

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

## **By-law No. 63-2023**

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**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. 70  
3011 Point Abino Road North  
Matthew Erickson & Kelsey Sutherland - Owners**

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**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, c. P.13 enacts as follows:**

1. **That** amendment No. 70 to the Official Plan for the Town of Fort Erie consisting of the attached explanatory text and mapping 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 affect 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 24<sup>th</sup> day of April, 2023.**

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**Mayor**

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**Clerk**

I, Carol Schofield, Clerk of The Corporation of the Town of Fort Erie, certify the foregoing to be a true copy of By-law No. 63-2023 of the said Town. Given under my hand and the seal of the said Corporation, this       day of       , 20   .

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**AMENDMENT NO. 70**

**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. 70 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. 70 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 the subject lands shown on Schedule "A" attached hereto from "Agricultural" to "Site Specific Policy Area 46 - 3011 Point Abino Road North" to facilitate the development of an accessory apartment dwelling within a detached accessory building.

### **SECTION 3**

#### **LOCATION OF THIS AMENDMENT**

The lands, which are the subject of this amendment, are municipally known as 3011 Point Abino Road North and are located on the corner of Point Abino Road North and College 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:**

There is a need in the Town of Fort Erie for the provision of additional dwelling units. This proposal will result in the creation of one additional dwelling unit on an Agricultural parcel.

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

Currently, the subject property is partially used for residential purposes (approximately 64% of the lot area) and for agricultural purposes (approximately 36% of the lot area). The portion used for residential purposes is adequately sized to accommodate the existing main dwelling and the proposed accessory building with an accessory apartment including private septic systems and water supply. The proposed building will not impact the agricultural operations on the property as it is located on the portion of the property already being used for residential purposes.

**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 property is well suited for addition of an accessory building with an accessory apartment. Preliminary septic system review by Niagara Region has confirmed that the property is large enough to accommodate a new septic system for the proposed building and that the existing septic system for the main dwelling is also functioning sufficiently. The proposed accessory building with an accessory apartment will be located within the portion of the property already being used for residential purposes and will not impact the agricultural operation on the south of the property. Finally, the proposed building complies with all of the zoning regulations in the Agricultural (A) Zone.

Circulation of Niagara Region and the Niagara Peninsula Conservation Authority have indicated that there are no significant natural features on the subject lands.

**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 is located on the corner of Point Abino Road North and College Road. The proposed accessory building with an accessory structure will have entrance onto Point Abino Road North, a municipal arterial road. Point Abino Road North provides ready access to Netherby Road/Regional Road 25 to the north and Garrison Road/Provincial Highway 3 to the south. The proposed building will be located a considerable distance away from the Point Abino Road North/College Road intersection and no conflicts with the intersection are anticipated to result from this proposal.

As part of planning process Niagara Region conducted a private septic system inspection and review. Region staff have confirmed that the existing septic system for the existing main dwelling is functioning well. There were also no objections to the proposed septic system that will provide septic service to the accessory building with an accessory apartment. Both the existing main dwelling and the proposed accessory building with an accessory apartment are to be serviced with separate private water supply (a well or cistern).

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

The proposed development will be compatible with surrounding land uses. The surrounding area is a mixture of existing single detached dwellings on agricultural parcels and land being used for agricultural purposes. The proposed building has been confirmed to exceed the setback requirement under Provincial Minimum Distance Separation (MDS I) requirements from the nearest livestock building.

**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:**

No depreciating or deteriorating impacts to adjacent parcels are anticipated. The proposed use is low impact and similar to other existing residential uses in the area.

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

This proposal will improve the financial position of the Town through long-term collection of property taxes from the subject property. A modest increase in property value is anticipated to result from the construction of the proposed building.

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

The subject property is not impacted by any natural heritage features identified in the Town's Official Plan or the new Niagara Official Plan. The property is also not within or area regulated by the Niagara Peninsula Conservation Authority (NPCA). No negative impacts to

the intent or implementation of regulations of the *Environmental Protection Act* will result from this proposal.

## **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. 70 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 as Part 1 on Schedule "A" attached hereto are hereby redesignated to:

### **Site Specific Policy Area 46 - 3011 Point Abino Road North**

1. The subject lands shall generally be governed by the Agricultural policies of Section 4.5 of the Official Plan.
2. Notwithstanding the accessory apartment provisions of Section 4.5.2 VII of the Official Plan an accessory apartment dwelling with a floor area of 55.00 sq m shall be permitted within a detached accessory building on the subject lands described on the attached Schedule "A".

# SCHEDULE 'A'



By-law No. 63-2023

THIS SKETCH FORMS PART OF SCHEDULE "A" TO THE OFFICIAL PLAN  
PASSED THIS 24th DAY OF APRIL, 2023



Subject Lands - 3011 Point Abino Road North



Change from Agricultural to Site Specific Policy Area 46

## **PART “C” - THE APPENDICES**


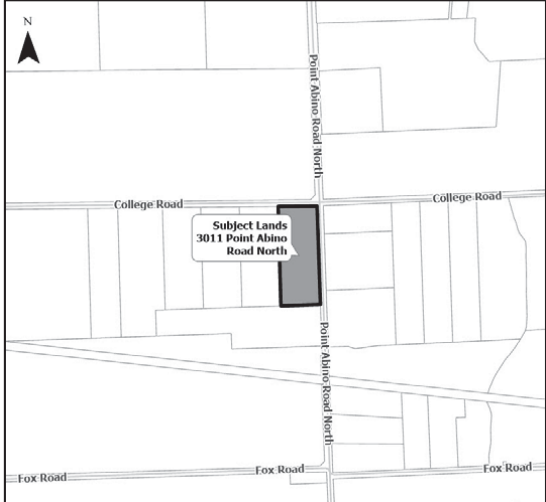


- Appendix 1        -     Notice of Public Meeting
- Appendix 2        -     Public Meeting Minutes
- Appendix 3        -     Circulation comments

## **NOTICE OF COMPLETE APPLICATION AND PUBLIC MEETING**


**Owners: Matthew Erickson & Chris Erickson**  
**Agent: Wellings Planning Consultants Inc. (Glenn Wellings)**  
**Combined Official Plan & Zoning By-law Amendment**  
**Application**

*Application File Nos: 350302-0165 & 350309-0561*

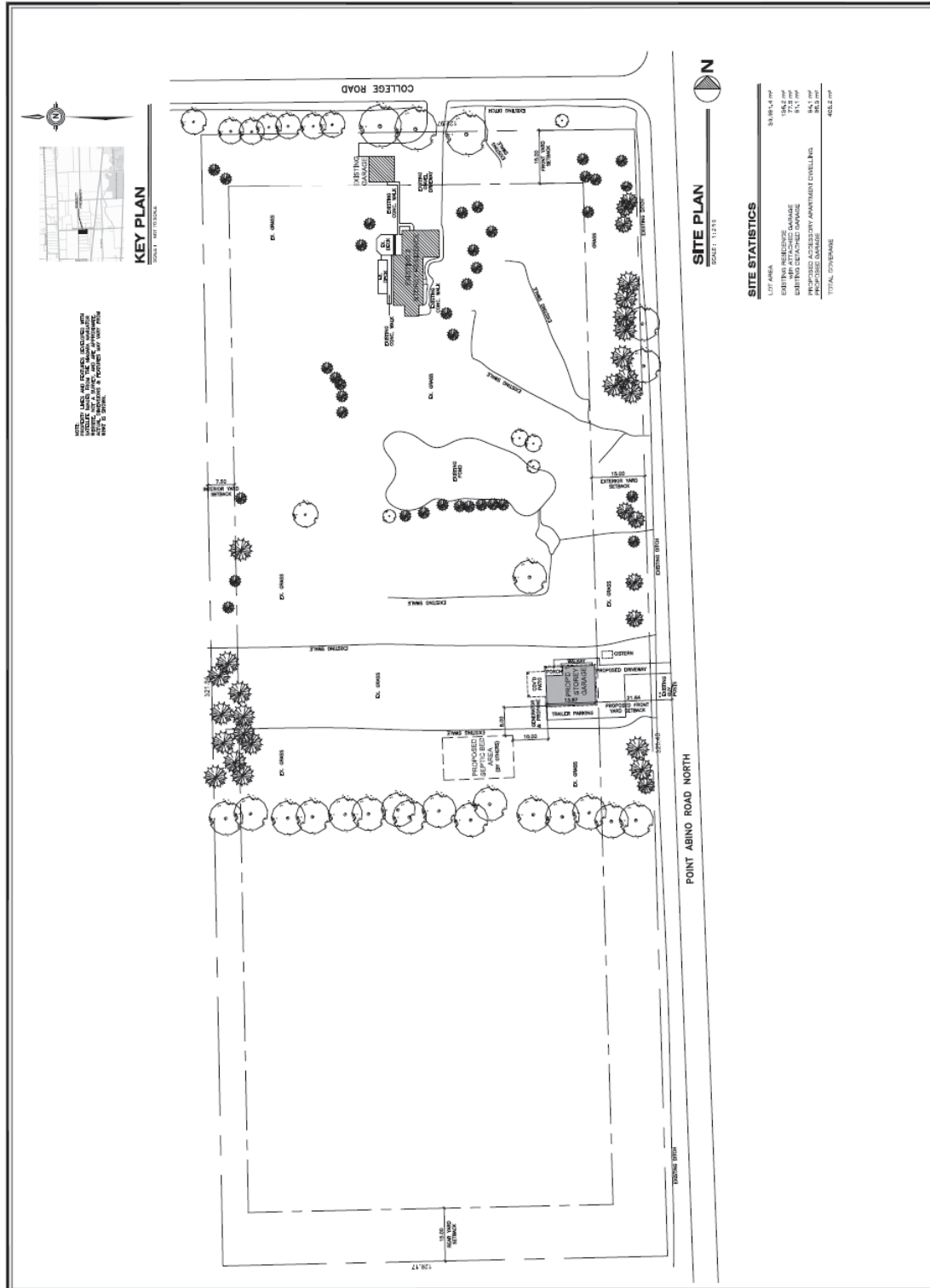
**DATE:** April 3, 2023  
**TIME:** 6:00 PM  
**LOCATION:** This will be a hybrid meeting. Members of the public may attend the meeting in person in Council Chambers, Town Hall, 1 Municipal Centre Drive OR virtually via Zoom.

	<p><b><u>LOCATION OF SUBJECT LANDS</u></b></p> 
	<p><b><u>PROPOSED CHANGE</u></b></p> <p>An application for a Combined Official Plan and Zoning By-law Amendment has been submitted for 3011 Point Abino Road North. The application intends to permit an accessory apartment dwelling inside a new detached accessory building. A preliminary site plan is attached to this notice as Schedule "1".</p> <p>The subject property is located outside of the Urban Area and is designated Agricultural in the Town's Official Plan. An Official Plan Amendment is required as the existing Official Plan policy for land designated as Agricultural only permits an accessory apartment that is contained within or attached to the main dwelling. This application is proposing a Site Specific Policy Area to be added to the parcel to permit an accessory apartment dwelling within a detached accessory building.</p> <p>The lands are currently zoned Agricultural (A) Zone in accordance with the Town's Comprehensive Zoning By-law No. 129-1990. Similar to the Official Plan policy, the A Zone only permits an accessory apartment dwelling that is contained within or added to the main dwelling. A Zoning By-law Amendment is required to permit an accessory apartment dwelling in a detached accessory building. The zoning is proposed to change to a site-specific Agricultural (A) Zone with a special provision that permits use of an accessory apartment within an accessory building to a maximum of 55.00 sq m of floor area.</p>
	<p><b><u>HAVE YOUR SAY</u></b></p> <p>Input on the proposal 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>Residents can participate in the Council meeting <u>in person in Council Chambers, OR</u></p>

## APPENDIX "1"

	<p>virtually via Zoom (audio/video via web or by telephone). The link for the Zoom meeting will be provided on the Town's website an hour before the Council meeting. The Town of Fort Erie Council meeting live webcast will be streamed at <a href="http://www.youtube.com/townofforterie">www.youtube.com/townofforterie</a> or click on the YouTube icon on the home page of the Town's website (<a href="http://www.forterie.ca">www.forterie.ca</a>).</p> <p><b><u>GETTING MORE INFORMATION</u></b></p> <p>Input on the 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 Report will be available to the public by 5:00 PM on <b>March 29, 2023</b>. The information report will be available in the Council agenda portion of the Town's Web Site: <a href="http://www.forterie.ca">www.forterie.ca</a> or by contacting Daryl Vander Veen, Intermediate Development Planner.</p> <p><b><u>CONTACT INFORMATION</u></b></p> <p><b>Daryl Vander Veen, Intermediate Development Planner</b> <b>Planning and Development Services Department</b> <b>Town Hall, 1 Municipal Centre Drive</b> <b>Fort Erie, Ontario L2A 2S6</b> <b>905-871-1600 ext. 2509</b> Or by e-mailing your comments to: <a href="mailto:dvanderveen@forterie.ca">dvanderveen@forterie.ca</a></p> <p><b><u>PROVIDING YOUR COMMENTS OR REQUESTING NOTICE OF DECISION</u></b></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 <a href="mailto:cschofield@forterie.ca">cschofield@forterie.ca</a></p>
	<p><b><u>PLANNING ACT LEGAL NOTICE REQUIREMENTS</u></b></p> <p>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.</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 Ontario Land 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 Ontario Land 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 <a href="mailto:cschofield@forterie.ca">cschofield@forterie.ca</a></p> <p>Notice dated March 13, 2023.</p>

## SCHEDULE 1



## **APPENDIX "2"**

### **Council-in-Committee - 03 Apr 2023 Meeting Minutes**

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

The following members of the public spoke in opposition to the Application:

- (a) Steve Matthewson, 3640 Hazel Street
- (b) Brent Gale, 3632 Hazel Street
- (c) Michelle Godbout, 3641 Hazel Street
- (d) Jerome Godbout, 3641 Hazel Street

Mayor Redekop enquired whether the Clerk received any written submissions subsequent to the posting of the Report.

The Clerk advised that she did not.

**Mayor Redekop declared the Public Meeting closed.**

**PDS-27-2023**      Proposed Zoning By-law Amendment - 3624 Hazel Street - S.R. Niagara Investments Inc. (Rita and Salvatore Visca) - Owner - Robert Martin Engineering Inc. (Robert Martin) - Applicant

Recommendation No.2  
Moved by: Councillor Lewis

**That:** Council receives for information purposes Report No. PDS-27-2023 regarding a proposed Zoning By-law Amendment for 3624 Hazel Street. **(Carried)**

- (c)      Proposed Official Plan and Zoning By-law Amendment

Re: 3011 Point Abino Road North - Owner: Matthew Erickson & Chris Erickson - Agent: Wellings Planning Consultants Inc. (Glenn Wellings). The Applicant is proposing an accessory apartment dwelling inside a new detached accessory building. The subject property is located outside of the Urban Area and is designated Agricultural. An Official Plan Amendment is required as the existing Official Plan policy for land designated as Agricultural only permits an accessory apartment that is contained within or attached to the main dwelling. This application is proposing a Site-Specific Policy Area to be added

## **APPENDIX "2"**

### **Council-in-Committee - 03 Apr 2023 Meeting Minutes**

to the parcel to permit an accessory apartment dwelling within a detached accessory building. The lands are currently zoned Agricultural (A) Zone in accordance with the Town's Comprehensive Zoning By-law No. 129-1990. Similar to the Official Plan policy, the A Zone only permits an accessory apartment dwelling that is contained within or added to the main dwelling. A Zoning By-law Amendment is required to permit an accessory apartment dwelling in a detached accessory building. The zoning is proposed to change to a site-specific Agricultural (A) Zone with a special provision that permits use of an accessory apartment within an accessory building to a maximum of 55.00 sq. m of floor area.

Mayor Redekop announced that this portion of the meeting would be devoted to the holding of the Public Meeting.

Mayor Redekop also provided information on electronic participation for members of the public who wished to provide input relative to the Application.

Daryl Vander Veen, Intermediate Development Planner delivered a PowerPoint Presentation which is available for viewing on the Town's website.

Mr. Vander Veen, confirmed the statutory requirements for the Public Meeting were met, summarized the purpose of the Application.

Glen Wellings, Wellings Planning Consultants Inc., Agent, and Matthew Erickson, Owner, were present. Mr. Wellings summarized the Application. Mr. Erickson also provided comments on the Application.

Mayor Redekop enquired whether there were any members of the public present in the virtual waiting room or in the Chamber who wished 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 or address Council.

The following members of the public asked questions regarding the Application:



## **APPENDIX "2"**

### **Council-in-Committee - 03 Apr 2023 Meeting Minutes**

(a) Gordon Halbert, 4811 Sherk Road

(b) Homer Van Der Mere, 2909 Point Abino Road

Mayor Redekop enquired whether the Clerk received any written submissions subsequent to the posting of the Report.

The Clerk advised that she did not.

**Mayor Redekop declared the Public Meeting closed.**

**PDS-28-2023** Proposed Combined Official Plan and Zoning By-law Amendment - 3011 Point Abino Road North - Wellings Planning Consultants Inc. - Glenn Wellings (Agent) - Matthew Erickson & Chris Erickson (Owners)

Recommendation No 3

Moved by: Councillor Flagg

**That:** Council approves the amendments to the Town's Official Plan and Zoning By-law as detailed in Report No. PDS-28-2023 for the lands known as 3011 Point Abino Road North, and further,

**That:** Council directs staff to prepare the necessary By-laws. **(Carried)**

*Council recessed for 5 minutes at 8:26 p.m.*

(d) Building Permit Fees

Re: Proposed Increase in Building Permit Fees - *Building Code Act, 1992* and Division C, Section 1.9.1.2 of Ontario Regulation 332/12 - Council intends to consider a by-law at its meeting of April 24, 2023, to increase the current building permit fees. The proposal is to increase Building Permit Fees by various percentages and the objective of these increases is for the Building Department to operate closer to cost recovery from permit fee revenues.

Mayor Redekop announced that this portion of the meeting would be devoted to the holding of the Public Meeting.

Mayor Redekop also provided information on electronic participation for members of the public who wished to provide input relative to the Report.

**APPENDIX "3"**

RE: Request for comments - proposed Combined Official Plan & Zoning By-law Amendment application, 3011 Point Abino Road North, Town of Fort Erie (file nos. 350302-0165 & 350309-0561) CARRIGAN, Andrew to Daryl Vander Veen 2023-02-06 03:40 PM

From "CARRIGAN, Andrew" <andrew.carrigan@canadapost.postescanada.ca>  
To "Daryl Vander Veen" <DVanderVeen@forterie.ca>

Good Afternoon,

CPC has no comments regarding this proposed zoning by-law amendment.

Thank you

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



Please consider the environment before printing this email.

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

**Sent:** January-30-23 1:56 PM

**Subject:** Request for comments - proposed Combined Official Plan & Zoning By-law Amendment application, 3011 Point Abino Road North, Town of Fort Erie (file nos. 350302-0165 & 350309-0561)

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

Good afternoon,

A complete application for a Combined Official Plan & Zoning By-law Amendment application has been received from Glenn Wellings of Wellings Planning Consultants Inc. on behalf of Matthew Erickson & Kelsey Sutherland, Owners of 3011 Point Abino Road North in the Town of Fort Erie. The proposed amendments seek to permit an accessory apartment dwelling inside a detached accessory building in the Agricultural area.

The lands are located in an agricultural area of the Town of Fort Erie. The subject property is currently designated Agricultural in the Town's Official Plan. The lands are correspondingly zoned Agricultural (A) Zone in accordance with the Town's Comprehensive Zoning By-law No. 129-1990.

An Official Plan Amendment is required to permit an accessory apartment in a detached accessory building. Currently the Town's Official Plan only permits accessory apartments that are added onto or contained within an existing single detached dwelling in the Agricultural area. The application proposes a Site Specific Policy Area for the subject property to permit an accessory apartment dwelling in a detached accessory building.

A Zoning By-law Amendment is required as the Agricultural (A) zoning only permits one single detached dwelling one one lot and one accessory apartment dwelling. The current Zoning By-law definition of an Accessory Apartment is "a self-contained apartment created through converting or or adding onto an existing single detached ... dwelling." This application is proposing to change the zoning to site-specific Agricultural (A) Zone that permits an accessory apartment dwelling in a detached accessory structure and contains a special provision to limit the floor area to 55 sq m.

The following documents are submitted for review:

- 0. PA-2021-099 Final Pre-consultation Agreement (3011 Point Abino Road North).pdf
- 1. OPA and ZBA Application Form.pdf

**APPENDIX "3"**

RE: [External] Request for comments - proposed Combined Official Plan & Zoning By-law Amendment application, 3011 Point Abino Road North, Town of Fort Erie (file nos. 350302-0165 & 350309-0561)Municipal Planning to 'Daryl Vander Veen' 2023-02-14 01:45 PM

From "Municipal Planning" <MunicipalPlanning@enbridge.com>

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

Thank you for your circulation.

Enbridge Gas Inc. does not object to the proposed application however, we reserve the right to amend our development conditions.

Please continue to forward all municipal circulations and clearance letter requests electronically to [MunicipalPlanning@Enbridge.com](mailto:MunicipalPlanning@Enbridge.com).

Regards,

**Jasleen Kaur**

Municipal Planning Coordinator  
Engineering

ENBRIDGE

TEL: 437-929-8083

500 Consumers Rd, North York, ON M2J1P8

[enbridge.com](http://enbridge.com)

Safety. Integrity. Respect. Inclusion.

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

**Sent:** Monday, January 30, 2023 1:56 PM

**Subject:** [External] Request for comments - proposed Combined Official Plan & Zoning By-law Amendment application, 3011 Point Abino Road North, Town of Fort Erie (file nos. 350302-0165 & 350309-0561)

**CAUTION! EXTERNAL SENDER**

Were you expecting this email? TAKE A CLOSER LOOK. Is the sender legitimate?

DO NOT click links or open attachments unless you are 100% sure that the email is safe.

Good afternoon,

A complete application for a Combined Official Plan & Zoning By-law Amendment application has been received from Glenn Wellings of Wellings Planning Consultants Inc. on behalf of Matthew Erickson & Kelsey Sutherland, Owners of 3011 Point Abino Road North in the Town of Fort Erie. The proposed amendments seek to permit an accessory apartment dwelling inside a detached accessory building in the Agricultural area.

The lands are located in an agricultural area of the Town of Fort Erie. The subject property is currently designated Agricultural in the Town's Official Plan. The lands are correspondingly zoned Agricultural (A) Zone in accordance with the Town's Comprehensive Zoning By-law No. 129-1990.

An Official Plan Amendment is required to permit an accessory apartment in a detached accessory building. Currently the Town's Official Plan only permits accessory apartments that are added onto or contained within an existing single detached dwelling in the Agricultural area. The application proposes a Site Specific Policy Area for the subject property to permit an accessory apartment dwelling in a detached accessory building.

A Zoning By-law Amendment is required as the Agricultural (A) zoning only permits one single detached dwelling one one lot and one accessory apartment dwelling. The current Zoning By-law definition of an

### APPENDIX "3"

Accessory Apartment is "a self-contained apartment created through converting or or adding onto an existing single detached ... dwelling." This application is proposing to change the zoning to site-specific Agricultural (A) Zone that permits an accessory apartment dwelling in a detached accessory structure and contains a special provision to limit the floor area to 55 sq m.

The following documents are submitted for review:

0. PA-2021-099 Final Pre-consultation Agreement (3011 Point Abino Road North).pdf
1. OPA and ZBA Application Form.pdf
2. Original Survey.pdf
3. Topo Survey.pdf
4. Architectural Package.pdf
5. Planning Justification Report.pdf
6. Archaeological Assessment.pdf
7. Location Map 3011 Point Abino Road North.pdf

Please provide any comments you have on the application no later than **Monday, February 20, 2023**. If your agency has a review fee it has been mailed to your attention. Please contact me if you have any questions or require any further information.

Regards,

Daryl

Daryl Vander Veen, BES  
Intermediate Development Planner

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

**Planning and Development Services**

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

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**Via Email**

March 10, 2023

Region Files: D.10.01.OPA-23-0008  
D.18.01.ZA-23-0018

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

Dear Mr. Vander Veen:

**Re: Regional and Provincial Comments  
Local Official Plan & Zoning By-law Amendment Applications  
Town Files: 350302-0165 & 350309-0561  
Applicants / Owners: Matthew Erickson & Kelsey Sutherland  
Agent: Wellings Planning Consultants Inc. (c/o Glenn Wellings)  
3011 Point Abino Road North  
Town of Fort Erie**

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Regional Planning and Development Services staff have reviewed the materials that were circulated with the Local Official Plan and Zoning By-law Amendment Applications for 3011 Point Abino Road North. The Region received its circulation from the Town of Fort Erie on January 30, 2023, along with all applicable review fees on March 8, 2023.

The property is designated and zoned as 'Agriculture' under the Town's Official Plan and Comprehensive Zoning By-law 129-1990, respectively. The proposed Amendment Applications seek to permit an accessory apartment dwelling inside a detached accessory building.

An Amendment to the Town's Official Plan is required to permit an accessory apartment in a detached accessory building, whereas currently, only accessory apartments that are added onto or contained within an existing single-detached dwelling in the Agricultural area is permitted.

An Amendment to the Zoning By-law is required as the Agricultural Zone permits a single-detached dwelling on one lot and one accessory apartment dwelling. The current Zoning By-law definition of an Accessory Apartment is "*a self-contained apartment created through converting or adding onto an existing single detached ... dwelling.*" This

## APPENDIX "3"

D.10.01.OPA-23-0008

D.18.01.ZA-23-0018

March 10, 2023

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Amendment proposes to change the zoning to 'Site-Specific Agricultural (A) Zone' that permits an accessory apartment dwelling in a detached accessory structure and contains a special provision to limit the floor area to 55 m<sup>2</sup>.

A virtual pre-consultation meeting for this proposal occurred on October 14, 2021. The proposal has been revised since it was initially presented at the pre-consultation meeting, where the concept had originally set out to establish a second single-detached dwelling on the lot. The following comments are offered from a Provincial and Regional perspective to assist the Town with its consideration of these Applications.

### Provincial and Regional Policies

The site is located outside of the Urban Area and is designated 'Prime Agricultural Area' and 'Agricultural System' under the *Provincial Policy Statement, 2020* ("PPS"), the *A Place to Grow: Growth Plan for the Greater Golden Horseshoe, 2020 Consolidation* ("Growth Plan"), and *Niagara Official Plan, 2022* ("NOP").

The predominant use of lands in the Prime Agricultural Area and Agricultural System is for agricultural uses, agriculture-related uses, and on-farm diversified uses. Provincial and Regional policies recognize that agricultural land is a valuable asset that must be properly managed and protected for the long-term. Staff observe that a portion of the subject property occupies an active agriculture use; however, the proposed development will not remove or impact any lands from agricultural production and will be buffered by a matured hedge row. Other structures on the property include a residential dwelling, a detached garage, an above-ground pool, and two sheds. The property is surrounded by similar rural residential uses and agriculture uses.

Provincial and Regional policies set out the permitted uses and development in the Prime Agricultural Area and the Agricultural System, as well as promote development that contributes to the overall goal of providing a sufficient supply of housing that is affordable, accessible, and suited to the needs of a variety of households and income groups in Niagara. The proposed accessory structure with accessory apartment dwelling unit is permitted under these policies provided that technical matters with respect to private water supply and private sewage disposal systems can be adequately accommodated, as well as that natural heritage features are protected.

Regional staff has reviewed the "*Planning Justification Report*" ("PJR") prepared by Wellings Planning Consultants Inc. (dated December 2022) and find its analysis to be acceptable. The PJR details that the proposed development aligns with applicable Provincial and Regional planning policy frameworks. Specifically, Section 5 of the Report addresses these policies and guidelines with respect to permitted uses (including dwelling units) in the Prime Agricultural Area and how competing interests with regards to housing, the protection of agricultural land, and minimum distance separation requirements are met. Town staff will need to confirm that the proposed development adheres to all local provisions and maintains compatibility with its surrounding rural context.

## **Land Use Compatibility**

The property is located in proximity to nearby stationary (agriculture) and transportation-related (rail corridor) noise sources. The PPS states that major facilities (i.e., transportation corridors) and sensitive land uses (residential) should be appropriately designed, buffered and/or separated from each other to prevent adverse effects from odour, noise and other contaminants, and to minimize risk to public health and safety.

Based on the distance of the proposed development from the rail corridor (approximately 300 m), staff waived the requirement for a Noise Brief in lieu of the recommendation for implementing best practices in building design and construction. This direction was confirmed through email correspondence with the Applicant (dated March 28, 2022) and included recommendations for upgraded exterior windows and doors, an exterior stone / brick veneer, and a central air conditioning unit in order to allow for windows and doors to remain closed during noise events. Provided that the Applicant incorporates these recommended mitigation measures into the building's design, staff offers no further land use compatibility requirements at this time.

## **Archaeological Potential**

The PPS and NOP provide direction for the conservation of significant cultural heritage and archaeological resources. Specifically, Section 2.6.2 of the PPS and Policy 6.4.2.1 of the NOP state that development and site alteration is not permitted on lands containing archaeological resources or areas of archaeological potential, unless significant archaeological resources have been conserved.

Staff has reviewed the "*Stage 1-2 Archaeological Assessment*" prepared by AMICK Consultants Ltd. (dated August 22, 2022). The Assessment's Study Area investigated the entirety of the subject property and excluded areas that were deemed by the licensed archaeologist to have experienced disturbance below top soil level. Its methodology consisted of a background literature review of surrounding historical settlement patterns, a site inspection, and a High Intensity Test Pit Survey at 5 m and 10 m intervals for the undisturbed portions of the property. The investigation resulted in no findings of archaeological resources and recommended that no further assessment of the Study Area is warranted.

At the time of preparing these comments, the Region has not been provided with a copy of the Letter of Acknowledgement from the Ministry of Citizenship and Multiculturalism which confirms that the Assessment has been entered into the Ontario Public Register of Archaeological Reports as a condition of licensing in accordance with Part VI of the *Ontario Heritage Act*. The requirement for this Letter can be managed through use of a Holding (H) Provision on the amending by-law and must be provided to the Niagara Region and Town of Fort Erie prior to the construction of the proposed development.

## **Private Servicing**

The subject property currently occupies an existing dwelling that is serviced by a private sewage system. The Region's Private Sewage Systems ("PSS") Inspection staff has reviewed the proposal and completed a record check for the existing system. Records indicate that the sewage system for the existing dwelling was installed in 1988 with approval from the Regional Niagara Public Health Department. PSS staff completed a site inspection of the existing septic system on March 9, 2023 and confirmed that it consists of a raised trench bed (Class 4 System) and is located on the west side of the existing dwelling. The sewage system had no visible defects at the time of inspection.

The proposed development will include a residential dwelling unit that will need to be serviced by a private sewage system. PSS staff is able to confirm that the proposed development will not encroach on the existing sewage system and that there is enough usable land on the property for the installation of a new system that services the accessory apartment dwelling. As such, staff does not object to the Applications provided that the Applicant applies for a Septic Permit to install a new sewage system for the proposed development that meets Ontario Building Code requirements.

## **Waste Collection**

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

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

## **Conclusion**

In conclusion, Regional Planning and Development Services staff does not object to the proposed Local Official Plan and Zoning By-law Amendments provided that:

- A Holding (H) Provision is implemented on the amending by-law to address the outstanding Letter of Acknowledgement from the Ministry of Citizenship and Multiculturalism which states that the completed Stage 1-2 Archaeological Assessment has been entered into the Ontario Public Register of Archaeological Reports as a condition of licensing in accordance with Part VI of the *Ontario Heritage Act*.
- That the Applicant applies for a Septic Permit to install a new sewage system for the proposed development that meets Ontario Building Code requirements. The Septic Permit will need to be obtained for the Town to issue a Building Permit.



### **APPENDIX "3"**

*D.10.01.OPA-23-0008*

*D.18.01.ZA-23-0018*

*March 10, 2023*

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Provided that the above provisions are addressed, it is Regional staff's opinion that the proposed Amendment Applications are consistent with the PPS and conform to Provincial and Regional growth management policies. Town staff should also be satisfied that all local requirements for the development are met.

Given the site-specific nature of the Local Official Plan Amendment Application, the Amendment is exempt from Regional Council approval in accordance with NOP Policy 7.4.1.6, the Memorandum of Understanding, and Regional By-law No. 2019-73.

Should you have any questions related to the above comments, please contact the undersigned at [Alexander.Morrison@niagararegion.ca](mailto:Alexander.Morrison@niagararegion.ca). Please send the Notice of Council's Decision on these Applications when available.

Respectfully,



Alexander Morrison, MCIP, RPP  
Development Industry & Housing Consultant

cc. Pat Busnello, Manager, Development Planning, Niagara Region  
Susan Dunsmore, Manager, Development Engineering, Niagara Region  
Chris Pirkas, Development Approvals Technician, Niagara Region  
Caitlin Goodale, Private Sewage Systems Inspector, Niagara Region

**APPENDIX "3"**

RE: Ministry Letter for Archaeological Assessment - 3011 Point Abino Rd N, FE (Town Files: 350302-0165 & 350309-0561)Morrison, Alexander to Glenn Wellings, Daryl Vander Veen 2023-04-03 09:29 AM

Cc "Chris Erickson", "Matthew Erickson", "Sarah Burjaw", "Busnello, Pat", "Development Planning Applications"

From "Morrison, Alexander" <Alexander.Morrison@niagararegion.ca>

To "Glenn Wellings" <glenn@wellingsplanning.ca>, "Daryl Vander Veen" <DVanderVeen@forterie.ca>

Cc "Chris Erickson" <cerickson@sbna-inc.com>, "Matthew Erickson" <MErickson@can-eng.com>, "Sarah Burjaw" <sarah@wellingsplanning.ca>, "Busnello, Pat" <pat.busnello@niagararegion.ca>, "Development Planning Applications" <devtplanningapplications@niagararegion.ca>

1 Attachment



2023-03-10 Regional Comments - 3011 Point Abino Rd N, FE.pdf

Good Morning Glenn & Daryl:

Thank you for providing a copy of the Ministry's Acknowledgement Letter for the completed Stage 1-2 Archaeological Assessment in relation to the ongoing Local Official Plan & Zoning By-law Amendment Applications (Town Files: 350302-0165 & 350309-0561 ; Region Files: OPA-23-0008 & ZA-23-0018) for the above noted property. The Letter confirms that the fieldwork and reporting that were completed through the Assessment is consistent with the Ministry's Standards and Guidelines for Consultant Archaeologists. As such, Regional staff is satisfied that the requirement for a Holding (H) Provision with respect to this matter as requested through the Region's comments (dated March 10, 2023 – attached for reference) has been appropriately addressed.

With respect to the Septic Permit, it can be applied for separately prior to Building Permit. The need for the Septic Permit does not need to be addressed through a Holding Provision. To clarify, the Holding Provision was requested only for receipt of the Ministry's Acknowledgement Letter for the Archaeological Assessment (which is now provided and addressed).

Therefore from the Region's perspective, the need for a Holding Provision is no longer needed.

Please let me know if you need anything further to proceed.

Thank you,  
Alex

**Alexander Morrison**, MCIP, RPP  
Development Industry & Housing Consultant  
Planning & Development Services | [Niagara Region](#)  
P: (905) 980-6000 ext. 3147  
E: [alexander.morrison@niagararegion.ca](mailto:alexander.morrison@niagararegion.ca)  
F: 905-641-5208

**APPENDIX "3"**

1815 Sir Isaac Brock Way, P.O. Box 1042  
Thorold, ON L2V 4T7

**From:** Glenn Wellings <glenn@wellingsplanning.ca>

**Sent:** Monday, April 3, 2023 8:34 AM

**To:** Daryl Vander Veen <DVanderVeen@forterie.ca>; Morrison, Alexander <Alexander.Morrison@niagararegion.ca>

**Cc:** Chris Erickson <cerickson@sbna-inc.com>; Matthew Erickson <MErickson@can-eng.com>; Sarah Burjaw <sarah@wellingsplanning.ca>

**Subject:** RE: Update regarding the Public Meeting for 3011 Point Abino Road North combined Official Plan and Zoning By-law Amendment (file nos. 350302-0165 & 350309-0561)

**CAUTION EXTERNAL EMAIL:** This email originated from outside of the Niagara Region email system. Use caution when clicking links or opening attachments unless you recognize the sender and know the content is safe.

Good morning Daryl/Alex. I reviewed the Town staff report over the weekend. I have attached the Ministry Acknowledgement letter for the Stage 1 and 2 Archaeological Assessment. Based on this, we do not believe a Holding Provision is appropriate in the implementing Zoning By-law. Tying the Holding Provision to the submission (not approval) of an OBC application for a Septic Permit is in my view completely unnecessary. The Erickson's are aware of the Building Permit requirements. I will speak to this matter this evening at Council but would like your concurrence in advance that we can move forward without a Holding Provision.

Your prompt response would be appreciated. Thanks.

Glenn



**Glenn J. Wellings, MCIP, RPP, AICP**

President, Wellings Planning Consultants Inc.

T: 905-681-1769 ext. 201 | C: 416-988-0310  
513 Locust Street, Unit B | Burlington, ON L7S 1V3  
[www.wellingsplanning.ca](http://www.wellingsplanning.ca)



**From:** Daryl Vander Veen <[DVanderVeen@forterie.ca](mailto:DVanderVeen@forterie.ca)>

**Sent:** Friday, March 31, 2023 10:20 AM

**To:** Glenn Wellings <[glenn@wellingsplanning.ca](mailto:glenn@wellingsplanning.ca)>

**Cc:** Chris Erickson <[cerickson@sbna-inc.com](mailto:cerickson@sbna-inc.com)>; Matthew Erickson <[MErickson@can-eng.com](mailto:MErickson@can-eng.com)>; Sarah Burjaw <[sarah@wellingsplanning.ca](mailto:sarah@wellingsplanning.ca)>

**Subject:** RE: Update regarding the Public Meeting for 3011 Point Abino Road North combined Official Plan and Zoning By-law Amendment (file nos. 350302-0165 & 350309-0561)

## APPENDIX "3"

**Fw: Request for comments - proposed Combined Official Plan & Zoning By-law Amendment application, 3011 Point Abino Road North, Town of Fort Erie (file nos. 350302-0165 & 350309-0561)**

**Jessica Goodings** to Daryl Vander Veen

2023-01-30 03:24 PM

From: Jessica Goodings/FortErie  
To: Daryl Vander Veen/FortErie@TownOfFortErie

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Hi Daryl,

There are no comments from the fire department.

Thank you,

**Jessica Goodings, CFEI, CCFI-C**  
**Senior Fire Prevention Officer**  
Fort Erie Fire Department  
www.forterie.ca  
P: 905.871.1600, ext. 2605  
C: 289-321-0019

----- Forwarded by Jessica Goodings/FortErie on 2023-01-30 03:18 PM -----

From: Mark Schmitt/FortErie  
To: Jessica Goodings/FortErie@TownOfFortErie  
Date: 2023-01-30 02:12 PM  
Subject: Fw: Request for comments - proposed Combined Official Plan & Zoning By-law Amendment application, 3011 Point Abino Road North, Town of Fort Erie (file nos. 350302-0165 & 350309-0561)

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For your review



**Mark Schmitt**  
**Fire Chief**  
Office: (905) 871-1600 ext. 2600  
Cell: (289) 321-0782

----- Forwarded by Mark Schmitt/FortErie on 2023-01-30 02:12 PM -----

From: Daryl Vander Veen/FortErie  
To:  
Date: 2023-01-30 01:56 PM  
Subject: Request for comments - proposed Combined Official Plan & Zoning By-law Amendment application, 3011 Point Abino Road North, Town of Fort Erie (file nos. 350302-0165 & 350309-0561)

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Good afternoon,