

VIA EMAIL

**July 22, 2024**

**City of Port Colborne**

City Hall  
66 Charlotte Street,  
Port Colborne Ontario,  
Canada L3K 3C8

**Attention: Committee of Adjustment,  
City Hall  
66 Charlotte Street  
Port Colborne, Ontario L3K 3C8**

**Subject: Planning Justification Letter  
4838 Sherkston Road, Sherkston ON L0S 1R0  
Roll Number: 271104000131900  
Application for Consent and Minor Variance**

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**1.0 Introduction and Overview**

We are the planning consultants to Hassan Kurabi, the owners of the property located on the north side of Sherkston Road in the Hamlet of Sherkston of City of Port Colborne, known municipally as 4838 Sherkston Road (the “subject site”). The subject site is currently occupied by a single-detached dwelling.

On their behalf, we are pleased to submit an application for consent to sever. The application seeks to create three new residential lot and a retained Agricultural lot on the subject site, along with an easement on one of the proposed lot. Attached Site Plan (Schedule 1) and Reference Plan prepared by Suda & Maleszyk Surveying Inc., 2024 (Schedule 2), shows the proposed Lot configuration. The following provides a description of the proposed lot configuration.

- Lot 1: Proposed New Residential Lot 1 (represented as Part 1, on Schedule 2) has an area of 6229.8 Sqm and has a frontage of 68.31m along Sherkston Road.
- Lot 2: Proposed New Residential Lot 2 (represented as Part 2, on Schedule 2) has an area of 6491.1 Sqm and has a frontage of 30.74m along Sherkston Road.

- Lot 3: Proposed New Residential Lot 3 (represented as Part 3 and Part 4, on Schedule 2) has an area of 6,786.1 Sqm and has a frontage of 30.74m along Sherkston Road.
- Retained Lot 4: Retained Lot 4 (represented as Part 5, on Schedule 2) has an area of 18,884.20 Sqm and has a frontage of 84.97m along The King's Highway 3.
- Proposed Easement: To provide access to Retained Lot 4 from Sherkston Road, and easement (represented as Part 4, on Schedule 2) which has an area of 966.6 Sqm and has a frontage of 6.36m is being proposed on Lot 3.

In addition, we are submitting minor variance applications to request relief from performance standards contained within Zoning By-law 6575/30/18. The requested variances are required to address minor non-compliances on proposed lots which would arise from the approval of the consent.

This letter provides a planning rationale in support of the consent to sever application. In our opinion, the applications satisfy the criteria for subdivision and consent to sever, set out in Section 51(24) of the *Planning Act*. This letter also provides a planning rationale in support of the requested variances required on the Retained and Severed Lots. In summary, it is our opinion that the requested variances would allow for the appropriate use of the subject site, and that the Committee should approve the application as meeting the four "tests" established by Section 45(1) of the *Planning Act*.

## **2.0 Site and Surroundings**

The subject site is located on the north side of Sherkston Road and on the south side of Highway 3 in the Hamlet of Sherkston of City of Port Colborne. The site has frontage along both the Highway 3 and Sherkston Road. The subject site has an area of approximately 38,391.2 square metres (3.84 hectares) and has 129.8 metres of frontage on Sherkston Road and a depth of approximate 382 metres. Further, the subject site also has 84.97 metres frontage on Highway 3.

The subject site currently contains a single-detached dwelling, which is set back approximately 21.42 metres from the front lot line, 32.02 metres from the east lot line, and approximately 65 metres from the west lot line, and is well set back from the rear (north) property line. The property has an access through the Sherkston Road and is surrounded by residential areas on the south and east, commercial, agricultural, and residential areas on the north, and agricultural areas on the west side of the lot. We have been advised that the subject site is being serviced by private water and septic system located on the lot.

## **3.0 Policy And Regulatory Context**

### **3.1 Provincial Policy Statement, 2020**

The Provincial Policy Statement, 2020 (the "PPS") provides policy direction on matters of Provincial interest related to land use planning and development. In accordance with Section 3(5) of the Planning Act, all

decisions that affect a planning matter are required to be consistent with the PPS. In this regard, Policy 4.2 provides that the PPS “shall be read in its entirety and all relevant policies are to be applied to each situation”.

Policy 1.1.4.1 of the Provincial Policy Statement (PPS) outlines that healthy and viable rural areas should be supported by enhancing their character and leveraging local amenities and assets. This includes encouraging regeneration, such as redeveloping brownfield sites, and offering a diverse range of housing options in rural settlement areas. It is essential to conserve and redevelop existing rural housing, use rural infrastructure and public services efficiently, and diversify the economic base through various goods, services, and sustainable resource management practices. Promoting sustainable and varied tourism by capitalizing on historical, cultural, and natural assets is also crucial. Additionally, prioritizing the conservation of biodiversity and recognizing the ecological benefits of nature, along with supporting economic activities in prime agricultural areas, are key components of this policy.

Policy 1.1.4.2 states that in rural areas, rural settlement areas shall be the focus of growth and development and their vitality and regeneration shall be promoted.

Policy 1.1.4.3 states that when directing development in rural settlement areas in accordance with policy 1.1.3, planning authorities shall give consideration to rural characteristics, the scale of development and the provision of appropriate service levels.

Section 1.1.3 provides policies on settlement areas, noting that the vitality and regeneration of settlement areas is critical to the long-term economic prosperity of Ontario communities. Development pressures and land use change will vary across Ontario. It is in the interest of all communities to use land and resources wisely, to promote efficient development patterns, protect resources, promote green spaces, ensure effective use of infrastructure and public service facilities and minimize unnecessary public expenditures.

Section 2.3 outlines policies for Prime Agricultural Areas, emphasizing their protection for long-term agricultural use, including specialty crop areas. It encourages using an agricultural system approach to maintain the continuity and economic connections of the agricultural land base.

The subject site is situated partly within the Prime Agricultural Areas to the north and the Hamlet of Sherkston to the south. The proposed new residential lots are within the Hamlet of Sherkston, a designated Rural Settlement Area. Additionally, the lands within the Prime Agricultural Areas are planned to be retained as a single lot for continued agricultural use. As such, it is our opinion that the proposed application to create rural residential lots within the Rural settlements is consistent to the policies of the Provincial Policy Statement (PPS) as it supports the enhancement and regeneration of rural areas. The proposal contributes to the vitality of rural settlement areas, offers diverse housing options, and promotes sustainable economic opportunities while addressing rural characteristics and service needs.

### **3.2 A Place to Grow – Growth Plan for the Greater Golden Horseshoe, 2020**

The Growth Plan for the Greater Golden Horseshoe, 2020, (Growth Plan) is established as a long-term plan outlining the Province's vision for building complete communities and is intended to guide decisions relating to population. The Growth Plan directs growth to settlement areas and prioritizes intensification to ensure land and existing infrastructure is used efficiently.

The policies of the Plan concentrate on designing complete communities with high quality compact built form, prioritizes intensification to make efficient use of land and infrastructure, supports a range and mix of housing options that provides a diverse mix of land uses including residential and employment uses.

Section 2.2.9(6) directs that new multiple lots or units for residential development will be directed to settlement areas, but may be allowed on rural lands in site-specific locations with approved zoning or designation in an official plan that permitted this type of development.

Section 4.2.6 of the Growth Plan aims to protect prime agricultural areas for long-term use, ensure land use avoids or mitigates impacts, preserve existing agricultural lots, and support the Agricultural System through growth and transportation planning. It also mandates integrating provincial agricultural mapping into local plans, with refinements allowed only through comprehensive reviews.

The subject site is situated partly within the Prime Agricultural Areas to the north and the Hamlet of Sherkston to the south. The proposed new residential lots are within the Hamlet of Sherkston, a designated Rural Settlement Area. Additionally, the lands within the Prime Agricultural Areas are planned to be retained as a single lot for continued agricultural use. Therefore, it is our opinion that the creation of lots at this location aligns with the intent of the Growth Plan. The proposal to develop rural residential lots within the Rural Settlement Area is consistent with the objectives outlined in the GGH Growth Plan 2020.

As outlined in detail above, it is our opinion that the proposed severance and associated minor variance applications conform with the Growth Plan.

### **3.3 Regional Official Plan - Niagara Official Plan**

The Official Plan for the Region of Niagara was adopted by Regional Council on June 23, 2022. The Regional Official Plan (ROP), designates the subject lands as a “Rural Settlement” and “Agricultural”. The proposed new residential lots are within the Hamlet of Sherkston, area designated as Rural Settlement Area in the Niagara Region Official Plan. Additionally, the lands within the Prime Agricultural Areas are planned to be retained as a single lot for continued agricultural use.

Section 2.2 of the Niagara Region Official Plan provides policies to protect and enhance the character of rural settlements. Rural Settlements are defined as the communities located in rural areas, as delineated on

Schedule B of the Niagara Official Plan, that are serviced by individual private on-site water and/or private wastewater systems, contain a limited amount of undeveloped lands that are designated for development, and are to accommodate limited growth. All settlement areas that are identified as hamlets in the Greenbelt Plan, or as minor urban centres in the Niagara Escarpment Plan are considered rural settlements for the purposes of this Plan, including those that would not otherwise meet this definition.

Section 2.2.3.1 of the Niagara Region Official Plan states that a limited amount of development will occur outside of urban areas to achieve the forecasts in Table 2-1.

Section 2.2.3.2 of the Niagara Region Official Plan states that Rural settlements identified on Schedule B shall be the focus of development outside of urban area boundaries.

Section 2.2.3.3 of the Niagara Region Official Plan states that Development in rural settlements should be planned to:

- a. encourage residential infill development that builds on the rural character and characteristics of the surrounding area;
- b. ensure there is adequate amenities to serve the needs of rural residents, area businesses and the surrounding nearby agricultural community;
- c. consider the inclusion of active transportation infrastructure;
- d. protect the Region's natural environment system in accordance with the policies in Section 3.1; and
- e. encourage reduced energy consumption, improved air quality, reduced greenhouse gas emissions, and increased resilience to climate change in accordance with the policies in Section 3.5

The subject site is situated partly within the Prime Agricultural Areas to the north and the Hamlet of Sherkston to the south. The proposed new residential lots are within the Hamlet of Sherkston, a designated Rural Settlement Area. Additionally, the lands within the Prime Agricultural Areas are planned to be retained as a single lot for continued agricultural use.

The proposed lots fulfill the requirements of the Niagara Region Official Plan by aligning with several key policies. Under Section 2.2.3.1, the development contributes to the limited, sustainable growth outside urban areas, adhering to the forecasted targets. According to Section 2.2.3.2, the focus on development within designated rural settlements ensures planned and orderly growth. Additionally, Section 2.2.3.3 is addressed through various measures: the proposed lots encourage residential infill that enhances the rural character, provide adequate amenities for rural residents and businesses, and include active transportation infrastructure. Therefore, it is our opinion that the creation of lots at this location conforms to the policies of Niagara Region Official Plan. The proposal to develop rural residential lots within the Rural Settlement Area is consistent with the objectives outlined in the Niagara Region Official Plan.

As described in detail above, it is our planning opinion that the proposed severance and associated minor variance applications conform with the ROP.

### 3.4 City of Port Colborne Official Plan

The City of Port Colborne Official Plan, was approved by the Ontario Municipal Board (now the Ontario Land Tribunal) on November 25, 2013. The Official Plan sets long-term goals and objectives for our community, guides our By-laws, and informs Council on land-use decisions and how to manage change.

Schedule A – City-Wide Land Use identifies the southern part of subject site as falling within the Hamlet of Sherkston and norther part being designated as Agricultural. The lands designated “Agricultural” are planned to be retained as a single lot for continued agricultural use and the new residential lots are being proposed on the lands designated as “Hamlet”.

Section 3.3 of the Official Plan states that the areas identified on Schedule A as Hamlet, and further delineated on Schedules A2, A3 and A4, are those lands that are primarily residential and are located outside the Urban Area Boundary. These areas represent clusters known historically as; Bethel; Gasline; and Sherkston. The predominant uses of lands designated Hamlet shall include, but not be limited to; residential uses, community facilities and institutional uses; existing agricultural uses; special agricultural and rural uses such as a farm machinery sales dealership, feed mill and saw mill, provided that the uses are compatible with adjacent uses; neighbourhood commercial uses such as a convenience store, or similar small-scale commercial uses; Natural Heritage features; parks; and public open spaces.

Further, Section 3.3.2 (b) states that Infilling in the form of new residential development created through severance will only be for the purpose of creating up to three (3) lots between two existing residential buildings such that:

- i.) The new lots can be adequately serviced by individual on-site sanitary services and individual on-site water services that are not located within 30 m of any wetland;
- ii.) The size of each lot is a minimum of one (1) hectare, excluding flood plain areas, fish habitat ,lands designated as Natural Heritage or areas of high aquifer vulnerability. In these areas a larger lot size may be required which shall be confirmed through the appropriate studies contained in Section 11.9.
- iii.) Each new lot shall comply with the requirements of the Zoning By-law; and
- iv.) Each new lot shall comply with the Minimum Distance Separation Formulae, as required.

The Hamlet area permits low-density development provided that the use can be accommodated on private services. A total of three new lots are being proposed, making a consent application an appropriate option for the proposal. The proposed size of Lot 1 is approximately 0.62 hectares, Lot 2 is approximately 0.65 hectares, and Lot 3 is approximately 0.68 hectares. While the lot sizes are less than 1 hectare, considering the neighborhood context and the potential utilization of the lots, and understanding that the servicing needs can be fulfilled, it is our opinion that the proposed lot sizes represent good planning practice. This submission is supported by the Septic Site Plan for the proposed lot configuration, and we understand that the new lots can be adequately serviced by individual on-site sanitary services and individual on-site water services that are not located within 30 meters of any wetland.

As noted above, it is our opinion that the proposed severance and associated minor variance applications are appropriate because:

- A plan of subdivision is not required for the proper and orderly development of the land;
- The intent and purpose of the Official Plan and Zoning By-law are maintained;
- The lots (including severed and retained parcels) front on and have approved access to an existing public road that is maintained year-round by a public authority; and
- The lots can be serviced with an appropriate water supply and sewage disposal system.

Therefore, it is our planning opinion that the proposed severance and associated minor variance applications conform with the Official Plan.

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

With respect to zoning regulations, the subject site is regulated by Comprehensive Zoning By-law 6575/30/18, (the “zoning by-law”), which came into effect in 2018. The subject site is zoned Hamlet Residential Zone (HR) and Agricultural Zone (A) –by Schedule ‘A3’ of the zoning by-law.

The norther portion of the subject site is Zoned as A whereas portion on South is zoned as HR. The proposed new residential lots are within the HR Zone. Additionally, the lands Zoned Agricultural are planned to be retained as a single lot for continued agricultural use.

Section 12.2 of the By-law sets out permitted uses for the Hamlet Residential Zone, which include

- a) Dwelling, Detached;
- b) Uses, structures and buildings accessory thereto.

Further, Section 12.3 outlines a number of standards for the HR zone, which include matters such as:

a) Minimum Lot Frontage	45 metres
b) Minimum Lot Area	0.4 hectares or as existing
c) Minimum Front Yard	10 metres
d) Minimum Interior Side Yard	4 metres
e) Minimum Corner Side Yard	7.5 metres
f) Minimum Rear Yard	9 metres
g) Maximum Lot Coverage	15 percent
h) Maximum Height	11 metres

Further Section 17 of the Zoning By-Law sets out list of permitted uses for the Agricultural Zone and the zone requirements for same.

The proposed new residential lots are within the Hamlet Residential Zone (HR), while the lands zoned as Agricultural are planned to be retained as a single lot for continued agricultural use. The proposed lot

configuration within the HR zone meets all zoning requirements except for the lot frontage. The minimum lot frontage requirement in the HR zone is 45 metres, whereas the proposed lot frontage for Lot 2 and Lot 3 is approximately 30.74 metres. Therefore, a proposed Minor Variance in support of the application is being submitted along with the consent application. The proposed Minor Variance application aims to meet the HR zone requirements by allowing a frontage of 30.74 metres where the zoning by-law requires a minimum of 45 metres.

Considering the proposed Minor Variance and the lot configuration shown in the attached Site Plan, it is our opinion that the creation of lots at this location aligns with the intent of the Zoning By-law. Upon consideration of the Minor Variance, the proposal will also conform to the requirements of the Zoning By-law.

#### **4.0 Summary**

The proposed consent application the proposal to create 3 new residential lot in our opinion the application conforms to the applicable Official Plan policies. I am satisfied that the subject proposal is consistent with and conforms to the matters prescribed under Section 51 (24) of the Planning Act. The proposal is consistent with the Provincial Policy Statement and represents good planning.

In support of the application, we are attaching the following items:

1. Cover and Planning brief
2. Application for Consent
3. Application for Minor Variance
4. Schedule 1: Site Plan
5. Schedule 2: Survey prepared by Suda & Maleszyk Surveying Inc.
6. Proposed Septic Plan for the proposed Lot Configuration prepared by Dynamic Excavating Inc.
7. NATURAL HERITAGE CONSTRAINTS ASSESSMENT prepared by Colville Consulting Inc.
8. Hydrogeological Study prepared by Terra-Dynamics Consulting Inc.

We look forward to the Committee of Adjustment's consideration of the application and would be happy to provide any additional information required to support the proposal.

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