

**PRELIMINARY PLANNING POLICY JUSTIFICATION REPORT
For**

Ritesh Malik

Re:

**Roll No: 271103003813615
599 Main Street West / Regional Road 3
City of Port Colborne, Regional Municipality of Niagara**

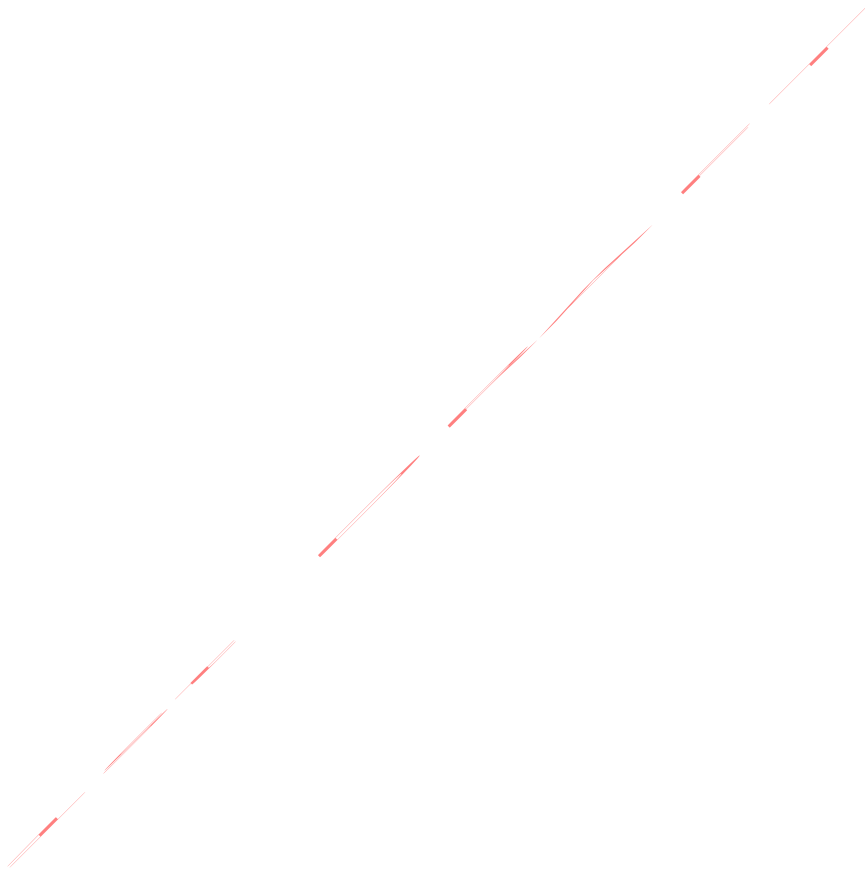


Prepared By:
South Coast Consulting
Land Use Planning and Development Project Management

Table of Contents

PURPOSE, LOCATION, AND DESCRIPTION	4
POLICY REVIEW SUMMARY	6
Provincial Policy Statement	6
Growth Plan.....	6
Official Plans	7
Zoning By-Law	7
DETAILED REVIEW	8
SUMMARY	15
OPINION	17
RECOMMENDATION.....	17
CLOSING	17
ANNEX 1 DRAFT SEVERANCE SKETCH AND APPROVED SITE PLAN.....	19
ANNEX 2 SUBJECT PROPERTY	21
ANNEX 3 EXCERPTS FROM RELEVANT DOCUMENTS.....	22
THE PLANNING ACT	22
Official Plan.....	22
Zoning.....	22
Consent for Severance	23
THE PROVINCIAL POLICY STATEMENT	24
Preamble	25
Vision	25
Policies.....	25
GROWTH PLAN FOR THE GREATER GOLDEN HORSESHOE	26
REGIONAL OFFICIAL PLAN	27
Commercial Areas	30
Intensification and Greenfield Growth.....	30
Managing Growth.....	31
THE CITY OFFICIAL PLAN.....	32
Highway Commercial Development	32
Consent to Sever	35

THE ZONING BY-LAW.....	36
ANNEX 4 PRE-CONSULTATION AGREEMENT	39



PLANNING JUSTIFICATION REPORT
Roll No: 271103003813615
599 Main Street West / Regional Road 3
City of Port Colborne, Regional Municipality of Niagara

PURPOSE, LOCATION, AND DESCRIPTION

This purpose of the Preliminary Planning Policy Justification Report is to review proposed Consent for Severance as illustrated in *Annex 1, Draft Severance Sketch and Approved Site Plan* and Zoning By-law Amendment applications for Phase 2 of the Site Plan Control Approved development of the 2.24 hectares Subject Parcel with about 155 metres of frontage on Main Street West / Regional Road 3 in the City of Port Colborne as illustrated in *Annex 1, Draft Severance Sketch and Approved Site Plan*. The proposal is reviewed against the policies of the: Provincial Policy Statement (PPS); Growth Plan for the Greater Golden Horseshoe (Growth Plan); Region of Niagara Official Plan (ROP); City of Port Colborne Official Plan (PCOP); and the provisions of the City of Port Colborne Zoning By-Law.

The Subject Property is being developed and construction for Phase 1, as illustrated in *Annex 1, Draft Severance Sketch and Approved Site Plan*, and *Figure 2, Site Statistics* is substantially complete. Adjacent uses are commercial, single detached dwellings and an open field as illustrated on *Figure 1, Surrounding Land Use Schematic*.

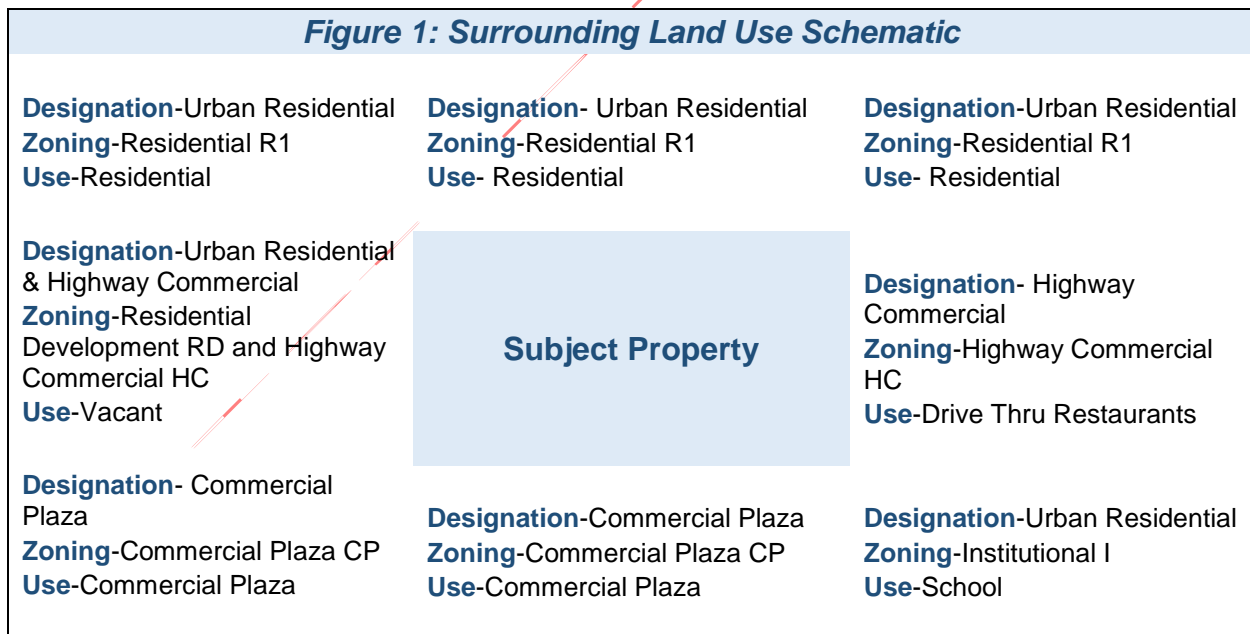


Figure 2: Parcel Statistics* (as per Quartek Drawing No. 17203-SS-1 by Lanthier and Gilmore)									
Severed Parcel (Part 3)					Retained Parcel (Part 1)				
	Parcel	Building 1	Pad 2	Pad 3	Parcel	Building A	Building B	Building C	Building D
Existing Use	Vacant	Vacant	Vacant	Vacant	Commercial	Covered gas pumps	Commercial and restaurant	Car wash	Garbage enclosure
Proposed Use	Commercial	Commercial	Commercial	Commercial	Commercial	No change	No change	No change	Auto service
Building Type	n/a	One storey	One storey	One storey	n/a	Canopy	One storey	One storey	One storey
Lot Frontage (m)	155.24	n/a	n/a	n/a	155.24	n/a	n/a	n/a	n/a
Lot Depth (m)	195.09	n/a	n/a	n/a	261.97	n/a	n/a	n/a	n/a
Lot / Floor Area sqm)	21490	3048			8623.3	273.6	471	105	208.03
Setback (m)									
Existing/Proposed (South) Front Lot Line	n/a	98.0	20.4	55.0	n/a	11.1	36.1	73.2	85.9
Existing/Proposed (North) Rear Lot Line	n/a	5.0	149.4	124.7	n/a	80.4	49.9	12.4	32.2
Existing/Proposed East Side Lot Line	n/a	15.9	22.1	20.4	n/a	8.4	6.0	6.0	24.7
Existing/Proposed West Side Lot Line	n/a	10.8	12.9	11.0	n/a	14.2	17.5	42.6	27.8
Existing/Proposed Height	n/a	One storey	One storey	One storey	n/a	One storey	One storey	One storey	One storey

* Part 2 Road Widening

POLICY REVIEW SUMMARY

Good planning practice directs that the plan and its policies are not written in stone. Policies such as those of the PPS, Growth Plan, ROP, and PCOP reviewed here, are used to try to reach a goal. They are not to be used as a set of threshold measures where the inability to meet every policy results in a proposal's failure. All of the policies may not be and, based on good planning practice, don't have to be, satisfied as though they are zoning by-law regulations. If, on the balance, the proposal satisfies most of the policies and moves the community towards its stated goals, then the proposal should be given serious consideration for approval.

Land use planning in Ontario, Niagara, and Port Colborne is about development. Protecting and preserving resources and mitigating negative impacts is important but, land use planning is primarily about promoting and encouraging appropriate development and complete communities. There are aspects of control to protect valuable resources and sensitive uses such as significant cultural and natural heritage features from negative impacts of nearby uses but, the primary purpose of land use planning is guiding development.

The guidance of development is evident starting with the *Planning Act*. The Citizen's Guide to Land-use Planning (the Guide) states *the Act*, among other things promotes sustainable economic development in a healthy natural environment and provides for a land use planning system led by provincial policy. The Guide further states, *the Act* provides the basis for preparing official plans and planning policies that will guide future development.

The Guide states the PPS provides policy direction that will help build strong communities by protecting, among others, agricultural resources. Community planning is aimed at identifying common community goals and balancing competing interests of the various parties.

Provincial Policy Statement

Settlement areas such as Port Colborne are to be the focus of growth and development, and their vitality and regeneration is to be promoted. Land use patterns within *settlement areas* are to be based on, among other things, densities and a mix of land uses which; efficiently use land and resources, and efficiently use, the *infrastructure* and *public service facilities* planned or available.

Growth Plan

The Growth Plan requires population and employment growth to be accommodated by directing a significant portion of new growth to the *built-up areas* such as Port Colborne.

Official Plans

The ROP designates the Subject Property *Designated Greenfield Area*, the PCOP designates it *Highway Commercial*.

Growth and development is focused within urban areas. Land use must be carefully managed to accommodate appropriate development to meet the full range of current and future needs, while achieving efficient development patterns and avoiding significant or sensitive resources and areas which may pose a risk to public health and safety. Similar to the PPS, the ROP recognizes the efficient use of land and the minimization of conflict between incompatible uses as a Strategic Objective and the building of compact, mixed use, transit supportive, *active transportation friendly* communities in the *Designated Greenfield Areas* such as Port Colborne. The objectives of the ROP Growth Management Policies include directing the majority of growth and development to existing *Urban Areas* and promoting the efficient use of existing municipal sewage and water services.

The PCOP's goals are to facilitate the efficient use of community and engineering services and to ensure development does not create an undue financial hardship on the municipality. A PCOP objective is to **increase the efficiency**.

Areas identified as Highway Commercial represent areas of existing and future commercial *development* near arterial roads and highways. The predominant uses for land designated Highway Commercial include, but not be limited to; hotels and motels; automobile sales and service establishments; places of amusement or recreation; restaurants with take-out and / or drive-through facilities. Commercial uses more appropriate in the Downtown Commercial areas such as retail stores, banks, medical clinics, and professional offices are not be permitted. New Highway Commercial uses are encouraged to be grouped in a planned development strip development is discouraged. **A minimum number of driveways to the site will be allowed and driveway entrances will be configured for maximum safety.**

Consent for land conveyances are only be granted where they will not compromise the orderly development of land or the general public interest. In commenting to the Committee of Adjustment, the City will ensure the size, configuration and location of the proposed consent is appropriate for the use proposed considering the municipal services available; and the lot size and proposed use conform to the provisions of the Zoning By-law are considered.

Zoning By-Law

The Subject Property is zoned “**Highway Commercial - HC**”. The HC Zone permits a number of commercial uses.

DETAILED REVIEW

Good planning practice directs:

- That **the plan and its policies are not written in stone.**
Policies such as those of the PPS, ROP, and PCOP reviewed here, are to be used to try to reach a goal. They are not a set of threshold measures where the inability to meet every policy results in a proposal's failure. **All of the policies of a plan may not be and, based on good planning practice, don't have to be satisfied as though they are zoning by-law regulations.** If, on the balance, the proposal satisfies most of the policies and moves the community towards its stated goals, then the proposal should be given serious consideration for approval.
- **Consideration of all of the relevant policies.**
As an example, only reviewing and evaluating the implications of the PPS's Agriculture policies does not provide a full planning analysis of a proposal. The PPS policies on: Settlement Areas, Rural Areas, Employment, and Long Term Economic Prosperity must also be considered. While the Agriculture policies may be most relevant, the others cannot be ignored. All of the policies together must be considered in any recommendation.

Growth and development is focused within urban areas. Land use must be carefully managed to accommodate appropriate development to meet the full range of current and future needs, while achieving efficient development patterns and avoiding significant or sensitive resources and areas which may pose a risk to public health and safety (ROP Strategic Objective 2.1, ROP Policy 1.1.1a, and ROP Objective 4.A.1.9).

Efficient development patterns optimize the use of land, public investment in, and public service facilities. Efficient development patterns also minimize the undesirable effects of development, including impacts on air, water, and other resources. **Recognizing the diversified opportunities and needs in Niagara and balancing both urban development and the conservation of natural resources by providing a choice of development locations, the efficient use of lands, and the minimization of conflict is the Strategic Objective of the ROP.**

Similar to the PPS, the ROP recognizes the efficient use of land and the minimization of conflict between incompatible uses as a Strategic Objective. A PCOP Objective is to **increase the efficiency of the use of existing municipal infrastructure.** An Objective of the ROP is building **compact, communities in the Built-up Area** such as Port Colborne.

The PCOP suggests commercial redevelopment be assessed in relation to community character and be appropriately located to serve as part of the neighbourhood's existing or proposed fabric. Assessment in relation to community character could include:

- The scale of the activity;

- The orientation of the development to adjacent land uses; and,
- The capacity of the development to operate compatibly with housing.

Commercial development projects should be designed to be transit and active transportation friendly.

Parking requirements for commercial uses should be carefully considered and evaluated to ensure that an adequate, but not excessive, amount of parking space is provided.

The PCOP states the predominant uses for Commercial Plaza land includes, but not be limited to; retail stores; offices; restaurants; service businesses; movie theatres; and places of amusement or recreation. Commercial uses more appropriate in the areas designated Downtown Commercial such as retail stores with less than 500 square metres of floor area, banks, medical clinics, and small professional offices are not be permitted.

Adequate off-street parking are required in well-organized, landscaped and well-illuminated parking areas or structures and a minimum number of driveways to the site will be allowed and configured for maximum safety.

Buffering must be provided between the commercial establishment and other land uses, including grassed areas and appropriate planting of trees and shrubs and / or the provision of other suitable screening materials.

Parking and landscaping for commercial establishments should be designed with:

- Screening between parking areas and residential properties.
- Buffers at the perimeter of the property line adjacent to parking areas and laneways to accommodate landscaping and tree planting.
- Landscaped islands at the end of all parking aisles.
- Parking aisles with a length of more than 15 stalls broken up with landscaped islands planted with hardy, strongly branched and salt tolerant trees.
- Large parking areas up with linear pedestrian only sidewalks planted with a consistent row of trees.
- The placement of sidewalks oriented to link building entrances.
- Parking for bicycles consistent with professionally recognized design guidelines.

Figure 3, Policy and Urban Design Review Matrix provides a review of relevant policy and urban design guidelines and *Figure 4, Zoning Provision Compliance and Justification Matrix* provides a summary of compliance with the Zoning provisions and justification for changes.

Figure 3: Policy and Urban Design Review Matrix		
Criterion	Yes	No
Planned development	✓	
Adequate off-street parking facilities	✓ As per approved Site Plan	
Minimum number of driveways	✓ One (1) as per approved Site Plan	
Drive-through aisles be defined	✓ As per approved Site Plan	
Gas stations incorporating a retail store use will locate a retail store entrance and windows to the street	✓ As per approved Site Plan	
Building entrances and display windows should be oriented to street frontages	✓ As per approved Site Plan	
A minimum of 40% of the main street frontage of a given property should be defined by building edge	✓ As per approved Site Plan	
No front yard parking should be permitted for those portions of the building frontage constituting the minimum 40%.	✓ As per approved Site Plan	
Commercial garbage receptacles will be adequately screened or in an enclosed storage area contiguous with the building	✓ As per approved Site Plan	
Efficient development pattern	✓ Existing vacant lot development	
Avoids significant resources	✓ No nearby resource land	
Avoids sensitive areas	✓ No nearby sensitive areas	
Buffering to mitigate conflict	✓ Minimum rear yard and landscaping provided	
Transit supportive	✓ Near transit route	

Appropriate scale	✓ Maximized building development on the lot	
Appropriate orientation to adjacent land uses	✓ Oriented to Main Street West / Regional Road 3 arterial road	
Compatible with housing	✓ No commercial uses fronting on residential uses	
Reuse of brownfield or greyfield		✓
Use provided for in the PCOP	✓	
Less than 500 sqm	✓	
Access driveways minimized	✓ Single shared access to all uses	
Landscaping	✓	
<ul style="list-style-type: none"> Screening shall be provided between parking areas and adjacent residential properties 	✓ Landscape screening provided abutting residential use and zone	✓ None required abutting commercial zone
<ul style="list-style-type: none"> Buffers shall be located at the perimeter of the property line adjacent to parking areas and laneways to accommodate landscaping and tree planting 	✓ Minimum rear yard and landscaping provided abutting residential uses and zone	
<ul style="list-style-type: none"> Landscaped islands shall be placed at the end of all parking aisles 		✓ Not required by Site Plan Approval
<ul style="list-style-type: none"> Parking aisles with a length of more than 15 stalls shall be broken up with landscaped islands 		✓ Not required by Site Plan Approval
<ul style="list-style-type: none"> All parking islands shall be planted with hardy, strongly branched and salt tolerant trees 		✓ Not required by Site Plan Approval
Bicycle Parking		✓ Not on bike route. High traffic volume and vehicle turning movements makes bicycle / pedestrian access unsafe

Stormwater Management

The storm sewer system for the entire commercial development is intertwined between Phases 1 and 2, and a stormwater management (SWM) facility for peak flow control to service the entire site is located in Phase 1. The lot severance will impact the overall SWM plan for the entire area because the existing SWM plan is being maintained, ownership and maintenance of the required infrastructure servicing the entire site is ensured, with easements being granted for the stormwater management system as necessary. If the lot severance will not alter the overall SWM plan for the entire site. No changes to approved Site Plan proposed

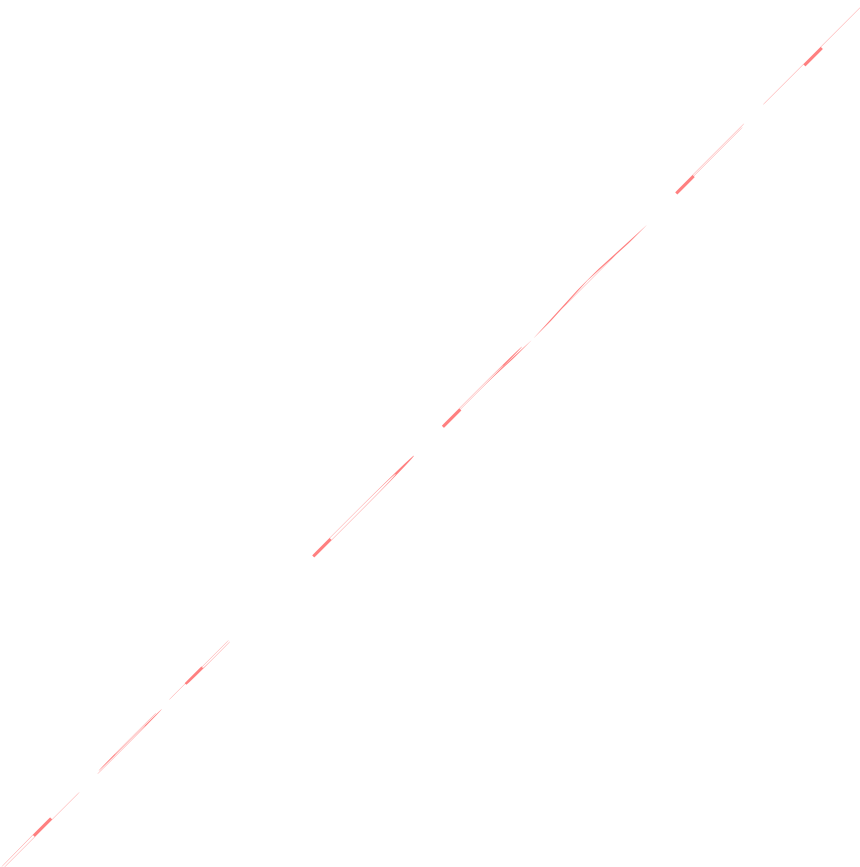


Figure 4: Zoning Provision Compliance and Justification Matrix

Regulation	Zone Requirements	Proposed Requirements		Comment
		Phase 1 (Part 1)	Phase 2 (Part 3)	
Minimum Lot Frontage	27m	155.24m	155.24m	No change
Minimum Lot Area	0.14ha	8623.3sqm	21490sqm	No change
Maximum Lot Coverage	33%	85%	85%	No change
Minimum Front Yard	9m	11.1m	20.4m	No change
Minimum Interior Side Yard	5m	6m	10.8m	No change
Minimum Rear Yard	5m	12.4m	5.0m	No change
Requirement for a Lot	Notwithstanding anything contained in this By-law, a parcel which is situated in any zone, and which lacks either the required lot frontage or lot area, or both the lot frontage and lot area for the lot in the respective zone, is and shall be deemed to be a lot provided that: All other requirements of the applicable zone are complied with, and where said parcel qualified under this section as a deemed lot, said deemed lot may be used for the purposes as permitted in the zone in which it is located, notwithstanding that it does not comply with the area and frontage requirements of that zone; and	No change	Notwithstanding any provisions of this By-law to the contrary Phase 2 shall be deemed to be a lot	The purpose of requiring minimum lot area and frontage is to ensure the parcel of land is adequate for development. Since the proposed Zoning By-law Amendment requires lot area for Phase 2 to be that in the approved site plan agreement and the frontage to be that of Phase 1, Phase 2 will be able to accommodate the proposed development. Since a recommended Consent for Severance condition requires a joint blanket easement for among other things access, parking and services there is no need for Phase 2 to have frontage on a public road
Lot Frontage on Roads	No person shall construct a building or structure or otherwise use any lot unless the lot fronts on an improved road or lane	No change	Notwithstanding any provisions of this By-law to the contrary the frontage for Phase 2 of the development of this property shall be deemed to be the frontage of Phase 1	The purpose of requiring frontage on a public road is to ensure access and services to the lot. Since a recommended Consent for Severance condition requires a joint blanket easement for among other things access, parking and services there is no need for Phase 2 to have frontage on a public road

Front Lot Line	The lot line, not including a corner lot line, which abuts a street for the shortest distance, whether or not that line jogs or curves, and extending between the side lot lines, more or less for the full width of the lot and where more than one such lot line exists, means a lot line which abuts the same street as the front lot line of an abutting lot	No change	Notwithstanding any provisions of this By-law to the contrary the front lot line of for Phase 2 of the development of this property shall be deemed to be the front lot line of Phase 1	To ensure the lot frontage requirement is satisfied
Front Yard	That yard that extends across the full width of the lot between a front lot line and the nearest point of the principal building, not including a projection permitted under Section 2.20	No Change	Notwithstanding any provisions of this By-law to the contrary the front yard for Phase 2 of the development of this property shall be deemed to be the front yard of Phase 1	To ensure the front yard requirement is satisfied

SUMMARY

The City of Port Colborne Council has the authority to approve the Zoning By-law Amendment and the Committee of Adjustment has the authority to approve a consent for severance if they implement the policies of the Official Plan.

Settlement areas such as Port Colborne are to be the focus of growth and development, and their vitality and regeneration is to be promoted.

The ROP intends to build more sustainable, *complete communities* by, among other things, making efficient use of land, resources and *infrastructure* and supporting *intensification*, to maximize the use of existing and planned *infrastructure* to support growth in a compact and efficient manner.

This proposal an example of development supported from Provincial, Regional and local planning perspectives. Such developments provide additional commercial opportunities to serve the needs of residents and the travelling public. The Planning Justification Report analyzed Provincial, Regional, and local planning policies.

Policy 3.8 identifies area designated Highway Commercial as areas of existing and future commercial *development* within the Urban Area which cater primarily to the travelling public, in proximity to arterial roads and highways. The predominant uses for land designated Highway Commercial include, among others, restaurants with take-out and / or drive-through facilities; and accessory uses requested by the Zoning By-law Amendment Application.

Policy 3.8.1b) directs commercial uses that would be more appropriate in the Downtown Commercial areas such as retail stores, banks, medical clinics and professional offices to the Downtown Commercial area however the additional uses requested for this location are found in other locations outside the Downtown Commercial areas. The proposed additional use do not negatively impact surrounding land uses.

As encouraged by Policy 3.8.1c) the new Highway Commercial uses requested are grouped in a planned development.

The adequate off-street parking facilities, required by Policy 3.8.1d) are provided in well-organized, landscaped and well-illuminated parking areas.

Policy 3.8.1e)'s minimum number of driveway entrances configured for maximum safety is satisfied.

As required by Policy 3.8.1.2a) the design guidelines for Commercial Plaza are satisfied and as required by Policy 3.8.1.2b) drive-through aisles are defined. Policy 3.8.1.2g)'s requirement that as stations incorporating a retail store use locate a retail store entrance and windows to the street is satisfied.

Buffering is provided between the commercial establishment and other land uses, including grassed areas and appropriate planting of trees and shrubs and the provision of other suitable screening materials in the form of fencing as required by Policy 3.7.2.1a).

Building entrances and display windows are oriented to street frontages as required by Policy 3.7.2.1b).and a canopies encouraged as a means of weather protection for pedestrians by Policy 3.7.2.1g is provided.

Commercial garbage receptacles are adequately screened or in an enclosed storage area contiguous with the building as required by Policy 3.7.2.1i), the parking and landscaping is designed in accordance with Policy 3.7.2.2a), and the service and loading areas are oriented to the rear of the building as required by Policy 3.7.2.2b).

As provide for in Policy 11.7.2a) this consent may be granted because it does not compromise the orderly development of land or the general public interest, and as required by Policy 11.7.2b) it does not propose the creation of more than two new lots.

As provide for in Policy 11.7.2c) the new lot created will be within the Urban Residential designation subject to the policies of Section 3.2.4.

As required by Policy 11.7.2c) the policies for infill and intensification of Section 2.4.3 are satisfied, the size, configuration, and location of the proposed consent is appropriate for the use proposed considering the municipal services available, and the lot size and proposed use conform to the provisions of the Zoning By-law, as recommended.

To permit the phased development of the Subject Property the requested Zoning By-law amendment should define Phase 2 as a lot and the frontage for Phase 2 of the should be deemed to be the frontage of Phase 1. The purpose of requiring minimum lot area and frontage is to ensure a parcel of land is adequate for development. Since the proposed Zoning By-law Amendment requires lot area for Phase 2 to be that in the approved site plan agreement and the frontage to be that of Phase 1, Phase 2 will be able to accommodate the proposed development. Since a recommended Consent for Severance condition requires a joint blanket easement for among other things access, parking and services there is no need for Phase 2 to have frontage on a public road.

The purpose of requiring frontage on a public road is to ensure access and services to the lot. Since a recommended Consent for Severance condition requires a joint blanket easement for among other things access, parking, and services there is no need for Phase 2 to have frontage on a public road.

To permit the phased development of the Subject Property the requested Zoning By-law amendment should deem the frontage for Phase 2 to be the frontage of Phase 1 to ensure the lot frontage and front yard requirements are satisfied.

The recommended Zoning changes do not create a negative impact.

OPINION

The proposed development generally conforms with the provisions of the *Planning Act*, PPS; Growth Plan; and the objectives of the ROP; PCOP; the Bridgeburg Secondary Plan and the recommended Dominion – Gordon- Parker – Burleigh Tertiary Plan. The Subject Property is in the Port Colborne Urban Area which enables its residential development. To enable residential development more dense than single detached dwellings official plan and zoning by-law amendments are required to permit either a plan of subdivision or condominium.

RECOMMENDATION

The PCZB zones the Subject Property “**Highway Commercial - HC**”. The HC Zone permits a number of commercial uses. A Zoning By-law Amendment is required. See *Figure 3: Zoning Provision Compliance and Justification Matrix*, for recommended amendments required to the zoning provisions. They include:

- Deeming Phase 2 to be a lot;
- Deeming the frontage for Phase 2 to be the frontage of Phase 1;
- Deeming the front lot line of for Phase 2 to be the front lot line of Phase 1; and
- Deeming the front yard for Phase 2 to be the front yard of.

CLOSING

This report is intended solely for Ritesh Malik (the “Client”) in providing The City of Port Colborne this requested Planning Justification Report to obtain necessary *Planning Act* approvals for the proposed commercial development at 599 Main Street West. This report is prohibited to be used by any other party without written consent by an authorized representative of 2198795 Ontario Limited Operating as Steven P Rivers Land Use, Planning & Development (Steven Rivers. This report is considered Steven Rivers’ professional work product and shall remain the sole property of Steven Rivers. Any unauthorized reuse, redistribution of, or reliance on, the report shall be at the Client’s and recipient’s sole risk, without liability to Steven Rivers. The Client shall defend, indemnify

and hold Steven Rivers harmless from any liability arising from or related to the Client's unauthorized distribution of the report. No portion of this report may be used as a separate entity; it is to be read in its entirety and shall include all supporting drawings and appendices.

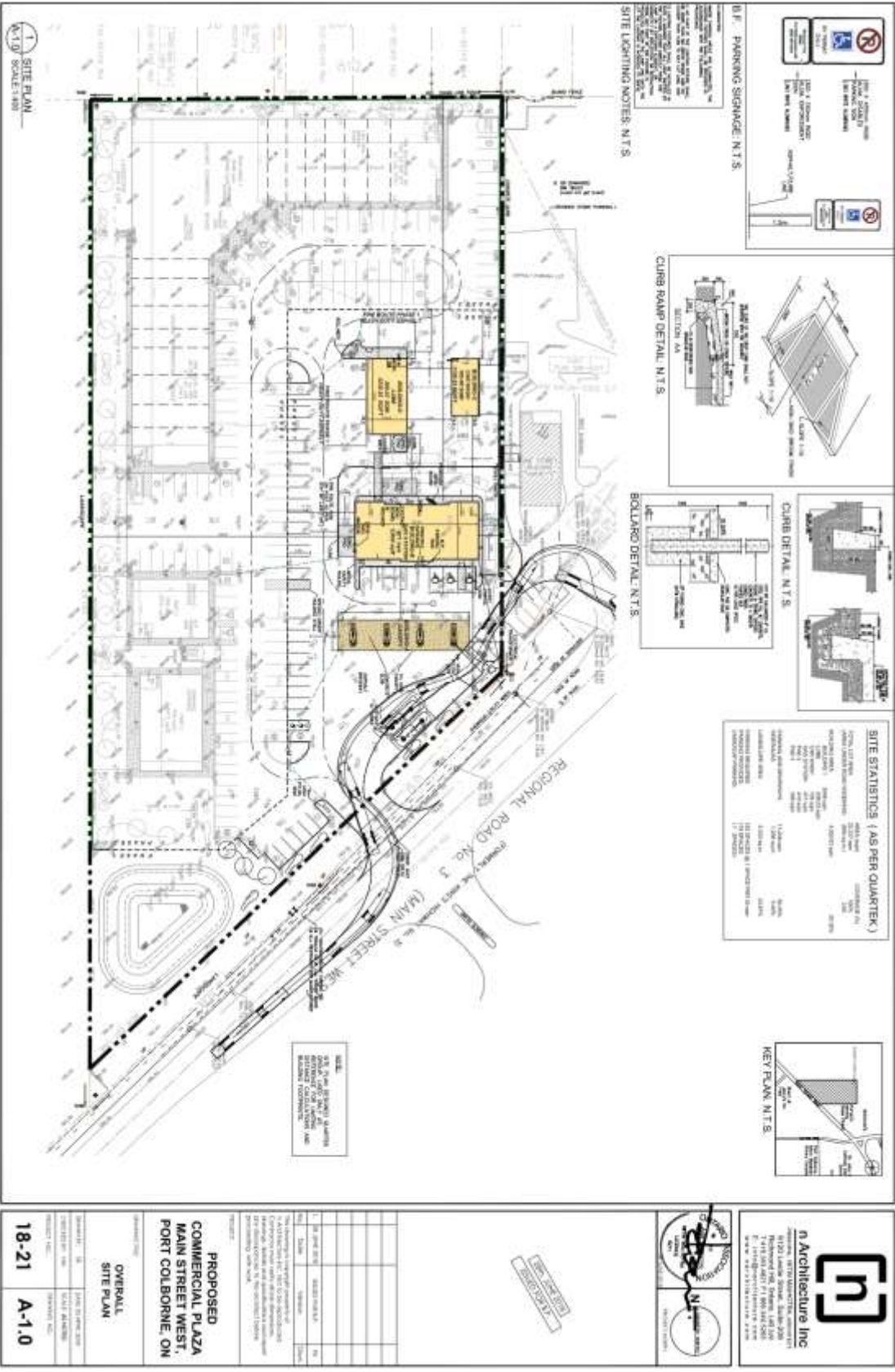
The conclusions and recommendations made in this report are in accordance with my present understanding of the proposed project, the current site use, surface and subsurface conditions, and are based on available information, a site reconnaissance on the date(s) set out in the report, records review and interviews with appropriate people and the work scope provided by the Client and described in the report and should not be construed as a legal opinion. Steven Rivers relied in good faith on the data and information provided by the Client and from other materials as noted in this report. Steven Rivers has assumed that the information provided was factual and accurate. Steven Rivers accepts no responsibility for any deficiency, misstatement, or inaccuracy contained in this report as a result of omissions, misinterpretations or fraudulent acts of persons interviewed or contacted. Reliance on this report is only extended to the Client. No other representations or warranties of any kind, either expressed or implied, are made. Any use which a third party makes of this report, or any reliance on or decisions made based on it, are the sole responsibility of such third parties. If conditions at the property change or if any additional information becomes available at a future date, modifications to the findings, conclusions and recommendations in this report may be necessary.

I trust this information will meet your current requirements. Please do not hesitate to contact me should you have any questions or require additional information.

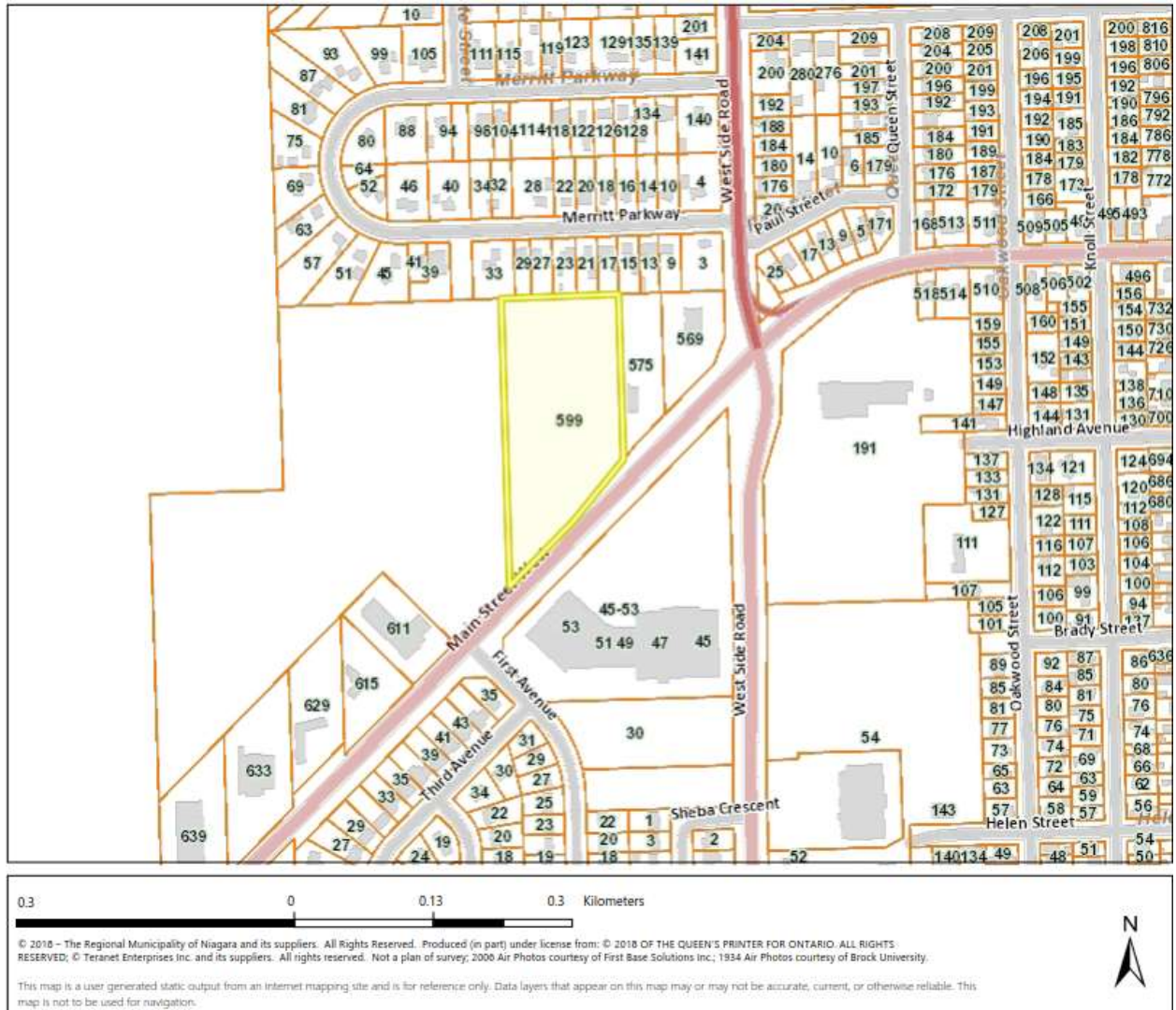
Steven Rivers

South Coast Consulting
Steven Rivers, MCIP, RPP
189 Clare Avenue
Port Colborne, Ontario L3K 5Y1
Phone: 905-733-8843
Email: steven.p.rivers@gmail.com

2020-10-09



ANNEX 2 SUBJECT PROPERTY



ANNEX 3

EXCERPTS FROM RELEVANT DOCUMENTS

THE PLANNING ACT

One of the purposes of the *Act* is to promote sustainable economic development in a healthy natural environment (sect. 1.1(a)). Provincial interest include the: protection of natural areas, features and functions (sect 2(a)); orderly development of safe and healthy communities (sect. 2(h)); and; location of growth and development (sect. 2(p)), among others.

Official Plan

Section 16 of the *Planning Act* states an official plan shall contain, goals, objectives and policies established primarily to manage and direct physical change and the effects on the social, economic and natural environment of the municipality or part of it. It may also contain a description of the measures and procedures to attain the plan's objectives and a description of the measures and procedures for informing and obtaining the views of the public on a proposed amendment to either an official plan or zoning by-law.

Section 21 of the *Act* states City Council may initiate an amendment to Official Plan. Section 24 states that where an official plan is in effect, no by-law shall be passed that does not conform the official plan. Section 2 of the *Planning Act* states Council shall have regard to matters of provincial interest such as the:

- orderly development of safe and healthy communities;
- adequate provision of employment opportunities; and
- Appropriate location of growth and development.

Sections 3(5) (a) and (b) state decisions of Council shall be consistent with the policy statements issued by the Minister and with the provincial plans that are in effect.

Zoning

Section 34 of the *Planning Act* states a zoning by-law may be passed by Council for a number of purposes including prohibiting the use of land, except for such purposes set out in the by-law and except if the land was lawfully used for such purpose on the day of the passing of the by-law, so long as it continues to be used for that purpose. That section goes on to state that any by-law passed under this section or a predecessor of this section may be amended to permit the extension or enlargement of any land, building or structure used for any purpose prohibited by the by-law if such land, building or structure continues to be used in the same manner and for the same purpose as it was used on the day the by-law was passed. If a person applies for an amendment to a by-law passed under this section or a predecessor of this section he or she shall provide the prescribed information and material to Council.

Consent for Severance

A land severance is the authorized separation of a piece of land to form a new lot or a new parcel of land. This is commonly known as a consent and is required to create and sell a portion of a property. The Committee of Adjustment of the Town has the authority under the *Planning Act* (Sections 50 and 54) to consent to convey land if it implements the policies of the OP.

The *Planning Act* specifies factors which must be taken into account. Under Section 50.1(24) **consideration must be given to**, among other matters, to the **health, safety, convenience, accessibility for persons with disabilities and welfare of the present and future inhabitants of the municipality** and to:

- (a) the effect of development of the proposed severance on **matters of provincial interest** as referred to in section 2;
- (b) whether the proposed severance is **premature or in the public interest**;
- (c) whether the severance **conforms to the official plan** and adjacent plans of subdivision or severances, if any;
- (d) the **suitability of the land** for the purposes for which it is to be severed;
- (e) the number, width, location and proposed grades and elevations of **highways**, and the adequacy of them, and the highways linking the highways in the proposed severance with the established highway system in the vicinity and the adequacy of them;
- (f) the **dimensions and shapes** of the proposed lots;
- (g) the **restrictions** or proposed restrictions, if any, on the land proposed to be severed or the buildings and structures proposed to be erected on it and the restrictions, if any, on adjoining land;
- (h) conservation of natural resources and flood control;
- (i) the adequacy of **utilities and municipal services**;
- (j) the adequacy of school sites;
- (k) the area of land, if any, within the proposed severance that, exclusive of highways, is to be **conveyed or dedicated for public purposes**;
- (l) the extent to which the severance's design optimizes the available supply, means of supplying, efficient use and **conservation of energy**; and
- (m) the interrelationship between the **design** of the proposed severance and **site plan control matters** relating to any development on the land, if the land is also located within a site plan control area designated under subsection 41 (2) of this Act

Section 50.1(25) give the Committee of Adjustment authority to impose such conditions to the approval of a consent that in the opinion of the Committee are reasonable, including a requirement:

- (a) that **land be dedicated or other requirements met for park** or other public recreational purposes under section 51.1;
- (b) that such **highways, including pedestrian pathways, bicycle pathways and public transit rights of way, be dedicated** as the approval authority considers necessary;

- (c) that such land be dedicated for commuter parking lots, transit stations and related infrastructure for the use of the general public using highways, as the approval authority considers necessary;
- (d) when the proposed subdivision abuts on an existing highway, that sufficient land, other than land occupied by buildings or structures, be **dedicated to provide for the widening of the highway** to such width as the approval authority considers necessary; and
- (e) That the owner of the land proposed to be severed enter into one or more **agreements** with a municipality.

Section 50.1(26) agreements to be imposed as a condition to the approval of a consent and the agreements may be registered against the land to which it applies and that the municipality or the committee may enforce the provisions of the agreement against the owner and, subject to the Registry Act and the Land Titles Act, any and all subsequent owners of the land.

THE PROVINCIAL POLICY STATEMENT

The Provincial Policy Statement applies to this application. It includes the following definitions:

Development: means the creation of a new lot, a change in land use, or the construction of buildings and structures requiring approval under the Planning Act, but does not include: a) activities that create or maintain infrastructure authorized under an environmental assessment process; b) works subject to the Drainage Act; or c) for the purposes of policy 2.1.4(a), underground or surface mining of minerals or advanced exploration on mining lands in significant areas of mineral potential in Ecoregion 5E, where advanced exploration has the same meaning as under the Mining Act. Instead, those matters shall be subject to policy 2.1.5(a).

Infrastructure: means physical structures (facilities and corridors) that form the foundation for development. Infrastructure includes: sewage and water systems, septage treatment systems, stormwater management systems, waste management systems, electricity generation facilities, electricity transmission and distribution systems, communications/telecommunications, transit and transportation corridors and facilities, oil and gas pipelines and associated facilities.

Public service facilities: means land, buildings and structures for the provision of programs and services provided or subsidized by a government

Settlement areas: means urban areas and rural settlement areas within municipalities (such as cities, towns, villages and hamlets) that are: a) built up areas where development is concentrated and which have a mix of land uses; and b) lands which have been designated in an official plan for development over the long-term planning horizon provided for in policy 1.1.2.

Preamble

The Preamble to the PPS says it “. . . provides for appropriate development while protecting resources of provincial interest, public health and safety, and the quality of the natural and built environment.”

A basic principle of policy led land use planning iterated in the PPS is that **“When more than one policy is relevant, a decision-maker should consider all of the relevant policies to understand how they work together. The language of each policy, including the Implementation and Interpretation policies, will assist decision-makers in understanding how the policies are to be implemented.”**

Another important aspect of policy led land use planning is the terms used in the policies. As succinctly outlined in the PPS, “Some policies set out **positive directives**, such as “settlement areas shall be the focus of growth and development.” Other policies set out **limitations and prohibitions**, such as “*development* and site alteration shall not be permitted.” Other policies use **enabling or supportive language**, such as “*should*,” “*promote*” and “*encourage*.”

The PPS says “The policies . . . represent minimum standards.” and “. . . planning authorities and decision-makers may go beyond these minimum standards to address matters of importance . . . unless doing so would conflict with any policy of the Provincial Policy Statement.”

Vision

The Provincial Policy Statement focuses growth and development within urban and rural settlement areas. It recognizes that the wise management of land use change may involve directing, promoting, or sustaining development. Land use must be carefully managed to accommodate appropriate development to meet the full range of current and future needs, while achieving efficient development patterns and avoiding significant or sensitive resources and areas which may pose a risk to public health and safety.

Efficient development patterns optimize the use of land and public investment in infrastructure and public service facilities and minimizes the undesirable effects of development, including impacts on air, water and other resources.

Policies

The PPS policies for **Building Strong Healthy Communities** say Ontario's long-term prosperity, environmental health and social well-being depend on wisely managing change and **promoting efficient land use and development patterns**. Efficient land use and development patterns support sustainability by **promoting strong, liveable, healthy and resilient communities, protecting the environment and public health and safety, and facilitating economic growth**. **Healthy, liveable and safe communities are sustained by promoting efficient development and land use patterns which sustain the**

financial well-being of the Province and municipalities over the long term. (Policy 1.1.1a)

Settlement Areas

The PPS says the vitality of settlement areas is critical to the long-term economic prosperity of our communities. . . . It is in the interest of all communities to **use land and resources wisely, to promote efficient development patterns** . . . (Section 1.1.3) and **Settlement areas shall be the focus of growth and development**, and their **vitality and regeneration shall be promoted**. (Policy 1.1.3.1)

GROWTH PLAN FOR THE GREATER GOLDEN HORSESHOE

The Growth Plan does not replace municipal official plans, but works within the existing planning framework to **provide growth management policy direction**. Provincial plans and official plans provide a framework for comprehensive, integrated, and long-term planning that supports and integrates the principles of strong communities, a clean and healthy environment, and economic growth, for the long term.

The Growth Plan is the Ontario government's initiative to plan for growth and development in Ontario in a way that supports economic prosperity, protects the environment and helps communities achieve a high quality of life. Through the Growth Plan, **regional growth plans are developed to guide government investments**.

Population and employment growth will be accommodated by, among other things:

- **directing development to settlement areas**, except where necessary for development related to the management or use of resources, resource-based recreational activities, and rural land uses that cannot be located in settlement areas; and
- **Directing major growth to settlement areas that offer municipal water and wastewater systems** and limiting growth in settlement areas that are serviced by other forms of water and wastewater services. (Policy 2.2.2.1.)

Applying the policies of this Plan will **support** the achievement of **complete communities** that:

- a) **feature a diverse mix of land uses, including residential and employment uses, and convenient access to local stores, services, and public service facilities;**
- b) improve social equity and overall quality of life, including human health, for people of all ages, abilities, and incomes;
- c) **provide a diverse range and mix of housing options, including second units and affordable housing**, to accommodate people at all stages of life, and to accommodate the needs of all household sizes and incomes;
- d) expand **convenient access** to:
 - i. a range of **transportation options, including options for the safe, comfortable and convenient use of active transportation;**
 - ii. *public service facilities*, co-located and integrated in community hubs;

- iii. **an appropriate supply of safe, publicly-accessible open spaces, parks, trails, and other recreational facilities;** and
- iv. healthy, local, and affordable food options, including through urban agriculture;
- e) ensure the **development of high quality compact built form**, an attractive and vibrant *public realm*, including public open spaces, through site design and urban design standards;
- f) **mitigate and adapt to climate change impacts, build resilience, reduce greenhouse gas emissions, and contribute towards the achievement of low-carbon communities;** and
- g) **Integrate green infrastructure and low impact development.** (Section 2.2.2.4)

REGIONAL OFFICIAL PLAN

In speaking to the contents of official plan the *Planning Act* says an official plan shall contain, (a) goals, objectives, and policies established primarily to manage and direct physical change and the effects on the social, economic, built, and natural environment of the municipality or part of it . . . (Section 16.(1)(a)) and . . . may contain, a description of the measures and procedures proposed to attain the objectives. (Section 16.2(a))

A Strategic Objective to the ROP is to recognize the diversified opportunities and needs in Niagara by balancing both urban development and the conservation of natural resources. a) A choice of housing and employment locations. b) **Development and efficient use of lands within the existing urban boundaries first.** c) Conservation of natural resources (e.g., fishery habitat, Areas of Natural and Scientific Interest, natural areas, wildlife habitat, waterways, Niagara Escarpment, wetlands, aggregate areas, and woodlots). d) **Minimization of conflicts between incompatible land uses.** (ROP Strategic Objective 2.1)

Another Strategic Objective is to facilitate and maintain a pattern of distinctive and identifiable urban communities. . . . (SO 2.2) A third relevant Strategic Objective is to improve regional self-reliance through long-range economic development planning and economic diversification. a) Attraction of more employment through existing or new firms. . . . (ROP SO 2.2)

Similar to the PPS, the ROP recognizes diversified opportunities for employment locations and the efficient use of land; minimization of conflict between incompatible uses as Strategic Objectives.

The ROP has a number of defined terms including:

Active Transportation means any form of self-propelled (non-motorized) transportation that relies on the use of human energy such as walking, cycling, inline skating or jogging.

Built Boundary means the limits of the developed Urban Areas as defined by the Minister of Infrastructure in accordance with Policy 2.2.3.5 in the Provincial Growth Plan for the Greater Golden Horseshoe.

Complete Communities meet people's needs for daily living throughout an entire lifetime by providing convenient access to an appropriate mix of jobs, local services, a full range of housing, and community infrastructure including affordable housing, schools, recreation and open space for their residents. Convenient access to public transportation and options for safe, non-motorized travel is also provided.

Density Targets The density target for the Urban Growth Centre is defined in Policy 4.G.10.2. The density target for Designated Greenfield Areas is defined in Policy 4.C.7.2.

Designated Greenfield Area means the area within a settlement area that is not Built-up Area

Development means the creation of a new lot, a change in land use, or the construction of a building or structure, requiring approval under the Planning Act. It includes the construction of new, or significant expansion of existing, public utilities or infrastructure

Employment Area means areas designated in an official plan for clusters of business and economic activities including, but not limited to, manufacturing, warehousing, offices, and associated retail and ancillary facilities.

Intensification means the development of a property, site or area at a higher density than currently exists through:

- a) redevelopment, including the reuse of *brownfield sites*;
- b) the development of vacant and / or underutilized lots within previously developed areas;
- c) infill development; or
- d) The expansion or conversion of existing buildings.

Urban Areas means those areas shown as being within the Urban Areas Boundaries as defined by this Official Plan.

As illustrated on *Figure A3.1, Regional Official Plan Schedule A - Regional Structure Excerpt*, the ROP designates the Subject Property **Designated Greenfield Area** within the **Urban Area Boundary**. The Objectives of the ROP for Managing Growth include (4.A.1.2) directing a significant portion of Niagara's future growth to the *Built-up Area* through *intensification*; (4.A.1.3) directing intensification to local municipally designated *intensification* areas; and (4.A.1.6) building compact, mixed use, transit supportive, *active transportation friendly communities* in the *Built up Area* and in *Designated Greenfield Areas*.

**Figure A3.1: Regional Official Plan Schedule A
Regional Structure Excerpt**



Commercial Areas

Municipalities are encouraged to develop policies which carefully balance the supply of commercial space with the demand for commercial goods and services, placing a particular emphasis on commercial retail goods and services. (Policy 3.D.2)

The Region encourages local municipalities to revise their planning policies and zoning by-laws to support the redevelopment of greyfield areas into mixed uses areas. The Region strongly supports such redevelopment as an alternative to the establishment of new commercial areas. (Policy 3.D.6)

New commercial development or redevelopment should be assessed in relation to community character and be appropriately located to serve as part of the neighbourhood's existing or proposed fabric. Assessment in relation to community character could include:

- a) The scale of the activity;
- b) The orientation of the development to adjacent land uses; and,
- c) The capacity of the development to operate compatibly with housing. (Policy 3.D.10)

Commercial development and redevelopment projects should be designed to be transit and active transportation friendly. (Policy 3.D.11)

Parking requirements for commercial uses should be carefully considered and evaluated to ensure that an adequate, but not excessive, amount of parking space is provided. Parking requirements should include provision for secure and sheltered bicycle parking and pedestrian walkways. Municipalities are encouraged to study, assess and develop updated parking standard for commercial areas. (Policy 3.D.12)

Intensification and Greenfield Growth

Designated Greenfield Areas will be planned as compact, complete communities (meeting people's needs for daily living throughout an entire lifetime by providing convenient access to an appropriate mix of jobs, local services, a full range of housing, and community infrastructure including affordable housing, schools, recreation and open space for their residents. Convenient access to public transportation and options for safe, non-motorized travel is also provided) by:

- Where permitted by scale, accommodating a range of land uses including residential, commercial, institutional, recreational, employment and other uses;
- Where limited by scale or configuration, making a significant contribution to the growth of the respective *Urban Areas* as a complete community;
- Providing opportunities for integrated, mixed land uses;
- Creating street patterns that are fine grain and in grid pattern, supporting transit and *active transportation* within the area and to adjacent areas;

- Ensuring that Greenfield development is sequential, orderly and contiguous with existing built-up areas;
- Ensuring that the provision of municipal servicing is in accordance with the water and wastewater servicing master plans. (Policy 4.C.5.1)

The *Region* will require a minimum combined gross density target of 50 people and jobs per hectare across all *Designated Greenfield Areas*, excluding the features within the Environmental Protection Areas and Environmental Conservation Areas in the Region's Core Natural Heritage System and any non-developable features designated in local official plans. (Policy 4.C.6.1)

The Region, working in collaboration with local municipalities, will identify minimum *Greenfield density targets for local municipalities* which will achieve the overall Regional *density target* set out in policy 4.C.6.1. (Policy 4.C.6.2)

In order to achieve the planned minimum greenfield density target, official plans shall:

- Adopt minimum and maximum residential and employment densities in local Official Plans, including distinctions between net and gross density;
- Include policies for achieving higher residential and employment densities in greenfield areas;
- Include policies for achieving a mix of housing types and residential densities in greenfield areas; and
- Develop greenfield development guidelines to support local policy direction for greenfield areas. (Policy 4.C.7.1)

The Region will monitor the combined 50 people and jobs per hectare target. (Policy 4.C.7.2)

Managing Growth

The objectives of the Growth Management Policies of the ROP are to: *Direct the majority of growth and development to Niagara's existing Urban Areas*, (Objective 4.A.1.1) ensure the availability of sufficient employment land to accommodate long term growth in Niagara to the year 2031, (Objective 4.A.1.9) and direct growth in a manner that *promotes the efficient use of existing municipal sewage and water services*. (Objective 4.A.1.12)

The ROP directs the majority of growth to *urban areas* but seeks to ensure the availability of sufficient employment land and promotes the efficient use of existing municipal sewage and water services.

The preamble to Section 4G, Urban Growth, states Niagara aspires to build sustainable, *complete communities* by, among other things making efficient use of land, resources and *infrastructure*.

Objective 4G.1, in Our Common Objectives, is to build compact, vibrant, sustainable, integrated and *complete communities* and Objective 4G.4 is to *maximize the use of existing and planned infrastructure to support growth in a compact and efficient manner.*

THE CITY OFFICIAL PLAN

Highway Commercial Development

As illustrated on *Figure A3.2, Official Plan Schedule A, Port Colborne Land Use Plan Excerpt*, the property is **designated Highway Commercial**. Areas identified as Highway Commercial represent areas of existing and future commercial *development* within the Urban Area which cater primarily to the travelling public, in proximity to arterial roads and highways. The predominant uses for land designated Highway Commercial include, but not be limited to; hotels and motels; automobile sales and service establishments; places of amusement or recreation; restaurants with take-out and / or drive-through facilities; and accessory uses. (Policy 3.8)

Any new or expanding development in the Highway Commercial area is subject to Site Plan Control. (Policy 3.8.1a)

Commercial uses that would be more appropriate in the Downtown Commercial areas such as retail stores, banks, medical clinics and professional offices are not be permitted. (Policy 3.8.1b)

New Highway Commercial uses grouped in a planned development are encouraged and extensive strip development is discouraged. (Policy 3.8.1c)

Adequate off-street parking facilities, including consideration for bicycles, are required in well-organized, landscaped and well-illuminated parking areas or structures. (Policy 3.8.1d)

A minimum number of driveways to the site will be allowed and driveway entrances will be configured for maximum safety. (Policy 3.8.1e)

New and expanding Highway Commercial uses may be required to submit a Traffic Impact Assessment, prepared by a qualified professional which identifies the potential traffic generated by the development, methods of mitigating any potential impacts and any improvements that may be required to the existing road network in order to accommodate the proposed development. (Policy 3.8.1g)

New and expanding Highway Commercial uses may be required to submit a Market Study, prepared by a qualified professional, to demonstrate that the proposed commercial floor space is warranted. (Policy 3.8.1h)

**Figure A3.2: Official Plan Schedule A
Land Use Plan Excerpt**



- Municipal Boundary
- Urban Area Boundary
- EPA
- ECA
- Agricultural
- Hamlet
- Urban Residential
- Rural
- Downtown Commercial
- Commercial Plaza
- Highway Commercial
- Marine Commercial
- Industrial / Employment Area
- Mineral Aggregate Operation
- Gateway Economic Centre
- Rural Employment
- Parks and Open Space
- Private Open Space
- Special Study Area
- Secondary Plan Area
- Major Port
- ★ Former Waste Management Facility

Highway Commercial uses are subject to the design guidelines for Commercial Plaza as specified in Section 3.7.2. (Policy 3.8.2a)

Drive-through aisles should be defined by curbing and planted areas instead of painted demarcations, however, an alternate route should be provided such that a vehicle is able to escape the drive-through lane in an emergency without having to reverse through the drive-through aisle. (Policy 3.8.1.2b)

Entrances to hotels and motels should be built to a minimum setback and incorporate an awning or canopy extending to the sidewalk. (Policy 3.8.1.2c)

Entrances to hotels and motels should incorporate a pick-up and drop-off area at the street line and orient all other parking to the side and rear. (Policy 3.8.1.2d)

Restaurant facilities in hotels and motels should be built to a minimum setback and have windows that relate directly to the adjacent street. (Policy 3.8.1.2e)

Display pedestals for vehicles at car dealerships will be located close to the building and not at the street line. (Policy 3.8.1.2bf)

Gas stations incorporating a retail store use will locate a retail store entrance and windows to the street. (Policy 3.8.1.2g)

Green building technologies will be encouraged, including reference to Leadership in Energy and Environmental Design (LEED) as promoted by the Canada Green Building Council. (Policy 3.8.1.2H)

Buffering shall be provided between the commercial establishment and other land uses. This shall include grassed areas and appropriate planting of trees and shrubs and/or the provision of other suitable screening materials. The types of trees and shrubs will be subject to the approval of the Director of Planning and Development Services. (Policy 3.7.2.1a)

Building entrances and display windows should be oriented to street frontages, and a minimum of one major building entrance should front directly onto the main street frontage. (Policy 3.7.2.1b)

Buildings should be built to a minimum setback at intersections to help frame the streets. (Policy 3.7.2.1c)

A minimum of 40% of the main street frontage of a given property should be defined by building edge. (Policy 3.7.2.1d)

No front yard parking should be permitted for those portions of the building frontage constituting the minimum 40%. (Policy 3.7.2.1e)

Where large setbacks can be justified for large commercial stores, smaller commercial buildings (i.e. restaurants, banks) should be located at the street edge. (Policy 3.7.2.1f)

Canopies and awnings are encouraged as a means of weather protection for pedestrians. (Policy 3.7.2.1g)

The building identity at corner locations will be reinforced by taller building elements such as towers, entrance structures or roof elements (i.e. skylights and dormers) (Policy 3.7.2.1h)

Commercial garbage receptacles will be adequately screened or in an enclosed storage area contiguous with the building. (Policy 3.7.2.1i)

Parking and landscaping for commercial establishments should be designed as follows:

- Screening shall be provided between parking areas and adjacent residential properties.
- Buffers shall be located at the perimeter of the property line adjacent to parking areas and laneways to accommodate landscaping and tree planting.
- Landscaped islands shall be placed at the end of all parking aisles.
- Parking aisles with a length of more than 15 stalls shall be broken up with landscaped islands.
- All parking islands shall be planted with hardy, strongly branched and salt tolerant trees.
- Large parking areas shall be broken up with linear pedestrian only sidewalks planted with a consistent row of trees.
- The placement of sidewalks shall be oriented to link building entrances.
- Parking for bicycles shall be included, which shall be consistent with professionally recognized design guidelines. (Policy 3.7.2.2a)

Service and loading areas shall be oriented to the rear of the building. (Policy 3.7.2.2b)

Consent to Sever

The plan of subdivision shall be considered as the main method of providing lots in the City. Consent for land conveyances shall only be granted where they will not compromise the orderly development of land or the general public interest. (Policy 11.7.2a)

Development which proposes the creation of lots requiring construction of a new public road, the execution of a development or which proposes the creation of more than two new lots should not proceed by way of consent. (Policy 11.7.2b)

New lots shall only be created by way of consent within:

- The Urban Residential designation subject to the policies of Section 3.2.4;
- The Hamlet designation subject to the policies of Section 3.3.4;
- The Rural designation subject to the policies of Section 3.4.4; and
- The Agricultural designation subject to the policies of Section 3.5.3. (Policy 11.7.2c)

In commenting to the Committee of Adjustment, the City will ensure the following factors are considered:

- Where applicable, the policies for infill and intensification, Section 2.4.3 of this Plan;
- *The size, configuration and location of the proposed consent should be appropriate for the use proposed considering the municipal services available*, or where municipal services are not available, the adequacy of potable water supply and suitability of the soil and site conditions for the installation and long-term operation of a private waste disposal system, subject to the approval of the Niagara Region Public Health Department and Niagara Region Public Works Department; and
- *The lot size and proposed use of the proposed consent should conform to the provisions of the Zoning By-law*, where applicable. (Policy 11.7.2c)

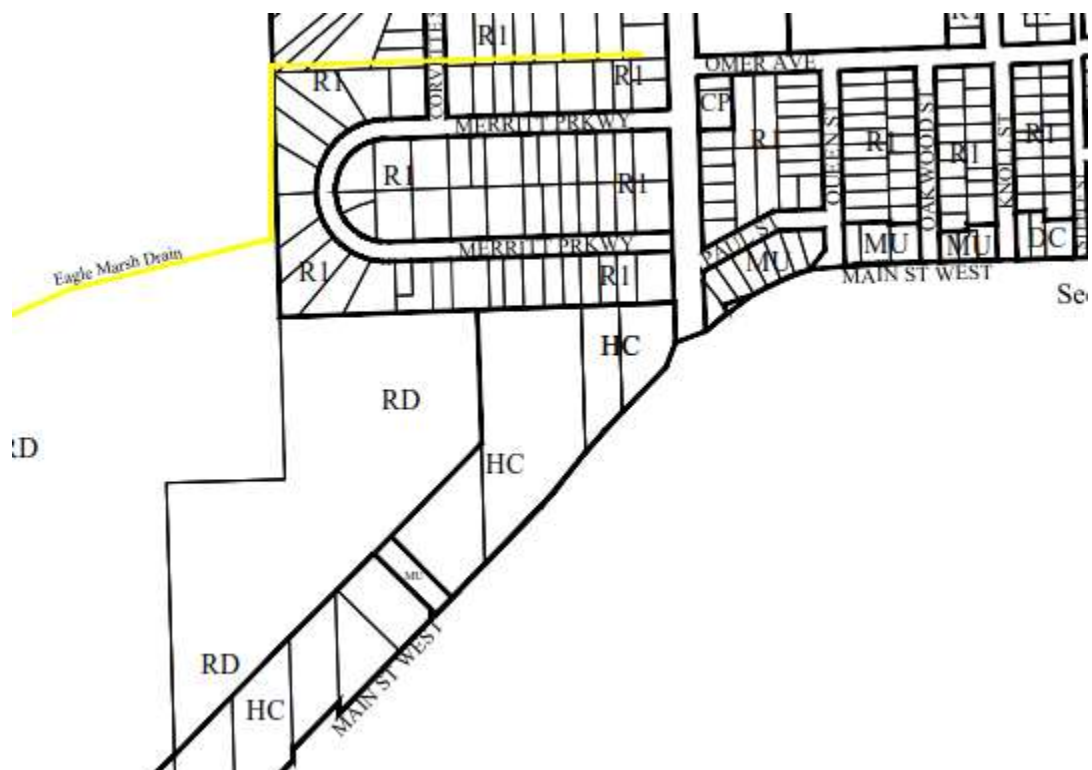
THE ZONING BY-LAW

As illustrated on *Figure A3.3, Zoning Map Schedule “A8” Excerpt* to The City of Port Colborne Zoning By-law the Subject Property is **zoned “Highway Commercial HC”** which permits:

- Animal Care Establishment;
- Brew Pub;
- Car Wash;
- Convenience Store;
- Day Care;
- Drive-Thru Facility;
- Dwelling, Accessory
- Food Vehicle;
- Hotel;
- Motor Vehicle Repair Garage;
- Motor Vehicle Sales/Rental Service Centre;
- Motor Vehicle Gas Station;
- Office;
- Personal Service Business;
- Place of Assembly/Banquet Hall;

- Place of Worship;
- Public Use;
- Recreation Facility;
- Restaurant, Fast Food;
- Restaurant, Full Service;
- Restaurant, Take-Out;
- Retail Building Construction and Supply;
- Service Commercial; and
- Uses, structures and buildings accessory thereto

Figure A3.3: Zoning Map Schedule “A8” Excerpt



ZONING CHART

PROVISION	HC ZONE REQUIRMENTS
Min Lot Area	0.14 hectares
Min Lot Frontage	27 metres
Min Front Yard	9 metres
Min Interior Side Yard	5 metres
Min Rear Yard	5 metres
Max Lot Coverage	85 percent
Requirement for a Lot	Notwithstanding anything contained in this By-law, a parcel which is situated in any zone, and which lacks either the required lot frontage or lot area, or both the lot frontage and lot area for the lot in the respective zone, is and shall be deemed to be a lot provided that: All other requirements of the applicable zone are complied with, and where said parcel qualified under this section as a deemed lot, said deemed lot may be used for the purposes as permitted in the zone in which it is located, notwithstanding that it does not comply with the area and frontage requirements of that zone
Lot Frontage on Roads	No person shall construct a building or structure or otherwise use any lot unless the lot fronts on an improved road or lane
Lot	All contiguous land under one ownership
Front Lot Line	The lot line, not including a corner lot line, which abuts a street for the shortest distance, whether or not that line jogs or curves, and extending between the side lot lines, more or less for the full width of the lot and where more than one such lot line exists, means a lot line which abuts the same street as the front lot line of an abutting lot
Rear Lot Line	lot line furthest from and opposite the front lot line but if there is no such line, that point furthest from and opposite the front lot line
Interior Side Lot Line	The lot line other than a front lot line, a corner lot line or a rear lot line
Front Yard	That yard that extends across the full width of the lot between a front lot line and the nearest point of the principal building, not including a projection permitted under Section 2.20

ANNEX 4
PRE-CONSULTATION AGREEMENT



Pre-Consultation Agreement

City of Port Colborne Department of Planning and Development
Niagara Region Development Services
Niagara Peninsula Conservation Authority

Persons intending to make an application for a proposed development are required to consult with planning City staff and Agency staff prior to submitting an application. A pre-consultation meeting will identify what is required to be submitted for a complete application and will provide the opportunity to discuss:

- the nature of the application;
- development and planning issues;
- fees;
- the need for information and/or reports to be submitted with the application;
- the planning approval process;
- other matters, as determined.

Pre-Consultation Meeting Date: August 27th, 2020

Local Municipal Contact: David Schulz

Phone: 905-835-2901 ext 202

Email: planner@portcolborne.ca

Site Address: 599 Main St. W.

Roll Number: 27 11 030 038 136 15

Land Area 5.5 ac

Owner Contact Information:

Owner Name: 2493207 ONTARIO INC – Ritesh Malik

Phone Number: 647-225-8411

Email: Ritesh@riteshmalik.com

Agent Contact Information:

Agent Name: Steven Rivers

Phone Number: 905-733-8843

Email: Steven.p.rivers@gmail.com

Principal Contact: ☐ Owner ☒ Agent

Application Type:

- | | |
|---|--|
| <input type="checkbox"/> Regional Official Plan Amendment | <input checked="" type="checkbox"/> Consent (Land Severance) |
| <input checked="" type="checkbox"/> Local Official Plan Amendment | <input checked="" type="checkbox"/> Zoning By-law Amendment |
| <input type="checkbox"/> Draft Plan of Subdivision | <input type="checkbox"/> Site Plan Control |
| <input type="checkbox"/> Draft Plan of Condominium | <input type="checkbox"/> Other: Easements in favour of both parcels and vice versa |
| <input type="radio"/> Vacant Land & Common Element | <input checked="" type="checkbox"/> |
| <input type="radio"/> Conversion | |

1. Brief description of proposed development:

Severance of Phase 1 from Phase 2 in the site plan agreement. Zoning By-law Amendment required to address the requirements for a lot and proposed uses. Official Plan Amendment required to allow the uses commonly found in the Downtown Commercial area in the Highway Commercial area.

2. Existing Regional Official Plan Designation: Built-up Area

Conformity with Regional Official Plan land use designations and policies?

☒ Yes ☐ No ☐ Unknown

If 'No', what is the nature of the amendment needed?

3. Check All Applicable:

☐ Brownfield ☐ Greenfield ☐ Built-up ☐ Local CIP Area

4. Development Charges:

☐ Regional By-law 2017-98 ☐ Local By-law 6131/97/14

5. Existing Local Official Plan Designation: Highway Commercial

Conformity with Official Plan land use designations and policies?

☐ Yes ☒ No ☐ Unknown

If 'No', what is the nature of the amendment needed?

Proposed added uses do not conform. Policy change required

6. Existing Zoning: Highway Commercial

Conformity with existing zoning?

☐ Yes ☒ No ☐ Unknown

If 'No', what is the proposed zoning:

Zoning will need to be amended to allow for the lot creation not on a public road and other lot requirements, as well as to add new proposed uses in the HC zone.

7. Is property located in Intake Protection Zone?

☒ No ☐ IPZ 1 ☐ IPZ 2

8. Is property recognized under Ontario Heritage Act?

☒ No ☐ Registry ☐ Designated

9. Is Site Plan approval required?

☐ Yes ☒ Only if changes proposed

10. Fees Required at time of Submission of the Application

Application	City of Port Colborne	Niagara Region	Niagara Peninsula Conservation Authority	Other Fees
Regional Official Plan Amendment				
Local Official Plan Amendment and Zoning By-law Amendment (combined)	\$7,803			
Zoning By-law Amendment				
Plan of Subdivision				
Easement	\$1,144			
Consent	\$1,665	\$620		
Site Plan Agreement				
Other: Combine Consent and ZBA				
TOTAL	\$10,612	\$620		

Notes on Fees:

- Notwithstanding the fees noted above, all fees are payable based upon the rate in the fee schedule by-law in effect on the date the application is received.
- Further fees may be required at a later date as per the fee schedule by-law.
- Separate cheques shall be made payable to the appropriate agency.

11. Additional Agencies to be contacted:

☐ Hydro ☐ Enbridge/Pipelines ☐ Ministry of Environment
☐ CN/Trillium Rail ☐ Seaway ☒ Ministry of Transportation
☐ Niagara Peninsula Conservation Authority ☐ Other

12. Required Information and Studies to be submitted with the Application(s). Application will not be deemed complete until all requested information and studies are submitted. Studies identified with an asterisk will likely require a peer review at the cost of the developer.

Local	Region	NPCA	Reports, Studies, Plans (See Notes for additional details)	No. of Copies		Notes
				Electronic Digital	Paper	
			Agricultural Impact Assessment			
			Air Quality/Noise & Vibration Study*			
			Archaeology Assessment			
			Conceptual Site Plan, Subdivision Plan			
			Cultural Heritage Impact Assessment*			
			Environmental Impact Study			
			Environmental Planning Study/ Sub-Watershed Study			
			Environmental Site Assessment Phase 1			
			Farm Business Plan*			
			Farm Operation and Ownership			
			Financial Impact Assessment*			
			Floodplain and Hazard Lands Boundary Plan			
			Gas Well Study/Gas Migration Study			
			Geotechnical			
			Hydrogeological Study and Private Servicing Plans*			
			Land Use/Market Needs*			
			Landscape Plan			
			Mineral Aggregate Resources			
			Minimum Distance Separation I & II			
			Municipal Servicing Study			
			Phasing Plan			
X			Planning Justification Report			Reviewing local planning documents
			Risk Management Study			
			Sensitive Land Use Report			
			Shadow Analysis			
			Shoreline Study/Dynamic Beach			
			Slope Stability Report			
			Soil report			
			Stormwater Management Plan			
			Transportation Impact Study/Parking Impact Analysis			
			Tree Inventory Preservation Plan			
			Urban Design			
			Wind Study*			
			Other: Record of Site Condition (can be dealt with later)			

13. Additional Comments:

- Easements and Zoning By-law Amendments can be applied for concurrently with the Consent application or can be dealt with as a condition of consent.
- Planning Justification Report analyzing local policies and by-laws is required. Please identify why the consent is required for the property.
- The fire route will need to be reconsidered as it was designed for the entire property
- Official Plan Amendment required for the additional uses requested. Policy 3.8.1 b) speaks to the uses not being permitted.
- Only one easement application required in addition to severance application.
- Severance/easement sketch required from an Ontario Land Surveyor

Regional comments to follow this document.

14. Site Visit:

15. Incentive Programs:

Notes:

1. The purpose of this document is to identify the information required to commence processing and evaluating an application as set out in the Planning Act. This pre-consultation process is designed to proceed based on the mutual agreement of the parties as shown by the signatures below.
2. Pre-consultation does not imply or suggest any decision whatsoever on behalf of staff or the municipality to either support or refuse the application.
3. The applicant should be aware that the information provided is accurate as of the date of the pre-consultation meeting. Should an application not be submitted in the near future, and should other policies, by-laws or procedures be approved by the Province, Municipality, Region or other agencies prior to the submission of a formal application, the applicant will be subject to any new policies, by-laws or procedures that are in effect at the time of the submission of a formal

application. If an application is not submitted within one year, it is advisable that the applicant confirm with the municipality the directives of the original preconsultation meeting.

4. Any application submitted without the information identified in this Pre-consultation Document will be deemed incomplete and not processed. Alternately, staff may recommend refusal of the application based upon insufficient information to properly evaluate the application.
5. The applicant acknowledges that the Section 1.0.1 of *The Planning Act* states "Information and material that is required to be provided to a municipality or approval authority under this Act shall be made available to the public." With the filing of an application, the applicant confirms that the Municipality and Region may release the application and any supporting materials either for its own use in processing the application, or at the request of a third party, without further notification to, or permission from, the applicant.
6. It is hereby understood that during the review of the application additional studies or information may be required as a result of issues arising during the processing of the application or the review of the submitted studies.
7. If the Municipality or Region does not have sufficient expertise to review and determine that a study is acceptable, the Municipality may require a peer review. The cost of the peer review shall be paid for by the applicant. The Terms of Reference for a peer review is determined by the Municipality or Region.
8. Some studies may require NPCA review and clearance/approval. In this instance, the NPCA review fee shall be paid by the applicant.
9. All plans and statistics must be submitted in metric.

Signatures:

_____ Planning Staff	_____ (signature)	_____ Date
_____ Planning Staff	_____ (signature)	_____ Date
_____ Building Staff	_____ (signature)	_____ Date
_____ Engineering Staff	_____ (signature)	_____ Date
_____ Engineering Staff	_____ (signature)	_____ Date
_____ Regional Staff	_____ (signature)	_____ Date
_____ NPCA Staff	_____ (signature)	_____ Date
_____	_____	_____

CNP Staff	(signature)	Date
Fire Staff	(signature)	Date
Owner/Agent	(signature)	Date
Owner/Agent	(signature)	Date
Owner/Agent	(signature)	Date
Owner/Agent	(signature)	Date
Owner/Agent	(signature)	Date
Owner/Agent	(signature)	Date

599 Main Street West – Severance & Site Plan

The subject property is within the settlement area of the Provincial Policy Statement (PPS), Delineated Built-up Area of A Place to Grow: Growth Plan for the Greater Golden Horseshoe, and Urban (Built-up) Area of the Regional Official Plan (ROP). Main Street West is Regional Road 3; the existing road allowance in this area is deficient of the recommended policy width and a road widening ranging from 0.8 metres at the eastern limit to 7.3 metres at the western limit is required (this was required with the previous site plan application for Phase 1). No additional access is to be permitted for the subject property, and an easement will need to be granted for shared access. Prior to any works within the Regional Road allowance, a Regional Construction Encroachment and Entrance permit will be required. The storm sewer system for the entire commercial development is intertwined between Phases 1 and 2, and a stormwater management (SWM) facility for peak flow control to service the entire site is located in Phase 1. Please provide an update on how the lot severance may impact the overall SWM plan for the entire area. If the existing SWM plan is being maintained, ownership and maintenance of the required infrastructure servicing the entire site must be ensured, with easements being granted for the stormwater management system as necessary. If the lot severance is to alter the overall SWM plan for the entire site, the Region would require an updated SWM plan for each phase. Regional staff understands that waste collection for the subject property is to be provided through a private contractor and not Niagara Region.

Fee: \$620 (consent review)



REQUIRED WIDENING TO ACHIEVE A WIDTH OF 17.35 METERS FROM CENTERLINE OF THE ROAD ALLOWANCE FOR MAIN STREET WEST IN PORT COLBORNE

IR-15-222