



The Municipal Corporation of the Town of Fort Erie

BY-LAW NO. 39-2014

**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. 22
RALPH AND ANA PILLAR
3129 NIAGARA RIVER PARKWAY**

350302-081, 350309-0361 & 350303-0016

**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. 22 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 17TH DAY OF
MARCH 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. 39-2014 of the said Town. Given under my hand and the seal of the said Corporation this ____ day of _____, 2014.

AMENDMENT NO. 22

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.22 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. 22 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 Schedule A attached hereto from "Commercial" to "Rural Residential" to permit the development of three single detached dwellings by way of vacant land condominium.

SECTION 3

LOCATION OF THIS AMENDMENT

The lands, which are the subject of this amendment, are located at 3129 Niagara River Parkway, north of Townline Road and east of Black Creek Road 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 proposed Official Plan amendment is to change the designation of the subject property to a use that is more compatible with the surrounding area than commercial uses. The Official Plan policies for commercial areas outside of the urban area restrict their use to existing and similar uses. The proposed redesignation will provide for an alternative housing tenure in this area and will bring the site's designation into conformity with the surrounding area.

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

Land uses along the Niagara River Parkway in Fort Erie are predominantly Rural Residential. This area of Town is almost exclusively single detached 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 subject site is flat and slopes gently to the north. The Hydrogeological Study and Stormwater Management Report confirm that the site is capable of supporting the proposed residential development without negatively affecting adjacent properties. The Environmental Impact Study submitted with the application substantiates that the proposed development is consistent with the Natural Heritage Policies of the Town's Official Plan.

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 site is located on the Niagara Parkway which is a controlled access highway owned and maintained by the Niagara Parks Commission. Access to the site will be from a service road. The Niagara Parkway provides adequate and convenient vehicular access to the site. The site's rural nature renders convenient pedestrian access not applicable.

The Hydrogeological Study and Rural Servicing Reports confirm that the proposed lot sizes are adequate to accommodate the required private services for the proposed dwellings.

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

The subject site is appropriately located within a rural residential setting. The proposed redesignation will result in a land use that is more compatible with surrounding rural residential land uses than the current commercial designation.

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 redesignation of the subject property to Rural Residential will depreciate adjoining properties.

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

The proposed redesignation of the subject property will not affect the financial position of the municipality.

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

The applicant will be required to undertake an Environmental Site Assessment and file a Record of Site Condition as conditions of Draft Plan Approval in accordance with the requirements of Ontario Regulation 153/04.

SECTION 5

IMPLEMENTATION AND INTERPRETATION

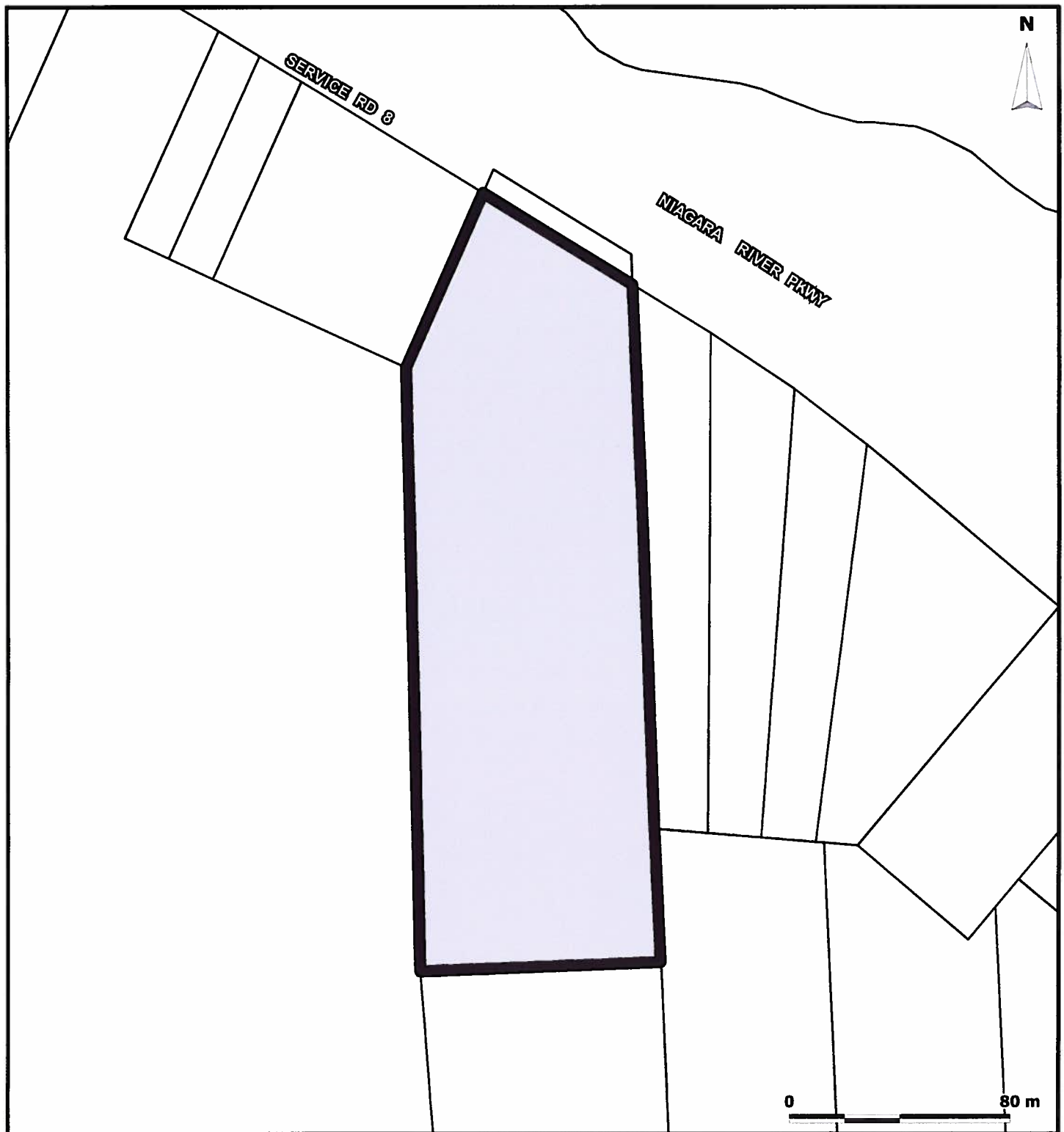
The relevant policies of the Official Plan adopted by By-law No. 150-06 of the Fort Erie planning area shall apply to the implementation and interpretation of this Amendment.

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. 22 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 Schedule A is hereby redesignated from "Commercial" to "Rural Residential".


SCHEDULE "A"



By-law No. 39-2014

**THIS SKETCH FORMS PART OF SCHEDULE "A" TO THE OFFICIAL PLAN
PASSED THIS 17th DAY OF MARCH 2014**

 Part 1 - Change from Commercial to Rural Residential

 Subject Lands - 3129 Niagara River Parkway

CON BF SEA PT LOT 11 IN THE TOWN OF FORT ERIE, REGIONAL
MUNICIPALITY OF NIAGARA

Community & Development Services
Map created March 11, 2014



PART “C” - THE APPENDICES

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



APPENDIX "1"
TOWN OF FORT ERIE

**NOTICE OF COMPLETE APPLICATION
AND PUBLIC MEETING**

**DRAFT PLAN OF VACANT LAND CONDOMINIUM, OFFICIAL PLAN AND ZONING
BY-LAW AMENDMENT
3129 NIAGARA RIVER PARKWAY
OWNER: RALPH AND ANNE PILLER**

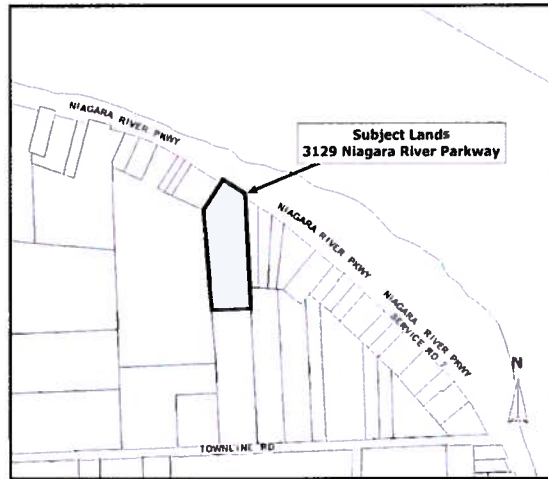
Applications: 350302-081, 350309-0361 & 350303-0016

DATE: AUGUST 12, 2013
TIME: 6:00PM
**LOCATION: TOWN HALL, COUNCIL
CHAMBERS**
PROPOSED CHANGE

LOCATION OF SUBJECT LANDS

The Town of Fort Erie recently received applications for a Draft Plan of Vacant Land Condominium and Combined Official Plan and Zoning By-law Amendment for the lands located at 3129 Niagara River Parkway. The subject lands consist of approximately 2.4 hectares of land located at 3129 Niagara River Parkway, north of Townline Road and East of Black Creek Road. The River Lea Motel was previously operated at this location. The applicant has submitted a Draft Plan of Vacant Land Condominium that consists of 5 lots for single family dwellings, including one lot for the existing dwelling. The applicant proposes to remove the building previously used as a motel and structures accessory to it.

The subject lands are located outside of the Urban Area Boundary and are designated Commercial in the Town's Official Plan. Portions of the property are also classified as being Woodlands Over 2 Hectares in the Town's Official Plan. The Town's Zoning By-law 129-90 designates the property as Existing Commercial Uses ECU-25 which permits the use of the property for a motel or other similar uses and accessory structures and uses. The applicant is proposing to amend the Official Plan designation of the site to Rural Residential and to amend the Zoning of the site to a site specific Rural Residential to permit the development of the property as a 5-lot vacant land condominium subdivision what is the site specific nature.



HAVE YOUR SAY

Input on the proposed Draft Plan of Vacant Land Condominium, 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 or mkernahan@town.forterie.on.ca. A copy of the Information Report will be available to the public on August 8th, 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 Draft Plan of Vacant Land Condominium, 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 Draft Plan of Vacant Land Condominium, Official Plan and Zoning By-law amendments before the approval authority gives or refuses to give approval to the Draft Plan of Vacant Land Condominium or Official Plan amendment or 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 in respect of the proposed Draft Plan of Vacant Land Condominium, Official Plan and Zoning By-law amendments before the approval authority gives or refuses to give approval to the Draft Plan of Vacant Land Condominium, Official Plan amendment or 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 wish to be notified of the decision of the Town of Fort Erie in respect of the proposed Draft Plan of Vacant Land Condominium or adoption of the Official Plan Amendment or Zoning By-law Amendment, you must 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 18th day of July, 2013

Carolyn Kett, Town Clerk

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

APPENDIX "2"

COUNCIL-IN-COMMITTEE MINUTES – MONDAY, AUGUST 12, 2013
PAGE FOUR

Mr. Kernahan explained the north properties at 575 and 625 Garrison Road are zoned "Highway Commercial C3 Zone". The Helena Street property is zoned "Neighbourhood Development ND Zone". A change in the zoning of the entire subject property to a "Site Specific Highway Commercial C3 Zone" is required to permit the development for commercial purposes including a department store. Access to the site would be from two entrances onto Garrison or one onto Helena. A stormwater management pond would be located in the southeast 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. David Kompson, owner of 575 Garrison Road Inc., stated he was present to answer any questions Council may have.

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 Official Plan Amendment and Vacant Land Condominium

Re: Ralph and Ana Piller for lands located at 3129 Niagara River Parkway. The applicant is proposing to amend the OP designation of the site to Rural Residential and to amend the Zoning of the site to a Site Specific Rural Residential to permit the development of the property as a 5-lot vacant land condominium subdivision which is the site specific nature.

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 the 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 Official Plan Amendment and Draft Plan of Vacant Land Subdivision for lands located at 3129 Niagara River Parkway.

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 advised an application for a combined Official Plan and Zoning By-law Amendment and Draft Plan of Vacant Land Condominium was received from Quartek Group, Agents for Ralph and Ana Piller for lands located at 3129 Niagara River Parkway, north of Townline Road and east of Black Creek Road.

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**COUNCIL-IN-COMMITTEE MINUTES – MONDAY, AUGUST 12, 2013
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Mr. Kernahan advised notice of this public meeting was circulated in accordance with the provisions of the *Planning Act* by placing an ad in The Times on July 18, 2013 and mailing the notice to all property owners within 120 metres of the subject lands on July 17, 2013.

Mr. Kernahan explained most comments received to date have been addressed in the information report. On August 6 and 7, 2013 subsequent to the finalization of the information report, comments were received from residents living in the vicinity of the subject site. Since these comments were received after the report was finalized they are not addressed in the report and will be addressed in the subsequent recommendation report to Council.

Mr. Kernahan advised the property is located on the south side of the Niagara River Parkway, north of Townline Road and west of the Douglastown Neighbourhood. The subject lands consist of approximately 2.4 hectares of land that was previously used for the operation of the River Lea Motel. There is a single detached dwelling and accessory structure in the north part of the subject lands. There is a one storey motel, two cottages and a shed that are associated with the River Lea Motel located in the central portion of the property. There is a treed area and a clearing located south of the buildings associated with the former motel. The surrounding land uses consists of the following: Niagara River Parkway and Niagara River to the north; agricultural lands, woodlot and Provincially Significant Wetlands to the south; single family dwelling and agricultural lands to the east; and single family dwelling and agricultural lands to the west.

Mr. Kernahan stated the subject site is designated Commercial in the Town's Official Plan and delineates the site as Recreational Commercial. The predominant use of land designated Recreational Commercial is for commercial uses including golf courses, marinas, lodges, eating establishments, bowling alleys, hotels, motels, recreational trailer parks and other recreational uses. The subject property is located outside of the urban area boundary. The Official Plan limits the uses on commercially designated lands outside the urban area boundary to existing use and similar uses that can be sustained on private services. The proposed use of the property as a 5-lot subdivision is not permitted by the Official Plan designation and an amendment to the Official Plan is proposed to redesignate the subject property to Rural Residential to permit the proposed subdivision.

Mr. Kernahan explained the natural heritage features on and in the vicinity of the subject site are classified as being within woodlands over two hectares in the Official Plan. An Environmental Impact Study (EIS) was undertaken to determine the impact on the proposed development including the woodland, natural heritage features in the vicinity, Provincially Significant Wetlands and Niagara River Corridor. The EIS concluded the implementation of the proposed development will not have a significant impact on any natural heritage features.

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COUNCIL-IN-COMMITTEE MINUTES – MONDAY, AUGUST 12, 2013
PAGE SIX

Mr. Kernahan advised the subject property is zoned existing "Commercial Uses ECU-25 Zone" which permits existing commercial uses. The subject property currently contains a 10 unit motel and therefore a 10 unit motel or similar use would be permitted. The proposed residential use is not permitted and the applicant has requested a rezoning to a "Site Specific Waterfront Rural Residential RR Zone" to permit a 5-lot vacant land condominium.

Mr. Kernahan explained the preliminary site plan for the condominium subdivision consists of 5 single detached dwelling lots including the existing single family dwelling lot which is serviced by private services and fronts on the Niagara Parks Commission Service Road. An existing pool would remain as part of Lot 2. Access to the 4 proposed single detached dwelling lots would be from a private roadway owned by the Condominium Corporation that would connect with the existing Service Road.

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

- (a) Daniel Ramanko, Planner, Quartek Group, on behalf of Mr. and Mrs. Piller stated he wished to clarify some of the design intent. As indicated they are proposing 5 estate lots, one of which is being created from an existing dwelling. That requires the property to be rezoned from Commercial to Rural Residential which is more compatible with the existing land use. They are proposing vacant land condominium which is privately owned lots and shared private driveway which would be connected to the Service Road and in doing so, no additional access points to the parkway would be required. No municipal maintenance would be required.

Mr. Ramanko advised the cleared areas and wood lots will be maintained and provide an amenity and privacy for future residents and adjacent neighbours. They aim to preserve the natural heritage features of the site and provide ample setback to the Provincially Significant Wetlands. He referred to stormwater of the adjacent property, they have conducted a preliminary study and are satisfied there will not be any negative impacts to adjacent properties. A detailed grading plan will be submitted as well as a hydrogeological study to support wells. The water supply will be provided by a cistern. The size of the lots have been designed to Regional standards which is one acre. The application can be supported by Regional, Provincial and municipal planning policies.

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.

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COUNCIL-IN-COMMITTEE MINUTES – MONDAY, AUGUST 12, 2013 PAGE SEVEN

(a) Lynda Collet, 3109 Niagara River Parkway

Mrs. Collet thanked Mayor and Council for allowing her to speak. She read the letter she submitted in writing to Mayor and Members of Council citing she and her husband's concerns. She explained they are the neighbours bordering this subject property, east of 3129 Niagara River Parkway. They are affected by the proposed application and will address their concerns as it relates to them.

Mrs. Collet advised that prior to purchasing their property they spoke with a representative at Town Hall and ascertained two things:

- 1) While the property at 3129 was zoned Commercial, it would never obtain the necessary approvals to have a commercial enterprise re-established on this site, and further
- 2) They were given assurances that the closed, abandoned and derelict motel and outbuildings currently on the site were scheduled for demolition and would no longer be the eyesore and haven for all manner of animals and rodents which currently occupy the buildings.

They were concerned when again they spoke with representatives of the Town and determined the property is zoned for a commercial enterprise and was not scheduled for demolition.

Mrs. Collet explained they are now faced with two limited options, neither of which is acceptable to them.

1. If Council does not approve the Condominium Plan, they face the possibility of a commercial enterprise being re-established on this property, and
2. If Council does approve the Condominium Plan, they face the possibility of 5 condominium properties adjacent to their home where there is a single family home. She believes this will have a negative impact on the neighbourhood.

Mrs. Collet stated neither of these options are acceptable and their preference is that the property at 3129 remain a single family residential home in keeping with the neighbourhood. However, if these are the only two options, they ask that Council approve the Condominium Plan. The applicants have given them their personal assurances that upon final approval of the Condominium Plan, the derelict motel and outbuildings will be demolished immediately.

(b) Marilyn MacLean, 3155 Niagara River Parkway

Ms. MacLean advised she lives west of the property in question. She stated she has several issues she would like to review from Pages 8 to 10 of the report as follows:

- The issue of setting a precedent for future development/subdivisions along the parkway;
- The issue of water drainage. The property has been graded and now they always have a pool of water on their property;
- Her main concern is having a subdivision in the back which will be like a little village. It is their main bone of contention;

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COUNCIL-IN-COMMITTEE MINUTES – MONDAY, AUGUST 12, 2013 PAGE EIGHT

- Consolidation of accesses;
- Demolition of existing hotel which is in bad shape;
- Drainage – when they built in 2003 and put in a septic mound the contractor found a weeping tile from the property at 3129 Niagara River Parkway. She questioned the stability and integrity of the septic system at the original house.

Ms. MacLean invited others to come forward and speak to these issues.

(c) **Serena Smith, 3379 Niagara River Parkway**

Ms. Smith advised she has sent in two letters to Mayor and Members of Council and will speak to the second letter. In her first letter she commented on drainage, Provincially Significant Wetlands and access to the parkway and precedent setting of the rezoning. In her second letter she questioned if this is a Site Specific rezoning, the new zoning designation would be Residential.

Ms. Smith expressed the following concerns that she raised in her second letter:

- What legal arguments will be used in answer to requests from other Rural Residential applicants to also subdivide existing properties into condominium, subdivision lots.
- What costs can be projected to defend this site specific plan in future applications.
- What responsibility does the Town have to taxpayers to avoid tax money spent on legal costs that may be incurred due to this precedent setting application.
- Does the existing tile bed used for drainage of the original home extend into the lot immediately behind the home which would then be the backyard of a new home including a pool. Will the existing home need to upgrade to new codes for septic drainage.
- Is the private road measured as part of the acreage because a large amount crosses over the parcel containing Mr. Piller's home.
- Why are the homes sold as condominiums and not single family homes.
- Why 5-lots vacant land when one lot is not vacant.
- She is against the rezoning application because of possible negative impact on the Provincially Significant Wetlands and taxpayers having to fight future legal battles over precedent setting rezoning residential to subdivision and condominium applications.

Ms. Smith requested the Town to consider its long term vision for development. She suggested it is inconsistent with this vision to allow pockets of disorganized subdivisions within established neighbourhoods.

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COUNCIL-IN-COMMITTEE MINUTES – MONDAY, AUGUST 12, 2013 PAGE NINE

(d) Scott Simpson, 3155 Niagara River Parkway

Mr. Simpson advised he was present to address drainage swayles and the 4-lots in the back. They have a problem with drainage now. He has a problem with the main lot as part of the Condominium Corporation and will not remain a vacant lot. They tore out an old drainage pipe and his concern is that it goes through his property. He has to find out what is draining i.e. water or septic. He was told this was a severance deal by Mr. Piller. He is being misled and lied to and wants that to be put on record.

(e) Barry Willer, 3099 Niagara River Parkway

Mr. Willer referred to Mr. Simpson and Ms. MacLean's property that is adjacent to the subject property and their issues with drainage. He also referred to Mrs. Collet who is on the other side of the subject property.

Mr. Willer clarified he is neither for or against. They are faced with the lesser of two evils. He expressed concern when asked questions of the Town, he has not always gotten a straight answer. The big issue is the decision Council is faced with, if the property gets rezoned or not. He questioned is property rezoned Residential to use; or is property rezoned Residential and then owners change their mind from 5 lots to more or less or a multiple family dwelling. He is not sure if a Site Plan is what they are commenting on.

Mr. Willer stated if it is rezoning that is one thing. If it is the Site Plan, he wants assurance that is the plan and not have that change. He explained the current state of the motel is ugly. There was once a demolition order he was told by Town staff and it was abandoned. It was dangerous. He and his neighbours complained. Town staff said there was a demolition order and the owners had three months to tear it down or the Town would. Now he is being told the plan will go through like this or will it change. He would appreciate an honest answer.

(f) Tom Gravelle, 2919 Niagara River Parkway

Mr. Gravelle stated his concern is what is to prevent the owners at 3129 Niagara River Parkway to apply for a variance and make a larger subdivision. He questioned if the owners of 3233 Niagara River Parkway could also apply for a rezoning of their property.

Mr. Gravelle's main concern is that owners of other large vacant properties along the Parkway will also apply for rezonings to permit subdivisions.

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COUNCIL-IN-COMMITTEE MINUTES – MONDAY, AUGUST 12, 2013
PAGE TEN

- (g) **Serena Smith, 3379 Niagara River Parkway**

Ms. Smith stated she is appalled that Mrs. Collet has been pushed against the wall and only has a choice of two bad decisions. That is unfair. She did not think Members of Council would like to look at 4 large houses with septic mounds instead of the river or they will put in a commercial development. She asked Council to take this into consideration.

- (h) **Marilyn MacLean**

Ms. MacLean advised at a private meeting they were told the term condominium referred to a private road that needs to be maintained. She questioned what would prevent these homes from becoming a time share or vacation homes. She asked if they could guarantee they will be privately owned homes and what type of community will it be. No one wants those houses there.

Mayor Martin announced that the Public Meeting was now concluded.

7) CONSENT AGENDA ITEMS

- 7.1 Request to Remove Consent Agenda Item(s) for Separate Consideration (No motion required)**

NIL

- 7.2 Consent Agenda Item(s) to be considered in Block**

- 7.3 COMMUNITY AND DEVELOPMENT SERVICES**

- (a) **REPORT NO. CDS-68-13 – AWARD OF CONTRACTS FOR OPTIMIST SOCCER PARK PLAYGROUND REPLACEMENT AND SOCCER FIELD IMPROVEMENTS**

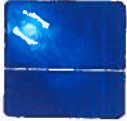
THAT:The contract to manufacture, supply and install playground equipment in Optimist Soccer Park be awarded to PlayPower Canada, at an upset limit of \$54,920.64 (including h.s.t.), and further

THAT:The contract for improvements to the two senior soccer fields in Optimist Park, including the supply and installation of lighting, irrigation and drainage systems, be awarded to DoI Turf Restoration, at an upset limit of \$445,313.06 (including non-refundable h.s.t.), and further

THAT:SOCC11 and MULT11 be closed and surplus funds in the amount of \$23,300 be transferred back to the Parkland Reserve Fund, and further

THAT:The budget for the Optimist Soccer Park Improvements OPT111, be increased by \$87,000, with \$63,300 (\$23,300 plus \$40,000) being transferred from the Parkland Reserve Fund and \$23,700 being transferred from the Development Charge Reserve Fund for Outdoor Parks. (CARRIED)

APPENDIX "3"



3291 Niagara parkway development (River Lea Estates)
Robert Judd Matt Kemahan
Tom Kuchyt

06/12/2013 03:58 PM

Matt,

I.S. preliminary comments on proposed development

- Subject properties are outside urban area and are to be serviced by private services (well, cistern, septic system).
- 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. 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.
- We will also require the Owner to enter into a Subdivision Agreement, Development Agreement or Lot Grading Agreement with the Town, registered against subject lands to ensure overall drainage/lot grading design is implemented and remains in effect in perpetuity. Construction of any shared swales, ditches and rear yard catchbasins or roadside ditching required for the overall lot grading plan is to be addressed in the Agreement.

regards

Robert D. Judd, P.Eng.
Municipal Engineer - Infrastructure Renewal
Infrastructure Services, Engineering Division
Municipal Centre,
1 Municipal Centre Drive
Fort Erie, Ontario, Canada L2A 2S6
Phone (905)871-1600, EXT 2412
Fax (905)871-6411
E-mail: rjudd@forterie.on.ca

July 9, 2013

Matt Kernahan, MCIP, RPP
Senior Development Planner
Town of Fort Erie
1 Municipal Centre Drive
Fort Erie, ON L2A 2S6

Reference: 3129 Niagara River Parkway

Thank you for contacting Canada Post regarding plans for a new subdivision in Fort Erie.
Please see Canada Post's feedback regarding the proposal, below.

Service type and location

1. Canada Post will provide mail delivery service to the condominium through centralized Community Mail Boxes (CMB's).
2. Given the number and the layout of the lots in the development, CPC will expand the existing CMB site at 3217 Niagara River Parkway (LoS0213) to accommodate mail delivery.

B set-up fee

1. Canada Post will charge the developer a CMB set-up fee to activate all new addresses and to install all CMB equipment. The fee will be applied at a rate of \$200 for every new mailing address within the subdivision.
2. Developers will be required to sign a Community Mailbox Developer Agreement and pay Canada Post 50 % of the total estimated CMB set up fee by way of a security deposit.
3. Canada Post will invoice the developer for any outstanding balance upon installation of the CMB(s). The developer is expected to notify Canada Post of key project dates, including the anticipated site release date and the first occupancy dates. Any changes in the number of addresses will be reflected in the final invoice and may require an additional payment or a partial refund.

Municipal requirements

1. Canada Post has standardized the language that will be integrated into municipal agreements (see Appendix A).

APPENDIX "3"

2. Please update our office if the project description changes so that we may determine the impact (if any).
3. Should this subdivision application be approved, please provide notification of the new civic addresses as soon as possible.

Developer timeline and installation

1. Please provide Canada Post with the excavation date for the first foundation/first phase as well as the date development work is scheduled to begin. Finally, please provide the expected installation date(s) for the CMB(s).
2. Canada Post will install the concrete pads at each of the identified locations outlined in the attached drawings. The developer will provide access to these sites at the time of installation.

Please see Appendix A for any additional municipal requirements and Appendix B for any specific requirements for this developer.

Regards,

Tony Filice
Delivery Services Officer | Delivery Planning
955 Highbury Ave
London, ON N5Y 1A3
(519) 282-599
anthony.filice@canadapost.ca

APPENDIX "3"

Appendix A

Text to include in Municipality and Developer Agreement:

Quartek Group (D.Romanko) covenants and agrees to provide the **Town of Fort Erie** with evidence that satisfactory arrangements, financial and otherwise, have been made with Canada Post Corporation for the installation of Community Mail Boxes (CMB) as required by Canada Post Corporation and as shown on the approved **engineering design drawings/Draft Plan**, at the time of sidewalk and/or curb installation. Quartek Group further covenants and agrees to provide notice to prospective purchasers of the locations of CMBs and that home/business mail delivery will be provided via CMB, provided Quartek Group has paid for the activation and equipment installation of the CMBs.

Appendix B

Additional Developer Requirements:

- The developer will consult with Canada Post to determine suitable permanent locations for the Community Mail Boxes. The developer will then indicate these locations on the appropriate servicing plans.
- The developer agrees, prior to offering any units for sale, to display a map on the wall of the sales office in a place readily accessible to potential homeowners that indicates the location of all Community Mail Boxes within the development, as approved by Canada Post.
- 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.
- The developer will provide a suitable and safe temporary site for a Community Mail Box until curbs, sidewalks and final grading are completed at the permanent Community Mail Box locations. Canada Post will provide mail delivery to new residents as soon as the homes are occupied.
- The developer agrees to provide the following for each Community Mail Box site and to include these requirements on the appropriate servicing plans:
 - Any required walkway across the boulevard, per municipal standards
 - Any required curb depressions for wheelchair access, with an opening of at least two meters (consult Canada Post for detailed specifications)

APPENDIX "3"

APPENDIX "3"



Draft Plan of Condominium Application No. 350302-081
Mark.Leshchyshyn
to:
mkernahan
11/05/2013 11:05 AM
Hide Details
From: <Mark.Leshchyshyn@HydroOne.com>
To: <mkernahan@town.forterie.on.ca>

Draft Plan of Condominium Application No. [350302-081](#)

We have reviewed the documents concerning the above noted Plan of Condominium Application/Amendment 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' the Owner / Applicant should consult their local area Distribution Supplier.

If you have any questions please call me at the number below.

Thank you.

Dennis De Rango
Specialized Services Team Lead
905-946-6237

APPENDIX "3"

Development & Municipal Services Control Centre
Floor 5, 100 Borough Drive
Scarborough, Ontario
M1P 2K2
Tel: 416-296-6291 Toll-Free: 1-800-743-6284
Fax: 416-296-0520

Bell

July 2, 2013

Town of Fort Erie
Planning Department
1 Municipal Centre Drive
Fort Erie, Ontario
L2A 2S6

RECEIVED

JUL 24 2013

TOWN OF FORT ERIE
Com. Plan. & Dev. Serv

Attention: Matt Kernahan

RE: Draft Plan of Condominium
3129 Niagara River Pkwy
Your File No: 350302-081
Bell File No: 49111

A detailed review of the Draft Plan of Condominium has been completed.

The Developer is hereby advised that prior to commencing any work within the Plan, the Developer must confirm that sufficient wire-line communication/telecommunication infrastructure is currently available within the proposed development to provide communication/telecommunication service to the proposed development. In the event that such infrastructure is not available, the Developer is hereby advised that the Developer may be required to pay for the connection to and/or extension of the existing communication/telecommunication infrastructure. If the Developer elects not to pay for such connection to and/or extension of the existing communication/telecommunication infrastructure, the Developer shall be required to demonstrate to the municipality that sufficient alternative communication/telecommunication facilities are available within the proposed development to enable, at a minimum, the effective delivery of communication/telecommunication services for emergency management services (i.e., 911 Emergency Services).

The following paragraph(s) are to be included as Conditions of Draft Plan of Condominium Approval:

1. The Owner shall agree in the Agreement, in words satisfactory to Bell Canada, to grant to Bell Canada any easements that may be required for telecommunication services. Easements may be required subject to final servicing decisions. In the event of any conflict with existing Bell Canada facilities or easements, the owner/developer shall be responsible for the relocation of such facilities or easements.

APPENDIX "3"

2. Bell Canada requires one or more conduit or conduits of size 1/2 inch or larger from each unit to the room(s) in which the telecommunication facilities are situated and one or more conduits from the room(s) in which the telecommunication facilities are located to the street line.

3. Blanket payment will be required. Please contact Bill McKenzie at 905-641-3270.

Should you have any questions please contact Sushannah Spataro at 416-296-6214.

Yours truly


Lina Raffoul,
Manager - Development & Municipal Services, ON



APPENDIX "3"

District School Board of Niagara

Achieving Success Together

191 Carlton Street, St. Catharines, Ontario L2R 7P4

(905) 641-1550

Fax: (905) 695-8511

NOV 14 2013

TOWN OF FORT ERIE
Com. Plan. & Dev. Serv

November 8, 2013

Mr. Matt Kernahan
Senior Development Planner
Community & Development Services
Town of Fort Erie
1 Municipal Centre Drive
Fort Erie, ON L2A 2S6

Dear Mr. Kernahan:

**RE: Vacant Land of Condominium – River Lea Estates
File No. 350302-081, 350309-0361 & 350303-0016**

The above noted revised vacant land condominium application has been reviewed by planning staff of the District School Board of Niagara. As a result of this review, staff has recommended that the Town of Fort Erie be advised that the Board has no objection to the River Lea Estates plan of condominium.

Currently students from this area are served by Stevensville PS (gr. JK-8), and Fort Erie Secondary School (gr. 9-12).

Yours truly,

A handwritten signature in black ink, appearing to read 'John Stainsby', is written over a large, stylized, handwritten '0' or 'O'.

John Stainsby
Superintendent of Secondary Schools & Planning

APPENDIX "3"



Public Works

Development Services

2201 St. David's Road W, PO Box 1042, Thorold, ON L2V 4T7

Telephone: 905-685-4225 Toll-free: 1-800-263-7215 Fax: 905-687-8056

www.niagararegion.ca

VIA EMAIL ONLY

November 26, 2013

Files: D.11.01.CD- 13-016
D.10.01.OPA-13-020
D.18.01.ZA-13-078

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 Review Comments
River Lea Estates Draft Plan of Vacant Land Condominium
Official Plan and Zoning By-law Amendment
3129 Niagara River Parkway, Owners: Ralph and Anne Piller
Town of Fort Erie**


A Pre-consultation meeting was held on June 13, 2013 with a further meeting on September 12, 2013 at Town Hall in Fort Erie with Town, NPCA, Niagara Parks and Regional staff along with the agent and developer for the proposed development. Regional Development Services staff has reviewed the revised draft plan of condominium prepared by William A. Mascoe Surveying Ltd., dated March 27, 2013, which proposes the creation of 3 new single detached lots and the associated access way on a 2.20 hectare (5.4 acre) parcel of land. The subject lands are currently designated as commercial in the Town's Official Plan and zoned to permit a motel and accessory uses. The accompanying Official Plan and zoning by-law amendment applications propose to designate and rezone the property to rural residential. The following Provincial and Regional comments are provided to assist the Town in considering the applications.

Provincial and Regional Policy

The subject property is outside of the Urban Area Boundary for the Town of Fort Erie according to the Regional Policy Plan and is located within an area designated as Good General Agricultural Area by the Regional Policy Plan, which is a prime agricultural area as defined by the Provincial Policy Statement, 2005 (PPS). The PPS provides that prime agricultural areas are to be protected for long-term use for agriculture. The Regional Policy Plan provides that the predominant use of land in Good General Agricultural Areas is agriculture of all types, including associated value retention uses. Non-agricultural uses are directed to the urban area and should not be located in the agricultural area.

The subject property is currently designated and zoned to permit the existing motel located on the property. The site contains a number of non-agricultural buildings. Regional Plan Policy 12.6 permits the continued operation of legally established uses on agricultural lands. Further, the

APPENDIX "3"


 Regional Policy Plan does not prohibit the reasonable expansion or change in use of legally established uses provided the Urban Area Boundaries are not superseded; the expansion does not involve a major intensification of land use, or result in the intrusion of new incompatible uses; and subject to:

- the need and desirability of the operation;
- regard for environmental, agricultural, and other policies of the Regional Policy Plan;
- compatibility with existing surrounding uses;
- access and servicing requirements being met; and
- no additional municipal services being required.

The property is not likely to be used for agricultural purposes due to its size and previous uses. The proposal to change the use of the property from commercial to residential is not expected to negatively impact the surrounding agricultural lands or other adjacent land uses to any greater extent than the previous commercial use. The removal of the motel use and the introduction of 3 dwelling units will reduce the intensity of the use on the parcel. In addition, discussion with respect to servicing requirements for the proposed development are addressed under the heading "Private Services".

Natural Heritage

A review of the Region's Core Natural Heritage Map shows an Environmental Conservation Area (ECA), which represents the significant woodlands located on the subject property. Further, a small watercourse is located on the rear portion of the property. An updated Environmental Impact Study (EIS) prepared by Quartek Group Inc., dated November 5, 2012, has been submitted with the revised application. 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 and comment on any EIS submitted to address the Region's environmental policies and requirements relating to private sewage.

 It is further noted that the PPS and the Region's Environmental Policies speak to development not having significant adverse impacts on ground water quality and quantity. Regional Policy 7.A.2.9 provides that in areas where development and site alteration could significantly affect ground water quality or quantity further review may be required. A Hydrogeological Study, prepared by Genivar Inc., dated November 2012 was submitted. It is our understanding that an updated Hydrogeological Study was prepared, however, Niagara Region has not received a copy. It is recommended that the Town refer to the comments of the NPCA with regard to any issues regarding ground water that may result from the development.

Private Services

The subject lands are located outside the urban area. The existing dwelling is currently privately serviced and the proposed new dwelling units will also be privately serviced. The Region's Private Sewage staff have reviewed the revised development proposal showing three new lots and have advised that they have no objections provided that the Niagara Peninsula Conservation Authority is satisfied that the portions of the significant woodlands to be removed to accommodate the private sewage systems and spare areas for the units will not have a significant negative impact on the natural heritage feature. Conditions of draft approval relating to private sewage disposal for the proposed lots are requested and listed in Appendix I.

APPENDIX "3"

Storm water Management

A preliminary stormwater management report, prepared by Quartek Group Inc., and dated May 2013, has been submitted with the applications. In accordance with the Memorandum of Understanding and the protocol between the Region and the Niagara Peninsula Conservation Authority (NPCA), the NPCA will identify the need for and conduct technical review of stormwater management plans. In their comments dated July 26, 2013, the NPCA states that no stormwater management controls will be required due to the development's small size.

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 Niagara River. Proximity to a water source is an important indicator for determining archaeological potential. Therefore, an archaeological assessment of the development site appears warranted and is included as a condition of draft approval.

*** Change of Use**

The Province's brownfields legislation/regulation requires that any change to a more sensitive land use (including a residential, institutional or mixed commercial with residential) 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. Therefore, a draft condition with respect to the requirement for a RSC is included Appendix I.

Household Collection of Waste

In order to receive Regional household waste collection, the development must comply with the Region's waste collection requirements. A key requirement is that the roadway system is adequate for waste collection vehicles to access the site without the need to engage in any backup maneuvering. Waste collection for the proposed townhouse units cannot be achieved as the site layout does not provide a drive through road system, or cul-de-sac, or designated 'T' turnaround at the end of the roadway. Therefore, the municipality is encouraged to discuss this matter with the developer in hopes that an alternate layout or curbside collection can be achieved that would permit municipal waste collection. Should no alternate layout be designed, private waste collection by the condominium corporation will be required. A draft condition with respect to waste collection is included in Appendix I.

Conclusion

Regional staff is not opposed to the approval of the draft condominium plan, the proposed official plan amendment and zoning amendment from a Provincial or Regional perspective subject to any local concerns, the comments of the NPCA and subject to the conditions requested in Appendix I.

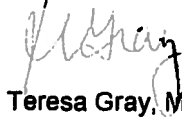
Regional staff has reviewed the draft official plan amendment forwarded by email by the Town on November 22, 2013. The proposed Official Plan amendment is exempt from Regional Council approval in accordance with the Memorandum of Understanding. Please forward notice of Town Council's decision on these applications and a copy of the amendments as adopted for our files.

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If you have any questions, wish to discuss these comments, or require a hard copy, please contact me at extension 3430 or Marilyn Radman, Manager Development Planning at extension 3485. Please send notice of the City's decision with regard to these applications.

Yours truly,



Teresa Gray, MCIP, RPP
Planner

Attachments: Appendix I – Recommended Conditions of Draft Approval

cc: Ms. K. Dolch, MCIP, RPP, Manager of Development Approvals, Town of Fort Erie
Mr. P. Colosimo, MCIP, RPP, Director, Development Services Division, Public Works Dept.
Ms. M. Radman, MCIP, RPP, Manager, Development Planning, Public Works Dept.
Mr. P. Lambert, P. Eng., Manager, Development Engineering, Public Works Dept.
Mr. D. Maddalena, Private Sewage System Inspector, Public Works Dept.
Ms. C. Lampman, Planning Approvals Analyst, NPCA

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APPENDIX "3"

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APPENDIX I

**Recommended Conditions of Draft Approval
River Lea Estates, Draft Plan of Vacant Land Condominium
3129 Niagara River Parkway, Town of Fort Erie**

1. That prior to approval of the final plan, the applicant submit for review and approval to the Niagara Region Public Works Department a detailed engineering and drainage report that describes the storm water management techniques to be incorporated into the condominium. Storm water must be directed away from the sewage system envelopes and an indication must be given as to the proposed methods for controlling and minimizing the effects of storm water on downstream areas during and after construction.
2. That prior to approval of the final plan, the applicant submit for review and approval by Niagara Region Public Works Department the individual lot grading plans providing for a building envelope, a sewage envelope (including spare area) and backyard amenities envelope. The building envelope shall not be less than 370 square metres and the sewage system envelope, including spare area, shall have a minimum area of 2500 square metres. The on-site sewage systems for the proposed lots are based on the installation of conventional sewage systems only, not the use of tertiary treatment units (i.e. Waterloo Biofilter), which are optional. It should also be noted that the leaching beds for this site will be fully raised due to the clay soils (1.2 metres above existing grades). The grading plan, location of the building envelope and the location of the sewage envelope shall meet the approval of Niagara Region Public Works Department and the Niagara Peninsula Conservation Authority.
3. The applicant shall submit on one plan or on a set of transparent overlays, all at the same scale, the following information to the satisfaction of Niagara Region Public Works Department:
 - a) All the proposed lots and their sizes;
 - b) Lot building envelopes, accessory building envelopes and sewage disposal envelopes including 100% spare area;
 - c) The final approved grade plan;
 - d) The final approved drainage plan;
 - e) The staging formula (if applicable);
 - f) The location and type of water supply.
4. That prior to approval of the final plan, the applicant submit to Niagara Region Public Works Department for review and approval the specific septic bed designs and calculations prepared and certified by a professional engineer for each lot in the condominium.
5. That the condominium agreement between the applicant and the Town of Fort Erie contain the following wording:

"A sewage permit is required for the construction of a septic system on any building lot from Niagara Region Public Works prior to any building permit being issued by the municipality."

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6. That the drainage plan required in Condition 1 be implemented (under the supervision of a professional engineer) to the satisfaction of Niagara Region Public Works Department and the Town of Fort Erie.
7. That following completion of any site remediation, if required, the owners shall file a Record of Site Condition (RSC) on the Ministry of the Environment's Brownfields Environmental Site Registry in accordance with Ontario Regulation 153/04 and shall provide the Regional Public Works Department (Development Services Division) and the Town of Fort Erie with a copy of the Ministry's acknowledgement of the filing of the RSC.
8. That no disturbances of the site occur until the Environmental Site Assessment/sols investigation required in accordance with Condition 7 above has been completed. **Note:** The owners should consult with the Ministry of Culture and the Regional Public Works Department (Development Services Division) regarding the appropriate timing for carrying out the studies required under Conditions 7 and 9. If a Phase 2 ESA is to be conducted prior to the archaeological assessment required under Condition 7, the owner's archaeological consultant shall attend on site during any bore holling or other activities that would disturb the site.
9. That the owner submits an archaeological assessment of the subject lands by a licensed archaeologist to the Ministry of Tourism and Culture for review and approval with a copy provided to the Niagara Region Public Works Department (Development Services Division) and that adverse impacts to any significant archaeological resources found on the site be mitigated through preservation or resource removal and documentation. No 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 and Culture through the Niagara Region Public Works Department (Development Services Division), confirming that all archaeological resource concerns have met licensing and resource conservation requirements.
10. That the owner complies with any applicable Regional policies relating to the collection of waste/recycling to the satisfaction of the Regional Development Services Department. Alternatively, if Regional waste collection cannot be achieved the following warning clause shall be included in the development/condominium agreement and inserted in all Agreements of Purchase and Sale or Lease for each dwelling to survive closing:

"Purchasers/Tenants are advised that due to the site layout, waste collection for the development will be provided by the condominium corporation through a private contractor and not the Region."

Clearance of Conditions

Prior to granting final plan approval, the Town of Fort Erie must be in receipt of written confirmation from the following agencies that their respective requirements have been met satisfactorily:

- Regional Municipality of Niagara for conditions 1 to 10
- Niagara Peninsula Conservation Authority for condition 2

APPENDIX "3"

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Condominium Agreement

Prior to final approval for registration, a copy of the executed condominium agreement for the proposed development should be submitted to the Regional Public Works Department for verification that the appropriate clauses have been included. Note: The Regional Public Works 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.

August 1, 2013

RECEIVED

AUG 15 2013

TOWN OF FORT ERIE
Com. Plan. & Dev. Serv

Matt Kernahan, MCIP, RPP
Senior Development Planner
Community and Development Services Department
1 Municipal Centre Drive
Fort Erie, ON L2A 2S6

Dear Sir:

**Re: Town of Fort Erie Request for Comments
Draft Plan of Vacant Condominium
Official Plan and Zoning By Law Amendment
3129 Niagara River Parkway ("River Lea Estates")
Owner: Ralph and Anne Piller
Town File No. 350302-081, 350309-0361, 350303-0016**

The Niagara Parks Commission ("NPC") has reviewed the above-noted application with respect to the property municipally known as 3129 Niagara River Parkway at its' meeting on July 19, 2013. The NPC has no objection to the proposed development of a vacant land condominium that consists of 5 residential lots, being four (4) new single detached homes in addition to the existing dwelling, as shown on the Quartek Group Inc. Draft Plans 10540-SP1 and 10540- DP1 dated April 10, 2013. However, please be advised that the NPC's position in this matter is solely based upon the proposed amendment of the Town's Official Plan and Zoning By-law designation of the property municipally known as 3129 Niagara River Parkway from its existing "Commercial" designation to a new site specific "Rural Residential" designation which will reduce the potential impact of the proposed development on NPC lands, including the Niagara River Parkway and NPC infrastructure, and result in a development more compatible with the NPC's objectives.

Further, we request that you please ensure that the current/future owner(s) and developer(s) are made aware of the fact that the NPC's position concerning this application is also contingent on the satisfaction of all of the following NPC requirements, which shall be the sole financial responsibility of the owner(s) of the property municipally known as 3129 Niagara River Parkway ("subject lands"), and which are to be in place and/or received by the NPC prior to an access permit being granted by the NPC (which is required pursuant to the *Public Transportation and Highway Improvement Act* in order to allow the development to access the Niagara River Parkway in light of the fact that Niagara River Parkway is designated as a "controlled access highway").

1. Registered survey and deed in the name of The Niagara Parks Commission for a 30 foot (9.14m) wide strip of land across the entire frontage of the subject lands. Please note that this conveyance of land to the NPC is to be on terms and in a form satisfactory to the NPC, and will require an Order in Council from the Province to approve the transfer.

APPENDIX "3"

2. Registered documentation on title, in a form satisfactory to the NPC, indicating that the current/future owners of the subject lands shall be responsible for future service road construction costs across the 192.34 ft (58.628m) frontage of the subject lands when the service road is required by the NPC.
3. Intersection and service road improvements and upgrades from the subject lands to the Niagara River Parkway to the satisfaction of the NPC. Please note that specifications of the improvements and service road upgrade details will be made available upon approval of the development application by the Town of Fort Erie.
4. Professional engineer designed and constructed storm drainage infrastructure from the subject lands to the Niagara River, including the outfall. Once constructed an easement for the infrastructure shall be prepared and registered on title by the owner(s) of the subject lands to the satisfaction of the NPC whereby the Town of Fort Erie shall be responsible for maintenance and replacement of the works, including all associated costs. The use of existing NPC storm water ditches or infrastructure for the proposed development is strictly prohibited. Please note that all works on or near the Niagara River requires NPCA approval and/or permits.
5. The owner(s) of the subject lands shall be responsible for all costs to remedy any damage caused to NPC lands and infrastructure, including roadways, as a result of the development. Prior to commencement of construction, the NPC will require that the owner(s) submit an appropriate damage deposit, as determined by the NPC, to cover such costs.
6. No trees or vegetation on NPC lands shall be cut, trimmed or removed without prior NPC Parks Department consultation and approval.
7. NPC roadways shall be kept clear of all mud, dirt and debris at all times.
8. Landscaping and restoration of NPC lands, including grassed areas, shall be completed to the satisfaction of the NPC by the end of the growing season following completion of the works thereon.
9. The owner(s) and developer shall meet on site with NPC staff from the Engineering, Parks and Planning Departments to review the site and proposed construction plan, both prior to plans being finalized and prior to construction, to ensure all NPC requirements are being addressed to the satisfaction of the NPC.

We understand that this application will be considered by the Town at the public meeting scheduled for August 12, 2013. We request that notice be provided to the NPC of the Town's decision in this matter.

Please feel free to contact the undersigned should you have any questions concerning the above.

Yours truly,



David Gillis, MCIP, RPP
Senior Manager, Planning and Properties
DG/nh

RECEIVED

January 6, 2014

JAN 13 2013

TOWN OF FORT ERIE
Com. Plan. & Dev. Serv

Matt Kernahan, MCIP, RPP
Senior Development Planner
Community and Development Services Department
1 Municipal Centre Drive
Fort Erie, ON L2A 2S6

Dear Sir,

**Re: Town of Fort Erie Request for Comments
Official Plan and Zoning By Law Amendment Application
3129 Niagara River Parkway
Town File No. 350302-081, 350309-0361, 350303-0016**

Niagara Parks Commission planning staff understand that the applicant for the above noted application has altered the original plans, reducing the number of new single detached residences from four to three. While the Commission still requires the conditions outlined in our July 31, 2013 letter to you, and provided that the current lands are changed from Commercial to Rural Residential in both the Official Plan and Zoning By Laws, the Commission is willing to forgo the requirement of the applicant paying for possible future service road costs when so required by the Commission.

The Niagara Parks Commission would appreciate a copy of the Committee's decision on this matter.

Yours truly,


David Gillis, MCIP, RPP
Senior Manager, Planning and Properties
DG/nh

cc. Mr R. Piller - 6 Countryside, St Catharines ON L2W 1C3

Mr. Matt Kernahan
Senior Development Planner
Town of Fort Erie
1 Municipal Centre Drive,
Fort Erie, ON, L2A 2S6

MPR 5.3.6

Dear Mr. Kernahan,

**Re: NPCA Response to Request for Comments
River Lea Estates Vacant Land Condominium & Combined Official Plan and Zoning
Bylaw Amendment
Applicant: Dan Romanko, Quartek Group for Owners: Ralph & Anne Pillar
3129 Niagara River Parkway**

The NPCA last provided formal comment on this file on November 27, 2013. In that correspondence the NPCA required that the submitted Draft Report Environmental Impact Study – 3129 Niagara River Parkway, Fort Erie, Ontario (dated November 05, 2013) by Quartek Group, be updated to provide further assessment of the watercourse and Significant Woodland on site to ensure no negative impact to the natural features. Since that time the NPCA has received the Final Report Environmental Impact Study 3129 Niagara River Parkway, Fort Erie, Ontario (dated January 6, 2014) by Quartek Group. The following comments are offered in review of the updated Environmental Impact Study (EIS).

NPCA Comments

The NPCA is satisfied that the revised EIS (Quartek Group, January 6, 2014) adequately addresses potential impacts to the watercourse on site. However, at site plan stage the NPCA will ensure that the proposed future realignment of the watercourse on site is completed in a manner in which it reconnects to a portion of the existing channel within the boundaries of the subject parcel.

Region of Niagara Comments

As per the Memorandum of Understanding the NPCA is to review and provide comments on planning applications as they relate to the Natural Environment the Region's behalf. These comments are provided in that context.

The NPCA is satisfied that the updated EIS (Quartek Group, January 6, 2014) adequately addresses impacts to the Significant Woodland on site. The NPCA will require that the mitigation measures outlined in the EIS are installed. As per Regional Policy 7.B.1.19 as a condition the NPCA will require that a Tree Saving Plan maintaining or enhancing the remaining natural features and ecological functions is prepared by a qualified professional and submitted to the NPCA for review and approval.

Groundwater Vulnerability

As stated in our previous correspondence, the NPCA has no groundwater concerns with the proposed development.

APPENDIX "3"

Storm Water Management

The NPCA will not require any Storm Water Management controls for this development due to its small size.

Conclusion

In conclusion the NPCA has no objection to the Vacant Land Condominium, Official Plan and Zoning By-law Amendment applications, provided that the following conditions are included in the draft plan:

- 1) That a Tree Saving Plan is completed by a qualified professional and submitted for review and approval to the Conservation Authority.
- 2) That an updated plan be circulated to the Conservation Authority which illustrates the proposed future realignment of the watercourse on site is completed in a manner in which it reconnects to a portion of the existing channel within the boundaries of the subject parcel
- 3) That detailed sedimentation and erosion control plans be prepared for this agency's review and approval. All sediment and erosion control 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 detailed grading and drainage plans are prepared for NPCA review and approval. The plans shall ensure the moisture content of the woodlot is preserved.

I trust this information to be satisfactory. Please do not hesitate to contact me should you have any questions or concerns.

Yours truly,



Cara Lampman
Planning Approvals Analyst (ext. 272)

cc: Ms. Teresa Gray, Planner, Regional Municipality of Niagara
Mr. Daniel Romanko, Urban Designer, Quartek Group