuniary interest with respect to Fire Station No. 2 Public Meeting and Report No. CDS-14-13 under the Consent Agenda since he is the Treasurer of the Masonic Corporation which owns the building next door at 205 Jarvis Street. Councillor Shular abstained from discussing or voting on this matter and removed himself from the Council Chambers accordingly.

5) PUBLIC NOTICE

(a) Adoption of 2013 General Levy Operating and Capital Budget

Council intends to adopt the 2013 General Levy Operating and Capital Budget by-law at its meeting of Monday, February 25, 2013. Any person wishing to make a presentation may register with the Office of the Clerk by Thursday, February 21, 2013 at 3:00 p.m.

6) PUBLIC MEETINGS – PLANNING ACT

(a) Proposed Official Plan Amendment and Property Rezoning

Re: Town of Fort Erie – Fire Station No. 1 – for lands located at 119 Bertie Street for an Official Plan Amendment from Institutional to Residential and amend the Zoning By-law from Institutional to Site Specific Residential Multiple 1 RM1 Zone.

Mr. Kernahan delivered a power point presentation. A paper copy is available in the Clerk's Office.

Mayor Martin announced this portion of the meeting would be devoted to the holding of a Public Meeting as provided for under the *Planning Act*, R.S.O. 1990, Chapter P.13 with respect to the proposed Official Plan Amendment and Property Rezoning for lands located at 119 Bertie Street – Fire Station No. 1.

Mayor Martin advised of the Public Meeting process and enquired as to the manner and date upon which notice of this Public Meeting was given.

Mr. Kernahan explained Council authorized staff to initiate amendments to the Official Plan and Zoning By-law for Fire Station No. 1 located at 119 Bertie Street through the approval of recommendations contained in Report No. CDS-98-12 on December 3, 2012. The proposed changes will help improve marketability of the site by providing prospective purchasers with increased flexibility for the site's development.

Mr. Kernahan advised notice of this meeting was provided in accordance with the provisions of the *Planning Act* by placing an ad in The Times on January 8, 2013 and mailing the notice to all property owners within 120 metres of the subject lands on January 7, 2013.

Mr. Kernahan explained the property is located in the Fort Erie Neighbourhood on the north side of Bertie Street, east of North Street, west of High Street. The site is flat with one large building and a smaller accessory structure. The portion of the site not occupied by buildings is almost entirely covered with asphalt. Land use in proximity are predominantly low density residential with a local commercial use and an institutional use located on the opposite side of Bertie Street as well as other local and general commercial uses along Central Avenue. The surrounding land uses consist of the following: single detached dwellings to the north; former church and single detached dwellings to the south; single detached dwellings to the east; and convenience store and single detached buildings to the west.

Mr. Kernahan stated the Official Plan designation for the subject site is "Institutional" and is for public uses carried out by or on behalf of the Town of Fort Erie, Regional Municipality of Niagara, Province of Ontario, Government of Canada or an agency thereof. Uses that are commercial or residential in nature, may be permitted on lands designated as "Institutional" but these uses must be ancillary and directly related to the primary public use.

Mr. Kernahan advised an amendment to the Official Plan is required to provide prospective purchasers with increased flexibility in the use or development of the property. The most appropriate Official Plan designation for the site is "Residential" due to the site's location, neighbourhood composition and compatible land uses, this designation will permit the "best use" of the subject site. There are no natural heritage features on or adjacent to the subject property.

Mr. Kernahan explained the subject site is zoned "Public P Zone" and permitted uses are limited to uses carried out by or on behalf of the Town of Fort Erie, Regional Municipality of Niagara, Province of Ontario, Government of Canada or an agency of the government. To maximize marketability it is proposed the lands be rezoned to a site specific "Residential 1 RM1 Zone" to permit the full range of residential uses including single detached, semi-detached, duplex, triplex and townhouse dwellings as well as home occupations. A site specific provision will be added to the zoning to permit the conversion of the existing building to an apartment house.

The Mayor indicated the Committee would now hear from those person(s) who wished to speak in favour of the application.

No person(s) came forward.

The Mayor indicated the Committee would now hear from those person(s) who wished to speak in opposition or to ask questions of the application.

No person(s) came forward.

Mayor Martin announced that the Public Meeting was now concluded.

(b) Proposed Official Plan Amendment and Property Rezoning

Re: Town of Fort Erie – Fire Station No. 2 – for lands located at 209 Jarvis Street for an Official Plan Amendment from Institutional to Commercial and amend the Zoning By-law from Institutional to Central Business District Commercial C2A Zone.

Mr. Kernahan delivered a power point presentation. A hard copy is available in the Clerk's Office.

Mayor Martin announced this portion of the meeting would be devoted to the holding of a Public Meeting as provided for under the *Planning Act*, R.S.O. 1990, Chapter P.13 with respect to the proposed Official Plan and Property Rezoning for lands located at 209 Jarvis Street – Fire Station No. 2.

Mayor Martin advised of the Public Meeting process and enquired as to the manner and date upon which notice of this Public Meeting was given.

Mr. Kernahan explained Council authorized staff to initiate amendments to the Official Plan and Zoning By-law for Fire Station No. 2 located at 209 Jarvis Street through the approval of recommendations contained in Report No. CDS-99-12 on December 3, 2012. The proposed changes will help improve marketability of the site by providing prospective purchasers with increased flexibility for the site's development.