



The Municipal Corporation of the Town of Fort Erie

BY-LAW NO. 18-2014

**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. 19
IRMA GIBSON
3265 NIGH ROAD**

350302-082

**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 HEREBY ENACTS AS FOLLOWS:**

1. **THAT** amendment No.19 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** 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 10TH DAY OF
FEBRUARY 2014.**



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. 18-2014 of the said Town. Given under my hand and the seal of the said Corporation this ____ day of _____, 20__

AMENDMENT NO. 19

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.19 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 (designated Schedule "A") constitutes Amendment No. 19 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 amend the infilling policy in Section 4.6.3 (a) of the Town's Official Plan as it applies to the lands shown in Schedule A and limit the development of the lands shown on Schedule A to permit a maximum of three dwelling units or lots in accordance with the Growth Plan for the Greater Golden Horseshoe.

SECTION 3

LOCATION OF THIS AMENDMENT

The lands, which are the subject of this amendment, are located on the south side of Nigh Road and east of Burleigh Hill Road North as shown on Schedule "A" 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:

The subject lands are designated Rural in the Town's Official Plan and residential dwellings are permitted. The proposal is to separate the existing home from the balance of the farmland. The owner of the property no longer farms the land and intends to convey the existing home to a family member. A second dwelling is also possible on a 1 hectare lot with frontage on Nigh Road. The remainder of the farmland will continue as vacant land that may be farmed at some time in the future and will permit a future farm dwelling.

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

The subject land contains an existing dwelling. To the north is a rural residential subdivision as well as to the south of the subject property beyond the existing woodlot. To the east and west are residential and agricultural uses.

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 existing home will be situated on a proposed 1 hectare lot which is consistent with the MOE procedural guideline D-5-4 for individual on-site sewage systems. A second potential 1 hectare lot can also be created with frontage on Nigh Road. The balance of the land will remain and a farm house may be erected on the lands. To the south of the subject property an existing wood lot over 2 hectares in size is shown and further south a small provincially significant wetland. These features are not affected by this proposal.

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 subject property fronts on Nigh Road and Burleigh Road North both roads are paved and maintained municipal roads. The proposed development will not generate any significant traffic volumes. The existing dwelling is serviced with municipal water. The Region and NPCA have confirmed that Part 1 is adequately sized to accommodate the private sewage system and will ensure the adequacy of lot sizes for future lots through the requirement for a hydrogeological study, which will be required as a condition of consent.

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

The subject property is 20.3 hectares in size and contains an existing single detached dwelling, which is well separated from abutting uses. The adjacent uses consist of rural residential uses and agricultural uses which are compatible with the existing and proposed uses of the subject property.

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:

There is no evidence to suggest that the introduction of an additional residential lot into the area will depreciate adjoining properties.

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

The existing dwelling constructed in the 1960's contributed to the maintenance of the infrastructure in the area through property taxes. The proposed future lot will be subject to the Town's development charges.

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 Schedule "A" (Land Use Plan) constitute Amendment No. 19 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. Section 4.6.3 CONSENTS TO SEVER, subsection II (a) (b) shall not apply to the lands shown on Schedule "A" attached hereto and development shall be limited to three dwelling units or lots having a minimum lot area of 1 hectare. No further development shall be permitted without an amendment to this Plan

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 COMPLETE APPLICATION AND PUBLIC MEETING

COMBINED OFFICIAL PLAN AND ZONING BY-LAW AMENDMENT

3265 HIGH ROAD

OWNER: IRMA GIBSON

AGENT: JOHN PERRY (PROFESSIONAL PLANNING SERVICES INC.)

Applications: 350302-082 & 350309-0363

DATE: JANUARY 13, 2014

TIME: 6:00 PM

LOCATION: TOWN HALL, COUNCIL
CHAMBERS

LOCATION OF SUBJECT LANDS

PROPOSED CHANGE

The Town of Fort Erie recently received an application for a Combined Official Plan and Zoning By-law Amendment for the lands located on the south side of Nigh Road, east of Burleigh Road with the municipal address 3265 Nigh Road. The subject lands consist of approximately 20.3 hectares of land and is occupied by a single detached dwelling, accessory structure and in-ground swimming pool. The subject property has approximately 195 metres of frontage on Nigh Road and approximately 415 metres of frontage on Burleigh Road.

The applicant wishes to sever the existing home, accessory structure and swimming pool from the balance of the property and seeks permission to create 1 additional building lot fronting onto Nigh Road in the future. The subject property is designated Rural in the Official Plan. The Official Plan policies for lot creation in the Rural area only permit severances on an infill basis. The applicant's proposal to create the two lots does not meet the definition of infill and an amendment to the Official Plan Infill Policy is required to permit the creation of the proposed lots.

The subject property is zoned Rural (RU) Zone which permits the existing single detached dwelling and accessory structures. The proposed lot area is 1.0 hectare whereas Section 8.3 of the Town's Comprehensive Zoning By-law 129-90 requires a minimum lot area of 6.0 hectares. The applicant is requesting that the parcel containing the existing dwelling be rezoned from a Rural (RU) Zone to a site-specific Rural (RU) Zone to permit the reduced lot area and that the remnant parcel be rezoned to a site specific Rural (RU) Zone to permit the creation of a lot with a minimum area of 1.0 hectare in the future.

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 Kemahan, Senior Development Planner at (905) 871-1600 extension 2507 or mkemahan@town.forterie.on.ca. A copy of the Information Report will be available to the public on January 9th, 2014. 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

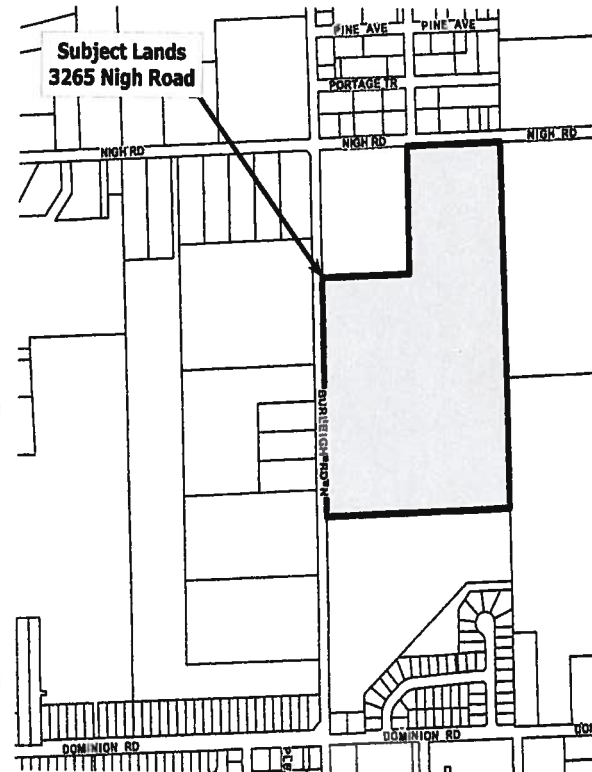
To provide input in writing, or to request written notice of the decision of the Official Plan and Zoning By-law Amendment, please send a letter c/o the Town Clerk Carolyn Kett, 1 Municipal Centre Drive, Fort Erie, Ontario, L2A 2S6 or an email to ckett@town.forterie.on.ca

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 in respect of the proposed Official Plan and Zoning By-law amendment before the Official Plan amendment and By-law are passed, the person or public body is not entitled to appeal the decision of the Town of Fort Erie to the Ontario Municipal Board.



SCHEDULE A



By-law No. 18-2014

THIS SKETCH FORMS PART OF SCHEDULE "A" TO THE OFFICIAL PLAN

PASSED THIS 10th DAY OF FEBRUARY 2014



Lands Subject to Official Plan Amendment No. 19 - 3265 Nigh Road

Agricultural A Zone” to recognize deficient lot area and that the remnant parcel (Parcel 2) will be rezoned Agricultural purposes only. The eastern portion of the site where the PSW is located is zoned “Environmental Protection” and the applicant has not requested an amendment to the zoning for this portion of the site.

The Mayor indicated the Committee would now hear from the applicant or those who wished to speak in favour of the application.

Mr. Brian Miller, Agent on behalf of Brad Pettit and Suzanne Hemmingsen, stated the owners of the property are not farmers and are requesting the rezoning to ensure it is in conformity with the Zoning By-law and Official Plan. The purchaser of the remnant parcel is an established farmer with extensive agricultural land holdings and the dwelling on the severed parcel is surplus to his needs.

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) Property Rezoning and Proposed Official Plan Amendment

Re: Owner: Irma Gibson - Agent: John Perry (Professional Planning Services Inc.) for lands located at 3265 Nigh Road. The applicant is requesting the parcel that contains the existing dwelling be rezoned from a Rural (RU) Zone to a Site Specific Rural (RU) Zone and the remnant parcel be rezoned to a Site Specific Rural (RU) Zone.

Mr. Kernahan delivered a power point presentation, a copy of which is available in the Clerk's Department.

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 Property Rezoning and proposed Official Plan Amendment with respect to an application for the parcel of land at 3265 Nigh Road that contains the existing dwelling to be rezoned.

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, Senior Development Planner advised an application was received from John Perry, Professional Planning Services Inc., Agent for Ms. Gibson for a combined Official Plan and Zoning By-law amendment for the lands located at 3265 Nigh Road, south side of Nigh Road, east of Burleigh Road. The applicant wishes to sever the existing home, accessory structure and swimming pool from the balance of the property

and seeks permission to create one additional building lot fronting onto Nigh Road. The subject property is designated "Rural" in the Town's Official Plan and Official Plan policies for lot creation in the rural area only permit severances on an infill basis. The applicant's proposal to create

the two lots does not meet the definition of infill and an amendment to the Official Plan Infill Policy is required to permit the creation of the proposed lots. An amendment to the Town's Zoning By-law No. 129-90 is required to permit a reduced lot area for the two proposed lots and the remnant lot.

Mr. Kernahan advised notice of this Public Meeting was circulated in accordance with the requirements of the *Planning Act* by placing an ad in the December 19, 2013 edition of The Times newspaper. In addition, property owners within 120 metres of the subject lands were sent a copy of the Public Meeting notice on December 19, 2013.

Mr. Kernahan explained the subject site is located in the rural area north and east of the Ridgeway/Thunder Bay Neighbourhood. The surrounding land uses consist of the following: Nigh Road, single detached dwellings and a woodlot to the north; woodlot, PSW and North Ridge Meadows Subdivision to the south; single detached dwelling and agricultural lands to the east; and greenhouse operation, single detached dwellings and Burleigh Road to the west.

Mr. Kernahan stated the subject property is designated "Rural" in the Official Plan. Official Plan policies for lot creation in the rural area only permit severances on an infill basis. The applicant's proposal to create the two lots does not meet the definition of infill and an amendment to the Official Plan Infill Policy is required to permit the creation of the proposed lots. There are no Natural Heritage features on the site and the proposed Official Plan and Zoning Amendment will not impact natural heritage features in the area.

Mr. Kernahan stated the subject property is zoned "Rural (RU) Zone" which permits the existing single detached dwelling and accessory structures. The proposed lot area is 1.0 hectare whereas Section 8.3 of the Town's Zoning By-law No. 129-90 requires a minimum lot area of 6.0 hectares. The applicant is requesting the parcel containing the existing dwelling be rezoned from a "Rural (RU) Zone" to a "Site-specific Rural (RU) Zone" to permit the reduced lot area and that the remnant parcel be rezoned to a "Site-specific Rural (RU) Zone" to permit the creation of a lot within a minimum area of 1.0 hectare in the future.

The Mayor indicated the Committee would now hear from the applicant or those who wished to speak in favour of the application.

Mr. John Perry, Planning Consultant on behalf of Irma Gibson, provided background information for Council's consideration on the matter. He clarified there were two applications before Council, one to amend the Zoning By-law and one to amend the Official Plan. He explained Ms.

Gibson would like to separate the land into two parcels e.g. one parcel comprised of the existing home which she would transfer to her daughter and the second parcel to be comprised of the balance of the property which she would like to sell at a later date. The Zoning By-law states the minimum lot area in a Rural area is 6 hectares (15 acres). The application is proposing a minimum lot area of one hectare for the land the existing home is on and for the remnant parcel to permit a future severance. The Official Plan amendment is to allow the creation of the two lots which does not conform with the infill policies of the Official Plan, both of which he suggested the Planning Department would support.

Mr. Perry advised these lands are designated "Rural" and under the Province's Places to Grow, the creation of three lots is permitted in the "Rural" area. Town staff have indicated they are prepared to allow for the lot the existing home is on and one additional lot. The next step is the consent application which he will not seek until Council's approval is received first.

In closing, Mr. Perry requested Council to approve the report, staff will then provide a final report after which they will file a consent application.

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.

(c) Zoning By-law Housekeeping Amendment

Re: Town of Fort Erie – Regulation of Outdoor Private Patios on Municipal Lands

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 Zoning By-law Housekeeping Amendment with respect to the regulation of outdoor private patios on municipal lands.

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.

Ms. Dunsmore, Development Coordinator advised Council authorized staff to initiate amendments to Town by-laws to develop a permitting process to allow outdoor patios on municipal property through a resolution passed at the November 4, 2013 Council-in-Committee meeting. The purpose of this amendment is to incorporate the provisions for outdoor patios on municipal property into the Comprehensive Zoning By-law No. 129-90. An open house was held on November 21, 2013 to advise the public of the proposed changes to the Zoning By-law and to obtain input on the proposed amendment.



The Municipal Corporation of the Town of Fort Erie

BY-LAW NO. 18-2014

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OFFICIAL PLAN ADOPTED BY BY-LAW NO. 150-06 FOR THE TOWN OF
FORT ERIE PLANNING AREA**

**AMENDMENT NO. 19
IRMA GIBSON
3265 NIGH ROAD**

350302-082

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ACCORDANCE WITH THE PROVISIONS OF SECTION 17 OF THE PLANNING ACT S.O.
1990 HEREBY ENACTS AS FOLLOWS:**

1. **THAT** amendment No.19 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** 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 10TH DAY OF
FEBRUARY 2014.**

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. 18-2014 of the said Town. Given under my hand and the seal of the said Corporation this ____ day of _____, 2014.



Interoffice Memorandum

Infrastructure Services

December 20, 2013
File No. 350309

To: M. Kernahan, Senior Development Planner
From: R. D. Judd, Municipal Engineer – Infrastructure Renewal
Subject: **APPLICATION FOR ZONING BY-LAW AMENDMENT , File #350309-0363**
APPLICANT: J. PERRY
ADDRESS: 3265 Nigh Road

We provide the following comments/conditions, as appended, regarding the proposed future consent for new building lot.

We provide the following comments/conditions regarding the proposed zoning changes.

- No concerns or comments regarding the proposed zoning by-law changes

I trust this information is of assistance, please contact me if you have any questions.

Robert D. Judd, P.Eng.
Municipal Engineer – Infrastructure Renewal

RDJ.bdr
ecc.

K. M. Walsh, Manager, Engineering Division

K. Dolch, Manager of Development Approvals

TOWN OF FORT ERIE

REPORT TO : THE PLANNING & PROPERTY SAFETY
 FROM : THE ENGINEERING DEPARTMENT
 REGARDING : COA FILE NUMBER: B ____ F.E.

MUNICIPAL SERVICES

WATERMAIN FRONTAGE NO
 SANITARY SEWER FRONTAGE NO
 STORM SEWER FRONTAGE NO
 WIDTH OF ROAD ALLOWANCE(S) 66 ft.
 ROAD WIDENING REQ'D? YES SIZE REQ'D ____ NO
 DAYLIGHTING TRIANGLE REQ'D? YES SIZE REQ'D ____ NO
 TREES DEPOSIT REQ'D? YES NO
 STREETLIGHTS REQ'D? YES NO

preliminary can be finalized once
actual consent application is circulated

ENGINEERING COMMENTS PROVIDED FOR THE APPLICANT'S INFORMATION (IF APPLICABLE, TO BE ADDRESSED BY APPLICANT TO DEVELOP THE SUBJECT LANDS.)

- ~~1. Initial comments were included in admin report CDS~~
2. Subject properties are outside urban area and are to be serviced by private services (well, cistern, septic system).
3. The Town has been held accountable for allowing a resident to construct a house with footings founded in the bedrock. Ground water levels were not considered prior to construction of this house and the owner has experienced ground water within the footings and basement. This could have been avoided if a hydrogeological/ground water management review had been conducted by the owner/builder prior to the design and construction of the new house. (background for condition 3).
4. It is recommended the owner's drainage designer contact the undersigned to scope out drainage plan requirements.

CONSENT TO BE CONDITIONAL UPON THE FOLLOWING -

1. Applicant/Owner to make payment of \$500 to the Town of Fort Erie for one boulevard street tree. The tree will be placed on the road allowance frontage of Parts 1 & 2. (new lots) if it is practical to do so, otherwise the tree will be utilized in beautification efforts of the Town in close proximity to the lots.
2. Overall lot grading plan for the proposed lots is to be submitted by the Applicant/Owner. Any swales, ditches and rear yard catchbasins required for overall lot grading shall be constructed prior to issuing building permits. Depending on existing drainage patterns, some or all of the remnant parcel may also need to be included on the plan.
3. The Applicant/Owner shall submit a ground water study prepared by a qualified professional that identifies appropriate building and footing/basement floor elevations such that ground water will not be a hazard or a nuisance to the proposed new homes.
4. The Owner shall enter into a Development Agreement or Lot Grading Agreement with the Town, registered against Parts #1, 2. Part #3 may also need to be subject to an agreement, depending on final, approved drainage design. Construction of any shared swales, ditches and rear yard catchbasins or roadside ditching required for the lot grading plan to be addressed in the Development Agreement.

PREPARED BY: L. Stager, Senior Technician,

APPROVED BY: R. D. Judd, P.Eng.,

Municipal Engineer-Infrastructure Renewal

January 14, 2014

Files: D.10.01.OPA-14-001
D.18.01.ZA-14-002

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: Regional and Provincial Comments
OPA and Zoning By-law Amendment Applications
Applicant: John Perry (Professional Planning Services Inc.)
Owner: Irma Gibson
3265 Nigh Road, Town of Fort Erie

Regional Development Services staff has reviewed the information circulated for the above noted applications. The proposed Official Plan and zoning by-law amendments have been submitted to facilitate a future consent application that proposes to convey the existing dwelling, accessory structure and swimming pool (Part 1) from the remainder of the property. Further, one additional building lot with a minimum lot area of one hectare fronting onto Nigh Road may also be proposed in the future. The subject lands are designated Rural in the Town's Official Plan and the proposed amendment is to address the infill policies for the creation of the new lot(s). The current zoning by-law amendment application is to rezone Part 1 from a Rural (RU) Zone to a site-specific Rural (RU) to permit a reduced lot area and to rezone the remnant parcel (Part 2) to a site specific Rural (RU) zone to permit the creation of a lot with a minimum area of 1.0 hectare in the future. The following Provincial and Regional comments are offered to assist the Town in considering the application.

Provincial and Regional Policy

The subject property is located outside the Urban Area Boundary for the Town of Fort Erie and within the Rural Area according to the Regional Policy Plan. Provincial and Regional Policy permit limited development in Rural areas that is compatible with the rural landscape and can be sustained by rural service levels. The predominant use of lands in the Rural Area is for agriculture, but some non-farm development, may be permitted. The Growth Plan contains policies that permit multiple lot residential development in Rural areas in site-specific locations that are zoned or designated for the development as of the date of the Growth Plan.

Development in the Rural Area will not be provided municipal services, and will only be permitted when the individual lot and soil conditions are suitable for the long-term operation of a private water and waste disposal system. As discussed later, the subject lands are located within a Highly

Vulnerable Aquifer area (HVA) and Provincial and Regional policies speak to development and site alteration in these areas not adversely impacting vulnerable surface and ground water.

Core Natural Heritage

The Region's Core Natural Heritage Maps shows an Environmental Protection Area (Provincially Significant Wetlands), an Environmental Conservation Area (ECA) associated with significant woodlands and a watercourse identified as a Type 1 "Critical Habitat" on the adjacent lands to the south. Further, the Niagara Peninsula Conservation Authority (NPCA), through its work on Drinking Water Source Protection Planning has identified the subject lands as being located within a HVA area.

Staff notes that Town staff has confirmed that the existing dwelling on Part 1 is connected to municipal water, and therefore, NPCA staff has advised that they are satisfied that Part 1 meets their lot area requirements with regard to HVA area impacts. However, the future development of Part 2 on private services will need to address the minimum lot area with respect to HVA area impacts to determine if one hectare is sufficient. Town staff has indicated that this will be addressed by requiring a 'minimum' lot area of one hectare in proposed amendments. Therefore, during the future consent process the lot area can be increased in size, if necessary, as determined through a hydrogeological study. Further discussion with regard to HVA areas is included in Private Sewage Services section.

In accordance with the Memorandum of Understanding and the protocol between the Region and the Niagara Peninsula Conservation Authority (NPCA), the NPCA is responsible for the review and comment on all planning applications for impacts on the natural environment. Please refer to the detailed comments of the NPCA regarding any environmental issues associated with the application.

Private Sewage Services

Regional Private Sewage Inspection staff has reviewed the proposed applications and has inspected the subject lands. Inspection of the property indicates that the existing in ground swimming pool on Part 1 encroaches onto the sewage disposal system. Although no obvious defects were noted with the use of the system (staff noted that the area was snow covered at the time of inspection) departmental information indicates that the sewage system has been altered to allow for the pool installation. The location of the pool and the work that was previously completed on the sewage system is contrary to the Ontario Building Code and therefore corrections are required.

As the property is located within a HVA area, the Region requires the applicants to submit a hydrogeological study to show that the ground water will not be affected by the creation of the new lot or lots. With regard to Part 1, Private Sewage Inspection staff notes that the existing dwelling is currently connected and serviced with municipal water and therefore a hydrogeological study will not be required for the future consent application. However, there is an existing drilled well on Part 1 and even though it is not being used as a drinking source, the source of that water must still be protected.

The following conditions will be requested as conditions of consent approval for the future consent application(s):

- 1) That a new sewage disposal system is installed or the swimming pool is removed and the private sewage system is repaired to its original state according to the septic permit on file with Niagara Region for Part 1.
- 2) That the applicants submit a hydrogeological study for review and approval or the drilled well on Part 1 be decommissioned by a licensed well driller and a copy of the driller's report submitted to this department.
- 3) That a hydrogeological study be prepared for review and approval for the future consent to allow a second lot on Part 2 to determine if a one hectare lot area is sufficient as the property is located within a HVA area.

Heritage Resources

Based on Ministry of Culture screening criteria, the site exhibits potential for the discovery of archaeological resources due to its proximity to the watercourse to the south of the subject lands. Proximity to a water source is an important indicator for determining archaeological potential. In addition, several registered archaeological sites are located in the area. Therefore, an archaeological assessment of the development site appears warranted. The Planning Impact Assessment provided with the applications recommends that a holding provision be included in the amending zoning by-law for Part 2 which can be removed once an archaeological assessment has been completed and approved by the Ministry of Tourism and Culture to ensure that any potential heritage resources are protected.

Conclusion

Regional staff supports the approval of the proposed amendments from a Provincial or Regional perspective subject to the above comments, any local concerns and the inclusion of a Holding Zone provision with regard to the requirement for the completion of an archaeological assessment for Part 2.

Regional staff has reviewed the draft official plan amendment forwarded with the circulation. 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 Development Planning, at extension 3485. Please send notice of the Town's decision with regard to this application.

Yours truly,

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
Mr. D. Maddalena, Senior Inspector, Private Sewage Systems, Niagara Region
Ms. C. Lampman, Planning Approvals Analyst, NPCA

January 14, 2014

MPR 4.6

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: Regional Core Natural Heritage Comments
Combined Official Plan and Zoning By-law Amendment Applications
File Nos. 350302-082 & 350309-0363
Applicant: John Perry (Professional Planning Services Inc.)
Owner: Irma Gibson
3265 Nigh Road, Town of Fort Erie**

NPCA staff has reviewed the information circulated for the above noted applications. The proposed Official Plan and Zoning By-law amendments have been submitted to facilitate a future consent application that proposes to convey the existing dwelling, accessory structure and swimming pool (Part 1) from the remainder of the subject parcel. In addition, the application proposes the policy framework to allow the consent of a vacant building lot within a minimum size of one hectare in the future. The current zoning by-law amendment application proposes to rezone Part 1 from a Rural (RU) Zone to a site-specific Rural (RU) to permit a reduced lot area and to rezone the remnant parcel (Part 2) to a site specific Rural (RU) zone to permit the creation of a lot with a minimum area of 1.0 hectare in the future. The NPCA offers the following comments in order to assist the Town in processing the subject applications,

Region of Niagara Core Natural Heritage

Although there are no NPCA Regulated Features impacting the subject parcel, as per the Memorandum of Understanding the NPCA is to review and provide comments on planning applications as they relate to the Natural Environment on the Region's behalf. These comments are provided in that context.

The Region's Core Natural Heritage Maps indicates that the subject property is within the adjacent lands of an Environmental Protection Area (Provincially Significant Wetlands), an Environmental Conservation Area (ECA) associated with significant woodlands and a watercourse identified as a Type 1 "Critical Habitat".

Further, the Niagara Peninsula Conservation Authority (NPCA), through its work on Drinking Water Source Protection Planning has identified the subject lands as being located within a Highly Vulnerable Aquifer (HVA) area. This area has been identified as an HVA due to the fact that it appears that bedrock is at or close to surface in this location. Regional Policy 7.A.2.9 states that development and site alteration shall not have significant adverse impacts on ground water quality or quantity. The NPCA notes that 'Part 1' currently contains an existing dwelling and accessory uses, and is connected to municipal water. As such, the Authority is satisfied that the proposed 'Part 1' will not have significant adverse impacts on ground water quality or

quantity provided that the existing well on site is appropriately decommissioned. However, in order to ensure the proposed 'Part 2' also meets regional requirements the NPCA will require as a condition of consent, the approval of a site servicing plan/study. The plan should identify the locations of water supplies and private sewage components that are proposed to service 'Part 2' as well as adjacent services that could be impacted. This information will assist the NPCA in ensuring that 'Part 2' is adequately sized to support private servicing.

Conclusion

In conclusion, the NPCA has no objection to the proposed Official Plan and Zoning Amendment applications. The applicant shall note that further study may be required at the consent stage to ensure the protection of groundwater.

I trust this information to be satisfactory, if you have any questions or concerns please do not hesitate to contact me.

Sincerely,



Cara Lampman
Planning Approvals Analyst (ext. 272)

Cc: Ms. Teresa Gray, Planner, Region of Niagara