



**PORT COLBORNE**

**City of Port Colborne**

Municipal Offices  
66 Charlotte Street  
Port Colborne, Ontario  
L3K 3C8  
www.portcolborne.ca

**Development and Government Relations Department**  
Planning Division Report

March 11, 2026

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

**Re: Application for Consent: B09-26-PC, B10-26-PC & B11-26-PC  
Concession 1, Part Lot 1  
5390 Michener Road  
Agent: Matt Kernahan.  
Owner: Michael & Stephanie Phibbs**

### **Proposal**

The purpose of these applications is to seek approval for a severance to create 3 new lots. These applications have been made concurrently and propose to reconfigure 1 existing lot into 4 lots total, as illustrated in the provided figures and described below:



- **Part 1** is proposed to **be retained** as a new residential lot, with a lot frontage of 114.52 metres and a lot area of 17,461 square metres.
- **Part 2** is proposed to **be severed** with an existing residential use, with a lot frontage of 55.33 metres and a lot area of 10,106 square metres.

- **Part 3** is proposed to **be severed** for future residential use, with a lot frontage of 36.15 metres and a lot area of 6,667 square metres.
- **Part 4** is proposed to **be severed** for future residential use, with a lot frontage of 36.15 metres and a lot area of 6,712 square metres.

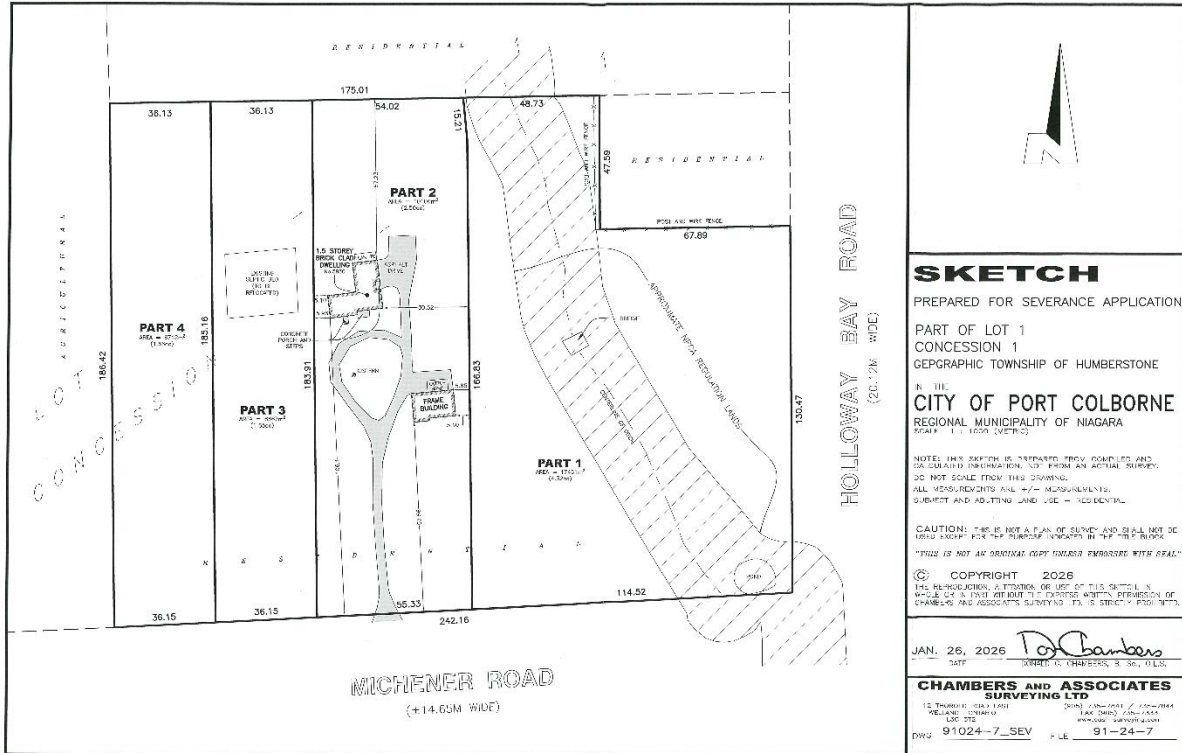


Figure 2 (above): Proposed severance sketch

### Surrounding Land Uses and Zoning

The Subject Lands are zoned Rural (RU), and rural uses exist on the parcels to the north, west, and south. East of the Subject Lands are lots within the Town of Fort Erie and are primarily rural and agricultural. Figure 3 shows the zoning of the subject and surrounding lands.

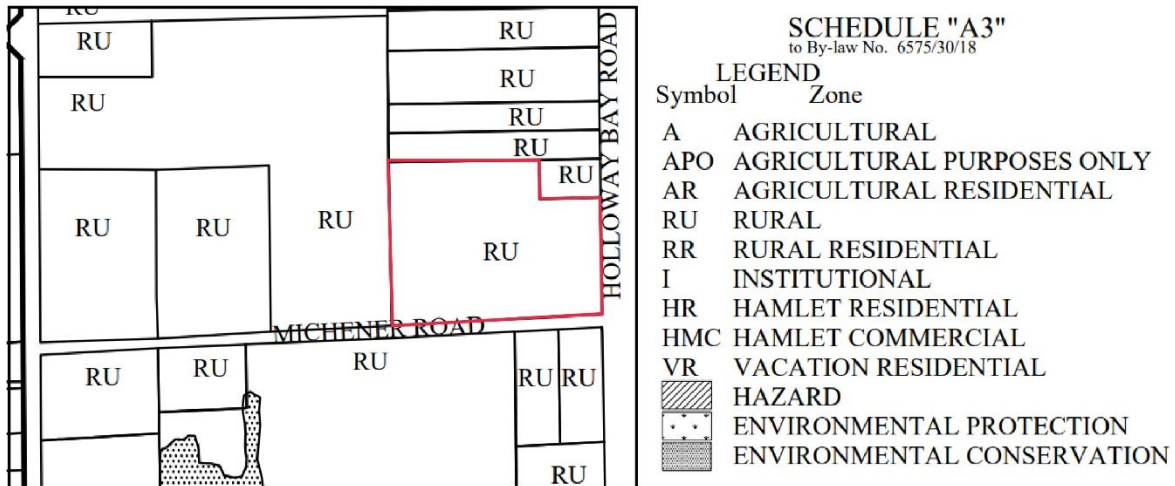


Figure 3 (above): Zoning of the subject and surrounding lands

### Environmentally Sensitive Areas

There are no natural areas or features mapped within the Niagara Official Plan (NOP) or City of Port Colborne Official Plan (OP) on or adjacent to the Subject Lands. However, the NPCA has indicated that Part 1 is impacted by a regulated watercourse, which also functions as a municipal drain. There are setback distances that will impact future development of Part 1.

### Public Comments

Notice was circulated on February 24, 2026, to properties within 60 metres of the subject lands, in accordance with the *Planning Act*. At the time of writing this report, no comments from the public have been received.

### Agency Comments

Notice of the application was circulated on February 10, 2026, to internal City departments and external agencies. As of February 26, 2026, the following comments have been received.

Commenter	Comments	Planning Staff Response
<b>Drainage Superintendent</b>	This parcel is in the watershed of the Point Abino drain. There is not a municipal drain on the parcel however as noted on the plan there is a significant water feature. Due to this feature, if the application is approved, it is recommended that a mutual agreement drain be entered	Condition 4 reflects this comment

	<p>into the conditions of severance. A mutual agreement drain will address the current drainage status of the parcel as a whole and provide future rights for parts 2-4 to continue to drain as they currently do now assuming, the parcel as a whole, drains to the NPCA Regulated area. If assistance or guidance is required, please contact the drainage superintendent.</p> <p>Additionally, if the application is approved, a drainage apportionment agreement will be required. This can be completed by the drainage superintendent or by an approved drainage engineer. The cost to complete this by the drainage superintendent is \$118.00. If the applicant chooses to have this completed by a drainage engineer, there will be additional fees. Once approved, a copy of the application and the deposited plan will be provided to the drainage superintendent to complete the re-apportionment of the drainage assessment for the Point Abino Drainage assessment schedules.</p>	
<b>Fire Department</b>	No Comment	
<b>Engineering Technologist</b>	A municipal consent permit will be required for the entrances and culverts to access the newly created lots.	Noted
<b>Niagara Peninsula Conservation Authority</b>	<p>NPCA has reviewed the Consent application to sever for the purpose of creating new residential lots.</p> <p>The subject property is impacted by NPCA regulated watercourse and associated 15m buffer.</p> <p>NPCA notes that the proposed severance is outside the</p>	Noted

	<p>NPCA regulated features and the proposed lot lines do not encroach any regulated features.</p> <p>As such, NPCA has no objection to proposed severance.</p> <p>NPCA notes that the retained parcel 'Part 1' is impacted by NPCA regulated watercourse and associated 15m buffer. As such, any future development proposed within a NPCA regulated area will require NPCA review, approval and permits from this office prior to the commencement of any works on site.</p>	
<b>Niagara Region</b>	<p>Regional Infrastructure Planning and Development staff would not be opposed to the approval of the consent applications subject to the following condition of approval:</p> <p><i>That the proposed property lines be revised to show the minimum three (3) metre setback from the existing septic system to the proposed west property line on Part 2 or, alternatively, that a new class 4 sewage system is applied for and installed to be fully contained on Part 2, meeting the required setbacks to the proposed property lines, to the satisfaction of the Niagara Region.</i></p>	<p>Condition 5 of B09-26-PC reflects this comment</p> <p>Condition 5 of B10-26-PC reflects this comment</p>
<b>Ministry of Transportation</b>	<p>MTO has reviewed the site location and has no comments to provide as this site is outside of MTO permit jurisdiction. No MTO permits or approvals would be required by the proponent for any development at the above address at this time.</p>	Noted

**Discussion**

Consent applications B09-26-PC, B10-26-PC, and B11-26-PC were reviewed in consideration of the applicable policies in the Provincial Planning Statement (2024), the

Niagara Official Plan (2022), the City of Port Colborne Official Plan (2013), and Zoning By-law 6575/30/18.

### Provincial Planning Statement (PPS)

Based on the policies and definitions in the PPS, the subject lands are considered rural lands. Section 2.6.2 suggests that development that can be sustained by rural service levels should be promoted. Section 3.6.4 indicates that individual onsite sewage services and individual on-site water services may be used provided that site conditions are suitable for the long-term provision of such services with no negative impacts.

Section 4.6 of the PPS provides direction for the conservation of significant cultural heritage and archaeological resources. Development and site alteration are not permitted on lands containing archaeological resources or areas of archaeological potential, unless archaeological resources have been conserved. The creation of a new lot is considered development. The Niagara Region Official Plan (NOP) includes an operative schedule that identifies areas of archaeological potential (Schedule K). The Subject Lands are located within an area of identified archaeological potential. To address this, staff are recommending that the applicant complete the necessary works to obtain archaeological clearance from the Ministry of Citizenship and Multiculturalism (MCM) as a condition of consent.

Staff are satisfied that the proposed severance is consistent with the PPS. The proposal to create new lots within rural lands is appropriate for the site's characteristics.

### Niagara Official Plan (NOP)

The Niagara Official Plan (NOP) provides the long-term land use planning framework for development across the Niagara Region, including the City of Port Colborne. As a result of the passing of Bill 185, the NOP is deemed to be a local Official Plan for Planning Act applications. The subject lands are designated as Rural Lands in accordance with Schedule F – Agricultural Land Base and an Area of Archeological Potential, in accordance with Schedule K – Areas of Archeological Potential.

Section 4.1.9 of the NOP discusses non-agricultural uses on rural lands, with section 4.1.9.2 providing some criteria to guide development. Section 4.1.4.2 states that residential lots within rural lands must have an area of 0.4 hectares to support an on-site private water supply and long-term operation of a private sewage disposal system.

Based on the analysis above, the proposed consent application conforms to the NOP.

### City of Port Colborne Official Plan (OP)

The subject lands are designated Rural in accordance with Schedule A of the OP. Section 3.4 of the OP identifies the planned function of the Rural designation as follows:

*“The predominant uses for lands designated Rural shall include, but not be limited to; land uses permitted in the Agricultural designation; single-detached residential; natural heritage areas; parks and public open spaces; golf courses, conservation clubs, off-road trails and on-road bicycle routes; veterinary establishments; commercial or industrial uses that serve or directly relate to agriculture and cannot be located in a Hamlet such as a nursery or farm produce sales establishment, research station, farm machinery sales or repair depot, roads maintenance depot, feed or saw mill and fertilizer or seed depot; and activities normally found in close proximity to a lakeshore area including docks, accessory boat storage buildings, navigation facilities and erosion control measures.”*

The proposed consent application is being brought forward to facilitate the development of 3 parcels for uses consistent with the OP designation; and, meets the requirements to sever the lands set out in the OP, subject to necessary conditions which are outlined in the Recommendation section of this report.

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

The subject lands are zoned Rural (RU) in accordance with Zoning By-law 6575/30/18. The requested consent applications will enable the three new lots to be developed for residential uses. Detached dwelling and their associated accessory uses are the only permitted residential use in the RU Zone.

The proposed severance will leave the following dimensions:

- Part 1 Lot area of 17,461 square metres and 114.52 metres of frontage
- Part 2 Lot area of 10,106 square metres and 55.33 metres of frontage
- Part 3 Lot area of 6,667 square metres and 36.15 metres of frontage
- Part 4 Lot area of 6,712 square metres and 36.15 metres of frontage

The RU zone requires minimum lot frontages and lot areas. Minimum lot frontage is 30 metres or as existing. Minimum lot area is 0.4 hectares or 4000 square metres.

The consent applications B09-26-PC, B10-26-PC, and B11-26-PC propose to create 3 new lots, all of which meet the requirements of the RU zone.

#### **Recommendation:**

That consent applications B09-26-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, including a registrable legal description of the subject parcels, and a copy of the deposited reference plan, for use in the issuance of the Certificate of Consent.
2. That the applicant signs 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.

3. That the applicant shall undertake an archaeological assessment and obtain archaeological clearance from the Ministry of Citizenship and Multiculturalism (MCM).
4. 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.
5. That a new Class 4 septic system be constructed, with appropriate permits, to service the existing dwelling on Part 2.
6. That the applicable final certification fee, per application, payable to the City of Port Colborne, is submitted to the Secretary-Treasurer.
7. That all conditions of consent be completed by March 11, 2028.

For the following reasons:

1. The application is consistent with the Provincial Planning Statement, conforms to the Niagara Official Plan and the City of Port Colborne Official Plan; and, complies with the provisions of Zoning By-law 6575/30/18, as amended.

That consent applications B10-26-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, including a registrable legal description of the subject parcels, and a copy of the deposited reference plan, for use in the issuance of the Certificate of Consent.
2. That the applicant signs 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.

3. That the applicant shall undertake an archaeological assessment and obtain archaeological clearance from the Ministry of Citizenship and Multiculturalism (MCM).
4. 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.
5. That the existing septic leaching bed located on Part 3 be decommissioned.
6. That the applicable final certification fee, per application, payable to the City of Port Colborne, is submitted to the Secretary-Treasurer.

For the following reasons:

1. The application is consistent with the Provincial Planning Statement, conforms to the Niagara Official Plan and the City of Port Colborne Official Plan; and, complies with the provisions of Zoning By-law 6575/30/18, as amended.

That consent applications B11-26-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, including a registrable legal description of the subject parcels, and a copy of the deposited reference plan, for use in the issuance of the Certificate of Consent.
2. That the applicant signs 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.
3. That the applicant shall undertake an archaeological assessment and obtain archaeological clearance from the Ministry of Citizenship and Multiculturalism (MCM).
4. 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.

Superintendent through the planning department for the apportionment agreement to be completed.

5. That the applicable final certification fee, per application, payable to the City of Port Colborne, is submitted to the Secretary-Treasurer.

For the following reasons:

1. The application is consistent with the Provincial Planning Statement, conforms to the Niagara Official Plan and the City of Port Colborne Official Plan; and, complies with the provisions of Zoning By-law 6575/30/18, as amended.

That all conditions of consent be completed by March 11, 2028.

Respectfully submitted,

Erik Acs

Chief Planner