



The Municipal Corporation of the Town of Fort Erie By-law 169-2023

**Being a By-law to Enact an Amendment to the Official Plan Adopted by
By-law 150-06 for the Town of Fort Erie Planning Area**

Amendment 76

5047 Abino Hills Road, Abino Hills Land, Inc. (Jennifer Bronstein) – Owner

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 76 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 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 18th day of December 2023.

Mayor

Clerk

AMENDMENT 76

TO THE

OFFICIAL PLAN

FOR THE

CORPORATION OF THE TOWN OF FORT ERIE

CONTENTS

PART "A" - THE PREAMBLE

| | | |
|-----------|---|-----------------------------------|
| Section 1 | - | Title and Components |
| Section 2 | - | Purpose of Amendment |
| Section 3 | - | Location of this Amendment |
| Section 4 | - | Basis of this Amendment |
| Section 5 | - | Implementation and Interpretation |

PART "B" - THE AMENDMENT

| | | |
|--------------------------|---|---------------|
| Introductory Statement | | |
| Details of the Amendment | | |
| Schedule "A" | - | Land Use Plan |

PART "C" - THE APPENDICES

| | | |
|------------|---|--|
| Appendix 1 | - | Notice of Public Information Processes |
| Appendix 2 | - | Public Meeting Minutes |
| Appendix 3 | - | Circulation Comments |

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 76 to the Official Plan adopted by By-law 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 76 to the Official Plan adopted by By-law 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 "Environmental Protection" to "Site Specific Policy Area 49 – 5047 Abino Hills Road" to permit a two-storey dwelling with a footprint of 1745.30 sq m and a detached accessory building with a footprint of 30.50 sq m.

SECTION 3

LOCATION OF THIS AMENDMENT

The lands, which are the subject of this amendment, are municipally known as 5047 Abino Hills 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 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 single detached dwelling and accessory building are established. The accessory building is being used to accommodate guests with sleeping accommodation/human habitation but does not have a dedicated kitchen area for food preparation nor does it have a shower/bath. Therefore, the accessory building cannot operate as an independent dwelling unit separate from the main dwelling. Planning staff are satisfied that the building is ancillary to the single detached dwelling on the subject lands and complements the existing residential use on the subject lands.

B. The extent to which the existing areas in the proposed categories are developed, and the nature and adequacy of such existing development;

The surrounding area is environmentally sensitive with multiple natural heritage features in the area. Lands along the Lake Erie shoreline contain historic patterns of seasonal and permanent residential development. There are a number of other existing non-conforming single detached dwellings and accessory buildings along the west side of Abino Hills Road on large waterfront lots that are similar to the subject lands.

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 single detached dwelling has existed since 1930 according to assessment records. The existing accessory building was constructed in 2015 on a disturbed area of the subject lands that was formerly used as a tennis court. Both the dwelling and the accessory building utilize private water and septic system services on the subject lands.

A Natural Heritage Impact Assessment (NHIA) Memorandum was submitted as part of this application to address the natural heritage policies in the Town's Official Plan. The NHIA memo concluded that the accessory building was constructed on a previously disturbed area of the subject lands associated with a former tennis court and therefore did not result in any negative impacts to the natural heritage features or ecological functions on and in the vicinity of the subject lands. This proposal complies with the Natural Heritage policies of the Town's Official Plan.

Niagara Region and the Niagara Peninsula Conservation Authority have also reviewed the application and similarly concluded that no negative impacts have resulted from the construction of the accessory building. Both agencies waived the requirement for an Environmental Impact Study as a submission requirement for this application.

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 Public Health Department and any other appropriate authority deemed advisable.**

The accessory building is ancillary to the main dwelling and will not significantly increase the demand on the road/highway system. The subject lands front onto a private road with very low amounts of vehicular and pedestrian traffic. No safety concerns are anticipated as a result of the accessory building. Planning staff note that the single detached dwelling and accessory building have access to a private water supply and a private septic system for sanitary service.

E. The compatibility of the proposed use with uses in adjoining areas;

The proposed residential use of the accessory building on the subject lands is similar to and compatible with the adjacent residential uses in the area. The dwelling and accessory building will not negatively impact any of the natural heritage features in the area.

F. The effects of such proposed use on the surrounding area in respect of the minimizing of any possible deprecating or deteriorating effect upon adjoining properties;

There is no evidence to suggest that the accessory building will have depreciating or deteriorating effects on adjoining properties.

G. The potential effect of the proposed use on the financial position of the municipality;

No significant change will result to the financial position of the Municipality resulting from this proposal. The cost of the application itself is the sole responsibility of the Agent/Owner.

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

The proposed development is not anticipated to impact the intent and implementing regulations of the *Environmental Protection Act*.

SECTION 5

IMPLEMENTATION AND INTERPRETATION

The relevant policies of the Official Plan adopted by By-law 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 map designated as Schedule "A" (Land Use Plan) constitute Amendment 76 to the Official Plan adopted by By-law 150-06 for the Fort Erie Planning Area. The Official Plan adopted by By-law 150-06 for the Fort Erie Planning Area is hereby amended as follows:

1. The land use designation of the subject lands shown on Schedule "A" attached hereto shall change from "Environmental Protection" to "Site Specific Policy Area 49."
2. Section 4.14 of the Official Plan shall be amended by adding the following section:

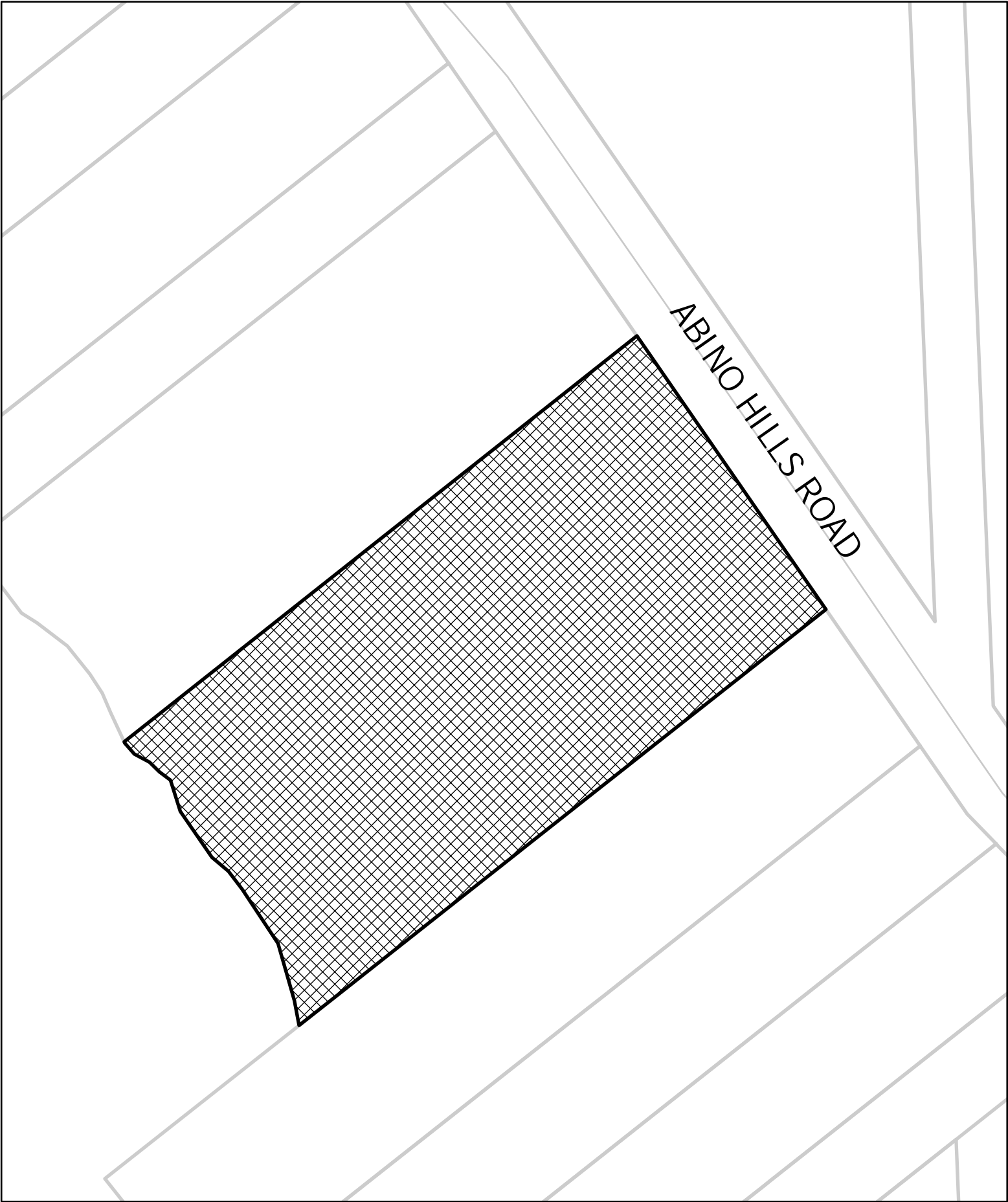
5047 Abino Hills Road (Site Specific Policy Area 49)

The land designated on Schedule "A" as "Site Specific Policy Area 49" shall generally be governed by the Environmental Protection policies of Section 8.2 of the Official Plan.

Notwithstanding the Environmental Protection policies of Section 8.2, the subject lands shall permit a single detached dwelling and an accessory building used for sleeping accommodations or human habitation.

PART “C” - THE APPENDICES

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



BY-LAW 169-2023
THIS SKETCH FORMS PART OF SCHEDULE "A" TO THE OFFICIAL
PLAN PASSED THIS 18TH DAY OF DECEMBER 2023

-  Subject Lands - 5047 Abino Hills Road
-  Change from Environmental Protection to Site Specific Policy Area 49





**NOTICE OF COMPLETE APPLICATION AND
PUBLIC MEETING**

Owner: Abino Hills Land Inc. (c/o Jennifer P. Bronstein)
Agent: NPG Planning Solutions (Asawari Modak and Aaron Butler)

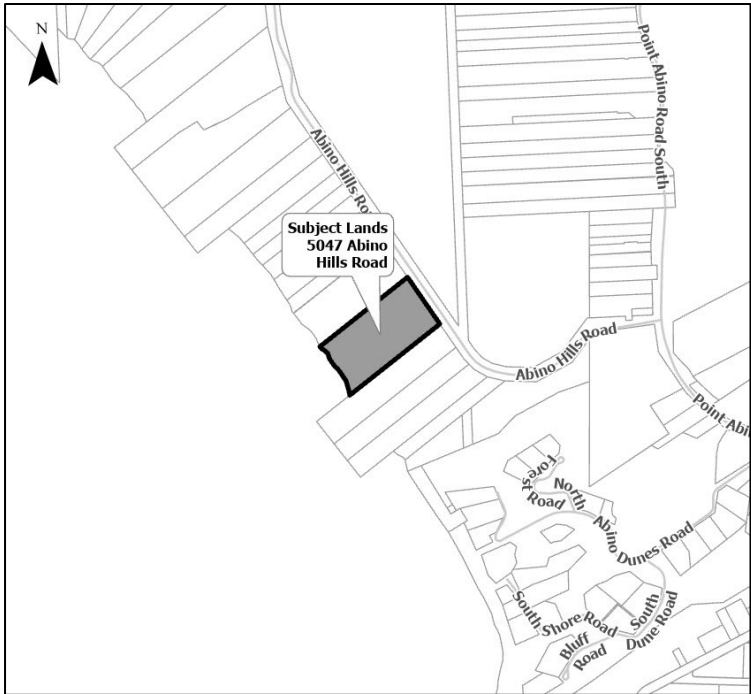
5047 Abino Hills Road

**Proposed Combined Official Plan and Zoning By-law
Amendment Application**

APPLICATION FILE NUMBER: OPA-09-2023 and ZBA-16-2023

DATE: November 20th, 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.

LOCATION OF SUBJECT LANDS



PROPOSAL



An application for a combined Official Plan and Zoning By-law Amendment has been submitted for 5047 Abino Hills Road. The application intends to bring the buildings on the subject lands into conformity with the Town’s Official Plan and Zoning By-law. No new development is being proposed as part of this application. A site plan is attached as Schedule “1” to this notice for reference.

The subject property is located outside of the Urban Area and is designated Environmental Protection in the Town’s Official Plan. This application is proposing an Official Plan Amendment to add a Site Specific Policy Area (SSPA) to the subject property to permit the two storey single detached dwelling and a detached one storey accessory building being used for sleeping or eating accommodations/human habitation. The underlying land use designation will remain Environmental Protection.

The lands are currently zoned Dune Protection (DP) Zone, in part, and Environmental Protection (EP) Zone, in part, in accordance with the Town’s Comprehensive Zoning By-law No. 129-1990, as amended. The single detached dwelling and the detached accessory building are located in the portion of the property that is zoned Dune Protection (DP) Zone. This application is proposing to amend the zoning of that portion of the subject property from Dune Protection (DP) Zone to a site-specific Dune Protection (DP) Zone that permits the two storey single detached dwelling and the detached accessory building being used for sleeping or eating accommodations/human habitation. The portion of the property that is zoned Environmental Protection (EP) Zone will remain unchanged.

APPENDIX 1 - NOTICE OF PUBLIC MEETING

HAVE YOUR SAY

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.

Residents can participate in the Council meeting in person in Council Chambers, OR 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 www.youtube.com/townofforterie or click on the YouTube icon on the home page of the Town’s website (www.forterie.ca).

GETTING MORE INFORMATION

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, you may not be able to appeal the decision later.

A copy of the Information Report will be available to the public by 5:00 PM on **Wednesday, November 15th, 2023**. The Information Report will be available in the Council agenda portion of the Town’s Web Site: www.forterie.ca or by contacting Daryl Vander Veen, Intermediate Development Planner.

CONTACT INFORMATION

Daryl Vander Veen, Intermediate Development Planner
Planning and Development Services Department
Town Hall, 1 Municipal Centre Drive
Fort Erie, Ontario L2A 2S6
905-871-1600 ext. 2509
Or by e-mailing your comments to: dvanderveen@forterie.ca

PROVIDING YOUR COMMENTS OR REQUESTING A NOTICE OF DECISION

To provide input in writing, or to request written notice of the decision for the combined Official Plan and Zoning By-law Amendment, please send a letter c/o Peter Todd, Manager, Legislative Services/Clerk, 1 Municipal Centre Drive, Fort Erie, Ontario, L2A 2S6 or an email to ptodd@forterie.ca

PLANNING ACT LEGAL NOTICE REQUIREMENTS

The Town of Fort Erie has not yet made a decision regarding the application. After considering any written comments and the comments from the public meeting, a Recommendation Report will be prepared for a future Council-in-Committee meeting.

If a person or public body 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.

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.

For more information about this matter, including information about appeal rights, please send a letter c/o Peter Todd, Manager, Legislative Services/Clerk, 1 Municipal Centre Drive, Fort Erie, Ontario, L2A 2S6 or an email to ptodd@forterie.ca

Notice dated at the Town of Fort Erie this 31st day of October, 2023.

HAVE
YOUR
SAY



[kon•sept]

Konsept
30 NIAGARA STREET UNIT #1
WELLAND, ONTARIO L3C 1H9
T 905.682.8934
E info@konsept.ca
www.konsept.ca

[illegible]

Project Name

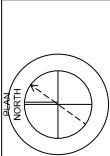
5047 Abino Hills Aux Bldg,
5047 Abino Hills Fort Erie
ON

| | |
|------------|----------|
| Plot Date | Scale |
| 2023-07-26 | AS GIVEN |

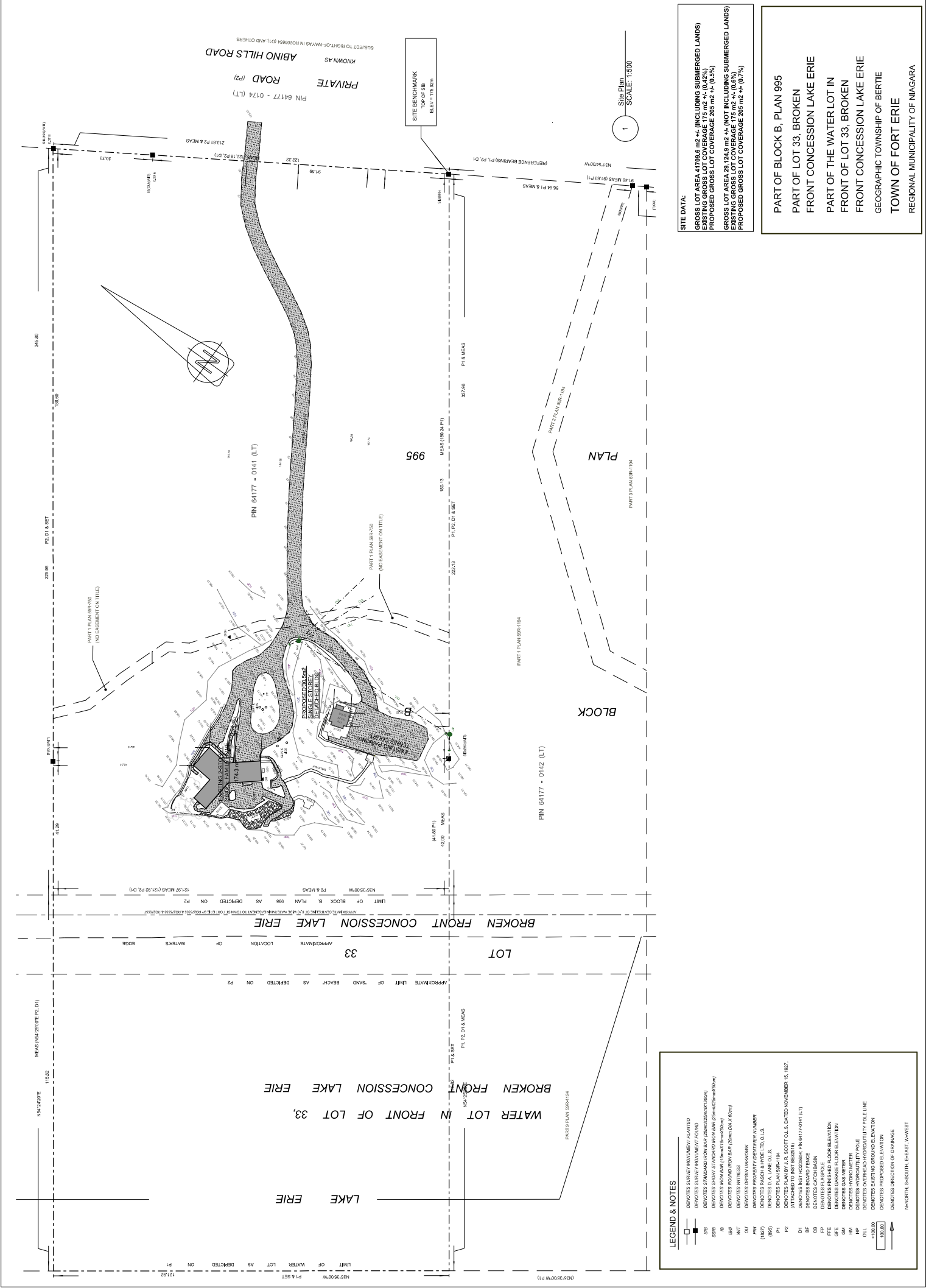
Drawing Descript

Drawing Number

1-8-8



Do not scale drawings. Report any discrepancies to the Designer prior to proceeding with the work. All drawings must bear the Designer's BCIN No. and signature for permit application and construction purposes. All drawings and related documentation remain the property of the Consultant and are protected by copyright laws. All construction to be in accordance with the Ontario Building Code and local bylaws.



APPENDIX 2 - PUBLIC MEETING MINUTES



The Municipal Corporation of the Town of Fort Erie Council in Committee Minutes

**Monday, November 20, 2023, 6:00 p.m.
Council Chambers**

1. Call to Order

The meeting was called to order at 6:00 p.m.

2. Land Acknowledgement

Mayor Redekop provided a land acknowledgment.

3. Roll Call

The Clerk gave the roll call.

Present: His Worship Mayor Redekop and Councillors Christensen, Dubanow, Flagg, Lewis, McDermott and Noyes

Staff: A. Herlovitch, J. Janzen, C. McQueen, C. Patton, P. Todd and K. Walsh.

4. Announcements/Addenda

There was one Addenda which removed the following item under Closed Session:

12.1 13365 Pettit Road (OLT-23-000275)

Mayor Redekop made the following announcements:

Christmas Tree Lighting Ceremony - Ridgeway

The Ridgeway Business Improvement Area hosted a Tree Lighting Ceremony with a Children's Choir on Friday, November 17th. Mayor Redekop encouraged everyone to visit downtown Ridgeway after dark to enjoy the decorations and noted that Christmas on the Ridge will occur from December 1st to 2nd.

APPENDIX 2 - PUBLIC MEETING MINUTES

Community Living Annual Gala - Christmas Around the World

Community Living held its annual fundraising event on Saturday, November 18th, themed Christmas in Greece. This event is Community Living's major fundraising event of the year and was well attended.

Santa Claus Parade - Bridgeburg Station Downtown

Mayor Redekop congratulated the Bridgeburg Station Downtown Business Improvement Area and all the organizers for a very successful Santa Claus Parade on Saturday, November 18th.

5. Declarations of Pecuniary Interest

None.

6. Notice of Upcoming Public Meetings and Open Houses

- 6.1 2024 Budget Meeting Schedule
- 6.2 Public Meeting - Amendment to Tree By-law 60-04 (To Regulate the Destruction, Injury and Harvesting of Trees)
- 6.3 Open House - Proposed Official Plan and Zoning By-law Amendment (557 Walden Boulevard)
- 6.4 Public Meeting - Process to Review and Update Official Plan
- 6.5 Public Meeting - Proposed Development Charges Rates and Policies

7. Public Meetings

- 7.1 Draft Plan of Subdivision, Official Plan Amendment and Zoning By-law Amendment - 1211-1237 Pettit Road

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

Samantha Yeung, Intermediate Development Planner, provided a PowerPoint Presentation.

Aaron Butler and Licheng Lim, NPG Planning Solutions, Agent, provided a PowerPoint Presentation.

The following individuals provided oral comments on the application:

- Patrick Frawley, 1238 Plato Drive
- Italia Reeves, 1178 Pettit Road
- Janice Frawley, 1238 Plato Drive
- Bob Trendel, 1199 Pettit Road

The Clerk confirmed that no additional written comments were received.

APPENDIX 2 - PUBLIC MEETING MINUTES

Mayor Redekop declared the Public Meeting closed.

7.2 PDS-76-2023

Recommendation 1

Moved by: Councillor Christensen

That: Council receives for information purposes Report PDS-76-2023 regarding a proposed Draft Plan of Subdivision, and combined Official Plan and Zoning By-law Amendment for 1211, 1225, and 1237 Pettit Road.

Carried

7.3 Combined Official Plan and Zoning By-law Amendment - 5047 Abino Hills Road

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

Daryl Vander Veen, Intermediate Development Planner, provided a PowerPoint Presentation.

Aaron Butler, NPG Planning Solutions, Agent, provided a PowerPoint Presentation.

The following individuals provided oral comments on the application:

- Lura Bechtel, 88 Scott Street Unit 3408, Toronto

The Clerk confirmed that no additional written comments were received.

Mayor Redekop declared the Public Meeting closed.

7.4 PDS-77-2023

Recommendation 2

Moved by: Councillor Lewis

That: Council approves the amendment to the Town's Official Plan and Zoning By-law 129-90 as detailed in Report PDS-73-2023 for the lands known as 5047 Abino Hills Road, and further

That: Council directs Staff to submit the necessary by-laws.

Carried

8. Consent Agenda

Recommendation 3

Moved by: Councillor Lewis

APPENDIX 2 - PUBLIC MEETING MINUTES

That: Council approves the Consent Agenda as recommended.

Carried

8.1 IS-23-2023

That: Council accepts and approves the tender submission for the Oakes Park Sport Field Lighting Replacement, Contract ISE-23T-OAKES23 from Beam Power and Utilities Ltd. in the amount of \$428,236.10 (including 13% HST); and further

That: Council amends the 2023 Capital Budget to supplement the Oakes Park Ball Diamond Improvements capital project (OAKE23), with \$155,000 from the Parkland Reserve Fund.

Carried

8.2 IS-24-2023

That: Council receives Report IS-24-2023 for information purposes.

Carried

8.3 CS-11-2023

That: Council authorizes the appointment of Grant Thornton LLP as auditor of the Town of Fort Erie for fiscal years 2023-2025, and further

That: Council accepts and approves the entry into an agreement with Grant Thornton LLP to provide audit services for a three (3) year term with cost of \$268,772 (including 13% HST) and an option to renew for two (2) additional one (1) year terms at a cost to be negotiated and approved at that time, and further

That: Council directs staff to circulate Report CS-11-2023 to the Fort Erie Public Library Board and Business Improvement Areas ("BIA"s) for information purposes, and further

That: Council authorizes staff to prepare the necessary by-law, enter into the Agreement and repeal By-law 101-2020.

Carried

8.4 CS-12-2023

That: Council receives Report CS-12-2023 regarding the 2023 3rd Quarter Financial Report for information purposes, and further

That: Council directs staff to transfer \$429,000 from the Emergency Management Reserve to the Operating Levy, and further

APPENDIX 2 - PUBLIC MEETING MINUTES

That: Council directs staff to transfer \$135,000 from the General Levy Rate Stabilization (GLRS) Reserve to the Operating Levy, and further

That: Council amends the capital job PPLS21 by transferring all revenues, costs, and funding from Capital to Operating.

Carried

9. Planning and Development Services

Chaired by: Councillor Dubanow

9.1 Presentations and Delegations

None.

9.2 Reports

None.

9.3 New Business/Enquiries

None.

9.4 Business Status Report

No changes.

10. Infrastructure Services

Chaired by: Councillor Noyes

10.1 Presentations and Delegations

None.

10.2 Reports

None.

10.3 New Business/Enquiries

None.

10.4 Business Status Report

No changes.

11. Corporate and Community Services

Chaired by: Councillor McDermott

11.1 Presentations and Delegations

None.

11.2 Reports

APPENDIX 2 - PUBLIC MEETING MINUTES

None.

11.3 New Business/Enquiries

None.

11.4 Business Status Report

No changes.

12. Closed Session

12.1 613 Helena Street

12.2 13365 Pettit Road (OLT-23-000275)

12.3 0-15850 Rebstock Road (OLT23-000311)

Recommendation 4

Moved by: Councillor McDermott

That: Council goes into Closed Session at 8:04 p.m. to consider the following:

- Pursuant to Section 239 (e) of the Municipal Act, 2001, litigation or potential litigation, including matters before administrative tribunals, affecting the municipality or local board). Re: 613 Helena Street
- Pursuant to Section 239 (e) of the Municipal Act, 2001, litigation or potential litigation, including matters before administrative tribunals, affecting the municipality or local board), and Section 239 (f) advice that is subject to solicitor-client privilege, including communications necessary for that purpose. Re: 0-15850 Rebstock Road (OLT23-000311)

Carried

13. Back to Open Session

Recommendation 5

Moved by: Councillor Lewis

That: Council rises and reconvenes from Closed Session at 8:36 p.m. with report that:

- Regarding item 12.1 that Council directs staff and legal counsel to proceed as directed in closed session.
- Regarding item 12.3 that Council directs staff and legal counsel to proceed as directed in closed session.

APPENDIX 2 - PUBLIC MEETING MINUTES

Carried

14. Scheduling of Meetings

Members of Council announced upcoming Board and Committee meetings from November 20, 2023, to November 27, 2023.

15. Adjournment

Recommendation 6

Moved by: Councillor Dubanow

That: Council adjourns Council-in-Committee at 8:37 p.m.

Carried

Mayor

Clerk

APPENDIX 3 - CIRCULATION COMMENTS



RE: [External] Request for comments - proposed combined Official Plan & Zoning By-law Amendment, 5047 Abino Hills Road, Town of Fort Erie (file nos. 350309-0578 & 350302-0147)Municipal Planning to Daryl Vander Veen 2023-10-22 10:31 PM
From "Municipal Planning" <MunicipalPlanning@enbridge.com>
To "Daryl Vander Veen" <DVanderVeen@forterie.ca>

Thank you for your circulation.

Enbridge Gas 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.

Regards,

Willie Cornelio CET (he/him)
Sr Analyst, Municipal Planning
Engineering

ENBRIDGE
TEL: 416-495-6411
500 Consumers Rd, North York, ON M2J1P8
enbridge.com
Safety. Integrity. Respect. Inclusion.

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

Sent: Tuesday, October 17, 2023 12:44 PM

Subject: [External] Request for comments - proposed combined Official Plan & Zoning By-law Amendment, 5047 Abino Hills Road, Town of Fort Erie (file nos. 350309-0578 & 350302-0147)

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,

An application for a combined Official Plan and Zoning By-law Amendment was received for 5047 Abino Hills Road. The application is seeking to bring the existing single detached dwelling and a detached accessory building being used for human habitation into conformity with the Town's Official Plan and Zoning By-law. The accessory building being used for human habitation is located on a former tennis court.

The subject parcel is currently designated as Environmental Protection, in part, and Dune Protection, in part, in the Town's Official Plan. The single detached dwelling and accessory building are located in the portion of the property that is designated Dune Protection. The application is proposing a Site Specific Policy Area (SSPA) to permit the dwelling and accessory building. The underlying land use designations will remain Environmental Protection and Dune Protection.

The zoning of the subject property is Dune Protection (DP) Zone, in part, Environmental Protection (EP) Zone, in part, and Hazard (H) Zone, in part. The existing dwelling and accessory building are located in the portion of the property that is zoned Dune Protection (DP) Zone. This application is proposing a site-specific Dune Protection (DP) Zone to permit the single detached dwelling and accessory building used for human habitation.

APPENDIX 3 - CIRCULATION COMMENTS



NPCA Review: 5047 Abino Hills Road, Town of Fort Erie (file nos. 350309-0578 & 350302-0147) Taran Lennard to Daryl Vander Veen 2023-11-03 11:08 AM
 From "Taran Lennard" <tlennard@npca.ca>
 To "Daryl Vander Veen" <DVanderVeen@forterie.ca>

Hi Daryl,

The NPCA has reviewed the provided information associated with this file, as well as the email from October 27th from yourself, indicating that the structure does not meet the Town's definition of a dwelling unit. It is also of note to the NPCA that this structure itself has existed in this location for many years, and is not a newly proposed structure.

As such, the NPCA does not offer objections to the approval of this application. It should be of note that future works proposed on this property (including a change of use) would necessitate the NPCA's reviews and approval process. Any reports, plans, etc., at that time would need to be to the satisfaction of the NPCA. Works permits may be required.

Thank you.



Taran Lennard

Watershed Planner II

Niagara Peninsula Conservation Authority (NPCA)

250 Thorold Road West, 3rd Floor | Welland, ON L3C 3W2

905.788.3135 x277

www.npca.ca

tlennard@npca.ca

For more information on Permits & Planning, 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: Daryl Vander Veen <DVanderVeen@forterie.ca>

Sent: Tuesday, October 17, 2023 12:29 PM

To: Meghan Birbeck <mbirbeck@npca.ca>; Taran Lennard <tlennard@npca.ca>

Subject: Request for comments - proposed combined Official Plan & Zoning By-law Amendment, 5047 Abino Hills Road, Town of Fort Erie (file nos. 350309-0578 & 350302-0147)

Good afternoon Meghan and Taran,

An application for a combined Official Plan and Zoning By-law Amendment was received for 5047 Abino Hills Road. The application is seeking to bring the existing single detached dwelling and a detached accessory building being used for human habitation into conformity with the Town's Official Plan and Zoning By-law. The accessory building being used for human habitation is located on a former tennis court.

The subject parcel is currently designated as Environmental Protection, in part, and Dune Protection, in part, in the Town's Official Plan. The single detached dwelling and accessory building are located in the portion of the

Growth Strategy and Economic Development

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

Via Email

November 6, 2023

Region Files: D.10.01.OPA-23-0056 & D.18.01.ZA-23-0108

Daryl Vander Veen
Intermediate Development Planner
Town of Fort Erie
1 Municipal Centre Drive
Fort Erie, Ontario L2A 2S6

Dear Mr. Vander Veen:

Re: Regional and Provincial Comments
Application for Official Plan Amendment and Zoning By-law Amendment
City File: 23 101000 SP
Applicant: Abino Hills Land Inc.
Owner: Jennifer Bronstein
5047 Abino Hills Road
Town of Fort Erie

Regional Growth Strategy and Economic Development staff has reviewed the Official Plan Amendment and Zoning By-law Amendment applications for 5047 Abino Hills Road in the Town of Fort Erie. The applications were circulated to the Region on October 17, 2023.

The applicant is proposing an Official Plan Amendment to redesignate the subject lands from Environmental Protection to a Site-Specific Policy Area and to rezone the lands to a Site-Specific Dune Protection (DP) Zone to bring the existing single detached dwelling and detached accessory building into conformity with the Town's Official Plan and Zoning By-law. Staff understands that no new development is proposed.

A pre-consultation meeting was held on January 26, 2023, attended by the applicant, Regional staff, Town staff and NPCA staff. Staff requested a Planning Justification Report and requested additional information to confirm environmental study requirements.

The following comments are provided to assist the Town with their review of these applications.

APPENDIX 3 - CIRCULATION COMMENTS

D.10.01.OPA-23-0056 & D.18.01.ZA-23-0108

November 6, 2023

Provincial and Regional Policies

The subject lands are identified within the Rural Lands within the Rural Area under the Provincial Policy Statement, 2020 (PPS), A Place to Grow: Growth Plan for the Greater Golden Horseshoe (Growth Plan) and Niagara Official Plan, 2022 (NOP). Within the NOP, rural lands are recognized as part of the agricultural system.

The predominant use of lands in the Rural Area will be agriculture, but some low intensity non-agricultural development, such as residential, recreational, small-scale commercial and institutional uses, may be permitted provided it is compatible with the rural landscape and can be sustained by rural services. NOP Policy 4.1.8.3 states that rural lands along the Lake Erie shoreline contain historic patterns of seasonal and permanent residential development. Therefore, these uses are permitted to continue as permitted by Local plans and policies.

Further, according to NOP Policy 4.1.9.2, proposals for non-agricultural residential development on rural lands must meet the following criteria:

- a) maximum of three new lots (in addition to the retained lot) may be permitted on each lot in existence as of June 16, 2006;
- b) the minimum size of the proposed and retained lots shall each be one hectare unless it is determined through a hydrogeological study, that considers potential cumulative impacts, that a smaller size lot will adequately accommodate private water and sewage treatment facilities for long-term operation but not be less than 0.4 hectares;
- c) the *development* will be at a scale and density suitable to the physical characteristics of the site;
- d) soil and drainage conditions are suitable and permit the proper siting of buildings, the supply of potable water and the installation and long-term operation of an adequate means of waste disposal;
- e) the proposed *development* will be consistent with Section 3.1; and
- f) proposed *developments* must be appropriately separated and protected from:
 - i. incompatible land uses such as existing pits and quarries;
 - ii. *mineral aggregate resources* recognized in this Plan;
 - iii. livestock operations and anaerobic digesters, in accordance with the *minimum distance separation formulae*;
 - iv. existing and former solid waste sites;
 - v. major existing and proposed transportation facilities; and
 - vi. employment uses.

Staff has reviewed the *Planning Justification Brief* (PJR) prepared by NPG Planning Solutions (dated August 2023). The PJR notes that the accessory buildings contain sleeping facilities, a washroom, and a small wet bar. The subject lands are currently serviced by existing municipal water and private sewage services. Given that the accessory dwelling was constructed on top of a former tennis court, it is assumed that the development did not alter the soil and drainage conditions of the site. Similarly, the PJR concludes that the natural heritage features on the property have not been directly

APPENDIX 3 - CIRCULATION COMMENTS

D.10.01.OPA-23-0056 & D.18.01.ZA-23-0108

November 6, 2023

impacted due to the accessory structure being placed on an area that had been previously disturbed. See the 'Natural Environment System' section below for detailed information about the natural heritage features on the property.

Staff acknowledges that this application to bring the existing residential dwelling and accessory structure into conformity with the Town's planning documents will not result in new development and does not conflict with Provincial and Regional policies. As such, Regional staff offer no objection to the application.

Archaeological Resources

The subject property is located within the Region's mapped Area of Archaeological Potential, identified on Schedule 'K' of the NOP. Additionally, the property is mapped within the Town's mapped Archaeological Potential, specifically the "Point Abino Zone of Archaeological Sensitivity", as shown on Schedule 'D' and 'D1' of the Town's Official Plan.

Staff acknowledge that no new development is proposed as part of this application. As such, staff offers no archaeological requirements. The Town of Fort Erie also has jurisdiction on matters related to archaeological resources through its Archaeological Management Plan. Town staff should be satisfied that archaeological resource concerns on the property have been addressed.

Regional staff caution that future applications for site alteration or development on the property that require Planning Act approval may be subject to a Stage 1-2 archaeological assessment requirements as per Policy 6.4.2.6 of the NOP.

Natural Environment System

The property is impacted by the Region's Natural Environment System (NES), consisting of provincially significant life science ANSI, significant woodland and Lake Erie. The property is also mapped as part of the Provincial Natural Heritage System (PNHS). As such, these features are considered Key Natural Heritage Features (KNHF) and Key Hydrologic Features (KHF).

The proposal consists of a redesignation and rezoning of the property in order to legalize the existing buildings, namely the 2-storey single detached dwelling and the accessory building. As both buildings are existing and the accessory building is located entirely on lands that were previously cleared for a tennis court and included the construction of a concrete pad, environmental planning staff confirmed that environmental studies were not required in support of the applications.

Staff has reviewed the proposed Official Plan Amendment and Zoning By-law Amendment Schedules provided in the PJR and offer no objection to the application from a natural heritage perspective.

APPENDIX 3 - CIRCULATION COMMENTS

D.10.01.OPA-23-0056 & D.18.01.ZA-23-0108

November 6, 2023

Private Sewage System

At the pre-consultation meeting it was established that the existing building is equipped with a single toilet and sink, and included a sleeping area, but did not have kitchen facilities. The buildings water is supplied by a well system, and sewage disposal is through a septic system.

Staff note the original septic permit identified the structure as a bunk house with one bedroom, a bar sink, and a 2-piece bathroom. The septic designer and permit application essentially considered this to be the 6th bedroom of the existing home and included all the flows in the septic system and did not consider the bunk house as a separate dwelling unit. As such, staff offer no objection to the application as currently proposed from a private servicing perspective.

However, staff caution that should additional kitchen facilities, bedrooms, or additional fixture units be added to the bunk house to establish it as a separate dwelling unit new septic system would be required to handle the additional flows.

Waste Collection

Niagara 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:

- Blue/grey –no limit (weekly collection)
- Green – no limit (weekly collection)
- Waste – 2 bag/can limit (bi-weekly collection)
- Curbside collection only

Regional staff note waste and recycling collection is to remain as existing for the property.

As of Jan. 1, 2024, Circular Materials Ontario will take over the delivery of residential Blue / Grey Box recycling collection services currently administered by Niagara Region. The most up to date information can be found on the Region's website using the following link: <https://niagararegion.ca/projects/blue-box-transition/default.aspx>

Conclusion

In conclusion, Regional Growth Strategy and Economic Development staff does not object to the applications as the proposal is consistent with the Provincial Policy Statement and conforms to Provincial and Region plans. As noted above for future reference, any changes to the accessory building to establish it as a separate dwelling unit would require a new septic system.

APPENDIX 3 - CIRCULATION COMMENTS

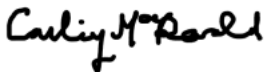
D.10.01.OPA-23-0056 & D.18.01.ZA-23-0108

November 6, 2023

Staff note the Official Plan Amendment is exempt from Regional Council approval, in accordance with Policy 7.4.1.6 and 7.4.1.7 of the NOP and the Memorandum of Understanding.

Should you have any questions related to the above comments, please contact the undersigned at Carling.Macdonald@niagararegion.ca, or Pat Busnello, Manager of Development Planning at Pat.Busnello@niagararegion.ca.

Kind regards,



Carling MacDonald
Development Planner

cc: Pat Busnello, MCIP, RPP, Manager of Development Planning, Niagara Region
Adam Boudens, Senior Environmental Planner, Niagara Region
Susan Dunsmore, Manager of Development Engineering, Niagara Region

APPENDIX 3 - CIRCULATION COMMENTS



Interoffice Memorandum

November 3, 2023

File Nos. 350309-0578 & 350302-0147)

To: Daryl Vander Veen
Intermediate Development Planner

From: Rachel Daniels, Senior Environmental Planner

Subject: Environmental Review – Natural Heritage Impact Analysis Memo – Official Plan Amendment (OPA) and Zoning By-law Amendment (ZBA) for 5047 Abino Dunes Road

On January 26, 2023 a Pre-Consultation meeting was held for an Official Plan Amendment (OPA) and Zoning By-law Amendment (ZBA) on the property known as 5047 Abino Hills Road to bring a previously built structure into conformity with the Zoning By-law and Official Plan. The subject properties are impacted by the presence of an Area of Natural and Scientific Interest (ANSI), Dune Protection Area, Environmentally Sensitive Area, Natural Hazard Area, Provincially Significant Wetland and Woodland over 2 Hectares as identified within the Town's Official Plan (2011) and Natural Areas Inventory (NAI; 2003). As a result of the Pre-consultation meeting, Town Staff requested the submission of a Natural Heritage Impact Analysis (NHIA) Memo that assesses any additional long-term / indirect impacts associated with the structure compared to those associated with leaving the area in its previous state (tennis court). Of particular interest, the Town requested an assessment of the impacts associated with runoff from the structure within the Dune Protection Area (i.e. erosion, impacts to potential Fowler's Toad habitat) and any associated mitigation that should be considered.


Staff have reviewed the NHIA Memo prepared by Ecological and Environmental Solutions (July 2023) which indicates structure was constructed entirely on the existing concrete pad and did not result in increased impervious area that would impact the volume and rate of surface runoff from the site. The EIS also indicates that the east facing slope of the roof does not appear to significantly change the direction of drainage on the site. Staff are in agreement that the structure has not resulted in any significant long-term impacts related to stormwater runoff.

The NHIA Memo also indicated that the property does not provide potential breeding, hibernation, or daytime refuge for Fowler's Toads and the highly vegetated dunes adjacent to the structure do not represent the preferred habitat for Fowler's Toad. Staff are in agreement that, regardless of the potential presence of Fowler's Toad habitat, there are no direct or indirect impacts associated with the Dune habitat.

In summary, Staff are in agreement that the placement of the bunkhouse on previously disturbed areas has limited the potential for long-term indirect impacts on wildlife and associated habitat and that no further mitigation measures are required at this time.

Please feel free to contact Rachel Daniels, Senior Environmental Planner at 1-905-871-1600 ext. 2510 should you have any questions.

APPENDIX 3 - CIRCULATION COMMENTS

Re: Request for comments - proposed combined Official Plan & Zoning By-law Amendment, 5047 Abino Hills Road, Town of Fort Erie (file nos. 350309-0578 & 350302-0147) 

[Mohammad Kamruzzaman](#) to Daryl Vander Veen

2023-10-30 10:57 AM

From: Mohammad Kamruzzaman/FortErie
To: Daryl Vander Veen/FortErie@TownOfFortErie

Hello Daryl,

Good Morning!

Thank you for the email. Please see the attached zoning review for the proposed Official Plan and Zoning By-law Amendment for 5047 Abino Hills Road.



Zoning Review - OPA & ZBA - 5047 Abino Hills Road.docx

If you have any further questions or concerns, please contact me.

Regards,

Mohammad Kamruzzaman, CPT
Zoning Technician

The Corporation of the Town of Fort Erie | Planning and Development Services
1 Municipal Center Drive, Fort Erie, Ontario L2A 2S6
T: 905-871-1600 x 2521

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Daryl Vander Veen Good afternoon, An application for a combined...

2023-10-17 12:43:32 PM

From: Daryl Vander Veen/FortErie
To:
Date: 2023-10-17 12:43 PM
Subject: Request for comments - proposed combined Official Plan & Zoning By-law Amendment, 5047 Abino Hills Road, Town of Fort Erie (file nos. 350309-0578 & 350302-0147)

To:

Bcc: MKamruzzaman@forterie.ca