

**City of Port Colborne
Public Meeting Agenda**

Date: June 21, 2021
Time: 6:30 pm
Location: Council Chambers, 3rd Floor, City Hall
66 Charlotte Street, Port Colborne

Pages

1. **Call to Order**
2. **Adoption of Agenda**
3. **Disclosures of Interest**
4. **Statutory Public Meetings**

Statutory public meetings are held to present planning applications in a public forum as required by the Planning Act. Due to COVID-19 this meeting will be conducted virtually. Requests to delegate, both written and appearing virtually, will be accepted until noon the day of the meeting by contacting deputyclerk@portcolborne.ca. Material accepted after this time will be circulated with the minutes and included as public record.

- 4.1. **Public Meeting Report for Proposed Zoning By-law Amendment at 650 Lorraine Road, File D14-10-21, 2021-179**

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5. **Procedural Motions**
6. **Information Items**
7. **Adjournment**



Subject: Public Meeting Report for Proposed Zoning By-law Amendment at 650 Lorraine Road, File D14-10-21

To: Council - Public Meeting

From: Planning and Development Department

Report Number: 2021-179

Meeting Date: June 21, 2021

Recommendation:

That Planning and Development Department Report 2021-179 be received for information.

Purpose:

The purpose of the report is to provide Council with information regarding a proposed Zoning By-law Amendment application submitted by Christopher Wilson on behalf of the owner David Roy Bankert for the lands legally known as Part of Lots 21 and 22, formerly in the Township of Humberstone, now in the City of Port Colborne, Regional Municipality of Niagara, municipally known as 650 Lorraine Road.

Background:

The application for Zoning By-law Amendment proposes to change the zoning from Agricultural (A) to Agricultural Purposes Only (APO) and Agricultural Residential (AR). The Zoning By-law Amendment is being sought to satisfy a condition of a farm-consolidation severance under consent application B09-21-PC.

The area that will be rezoned to APO is about 14 ha and is presently used for agricultural purposes with an agricultural storage building. Staff have noted that a special provision of the APO zone (being APO-64) will be required to reduce the required interior yard setback from 5m to 3m to recognize the location of the existing storage building on Part 2.

The area that will be rezoned to AR is about 6855m² and is presently occupied by a single-detached dwelling and three accessory buildings. No new development is

proposed as a result of this application, with the exception of a new septic system on Part 1 as required by the Niagara Region.

Discussion:

City of Port Colborne Official Plan:

According to Schedule A: City Wide Land Use to the City of Port Colborne Official Plan, the subject property is designated **Agricultural**. The predominant uses of lands designated Agriculture shall include, but not be limited to; the cultivation of crops on a commercial basis; the storage and processing of produce grown on the premises; the raising of livestock; greenhouses; small-scale agri-tourism; value-added agricultural activities; specialty agricultural uses such as an agricultural research station, fertilizer or seed depot, feed mill, saw mill or kennel, provided the uses are compatible with adjacent uses; and agriculture-related accessory uses, including the sale of products from the farm operation. The Official Plan also recognizes that there are existing non-agricultural uses on agricultural lands. These uses shall continue to be permitted and expanded in accordance with the applicable Regional policies.

The Official Plan designation is not proposed to be changed as a result of this application.

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

The City of Port Colborne Zoning By-law 6575/30/18, zones the property **Agricultural**, which permits the following uses: accessory agricultural activities; agriculture use; agri-tourism and value added uses; conservation uses; dwelling, detached existing at the date of the passing of this by-law as a principal use on a new lot; dwelling, detached as a principal use on an existing lot of record; kennel; cannabis production facility; and uses, structures and buildings accessory thereto.

The application for Zoning By-law Amendment proposes to change the zoning to Agricultural Purposes Only and Agricultural Residential. Agricultural Purposes Only permits agricultural uses, conservation uses, and uses, structures and buildings accessory thereto including greenhouses. As noted above, a special provision of the APO zone will be required to recognize the existing interior side yard setback of the storage building on Part 2. Agricultural Residential permits a detached dwelling and uses, structures and buildings accessory thereto. The Draft Zoning By-law amendment has been attached hereto as Appendix A.

Surrounding Land Uses and Zones:

Northwest Use: Agricultural Zone: Agricultural	North Use: Use: Agricultural Zone: Agricultural	Northeast Use: Ag. Residential Zone: AR
West Use: Agricultural Zone: Agricultural	Applicant's Property	East Use: Golf Course Zone: A-11
Southwest Use: Golf Course Zone: A-11	South Use: Golf Course Zone: A-11	Southeast Use: Golf Course Zone: A-11

A sketch of the subject property is shown in Appendix B of this report.

Internal Consultations:

The Notice of Public Meeting was circulated to required agencies and internal departments by May 26, 2021 and no comments have been received as of the date of preparing this report.

Staff note that the Niagara Region has provided comments through consent application B09-21-PC relating to this application. The Region's concerns have been addressed through the consent, with the exception of this Zoning By-law Amendment. Zoning By-law Amendments requested by the City and Region through a consent process are exempt from Regional review. For Council's information, the comment relating to the consent application have been attached as Appendix C.

Financial Implications:

There are no financial implications.

Public Engagement:

The Notice of Public Meeting was circulated to property owners within 120 metres of the property on May 26, 2021. A public notice sign was also posted on the property by May 1, 2021. Meeting details have been provided along with the Council Agenda on the City's website.

Conclusion:

Planning Staff is not providing a recommendation on the proposed Zoning By-law Amendment at this time to allow all agency, public and Councillor comments to be received and considered prior to a decision being made. Additionally, should any minor changes be required as part of the concurrent consent application, the Draft Zoning By-law Amendment can be revised. The recommendation report will return to Council at a future meeting.

Appendices:

- a. Draft Zoning By-law Amendment
- b. Severance Sketch
- c. Regional Comments from Consent B09-21-PC

Respectfully submitted,

David Schulz
Planner
(905) 835-2900 ext. 202
David.Schulz@portcolborne.ca

Report Approval:

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

The Corporation of the City of Port Colborne

By-law no. _____

Being a by-law to amend Zoning By-law 6575/30/18 respecting lands legally described as Part of Lots 21 and 22, formerly in the Township of Humberstone, now in the City of Port Colborne, Regional Municipality of Niagara, municipally known as 650 Lorraine Road.

Whereas By-law 6575/30/18 is a by-law of The Corporation of the City of Port Colborne restricting the use of land and the location and use of buildings and structures; and

Whereas, the Council of The Corporation of the City of Port Colborne desires to amend the said by-law.

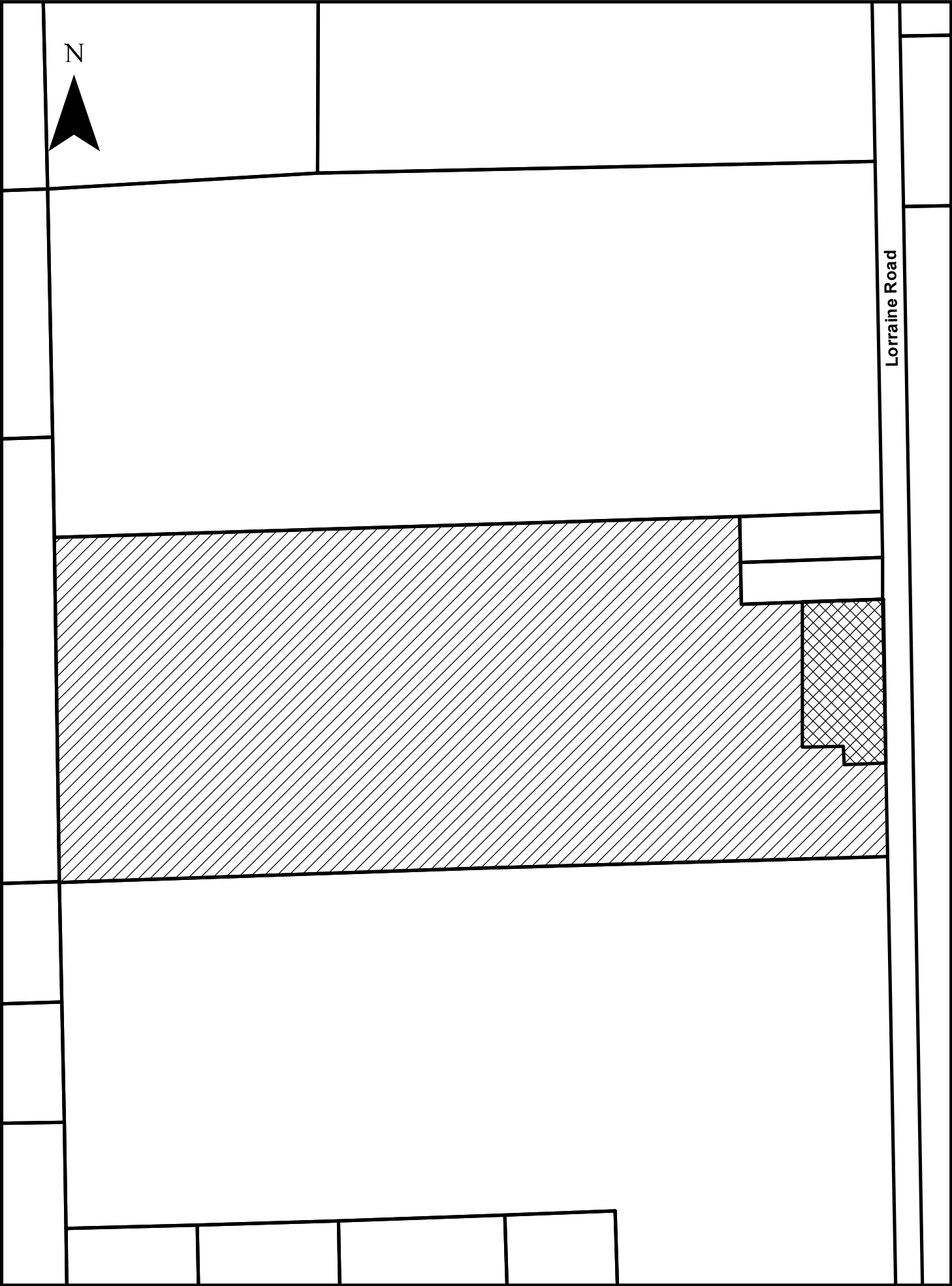
Now therefore, and pursuant to the provisions of Section 34 of the *Planning Act*, R.S.O. 1990, The Corporation of the City of Port Colborne enacts as follows:

1. This amendment shall apply to those lands described on Schedule “A” attached to and forming part of this by-law.
2. That the Zoning Map referenced as Schedule “A5” forming part of By-law 6575/30/18 is hereby amended by changing those lands described on Schedule A from Agricultural (A) to APO-64 and Agricultural Residential (AR).
3. That this by-law shall come into force and take effect on the day that it is passed by Council, subject to the provisions of the *Planning Act*.
4. The City Clerk is hereby authorized and directed to proceed with the giving notice of the passing of this by-law, in accordance with the *Planning Act*.

Enacted and passed this day of , 2021.

William C. Steele
Mayor

Amber LaPointe
City Clerk



This is Schedule "A" to By-law No _____

Passed _____, 2021

Mayor

Clerk



Lands to be rezoned from
Agricultural (A) to APO-64



Lands to be rezoned from
Agricultural (A) to Agricultural
Residential (AR)

June 2021

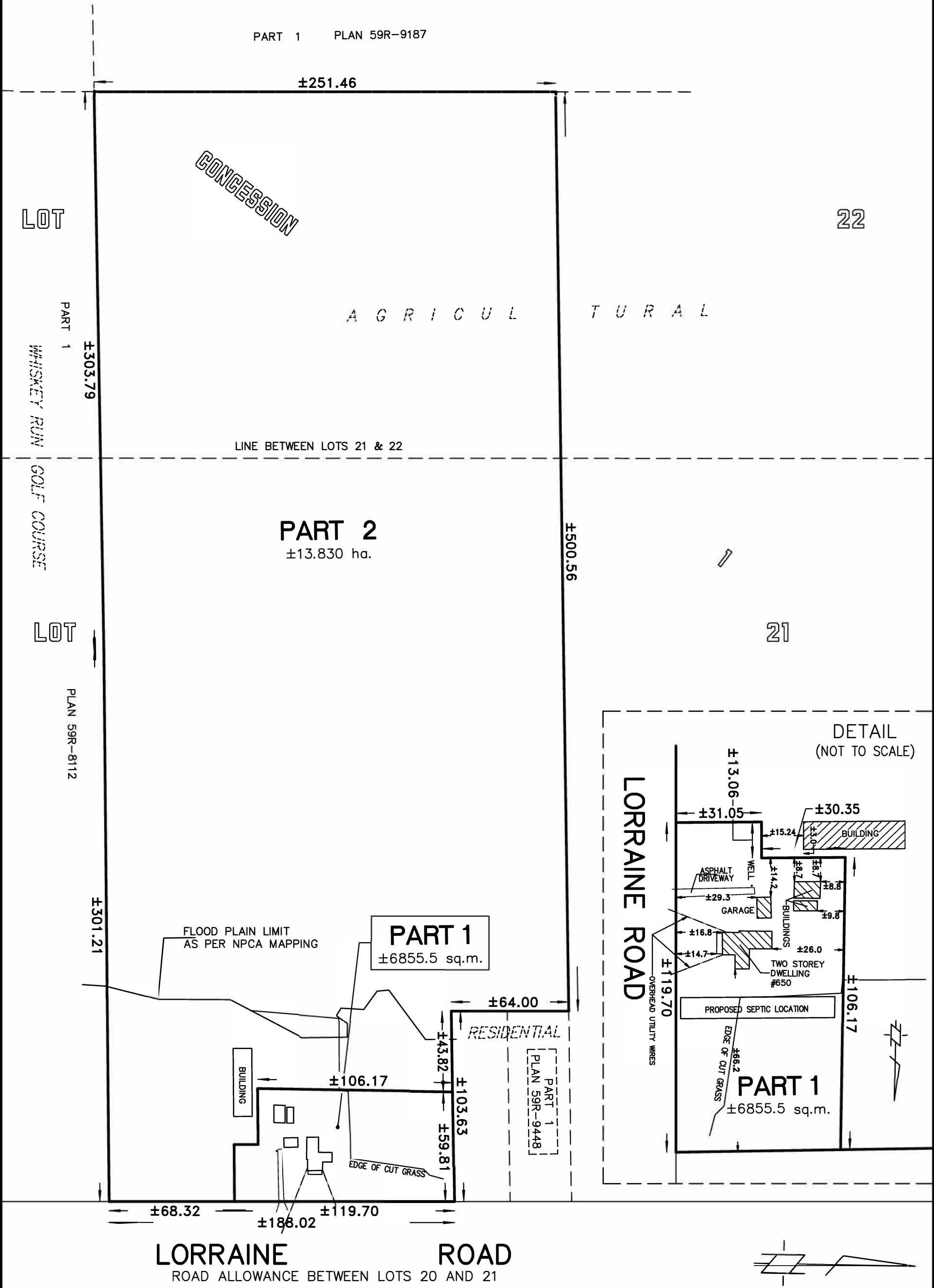
File No. D14-10-21

Drawn by: DS - City of Port Colborne
Planning Division

Not to scale

SKETCH PREPARED FOR SEVERANCE APPLICATION
THIS IS NOT A PLAN OF SURVEY AND SHALL NOT BE USED FOR ANY PURPOSE OTHER THAN
CURRENT SEVERANCE APPLICATION. © THIS SKETCH IS PROTECTED BY COPYRIGHT.

PART 1 PLAN 59R-9187



<p>NOTE:</p> <p>THIS SKETCH IS PREPARED FROM COMPILED AND CALCULATED INFORMATION, AND NOT FROM AN ACTUAL SURVEY.</p> <p>DISTANCES SHOWN HAVE NOT BEEN VERIFIED</p>	<p>VOID</p> <p>IF USED FOR ANY OTHER PURPOSE THAN THIS CURRENT SEVERANCE APPLICATION</p>	<p>PRELIMINARY ONLY</p> <p>APRIL 8, 2021 DATE</p> <p>MARK GILMORE Ontario Land Surveyor</p>	<p>BLANTHIER & GILMORE SURVEYING LTD. 173 CLARENCE ST. PORT COLBORNE, ONT. (905) 835-5477</p> <p>SKETCH OF PROPOSED SEVERANCE PART OF LOTS 21 & 22 CONCESSION 1</p> <p>GEOGRAPHIC TOWNSHIP OF HUMBERSTONE, NOW IN THE CITY OF PORT COLBORNE REGIONAL MUNICIPALITY OF NIAGARA</p> <p>DRAWN BY: CM CHECKED BY: MG SCALE: 1:2000 SURVEY 22-522</p>
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Planning and Development Services

1815 Sir Isaac Brock Way, Thorold, ON L2V 4T7
905-980-6000 Toll-free: 1-800-263-7215

Via Email Only

June 7, 2021

File No.: D.06.07.CS-21-0040

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

Dear Mr. Roome:

Re: Provincial and Regional Comments
Consent Application B09-21-PC
Owner: David Bankert
Agent: Christopher Wilson
Address: 650 Lorraine Road, City of Port Colborne

Regional Planning and Development Services staff have reviewed the above-noted consent application, which is made to convey Part 1 (0.6855 ha) for an existing residential use (single detached dwelling). Part 2 (13.83 ha) will be retained for an existing agricultural use.

The Region received the application on May 25, 2021. A virtual pre-consultation meeting was held on November 12, 2020, with City and Regional staff and the owner in attendance. The following Provincial and Regional Comments are provided to assist the Committee in their consideration of the application from a Provincial and Regional perspective.

Provincial and Regional Policies

The subject land is located within a Prime Agricultural Area under the Provincial Policy Statement (PPS), identified as Prime Agricultural Area under the Agricultural System of the A Place to Grow: Growth Plan for the Greater Golden Horseshoe (Growth Plan), and designated Good General Agricultural Area in the Regional Official Plan (ROP). Provincial and Regional policies protect prime agricultural land and restrict new lot creation in the agricultural area, except for the following circumstances:

- agricultural uses, provided that the lots are of a size appropriate for the type of agricultural use(s) common in the area and are sufficiently large to maintain flexibility for future changes in the type or size of agricultural operations;
- agriculture-related uses, provided that any new lot will be limited to a minimum size needed to accommodate the use and appropriate sewage and water services;
- a residence surplus to a farming operation as a result of farm consolidation, provided that:
 - the new lot will be limited to a minimum size needed to accommodate the use and appropriate sewage and water services; and
 - the planning authority ensures that new residential dwellings are prohibited on any remnant parcel of farmland created by the severance. The approach used to ensure that no new residential dwellings are permitted on the remnant parcel may be recommended by the Province, or based on municipal approaches which achieve the same objective; and
- infrastructure, where the facility or corridor cannot be accommodated through the use of easements or rights-of-way; and,
- lot adjustments for legal or technical reasons.

The application has been submitted as a consent for a residence surplus to a farming operation. The PPS defines a farm consolidation as the acquisition of additional farm parcels to be operated as one farm parcel. The consent application proposes to sever the existing dwelling (Part 1) from the farmland (Part 2). Information submitted by the owner indicates that approximately 728 ha (225 acres) of land is farmed by the owner for cash crops. Provided the remnant parcel (Part 2) will be consolidated with this operation, the proposal constitutes a farm consolidation. The existing dwelling is surplus to the farming operation as the farmer's primary residence is 856 Weaver Road, Port Colborne. In this regard, the application appears to meet the policy requirement of being a residence surplus to a farming operation as a result of a farm consolidation.

The ROP specifies certain conditions that must be met for proposed residential lots that meet the criteria outlined above. Specifically, new lots should not exceed an area of 0.4 hectares (1 acre) unless additional area is required to support a well and private sewage disposal system. Part 1 is proposed to be 0.6855 hectares in area, which is larger than the maximum size permitted by the ROP. The parcel includes lands currently in agricultural production; however, as outlined below under the Hydrogeological Study and Private Servicing section, this area is required for a replacement septic system as a condition of the application, and additional area will be advantageous to ensure there is sufficient space for a future replacement system without negatively impacting the groundwater quality in the area. Although creation of the parcel as proposed would result in agricultural land being removed from production, the protection of groundwater quality is also a Provincial and Regional policy priority, and so the two goals must be balanced. Regional staff can support the consent application as currently proposed based on the private servicing and groundwater needs unique to this area.

Provided Part 2 is zoned for Agricultural Purposes Only (APO) to prohibit the construction of a new residential dwelling in perpetuity, the proposal will meet the intent of Provincial and Regional policy aimed at protecting the land for long term agricultural use. Regional staff understand that a concurrent Zoning By-law Amendment (ZBA) application has already been submitted, and a Public Meeting is scheduled for June 21, 2021. Regional staff suggest that any decision to approve the consent application be conditional on the approval of this ZBA application, to ensure the remnant parcel is rezoned to APO.

Hydrogeological Assessment and Private Servicing

Staff note that although the proposed lot meets the minimum lot size of 0.4 hectare specified in the ROP, the subject land is located within a Highly Vulnerable Aquifer area, Highly Sensitive Area and has overburden under 2 metres. As such, any new development (including consent applications) require the submission of a hydrogeological study to ensure the new lot is of sufficient size to accommodate a private septic system, while having no significant adverse impacts on ground water quality.

A Hydrogeological Assessment, prepared by Terra-Dynamics Consulting Inc. (dated February 18, 2021) was submitted by the owner. Regional staff have reviewed the report and have no objections. The report requires the location of the new septic system as shown on Figure 4 and a new water cistern to replace the existing well. The new septic system will need to be a minimum of 30 m from the existing shallow well at 672 Lorraine Road (directly north).

Private Septic System (PSS) Inspection staff also reviewed the application.

Part 1 contains a dwelling, detached garage, and some accessory buildings (barn and shed). No record was found for the existing legal non-conforming sewage system servicing the dwelling known as 650 Lorraine Road. Based on the site inspection, it could not be determined if the existing system will be wholly contained within the new proposed lot lines of Part 1. Therefore, a new sewage system will need to be installed meeting minimum Ontario Building Code (OBC) requirements and the recommendations of the above noted Hydrogeological Assessment within Part 1 to service the existing dwelling. It should be noted that Part 2 currently contains a large accessory structure with no plumbing. PSS staff have no objections to the proposed consent, provided a new system is installed meeting the above noted Hydrogeological and minimum OBC requirements to service the existing dwelling on Part 1. All proposed sewage systems for Part 1 shall meet the Hydrogeological conditions and OBC requirements when applying for the sewage system permit.

Minimum Distance Separation

The PPS and Regional policies require that new development, including lot creation, and new or expanding livestock facilities comply with the Minimum Distance Separation (MDS) formulae developed by the Ministry of Agriculture, Food and Rural Affairs (OMAFRA), which is applied in order to separate uses to reduce incompatibility

concerns about odour from livestock facilities. An MDS I setback would be required for an existing dwelling to be severed and a livestock facility/anaerobic digester located on the same lot prior to the consent; however, there is no livestock facility on the proposed remnant lot, so no MDS information was requested at the preconsultation meeting. Regional staff also note that municipalities are responsible for ensuring that MDS setbacks are met when reviewing land use planning applications or building permits. Therefore, the Committee should look for confirmation from City staff that the proposed lot creation meets the MDS setbacks.

Archaeological Resources

The PPS and ROP provide direction for the conservation of significant cultural heritage and archaeological resources. Specifically, Section 2.6.2 of the PPS and Policy 10.C.2.1.13 of the ROP state that development (including lot creation) and site alteration (activities, such as grading, excavation and the placement of fill that would change the landform and natural vegetative characteristics of the site) are not permitted on lands containing archaeological resources or areas of archaeological potential, unless significant archaeological resources have been conserved.

Based on the Ministry of Heritage, Sport, Tourism and Culture Industries' (MHSTCI) Criteria for Evaluating Archaeological Potential, the property exhibits high potential for the discovery of archaeological resources due to proximity (within 300m) to a watercourse on the property. Although the proposal constitutes "development" as defined in the PPS, as it will result in the creation of a new lot, no "site alteration" is proposed as part of this application; therefore, the Region can waive the requirement for a Stage 1 Archaeological Assessment.

Core Natural Heritage

The subject land is impacted by the Region's Core Natural Heritage System (CNHS), consisting of Type 2 (Important) Fish Habitat. Regional Official Plan (ROP) Policy 7.B.1.11 requires that an Environmental Impact Study (EIS) be completed where site alteration and/or development is proposed within 15 m of Type 2 Fish Habitat. The proposed lot is greater than 15 m from Type 2 Fish Habitat. As such, no studies are required and there are no further Environmental Planning comments.

Conclusion

In conclusion, the proposal is consistent with the PPS and conforms to the intent of Provincial or Regional policies for lot creation in the Agricultural Area, subject to the conditions below and confirmation from City staff that the lot complies with the Minimum Distance Separation. Regional staff does not object to the proposed consent, subject to the satisfaction of any local requirements and the following conditions:

1. That the Zoning By-law Amendment application to rezone Part 2 to Agricultural Purposes Only (APO), to prohibit the construction of a new residential dwelling in perpetuity, be approved and in effect;

June 7, 2021

2. That a sewage system permit be obtained for a new septic system to service the dwelling on Part 1. The permit application must comply with the recommendations of the Hydrogeological Assessment, prepared by Terra-Dynamics Consulting Inc. (dated February 18, 2021), including a new septic system meeting minimum Ontario Building Code requirements and as shown on Figure 4 of the report, as well as a new water cistern to replace the existing well. The new septic system will need to be a minimum of 30 m from the existing shallow well at 672 Lorraine Road (directly north).

Should you have any questions related to the above comments, please feel free to contact me by email at Britney.fricke@niagararegion.ca.

Please send a copy of the staff report and notice of the Committee's decision on this application when available.

Kind regards,



Britney Fricke, MCIP, RPP
Senior Development Planner

cc: Caitlin Goodale, Private Sewage System Inspector, Niagara Region
David Schulz, Planner, City of Port Colborne