

The Municipal Corporation of the Town of Fort Erie

By-law No. 14-2021

**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.48
Jason Pizzicarola- Agent
Frank Kenneth DiCorso– Owner**

0-6489 Nigh Road

350302-0120

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

1. **That** amendment No. 48 to the Official Plan for the Town of Fort Erie consisting of the attached explanatory text is hereby adopted and approved.
2. **That** this by-law shall come into force and take effect on the day of the final passing thereof.
3. **That** the Clerk of the Town of Fort Erie is authorized to effect any minor modifications, corrections or omissions solely of an administrative, numerical, grammatical, semantical or descriptive nature to this by-law or its schedules after the passage of this by-law.

Read a first, second and third time and finally passed this 22nd day of February 2021.

Mayor

Clerk

I, Carol Schofield, the Clerk, of The Corporation of the Town of Fort Erie hereby certify the foregoing to be a true copy of By-law No. 41-2019 of the said Town. Given under my hand and the seal of the said Corporation this ____ day of _____, 20

AMENDMENT NO. 48

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. 48 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. 48 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 facilitate the creation of three building lots to allow the construction of a single-detached dwelling on each lot.

SECTION 3

LOCATION OF THIS AMENDMENT

The lands, which are the subject of this amendment, are located at 0-6489 Nigh 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 subject lands are designated Rural in the Town's Official Plan and current designation permits residential dwellings. The proposal is to create two new building lots and retain the balance of the property for a future single detached dwelling. The lands are not being farmed. The owner wishes to sever the lands to facilitate construction of two new single-detached dwellings. The two new lots will provide an opportunity for the people wishing to construct a single- detached dwelling on a Rural lot in Fort Erie.

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 lands are currently vacant. Rural Residential subdivisions and dwellings are located to the north, northwest, west and east of the subject property. There are several rural dwellings in the surrounding area.

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:

All the three lots will be greater than 1 hectare with Part 1 being 2.6 hectares. The proposal has been reviewed by the Regional Private Sewage System staff and they have no objection to the proposed lot sizes.

A watercourse is located along the westerly portion of Part 1 and Significant Woodlands are located to the south of the subject property. To ensure the Significant Woodlands are not impacted by the proposed development, the applicant is proposing to rezone a 30 metre buffer along the south property line as Environmental Conservation Overlay.

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 which is a municipal road which is paved and municipally maintained. The proposed development will not generate any significant traffic volumes. The existing and proposed dwellings can be adequately serviced with private water systems. The Region has confirmed that the severed and retained lots are adequately sized to accommodate the private sewage systems and will ensure the adequacy of lot sizes for future lots through the requirement for a septic system design to be submitted for each lot at the consent stage.

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

Adjacent uses consist of rural lands, rural residential uses and natural heritage features 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 two additional lots into the area will depreciate adjoining properties.

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

The proposed re-designation of the subject property will not negatively affect the financial position of the municipality as all the works associated with the proposed development are the responsibility of the developer. The proposed residential development will provide the municipality with additional tax base and 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 building lots. One lot will have lot area 2.6 hectares and the remaining two will have a lot area 1.1 hectare and minimum lot frontage of 90 metres each. 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

SCHEDULE "A"



By-law No. 14-2021

**THIS SKETCH FORMS PART OF SCHEDULE "A" TO THE OFFICIAL PLAN
PASSED THIS 22nd DAY OF FEBRUARY, 2021**



Subject Lands - 0-6489 Nigh Road

Appendix "1"



NOTICE OF COMPLETE APPLICATION AND PUBLIC MEETING

Owner: –Frank Kenneth DiCorso

0-6489 Nigh Road

Official Plan and Zoning By-law Amendment Application


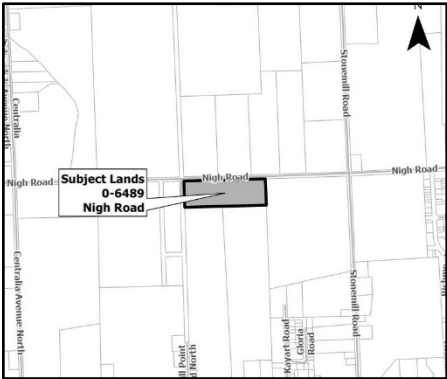

APPLICATION 350309-0471

DATE: January 11, 2021
TIME: 6:00 PM
LOCATION: This will be a virtual meeting



Residents can participate in Zoom Council meetings two different ways:

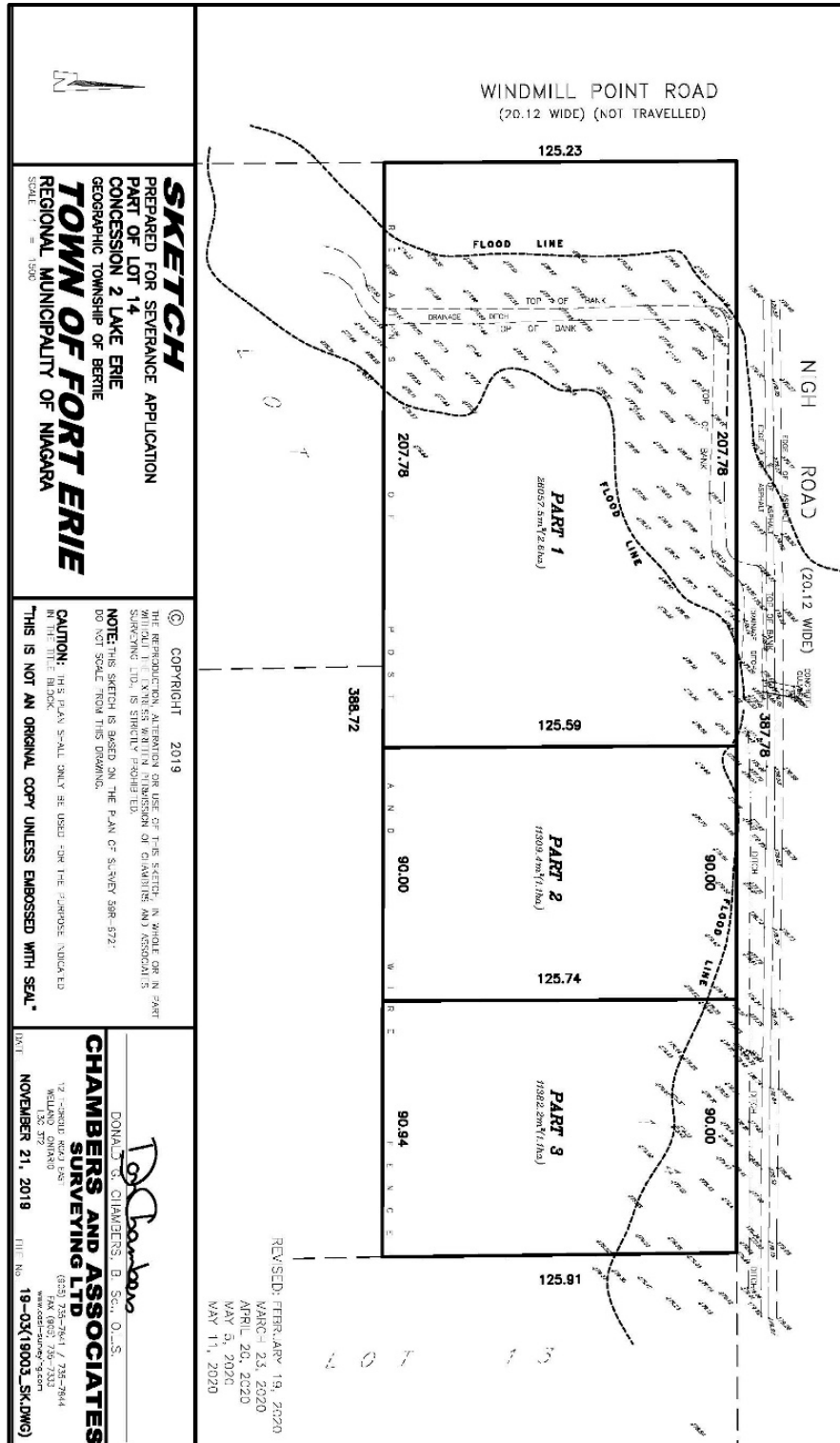
1. Send your comments via e-mail to Anamika Dilwaria, Senior Development Planner (adilwaria@forterie.ca) who will provide them to Council.
2. Participate in the Zoom meeting (audio/video via web or by telephone) by sending an email to Anamika Dilwaria, Senior Development Planner (adilwaria@forterie.ca) to receive information on joining the Zoom meeting.

The Town of Fort Erie Council meeting live webcast will be streamed at www.youtube.com/townofforterie or click on the YouTube icon on the home page of the Town's website (www.forterie.ca).

	<p><u>LOCATION OF SUBJECT LANDS</u></p> 
	<p>An Official Plan and Zoning By-law amendment are requested to facilitate a future severance to create two new residential lots (Survey Sketch attached as Schedule 1) on the lands known as 0 -6489 Nigh Road.</p> <p>The lands are located outside the Urban Area and are currently designated Rural, in part and Environmental Protection, in part, in the Official Plan. The applicant is requesting an amendment to the Official Plan as the proposed lots do not comply with the definition of the infill lots outlined in the Plan. The Official Plan defines an Infilling lot as a “<i>new lot which fronts on a public road and which is situated on the same side of the road and between either an existing dwelling and another existing dwelling or a natural heritage feature or an improved road allowance where the distance between such structures or features is 90 metres or less</i>”.</p> <p>The lands are currently zoned Rural (RU) Zone, in part, Environmental Conservation (EC) Overlay Zone, in part and Hazard (H) Zone, in part, in accordance with the Zoning By-law 129-90. The site-specific RU regulations are requested for a reduction in the minimum lot frontage</p>

Appendix1"

	<p>and minimum lot area requirements of the by-law. The applicant is not proposing any changes to the Environmental Conservation (EC) Overlay Zone and Hazard (H) Zone.</p>
	<p><u>GETTING MORE INFORMATION</u></p> <p>Input on the combined 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.</p> <p>A copy of the Information/Recommendation Report will be available to the public by 5:00 PM on January 6th, 2021. The information/recommendation report will be available in the Council agenda portion of the Town's Web Site: www.forterie.ca or by contacting Anamika Dilwaria, Senior Development Planner.</p> <p><u>CONTACT INFORMATION</u></p> <p>Anamika Dilwaria, MCIP, RPP, Senior Development Planner Planning and Development Services Department Town Hall, 1 Municipal Centre Drive Fort Erie, Ontario L2A 2S6 905-871-1600 ext. 2507 Or by e-mailing your comments to: adilwaria@forterie.ca</p> <p><u>PROVIDING YOUR COMMENTS OR REQUESTING NOTICE OF DECISION</u></p> <p>To provide input in writing, or to request written notice of the decision of the combined Official Plan and Zoning By-law Amendment, please send a letter c/o Carol Schofield, Manager, Legislative Services/Clerk, 1 Municipal Centre Drive, Fort Erie, Ontario, L2A 2S6 or an email to cschofield@forterie.ca</p>
	<p><u>PLANNING ACT LEGAL NOTICE REQUIREMENTS</u></p> <p>The Town of Fort Erie has not yet made a decision regarding this application. After considering any written or oral comments at the public meeting, Council will make a decision. If you disagree with Council's decision on the Official Plan and Zoning By-law Amendment application, you can appeal it to the Local Planning Appeal Tribunal (LPAT).</p> <p>If a person or public body would otherwise have an ability to appeal the decision of the Town of Fort Erie's Municipal Council to the Local Planning Appeal Tribunal but the person or public body does not make oral submissions at a public meeting or make written statements to the Town of Fort Erie before the by-law is passed, the person or public body is not entitled to appeal the decision.</p> <p>If a person or public body does not make oral submissions at a public meeting, or make written submissions to the Town of Fort Erie before the by-law is passed, the person or public body may not be added as a party to the hearing of an appeal before the Local Planning Appeal Tribunal unless, in the opinion of the Tribunal, there are reasonable grounds to do so.</p> <p>For more information about this matter, including information about appeal rights, please send a letter c/o Carol Schofield, Manager, Legislative Services/Clerk, 1 Municipal Centre Drive, Fort Erie, Ontario, L2A 2S6 or an email to cschofield@forterie.ca</p>





Interoffice Memorandum

April 9, 2020
File No. 350309-0471

To: Anamika Dilwaria, Senior Development Planner
From: Jeremy Korevaar, Coordinator, Development Approvals
Subject: **Application for Combined Official Plan and Zoning By-law Amendment -
0-6489 Nigh Road**

On behalf of the Infrastructure Services Department, Engineering Division, I have reviewed the proposed Combined Official Plan and Zoning By-law Amendment for 0-6489 Nigh Road and the supporting documentation and offer the following comments:

1. The development application indicates that the proposed amendment is being requested to facilitate a future severance application to create two new residential lots. The applicant is advised that we have conducted a preliminary review of the proposed severances and the following conditions will be recommended to the Committee of Adjustment:
 - a. Official Plan Section 12.7 designates Nigh Road from Highway No. 3 to Rosehill Road as a Collector Road with a preferred road allowance width of 23.0m. The current road allowance width of Nigh Road is 20.1m, therefore a 1.45m road widening will be required; and
 - b. A Master Lot Grading Plan for the residential lots shall be prepared by an Ontario Land Surveyor and provided for review and approval by the Town.

Given the foregoing comments, I offer no objections to the proposed amendments.

Jeremy Korevaar, C.E.T.
Coordinator, Development Approvals

cc: Tim Marotta, Manager, Engineering Division; Aaron Butler, Manager, Development Approvals; Spencer Pierce, Development Coordinator Technician

APPENDIX "3"



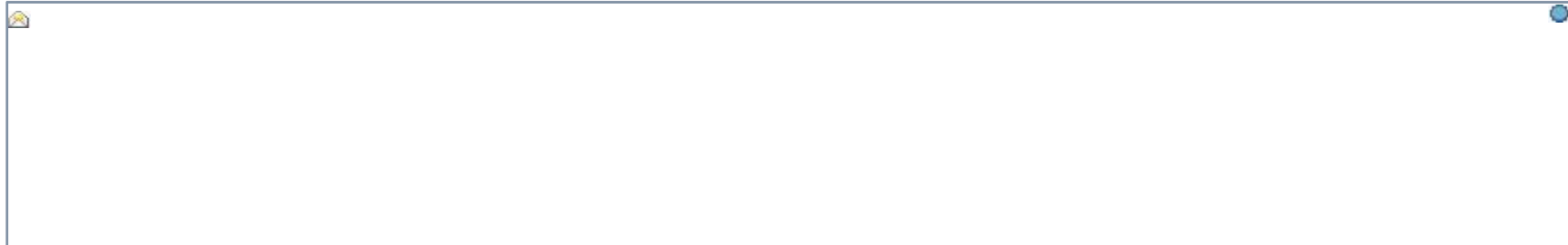
OPA & ZBA- 0 Nigh Road

Keegan Gennings to: Anamika Dilwaria

04/15/2020 09:27 AM

From: Keegan Gennings/FortErie

To: Anamika Dilwaria/FortErie@TownOfFortErie



To: ADilwaria@forterie.ca

Hi Anamika,

I have reviewed the application for the rezoning and official plan amendment for "0" Nigh Road (corner of Windmill Point Road) and have no comments.

Regards,

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

APPENDIX "3"



Re: Request for Comments- OPA & ZBA- 0 Nigh Road



Ed Melanson to: Anamika Dilwaria

04/08/2020 08:50 AM

From: Ed Melanson/FortErie
To: Anamika Dilwaria/FortErie@TownOfFortErie

	Anamika Dilwaria	Anamika Dilwaria	Request for Comments- OPA & ZBA- 0 Nigh Road
	Aaron Butler	Aaron Butler	
	Signe Hansen	Signe Hansen	
	Jeremy Korevaar	Jeremy Korevaar	
	Ed Melanson	Ed Melanson	

To: ADilwaria@forterie.ca

Good morning Anamika,

I have reviewed all of the attachments pertaining to the application for OPA and ZBA. I have no comments, questions or concerns specific to the FPPA, Ontario Fire code or the Fort Erie Fire Department.

Ed Melanson
Fire Chief & CEMC
Fort Erie Fire Department

Office: (905) 871-1600 ext. 2600
Cell: (905) 329-7255





Interoffice Memorandum

April 27, 2020
File No: 350309-471

To: Anamika Dilwaria, Senior Development Planner
From: Signe Hansen, Manager, Community Planning
Subject: **0 Nigh Road - Combined OPA & ZBA Application**

I have no comments relative to the application for an Official Plan Amendment and Zoning By-law Amendment for 0 Nigh Road.

I will have comments, when an application is submitted to sever the property, relative to cash-in-lieu of parkland, a tree inventory and preservation plan, and street trees.

Regards

Signe Hansen, OALA, CSLA, MBA
Manager, Community Planning
/sh

APPENDIX "3"



RE: Fwd: Request for Comments- Combined Official Plan and Zoning By-law Amendment Application - 0 Nigh Road

Jessica Abrahamse to: Jason Pizzicarola

09/10/2020 04:12 PM



Cc: "Anamika Dilwaria"


From: "Jessica Abrahamse" <jabrahamse@npca.ca>

To: "Jason Pizzicarola" <jp@jpdesign.ca>


Cc: "Anamika Dilwaria" <ADilwaria@forterie.ca>

 Cara Lampman

 Anamika Dilwaria 

Cara Lampman 

Jason Pizzicarola

 Jessica Abrahamse

Hi Jason,

Please find the following comments regarding the cut and fill:

The NPCA has reviewed the 'Review Letter of Lot Grading - Proposed Severance' (stamped Aug. 26, 2020) by Robert E. Dale Limited. The NPCA requires that the section locations referred to in the calculations be indicated on the grading plan. Please revise accordingly.

Also noted - Nigh Road is overtopped by the 100 year flood elevation of 179.35m. It appears that the road has more than 300mm of flooding across the entire frontage of Part 2 and most of Part 3. As such, it will also be required to be demonstrated that safe access can be provided pursuant to NPCA policies.

With Best Regards,

Jessica Abrahamse M.E.S.
Watershed Planner

APPENDIX "3"

250 Thorold Road West, 3rd Floor
Welland, On
L3C 3W2
(905) 788-3135 Ext. 235
jabrahamse@npca.ca
www.npca.ca
[NPCA Mapping Tool](#)

Thank you for your email. Due to the COVID-19 pandemic, the NPCA has taken measures to protect staff and public while providing continuity of services. NPCA enforcement, permitting and planning functions are continuing to operate, however there may be delays in receiving responses to inquiries or complaints due to staff restrictions and remote work locations. Updates with regards to NPCA operations and activities can be found on our website at www.npca.ca/our-voice, the NPCA Facebook page at <https://www.facebook.com/NPCAOntario> and on Twitter at https://twitter.com/NPCA_Ontario.

For more information on Permits, Planning and Forestry please go to the Permits & Planning webpage at <https://npca.ca/administration/permits>.

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

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

From: Jason Pizzicarola <jp@jpdesign.ca>
Sent: August 27, 2020 3:25 PM
To: Steve Miller <smiller@npca.ca>; Jessica Abrahamse <jabrahamse@npca.ca>
Cc: Anamika Dilwaria <ADilwaria@forterie.ca>; Kira Dolch <KDolch@forterie.ca>; fdicorso@gmail.com
Subject: RE: Fwd: Request for Comments- Combined Official Plan and Zoning By-law Amendment Application - 0 Nigh Road

Hi Steve and Jessica,
The civil engineer has prepared the attached document for the cut and fill as discussed with Cara Lampman.
Please let me know if this will suffice for the severances. If you have any questions regarding the report you can reach out to Geoff Dale at REDale directly.
Regards,
Jason

From: Cara Lampman <clampman@npca.ca>
Sent: Thursday, May 21, 2020 8:41 AM

APPENDIX "3"

To: Jason Pizzicarola <jp@jpdesign.ca>; Anamika Dilwaria <ADilwaria@forterie.ca>

Subject: RE: Fwd: Request for Comments- Combined Official Plan and Zoning By-law Amendment Application - 0 Nigh Road

Hi Jason,

The NPCA has reviewed the survey sketch and is satisfied that it is accurate. However, I did reach out to the Town to discuss the application as based on the updated floodlines the NPCA is not in a position to support the proposed lot creation.

NPCA and Provincial Policy Statement do not allow lot creation within a flood hazard. Additionally safe access needs to be confirmed to all lots and the NPCA will require the floodplain in its entirety be zoned to Hazard to limit all future development and site alteration within its boundaries.

There may be an opportunity for a cut and fill to bring the lands along the road above the floodplain elevation but that will require an Engineering Report and calculations.

I am happy to set up a zoom meeting to discuss further if you think that would be helpful.

Cara Lampman
Senior Watershed Planner
Niagara Peninsula Conservation Authority (NPCA)
250 Thorold Road West, 3rd Floor | Welland, ON L3C 3W2
Tel: 905-788-3135 | extension 272
cllampman@npca.ca
www.npca.ca

Thank you for your email. Due to the COVID-19 pandemic, the NPCA has taken measures to protect staff and public while providing continuity of services. NPCA enforcement, permitting and planning functions are continuing to operate, however there may be delays in receiving responses to inquiries or complaints due to staff restrictions and remote work locations. Updates with regards to NPCA operations and activities can be found on our website at www.npca.ca/our-voice, the NPCA Facebook page at <https://www.facebook.com/NPCAOntario> and on Twitter at https://twitter.com/NPCA_Ontario.

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

APPENDIX "3"

<https://npca.ca/administration/permits>.

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

From: Steve Miller <smiller@npca.ca>

Sent: May 6, 2020 2:55 PM

To: Cara Lampman <clampman@npca.ca>

Subject: RE: Fwd: Request for Comments- Combined Official Plan and Zoning By-law Amendment Application - 0 Nigh Road

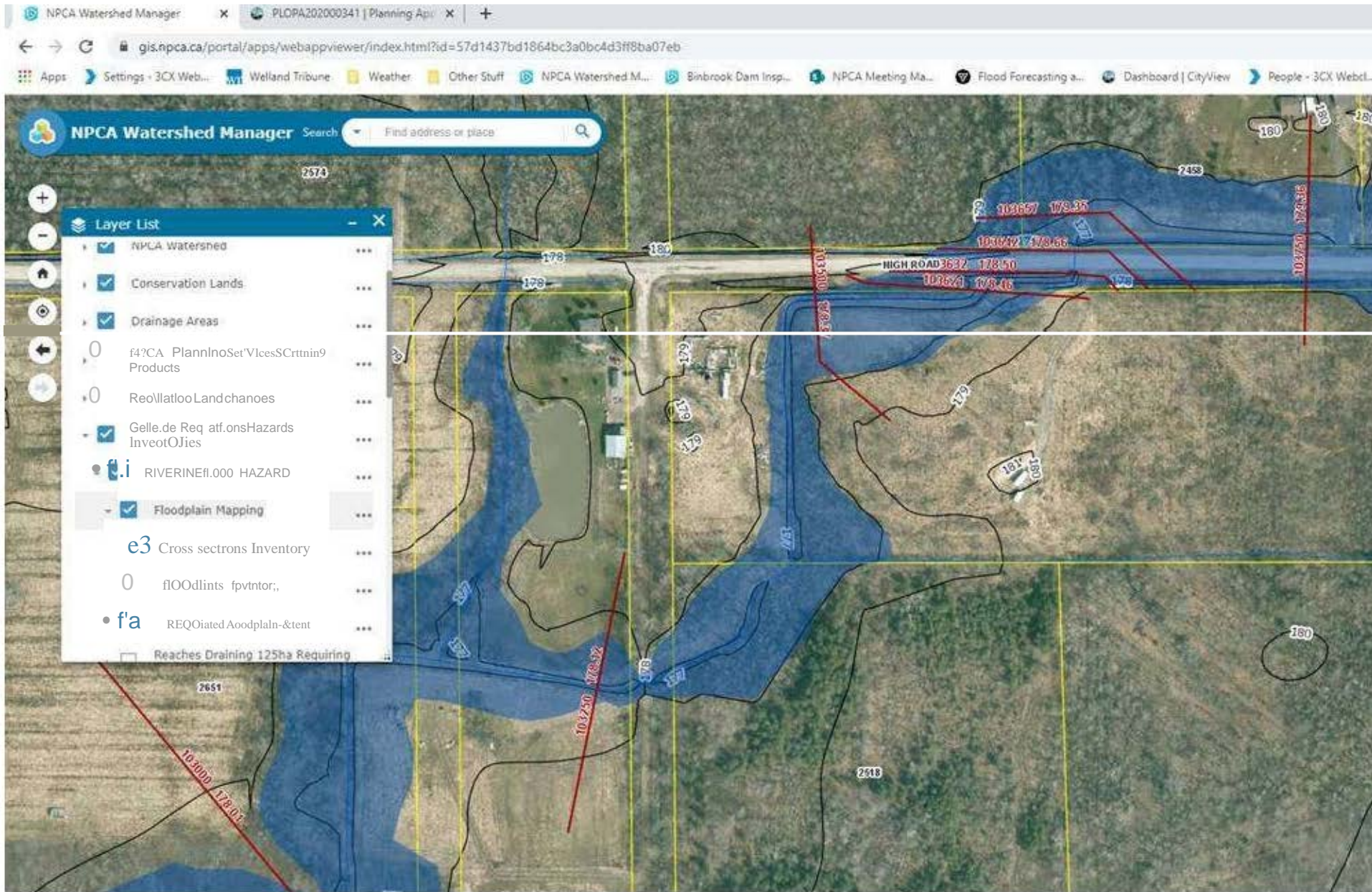
Hey Cara;

The 100 year flood elevation is not shown correctly across the frontage of Parts 2 and 3. The flood elevation should be 179.36m here. The flood elevation of 178.46m appears to be shown correctly across the frontage of Part 1.

As such, the topo survey needs to be revised.

Cheers!

APPENDIX "3"



APPENDIX "3"



Steve Miller, P.Eng.
Senior Manager, Water Resources
Niagara Peninsula Conservation Authority
250 Thorold Road West, 3rd Floor
Welland, Ontario. L3C 3W2
Tel: 905-788-3135 x 231
smiller@npca.ca
www.npca.ca

From: Cara Lampman <clampman@npca.ca>
Sent: May 6, 2020 8:10 AM
To: Steve Miller <smiller@npca.ca>
Subject: FW: Fwd: Request for Comments- Combined Official Plan and Zoning By-law Amendment Application - 0 Nigh Road

Hi Steve,

Please see the updated survey for the proposed lot creation on Nigh Road in Fort Erie and advise if it is sufficient. The related Cityview File is PLOPA202000341

Cara Lampman
Senior Watershed Planner
Niagara Peninsula Conservation Authority (NPCA)
250 Thorold Road West, 3rd Floor | Welland, ON L3C 3W2
Tel: 905-788-3135 | extension 272
clampman@npca.ca
www.npca.ca

Thank you for your email. Due to the COVID-19 pandemic, the NPCA has taken measures to protect staff and public while providing continuity of services. NPCA enforcement, permitting and planning functions are continuing to operate, however there may be delays in receiving responses to inquiries or complaints due to staff restrictions and remote work locations. Updates with regards to NPCA operations and activities can be found on our website at www.npca.ca/our-voice, the NPCA Facebook page at

APPENDIX "3"



RE: Fwd: Request for Comments- Combined Official Plan and Zoning By-law Amendment Application - 0 Nigh Road

Jessica Abrahamse to: Anamika Dilwaria

10/13/2020 03:55 PM

Cc: "David Deluce"

From: "Jessica Abrahamse" <jabrahamse@npca.ca>

To: "Anamika Dilwaria" <ADilwaria@forterie.ca>

Cc: "David Deluce" <ddeluce@npca.ca>

History: This message has been replied to.

	Jason Pizzicarola	Jason Pizzicarola
	Cara Lampman	Cara Lampman
	Anamika Dilwaria	Anamika Dilwaria
	Cara Lampman	Cara Lampman
	Jason Pizzicarola	Jason Pizzicarola

Hi Anamika,

Upon internal discussion, the question of access of Nigh Road (for the new proposed lots) can be mitigated if the Town of Fort Erie is comfortable to take the responsibility for emergency access to the proposed subject lots. The below condition still holds for the changes requested to the grading plan.

Please let me know if you have any questions,

With Best Regards,

Jessica Abrahamse M.E.S.
Watershed Planner

250 Thorold Road West, 3rd Floor

APPENDIX "3"

Welland, On
L3C 3W2
(905) 788-3135 Ext. 235
jabrahamse@npca.ca
www.npca.ca
[NPCA Mapping Tool](#)

Thank you for your email. Due to the COVID-19 pandemic, the NPCA has taken measures to protect staff and public while providing continuity of services. NPCA enforcement, permitting and planning functions are continuing to operate, however there may be delays in receiving responses to inquiries or complaints due to staff restrictions and remote work locations. Updates with regards to NPCA operations and activities can be found on our website at www.npca.ca/our-voice, the NPCA Facebook page at <https://www.facebook.com/NPCAOntario> and on Twitter at https://twitter.com/NPCA_Ontario.

For more information on Permits, Planning and Forestry please go to the Permits & Planning webpage at <https://npca.ca/administration/permits>.

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

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

From: Jessica Abrahamse
Sent: September 10, 2020 4:13 PM
To: Jason Pizzicarola <jp@jpdesign.ca>
Cc: Anamika Dilwaria <ADilwaria@forterie.ca>
Subject: RE: Fwd: Request for Comments- Combined Official Plan and Zoning By-law Amendment Application - 0 Nigh Road

Hi Jason,

Please find the following comments regarding the cut and fill:

The NPCA has reviewed the 'Review Letter of Lot Grading - Proposed Severance' (stamped Aug. 26, 2020) by Robert E. Dale Limited. The NPCA requires that the section locations referred to in the calculations be indicated on the grading plan. Please revise accordingly. Also noted - Nigh Road is overtopped by the 100 year flood elevation of 179.35m. It appears that the road has more than 300mm of flooding across the entire frontage of Part 2 and most of Part 3. As such, it will also be required to be demonstrated that safe access can be provided pursuant to NPCA policies.

APPENDIX "3"



RE: Fwd: Request for Comments- Combined Official Plan and Zoning By-law Amendment Application - 0 Nigh Road

Jessica Abrahamse to: Anamika Dilwaria

12/10/2020 04:18 PM

From: "Jessica Abrahamse" <jabrahamse@npc.ca>

To: "Anamika Dilwaria" <ADilwaria@forterie.ca>

	Jason Pizzicarola	Jason Pizzicarola
	Anamika Dilwaria	
	Cara Lampman	
	Jason Pizzicarola	
	Jessica Abrahamse	

Hi Anamika,

Please find the attached mapping of the subject property. Here is a description of the features on the subject property:

- ☐ A regulated watercourse part of Six Mile Creek and mapped floodplain 178.37m & 178.46m GSC are the elevations
- ☐ A Provincially Significant Wetland Buffer part of the Six Mile Creek Wetland Complex, however the NPCA can waive requirements for a work permit within this area as the road has fragmented and disturbed the buffer to the point that it is no longer required.
- ☐ A regulated watercourse and 15m buffer on either side towards the bottom portion of the lot

A 15m buffer on either side of each regulated watercourse is required, any works encroaching within 15m on either side will require a NPCA work permit. Let me know if you have any questions or require further information for your council meeting

With Best Regards,

Jessica Abrahamse M.E.S.
Watershed Planner

APPENDIX "3"

250 Thorold Road West, 3rd Floor
Welland, On
L3C 3W2
(905) 788-3135 Ext. 235
jabrahamse@npca.ca
www.npca.ca
[NPCA Mapping Tool](#)

Thank you for your email. Due to the COVID-19 pandemic, the NPCA has taken measures to protect staff and public while providing continuity of services. NPCA enforcement, permitting and planning functions are continuing to operate, however there may be delays in receiving responses to inquiries or complaints due to staff restrictions and remote work locations. Updates with regards to NPCA operations and activities can be found on our website at www.npca.ca/our-voice, the NPCA Facebook page at <https://www.facebook.com/NPCAOntario> and on Twitter at https://twitter.com/NPCA_Ontario.

For more information on Permits, Planning and Forestry please go to the Permits & Planning webpage at <https://npca.ca/administration/permits>.

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

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

From: Anamika Dilwaria <ADilwaria@forterie.ca>
Sent: December-09-20 2:19 PM
To: Jessica Abrahamse <jabrahamse@npca.ca>
Subject: RE: Fwd: Request for Comments- Combined Official Plan and Zoning By-law Amendment Application - 0 Nigh Road
Importance: High

Hi Jessica,

Can we have a quick chat about Nigh Road property sometime today.

Thanks

Thanks,

Anamika Dilwaria, M.A, M.Pl., MCIP, RPP
Senior Development Planner, Planning and Development Services
The Corporation of the Town of Fort Erie

APPENDIX "3"

Re: OPA and ZBA Application - 0 Nigh Road - File No 350309-0471 






Robert Kirk to: Anamika Dilwaria

10/28/2020 08:59 AM

From: Robert Kirk/FortErie

To: Anamika Dilwaria/FortErie@TownOfFortErie

History: This message has been replied to.


	Robert Kirk
	Robert Kirk
	Robert Kirk
	Robert Kirk
	Anamika Dilwaria

ADilwaria@forterie.ca

Hey Anamika,

We can still access the property even if the road is flooded.

Thanks,
Robert

 Anamika Dilwaria---10/27/2020 04:46:25 PM---Hi Robert and Jeremy, An application for a combined Official Plan and Zoning By-law application was

From: Anamika Dilwaria/FortErie

To: Robert Kirk/FortErie@TownOfFortErie, Jeremy Korevaar/FortErie@TownOfFortErie

Date: 10/27/2020 04:46 PM

Subject: OPA and ZBA Application - 0 Nigh Road - File No 350309-0471

APPENDIX "3"

Hi Robert and Jeremy,

An application for a combined Official Plan and Zoning By-law application was circulated for comments on April 20, 2020. The applicant was proposing to create two additional lots.

During the review process Niagara Peninsula Conservation Authority outlined in their comments that they would not be able to support the application as Nigh Road is overtopped by the 100 year flood elevation of 179.35m. It appears that the road has more than 300mm of flooding across the entire frontage of the proposed lots. As such, NPCA wanted to ensure that safe access can be provided pursuant to NPCA policies.

However, since then NPCA has revised their comments to mention that NPCA has no issue with the proposed OPA and ZBA application, if Town staff is comfortable to take the responsibility for emergency access to the proposed lots.

My question to you is - Can you confirm if Nigh Road is flooded emergency services can still access the subject property?

I have attached a copy of the site plan showing the proposed lot. It would be greatly appreciated if you can provide your comments by Friday, October 30, 2020

Thanks

Anamika Dilwaria, M.Pl., MCIP, RPP
Senior Development Planner, Planning and Development Services
The Corporation of the Town of Fort Erie
1 Municipal Centre Drive
Fort Erie, Ontario L2A 2S6
TEL: 1-905-871-1600 ext.2507
E-mail-adilwaria@forterie.ca

[attachment "19003_SK SKETCH.pdf" deleted by Robert Kirk/FortErie]

Planning and Development Services

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

Via Email Only

May 1, 2020

File No.: D.10.01. OPA-20-0008, D.18.01 ZA-20-0022

Ms. Anamika Dilwaria, MCIP, RPP
Senior Development Planner
Town of Fort Erie
1 Municipal Centre Drive
Fort Erie, ON L2A 2S6

Dear Ms. Dilwaria

**Re: Regional and Provincial Comments
Official Plan and Zoning By-law Amendment
Applicant: Frank DiCorso
Agent: Jason Pizzicarola
0 Nigh Road, SS Nigh Road, East of Windmill Point Road
Town of Fort Erie**

Regional Development Services staff has reviewed the information circulated for the subject applications. Currently, the lands are designated Rural and Environmental Protection. The lands are zoned Rural (RU), Environmental Conservation (EC) Overlay and Hazard (H). The Official Plan amendment is requested because the proposed lots do not comply with the definition of infill lots as outlined in the plan. The Zoning By-law amendment application is requested to add site-specific regulations to the existing RU zone to facilitate future severances to create two residential lots. The current Hazard (H) zone and Environmental Conservation (EC) Overlay Zone are to be maintained with no proposed changes.

A formal pre-consultation meeting was held for this application on May 24, 2018 at Fort Erie Town Hall. The application and associated fees were received on April 7, 2020. The following comments are provided from a Regional and Provincial perspective to assist the Town in considering this application.

Provincial and Regional Policies

The subject property is located outside of the Urban Area Boundary for the Town of Fort Erie, and within the Rural Area according to the Provincial Policy Statement (PPS). Provincial policy states that limited residential development may be directed to rural

lands provided the development is locally appropriate, does not adversely affect the viability of agricultural uses, is compatible with the rural landscape and can be sustained by rural services.

The 2019 Growth Plan for the Greater Golden Horseshoe (Growth Plan) states that Provincial mapping of the Agricultural System for the Greater Golden Horseshoe does not apply until it has been implemented in applicable upper-tier and single-tier Official Plans. Until that time, Prime Agricultural areas identified in upper- and single-tier Official Plans that were approved and in effect as of July 1, 2017 will be considered the agricultural land base for the purposes of this Plan. Provincial mapping of the Provincial Natural Heritage System for the Growth Plan does not apply until implemented in the applicable upper-tier and single-tier Official Plans. Until that time, Growth Plan Natural Heritage System policies apply outside settlement areas to the Natural Heritage Systems identified in Official Plans that were approved and in effect as of July 1, 2017.

The subject lands are designated Rural in the Regional Official Plan (ROP), which was approved prior to July 1, 2017. The predominant use of lands in the Rural Area is for agriculture. ROP policy allows for some non-farm development, including non-farm residential development, within the Rural Area that will be subject to detailed regulations by the area municipality. In order to mitigate the cumulative impact of continuous introduction of non-farm development outside settlement areas, the long-term pattern and character of future rural development is to be carefully considered. ROP policy stipulates that rural residential development is to retain desirable natural features and vegetation and may also make provision for the enhancement of the site. In addition, it must be suitable to the physical characteristics of the site and provide suitable soil and drainage conditions that will permit the proper siting of buildings and the supply of potable water and installation of long-term operation of sanitary waste disposal.

The proposed Official Plan and Zoning By-law amendment is to facilitate the future severance of two lots that generally meets the intent of Regional policy.

Core Natural Heritage System

The subject lands are mapped identifying Significant Woodlands and Fish Habitat as key natural heritage features and as such, the Growth Plan NHS policies apply. Growth Plan policies typically require the completion of a Natural Heritage Evaluation (NHE) when development (which includes lot creation) and/or site alteration is proposed within 120 metres (m) of key features. Regional policies similarly require the completion of an Environmental Impact Study (EIS) when development and/or site alteration is proposed within 50 m of Significant Woodland and 30 m of Fish Habitat.

The purpose of the NHE/EIS is to demonstrate:

- no negative impact on the key features or their ecological functions;
- maintain and where possible, enhance the connectivity between key features located within 240 m of each other;

- ensure that the disturbed area, including any buildings and structures, will not exceed 25% of the total developable area, and impervious surfaces will not exceed 10%; and
- where possible, avoid the removal of other natural features not identified as a key feature.

Growth Plan policies also require that the NHE/EIS establish a minimum 30 m Vegetation Protection Zone (VPZ) measured from the outside boundary of certain key features including woodlands and watercourses, that is to be maintained as natural, self-sustaining vegetation. Natural, self-sustaining vegetation is defined as “*vegetation dominated by native plant species that can grow and persist without direct human management, protection, or tending*”. Development and/or site alteration is not permitted within key features or their VPZ.

Given the history of this application, Environmental Planning staff agreed to accept the submission of a Landscape Planting Plan, in lieu of the requirement for a NHE/EIS, to confirm the establishment of a 30 m VPZ along the southern edge of the subject lands (adjacent to the Significant Woodland). The Landscape Planting Plan was required to identify and illustrate the location of additional native trees, shrubs and/or groundcover that would be planted to establish the required 30 m VPZ. Alternatively, if there was a 30 m VPZ currently established that met the Growth Plan VPZ definition, Regional staff requested the submission of an assessment of the existing vegetation within the 30 m VPZ to confirm the intent of Growth Plan policies would be met.

Regional Environmental Planning staff have reviewed the Landscape Planting Plan prepared by Jamie Douglas Landscape Architecture, dated March 25, 2020, and are not satisfied that the establishment of the 30 m VPZ has been adequately addressed. Within the Landscape Notes included on the Plan, it states that “the existing vegetation is naturally progressing in growth stages from young saplings to older trees and will be allowed to migrate into the VPZ”. Staff acknowledge that species may migrate into this area in the long term, but are not satisfied that there is sufficient native vegetation currently established within the VPZ. As such, an updated Landscape Planting Plan is requested for Regional review and approval, which may be submitted as part of future planning applications. It is noted that staff will specifically be looking for the updated Plan to identify and illustrate the location of additional native vegetation to be planted that complements the existing vegetation communities directly adjacent to the property. The updated Plan should include dense plantings to prevent invasive species from establishing and consider the use of thorny species to discourage human encroachment into the protection zone.

Environmental Planning staff offer no objections to the Official Plan and Zoning By-law amendments provided the 30 m VPZ is placed in an appropriately restrictive environmental zone, such as the Town’s Environmental Conservation Overlay Zone.

Archaeology

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

The subject land is identified as having high archaeological potential based on the Ministry of Heritage, Sport, Tourism and Culture Industries (MHSTCI) Criteria for Evaluating Archaeological Potential and the Town of Fort Erie's Archaeological Master Plan. A Stage 1-2 Archaeological Assessment prepared by Detritus Consulting Ltd., dated October 16, 2019, was submitted with the application. The Stage 2 Assessment resulted in the identification of no archaeological resources, and the Licensed Archaeologist recommends no additional archaeological assessment.

Regional Staff will require a copy of the acknowledgment letter confirming that all archaeological concerns have been addressed to the satisfaction of the Ministry of Heritage, Sport, Tourism and Culture Industries prior to passage of the amending by-law.

Servicing Comments

Niagara Region Private Sewage System staff has reviewed the documents submitted for the proposed applications. Staff note that the proposed lot configuration submitted with the applications reflects three parcels all greater than 1 ha in area with one of the parcels being 2.6 ha. Generally, Private Sewage System staff have no objection to the lot sizes proposed by the Official Plan and Zoning By-law amendments and note that more detailed comments will be provided through the future consent applications.


Conclusion

In conclusion, the proposed Zoning By-law Amendment generally aligns with the intent and direction of Provincial and Regional policies, subject to local requirements. Regional staff request that the 30 m VPZ be rezoned as Environmental Conservation Overlay and provided a copy of the acknowledgment letter from the Ministry of Heritage, Sport, Tourism and Culture Industries is received, Regional staff has no concerns with the application.

Should you have any questions concerning the above noted comments, or if you would like a hard copy of the comments, please do not hesitate to contact me at 905-980-6000 extension 3518 or by email at lola.emberson@niagararegion.ca. Please send notice of Council's decision on this application.

May 1, 2020

Respectfully,



Lola Emberson, MCIP, RPP
Senior Development Planner

cc: Ms. S.Dunsmore, P.Eng., Manager of Development Engineering, Niagara Region
Mr. A. Butler, MCIP, RPP, Manager, Development Approvals, Fort Erie
Mr. A. Boudens, Senior Environmental Planner/Ecologist, Niagara Region

Mayor Redekop requested that staff bring the Applicant or Agent in to participate in the meeting.

Jason Pizzicarola, Agent, was present to speak on behalf of the Application.

Mr. Pizzicarola advised that he believes this is an excellent project for the downtown core as it will bring more density. He added that the more residential density there is, the more successful the area's businesses will be, that developing a seniors housing project is ideal in the downtown core. There are already several amenities; a doctor's office, coffee shop, restaurants, a bookstore, and a park. Mr. Pizzicarola added that increasing the development from 3 stories to 5 stories achieves many requirements in the Zoning By-law; the building will be situated at the front of the lot, not to see the parking, meets parking requirements, and does not create shadows.

Mayor Redekop enquired whether there were any members of the public in the waiting room who wish to speak in favour of the Application.

(a) Vince Salvatore, 31 Jarvis Street

Mr. Salvatore advised that he is a member of the Bridgeburg Business Improvement Area, and he supports the development. Mr. Salvatore noted that the development would be a vital asset to the area, help bring in other businesses, and encourage future growth.

Mayor Redekop enquired if any members of the public wished to speak in opposition to the Application or ask questions.

No members of the public came forward.

Mayor Redekop declared the Public Meeting closed.

(b) Proposed Official Plan & Zoning By-law Amendment

Re: 0-6489 Nigh Road - Owner - Frank Kenneth DiCorso - Agent - Jason Pizzicarola. The amendments are requested to facilitate a future severance to create two new residential lots. The property is currently designated Rural, in part, and Environmental Protection, in part, in the Official Plan, and zoned Rural (RU) Zone, in part, Environmental Conservation (EC) Overlay Zone, in part, and Hazard (H) Zone, in part. The site-specific RU regulations are requested for a reduction in the

minimum lot frontage and minimum lot area requirements of the by-law. The applicant is not proposing any changes to the Environmental Conservation (EC) Overlay Zone and Hazard (H) Zone.

Ms. Dilwaria, Senior Development Planner, delivered a PowerPoint Presentation which is available for viewing on the Town's website.

Ms. Dilwaria confirmed the statutory requirements for the Public Meeting were met, summarized the purpose of the Application, and public comments received.

Mayor Redekop requested that staff bring the Applicant or Agent in to participate in the meeting.

Jason Pizzicarola, Agent, was present to speak on behalf of the Application.

Mr. Pizzicarola advised that the property owner wishes to build a house for himself, closest to the creek, and then sever two parcels. Mr. Pizzicarola stated that there was a lot of work required for this proposal, including environmental impact studies, archaeological studies, and civil engineering.

Mayor Redekop enquired whether there were any members of the public in the waiting room who wish to speak in favour of the Application.

No members of the public came forward.

Mayor Redekop enquired if any members of the public wished to speak in opposition to the Application.

No members of the public came forward.

Mayor Redekop declared the Public Meeting closed.

7. Consent Agenda Items

(a) None.

8. Planning and Development Services

Chaired by Councillor Dubanow.