

The Municipal Corporation of the Town of Fort Erie

By-law No. 127-2022

**Being a By-law to Enact an Amendment to the
Official Plan Adopted by By-law No. 150-06 for the Town of Fort
Erie Planning Area**

**Amendment No. 62
131 & 135 Gilmore Road
Kyle Mallysh Personal Real Estate Corporation & Kyle Mallysh
- Owners**

The Municipal Council of The Corporation of the Town of Fort Erie in accordance with the provisions of Section 17 of the *Planning Act*, R.S.O. 1990, c. P.13 enacts as follows:

1. **That** amendment No. 62 to the Official Plan for the Town of Fort Erie consisting of the attached explanatory text and mapping is hereby adopted and approved.
2. **That** this by-law shall come into force and take effect on the day of the final passing thereof.
3. **That** the Clerk of the Town of Fort Erie is authorized to effect any minor modifications, corrections or omissions solely of an administrative, numerical, grammatical, semantical or descriptive nature to this by-law or its schedules after the passage of this by-law.

Read a first, second and third time and finally passed this 19th day of September, 2022.

Mayor

Clerk

I, Carol Schofield, Clerk of The Corporation of the Town of Fort Erie, hereby certify the foregoing to be a true copy of By-law No. 127-2022 of the said Town. Given under my hand and the seal of the said Corporation this ____ day of _____, 22

AMENDMENT NO. 62

TO THE

OFFICIAL PLAN

FOR THE

CORPORATION OF THE TOWN OF FORT ERIE

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PART "A" - THE PREAMBLE

SECTION 1

TITLE AND COMPONENTS

This document, when approved in accordance with Sections 17 and 21 of The Planning Act, 1990, shall be known as Amendment No. 62 to the Official Plan adopted by By-law No. 150-06 of the Fort Erie Planning Area.

Part "A", the Preamble does not constitute part of this amendment.

Part "B", the Amendment, consisting of the following text and map (designated Schedule "A") constitutes Amendment No. 62 to the Official Plan adopted by By-law No. 150-06 for the Fort Erie Planning Area.

Also attached is Part "C", the Appendices, which do not constitute part of this amendment. These Appendices (1 through 3 inclusive) contain the background data, planning considerations and public involvement associated with this amendment.

SECTION 2

PURPOSE OF THIS AMENDMENT

The purpose of this Amendment is to effect a change to the land use designation of the subject property shown on Schedule A attached hereto from Commercial to "Site Specific Policy Area 40" and "Residential Low Density" to permit the existing fourplex located on 131 Gilmore Road and the existing duplex located on 135 Gilmore Road.

SECTION 3

LOCATION OF THIS AMENDMENT

The lands, which are the subject of this amendment, are located on the south side of Gilmore Road east of Central Avenue as shown on Schedule "A" attached hereto.

SECTION 4

BASIS OF THIS AMENDMENT

Subsection 13.7(III) of the Official Plan adopted by By-law No. 150-06 of the Fort Erie planning area provides that amendments may be made to the Official Plan. Policies in Subsection 13.7(III) have been considered in the preparation of this amendment and the following factors have been reviewed in supporting this amendment to the Official Plan:

a) The need for the proposed use:

The proposed Official Plan land use designation will recognize the existing uses of 131 & 135 Gilmore Road and permit provision of additional housing variety and rental units in an area with a mix of commercial, residential and institutional uses.

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

The non-conforming duplex and fourplex are existing. Aside from some minor changes to the parking areas, the proposed Amendment will bring the existing uses into conformity with the Official Plan.

c) The physical suitability of the land for such proposed use, and in the case of lands exhibiting or abutting a Natural Heritage feature, demonstration of compliance with the Natural Heritage policies of this plan:

The subject parcels are physically suitable for the dwelling units and space is available for on-site parking. Some relief from the Zoning By-law is required for the existing building footprints. There are no natural heritage features on or in the vicinity of the site.

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, Conservation and Parks and the Regional Niagara Health Services Department and any other appropriate authority deemed advisable;**

Adequate municipal services are available to service the dwelling units and there is an abundance of commercial and public amenity areas nearby. The subject parcels front onto a travelled Regional Road and have access to sidewalks, transit and public parkland.

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

Residential use of the parcels is compatible with the surrounding lands uses which consist of single detached dwellings to the east and south, commercial uses to the west and southwest and a public library and open space to the north.

f) The effects of such proposed use on the surrounding area in respect of the minimizing of any possible depreciating or deteriorating effect upon adjoining properties:

There is no evidence to suggest that the existing buildings or dwelling units will have a depreciating or deteriorating effect upon adjoining properties.

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

Continued use of the buildings for residential dwellings will have a positive effect on the financial position of the municipality via property taxes.

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

No adverse impacts on the intent or the implementation of the Environmental Protection Act are anticipated. The uses and buildings on the subject properties are existing.

SECTION 5

IMPLEMENTATION AND INTERPRETATION

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

PART "B" - THE AMENDMENT

All of this part of the document entitled "Part "B" - "The Amendment" consisting of the following policies and attached maps designated as Schedule "A" (Land Use Plan) constitute Amendment No. 62 to the Official Plan adopted by By-law No. 150-06 for the Fort Erie Planning Area. The Official Plan adopted by By-law No. 150-06 for the Fort Erie Planning Area is hereby amended as follows:

The subject lands described as Site Specific Policy Area 40 - 131 & 135 Gilmore Road on the attached Schedule A are hereby redesignated to:

4.14.35 131 & 135 Gilmore Road (Site Specific Policy Area 40)

LOW DENSITY RESIDENTIAL POLICIES



- a) The lands designated on Schedule "A" as "Residential Low Density" shall generally be governed by the Low Density Residential policies of Section 4.21.7 of the Southend Secondary Plan and Section 4.7 of the Official Plan. In addition, the continued use of the existing fourplex located at 131 Gilmore Road and the existing duplex located at 135 Gilmore Road for residential purposes is permitted.

SCHEDULE "A"



By-law No. 127-2022

**THIS SKETCH FORMS PART OF SCHEDULE "A" TO THE OFFICIAL PLAN
PASSED THIS 19th DAY OF SEPTEMBER, 2022**

-  Subject Lands - 131 & 135 Gilmore Road
-  Change from Commercial to Site Specific Policy Area 40 and Residential Low Density

PART “C” - THE APPENDICES

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

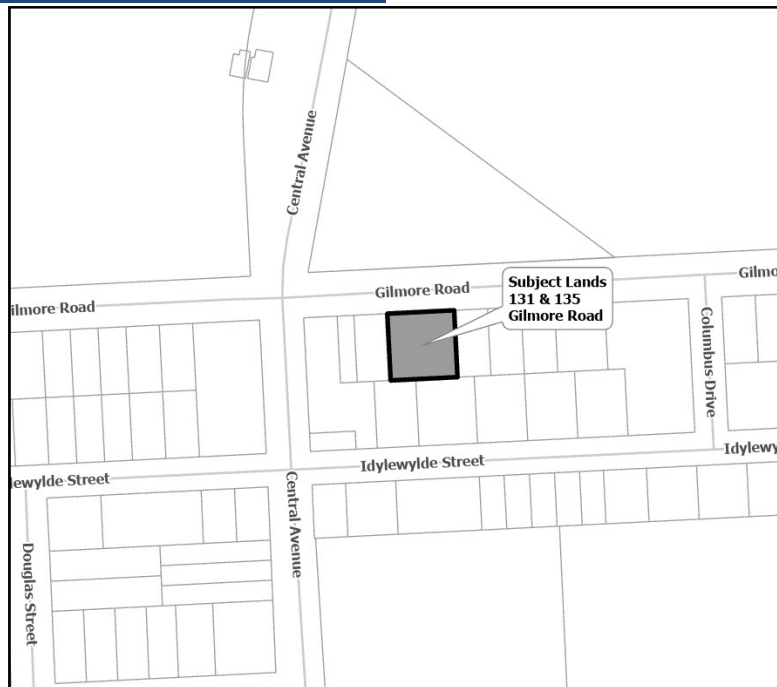
NOTICE OF COMPLETE APPLICATION AND PUBLIC MEETING

Owner: Kyle Mallysh
Agent: Urban & Environmental Management Inc. (Greg Taras)
131 & 135 Gilmore Road
Combined Official Plan & Zoning By-law Amendment
Application

Application File Nos: 350302-0160 & 350309-0541

DATE: June 20, 2022
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





PROPOSED CHANGE



A Combined Official Plan and Zoning By-law amendment is requested to bring an existing non-conforming one storey fourplex (131 Gilmore Road) and an existing non-conforming two storey duplex (135 Gilmore Road) into conformity with the Town's Southend Secondary Plan and Zoning By-law. A preliminary site plan is attached as Schedule '1' for reference.

The Southend Secondary Plan land use designation is proposed to change from Commercial to Low Density Residential. An Official Plan Amendment is required as the current Commercial designation in the Southend Secondary Plan does not permit stand-alone residential uses and also does not permit residential dwellings on the ground floor.

APPENDIX "1"

	<p>The subject properties are currently zoned General Commercial (C2) Zone in the Town's Comprehensive Zoning By-law No. 129-1990. The zoning of the subject properties is proposed to change from General Commercial (C2) Zone to site-specific Residential Multiple 1 (RM1) Zones. A Zoning By-law Amendment is required as the C2 zoning does not permit stand-alone residential uses and also does not permit residential dwelling units on the ground floor. Various site-specific zoning provisions will also be required to recognize the existing setbacks, building footprints and parking areas of 131 Gilmore Road and 135 Gilmore Road.</p>
	<p><u>GETTING MORE INFORMATION</u></p> <p>Input on the Combined Official Plan and Zoning By-law Amendment is welcome and encouraged. You can provide input by speaking at the Public Meeting or by making a written submission to the Town. Please note that unless you do one of the above now, you may not be able to appeal the decision later.</p> <p>A copy of the Information Report will be available to the public by 5:00 PM on June 15, 2022. 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, Junior Development Planner.</p> <p><u>CONTACT INFORMATION</u></p> <p>Daryl Vander Veen, Junior 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</p> <p><u>PROVIDING YOUR COMMENTS OR REQUESTING NOTICE OF DECISION</u></p> <p>To provide input in writing, or to request written notice of the decision of the combined Official Plan and Zoning By-law Amendment, please send a letter c/o Carol Schofield, Manager, Legislative Services/Clerk, 1 Municipal Centre Drive, Fort Erie, Ontario, L2A 2S6 or an email to cschofield@forterie.ca</p>
	<p><u>PLANNING ACT LEGAL NOTICE REQUIREMENTS</u></p> <p>The Town of Fort Erie has not yet made a decision regarding this application. After considering any written comments and the comments from the public meeting, a Recommendation Report will be prepared for a future Council-in-Committee meeting.</p> <p>If a person or public body would otherwise have an ability to appeal the decision of the Town of Fort Erie's Municipal Council to the Ontario Land Tribunal but the person or public body does not make oral submissions at a public meeting or make written statements to the Town of Fort Erie before the by-law is passed, the person or public body is not entitled to appeal the decision.</p>

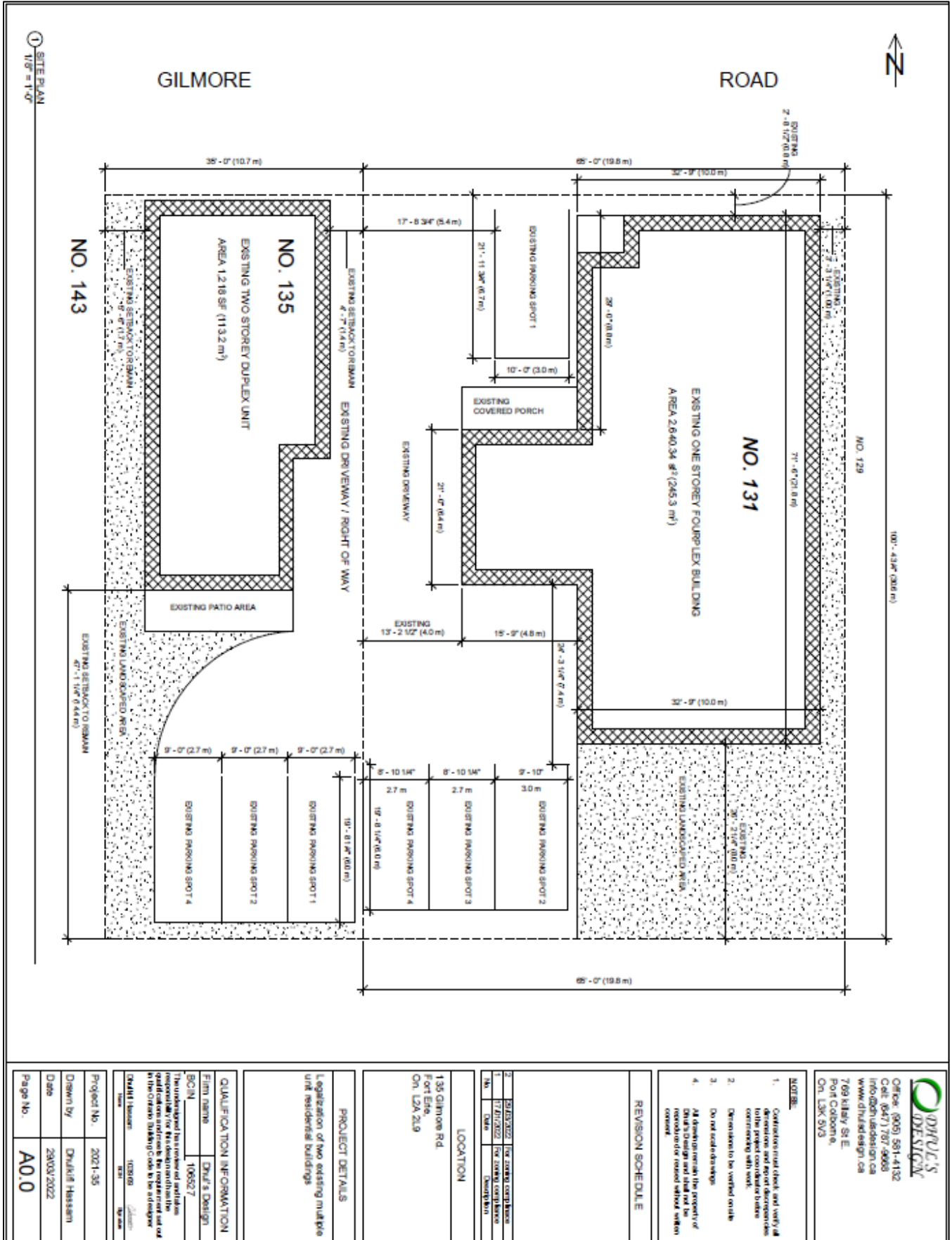
APPENDIX "1"

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 Carol Schofield, Manager, Legislative Services/Clerk, 1 Municipal Centre Drive, Fort Erie, Ontario, L2A 2S6 or an email to cschofield@forterie.ca

Notice dated at the Town of Fort Erie this 26th day of May, 2022.

SCHEDULE 1





The Municipal Corporation of the
Town of Fort Erie

Council-in-Committee Meeting Minutes

Monday, June 20, 2022

Council Chambers

Meetings are being held in-person and via Video Teleconference as may be permitted. All meetings can be viewed at: Town's Website:

<https://www.forterie.ca/pages/CouncilAgendasandMinutes>

Town's YouTube Channel: www.youtube.com/townofforterie

or click on the YouTube icon on the home page of the Town's website (www.forterie.ca) or Cogeco "YourTV"

1. Call to Order

Mayor Redekop called the meeting to order at 6:01 p.m.

2. Roll Call

Present: His Worship Mayor Redekop and Councillors Dubanow, Lubberts, McDermott, Zanko, and Noyes

Absent: Councillor Butler

Staff: K. Beauchamp, A. Herlovitch, J. Janzen, R. Judd, C. McQueen, C. Schofield, D. Vander Veen, and K. Walsh

3. Announcements/Addenda

None.

4. Declarations of Pecuniary Interest

None.

5. Notice of Upcoming Public Meetings

None.

6. Public Meetings

(a) Proposed Official Plan and Zoning By-law Amendments

Re: 131 & 135 Gilmore Road - Owner: Kyle Mallysh - Agent: Urban & Environmental Management Inc. (Greg Taras). The Applicant's request is to bring an existing non-conforming one storey fourplex (131 Gilmore Road) and an existing non-conforming two storey duplex (135 Gilmore Road) into conformity. An Official Plan Amendment is required as the current Commercial designation in the Southend Secondary Plan does not permit stand-alone residential uses and residential dwellings on the ground floor. The General Commercial (C2) Zone zoning is being requested to be changed to a site-specific Residential Multiple 1 (RM1) Zone to also recognize existing setbacks, building foot prints and parking areas.

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

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

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

Greg Taras, Urban & Environmental Management Inc. (Agent), was present to speak on behalf of the Application.

Mr. Taras provided the following comments:

- Niagara Region commented that a road widening is not required.
- Mr. Mallysh (Owner) is prepared to complete the building permit application process and is waiting for direction on 131 Gilmore Road as to when it would be appropriate to apply for and do the renovations for 131.
- They agree to staff's comments regarding access to the property, and the easement that is suggested.
- The owner is prepared to put up a privacy fence to mitigate headlight glare and in relation to other comments that were received.

Council-in-Committee - 20 Jun 2022 Meeting Minutes

Mayor Redekop enquired whether there were any members of the public present in the virtual waiting room or in the Chamber who wished to speak in favour of the Application.

No members of the public came forward.

Mayor Redekop enquired whether there were any members of the public present in the virtual waiting room or in the Chamber who wished to speak in opposition to the Application or had any questions.

No members of the public came forward.

Mayor Redekop enquired whether the Clerk received any written submissions subsequent to the posting of the Report. The Clerk advised that she did not.

Mayor Redekop declared the Public Meeting closed.

(b) Proposed Temporary Zoning By-law Amendment

Re: 409 Gorham Road - Owner: Gorham Road Inc. (David Kompson) - Agent: Zelinka Priamo Ltd. (Rob MacFarlane). The Applicant's request is to further temporarily rezone the property on which an LCBO trailer is located, from Highway Commercial (C3) Zone to site-specific Highway Commercial (C3) Zone which will permit the LCBO trailer to remain on site for up to three years.

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

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

Rob MacFarlane, Zelinka Priamo Ltd. (Agent), was present to speak on behalf of the Application.

Mr. MacFarlane provided a PowerPoint presentation and the following commentary:

- Lands are currently occupied by the existing LCBO Temporary Sales Trailer.
- LCBO has operated in this location since May, 2017.

Council-in-Committee - 20 Jun 2022 Meeting Minutes

That: Council directs that the Region of Niagara be advised of the decision of Council; and further

That: Council directs staff to prepare the required by-law; and further

That: Council authorizes the Mayor and Clerk to execute any documentation required to satisfy the conditions related to participation in the Tax Increment Based Grant Program.

(Carried)

EDTS-02-2022 Niagara 2022 Canada Summer Games - Fort Erie's 13 for 13 Cultural Event

That: Council receives for information purposes Report No. EDTS-02-2022 regarding an update on Fort Erie's 13 for 13 Cultural Event as part of the Niagara 2022 Canada Summer Games.

(Carried)

Consent Agenda Recommendation

Recommendation No. 1

Moved by: Councillor Dubanow

That: Council approves the Consent Agenda Items as recommended.

(Carried)

7.3 Items Removed to be Dealt with Separately

8. Planning and Development Services

Chaired by: Councillor Dubanow

8.1 Presentations and Delegations

None.

8.2 Reports

PDS-42-2022 Proposed Combines Official Plan and Zoning By-law Amendment - 131 & 135 Gilmore Road - Urban & Environmental Management Inc. - Greg Taras (Agent) - Kyle Mallysh (Owner)

APPENDIX "2"

Council-in-Committee - 20 Jun 2022 Meeting Minutes

Recommendation No. 2

Moved by: Mayor Redekop

That: Council receives for information purposes Report No. PDS-42-2022 regarding a proposed Combined Official Plan and Zoning By-law Amendment for 131 & 135 Gilmore Road.

(Carried)

PDS-43-2022 Proposed Temporary Zoning By-law
Amendment - 409 Gorham Road - Zelinka
Priamo Ltd. - Rob MacFarlane (Agent) -
Gorham Road Inc. - David Kompson (Owner)

Recommendation No. 3

Moved by: Councillor Zanko

That: Council approves a temporary use Zoning By-law Amendment in accordance with Section 39 of the *Planning Act* to permit operation of the Liquor Control Board of Ontario sales trailer located on 409 Gorham Road for a duration of one year as detailed in Appendix "4" of Report No. PDS-43-2022, and further

That: Council authorizes staff to prepare the necessary by-law.

Recommendation No. 4

Moved by: Mayor Redekop

That: A condition be included that a parking lot surface shall be required that suppresses dust and is navigable for accessibility purposes, in the discretion of the Director, Infrastructure Services.

(Carried)

Recommendation No. 5

Moved by: Mayor Redekop

That: The extension date be changed to "for a duration of one year to June 30, 2023 as detailed in Appendix "4"", with a further extension of one year to June 30, 2024 provided that a building permit is applied for and issued before June 30, 2023, and further

(Carried)



**RE: Request for Comment- Proposed Official Plan and Zoning By-law
Amendment - 131 & 135 Gilmore Road**

CA - Circulations to: Anamika Dilwaria

04/01/2022 02:44 PM

From: "CA - Circulations" <CA.Circulations@wsp.com>

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

	Anamika Dilwaria	Anamika Dilwaria	Request for Comment- Proposed Official Plan and
	Mail Router	Mail Router	<i>A Combined Official Plan and Zoning By-law</i>
	Mail Router	Mail Router	<i>A Combined Official Plan and Zoning By-law</i>
	Mail Router	Mail Router	<i>A Combined Official Plan and Zoning By-law</i>
	Mail Delivery Subsystem	Mail Delivery Subsystem	<i>** Address not found ** Your message wasn't</i>

Thank you for your circulation on Request for Comment- Proposed Official Plan and Zoning By-law Amendment - 131 & 135 Gilmore Road . Your email has been received and relayed to Bell staff for review. The information that municipalities provide to Bell Canada is instrumental to the provisioning of telecommunications infrastructure. Bell Canada also appreciates the opportunity to be proactively engaged in development applications and infrastructure and policy initiatives.

Bell Canada will provide a response should any comments/input be required on the information included in the circulation. Bell Canada kindly requests to always be circulated on any future materials related to this development project or infrastructure/policy initiative. Please note that Bell Canada does not generally comment on the following development applications - official plan and zoning by-law amendments, part lot control, temporary use and interim control by-laws. However, Bell Canada does generally comment on site plan approval, draft plans of subdivision and draft plan of condominium applications.

If you have any questions, please contact planninganddevelopment@bell.ca directly. *Please note that this circulations email account is managed by WSP on behalf of Bell Canada. All reviews and responses are always undertaken by Bell Canada.*



wsp.com

APPENDIX "3"



RE: [External] Request for Comment- Proposed Official Plan and Zoning By-law Amendment - 131 & 135 Gilmore Road

Municipal Planning to: Anamika Dilwaria

04/01/2022 05:08 PM

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

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

	Anamika Dilwaria	Anamika Dilwaria	Request for Comment- Proposed Official Plan and
	Mail Router	Mail Router	<i>A Combined Official Plan and Zoning By-law</i>
	Mail Router	Mail Router	<i>A Combined Official Plan and Zoning By-law</i>
	Mail Router	Mail Router	<i>A Combined Official Plan and Zoning By-law</i>
	Mail Delivery Subsystem	Mail Delivery Subsystem	<i>** Address not found ** Your message wasn't</i>

Thank you for your circulation.

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

Please continue to forward all municipal circulations and clearance letter requests electronically to MunicipalPlanning@Enbridge.com.

Regards,

Alice Coleman

Municipal Planning Analyst
Long Range Distribution Planning

—

ENBRIDGE

TEL: 416-495-5386 | MunicipalPlanning@Enbridge.com

500 Consumers Road, North York, Ontario M2J 1P8

enbridge.com

Safety. Integrity. Respect. Inclusion.

From: Anamika Dilwaria <ADilwaria@forterie.ca>

Sent: Friday, April 1, 2022 2:39 PM

To: Andrew.Carrigan@Canadapost.ca; circulations@mmm.ca; cara.lampman@niagararegion.ca; kathy.levinski@ncdsb.com; kris.watson@cnpower.com; LandUsePlanning@HydroOne.com; Municipal Planning <MunicipalPlanning@enbridge.com>; planification@csdccc.edu.on.ca;

APPENDIX "3"



RE: Request for Comment- Proposed Official Plan and Zoning By-law Amendment - 131 & 135 Gilmore Road

Jessica Abrahamse to: Anamika Dilwaria

04/04/2022 11:27 AM

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

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

	Anamika Dilwaria	Anamika Dilwaria	Request for Comment- Proposed Official Plan and
	Mail Router	Mail Router	<i>A Combined Official Plan and Zoning By-law</i>
	Mail Router	Mail Router	<i>A Combined Official Plan and Zoning By-law</i>
	Mail Router	Mail Router	<i>A Combined Official Plan and Zoning By-law</i>
	Mail Delivery Subsystem	Mail Delivery Subsystem	<i>** Address not found ** Your message wasn't</i>

Hi Anamika,

The NPCA doesn't have any objections to the development as there are no NPCA regulated features on the subject propertie(s).

With Best Regards,

Jessica Abrahamse M.E.S.
Watershed Planner

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

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

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

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

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

From: Anamika Dilwaria <ADilwaria@forterie.ca>

Sent: April-01-22 2:39 PM



Planning and Development Services

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

Via Email

April 11, 2022

Region Files: D.10.01.OPA-22-0001
D.18.01 ZA-22-0035

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

Dear Ms. Dilwaria;

**Re: Regional and Provincial Comments
Concurrent Official Plan and Zoning By-law Amendments
Owner: Kyle Mallysh
Agent: Urban & Environmental Management Inc. (c/o Greg Taras)
131 and 135 Gilmore Road
Town of Fort Erie**

Regional Planning and Development Services staff has reviewed the information circulated for the combined Local Official Plan Amendment and Zoning By-law Amendment applications involving the properties located at 131 Gilmore Road and 135 Gilmore Road located in the Town of Fort Erie.

The applicant is requesting to recognize the existing residential uses of the fourplex dwelling at 131 Gilmore Road and the duplex dwelling at 135 Gilmore Road, respectively. The properties are currently designated "Commercial" in the Town's Official Plan (Southend Secondary Plan Area), and zoned "General Commercial (C2) Zone" in the Town's Zoning By-law (No. 129-90), as amended. The combined amendment applications proposes to designate the properties as "Low-Density Residential" with a "Special Policy Area" to recognize the existing fourplex, as well as rezone the properties as "Residential Multiple 1 (RM1) Zone" with site-specific provisions.

There were two separate virtual pre-consultation meetings for these properties, which occurred on November 10, 2021 and January 13, 2022, respectively, with Town staff, Regional staff, and the Owner in attendance. The following comments are provided from a Regional and Provincial perspective to assist Town staff in considering these applications.

Provincial and Regional Policies

The subject lands are located within a "Settlement Area" under the *Provincial Policy Statement, 2020* ("PPS") and designated the "Delineated 'Built-Up' Area" under the *A Place to Grow: Growth Plan for the Greater Golden Horseshoe, 2020 Consolidation* ("Growth Plan"). Provincial policies direct growth to settlement areas and the delineated built-up area that provide for an appropriate range and mix of housing types and the efficient use of existing servicing, infrastructure, and public service facilities. Within Delineated Built-Up Areas, policies encourage intensification and infill in a compact form with a mix of uses and densities at an appropriate type and scale and transition to adjacent areas.

The properties are designated "Urban (Built-Up) Area" within the Regional Official Plan ("ROP"), which promotes development in the urban area and generally permits a full range of residential, commercial, and industrial uses subject to the availability of adequate municipal services and infrastructure, as well as other policies relative to urban design, compatibility, and environmental conservation. Staff acknowledge that the proposed amendment applications intend to recognize and allow for the continued residential uses of the properties and that the existing buildings will be maintained with no new servicing connections being required.

Regional staff has reviewed the "*Planning Justification Report*" ("PJR") prepared by Urban & Environmental Management Inc. (dated February 2022) and is satisfied that the proposed amendments will not establish new uses that less compatible with nearby existing and planned uses. Additionally, the proposed amendments will permit residential uses that contribute to the diversification of Niagara's housing supply (fourplex and duplex), as well as utilizes existing municipal infrastructure.

As such, Regional staff do not object, in principle, to the proposed amendments as they are consistent to the PPS and conform to Provincial and Regional growth management policies, subject to the comments below.

Land Use Compatibility

The subject properties front Gilmore Road (Regional Road 19). Staff has reviewed the average annual daily traffic ("AADT") count for this portion of road and has determined that the existing and future anticipated volumes of traffic along this section does not warrant the need to complete a Noise Study for the proposed sensitive (residential) uses. Further, staff acknowledge that there is residential units already located within the existing buildings on the properties.

As such, Regional staff does not offer any land use compatibility requirements for the proposed amendment applications.

Site Condition

Based on a review of MPAC data and available imagery, the subject properties have historically occupied a mix of uses (commercial retail / residential). Given that the owner intends to facilitate the interior conversion of the existing buildings to a solely residential use and that no new development is proposed beyond the existing building footprint, Regional staff has determined that the proposed applications meet the Exemption Criteria (O. Reg 153/04, s.15(1)) for obtaining a Record of Site Condition ("RSC") in accordance to the *Environmental Protection Act, 1990*, as amended.

As such, Regional staff offer no site condition requirements for the proposed amendment applications. The Town's Chief Building Official should also be satisfied that the proposed amendments do not require a RSC.

Regional Road Allowance

The subject property has frontage along Regional Road 19 (Gilmore Road). The designated Regional Road Allowance width along this section of road does not meet the required 23.1m as identified in the ROP. Therefore, at the time the site comes in for future development applications (i.e., Site Plan), a widening of 1.55m is required in order to achieve the 11.5m from the centerline of Gilmore Road.

Regional Permit Requirements

Based on the plans submitted, there is no change to the existing entrances. If a new entrance is being proposed, the drawings should be submitted to the Region for review and approval from the Region's Transportation Department through the future entrance permit process. The Permit can be applied for online through the hyperlink below.

Regional Construction Encroachment Permit

Prior to any construction/work taking place within the Regional Road Allowance, a Regional Construction, Encroachment, and Entrance Permit must be obtained from the Transportation Services Division, Public Works Department. The Region's permits can be applied for online at: <http://niagararegion.ca/living/roads/permits/default.aspx>.

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 not exceeded:

- Recycling blue / grey containers – no limit (weekly collection).

D.10.01.OPA-22-0001

D.18.01 ZA-22-0035

April 11, 2022

- Organic green containers – no limit (weekly collection).
- Garbage / waste – maximum of 2 containers per unit to a maximum of 10 containers (bi-weekly collection).
- Collection will be at the curbside only.

Protection of Survey Evidence

The applicant is advised that survey evidence adjacent to the Regional Road Allowance shall not be damaged or removed during the development of the property. Any agreements entered into for this development should include a clause that requires the applicant to obtain a certificate from an Ontario Land Surveyor stating that all existing and new evidence is in place at the completion of the development.

Conclusion

In conclusion, Regional Planning and Development Services staff do not object to the combined Local Official Plan Amendment and Zoning By-law Amendment applications, in principle, as the proposed residential use is consistent with the PPS and conforms to Provincial and Regional growth management policies.

Given the site-specific nature of the proposed applications, Regional staff notes that in accordance with the Memorandum of Understanding and exemption policies in the ROP (Chapter 14) that the proposed Local Official Plan Amendment is exempt from Regional Council approval.

Should you have any questions related to the above comments, please feel free to contact me at alexander.morrison@niagararegion.ca. Please send notice of Council's decision on this matter.

Respectfully,



Alexander Morrison, MCIP, RPP
Senior Development Planner

cc:

Cheryl Selig, Manager, Development Planning (A), Niagara Region
Susan Dunsmore, Manager of Development Engineering, Niagara Region

APPENDIX "3"



Proposed Official Plan and Zoning By-law Amendment - 131 and 135 Gilmore Road

Keegan Gennings to: Daryl Vander Veen

2022-04-27 10:45 AM

Cc: Anamika Dilwaria

From: Keegan Gennings/FortErie
To: Daryl Vander Veen/FortErie@TownOfFortErie
Cc: Anamika Dilwaria/FortErie@TownOfFortErie

Hi Daryl,

A review of the OPA and ZBA for 131 and 135 Gilmore road has been completed and if approved by Council I ask that the following conditions be included:

- 1) Building permits are required for the additional residential suites that have been created without proper building permits.
- 2) The final official plan and zoning by-laws not be presented for Council approval until such time as the building permit applications have been processed and the building department is in a position to issue the building permits.

Regards,

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



Interoffice Memorandum

April 21, 2022

File No. 350302-0160 and 350309-0541

To: Anamika Dilwaria, Senior Development Planner

From: Jeremy Korevaar, Coordinator, Development Approvals

Subject: **Application for Combined Official Plan and Zoning By-law Amendment –
131 & 135 Gilmore Road**

On behalf of the Infrastructure Services Department, Engineering Division, I have reviewed the proposed Official Plan and Zoning By-law Amendment for **131 & 135 Gilmore Road** and have no comments or objections.

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



Interoffice Memorandum

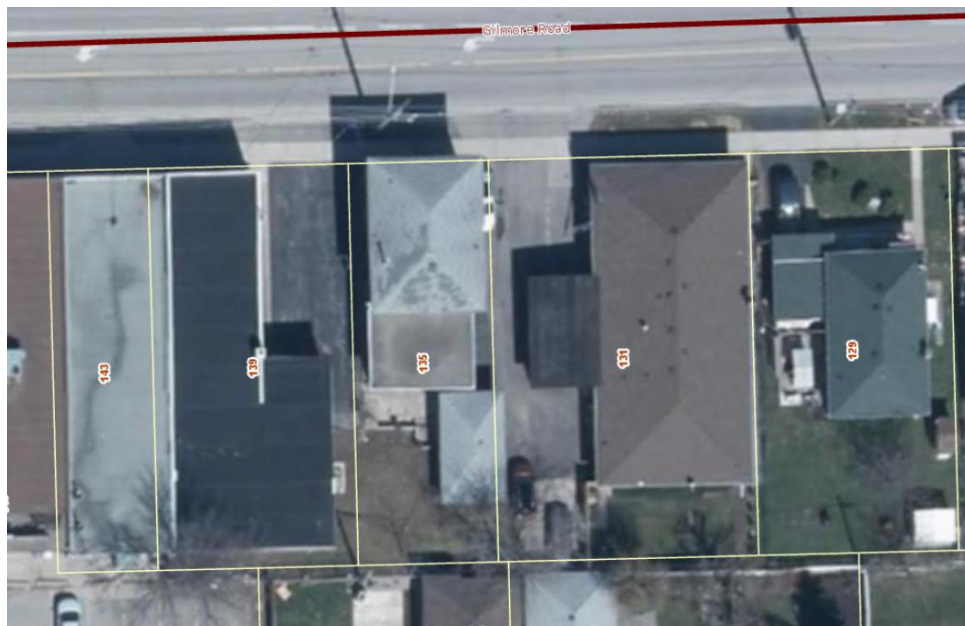
April 20, 2022
File No: 350302-160&
350309-0541

To: Anamika Dilwaria, MCIP, RPP, Senior Development Planner
From: Pieter Wasserman, Neighbourhood Planner & Urban Designer
Subject: **SITE PLAN APPLICATION – 131 & 135 GILMORE ROAD**

1. Official Plan & Secondary Plan

The sites are located in the Southend Secondary Plan (OPA37) area and are designated as Commercial as per Schedule S-2 of the Secondary Plan. Therefore, Section 4.21.10 Commercial policies will apply. The sites are currently zoned as General Commercial (C2) Zone.

Image 1 – Showing the site plan in its context



2. Urban Design

The three parking bays indicated on the submitted Site Plan on 135 Gilmore Road are only accessible through the use of the driveway located on 131 Gilmore Road. Please consider the registration of an easement (right of way) over the driveway area of 131 Gilmore Road in order to access these three parking bays. This may be required if either of the sites should ever be sold.

APPENDIX "3"

As the buildings are currently being utilised for residential purposes and have been for a number of years, the suggested land use designation change from Commercial to Residential may suit the best use of these properties at this time.

3. Conclusion

Neighbourhood Planning & Urban Design in principle do not oppose the Official Plan & Zoning By-Law Amendment application for 131 & 135 Gilmore Road.

Kind regards,

Pieter Wasserman, B.A.S, M. Arch, MCPUD
Neighbourhood Planner & Urban Designer

PCW/pcw
Attach. none

135 Gilmore Road - Permit 2021-478 Issuance reasoning

William Nobes ^t_o Keegan Gennings

2022-06-29 03:58 PM

Cc Daryl Vander Veen

From William Nobes/FortErie
To Keegan Gennings/FortErie@TownOfFortErie
Cc Daryl Vander Veen/FortErie@TownOfFortErie

Hey Keegan,

The building permit 2021-478 was issued based on the following information.

- The Town's Property Tax information was consulted, and the tax roll indicates the structure as a Duplex - residential structure with two self-contained units. In review of the taxes charged on the property, it appears as well that it had only been charged 'Residential' taxes dating back to 2013. with no commercial taxes being paid since then.
- The existing Structure Type within the Property Manager screen indicated a 'Duplex' and a 'Detached Garage'.
- The water account Type indicated 'Residential'.
- A previously issued demolition permit for the detached garage (2021-350), had a site plan as part of the application submission that indicated the main building was a 'House'.
- The building permit application form submitted for this permit (2021-478) indicated that both the existing use, and proposed use was a 'Duplex unit'.
- The drawings submitted for this permit indicated that it was an 'Existing Duplex Unit'.

As there was no change to the size of the building, and the scope of work proposed as part of this permit was some minor layout revisions, and renovation/installation of the fire separations between units and the common/mechanical areas, zoning was considered to be existing and remaining. With all of the information above, we had though it to be acceptable under a legal non-conforming use and issued the permit on July 26, 2021

I don't know what exactly triggered the inquiry, though around the beginning of October, Planning staff was consulted with to determine if the current zoning had always been in place, and it was confirmed that it has. It appears that there may have been some verbal communication with the owner in this regard at some point at the end of October, and then on November 1, 2021, an email was sent to the owner stating how this permit was issued based on incorrect information being provided at the time of application, that it does not conform with zoning, and that this would need to get rectified.

If you require anything else, please let me know.

Regards,

Will Nobes
Building Inspector

The Town of Fort Erie
1 Municipal Centre Drive
Fort Erie, Ontario, L2A 2S6
905-871-1600 Ext. 2522



RE: Question re road widening for 131 & 135 Gilmore Rd, FE - OPA & ZA (files 350302-0160 & 350309-0541)Dunsmore, Susan to Daryl Vander Veen 2022-07-27 07:51 AM

Cc "Morrison, Alexander", "Pirkas, Chris"

From "Dunsmore, Susan" <Susan.Dunsmore@niagararegion.ca>

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

Cc "Morrison, Alexander" <Alexander.Morrison@niagararegion.ca>, "Pirkas, Chris" <Chris.Pirkas@niagararegion.ca>

Hi Daryl,

Thanks for reaching out with regard to the widening. The widening will only be taken if at some point these site's go through a formal site plan process with an agreement or alternative planning application where the widening can be acquired.. Not sure if this is helpful or not but essentially at some point this may become a 0m setback, so I will leave that upto you guys to decide if you should address this through your current zoning amendment.

Let me know if you need something further.

Susan

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

Sent: Tuesday, July 26, 2022 1:47 PM

To: Pirkas, Chris <Chris.Pirkas@niagararegion.ca>; Dunsmore, Susan <Susan.Dunsmore@niagararegion.ca>

Subject: FW: Question re road widening for 131 & 135 Gilmore Rd, FE - OPA & ZA (files 350302-0160 & 350309-0541)

Hi Chris & Susan:

Kindly, can you respond to Daryl's inquiry below?

Thank you,

Alex

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

Sent: Tuesday, July 26, 2022 1:44 PM

To: Morrison, Alexander <Alexander.Morrison@niagararegion.ca>

Subject: Question regarding road widening for 131 & 135 Gilmore Road Combined Official Plan & Zoning By-law Amendment (file nos. 350302-0160 & 350309-0541)

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

Hello Alex,

Can you please confirm if a road widening will be taken for the above application? We are looking to finalize some aspects of the zoning and were wondering if the front yards of the two parcels would essentially become

zero metre setbacks. Both parcels are already pretty close to the road allowance. I've attached the preliminary site plan for reference.

Regards,

Daryl

Daryl Vander Veen, BES
Junior Development Planner

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

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