



**Subject: Recommendation Report for 3077 Highway 3 - Zoning By-law Amendment Application File No. D14-07-24**

**To: Council**

**From: Development and Government Relations Department**

Report Number: 2025-111

Meeting Date: May 27, 2025

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### **Recommendation:**

That Development and Government Relations Department Report 2025-111 be received; and

That the Zoning By-law Amendment attached to this report as Appendix B, being a by-law to amend Zoning By-law 6575/30/18 for the lands municipally known as 3077 Highway 3 from Hamlet Development (HD) and Hamlet Residential (HR) to Hamlet Residential (HR) and Hamlet Residential with a Holding Provision (HR-H), be brought forward for approval; and

That no further public notification is required prior to the passing of this by-law, pursuant to section 34(17) of the *Planning Act*.

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### **Purpose:**

The purpose of this report is to provide a recommendation on a privately initiated Zoning By-law Amendment application D14-07-24, for the lands legally known as Concession 1 Part of Lot 12, in the City of Port Colborne, Regional Municipality of Niagara, municipally known as 3077 Highway 3.

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### **Background:**

The application for Zoning By-law Amendment was received on October 1, 2024, then deemed complete at the time of receipt. The application proposes to change the zoning from Hamlet Development (HD) to Hamlet Residential (HR).

## Location

This is an aerial map of a residential area in Cedar Bay, Michigan. The map shows property boundaries and lot numbers. A large parcel is outlined in blue and labeled 3077. The map includes labels for Sherk Road, Highway 3, Cedar Bay Road, Friendship Trail, and Tammy Avenue. Other lot numbers visible include 2676, 2900, 2924, 2940, 2970, 1057, 3066, 3114, 3122, 3138, 3164, 3222, 3256, 3284, 851, 2861, 2880, 2935, 972, 954, 942, 936, 930, 920, 912, 904, 876, 846, 852, 2971, 3097, 3119, 3133, 3161, 3173, 3191, 3303, and 3201.

Figure 1: Location of subject lands outlined in blue, from Niagara Navigator (2023)

## Surrounding Land Uses and Zoning

The properties surrounding the subject lands are primarily zoned HR to the north and west, with some properties to the north and west in the Hamlet Commercial (HMC) zone, including two HMC-zoned properties with special provisions (HMC-22 and HMC-23). The property to the east is in the HD zone. The property to the south is in the Rural (RU) zone. Figure 2 depicts the zoning of the subject and surrounding properties.

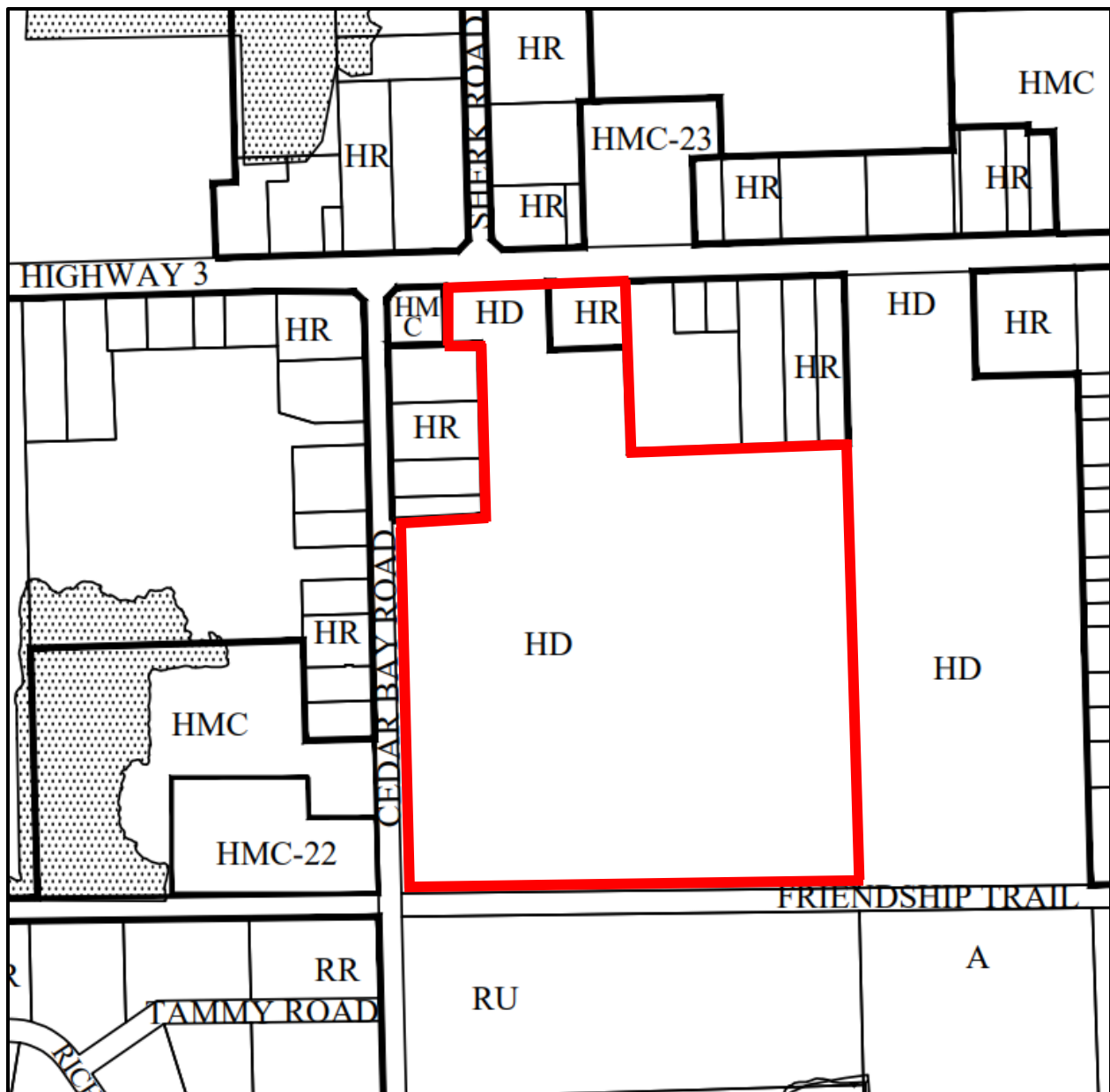


Figure 2: Location of subject lands outlined in red, from Schedule "A4" of Zoning By-law 6575/30/18

## **Discussion:**

For an application for a Zoning By-law Amendment to be supported by Planning staff, the proposal must conform to or be consistent with the *Planning Act*, R.S.O., 1990, as amended; the Provincial Planning Statement (2024); the Niagara Official Plan (2022); the City of Port Colborne Official Plan (2013), and City of Port Colborne Zoning By-law 6575/30/18.

### ***Planning Act, 1990***

Section 3 of the *Planning Act* (the Act) requires that, in exercising any authority that impacts a planning matter, the decisions of planning authorities “shall be consistent with the policy statements” issued under the Act and “shall conform with the provincial plans that are in effect on that date, or shall not conflict with them, as the case may be”.

Section 34 of the Act allows for the consideration of a Zoning By-law Amendment.

### **Provincial Planning Statement (2024)**

The subject lands are within a rural settlement area in the Provincial Planning Statement, 2024 (PPS). Section 2.5.1 (c) of the PPS provides that healthy, integrated, and viable rural settlement areas should be supported by accommodating an appropriate range and mix of housing. Section 2.5.2 of the PPS states that rural settlement areas shall be the focus of growth and development in rural areas, and the vitality and regeneration of rural settlements shall be promoted. When directing development in rural settlement areas, section 2.5.3 of the PPS requires planning authorities to consider locally appropriate rural characteristics, the scale of development, and the provision of appropriate service levels. Further, section 4.6.2 of the PPS only permits development where archaeological resources have been conserved.

Planning staff are satisfied that the Zoning By-law Amendment recommended in Appendix B is consistent with the PPS. The lands identified as Parcel 1 on Appendix A already feature a dwelling within a rural settlement area which is appropriately serviced by rural service levels.

The recommended Zoning By-law Amendment for Parcel 1 promotes an appropriate scale of development by changing the zoning from HD (a zoning that recognizes further growth and development will occur in rural settlement areas) and HR for a small portion to the northeast, to HR (which permits the single detached dwellings and structures already present on Parcel 1) for all of Parcel 1.

The recommended Zoning By-law Amendment for Parcel 2 promotes an appropriate range and mix of housing by proposing to rezone Parcel 2 from HD to HR with a Holding (H) provision which can only be lifted once an applicant submits a minimum of a Stage 1 Archaeological Assessment and an accompanying clearance letter from the Ministry of Citizenship and Multiculturalism (MCM). This recommended rezoning of Parcel 2 will

allow the applicant to sever their property in accordance with their severance sketch in Appendix A while also ensuring archaeological resources are being conserved when a future development application is received for those lands.

### **Niagara Official Plan**

The subject lands are within the Rural Settlement of Gasline in the Niagara Official Plan, 2022 (NOP). NOP Policy 2.2.3.3 states that developments in rural settlements should be planned to encourage residential infill development that builds on the rural character and characteristics of the surrounding area, ensure adequate amenities to serve the needs of rural residents, consider the inclusion of active transportation infrastructure, protect the Region's natural environment; and encourage increased resilience to climate. Rural settlements are to be on private services and must have at least 1 acre of useable area.

The property is mapped as an Area of Archaeological Potential on Schedule K in the NOP. NOP Policy 6.4.2.6 states that development or site alteration is not permitted within areas of archaeological potential unless archaeological resources have been conserved and requires the submission of a Stage 1 Archaeological Assessment (at minimum) by a licensed archaeologist.

Planning staff are satisfied that the proposed Zoning By-law Amendments recommended in Appendix B conform to the NOP. No further development is proposed at this time, but when a future proposal is received, the HR zone requires lots to be a minimum of 1 acre (0.4 hectares) in area to accommodate private servicing systems. The H provision recommended for Parcel 2 will require archaeological works to be completed prior to the removal of the H provision to meet the requirements of NOP Policy 6.4.2.6.

### **Port Colborne Official Plan**

The subject lands are located within the Hamlet designation in the City of Port Colborne Official Plan, 2013 (OP), as shown in OP Schedule A3: Hamlets – Gasline. The Hamlet designation (section 3.3 of the OP) permits residential uses, community facilities and institutional uses, existing agricultural uses, special agricultural and rural uses that are compatible with adjacent uses, neighbourhood commercial uses, Natural Heritage features, parks, and public open spaces.

OP Section 3.3.1 (c) states that all development will be situated on lots suitable in size and soil condition to support a private well and septic system to the satisfaction of the appropriate agency. Section 3.3.2 (a) provides that existing non-residential uses may be converted to residential uses without an amendment to the OP, provided that there are no land use compatibility issues and that all other policies of this Plan are complied with.

Planning staff are satisfied that the proposed Zoning By-law Amendment recommended in Appendix B conforms to the OP. No physical development of the lands is proposed to result from this application, and as Parcel 1 is currently supported by private services, this capacity is likely to continue. Parcel 2 has thus been used as farmland, which has been

permitted as the use existed prior to the passing of the OP; however, the proposed amendment to HR would bring Parcel 2 closer to conformity with the Hamlet designation that aligns with uses permitted in a rural settlement area. The recommended zoning amendment would help resolve any potential existing land use compatibility issues given the proximity of the existing agricultural use to the neighbouring existing residential uses.

### **Port Colborne Zoning By-law 6575/30/18**

The subject lands are primarily zoned Hamlet Development (HD), with a portion of the lands to the northeast being zoned Hamlet Residential (HR). The Zoning By-law Amendment application proposes to change the zoning of the entire property from HR and HD to HR. While the proposed severance sketch, attached as Appendix A, identifies both proposed parcels could meet the HR zoning provisions, and the HR provisions would facilitate the applicant's proposal, the policies discussed earlier in this report require the archaeological assessment of lands mapped in Schedule K of the NOP before development is permitted.

Planning staff are of the opinion that the Zoning By-law Amendment recommended in Appendix B is more appropriate to facilitate the proposed severance, as the H provision recommended for Parcel 2 will allow the severance to proceed while ensuring any future development appropriately conserves any archaeological resources, if applicable. Parcel 1 already features an appropriately sized dwelling, and as no further development of this parcel is proposed as a result of this application, this portion of the lands will remain compatible with adjacent uses.

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### **Internal Consultations:**

Notice of Public Meeting was circulated on October 16, 2024, to internal departments and agencies. As of the date of this report, the following has been received.

#### **Drainage Superintendent**

No objections.

#### **Ministry of Transportation**

MTO is supportive of the zoning in principle with the following conditions:

1. MTO must be circulated on the consent application for review and approval; and
2. It is construed that the single dwelling will be the 'retained' lands which includes the existing access onto Hwy 3. MTO will not permit additional access from the 'severed' land that fronts onto Hwy 3. Access from the 'severed' lands will be from Cedar Bay Road.

## **Mississaugas of the Credit First Nation (MCFN)**

The MCFN Department of Consultation and Accommodation (DOCA) has no comments or concerns regarding the Zoning By-Law Amendment. For future note, before any plans of land disturbance takes place, MCFN DOCA requires that their receipt of a Stage 1 Archaeological Study, when conducted. If it is determined that a Stage 2 is required, MCFN DOCA is expected to be involved in the field study with MCFN Field Liaison Representation (FLR) on-site participation. This study will be at the cost of the proponent.

## **Enbridge**

Enbridge does not object to the proposal but reserves the right to amend any development conditions.

## **Niagara Region**

### Archaeological Potential

With respect to the requested Zoning By-law Amendment application, a Stage 1 Archaeological Assessment (at minimum), prepared by a licensed archaeologist and sent to the Ministry of Citizenship and Multiculturalism for review would be required. As the Zoning amendment would facilitate the potential for development through a building permit, this would be required to change the zoning from Hamlet Development (which only permits the existing uses on-site) to Hamlet Residential (which permits additional development).

### Natural Environment

The southern portion of the project is mapped as having an “other wetland”, which is part of the Region’s Natural Environment System. The Regional environmental planner has already been along the Friendship Trail south of the property and confirmed based on staff observations that wetlands were not present. As such, there are no environmental planning requirements for the property.

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## **Financial Implications:**

There are no immediate financial implications. Should this proceed there is an opportunity for assessment and/or property tax growth.

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## **Public Engagement:**

Notice of Public Meeting was circulated by mail to property owners within 120 metres of the subject property, as per Section 34 (13) of the *Planning Act* on October 15, 2024. A

public notice sign was also posted on the property by October 16, 2024, and notices were posted on the City's website under "Current Applications". A public meeting was also held on November 5, 2024. As of the date of preparing this report, no comments from the public have been received.

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### **Strategic Plan Alignment:**

The initiative contained within this report supports the following pillar(s) of the strategic plan:

- Environment and Climate Change
  - Welcoming, Livable, Healthy Community
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### **Conclusion:**

Based on the review of the application and applicable Provincial, Regional, and City planning policies, Planning staff are of the opinion that the proposal is consistent with the Provincial Planning Statement and conforms to the Niagara Official Plan, and City Official Plan, and represents good planning. Accordingly, Planning staff recommends that the Zoning By-law Amendment attached as Appendices B be approved.

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### **Appendices:**

- a. Severance Sketch
- b. Zoning By-law Amendment

Respectfully submitted,

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**Report Approval:**

All reports reviewed and approved by the Department Director and also the City Treasurer when relevant. Final review and approval by the Chief Administrative Officer.