



Development and Government Relations

Planning Division Report

September 6, 2024

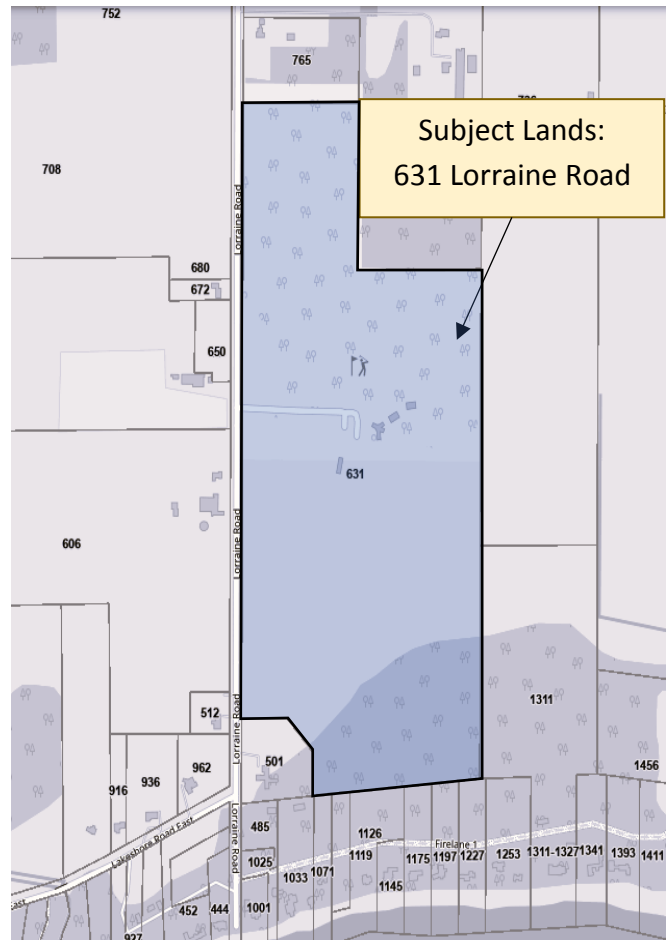
Secretary-Treasurer
 Port Colborne Committee of Adjustment
 66 Charlotte Street
 Port Colborne, ON L3K 3C8

**Re: Applications for Consent: B12-24-PC, B13-24-PC, B14-24-PC
 Concession 2, Part of Lot 20
 631 Lorraine Road
 Agent: Steven Rivers
 Owner(s): Whisky Run Golf Club Ltd.**

Proposal

Consent applications B12-24-PC, B13-24-PC, and B14-24-PC propose to permit the conveyance of Parcels 1, 2, and 3 on the severance sketch attached as Appendix A, for a future residential use. Parcel 4 is proposed to be retained, having a lot frontage of 807.5 metres on Lorraine Road with a lot area of 328,400 square metres (approximately 32.84 hectares) for its existing use as a golf course. The lots proposed to be severed all front onto Lorraine Road and propose the following lot frontages and lot areas:

Application No.	Severed Parcel	Lot Frontage	Lot Area
B12-24-PC	Parcel 1	74.70 m	10,136 m ²
B13-24-PC	Parcel 2	90.45 m	10,160 m ²
B14-24-PC	Parcel 3	74.92 m	10,285 m ²



Surrounding Land Uses and Zoning

The subject lands are the Rural Residential (RR) zone and in a special provision of the Rural zone (RU-82). The parcels surrounding the subject lands are zoned Agricultural (A) to the north; Agricultural, Agricultural Residential (AR), a special provision of the Agricultural Purposes Only zone (APO-64), a special provision of the Agricultural zone (A-11), and Rural Residential (RR) to the west; RR, Lakeshore Residential (LR) with a Hazard overlay to the south; and Agricultural with an Environmental Protection (EP) overlay to the east.

Environmentally Sensitive Areas

The subject lands are impacted by the Region's Natural Environment System (NES), consisting of Provincially Significant Wetland, Other Wetlands, Other Woodlands, and a linkage. Planning Staff have examined the proposals in relation to this feature in the 'Discussion' section of this report. The applications have also been circulated to the Niagara Region for formal comments.

Public Comments

Notice was circulated on August 27, 2024, to properties within 60 metres of the subject lands, in accordance with section 44 (5) of the *Planning Act*. As of September 6, 2024, no comments from the public have been received.

Agency Comments

Notice of the application was circulated on August 16, 2024, to internal City departments and external agencies. As of September 6, 2024, the following comments have been received.

Niagara Region

Growth Strategy and Economic Development staff are satisfied that the proposed consent applications to create Parcels 1, 2, 3 is consistent with the Provincial Policy Statement and conforms to Provincial and Regional plans, subject to fulfilment of the following conditions:

1. That the applicant/owner receive acceptance from the Ministry of Citizenship and Multiculturalism (MCM) for the archaeological assessment report titled Stage 2 Archaeological Assessment, prepared by Irvin Heritage Inc. (dated May 24, 2024). If the Ministry requires further archaeological work to be completed prior to acknowledging this report, these report(s) must also be submitted to and acknowledged by the Ministry, to the satisfaction of Niagara Region, prior to clearance of this condition. No demolition, grading or other soil disturbances shall take place on the subject property prior to the issuance of a letter from MCM through Niagara Region, confirming that all archaeological resource concerns have met licensing and resource conservation requirements.

2. That a Restoration Plan be prepared to the satisfaction of the Niagara Region. The plan should incorporate dense plantings of native trees, shrubs and wildflowers that complement the adjacent vegetation communities. The removal of invasive species should also be incorporated, as appropriate. The Landscape Plan should be completed by a full member of the Ontario Association of Landscape Architects (OALA) or a qualified environmental professional.
3. That the Nitrate Impact Assessment and Water Supply Potential Assessment, prepared by Hydrogeology Consultants Services Inc. (dated July 2, 2024) be updated with the proposed location of the bed, dilution area and groundwater flow direction for the location of the septic systems to be located appropriately to meet the nitrate concentration requirements at the lot boundaries.
4. The owner provides a written undertaking stating future purchase and sales agreements will include a clause advising that the septic systems for Parcels 1, 2, and 3 will need to include pre-treatment with an effluent level of 5.5 mg/L.

Note: Full comments are included in the Committee of Adjustment agenda package dated September 6, 2024.

Staff Response

The conditions recommended by Regional staff have been included as conditions of the severances.

Drainage Superintendent

The parcel is within the watershed of the Wignell Drain, and further, the watershed of the Michener Drain. Upon receipt of the deposited plan, a drainage apportionment will be required to ensure all parcels are assessed through the newly adopted reports correctly. The re-apportionment can be completed by the City's Drainage Superintendent or by an approved drainage superintendent. The cost for each agreement will be \$118.00 if completed by City staff. If an engineer is requested, any costs incurred will be paid by the applicant.

Staff Response

Drainage apportionment agreements have been included as conditions of the severances.

Fire Department

No objections.

Engineering Division

Engineering staff will require separate entrances to each newly created lot (7.5m is the maximum driveway width). A Municipal Consent (MC) permit for the entrance will be required, which can be applied for on the [Municipal Consent permits webpage](#). A grading plan is required at the time of building permit.

Staff Response

Engineering requirements will be addressed through the Municipal Consent permit process during construction.

Discussion

These applications were 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 Niagara Official Plan (2022), the City of Port Colborne Official Plan (2013), and 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 the “Rural Lands” designation in the PPS. Section 1.1.5 of the PPS provides that locally appropriate residential development that can be sustained by rural service levels should be promoted. Development of rural lands, including lot creation, shall be appropriate to planned or available infrastructure, and in compliance with the minimum distance separation formulae (MDS).

Planning Staff are satisfied that the proposed application is consistent with the PPS. The Nitrate Impact Assessment and Water Supply Potential Assessment, prepared by Hydrogeology Consultants Services Inc. (dated July 2, 2024), indicates that the proposed lots can be sustained by rural service levels using available private infrastructure for the lot proposed to be retained, and future septic treatment systems for the proposed new lots that are designed to meet the Ministry of the Environment, Conservation and Parks’ (MECP) standards.

The Growth Plan designates the subject lands as being in a “Rural Area.” Section 1.1.4 encourages rural developments to leverage rural amenities and assets, promoting regeneration and redevelopment while conserving biodiversity. Section 2.2.9 permits limited growth in rural areas. Municipalities are encouraged to plan for a variety of cultural and economic opportunities to serve the needs of rural residents.

Planning staff are satisfied that the proposed consent application conforms to the Growth Plan. The proposed application will increase housing options within a rural settlement area, where development is to be directed, providing future residents of the proposed lots with the nearby amenities offered by the golf course. The survey prepared by Rasch & Hyde Ltd., dated August 17, 2023, identified the dripline of the Significant Woodland plus a 20-metre Vegetation Protection Zone, to ensure proposed lot lines protect nearby ecological features. The golf course will help to serve the cultural and economic needs of future residents of the proposed lots by providing them with access to

The Niagara Official Plan (NOP) designates the subject lands as “Rural Lands”. The NOP states the predominant use of rural lands should be agricultural, with limited non-agricultural uses permitted. The proposed lots meet NOP policies for lot creation in the Rural Lands designation, as proposed lot sizes are of over one hectare each.

Planning staff are satisfied that the proposed consent application conforms to the NOP. The development will be at a scale and density suitable to the physical characteristics of the site, soil, and drainage conditions. Regional staff have provided their comments on the proposal’s consistency with the Region’s NES requirements. There are a mix of residential lots and agricultural parcels in the neighbourhood, which will require the applicant to submit an MDS calculation to ensure these uses are appropriately distanced. Regional staff have requested a Restoration Plan for the buffer of the Significant Woodland. As the site is located on a Highly Sensitive Aquifer, the proposed septic systems are required to be designed to meet the MECP 22.5.8 standard. The Restoration Plan will ensure lands located between the dripline of the woodland and the proposed lot lines remain naturalized.

City of Port Colborne Official Plan

The subject property is designated as Rural, with an Environmental Conservation overlay, in the City’s OP. Proposals for the creation of new lots in the Rural designation are considered in accordance with the provisions of section 3.4.4 of the OP, which sets out the requirements for severing a property, while section 3.4.2 outlines the requirements for intensification and infill. The Rural designation, as amended by Official Plan Amendment (OPA) No. 16 (By-law No. 7240/62/24), allows the land to be developed for single detached dwellings, subject to the following:

- a) Only three (3) new lots are created through severance between an existing residential building and an existing non-agricultural land use.
- b) The new lots can be adequately serviced by individual sanitary services and individual water services on 10,000 square metre parcels set back 30 metres from Natural Heritage features.
- c) Each new lot will comply with the requirements of the Zoning By-law as amended.
- d) Each new lot complies with the Minimum Distance Separation Formulae.

Subject to the findings of the MDS calculation, Planning Staff are satisfied that the proposal meets the OP, as amended. OPA No. 16 was obtained by the applicants to permit the 3 proposed new lots to be created through severance between an existing residential building and an existing non-agricultural land use. The Nitrate Impact Assessment and Water Supply Potential Assessment, once updated as requested by Regional staff, identify that new lots can be adequately serviced by individual water and sanitary services and are appropriately set back from the Natural Heritage features. Each

new lot will comply with the RR and RU-82 requirements established by the Zoning By-law, as amended by By-law 7241/63/24. As the submitted Planning Justification Report (PJR) identifies nearby livestock facilities a Minimum Distance Separation (MDS) calculation will need to be performed to confirm that the livestock facilities are setback an appropriate distance. The submission of an MDS calculation has been added as a condition of the severances.

The subject lands are impacted by an Environmental Conservation overlay (Stream and Fish Habitat) in the OP, and by the Region's NES, consisting of Provincially Significant Wetland, Other Wetlands, Other Woodlands, and a linkage. Section 4 of the OP provides that an Environmental Impact Study (EIS) is typically required in support of development with natural heritage features present, but Environmental Planning staff support waiving the EIS requirement in lieu of a Restoration Plan. The Restoration Plan is required in support of the consent applications to illustrate the locations of native trees, shrubs and wildflowers within the buffer of the Significant Woodland.

The OP also provides for the collection of cash-in-lieu of parkland dedication as a condition of consent. 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, the proposed lots can include new units and are intended for residential use which means, the population will increase. As a result, the standard condition of a memorandum of understanding stating that the applicant is aware of the requirements of parkland dedication have been included as a condition of the consents.

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

The subject lands are the Rural Residential (RR) zone and in a special provision of the Rural zone (RU-82) under Zoning By-law 6575/30/18. The proposed severances will leave the following dimensions.

Parcel No.	Lot Frontage	Estimated Lot Area
Parcel 1 (to be severed)	74.70 metres	10,136 square metres
Parcel 2 (to be severed)	90.45 metres	10,160 square metres
Parcel 3 (to be severed)	74.92 metres	10,285 square metres
Parcel 4 (to be retained)	807.5 metres	32.84 hectares

Planning staff are satisfied that all the requirements of the zoning by-law will be met. The parcels proposed to be severed exceed the requirements of lot creation in the RR zone, which consist of 45 metres of lot frontage and 0.4 hectares of lot area. RU-82 applies to the lands proposed to be retained, which requires a lot frontage of 805 metres and a minimum lot area of 29.7 hectares.

Recommendations

Given the information above, Planning staff recommend applications B12-24-PC be **granted** subject to the following conditions:

1. That the applicant provides the Secretary-Treasurer with the deeds for the conveyance of the subject parcels or a registrable legal description of the subject parcels, together with a paper copy and electronic copy of the deposited reference plan, if applicable, for use in the issuance of the Certificate of Consent.
2. That a final certification fee of \$240 payable to the City of Port Colborne is submitted to the Secretary-Treasurer.
3. That a drainage apportionment agreement be completed by the City's Drainage Superintendent or by an approved engineer at the cost of the applicant. A copy of the deposited plan must be delivered to the Drainage Superintendent through the planning department for the apportionment agreement to be completed.
4. That the applicant(s) sign the City of Port Colborne's standard "Memorandum of Understanding" explaining that development charges and cash-in-lieu of the dedication of land for park purposes, based on an appraisal, at the expense of the applicant, wherein the value of the land is to be determined as of the day before the issuance of a building permit, is required prior to the issuance of a building permit pursuant to Section 42 of the Planning Act. R.S.O 1990, as amended.
5. That the applicant/owner receive acceptance from the Ministry of Citizenship and Multiculturalism (MCM) for the archaeological assessment report titled Stage 2 Archaeological Assessment, prepared by Irvin Heritage Inc. (dated May 24, 2024). If the Ministry requires further archaeological work to be completed prior to acknowledging this report, these report(s) must also be submitted to and acknowledged by the Ministry, to the satisfaction of Niagara Region, prior to clearance of this condition. No demolition, grading or other soil disturbances shall take place on the subject property prior to the issuance of a letter from MCM through Niagara Region, confirming that all archaeological resource concerns have met licensing and resource conservation requirements.
6. That a Restoration Plan be prepared to the satisfaction of the Niagara Region. The plan should incorporate dense plantings of native trees, shrubs and wildflowers that complement the adjacent vegetation communities. The removal of invasive species should also be incorporated, as appropriate. The Landscape Plan should be completed by a full member of the Ontario Association of Landscape Architects (OALA) or a qualified environmental professional.
7. That the Nitrate Impact Assessment and Water Supply Potential Assessment, prepared by Hydrogeology Consultants Services Inc. (dated July 2, 2024) be updated with the proposed location of the bed, dilution area and groundwater flow direction for the location of the septic systems to be located appropriately to meet the nitrate concentration requirements at the lot boundaries.

8. The owner provides a written undertaking stating future purchase and sales agreements will include a clause advising that the septic systems for Parcels 1, 2, and 3 will need to include pre-treatment with an effluent level of 5.5 mg/L.
9. That a Minimum Distance Separation I calculation be submitted which identifies that each lot is sufficiently setback from mitigating agricultural operations, to the satisfaction of City staff.
10. That all conditions of consent be cleared by September 11, 2026.

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 comply with the provisions of Zoning By-law 6575/30/18, as amended.

Given the information above, Planning staff recommend applications B13-24-PC be **granted** subject to the following conditions:

1. That the applicant provides the Secretary-Treasurer with the deeds for the conveyance of the subject parcels or a registrable legal description of the subject parcels, together with a paper copy and electronic copy of the deposited reference plan, if applicable, for use in the issuance of the Certificate of Consent.
2. That a final certification fee of \$240 payable to the City of Port Colborne is submitted to the Secretary-Treasurer.
3. That a drainage apportionment agreement be completed by the City's Drainage Superintendent or by an approved engineer at the cost of the applicant. A copy of the deposited plan must be delivered to the Drainage Superintendent through the planning department for the apportionment agreement to be completed.
4. That the applicant(s) sign the City of Port Colborne's standard "Memorandum of Understanding" explaining that development charges and cash-in-lieu of the dedication of land for park purposes, based on an appraisal, at the expense of the applicant, wherein the value of the land is to be determined as of the day before the issuance of a building permit, is required prior to the issuance of a building permit pursuant to Section 42 of the Planning Act. R.S.O 1990, as amended.
5. That the applicant/owner receive acceptance from the Ministry of Citizenship and Multiculturalism (MCM) for the archaeological assessment report titled Stage 2 Archaeological Assessment, prepared by Irvin Heritage Inc. (dated May 24, 2024). If the Ministry requires further archaeological work to be completed prior to acknowledging this report, these report(s) must also be submitted to and

acknowledged by the Ministry, to the satisfaction of Niagara Region, prior to clearance of this condition. No demolition, grading or other soil disturbances shall take place on the subject property prior to the issuance of a letter from MCM through Niagara Region, confirming that all archaeological resource concerns have met licensing and resource conservation requirements.

6. That a Restoration Plan be prepared to the satisfaction of the Niagara Region. The plan should incorporate dense plantings of native trees, shrubs and wildflowers that complement the adjacent vegetation communities. The removal of invasive species should also be incorporated, as appropriate. The Landscape Plan should be completed by a full member of the Ontario Association of Landscape Architects (OALA) or a qualified environmental professional.
7. That the Nitrate Impact Assessment and Water Supply Potential Assessment, prepared by Hydrogeology Consultants Services Inc. (dated July 2, 2024) be updated with the proposed location of the bed, dilution area and groundwater flow direction for the location of the septic systems to be located appropriately to meet the nitrate concentration requirements at the lot boundaries.
8. The owner provides a written undertaking stating future purchase and sales agreements will include a clause advising that the septic systems for Parcels 1, 2, and 3 will need to include pre-treatment with an effluent level of 5.5 mg/L.
9. That a Minimum Distance Separation I calculation be submitted which identifies that each lot is sufficiently setback from mitigating agricultural operations, to the satisfaction of City staff.
10. That all conditions of consent be cleared by September 11, 2026.

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 comply with the provisions of Zoning By-law 6575/30/18, as amended.

Given the information above, Planning staff recommend application B14-24-PC be **granted** subject to the following conditions:

1. That the applicant provides the Secretary-Treasurer with the deeds for the conveyance of the subject parcels or a registrable legal description of the subject parcels, together with a paper copy and electronic copy of the deposited reference plan, if applicable, for use in the issuance of the Certificate of Consent.

2. That a final certification fee of \$240 payable to the City of Port Colborne is submitted to the Secretary-Treasurer.
3. That a drainage apportionment agreement be completed by the City's Drainage Superintendent or by an approved engineer at the cost of the applicant. A copy of the deposited plan must be delivered to the Drainage Superintendent through the planning department for the apportionment agreement to be completed.
4. That the applicant(s) sign the City of Port Colborne's standard "Memorandum of Understanding" explaining that development charges and cash-in-lieu of the dedication of land for park purposes, based on an appraisal, at the expense of the applicant, wherein the value of the land is to be determined as of the day before the issuance of a building permit, is required prior to the issuance of a building permit pursuant to Section 42 of the Planning Act. R.S.O 1990, as amended.
5. That the applicant/owner receive acceptance from the Ministry of Citizenship and Multiculturalism (MCM) for the archaeological assessment report titled Stage 2 Archaeological Assessment, prepared by Irvin Heritage Inc. (dated May 24, 2024). If the Ministry requires further archaeological work to be completed prior to acknowledging this report, these report(s) must also be submitted to and acknowledged by the Ministry, to the satisfaction of Niagara Region, prior to clearance of this condition. No demolition, grading or other soil disturbances shall take place on the subject property prior to the issuance of a letter from MCM through Niagara Region, confirming that all archaeological resource concerns have met licensing and resource conservation requirements.
6. That a Restoration Plan be prepared to the satisfaction of the Niagara Region. The plan should incorporate dense plantings of native trees, shrubs and wildflowers that complement the adjacent vegetation communities. The removal of invasive species should also be incorporated, as appropriate. The Landscape Plan should be completed by a full member of the Ontario Association of Landscape Architects (OALA) or a qualified environmental professional.
7. That the Nitrate Impact Assessment and Water Supply Potential Assessment, prepared by Hydrogeology Consultants Services Inc. (dated July 2, 2024) be updated with the proposed location of the bed, dilution area and groundwater flow direction for the location of the septic systems to be located appropriately to meet the nitrate concentration requirements at the lot boundaries.
8. The owner provides a written undertaking stating future purchase and sales agreements will include a clause advising that the septic systems for Parcels 1, 2, and 3 will need to include pre-treatment with an effluent level of 5.5 mg/L.
9. That a Minimum Distance Separation I calculation be submitted which identifies that each lot is sufficiently setback from mitigating agricultural operations, to the satisfaction of City staff.

10. That all conditions of consent be cleared by September 11, 2026.

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 comply with the provisions of Zoning By-law 6575/30/18, as amended.

Prepared by,



Diana Vasu, BA, MA
Planner

Submitted by,



Denise Landry, MCIP, RPP
Chief Planner

Appendix A

