

**ZONING BY-LAW AMENDMENT AND CONSENT FOR SEVERANCE
PRELIMINARY PLANNING POLICY JUSTIFICATION REPORT
AND IMPACT ANALYSIS**

**Prepared for
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INTRODUCTION

South Coast Consulting, Land Use Planning and Development Project Management, was retained on 2022-03-03 by PLW Planning and Environmental Consulting on behalf of Joseph Moore to prepare this [Preliminary Planning Policy Justification Report and Impact Analysis](#) for *Planning Act* applications to permit residential development, the creation of three (3) new lots, at 214 Windmill Point Road South in the Town of Fort Erie. The purpose of this [Preliminary Planning Policy Justification Report and Impact Analysis](#) is to review the proposal illustrated in [Annex 1, Site Plan](#) (Drawing A1-1, by Jordan Station Design Co., dated 2021-12-01 and revised to 2022-02-07) The Subject Property, illustrated in [Annex 2, Survey](#) and [Annex 3, Subject Property](#) has a single detached dwelling and several accessory structures. Official Plan and Zoning By-law Amendments and Consents for Severance applications are required.

The purpose this [Preliminary Planning Policy Justification Report and Impact Analysis](#) is to:

- Review the proposed use of the Subject Property.
- Provide the planning rationale and Justification in support of the Minor Variance application.
- Evaluate how the redevelopment complies in the context of the:
 - Good planning principles, and
 - The applicable policies and provisions of the:
 - Provincial Policy Statement ([PPS](#)),
 - Growth Plan for the Greater Golden Horseshoe ([Growth Plan](#)),
 - Niagara Region Official Plan ([ROP](#)),
 - Town of Fort Erie Official Plan ([FEOP](#)),
 - Town of Fort Erie Zoning By-law ([FEZB](#)), and
 - Niagara Peninsula Conservation Authority Policies for the Administration of Ontario Regulation 155/06 and the Planning Act (NPCA Guidelines).

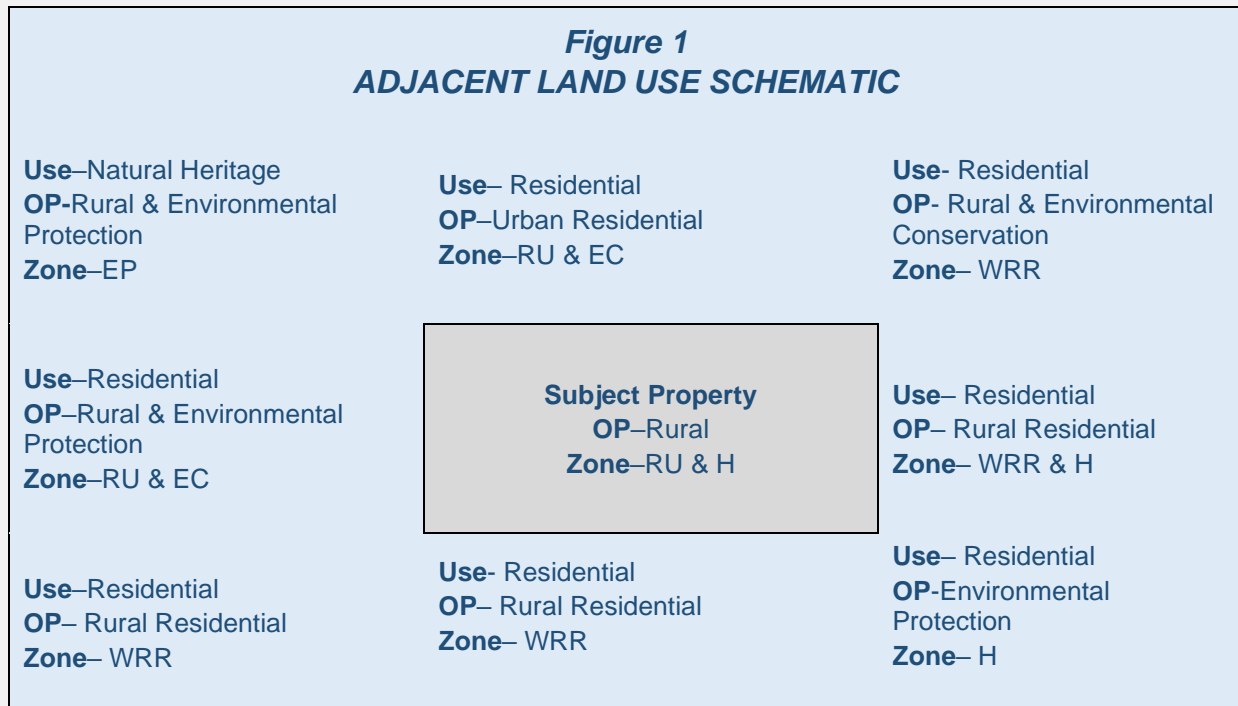
On 2021-03-19 the Town of Fort Erie hosted a pre-application consultation meeting to discuss the proposed development (see [Annex 6, Pre-Consultation Agreement](#)). Staff of the Town's Development Planning, Neighbourhood Planning, Community Planning, Committee of Adjustment, Building, Fire, Building, and Engineering Departments, The Niagara Region Conservation Authority, Canadian Niagara Power, and Niagara Region attended or provided comments. The meeting established the applications required to proceed with the proposal and a Hydrogeological Study and a grading plan are required.

The approximately 4.7-hectare Subject Property with about 130 metres of frontage in Windmill Point Road South, with an existing dwelling and accessory buildings is **designated Rural Area** in the Niagara Region Official Plan, **Rural** in the Town of Fort Erie Official Plan, and **zoned RU - Rural** and **H – Hazard**. The RU Zone permits, among other uses, single detached dwellings and accessory uses.

SITE CONTEXT AND SURROUNDING LAND USES

The site context is intended to provide an understanding of where the redevelopment is located and the characteristics of the site and the surrounding area. The Subject Property is on the east side of Windmill Point Road South, north of Windmill Point Lane East and Lake Erie.

As illustrated in *Figure 1, ADJACENT LAND USE SCHEMATIC*, the Subject Property is bordered on by existing long standing residential uses.



The development of the Subject Property at 1.0 hectare per lot is a rural residential use compatible with the natural heritage, agricultural, and rural residential use context of the surrounding area. The three (3) dwelling units represent a population of about eight (8) persons and a density of about 1.7 persons per hectare based on the 2.44 persons per household for 2021 in Table 4-1, Niagara Region, Population, Household and Employment Forecast by Local Municipality, 2006-2031 in the ROP.

DESCRIPTION OF THE PROPOSAL

This section of the Report provides conceptual details about proposed uses, proposed buildings, and their siting. The [Description of the Proposal](#) also provides a brief description of the technical, supporting studies submitted as a part of the complete application and how these relate to applicable planning policies (i.e., Hydrogeologic Assessment).

The applicant is proposing:

- Demolition of the existing barn.
- A new 291 square metre, 10-metre-high shed / barn accessory to a dwelling subject of an appealed Minor Variance Application.
- Demolition of the existing garage.
- Construction of a new 390 square metre, 10-metre-high north residential wing and garage with a covered walkway on all sides attached to the existing single detached dwelling by a new covered walkway also subject of the appealed Minor Variance Application.
- Renovation of the existing single detached dwelling and addition of a covered walkway on all sides also subject of the appealed Minor Variance Application.
- A new west 128 square metre 10-metre-high west wing with a covered porch attached to the existing single detached dwelling by a new covered walkway also subject of the appealed Minor Variance Application.

The *Site Plan* is an indicative plan reflecting desirable development scenario for the Subject Property and is an articulation of established best practices in design and planning. It provides a flexible framework and practical direction for development of the Subject Property, and to the extent possible currently, detail of the anticipated building locations, massing, and development parameters. Regardless of the eventual implementation and build out, the intent and objective of creating a safe, walkable, and environmentally resilient development attuned to the everyday needs of the residents remains constant.

The *Site Plan* began with identification of preferred location of the buildings and servicing. Once the preferred building locations were confirmed the next step was to establish landscaped areas. Consideration is given to how this site presents itself to both the immediate vicinity and the broader context in terms of vista impact and public realm enhancement.

Site Plan

A requirement of the Pre-Consultation Agreement is in [Annex 1](#), Site Plan, Drawing A1-1, prepared by Jordan Station Design Co., dated 2021-12-01 and revised to 2022-02-07. Conceptual drawings are assumed to be acceptable for a complete submission for the Official Plan and Zoning By-law Amendments and Consents for Severance applications. Submission of the Building Elevation drawings will be submitted with future applications.

Hydrogeologic Assessment

A requirement of the Pre-Consultation Agreement is a Hydrogeological Assessment by Terra-Dynamics Consulting Inc., dated 2022-03-08 for a separate application on the Subject Property concluded the proposed severances can be safely serviced by private sewage systems with the following conditions:

- For each severance, the septic bed is placed in the northeastern corner of the parcel, while maintaining the minimum 3 m Ontario Building Code set-back from the property boundary.
- Each of these severances be required to have sewage effluent nitrogen removal systems of at least 75% nitrogen removal.
- Provision of water supply by municipal supply.

POLICY AND PLANNING ANALYSIS

Good planning practice directs a plan, and its policies are not written in stone. Policies such as those of the [PPS](#), [Growth Plan](#), [ROP](#), and [POP](#) reviewed here, are used to try to reach a goal. They are not to be used as a set of threshold measures where the inability to meet every policy results in a proposal's failure. All of the policies may not be and, based on good planning practice, don't have to be, satisfied as though they are zoning by-law regulations. If, on the balance, the proposal satisfies most of the policies and moves the community towards its stated goals, then the proposal should be given serious consideration for approval.

Land use planning in Ontario, Niagara, and Fort Erie is about development. Protecting and preserving resources is important but, land use planning is primarily about promoting and encouraging appropriate development. There are aspects of control to protect valuable and sensitive resources such as significant *cultural* and *natural heritage features*, from negative impacts from nearby uses but, the primary purpose is guiding development.

The philosophy of guiding development is evident starting with the *Planning Act*. The Citizen's Guide to Land-use Planning (the [Citizen's Guide](#)) states the *Act*, among other things, promotes sustainable economic development in a healthy natural environment and provides for a land use planning system led by provincial policy. The [Citizen's Guide](#) further states, the *Act* provides the basis for preparing official plans and planning policies that will guide future development.

The [Citizen's Guide](#) states the [PPS](#) provides policy direction that will help build strong communities by protecting, among others, *natural heritage features*. Community planning is aimed at identifying common community goals and balancing competing interests of the various parties.

The [Policy and Planning Analysis](#)

- Provides the basis for establishing why a proposal should be considered and approved.
- Provides an outline of applicable planning policy documents and regulatory context reviewing specific policies relevant to the proposal.
- Establishes the basis for the applications by explaining how the proposal conforms to the policies.

Where changes to the zoning provisions are proposed, the [Policy and Planning Analysis](#) discusses the appropriateness of the request, including the policy basis for requested modifications specific to the proposal.

Planning Act

The *Planning Act* sets out the basis for land use planning in Ontario and establishes tools and mechanisms for how land uses may be controlled and who may control them. The *Act* is legislation:

- Promoting sustainable economic development in a healthy natural environment.
- Integrating matters of provincial interest into provincial and municipal planning decisions by requiring all decisions to be consistent with the [PPS](#) when decision makers exercise planning authority or provide advice on planning matters.
- Providing for fair planning processes by making them open, accessible, timely and efficient.
- Encouraging co-operation and coordination among various interests.
- Recognizes the decision-making authority and accountability of municipal councils in planning.

The *Planning Act* requires decisions of Council to be consistent with the policy statements and to conform with the provincial plans. The *Act* provides for the establishment of land use policy. Specifically, an official plan must contain,

- goals, objectives and policies managing and directing physical change and its effects on the social, economic, built and natural environment.
- policies and measures ensuring the adequate provision of affordable housing.
- a description of the measures and procedures for informing and obtaining the views of the public.

The *Planning Act* states where an official plan is in effect no by-law can be passed that does not conform with the Official Plan and the *Act* provides for the establishment of Zoning and land use controls restricting use of land or prohibiting the use of land, for or except for, such purposes set out in the by-law.

The *Planning Act* provides for an owner of land may apply for approval of a plan of severance and requires the provision of a sketch showing:

- Boundaries of the land proposed to be severed.
- Locations, widths, and names of roads.
- The purpose for which the proposed lots are to be used.
- Existing uses of all adjoining lands.
- Approximate dimensions and layout of the proposed lots.
- If any affordable housing units are being proposed.

- Natural and artificial features such as buildings or other structures or installations, railways, highways, watercourses, drainage ditches, wetlands, and wooded areas within or adjacent to the land proposed to be severed.
- The availability and nature of domestic water supplies.
- The nature and porosity of the soil.
- Existing contours or elevations as may be required to determine the grade of the highways and the drainage of the land proposed to be subdivided.
- The municipal services available or to be available to the land proposed to be subdivided.
- The nature and extent of any restrictions affecting the land proposed to be subdivided, including restrictive covenants or easements.

Provincial Policy Statement

A decision of the Council must be consistent with the **PPS** and the **Growth Plan** or not conflict with them, as the case may be. *Settlement areas* such as the Fort Erie are to be the focus of growth and development, and their vitality and regeneration is to be promoted. Land use patterns within *settlement areas* are to be based on, among other things, densities and a mix of land uses which; efficiently use land and resources, and efficiently use the *infrastructure* and *public service facilities* planned or available.

The **PPS** provides for appropriate development while protecting resources of provincial interest, public health and safety, and the quality of the natural and built environment. A basic principle of policy led land use planning, iterated in the **PPS** is that, when more than one policy is relevant, decision-makers should consider all of the policies to understand how they work together. The language of each policy, including the Implementation and Interpretation policies, assist decision-maker's understanding how the policies are to be implemented.

Another important aspect of policy led land use planning is the terms used in the policies. As succinctly outlined in the **PPS**, some policies set out positive directives, such as "*settlement areas* shall be the focus of growth and development." Other policies set out limitations and prohibitions, such as "*development* and *site alteration* shall not be permitted." Other policies use enabling or supportive language, such as "should," "promote" and "encourage."

The **PPS** defines *Rural Areas* as a system of lands within municipalities that may include, among other things, rural *settlement areas* and *rural lands*, further defined as land located outside *settlement areas* and *prime agricultural areas*. The **PPS** provides for limited residential development outside *settlement* and *prime agricultural areas*. Such development must be appropriate to the water, septage treatment, stormwater management, waste management, electricity generation, transmission and distribution, communications / telecommunications, transit and transportation corridors, and oil and gas pipelines and associated systems which are planned or available and avoid the need for the unjustified and / or uneconomical expansion of this infrastructure. Sewage and

individual, autonomous water supply systems owned, operated and managed by the owner may be used.

Policy 1.1.1a of the **PSS** states Ontario's long-term prosperity, environmental health and social well-being depend on wisely managing change and promoting efficient land use and development patterns. Efficient land use and development patterns support sustainability by promoting strong, liveable, healthy and resilient communities, protecting the environment and public health and safety, and facilitating economic growth. Healthy, liveable and safe communities are sustained by promoting efficient development and land use patterns reflected by the the *vehicle repairs and sales use* on the Subject Property and thus sustaining the financial well-being of the Province and the Town over the long term.

The Subject Property is within the *Rural Area* of the **PPS** and is considered “Rural Lands”, providing for lot creation compatible with the rural landscape, locally appropriate, sustainable on private services and not impacting agricultural uses, groundwater resources, natural heritage features, archaeological resources, or aggregate resources.

The proposal is for limited residential development compatible with the rural landscape and sustainable by rural service levels. No expansion of infrastructure is required.

Site conditions are adequate for *individual on-site sewage services*.

Growth Plan

The **Growth Plan** requires population and employment growth to be accommodated by directing a significant portion of new growth to the *built-up areas* of Niagara, such as the Fort Erie, through *intensification*. The Greater Golden Horseshoe is expected to grow by 13,480,000 million people by 2041 with Niagara projected to take grow to a population of 610,000. The **Growth Plan** directs development in the *Built-up Area* through *intensification* at high density to support sustainability, therefore:

- Protecting and preserving prime agricultural land in prime agricultural areas.
- Reducing automobile dependence by transit supportive development.
- Encouraging complete communities with a range of housing types.

The Subject Property is within the *Rural Area* of the **Growth Plan** and is considered “Rural Lands”. Creation of lots for residential use is permitted in Rural Lands provided it is compatible with the rural landscape and surrounding local land uses, can be sustained by rural service levels, will not adversely affect the protection of agricultural uses or other resource-based uses such as mineral aggregate operations, and does not constitute the creation of “multiple lots”. The Growth Plan defines “multiple lots” as being the creation of more than three new lots.

The proposal addresses the [Growth Plan](#) directions by developing residential uses and providing the Town a range of housing types and affordability accessible to a range of household incomes.

Official Plans

Regional Official Plan

Growth and development are to be focused within urban areas. The [ROP](#) carefully manages land use to accommodate appropriate development to meet the full range of current and future needs, while achieving efficient development patterns and avoiding significant or sensitive resources and areas which may pose a risk to public health and safety. Like the [PPS](#), the [ROP](#) promotes the efficient use of land and the minimization of conflict between incompatible uses as a Strategic Objective and building compact, mixed use, transit supportive, *active transportation friendly* communities in the *Settlement Areas* such as Fort Erie. The objectives of the [ROP](#) Growth Management Policies include directing most of the growth and development to existing *Urban Areas* and promoting the efficient use of existing municipal sewage and water services.

The [ROP](#) intends to build more sustainable, *complete communities* by, among other things, making efficient use of land, resources, and *infrastructure* and supporting *intensification* to maximize the use of existing and planned *infrastructure* to support growth in a compact and efficient manner.

The [ROP](#) designates the Subject Property as Rural Area which provides for creation of residential lots provided, they constitute limited, non-agricultural development that is compatible with the rural landscape, will not negatively impact natural resources or agricultural activities and can be sustained on a private sewage disposal system. In the Pre-consultation comments The Region has provided comments on how the proposal relates to the [ROP's](#) Rural, Core Natural Heritage and Archaeological policies.

The residential redevelopment of the Subject Property is compatible with the rural landscape and surrounding local land uses; sustainable by rural service levels; and will not adversely affect the protection of agricultural uses and natural heritage resources.

Fort Erie Official Plan

The [FEOP](#) designates the Subject Property Rural. Like the [ROP](#) the *Rural Area* in the [FEOP](#) is a land use designation. A goal of the [FEOP](#) is to accommodate population growth and future housing needs by providing for a full range of housing choices in terms of type, tenure and price available to accommodate persons with diverse social and economic characteristics and needs. ([Residential Goal 2.3.5\(a\)](#)).

Another goal of the [FEOP](#) is to facilitate the efficient use of community and engineering services and to ensure that development does not create an undue financial hardship on the municipality. ([Residential Goal 2.3.5\(b\)](#))

Creation of residential lots in the Rural area are required to meet the **FEOP** policies for infill lots, defined as “a new lot which fronts on a public road and which is situated on the same side of the road and between either an existing dwelling and another existing dwelling or a natural heritage feature or an improved road allowance where the distance between such structures or features is 90 metres or less.” The **FEOP** also requires a minimum lot area of 0.4 hectares and a minimum frontage of 46 metres for new lots in the Rural designation.

An Official Plan Amendment is required as the distance between the two proposed lots and existing dwellings and / or natural heritage features along Windmill Road South is greater than 90 metres. The other criteria required under Section 4.6.3. II of the Official Plan for consent to sever in the Rural area are met.

Rural Areas

Rural Areas like that of the Subject Property are important to the economic success of the Province and the quality of life. *Rural areas* are a system of lands that may include *rural settlement areas, rural lands, prime agricultural areas, natural heritage features and areas*, and other resource areas. *Rural areas* and *urban areas* are interdependent in terms of markets, resources and amenities.

The residential redevelopment complies with **Policy 1.1.4.1**, of the **PPS** supporting a healthy, integrated, and viable *rural area* by using existing rural *infrastructure* and *public service facilities* efficiently.

On *rural lands*, uses permitted by **Policy 1.1.5.2** of the **PPS** include locally appropriate residential development, including lot creation, and **Policy 1.1.5.4**, promotes development such as that proposed, compatible with the rural landscape and sustainable by rural service levels.

As required by **Policy 1.1.5.5** of the **PPS** the proposed residential use on the Subject Property does not need expansion of *infrastructure*. The Hydrogeological Assessment by Terra-Dynamics Consulting Inc., dated 2022-03-08 for a separated application on the Subject Property concluded the proposed severances can be safely serviced by private sewage

systems with the following conditions:

- For each severance, the septic bed is placed in the northeastern corner of the parcel, while maintaining the minimum 3 m Ontario Building Code set-back from the property boundary.
- Each of these severances be required to have sewage effluent nitrogen removal systems of at least 75% nitrogen removal.
- Provision of water supply by municipal supply.

Section 2.1 of the [Growth Plan](#) speaks to protecting agricultural lands, water resources, and natural areas helping to reduce greenhouse gas emissions and ensuring communities are more resilient to the impacts of climate change. Strong, healthy; and prosperous rural communities are vital to the economic success of the *Greater Golden Horseshoe (GGH)* and contribute to the quality of life.

Unlike the broad concept of rural areas in the [PPS](#) and [Growth Plan](#) the *Rural Area* in the [ROP](#) is land use designation, defined as areas outside of the Urban Areas Boundaries with limited or no capability for agriculture shown on Schedule A of [ROP](#) as Rural. The [ROP](#) Objectives include preserving Niagara's agricultural lands ([Objective 5.A.1](#)), conserving and enhancing natural resources ([Objective 5.A.3](#)), providing an efficient and orderly pattern of land uses lessening land use conflicts, requiring a minimum of municipal services, and conserving natural resources ([Objective 5.A.5](#)), and protecting farmers' right-to-farm by minimizing the potential for conflicts between farm and non-farm uses ([Objective 5.A.6](#)).

[Policy 5.C.1](#) of the [ROP](#) provides for non-farm related *developments* such as that proposed. [Policy 5.C.2](#) permits low intensity non-agricultural *development* such as the non-farm residential uses proposed where, as required by [Policy 5.C.3](#), the proposed lots and the soil conditions are suitable for the satisfactory long-term operation of a private sewage disposal system, and as required by [Policy 5.C.4](#), the proposed cistern water supply for the new lots meets the requirements of the Ministry of the Environment or its agents and the Medical Officer of Health.

[Policy 5.C.5](#) of the [ROP](#) states *developments* outside the urban areas boundaries will not be provided with municipal *water* and *sewer services* but instead will be expected to depend on private *sewage disposal systems* and private *water* supply. As noted, private *sewage disposal systems* are possible. The retained parcel has a municipal *water service*, and the severed parcels can be provided potable water from cisterns.

As required by [Policy 5.D.7](#) of the [ROP](#), adequate services such as school bussing and fire protection are provided, the added *development* will not interfere with the operation of the arterial road system, and existing problems such as pollution, inadequate water supply or conflicting land uses will not be aggravated.

As required by [Policy 5.D.8](#) of the [ROP](#) adequate municipal water supply and suitable for private waste disposal systems are available. The existing public water and private cisterns and private waste disposal systems are assumed to be adequate and suitable.

[Policy 4.6.2I](#) of the [FEOP](#) restricts municipal sewers or water supply in the Rural Area. All new buildings for human use or habitation are to be located on lots suitable to support a private well and sustainable private sewage disposal system according to the appropriate authority's requirements. As noted, private *sewage disposal systems* are possible. The

retained parcel has a municipal *water service*, and the severed parcels can be provided potable water from cisterns.

As required by [Policy 4.6.2III](#) of the [FEOP](#) there will be no additional cost of providing ancillary services such as storm drainage, snowplowing, road maintenance including paving, garbage and refuse pick-up and school buses, because of they are already available to nearby residential uses.

In addition to the other policies of this subsection, the proposed severances comply with the following criteria of [Policy 4.6.2IV](#) of the [FEOP](#):

- The required minimum lot size of 0.4 hectares is provided.
- *Development* is designed to be consistent with Section 8 of this Plan (see the following Natural Heritage Features section of this document).
- Buildings and other structures subject to damage are not located in Natural Constraint areas subject to flooding or erosion, unstable slopes, swampy conditions, or organic or unstable soils.
- *Development* is at a scale and density suitable to the physical characteristics of the site.
- Soil and drainage conditions are suitable for the proper siting of buildings, the supply of sustainable private potable water and the long-term operation of a sustainable private waste disposal system.
- Natural drainage systems of the surrounding agricultural lands are not interfered with or detrimentally affected by the development.
- The *development* can provide adequate on-site parking and suitable access to a maintained public road without interfering with the normal flow of traffic.
- The *development* is suitably distant from and protected from incompatible land uses such as intensive animal operations, industrial uses, solid waste disposal sites, and pits or quarries.

As provided for by [Policy 4.6.2V](#) the proposal is for the limited rural residential *development*.

The proposal addresses the [Provincial Policy Statement](#) and the [Growth Plan for the Greater Golden Horseshoe](#) directions by promoting efficient land use. As provided for and encouraged by the [Regional Official Plan](#) and the [Fort Erie Official Plan](#) the proposal makes efficient and sustainable use of existing municipal water services.

Natural Heritage

While the designations are not on the Subject Property. Schedule C of the [FEOP](#) designates nearby land Provincially Significant Wetlands, Significant Natural Area, Woodlands Over 2 Hectares and Environmental Corridor. The proposed new lots are not located in any of those designations.

Policy 2.1.5 of the PPS prohibits *development* in *significant woodlands*, unless it has been demonstrated that there will be no *negative impacts* on the natural features or their ecological functions. There is no development proposed in any of the prohibited natural features. The proposed severances are not in a *significant woodland*.

Since the *proposed residential redevelopment* does not have any new buildings or structures in the area designated Environmental Protection Area, Environmental Conservation Area, or Fish Habitat, Growth Plan Policy 4.2.2.3. is satisfied because,

- There are no *negative impacts* on *key natural heritage features* or *key hydrologic features* or their functions.
- Connectivity along the system and between *key natural heritage features* and *key hydrologic features* located within 240 metres of each other is maintained for the movement of native plants and animals across the landscape.
- There is no removal of other natural features identified as *key natural heritage features* and *key hydrologic features*.
- The disturbed area, including any buildings and structures, will not exceed 25% of the *total developable area*, and the impervious surface will not exceed 10% of the *total developable area*.
- At least 30% of the *total developable area* will remain or be returned to *natural self-sustaining vegetation*.

Policy 4.2.4.1 of the Growth Plan does not apply because the proposal for new *development* greater than 120 metres of a *significant woodland*.

According to Policy 4.2.2.4 of the Growth Plan provincial mapping of *the natural heritage system for the Growth Plan* does not apply until it has been implemented in the ROP. Until that time, the policies in the Growth Plan referring to the *natural heritage system for the Growth Plan* will apply outside *settlement areas* to the *natural heritage systems* identified in the FEOP approved and in effect as of July 1, 2017.

As required by Policy 7.A.3 of the ROP the new *development* can be designed to maintain or enhance the natural features and functions and as required by Policy 7.A.2.9, the *development* is not anticipated to have *significant* adverse impacts on *ground water* quality or quantity. As provided for by Policy 7.B.1.11b the *development* may be permitted without an amendment to the ROP on adjacent lands to Environmental Conservation Areas because the new uses will be at least 30 metres from both the *Fish Habitat* and the *Significant Woodland*, ensuring no long term significant negative impact on the Core Natural Heritage System component or adjacent lands. The proposed *development* is not prohibited by other Policies in the ROP.

Policy 8.1X of the **FEOP** states where a site-specific *development* proposal may impact *Fish Habitat* the proponent will be required to prepare an Environmental Impact Study. The proposed lots satisfy the setbacks required by **Policy 8.3.5VI**.

Policy 8.1XX of the **FEOP** states where *development* is approved in accordance with the policies of this Plan the applicant must submit a Tree Saving Plan maintaining or enhancing the remaining natural features and ecological functions. The Tree Saving Plan can be a condition of severance.

Policy 8.2IV of the **FEOP** requires Environmental Impact Studies for *development* on lands adjacent to *Environmental Protection Areas*. Since the new lots will not be adjacent to an *Environmental Protection Area* it is assumed an Environmental Impact Study is not needed.

Policy 8.3.1II of the **FEOP** states *development* adjacent to *Significant Natural Areas* is only be permitted if an Environmental Impact Study demonstrates that the *development* will not result in degradation that threatens the health or integrity of the natural features or *ecological functions* for which the area is identified as significant. The *woodland* along the northern property line is a *Significant Natural Area* but given the over 30 metre setback of any proposed structures from the north property line it is assumed there will be no impact and an Environmental Impact Study is not needed.

Infrastructure

Policies with respect to *infrastructure* are in **Section 1.6.6 of the PPS** and specifically, **Section 1.6.6.4** states, where *municipal sewage services* and *municipal water services* or *private communal sewage services* and *private communal water services* are not provided, *individual on-site sewage services* and *Individual on-site water services* may be used provided site conditions are suitable for the long-term provision of such services with no *negative impacts*. The residential uses on the Subject Property will be serviced by the existing *individual on-site sewage services* and *cisterns*. Site conditions are suitable for the long-term provision of *individual on-site sewage services* with no *negative impacts* according to the Hydrogeologic Assessment.

The guidelines to the Town for the issuance of permits for private water supply and sewage disposal systems to ensure a common objective provided in **Policy 8.B.19** of the **ROP** can be satisfied.

Policy 12.1 V. of the **FEOP** states in order to minimize the cost of services provided by all public agencies, no new development in the Town will be permitted in any location where it would contribute to a demand for public services not economically feasible to provide, improve, or maintain. The proposed residential uses will not contribute to a demand for public services.

As required by [Policy 12.4 II.](#) of the [FEOP](#) this *development*, located outside Urban Areas Boundaries, provides *sustainable private water and sewage services*.

[Policy 12.4 IV.](#) of the [FEOP](#) states lots on a private sewage disposal system should have a minimum lot frontage of 46 metres unless a greater frontage is stipulated by policy for the designation the lot is situated within. A lesser frontage may be considered where similar lot frontages exist in the immediate area and provided there is sufficient lot area to accommodate the private sewer disposal system and spare area subject to the approval of the authority having jurisdiction. [Policy 12.4 V.](#) states the soil and drainage conditions shall be suitable for the proper siting of buildings, the supply of potable water and the long-term operation of a waste disposal system.

Many of the existing lots in the area have lot frontages of about 30 metres and as noted above, a Hydrogeological Assessment by Terra-Dynamics Consulting Inc., dated 2022-03-08 for a separate application on the Subject Property concluded the proposed severances can be safely serviced by private sewage systems with the following conditions:

- For each severance, the septic bed is placed in the northeastern corner of the parcel, while maintaining the minimum 3 m Ontario Building Code set-back from the property boundary.
- Each of these severances be required to have sewage effluent nitrogen removal systems of at least 75% nitrogen removal.

Efficient Development

The proposal complies with the [PPS Policy 1.1.1a](#) for Building Strong Healthy Communities which says Ontario's long-term prosperity, environmental health and social well-being depend on wisely managing change and promoting efficient land use and development patterns. Efficient land use and development patterns support sustainability by promoting strong, liveable, healthy and resilient communities, protecting the environment and public health and safety, and facilitating economic growth." Healthy, liveable and safe communities are sustained by promoting efficient development and land use patterns which sustain the financial well-being of the Province and municipalities over the long term.

[ROP Strategic Objective 2.1](#) and [Objective 4.A.1.9](#) direct growth and development, to *urban* and rural *settlement areas*, and support the viability of *rural areas*. Land use must be carefully managed to accommodate appropriate development to meet the full range of current and future needs, while achieving efficient development patterns and avoiding significant or sensitive resources and areas which may pose a risk to public health and safety.

Efficient development patterns optimize the use of land, resources and public investment in infrastructure and public service facilities. Efficient development patterns also minimize the undesirable effects of development, including impacts on air, water, and other resources. Recognizing the diversified opportunities and needs in Niagara and balancing both urban development and the conservation of natural resources by providing a choice of employment locations, the efficient use of lands and the minimization of conflict is the Strategic Objective of the ROP.

Natural Hazards and Fish Habitat

There are no natural hazard areas or fish habitat where the severances are proposed.

PPS Policy 3.1.1 requires development to be generally be directed, to areas outside of: *hazardous lands* adjacent to *river, stream and small inland lake systems* which are impacted by *flooding hazards* and / or *erosion hazards*; and Policy 3.1.2 states *development* and *site alteration* shall not be permitted within the *dynamic beach hazard* and areas that would be rendered inaccessible to people and vehicles during times of *flooding hazards, erosion hazards* and / or *dynamic beach hazards*, unless it has been demonstrated that the site has safe access appropriate for the nature of the *development* and the natural hazard. Neither of these conditions apply to the proposed severed parcels.

As required by ROP Policy 7.A.2.1 the proposed severances are not anticipated have negative impacts on:

- The quantity and quality of surface and ground water.
- The functions of ground water recharge and discharge areas, aquifers and headwaters.
- The natural hydrologic characteristics of watercourses such as base flow.
- Surface or ground water resources adversely impacting on natural features or ecological functions of the Core Natural Heritage System or its components.
- Natural drainage systems, stream forms and shorelines.
- Flooding or erosion.

As required by ROP Policy 7.A.6 the proposed severances are away from *hazardous lands* where there is an unacceptable risk to public health or safety or to property.

OFFICIAL PLAN AMENDMENT

An Official Plan Amendment is required to permit creation of three (3) new lots in an area designated as Rural that do not meet the infill policies of Section 4.6.3 II of the FEOP. The FEOP policies for lot creation in the Rural area only permit severances on an infill basis. This proposal does not meet the first requirement that "... [an] infilling lot shall mean the establishment of one new dwelling on a new lot which fronts on a public road and is situated on the same side of the road and between either an existing dwelling and another

existing dwelling or a natural heritage feature or an improved road allowance where the distance between such structures or features is 90 metres or less”.

The Subject Property is zoned Rural (RU) Zone. A Zoning By-law Amendment is required to change the portions of the subject property zoned Rural (RU) Zone to site-specific Rural (RU) Zones to permit reduced lot frontage for the proposed new lots and reduced lot frontage for the retained lot.

Creation of the proposed lots are subject to concurrent applications to the Town’s Committee of Adjustment for severance.

Subsection 13.7(III) of the FEOP provides for when considering an amendment to the Official Plan or the implementing Zoning By-law rezoning areas for a particular use or change the zoning of a particular area, the Council shall have due regard to the following criteria which are in addition to the policies and criteria specified elsewhere in the Plan:

The Need for The Proposed Use (FEOP 13.7III.(a))

The Subject Property is designated Rural providing for the land to be developed for single detached dwellings. The applicant is proposing to redesignate and rezone a portion of the property to allow residential uses.

The applicant’s proposal to create three (3) lots meets the intent of the Official Plan as follows:

- The Official Plan provides for a mix of residential dwelling types.
- The proposed development will be located on a minor road, Windmill Road South providing convenient vehicular access.
- The proposal provides a development of an underutilized parcel of land.
- The proposal assists the municipality in achieving its growth targets.

The Subject Property is not farmed, and the proposed Consents for Severance enable the sale of the proposed lots and their residential use. The three (3) lots are needed to accommodate the demand for construction of single detached dwelling on a rural lots in Fort Erie.

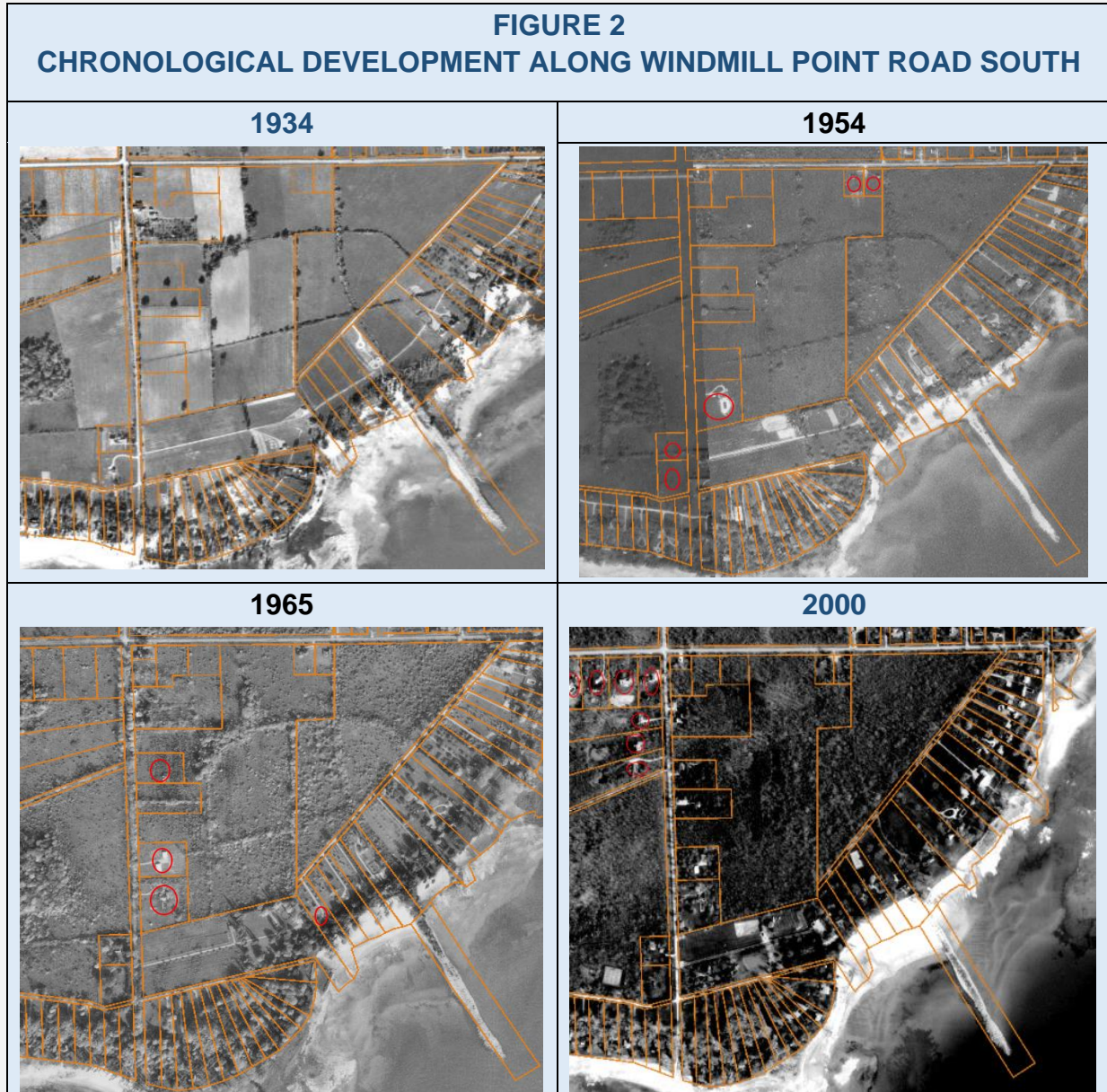
Extent, Nature, and Adequacy of Existing Development (FEOP 13.7III.(b))

The large lot with one (1) single detached dwelling is underutilized land providing for residential use. The surrounding land uses are residential and natural heritage. The proposed residential development will help to support the need for residential use.

Physical Suitability and Compliance with Natural Heritage Policies (FEOP 13.7III.(c))

The proposed new lots are not constrained by any natural heritage features. The site is physically suitable for the permitted residential uses.

As illustrated in Figure 2, CHRONOLOGICAL DEVELOPMENT ALONG WINDMILL POINT ROAD SOUTH, rural residential development is located on all sides surrounding the Subject Property and has continued to develop since at least 1934.



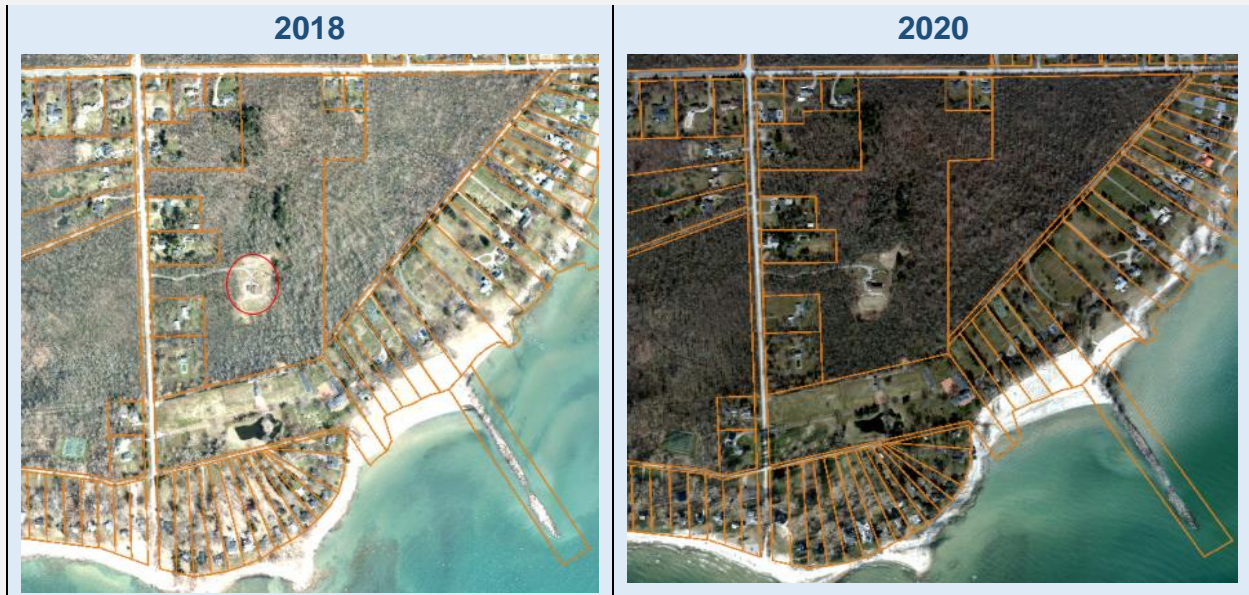


The proposed residential use on the Subject Property:

- Is not located in an area subject to flooding.
- Has soil and drainage conditions suitable for the proper siting of buildings, the supply of sustainable private potable water, and the long-term operation of a sustainable private waste disposal.
- Does not interfere with or detrimentally affect by natural drainage systems of the surrounding agricultural lands.
- Is suitably distant from and protected from incompatible land uses.

Location of the Area Under Consideration (FEOP 13.7III.(d))

- (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 the 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 Windmill Point Road South a short distance from Dominion Road, Niagara Regional Road 1. Both roads appear to be capable of handling greater volumes of traffic. The proposed severed and retained parcels will have access to municipal services.

The proposed residential use on the Subject Property:

- Satisfies the minimum lot size of 0.4 hectares.
- Is not located in an area subject to flooding.
- Is at a scale and density suitable to the physical characteristics of the site.
- Has soil and drainage conditions suitable for the proper siting of buildings, the supply of sustainable private potable water, and the long-term operation of a sustainable private waste disposal.
- Does not interfere with or detrimentally affect by natural drainage systems of the surrounding agricultural lands.
- Provides adequate on-site parking and suitable access to a maintained public road.
- Is suitably distant from and protected from incompatible land uses.

Site conditions are adequate for *individual on-site sewage services*.

No natural features will be removed.

The Subject Property fronts on Windmill Point Road South, a paved and maintained municipal road. The proposed lots are not anticipated generate significant traffic volumes and there are no sight line issues.

The Compatibility Adjoining Uses (FEOP 13.7III.(e))

The surrounding lands uses are residential and natural heritage. The proposed residential use is compatible with the surrounding residential land uses and the separation from the natural heritage features results in no negative impact. The proposed dwelling will be located close to Windmill Point Road South. The Official Plan policies encourages buildings to be generally situated close to the front street line but allows varied setbacks to provide interesting facade variations.

The retained and the severed parcels are adequately separated from adjacent uses. Adjacent uses include rural residential uses and natural heritage features compatible with the proposed use of the Subject Property.

The zoning provisions provide a high-quality development incorporating mitigation of potential environmental impacts.

Effect of Proposed Use on the Surrounding Area (FEOP 13.7III.(f))

There is no evidence to suggest that the proposed severances will have a depreciating or deteriorating effect upon adjoining property.

Potential Effect on the Financial Position of the Municipality (FEOP 13.7III.(g))

The proposed rezoning of the Subject Property will not negatively affect the financial position of the municipality. All the works associated with the proposed development are the responsibility of the developer. The proposed residential development will provide the municipality with an additional tax base and development charges. Through the Zoning By-law Amendment, Council may also require community benefits in the form of a Section 37 Agreement with the developer, which will have a positive effect on the financial position of the municipality.

Potential Effect in Relation to the *Environmental Protection Act* (FEOP 13.7III.(h))

None.

The proposed residential development on the Subject Property can be considered infilling. It does not adversely affect the integrity or efficient management of natural heritage resources and the new lots are of sufficient size and are assumed to have suitable soil site conditions for the installation and long-term operation of a sustainable private waste disposal system and sustainable private potable water supply.

The proposed lots do not satisfy the FEOP criteria for infilling based on the distance between structures or features, however in the case of the Subject Property the proposed residential development would make the highest and best use of the land.

CONSENTS FOR SEVERANCE

The applicant proposes to create three (3) new lots. [Policy 4.6.3I](#) states that in order to preserve the rural character of the area, the fragmentation of lands designated Rural is generally not permitted. This policy also provides for severances in accordance with the Consent policies of the Agricultural designation will be permitted, as well as the following:

[Policy 4.6.3II](#) suggests the new lots should be to be located in an area where They may be considered as an infilling:

The [Policy](#) goes on to define infilling as:

- The establishment of one (1) new dwelling.
- On a new lot:
 - Fronting on and on the same side of a public road.
 - Between either
 - an existing dwelling and another existing dwelling or
 - a natural heritage feature or
 - an improved road allowance.
- Where the distance between such structures or features is 90 metres or less.

The proposal is to create three (3) new lots from and existing lot with about 130 metres frontage on Windmill Road South between a natural heritage feature and, in this case, an improved private road allowance.

Another provision of the Policy is that the minimum lot size should be 0.4 hectares with a minimum frontage of 46 metres.

The proposal is to create three (3) new lots with an area of 0.4095 hectares and frontage of 33.53 metres with a retained lot of 3.44 hectares and 29.44 metres on Windmill Road South.

A third provision is that the Consents do not adversely affect the integrity or efficient management of natural heritage resources.

The new lots will be separated from the natural heritage feature by more than 35 metres and Lake Erie by at least 175 metres and existing residential uses.

The final provision of the Policy is that any new lot is of sufficient size and has suitable soil site conditions for the installation and long-term operation of a sustainable private waste disposal system and sustainable private potable water supply as determined by the Town or relevant approval agency.

As required by the Pre-Consultation Agreement a Hydrogeological Assessment by Terra-Dynamics Consulting Inc., dated 2022-03-08 for a separate application on the Subject Property concluded the proposed severances can be safely serviced by private sewage systems with the following conditions:

- For each severance, the septic bed is placed in the northeastern corner of the parcel, while maintaining the minimum 3 m Ontario Building Code set-back from the property boundary.
- Each of these severances be required to have sewage effluent nitrogen removal systems of at least 75% nitrogen removal.

As required by [Policy 13.9II](#) the applications are for Consents for land fronting on an existing public road that is of a reasonable standard of construction. There is no need to restrict direct access and the residential lots have access from a minor road. There does not appear to be a traffic hazard created on the straight flat link of Windmill Point Road South.

[Policy 13.9IV](#) states Consents to land severances may be permitted outside of the Town's Urban Areas where, in the opinion of the municipality, a plan of subdivision is not required, and provided that the Consent complies with the other relevant policies of this plan. A plan of subdivision is not required, and the requested Official Plan and Zoning By-law Amendments will bring the applications into conformity with the other relevant policies of the [FEOP](#).

An Official Plan Amendment is required to:

- Increase the number of infill lots created by severance from one (1) to three (3).
- Reduce the lot frontage required for infill lots from 46 to 29 metres for the retained parcel.
- Reduce the lot frontage required for infill lots from 46 to 33 metres for the severed parcels.
- Increase the distance between structures or features from 90 to 135 metres.

ZONING BY-LAW AMENDMENT

Zoning provides limits on the proposed development ensuring compatibility with the existing neighbourhoods. The Town's policies regarding zoning by-law amendments must be addressed in relation to the proposal. The Subject Property where the proposed severances are located is zoned "RU – Rural. The proposal's single detached residential use is not permitted by the provisions of Rural Zone. To proceed, with the proposal the new parcels must be re-zoned to an RU – "Special" Zone, such as the nearby RU-90, RU-91, RU-93, or RU-94 Zones.

A Zoning By-law Amendment is required to permit creation of the three (3) new residential lots (Parts 2, 3, and 4) as they are deficient in lot frontage in relation to the base Rural (RU) Zone regulations. Site-specific Rural (RU) Zones are requested with special provisions for the following:

- reduced lot frontage of 29 metres from 95.00 metres and reduced lot area of 3.4 hectares from 6.0 hectares for Part 1 (retained lot).
- reduced lot frontage of 33 metres from 95.00 metres and reduced lot area of 0.4 hectares from 6.0 hectares for Parts 2, 3 and 4.

PROVISION / USE	RU ZONE REQUIRMENTS	RETAINED PARCEL	SEVERED PARCELS	COMMENT
Single Detached Dwelling	Permitted	Single Detached Dwelling	Single Detached Dwellings	Permitted
Min Frontage	95m	29.44m	33.53m	Relief Required
Min Lot Area	60,000sqm	34,376.1sqm	4,095sqm	Relief Required
Min Front Yard	15m	281m	As Required	Can be Satisfied
Min Side Yard	7.5m	20.9m	As Required	Can be Satisfied
Min Rear Yard	15m	15m	As Required	Can be Satisfied
Max Building Height	2-1/2 storeys/10m	10.0m	As Required	Can be Satisfied
Minimum Floor Area for Dwellings	100sqm	As Required	As Required	Can be Satisfied

Adequate parking as required by the Zoning By-law is accommodated on the retained parcel and each of the proposed lots. Reductions in the FEZBs minimum parking requirements are not being sought and therefore, the required parking will be provided.

There is no final building design for the proposed buildings however, at this preliminary stage, the establishment of the use of the site is required first.

PLANNING JUSTIFICATION SUMMARY

Fort Erie is a desirable residential location experiencing a demand for buildable lots. In much the same manner as the Subject Property is proposed for residential development, other appropriately zoned locations have development proposals. This proposal will assist the Town in maintaining an adequate inventory of buildable lots.

The Subject Property is flat and suitable for residential development.

The Subject Property is designated as Rural indicating it has been the Town's vision for the Subject Property to be considered for limited residential purposes for some time. The proposal will achieve this objective - the proposal is appropriate for the lands.

The Severances have been designed to integrate into the existing community, are sensitively designed and compatible with the existing neighbourhood - the development will contribute to satisfaction of the Town's growth targets in a sensitive and comprehensively planned manner.

The intention is to design a development compatible with and integrated sensitively into the existing neighbourhood in keeping with the **FEOP**. The concept makes slight changes in keeping with the **PPS**, **Growth Plan**, **ROP**, and **FEOP** intensification targets without negative impacts on the surrounding existing single detached residential communities or natural heritage features.

Overall, the proposed development is well thought out and sensitively designed to fit into the existing context of the adjacent neighbourhood with no significant negative impacts. The proposed development will not have negative impacts on the adjacent land uses as the proposed development is consistent with the surrounding residential land uses and meets or exceeds the goals of the **FEOP** in terms of its applicability to the development of the Subject Property.

There have been no previous uses on the Subject Property that would require a clearance under the *Environmental Protection Act*.

The proposal is for a use of existing underutilized land in the Fort Erie *rural area* at a residential density of about 1.2 units per hectare.

Design is an integral part of the total planning process as it provides a method of providing a visual contribution to the establishment of the character of the Town and its distinct neighbourhoods. The Region's and Town's urban design policies encourage, among other things, the proposed development:

- Respects the established road and lotting pattern of the established development pattern of the community.
- Preserves privacy, comfort, and amenity spaces.
- Can provide generous planting of native species appropriate to the circumstances and location, and preserve existing vegetation compliment the built form and to create an established appearance.
- Respects adjacent buildings and the street setting in scale, proportion, continuity, and texture.

POLICY AND ISSUES REVIEW

The Town of Fort Erie Council has the authority to approve Official Plan and Zoning By-law amendments and the Committee of Adjustment has the authority to approve Consent for Severance applications where they implement the policies of the Official Plan. The proposal satisfies the **ROP** intent to build more sustainable, *complete communities* by, among other things, making efficient use of land, resources and *infrastructure* and supporting *intensification*, to maximize the use of existing and planned *infrastructure* to support growth in a compact and efficient manner. The **FEOP** encourages *residential intensification* and *redevelopment* such as proposed in areas that have sufficient existing or planned *infrastructure*.

The proposal is efficient development, *intensification*, and optimization of the use of land and public investment in *infrastructure*, a strong theme throughout the **PPS**, **ROP**, and **FEOP**. The proposal is in an area where *development* is provided for in these planning documents. It is efficient *development* optimizing the use of land, resources, and public investment in existing infrastructure and public service facilities. As a residential development in a residential area there are no conflicts with surrounding uses.

There are a several positive policy supported aspects of the proposal:

- It is an intensified residential use of an existing underutilized parcel of land within an existing residential area, providing housing type and choice alternatives.
- It is a compact *development* efficiently utilizing land, existing services, and municipal infrastructure.
- It will help the Town meet intensification target.
- It has a strong relationship to Windmill Point Road South. The primary building entrances can clearly address the street.
- Through the addition of the dwelling units in this location:
 - housing variety is achieved.
 - a range of housing types is provided promoting variety and diversity.
 - residential density is increased promoting municipal sustainability.

Planning Goals, Objectives, and Policies Satisfied

The proposal:

- provides a mix of residential uses accommodating households with diverse social and economic characteristics, needs, and desires.
- optimizes existing infrastructure use.
- is *intensification*.
- is accessible to medical facilities.
- is close to and designed with on-site open space.
- is close to social and recreational facilities.
- counts towards the municipality's *intensification* target.

The proposal is for compatible uses on existing underutilized land in the Fort Erie *rural area* at a residential density of about 1.2 units per net hectare making it an efficient and sustainable use.

Efficient Development

This compatible development helps the Town meet the full range of current and future needs, while achieving efficient development and avoiding significant or sensitive resources and areas which may pose a risk to public health and safety.

The proposal is *intensification* of an under-utilized existing parcel optimizing the use of land, resources, and public investment in infrastructure and public service facilities. It minimizes the undesirable effects of development, including impacts on air, water, and other resources. The development:

- Provides a diversified residential opportunity meeting the identified needs in Niagara and balancing both rural development and the conservation of natural resources by developing an underutilized lot not suitable for intensive agriculture.
- Makes efficient use of land.
- Has no significant land use conflicts.

The development facilitates the efficient use of community and engineering services, does not create an undue financial hardship on the municipality, and increases the Town's robustness and ability to accommodate infrastructure and services maintenance.

The proposal is primarily an intensified residential use on the periphery of existing rural residential areas. It provides a range of housing alternatives in the community. It is compact development efficiently utilizing existing services and municipal infrastructure.

Efficient development, intensification, and optimizing the use of land and public investment in infrastructure that result from this proposal is a strong theme throughout the **PPS**, **ROP**, and **FEOP**. As a residential development in an existing residential area there are no conflicts with surrounding uses.

SEVERANCES

As required by [Policy 13.9II](#) the applications are for Consents for land fronting on an existing public road that is of a reasonable standard of construction. There is no need to restrict direct access and the residential lots have access from a minor road. There does not appear to be a traffic hazard created on the straight flat link of Windmill Point Road South.

[Policy 13.9IV](#) states Consents to land severances may be permitted outside of the Town's Urban Areas where, in the opinion of the municipality, a plan of subdivision is not required, and provided that the Consent complies with the other relevant policies of this plan. A plan of subdivision is not required, and the requested Official Plan and Zoning By-law Amendments will bring the applications into conformity with the other relevant policies of the FEOP.

OPINION

The proposed Official Plan and Zoning By-law Amendments and Consents for Severance:

- Conform with the provisions of the *Planning Act*; [PPS](#); [Growth Plan](#); [ROP](#); and [FEOP](#).
- Permit the proposed residential use; and
- Are good planning.

Council and the Committee of Adjustment can be confident that the requested Official Plan and Zoning By-law Amendments and the Consents for Severance applications are consistent with the Town's Official Plan as well as Provincial and Regional policies.

CLOSING

This report is intended solely for Joseph Moore (the "Client") in providing the Town of Fort Erie the Planning Justification Report to obtain necessary *Planning Act* approvals for the proposed residential redevelopment between 214 Windmill Point Road South and the Town of Fort Erie owned rail line. This report is prohibited to be used by any other party without written consent by an authorized representative of 2198795 Ontario Limited Operating as South Coast Consulting (South Coast). This report is considered South Coast / Steven Rivers' professional work product and shall remain the sole property of South Coast / Steven Rivers. Any unauthorized reuse, redistribution of, or reliance on, the report shall be at the Client's and recipient's sole risk, without liability to South Coast / Steven Rivers. The Client shall defend, indemnify, and hold South Coast / Steven Rivers harmless from any liability arising from or related to the Client's unauthorized distribution of the report. No portion of this report may be used as a separate entity; it is to be read in its entirety and shall include all supporting drawings and appendices.

The conclusions and recommendations made in this report are in accordance with South Coast / Steven Rivers' present understanding of the proposed project, the current site

use, surface, and subsurface conditions, and are based on available information, a site reconnaissance on the date(s) set out in the report, records review and interviews with appropriate people and the work scope provided by the Client and described in the report and should not be construed as a legal opinion. South Coast / Steven Rivers relied in good faith on the data and information provided by the Client and from other materials as noted in this report. South Coast / Steven Rivers has assumed that the information provided was factual and accurate. South Coast / Steven Rivers accepts no responsibility for any deficiency, misstatement, or inaccuracy contained in this report because of omissions, misinterpretations or fraudulent acts of persons interviewed or contacted. Reliance on this report is only extended to the Client. No other representations or warranties of any kind, either expressed or implied, are made. Any use which a third party makes of this report, or any reliance on or decisions made based on it, are the sole responsibility of such third parties. If conditions at the property change or if any additional information becomes available at a future date, modifications to the findings, conclusions and recommendations in this report may be necessary.

I trust this information will meet your current requirements. Please do not hesitate to contact me should you have any questions or require additional information.

Steven Rivers

South Coast Consulting

Land Use Planning and Development Project Management

Steven Rivers, MCIP, RPP

189 Clare Avenue

Fort Erie, Ontario L3K 5Y1

Phone: 905-733-8843

Email: info@southcoastconsulting.ca

2022-07-13

ANNEX 3

SUBJECT PROPERTY



Source: Esri, Maxar, GeoEye, Earthstar Geographics, CNES/Airbus DS, USDA, USGS, AeroGRID, IGN, and the GIS User Community, TerraNet Inc.

214 Windmill Point Road South

ANNEX 4

HYDROGEOLOGICAL STUDY

UNDER A SEPARATE COVER

214 Windmill Point Road South

ANNEX 5

EXCERPTS FROM RELEVANT DOCUMENTS

AVAILABLE ON REQUEST

ANNEX 6

PRE-CONSULTATION AGREEMENT



PRE-CONSULTATION AGREEMENT

Once completed by Town Planning Staff, this form must be submitted with your formal application.

Important: This form will be completed with Planning Services staff at a pre-consultation meeting and will form part a complete application. All reports, documents and drawings **must** be submitted in paper and **digital** (i.e. PDF) form.

Meeting Attendance:

- Town Planning Town
- Regional Planning
- Niagara Parks Commission
- Infrastructure
- Regional Public Works
- NPCA

Other _____

Application type:

- Official Plan Amendment
- Zoning By-law Amendment
- Draft Plan of Subdivision
- Draft Plan of Condominium
- Site Plan
- Consent Application
- Other _____

Pre-Consultation Submission Date: March 19, 2021

Pre-Consultation Meeting Date: April 22, 2021

Site Location/Address: 214 Windmill Point Road South

Site Legal Description: CON BF LE PT LOT 14 IRREG 11.00AC 426.00FR D

Approximate Land Area (metric): 4.41 (ha/m2)

Owner Contact Information:

Name of Owner: Joseph Moore

Phone No: (416) 809-9860 Email: jrmooore2021@gmail.com

Principal Contact: Leigh Whyte

Phone No: 905) 658-5314 Email: leigh@plwconsulting.com

Local Municipal Contact:

Name of Contact: Anamika Dilwaria (OPA and ZBA) & Cara Raich (Consent)

Phone No: 905-871-1600 ext. 2507 and 2508 Email: adilwaria@forterie.ca & Craich@forterie.ca

Brief description of proposed development:

Proposal for a Combined Official Plan and Zoning By-law Amendment, and Consent, as per the submitted sketch. The Applicant is proposing to create four lots (Parts 1, 2, 3 & 4). Part 5 on the sketch represents the retained lot, which would contain the existing dwelling. An amendment to the Official Plan is required to facilitate the Consent as the proposed lots do not comply with the definition of infill lots as outlined in the Official Plan. An amendment to the Zoning By-law is also required to address deficiencies in lot area and frontage.

Submission Requirements: Required Information and Studies to be submitted with the Application(s). Studies identified with an asterisk* will likely require a peer review at the cost of the developer.

Local	Region	NPCA	Reports, Studies, Plans <i>(See Notes for additional details)</i>	No. of Copies		Notes
				Digital	Paper	
<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Planning Justification Report			
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Conceptual Site Plan, Subdivision Plan			Survey Sketch prepared by OLS
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Draft Regional Policy Plan Amendment			
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Draft Local Official Plan Amendment			
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Land Use/Market Needs*			
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Urban Design/Landscape Plans			
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Archaeological Assessment			
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Cultural Heritage Impact Assessment*			
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Environmental Impact Study			
<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Environmental Planning Study/ Sub-Watershed Study			
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Tree Inventory Preservation Plan			
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Floodplain and Hazard Lands Boundary Plan			
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Geotechnical			
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Environmental Site Assessment			
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Air Quality/Noise & Vibration Study*			
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Agricultural Impact Assessment			
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Farm Operation and Ownership			
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Minimum Distance Separation I & II			
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Mineral Aggregate Resources			
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Municipal Servicing Study			
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Phasing Plan			
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Sensitive Land Use Report			
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Slope Stability Report			
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Stormwater Management Plan			
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Transportation Impact Study/Parking Impact Analysis			
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Hydrogeological Study and Private Servicing Plans*			
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Soil report			
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Financial Impact Assessment*			
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Shadow Analysis			
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Shoreline Study/Dynamic Beach			
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Risk Management Study			
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Gas Well Study/Gas Migration Study			
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Wind Study*			
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Other*			Hydrological Study



PRE-CONSULTATION AGREEMENT – COMMENTS

Property: 214 Windmill Point Road South

Development Planning: Anamika Dilwaria (adilwaria@forterie.ca or 905-871-1600 ext. 2507)

The subject lands are located outside the Urban Area and are designated Rural in the Town's Official Plan. The lands are zoned Rural (RU) Zone, in accordance with Zoning By-law 129-90.

The applicant's proposal to create four new residential lots does not comply with the Town's Official Plan's infill policy and minimum lot frontage requirement outlined in Section 4.6.3 II.

Further, the proposal does not comply with the policies outlined in the Provincial Plan Statement and Region's Official Plan.

The proposal also doesn't comply with the minimum lot frontage requirement of the Zoning By-law. A copy of RU zone provision is attached for your convenience.

At the meeting, the applicant mentioned that the proposal will be revised to include 4 lots (3 new and 1 remnant) instead of 5 as currently proposed.

Additionally, the applicant also confirmed that the two barn buildings will be removed.

Additionally, the number of lots that can be created will depend on the findings of the hydrogeological study.

Servicing: Spencer Pierce (spierce@forterie.ca or 905-871-1600 ext. 2517)

Conditions:

• A grading plan is required encompassing all proposed lots. (Thorough investigation by the applicant and surveyor should be undertaken prior to making application to fully grasp the implications of providing adequate drainage for the proposed lot(s). Consideration must be made that expenses such as installation of catchbasins and underground pipes may be required)

Additional Comments:

- Servicing is at the owner's expense
- A tree contributed fee is not required as it is rural
- A streetlight fee is not required as it is rural
- A road widen is not required
- A daylighting triangle is not required

Neighbourhood Planning: Pieter Wasserman (pwasserman@forterie.ca or 905-871-1600 ext. 2503)

No comments



PRE-CONSULTATION AGREEMENT – COMMENTS

Economic Development & Tourism Services: Daniel Turner (dturner@forterie.ca or 905-871-1600 ext. 2252)

No comments

Community Planning: Signe Hansen (shansen@forterie.ca or 905-871-1600 ext. 2506)

- Payment of 5% of the appraised value of the new lot be made to "The Town of Fort Erie", in lieu of dedication of land for park purposes.
- The Owner/Applicant shall make payment of \$2,000.00 to the Town of Fort Erie for the planting of one boulevard tree in front of each new lot.
- Written permission is required from the Town, in order to remove any vegetation within the Town Road allowance.

Committee of Adjustment: Cara Raich (craich@forterie.ca or 905-871-1600 ext. 2508)

Previous Consent applications B240/1993 and B241/1993 were withdrawn prior to approval.

Once the official plan and zoning amendment have been approved by Council, the applicant may proceed with the Consent process.

The Final Consent Certificate (required to sell or build on lots) will be issued once the provisional conditions of the consent are approved and cleared by staff/agencies and must be fulfilled within one year of the decision of the Committee of Adjustment.

Common conditions of final consent certificate approval are noted in this agreement (cash in lieu of parkland dedication, tree fee, final consent certificate fee, reference plan, etc.) and will be noted on the report provided to the Committee of Adjustment and to the applicant one week prior to the hearing.

PLEASE NOTE:

Applicant is required to submit a consent sketch prepared by an OLS and is to include lot size, lot coverage, front, rear and side setbacks, ALL existing and proposed building and structure dimensions in metric (dwelling, accessory buildings, a/c units, etc.) to meet required zoning requirements and as noted on Page 2 of the Consent application. If any deficiencies found it may result in the requirement of Minor Variance.

It is recommended that the applicant review the following link for information on the consent process and to discuss any further questions with the Secretary-Treasurer directly, <https://www.forterie.ca/pages/PreConsultationandConsents>

It is noted that the hearing/application submission schedule and process information can be found at <https://www.forterie.ca/pages/CommitteeofAdjustmentHome>

* Please set up an appointment prior to submission to review completed Consent application with the Secretary-Treasurer, Cara Raich - 905-871-1600 ext 2508

The Consent application and brochure is available online:

<https://www.forterie.ca/pages/Applications,Fees&Guidelines>

Building Department: Keegan Gennings (kgennings@forterie.ca or 905-871-1600 ext. 2515)

MDS calculations need to be performed for the livestock operation(barn) or stalls and paddocks are to be removed.



PRE-CONSULTATION AGREEMENT – COMMENTS

Fire Department: Robert Kirk (rkirk@forterie.ca or 905-871-1600 ext. 2606)

No comments

Niagara Peninsula Conservation Authority (NPCA): Jessica Abrahamse (jabrahamse@npca.ca)

The subject property is impacted by NPCA regulated features including:

- An unevaluated wetland
- Shoreline hazard area

NPCA staff have reviewed on-file mapping and conducted cursory air photo interpretation of the subject property as well as reviewed other desktop tools and data. NPCA regulated features were identified through this desktop screening approach that are or may be present on the subject property. The desktop screening review identified the following:

- An unevaluated wetland located immediately adjacent to the northern property line;

The NRSI EIS for the property to the north identified the potential wetland as a forest community as opposed to the suspected swamp community. As such there are no further study requirements from the NPCA.

Canadian Niagara Power Inc. (CNPI): Jeff Hoover (jeff.hoover@cnpower.com)

Canadian Niagara Power is currently working with the customer on servicing 4 lots on Windmill point and also retained part 5.

Niagara Parks Commission (NPC): Ellen Savoia (esavoia@niagaraparks.com)

No comments