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**Planning and Legislative Services**

Planning Division Report

November 3<sup>rd</sup>, 2023

Secretary-Treasurer  
Port Colborne Committee of Adjustment  
66 Charlotte Street  
Port Colborne, ON L3K 3C8

**Re: Application for Consent B06-16-PC  
Concession 3 Part Lot 30  
480 Northland Avenue  
Agent: Lanthier and Gilmore Surveying Ltd.  
Owner(s): Ralph Rotella**

**Proposal:**

The purpose and effect of this application is to permit the conveyance of Part 2 (as depicted on Appendix A) having a lot frontage of 21.08m along Northland Avenue and a lot area of 1357m<sup>2</sup> for a proposed residential use. Part 5 will retain a lot frontage of 42.70m on Northland Avenue with a lot area of 3014.3m<sup>2</sup> for an existing residential use.

**Surrounding Land Uses and Zoning:**

The parcels surrounding the subject lands are zoned Institutional (I) to the north, Fourth Density Residential (R4) to the east and west, and a special provision of the Institutional zone (I-24), Residential Townhouse (RT), and R4 to the south. The surrounding uses consist of a vacant lot to the north, residential dwellings to the east and west, and a vacant institutional use to the south.



**Environmentally Sensitive Areas:**

The subject lands are mapped as a Significant Woodland in the city's Official Plan and Zoning By-law. An Environmental Impact Study (EIS) has been submitted and circulated to the Region for review. A copy of the EIS has been included in the Agenda Package.

## **Public Comments:**

Notice was circulated on October 25<sup>th</sup>, 2023, to adjacent landowners within 60m of the subject property as per the Planning Act. As of November 3<sup>rd</sup>, 2023, no comments from the public have been received.

## **Agency Comments:**

Notice was circulated on October 16<sup>th</sup>, 2023, to internal departments and agencies. As of November 3<sup>rd</sup>, 2023, the following has been received.

### Drainage Superintendent

No comment, the parcel is outside of the area of a known municipal drain.

### Fire Department

Port Colborne Fire has no objection to the proposed application.

### Engineering Technologist

Please request a master lot grading plan to identify the existing drainage patterns and to ensure that the parts, when severed, can drain independently of one another. Should existing surface water runoff from any part currently flow across or onto adjacent part(s) and all options to manage or redirect said surface water have been exhausted, a mutual agreement drain or mutual drainage agreement on title with the affected property or properties is highly recommended.

Please confirm that the site services for the existing building are wholly contained on their respective parcel. Relocation of existing servicing may be required in the event that the services are not wholly contained on the parcel.

Municipal consent permits will be required for the construction of new entrances and the installation of site services.

### Staff Response

A master lot grading plan and confirmation of the service locates have been included as conditions of this consent.

### Niagara Region (Please see full comments in Agenda Package)

Staff of the Regional Growth Strategy and Economic Development Department are not opposed to the subject consent applications, as provided, subject to the satisfaction of any local requirements and fulfillment of the conditions related to the Environmental Impact Study and Archaeological Assessment requirements.

### Staff Response

The requested conditions from the Region have been included as a part of the conditions of approval of this application.

## Discussion:

This application was reviewed with consideration of applicable policies in the *Provincial Policy Statement (2020)*, *A Place to Grow: Growth Plan for the Greater Golden Horseshoe (2019)*, the *Regional Official Plan*, the *City of Port Colborne Official Plan*, and the *City of Port Colborne Comprehensive Zoning By-law 6575/30/18*.

The Provincial Policy Statement (PPS) provides policy direction on matters of provincial interest related to land use planning and development. The subject lands are within a “settlement area” according to the PPS. Settlement areas are to be the focus of growth and development and land use patterns shall be based on densities and a mix of land uses that efficiently use land and resources.

Staff is satisfied that the proposed application is consistent with the PPS. The proposal efficiently uses land and resources by providing buildable lots of sufficient size within a settlement area.

The Growth Plan designates the subject parcel as within a “Delineated Built-up Area” within a “Settlement Area” where development is to be directed and intensification is generally encouraged. The Growth Plan Policies support the achievement of complete communities that are designed to support healthy and active living and meet people’s needs for daily living throughout an entire lifetime.

Staff is satisfied that the proposed consent application conforms to the Growth Plan. The proposed application supports a range of housing types and is located in the settlement area, where development is to be directed.

The Regional Official Plan (ROP), designates the subject lands as within the “Urban Area Boundary” and “Built-up Area”. Intensification is generally encouraged throughout the Built-up Area and includes residential uses that make efficient use of existing services.

Planning Staff is satisfied that the proposed consent application conforms to the ROP. The proposed lot adds to the intensification of the built-up area by providing another lot within the Built-up Area and makes efficient use of the existing services.

### City of Port Colborne Official Plan

The subject property is designated as Urban Residential within the City’s Official Plan (OP). This designation permits residential uses and the creation of new residential lots and intensification is encouraged.

Proposals for the creation of new lots are reviewed under policies of Section 3.2.4 of the OP, which states the following:

*The severance of lands designated Urban Residential shall be permitted subject to the following policies:*

- a) A survey sketch prepared by a registered Ontario Land Surveyor is required.*
- b) Lots created through land severance shall have frontage on a public road.*
- c) Land severances on private roads are discouraged, except as provided for in the zoning by-law or except on private roads in a registered Plan of Subdivision.*
- d) Notwithstanding Policies 3.2.4 (b) and 3.2.4 (c), land severances for technical reasons will be permitted as a boundary adjustment:*

- i. Where a part of a property is being deeded to an adjacent landowner.
  - ii. For easements;
  - iii. For rights-of-way; or
  - iv. For any other purpose that does not create a separate lot.
- e) Development of more than three (3) new lots will require a Plan of Subdivision.
- f) Conditions may be imposed on the approval of land severances including but not limited to; execution of a development agreement, payment of development charges, parkland dedication, road widening, provision of water/wastewater servicing, Minimum Distance Separation requirements and/or the requirements of a commenting agency addressing a legitimate concern.

Staff are satisfied that the proposal meets the relevant criteria. An Ontario Land Surveyor sketch has been submitted and the lots created will have frontage on a public road. The Official Plan also provides for the collection of cash-in-lieu of parkland dedication as a condition of consent. Staff have included a condition that the applicant sign a Memorandum of Understanding stating that they are aware of the requirements for the collection of parkland dedication. Parkland dedication is required when new development is proposed that would increase the population of the City and add more users to the parkland system. As a result of this application, new units have been proposed which means, there will be a population increase. As such, the collection of cash-in-lieu of parkland dedication is required.

Section 3.2.4 (e) of the Official Plan states that ‘*Development of more than three (3) new lots will require a Plan of Subdivision*’. This policy intends to facilitate large-scale development where new servicing is required. A Plan of Subdivision provides Staff with more control over the implementation of the subdivision plan via conditions on the agreement. Staff are satisfied that, for this application, a Plan of Subdivision would not be appropriate as the proposed development is scoped to only include four new lots that take advantage of existing services. Furthermore, any condition that would be included in the subdivision agreement can be included in the conditions of approval for this severance.

#### City of Port Colborne Comprehensive Zoning By-law 6575/30/18

The subject lands are zoned First Density Residential (R1), a special provision of the Institutional zone (I-36) and a special provision of the Environmental Protection zone (EP-347) under Zoning By-law 6575/30/18. The proposed severance will leave the following dimensions.

Part 2: A lot frontage of 21.08m and a lot area of 1357m<sup>2</sup>

Part 5: A lot frontage of 42.70m and a lot area of 3014.3m<sup>2</sup>.

The lot frontage and lot area requirements for the R1 zone are 15m and 500m<sup>2</sup> respectively. Part 2 is proposed to exceed these requirements and as such, Staff has no concerns.

The special provision of the I zone (I-36) states that, in addition to the uses permitted in the Institutional zone, this land may be used for a single detached dwelling or a private nursing home with an accessory apartment. The lot frontage and lot area requirements for the I zone are ‘as existing’. As the boundaries of the I zone, which corresponds to the lot lines of Part 5, are not proposed to be altered, the frontage and lot area remain ‘as existing’ and Planning Staff has no concerns.

The special provision of the Environmental Protection zone (EP-347) states that, notwithstanding the provisions of the EP zone, the use of this land shall be restricted to the conservation of plants

and wildlife. The EP-347 zone has been identified in Appendix A at the northwestern corner of Part 5. As the submitted EIS recommends transplanting rare species off-site prior to construction and no development is proposed within this zone, Staff has no concerns.

### **Recommendation:**

Given the information above, Planning Staff recommends application B06-16-PC be **granted** subject to the following conditions:

1. That the applicant provides the Secretary-Treasurer with a draft transfer and a copy the deposited reference plan, if applicable, for use in the issuance of the Certificate of Consent.
2. That a final certification fee of \$231 payable to the City of Port Colborne is submitted to the Secretary-Treasurer.
3. That the applicant provides Staff with a master lot grading plan to identify the existing drainage patterns and ensure that the parts, when severed can drain independently of one another.
4. That the applicant confirms the location of the existing site services to Staff, to the satisfaction of City Staff.
5. That the applicant sign a Memorandum of Understanding stating that they are aware of the requirements for the collection of parkland dedication.
6. That the landowner submits a Stage 1 Archaeological Assessment (plus any subsequent recommended assessments) for the subject property, prepared by a licensed archaeologist, to the Ministry of Citizenship and Multiculturalism ("MCM"), for review and approval with a copy provided to the City of Port Colborne and Niagara Region. The report must be accepted by the Ministry, and a copy of any applicable MCM letters of acknowledgment shall be provided to the Niagara Region prior to clearance of this condition.
7. That the landowner enters into a Development Agreement for Part 1, Part 2, Part 3, and Part 4, respectively, to be registered on title, which requires that the owner implement the recommendations of the Environmental Impact Study (prepared by Colville Consulting Inc., dated November 2019), including but not limited to:
  - a. That a Tree Preservation Plan (TPP) be submitted, to the satisfaction of Niagara Region, that indicates any trees that need to be removed to allow for the development of Part 1, Part 2, Part 3, and Part 4, respectively. The TPP should be prepared in accordance with the Region's Woodland Conservation By-law (By-law 20-79).
  - b. That a Relocation and Monitoring Plan be prepared to the satisfaction of the Niagara Region that identifies a suitable relocation site for any Wild Coffee, Bladdernut, Northern Dewberry, Black Maple and Arrow-leaved Aster individuals required to be relocated and assess the success of the relocation efforts. Monitoring shall include a two-year period post-relocation. A Monitoring Report should be submitted to Regional Development Approvals, with attention to Environmental Planning, [developmentplanningapplicaitons@niagararegion.ca](mailto:developmentplanningapplicaitons@niagararegion.ca) by September 1<sup>st</sup> for 2 years. The Report should also include photographs, a site map and advise of actions necessary to address any deficiencies.

- c. That the final development plan shall endeavour to retain as many trees, especially Black Maple trees, to the extent feasible, which may necessitate foregoing amenity space. Further, any structures and lot grading shall be designed to minimize impacts to Black Maple trees where possible;
  - d. That the development agreement contain wording wherein the owner agrees to implement the approved Tree Preservation Plan, prior to construction;
  - e. That any required vegetation removal should be conducted in a manner to avoid impacts to nesting birds that may be utilizing habitats on the property. The breeding bird period for Migratory species in this area is generally March 15 to August 31. A survey for active bird nests should be conducted prior to any vegetation removal or site alteration planned to occur during this window; \*\*Note that some non-migratory bird species which are protected under the Fish and Wildlife Conservation Act may be nesting at times outside the above-mentioned window. A survey for active bird nests should be conducted prior to any vegetation removal or site alteration planned to occur during their respective breeding/nesting windows;
  - f. That any required vegetation removal should be conducted in a manner to avoid impacts to any and all Bat species that may use trees seasonally for roosting;
  - g. That existing structures on the property be demolished between October 31 and March 30 to avoid potential impacts to Barn Swallows or bats that may be periodically utilizing the structures.
  - h. That a bat box be installed on the property to provide additional roosting opportunities for bats, installation of which should follow Bat Conservation International ([https://www.batcon.org/images/InstallingYourBatHouse\\_WoodenPost\\_SteelPole.pdf](https://www.batcon.org/images/InstallingYourBatHouse_WoodenPost_SteelPole.pdf)) guidelines to ensure suitability and utility for target species.
  - i. That any grading or filling to be conducted on the Subject Property be designed to maintain existing overland flow patterns to help avoid hydrological and sedimentation impacts to the woodland.
  - j. That a light duty silt fence be installed at the limit of any excavation and grading to delineate the work area and help minimize impacts (e.g., sedimentation and accidental encroachment) to adjacent vegetation and that the silt fence be properly embedded (as per Ontario Provincial Standard Specification 805) into the ground to reduce any off-site movement of silt. The silt fence used should be one that does not include a mesh component, to avoid risk of entanglement of wildlife.
  - k. That the contractor have a spill kit on site to minimize potential contamination from accidental spills. The equipment should be inspected for leaks and refueling be completed in accordance with best management practices and at least 30 m away from the woodland.
  - l. That continuous, permanent fencing be installed along the rear property line, adjacent to the Significant Woodland, to delineate property boundaries to limit potential encroachment into the woodland;
  - m. That no grading occur within the dripline of the Butternuts located north of the property.
  - n. That all lighting installed be directed downward and away from the woodland to the greatest extent feasible;
8. That the landowner enters into a Development Agreement for Part 1, Part 2, Part 3, and Part 4, respectively, to be registered on title, which implements recommendations of the submitted archeological assessment(s) for the property (if any) and includes the following archaeological warning clause:

*“Should deeply buried archaeological remains/resources be found during construction activities, all activities impacting archaeological resources must cease immediately, and the proponent must notify the Archaeology Programs Unit of the Ministry of*

*Citizenship and Multiculturalism ("MCM") (416-212-8886) and contact a licensed archaeologist to carry out an archaeological assessment in accordance with the Ontario Heritage Act and the Standards and Guidelines for Consultant Archaeologists. In the event that human remains are encountered during construction, all activities must cease immediately and the local police as well as the Cemeteries Regulation Unit of the Ministry of Public and Business Delivery (416-326-8800) must be contacted. In situations where human remains are associated with archaeological resources, MCM should also be notified to ensure that the site is not subject to unlicensed alterations which would be a contravention of the Ontario Heritage Act."*

9. That all conditions of consent be completed by November 8<sup>th</sup>, 2025.

For the following reasons:

1. The application is consistent with the Provincial Policy Statement and conforms to the Growth Plan for the Greater Golden Horseshoe, the Regional Official Plan, City of Port Colborne Official Plan, and will also comply with the provisions of Zoning By-law 6575/30/18, as amended.

Prepared by,



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Planner

Submitted by,



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Chief Planner



