



Surplus Farm Dwelling Severance

58 Scott Street East, Niagara-on-the-Lake

For: 1806148 Ontario Inc.

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1.0 Introduction

NPG Planning Solutions Inc. (“NPG”) are planning consultants to 1806148 Ontario Inc. “Owner” of lands known municipally as 58 Scott Street in the Town of Niagara-on-the-Lake (“Subject Lands”). NPG has been retained to provide professional planning advice for a Consent Application required to create a 0.55 hectare lot for an existing farm dwelling on the Subject Lands made surplus by a farm consolidation (“proposed development”).

The Subject Lands are a farm parcel approximately 3.92 hectares in size and are located about 1 kilometre south of the Urban Area of St. Catharines on the north side of Scott Street in the agricultural area of Niagara-on-the-Lake (see **Aerial Context** map). The surrounding area is predominantly agricultural in use with rural residential lots located south across Scott Street and to the east and west of the Subject Lands.

This Planning Justification Brief provides a planning analysis that describes the proposed development, including its locational context, and evaluates it against criteria provided in Section 51(24) of the *Planning Act* and relevant policies in the Provincial Planning Statement (“PPS”), Greenbelt Plan, Niagara Official Plan, the Town of Niagara-on-the-Lake Official Plan (“Town OP”), and the Town of Niagara-on-the-Lake Zoning By-law No. 500A-74 (“Town ZBL”).



Figure 1 - Aerial Context Map

2.0 Proposed Development

Approximately 0.55 hectares is proposed to be severed from the Subject Lands to create a new residential lot to accommodate an existing dwelling and accessory building (Quonset hut) made surplus by a farm consolidation (see **Appendix A** - Consent Sketch), as well as the associated private on-site servicing infrastructure. Part 2 (“severed lands”) will be severed from Part 1 (“retained lands”). Part 1 will subsequently merge with the existing farm parcel to the east (Part 3).

The Subject Lands are designated Agricultural in the Town of Niagara-on-the-Lake Official Plan and zoned Rural (A) in accordance with Zoning By-law No. 500A-74.

The Subject Lands are approximately 3.92 hectares in size with 62.19 metres of frontage along Scott Street (Local Road) and a depth of 522.86 metres. Part 3, which is not part of the Subject Lands is approximately 4.13 hectares in size. The newly proposed lot (Part 2 on the Consent Sketch) will continue to be accessed via the existing driveway fronting on Scott Street. The retained lands will be accessed via laneway fronting on Scott Street located at the existing frontage of Part 3.

The Subject Lands are used for agriculture and are mostly comprised of cultivated agricultural fields. An existing single-detached dwelling and an accessory building – a Quonset hut – are located at the front (south) of Part 2. The Quonset hut is used as additional storage space for the residential dwelling located on the severed lands (Part 2) and is therefore accessory to the residential dwelling.

The proposed severance is not anticipated to negatively impact the ability to farm the retained lands.

2.1 Site Images



Photo 1 – Surplus Farm Dwelling looking north from front yard



Photo 2 – Rear Yard of the Surplus Farm Dwelling lot looking east at the existing septic system



Photo 3 – Accessory Structure (Quonset Hut) on the Surplus Farm Dwelling lot looking north



Photo 4 – Existing driveway and culvert at the Surplus Farm Dwelling lot looking southwest



Photo 5 – Rear Yard of the proposed Surplus Farm Dwelling lot looking northeast at the existing agricultural land



Photo 6 – Culvert and laneway access on Part 3, looking northeast



Photo 7 –Laneway access on Part 3, looking north

2.2 Pre-Consultation Summary

A pre-consultation meeting was held on June 6, 2024, for a proposed surplus farm dwelling severance. Staff from the Town, Niagara Region, and Niagara Peninsula Conservation Authority (“NPCA”) attended and/or provided comments.

Niagara Region planning staff noted that justification would be required if the proposed lot exceeded 0.4 hectares in size. Additional information about the use of the accessory structure on the proposed lot and demonstrating how it is surplus to the farming operation was also requested.

Town planning staff commented that 0.8 metres would need to be conveyed for road widening along the frontage of the Subject Lands. They also indicated that the Planning Brief should address minimum distance separation (MDS).

The Niagara Peninsula Conservation Authority (“NPCA”) noted that no NPCA mandated features are present on the Subject Lands and as such offered no comments/objection to the proposal.

The record of pre-consultation identifies the following requirements in addition to the necessary application forms and fees:

- A Planning Justification Brief (including MDS Discussion)
- Consent Sketch

- Surplus Farm Dwelling Information Form
- Parcel Registers and Property Index Maps

2.3 Farm Operation and Farm Consolidation

The owner of the numbered company that owns the Subject Lands has passed on and his land holdings have been sold off. Prior to his passing, the Owner owned and operated roughly 60.7 hectares (150 acres) of farm land throughout Niagara-on-the-Lake. His holdings have all been sold off with the Subject Lands being the last remaining parcel.

The Subject Lands are proposed to be severed, sold to and merged with the existing farming operation to the east to keep it in agricultural production. The Owner of the adjacent lot (Part 3 on the Consent Sketch) owns and operates a total of 30.2 acres (12.2 hectares) of farm land in Niagara-on-the-Lake. The merger will increase their farming operation to a total of 48.7 acres (19.71 hectares). The dwelling that is located on Part 2 is surplus to the needs of the farm operation. The Owner of the farming operation has a principal residence elsewhere.

3.0 Planning Policies

3.1 Planning Act

The *Planning Act*, R.S.O. 1990, Chapter P.13, provides provincial legislation that establishes the requirements for land use planning in Ontario. The Act describes how land uses may be controlled, and who may control them.

Section 2 of the *Planning Act* ("the Act") outlines the matters of provincial interest that the council of a municipality, a planning board and the Ontario Land Tribunal shall have regard to in carrying out their responsibilities under the Act. The following table provides a summary of the provincial interests, along with an analysis as it relates to the proposed development and the subject Application.

Section 2 - Provincial Interests - Assessment		
Section	Provincial Interest	Analysis
a)	<i>the protection of ecological systems, including natural areas, features and functions</i>	The proposed consent is located outside of ecological systems and natural areas.
b)	<i>the protection of the agricultural resources of the Province</i>	The proposed development will result in a new lot (Part 2) for a surplus farm dwelling. The proposed lot line minimizes the amount of land being removed from the farm parcel, while maintaining the existing private-servicing infrastructure on Part 2. The remnant farm parcel (Part 1) will be merged with the abutting

Section 2 - Provincial Interests - Assessment		
Section	Provincial Interest	Analysis
		lands (Part 3). After the merger Part 1 will acquire the existing zoning of Part 3.
c)	<i>the conservation and management of natural resources and the mineral resource base</i>	The Subject Lands do not contain any natural or mineral resources.
d)	<i>the conservation of features of significant architectural, cultural, historical, archaeological or scientific interest</i>	The Subject Lands are identified as having archaeological potential as per Niagara Region and Town of Niagara-on-the-Lake Official Plan schedules. However, since the proposed development – lot creation – does not include new construction or site alteration it will not impact features of significant archaeological interest.
e)	<i>the supply, efficient use and conservation of energy and water</i>	The new lot will not impact the supply, efficient use, or conservation of energy and water.
f)	<i>the adequate provision and efficient use of communication, transportation, sewage and water services and waste management systems</i>	The new lot will not impact the adequate provision and efficient use of communication, transportation, sewage and water services and waste management systems.
g)	<i>the minimization of waste</i>	Waste generated on the Subject Lands is not anticipated to change as result of the proposed severance.
h)	<i>the orderly development of safe and healthy communities</i>	This is not applicable.
h.1)	<i>the accessibility for persons with disabilities to all facilities, services and matters to which this Act applies</i>	This is not applicable.

Section 2 - Provincial Interests - Assessment		
Section	Provincial Interest	Analysis
<i>i)</i>	<i>the adequate provision and distribution of educational, health, social, cultural and recreational facilities</i>	The proposed development is not anticipated to impact the adequate provision and distribution of educational, health, social, cultural and recreational facilities.
<i>j)</i>	<i>the adequate provision of a full range of housing, including affordable housing</i>	The proposed development will maintain an existing dwelling in the Town's agricultural area.
<i>k)</i>	<i>the adequate provision of employment opportunities</i>	This is not applicable.
<i>l)</i>	<i>the protection of the financial and economic well-being of the Province and its municipalities</i>	The proposed development protects farmland for long-term use for agriculture.
<i>m)</i>	<i>the co-ordination of planning activities of public bodies</i>	The application will be circulated to the applicable public bodies identified in the pre-consultation agreement.
<i>n)</i>	<i>the resolution of planning conflicts involving public and private interests</i>	The proposed development is subject to the notice and public consultation requirements of the <i>Planning Act</i> .
<i>o)</i>	<i>the protection of public health and safety</i>	This is not applicable.
<i>p)</i>	<i>the appropriate location of growth and development</i>	The proposed surplus farm dwelling severance is permitted by provincial policies and the Niagara Official Plan and Town of Niagara-on-the-Lake Official Plan.
<i>q)</i>	<i>the promotion of development that is designed to be sustainable, to support</i>	This is not applicable.

Section 2 - Provincial Interests - Assessment		
Section	Provincial Interest	Analysis
	<i>public transit and to be oriented to pedestrians</i>	
r)	the promotion of built form that: (i) is well-designed (ii) encourages a sense of place (iii) provides for public spaces that are of high quality, safe, accessible, attractive and vibrant	This is not applicable.
s)	the mitigation of greenhouse gas emissions and adaptation to a changing climate	The new lot will be occupied by an existing dwelling and will not increase greenhouse gas emissions.

Subsection 3(5) of the *Planning Act* requires that decisions of Council shall be consistent with provincial policy statements and shall conform with provincial plans that are in effect. As will be demonstrated, the proposed surplus farm dwelling severance is consistent with the PPS. The Subject Lands are subject to the policies of the Greenbelt Plan.

Section 53(12) of the *Planning Act* provides that when determining whether to grant a provisional consent regard shall be had to matters under Section 51(24) for plan of subdivision approvals. The table below assesses the criteria outlines in Section 51(24) in relation to the proposed consent application.

Section 51(24) Assessment	
Criteria	Proposed Consent
a. <i>the effect of development of the proposed subdivision on matters of provincial interest as referred to in section 2;</i>	As addressed above, the proposed consent has regard to matters of provincial interest as referred to in Section 2 of the <i>Planning Act</i> .
b. <i>whether the proposed subdivision is premature or in the public interest;</i>	The proposed consent will create a new lot for an existing detached dwelling and accessory structure, which are surplus to a farming operation. The retained lands (remnant farm parcel) will be merged with an abutting farm

Section 51(24) Assessment	
Criteria	Proposed Consent
	parcel (Part 3) as part of a farm consolidation. This is in the public interest.
<i>c. whether the plan conforms to the official plan and adjacent plans of subdivision, if any;</i>	The proposed consent conforms to the Niagara Official Plan and Town of Niagara-on-the-Lake Official Plan.
<i>d. the suitability of the land for the purposes for which it is to be subdivided;</i>	The Subject Lands are a farm parcel with cultivated fields, an existing farm dwelling, and detached accessory building. No new buildings or structures or changes to existing uses are proposed. The severed lands are of a sufficient size and shape for residential use and contain an existing driveway fronting on Scott Street, which will continue to be used.
<i>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 subdivision with the established highway system in the vicinity and the adequacy of them;</i>	The Subject Lands have frontage along Scott Street. Access to the new residential lot is provided via driveway off Scott Street. The retained lands will be accessed by a laneway fronting on Part 3.
<i>f. the dimensions and shapes of the proposed lots;</i>	The proposed lot lines for the severed lands reflect the location of the existing building, accessory structure, and associated landscaping and private on-site servicing. The new rear lot line of the severed lands matches lot lines of adjacent parcels and is the most efficient arrangement for the retained agricultural parcel.
<i>g. the restrictions or proposed restrictions, if any, on the land proposed to be subdivided or the buildings and structures proposed to be erected on it and the restrictions, if any, on adjoining land;</i>	No restrictions are proposed. The retained farm parcel (Part 1) will merge with the abutting farm parcel (Part 3). Part 3 does not contain a dwelling and is zoned Rural (A). Therefore, a re-zoning of Part 1 to prevent a dwelling from being constructed in the future is not required.
<i>h. conservation of natural resources and flood control;</i>	There are no natural resources on-site, and since no new development is proposed, no flood control issues will arise.
<i>i. the adequacy of utilities and municipal services;</i>	The Subject Lands do not have connection to any municipal services and are serviced by private water and septic services. No new development is proposed and as such the existing servicing/utilities on the lands can be deemed adequate.

Section 51(24) Assessment	
Criteria	Proposed Consent
j. the adequacy of school sites;	Not applicable.
k. the area of land, if any, within the proposed subdivision that, exclusive of highways, is to be conveyed or dedicated for public purposes;	Not applicable.
l. the extent to which the plan's design optimizes the available supply, means of supplying, efficient use and conservation of energy; and	The new lot proposed will not impact the available supply, means of supplying, efficient use and conservation of energy.
m. the interrelationship between the design of the proposed plan of subdivision 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 or subsection 114 (2) of the City of Toronto Act, 2006.	Not applicable as the lands are not subject to Site Plan Control.

SUMMARY AND CONCLUSION

In summary, the proposed development and implementing applications have regard for matters of public interest and considerations for a consent as provided in the *Planning Act*.

3.2 Provincial Planning Statement (2024)

The Provincial Planning Statement (2024), hereinafter referred to as PPS, is a streamlined province-wide land use planning policy framework that replaces both the Provincial Policy Statement, 2020 and A Place to Grow: Growth Plan for the Greater Golden Horseshoe, 2019 while building upon housing-supportive policies from both documents. The PPS came into effect October 20, 2024.

The PPS sets the policy foundation for regulating land use in Ontario. It requires that developments make efficient use of land and services and supports opportunities for long-term economic prosperity.

3.2.1. Agriculture

The Subject Lands are within a Prime Agricultural Area, and more specifically, a Specialty Crop Area of Niagara Region as identified on Schedule F of the Niagara Official Plan and an Agricultural area according to Schedule A of the Town of Niagara-on-the-Lake Official Plan.

POLICY

4.3.3.1 *Lot creation in prime agricultural areas is discouraged and may only be permitted in accordance with provincial guidance for:*

...

c) one new residential lot per farm consolidation for a residence surplus to an agricultural operation, provided that:

1. the new lot will be limited to a minimum size needed to accommodate the use and appropriate sewage and water services; and

2. the planning authority ensures that new dwellings and additional residential units are prohibited on any remnant parcel of farmland created by the severance. The approach used to ensure that no new dwellings or additional residential units are permitted on the remnant parcel may be recommended by the Province, or based on municipal approaches that achieve the same objective;

ANALYSIS

The proposed consent will create a new lot for the existing residential dwelling on the Subject Lands, which has been deemed surplus to a farming operation due to a farm consolidation. The proposed lot (Part 2) is of sufficient size to accommodate the surplus farm dwelling and the existing private water and sanitary servicing.

The Subject Lands (Part 1) will be merged with the adjacent lands to the east (Part 3), which are vacant and zoned Rural (A), permitting residential use. After the merger, the property will retain its existing residential development rights, but no new building lot will be created. Since the right to build already exists through the zoning of Part 3 and no new lot is proposed, Policy 4.3.3.1(c) 2) is satisfied.

SUMMARY OF ANALYSIS FOR PPS (2024)

Based on the foregoing, the proposal is consistent with the policies and direction of the Provincial Planning Statement.

3.3 Greenbelt Plan

The Greenbelt Plan addresses the significance of Southern Ontario's farmland and introduces guiding principles to protect agriculture in the region. The policies of the Greenbelt Plan encourage diversity within the agriculture sector to enhance economic opportunities. The Subject Lands are within the Protected Countryside – Niagara Tender Fruit and Grape on Schedule 2 of the Greenbelt Plan (see **Appendix B**).

3.3.1. Lot Creation

Section 4.6 of the Greenbelt Plan provides policy direction for lot creation in the Protected Countryside:

POLICY

4.6(1) *Lot creation is discouraged and may only be permitted for:*

- f) The severance of a residence surplus to a farm operation as a result of a farm consolidation, on which a habitable residence was an existing use, provided that:*
 - i. The severance will be limited to the minimum size needed to accommodate the use and appropriate sewage and water services; and*
 - ii. The planning authority ensures that a residential dwelling is not permitted in perpetuity on the retained lot of farmland created by this severance. Approaches to ensuring no new residential dwellings on the retained lot of farmland may be recommended by the Province, or municipal approaches that achieve the same objective should be considered.*

The Greenbelt Plan defines *existing use* as follows:

- a) Uses legally established prior to the date that the Greenbelt Plan came into effect on December 16, 2004; or*
- b) For the purposes of lands added to the Greenbelt Plan after December 16, 2004, uses legally established prior to the date the Greenbelt Plan came into effect in respect to the land in which the uses are established.*

ANALYSIS

The policies of the Greenbelt Plan are similar to those of the PPS in relation to the protection of Prime Agricultural Areas for long-term use for agriculture and lot creation in Prime Agricultural Areas. Creation of a new residential lot is permitted for a farm dwelling that existed prior to December 16, 2004, and was subsequently deemed surplus to a farming operation due to a farm consolidation.

The proposed surplus farm dwelling consent meets PPS and Greenbelt Plan policy requirements. The proposed consent will create a new lot for the existing residential dwelling on the Subject Lands, which has been deemed surplus to a farming operation due to a farm consolidation. The proposed lot (Part 2) is of sufficient size to accommodate the surplus farm dwelling and the existing private water and sanitary servicing.

There is an existing dwelling and an accessory building (Quonset hut) on Part 2 (severed lands). The dwelling is currently inhabited and can be seen on Niagara Navigator aerial imagery dating back to at least 1965, meaning that it meets the Greenbelt Plan's definition for existing use, which requires a legally established use prior to December 16, 2004.

In terms of policy 4.6(1)f(i), the Subject Lands (Part 1) will be merged with the adjacent lands to the east (Part 3), which are vacant and zoned Rural (A), permitting residential use. After the merger, the property will retain its existing residential development rights, but no new building lot will be created. Since the right to build already exists through the

zoning of Part 3 and no new building lot is proposed, Policy 4.6(1)f)(i) is satisfied and is consistent with similar policies of the PPS.

CONCLUSION

Based on the foregoing, the proposed consent to create a new residential lot for a surplus farm dwelling in the Protected Countryside conforms to the Greenbelt Plan.

3.4 Niagara Official Plan

The Niagara Official Plan is intended to guide the physical, economic, and social development of the Niagara Region. The Plan and its policies implement provincial policies and plans, providing a policy framework that ensures most new development in Niagara Region is directed toward settlement areas to preserve the area's agricultural land base and to conserve and enhance the natural resources of the Agricultural and Rural Areas.

	Schedule	Designation
A:	Local Area Municipalities	Greenbelt Plan Area
F:	Agriculture Land Base	Specialty Crop Area
K:	Areas of Archaeological Potential	Areas of Archaeological Potential

3.4.1. Policies for Lot Creation in Specialty Crop Areas

The Subject Lands are within the Greenbelt Plan Area according to Schedule "A" – Local Area Municipalities, and Specialty Crop Area according to Schedule "F" – Agricultural Land Base. The following policies apply to the Subject Lands.

POLICY

4.1.4.2 *Proposed residential lots being considered under Sections 4.1.5 and 4.1.6 for a consent within the agricultural land base must meet the following conditions:*

- a) The size of any new lot shall be an area of 0.4 hectares except to the extent of any additional area deemed necessary to support an on-site private water supply and long-term operation of a private sewage disposal system as determined by Provincial and Regional requirements;*
- b) Any new lot has an adequate groundwater or other water supply, in compliance with Provincial requirements;*
- c) Any new lot has sufficient frontage on an existing publicly-maintained road;*
- d) Where possible, joint use should be made of the existing road access to the farm operation;*

- e) *Road access to any new lot does not create a traffic hazard because of limited sight lines on curves or grades or proximity to intersections; and*
- f) *Proposed lots shall be located and configured to minimize impacts on surrounding farming operations.*

4.1.5.1 *In specialty crop areas, consents to convey may be permitted only in accordance with the following provisions and the general consent provisions in Policy 4.1.4.2. Within the Niagara Escarpment Plan Area, the policies of the Niagara Escarpment Plan, as amended from time to time, shall prevail unless the following policies are more restrictive, then the more restrictive policies shall prevail.*

- a) *The consent is supported through a planning justification report;*
- f) *The consent is for legal or technical reasons as determined by Local Area Municipalities, provided they do not create a separate lot for a residential dwelling, there is no increased fragmentation of a key natural heritage feature or key hydrologic feature, and complies with other policies in this Plan; and*
- g) *The consent is for a residence surplus to a farming operation as outlines in Policy 4.1.5.2*

4.1.5.2 *The severance of a residence surplus to a farming operation may be permitted under the following circumstances:*

- a) *The proposed lot contains a habitable residence, which existed as of December 16, 2004, that is rendered surplus as a result of farm consolidation;*
- b) *The size of any new lot shall be an area of 0.4 hectares except to the extent of any additional area deemed necessary to support an on-site private water supply and private sewage disposal system as determined by Provincial and Regional requirements to a maximum of 1 hectare;*
 - a. *Proposals that exceed 1 hectare may be considered subject to an amendment to this plan;*
- c) *To reduce fragmentation of the agricultural land base, the retained lot shall be merged with an abutting parcel. Where merging two lots is not possible, the retained farm parcel shall be zoned to preclude its use for residential purposes.*

ANALYSIS

The proposed consent will create a new lot for a residence surplus to a farming operation in accordance with Policy 4.1.5.2. A habitable farm dwelling has been present on the Subject Lands dating back to 1965 — as confirmed via aerial imagery provided by the Niagara Region's Niagara Navigator Online Map. The surplus farm dwelling on the Subject Lands is serviced by private on-site water supply and sewage disposal systems and the proposed lot size – roughly 0.55 hectares – is slightly larger than the 0.4 hectares stipulated by Policy 4.1.5.2 b). The increased lot size is to maintain the existing private

septic and water infrastructure within the boundaries of the new lot, and ensure that sufficient room exists for a replacement septic system, if deemed necessary. Further, the proposed rear lot line of Part 2 extends directly east to align with the existing rear lot line of 76 Scott Street. This maintains a rectangular shape and optimizes the layout of the retained farm land. The new lot configuration does not remove land from agricultural production and is designed to follow the existing boundary between the rural residential and agricultural uses on the property. Access to the severed lands will continue via existing driveway fronting on Scott Street, while the retained farm parcel (Parts 1 and 3) will be accessed by a laneway at the existing frontage of Part 3. In accordance with PPS, Greenbelt Plan, Niagara Official Plan, and Town of Niagara-on-the-Lake Official Plan requirements the retained farm parcel is proposed to be merged with the abutting farm parcel to the east consistent with Policy 4.1.5.2 c). Both Parts 1 and 3 are zoned Rural (A), which allow for residential uses, therefore no re-zoning is required.

The proposed consent achieves the direction provided by Policy 4.1.4.2, 4.1.5.1 and 4.1.5.2.

SUMMARY OF ANALYSIS FOR NIAGARA OFFICIAL PLAN

The proposal conforms to the policies and direction of the Niagara Official Plan.

3.5 Town of Niagara-on-the-Lake Official Plan

The Town of Niagara-on-the-Lake Official Plan ("Town OP") provides policy direction to guide Niagara-on-the-Lake's physical development. Agriculture contributes to the unique landscape and economy of Niagara-on-the-Lake. The Town OP seeks to protect the agricultural land base to ensure agriculture is the predominant use of lands outside of its urban area boundaries.

	Schedule	Designation
A:	Land Use Plan	Agricultural
G:	Transportation Plan	Local Road
G:	Areas of Archaeological Potential	Area of Archaeological Potential

3.5.1 General Development Policies

Section 6 of the Town OP provides policies pertaining to general development within the Town, including the following which applies to the proposed consent:

POLICY

- 6.17** *Lot Size: The lot area and lot frontage shall be suitable for the proposed uses and should conform to the provisions of the implementing Zoning By-law. In considering any plan of subdivision or consent application regard shall also be had to the minimum lot sizes provided in the zoning by-law so as to keep the lots as small as possible in relation to the efficient use of land and the need to preserve the agricultural land resource.*

ANALYSIS

The retained lands (Part 1) are proposed to merge with the abutting parcel to the east (Part 3). Since both of the parcels are zoned Rural (A) and permit a residential use, a re-zoning of Part 1 will not be required. The proposed merger of Parts 1 and 3 will ensure that the minimum farm parcel requirements are achieved by creating a lot that is 7.49 hectares in size. The severed lot (Part 2) will be the size required for a residential parcel and ensure that the required private septic and water servicing infrastructure is located entirely within the boundaries of the surplus farm dwelling lot (Part 2).

3.5.2 Agriculture

Section 7 of the Town OP provides policy direction specific to the agricultural area. The following policies apply to the Subject Lands:

OBJECTIVES

- 7.2 (1) *To help ensure the preservation of prime agricultural lands for farming with particular emphasis on the preservation of specialty crop lands.*
- 7.2 (2) *To help preserve the existing and potential agriculturally productive land giving highest priority to Good Tender Fruit/Grape Lands.*
- 7.2 (3) *To allow flexibility to farm operations in both type and size to permit the expansion and contraction of farm operations as necessary provided that the farm remains economically viable and that the size of the farm is appropriate and common in the area.*
- 7.2 (7) *To consider the impact on agriculture as the primary guideline in evaluating development proposals in the agricultural areas.*

POLICY

- 7.4.4 e) *Consents may be granted for a residence surplus to a farming operation as a result of a "farm consolidation" (refer to Greenbelt Plan for definition) where the dwelling existing prior to December 16, 2004 provided that:*
 - (i) *The zoning prohibits in perpetuity any new residential use on the retained parcel of farmland created by the severance, and that the zoning ensures the parcel will continue to be used for agricultural purposes;*
 - (ii) *The size of the new lot does not exceed an area of 0.4 hectares (1 acre) except to the extent of any additional area deemed necessary to support a well and private sewage disposal system as determined by the Ministry of Environment and Climate Change, Ministry of Municipal Affairs, or persons appointed on behalf;*
 - (iii) *The farms are both located within the Town of Niagara-on-the-Lake;*
 - (iv) *The new lot is located to minimize the impact on the remaining farm operation; and*
 - (v) *The new lot complies with the Minimum Distance Separation Formula I.*

ANALYSIS

The proposed consent is for a dwelling deemed surplus to an existing farming operation, and the consolidation of farming operations by merging Parts 1 and 3 on the Consent Sketch. The proposed consent achieves the criteria of Policy 7.4.4. e), as follows:

- Criteria (i): The remnant farm parcel (Part 1) will be merged with the abutting lands to the east (Part 3), which are in agricultural production. Both of the parcels are zoned Rural (A) and permit a residential use, therefore, a re-zoning of Part 1 is not required.
- Criteria (ii): The proposed consent is over 0.4 hectares, which is justified by the additional area being required for the purposes of creating a regularly shaped lot with enough room to accommodate the accessory structure, and the maintain the private water supply and septic system within the boundaries of the new lot.
- Criteria (iii): The farms that are owned by the purchaser of the retained lands are located in Niagara-on-the-Lake.
- Criteria (iv): The new residential lot fronts onto Scott Street, with the retained lands (Part 1) being farmed and proposed to be merged with the abutting parcel to the east (Part 3). Access to the retained lands will be by a laneway at the existing frontage of Part 3, which will only be used by tractors and farm equipment.
- Criteria (v): Guideline #9 from OMAFRA Publication 853 states that “where the existing *dwelling* to be severed or nearby *livestock facility* or *anaerobic digester* are located on separate *lots* prior to the consent, an MDS I setback is not required for the consent application (or associated rezoning) unless otherwise required by a municipal official plan policy. This is because a potential odour conflict may already exist between those surrounding *livestock facilities* or *anaerobic digesters* and the existing *dwelling*.” While the proposed consent is within the investigation distance specified in Guideline #7 (1.5 km) from livestock facilities at 447 Stewart Road (1.3 km away), an MDS I setback is not required.¹

3.5.3 General Consent Policies

Section 21 of the Town OP provides general consent policies that apply in addition to the consent policies of the Agricultural designation. The following table is the list of requirements and analysis of the proposed development against these policy requirements.

POLICY AND ANALYSIS

¹ The Subject Lands are approximately 1.3 km from livestock facilities associated with Stewarhaven Farm Ltd, a dairy farm, at 447 Stewart Road.

Section 21.2 – General Consent Policies

No.	Requirement	Analysis
1)	<i>Under certain circumstances, where a Plan of Subdivision is not necessary for proper and orderly development, a consent to a land conveyance may be granted in accordance with the following principles in addition to the policies contained within the Regional Niagara Policy Plan. In all cases, the preservation of prime agricultural land from the encroachment of urban-type development shall be a primary objective.</i>	The proposed surplus farm dwelling severance ensures the preservation of prime agricultural land by making sure that the retained lands (Part 1) are merged with the abutting agricultural property to the east (Part 3) and remain in agricultural production.
2)	<i>The Town will recommend to the Land Division Committee that consents for land severance where new development will be permitted to occur on previously vacant sites should be granted only when it has been established that soil and drainage conditions are suitable to permit the proper siting of buildings, to obtain a sufficient and potable water supply and the permit the installation of an adequate means of sewage disposal.</i>	This does not apply as no new development is proposed.
3)	<i>The Town will recommend to the Land Division Committee that consents for severance where the site already contains a building, should only be permitted if existing sanitary sewage disposal, water supply and drainage are adequate and the new lot lines to be created do not render any aspect of such services unsatisfactory.</i>	<p>The severed residential lot (Part 2) contains adequate private on-site servicing and a private septic system. The new lot lines are placed in a way as to not negatively affect the private servicing present on-site and to maintain it entirely within the new lot boundaries.</p> <p>The retained lands (Part 1) do not contain any structures. The parcel to the east (Part 3) with which the retained lands are proposed to be merged with contain a structure that is used strictly for storage. As such there is no need for servicing.</p>

Section 21.2 – General Consent Policies

No.	Requirement	Analysis
4)	<p><i>The Town will recommend to the Land Division Committee that consents shall be granted only when the land fronts on an existing public road. The public road is to be of a reasonable standard of construction and maintained year-round. If the effect of a consent would be to require a greater standard of road construction across the frontage of the site in question or beyond that site and/or other municipal services, then the applicant may be required to contribute to the cost of such improvement through a written agreement with the public authority having jurisdiction. In the case of a Local Road, Council will make the determination and its decision will take into consideration:</i></p> <ul style="list-style-type: none"> <i>a) The benefit versus cost; and</i> <i>b) Whether the improvement required is needed on a short or long term basis.</i> 	<p>The severed residential parcel (Part 2) will retain frontage on Scott Street, which is a public road. The retained lands (Part 1) will merge with Part 3 and will be accessed by a laneway fronting on Part 3 that will be used strictly by tractors and farm equipment.</p>
5)	<p><i>Consents should have the effect of infilling in existing urbanized areas and not of extending the urban area.</i></p>	<p>The application is not in the urban area and proposes a surplus farm dwelling severance in the agricultural area of the Town.</p>
6)	<p><i>The size of any parcel of land created by a consent should be appropriate for the proposed use and without limiting the generality of the foregoing: a) the lot area and frontage should not be less than the requirements for the relevant classification in the implementing by-law. b) Where existing buildings are involved, the proposed new lot lines shall take into account required yard and setbacks set out in the Zoning By-law. c) Where</i></p>	<p>The severed residential lot (Part 2) and the retained lands (Parts 1 and 3) both conform to all of the provisions of the Rural (A) Zone in the Town of Niagara-on-the-Lake Zoning By-law. The lands are located outside the urban area of the Town.</p>

Section 21.2 – General Consent Policies

No.	Requirement	Analysis
	<i>land is in an urban area, any land which is fully serviced shall respect the valuable resource of serviced land and the lots created should not greatly exceed the minimum standards of the zoning by-law.</i>	
7)	<i>The Town will recommend to the Land Division Committee that consents should not be granted for land adjacent to a road from which access is to be obtained where a traffic hazard would be created because of limited sight lines on curves or grades.</i>	The retained lands will be accessed via laneway fronting on Scott Street. This access will be used strictly by tractors and farm equipment.
8)	<i>The Town will recommend to the Land Division Committee that a plan of subdivision would be more appropriate where the number of lots being created by consent would have a significant impact on the surrounding neighbourhood.</i>	This does not apply to the proposed application.
9)	<i>Proposed new lot lines shall take into account the existing pattern of surrounding lands. Wherever possible, new lines shall avoid creating irregular boundaries for the parcel in question or that remaining. Where lands in the Agricultural designation are affected, every attempt shall be made to avoid creating a lot pattern which would make it difficult to farm.</i>	<p>The proposed application is in line with the standard lot size and frontage requirements for rural residential parcels. The proposed lot line will maintain a regular lot configuration and do not hinder existing farming operations.</p> <p>The retained lands (Part 1) will merge with Part 3 to create a larger farm parcel and reduce fragmentation of the agricultural land base.</p>
10)	<i>Where a minor variance is required, it shall be made a condition of the consent.</i>	The severed (Part 2) and retained lands (Parts 1 and 3) will meet all zoning provisions of the Rural (A) Zone.
11)	<i>Where a consent would have the effect of creating an additional access to a Provincial highway, a Regional road or Niagara Parks Commission Road, or changing the location of an existing access to such a highway, then the approval to such addition or</i>	A laneway access is proposed at the existing frontage of Part 3. Importantly, the access will be limited for use by tractors and farm equipment.

Section 21.2 – General Consent Policies

No.	Requirement	Analysis
	<i>change by the Ministry of Transportation and Communication, the Region or the Niagara Parks Commission shall be made a condition of the consent, including such concerns as road widenings, service roads and permission for access.</i>	
12)	<i>All consents within the area of the Niagara Escarpment Plan, as shown on Schedules of this Official Plan, must be in accordance with the policies of the Niagara Escarpment Plan. The consent policies of the Plan shall prevail where they are more restrictive than the Niagara Escarpment Plan.</i>	This does not apply to the proposed application.

SUMMARY OF ANALYSIS FOR TOWN OF NIAGARA-ON-THE-LAKE OFFICIAL PLAN

The proposal conforms to the policies and direction of the Town of Niagara-on-the-Lake Official Plan.

4.0 Zoning By-law

The Subject Lands are presently zoned Rural (A) in accordance with Zoning By-law No. 500A-74 (See **Appendix E**).

The tables below assess the severed and retained lands against Rural (A) Zone requirements, as well as requirements for accessory structures—and demonstrates the severed and retained lands will meet all of the zoning requirements of the Rural (A) Zone.

Part 2 – Severed Lands / New Lot for Surplus Farm Residence

Schedule F: Regulations applying to the Rural (A) Zone – Residential (lots created by consent)			
Regulations	Requirement	Proposed	Compliance
Min. Lot Frontage	60.96 m	62.19 m	Yes
Min. Lot Area	3716 m ²	5579.2 m	Yes
Min. Lot Depth	60.96 m	94.25 m	Yes
Max. Lot Coverage	15%	5.2%	Yes
Min. Front Yard	15.24 m	23.79 m	Yes

Schedule F: Regulations applying to the Rural (A) Zone – Residential (lots created by consent)			
Regulations	Requirement	Proposed	Compliance
Min. Interior Side Yard	3.05 m	24.78 m (west) 18.27 m (east)	Yes Yes
Min. Exterior Side Yard	9.14 m	N/A	N/A
Min. Rear Yard	15.24 m	Approx. 50.2 m	Yes
Min. Dwelling Floor Area (2-storey)	139.25 m ²	123.6 m ² (building area) x 2 (two-storeys) ~ 247.2 m²	Yes
Max. Building Height	10.67 m	Two-storeys	Yes
Max. Accessory Building Height	4.5 m	4.3 m	Yes
Accessory Building Yards	3.05 m	6.4 m (west) 41.05 m (east) 3.05 m (rear)	Yes Yes Yes

Part 1 & 3 – Retained Lands / Remnant Farm Parcel (Post-merger)

Schedule F: Regulations applying to the Rural (A) Zone – Rural			
Regulations	Requirement	Proposed	Compliance
Min. Lot Frontage	38.10 m	51.33 m	Yes
Min. Lot Area	4.05 ha	7.49 ha	Yes
Max. Lot Coverage	15%	0.096%	Yes
Min. Front Yard	15.24 m	N/A	Yes
Min. Interior Side Yard	3.05 m	0.94m (existing)	Yes
Min. Exterior Side Yard	9.14 m	N/A	Yes
Min. Rear Yard	15.24 m	N/A	Yes

5.0 Summary and Conclusion

It is our opinion the Consent Application represent good land use planning, are in the public interest and should be approved for the following reasons:

- The proposed Consent ensures long-term protection of lands in the Niagara Region's Agricultural Area for agriculture;
- The proposed Consent has regard for the criteria provided in Section 51(24) of the *Planning Act* and is consistent with the Provincial Planning Statement;
- The proposed Consent conforms to the Niagara Official Plan; and,

- The proposed Consent and conform to the Town of Niagara-on-the-Lake Official Plan.

Report prepared by:



Dan Banatkiewicz

Planner

NPG Planning Solutions Inc.

Report reviewed and approved by:



Aaron Butler, MCIP, RPP

Principal Planner

NPG Planning Solutions Inc.

6.0 Appendices

APPENDIX A – Consent Sketch

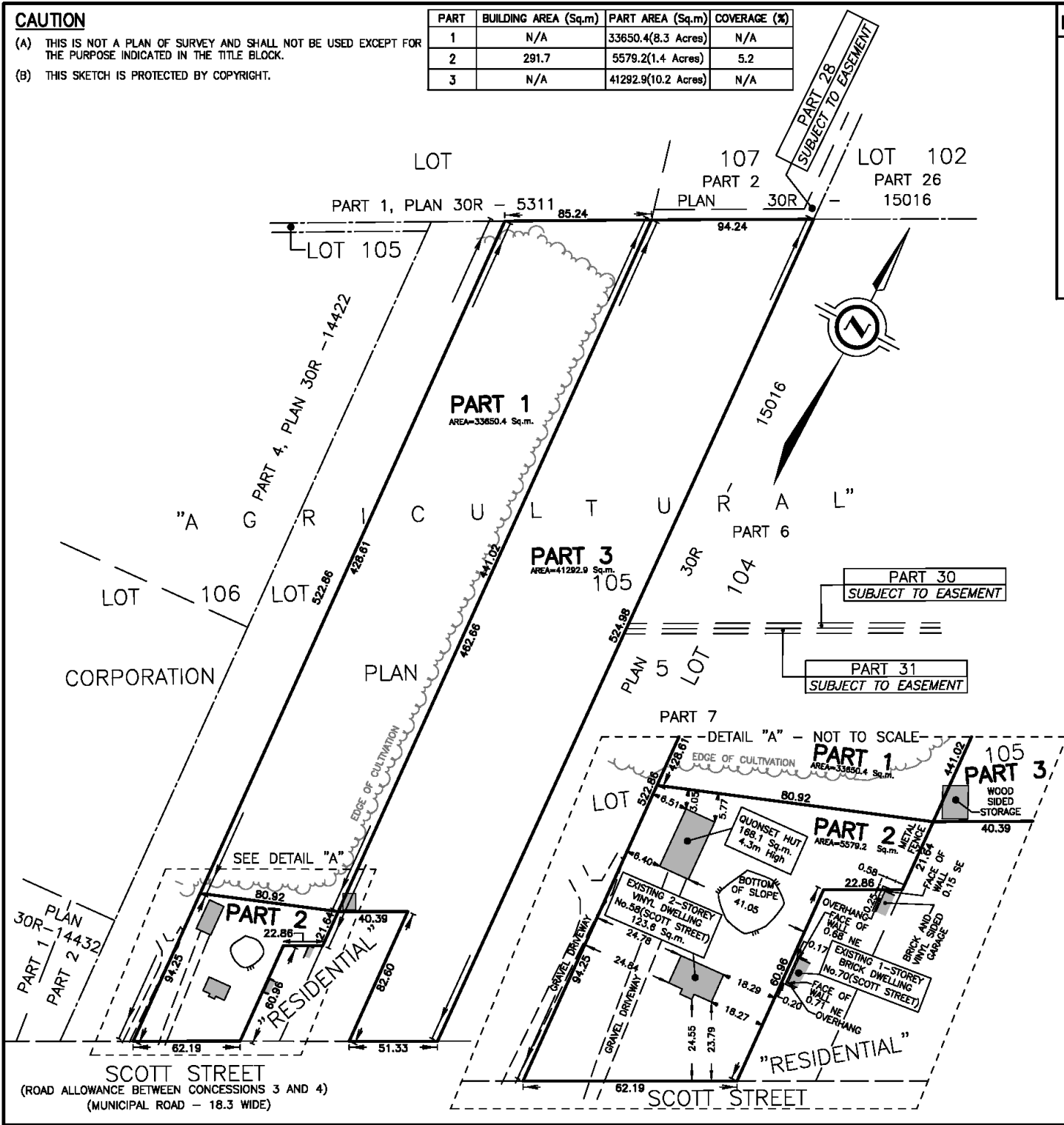
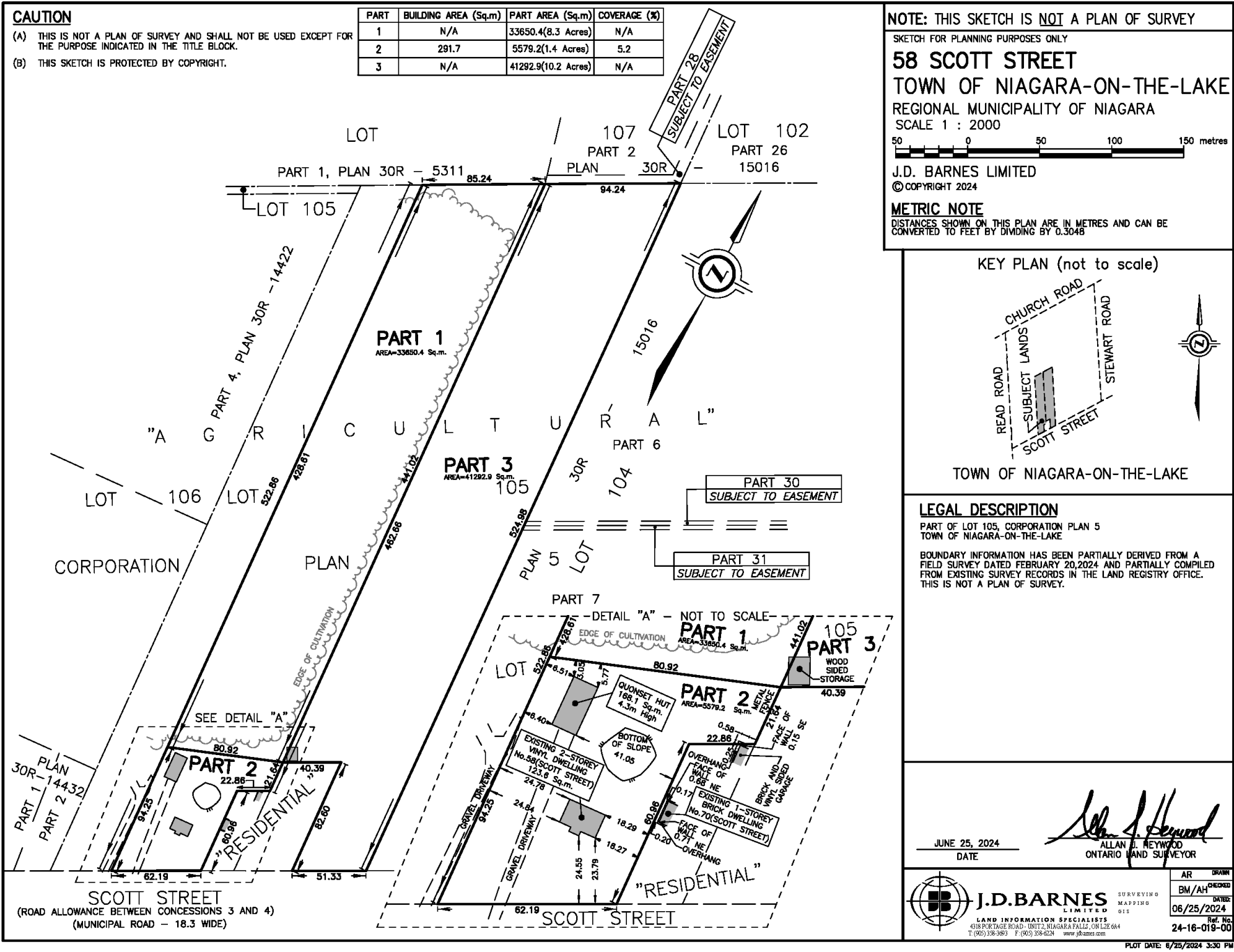
APPENDIX B – Greenbelt Plan Schedules

APPENDIX C – Niagara Official Plan Schedules

APPENDIX D – Town of Niagara-on-the-Lake Official Plan Schedules

APPENDIX E – Town of Niagara-on-the-Lake Zoning By-law Schedule

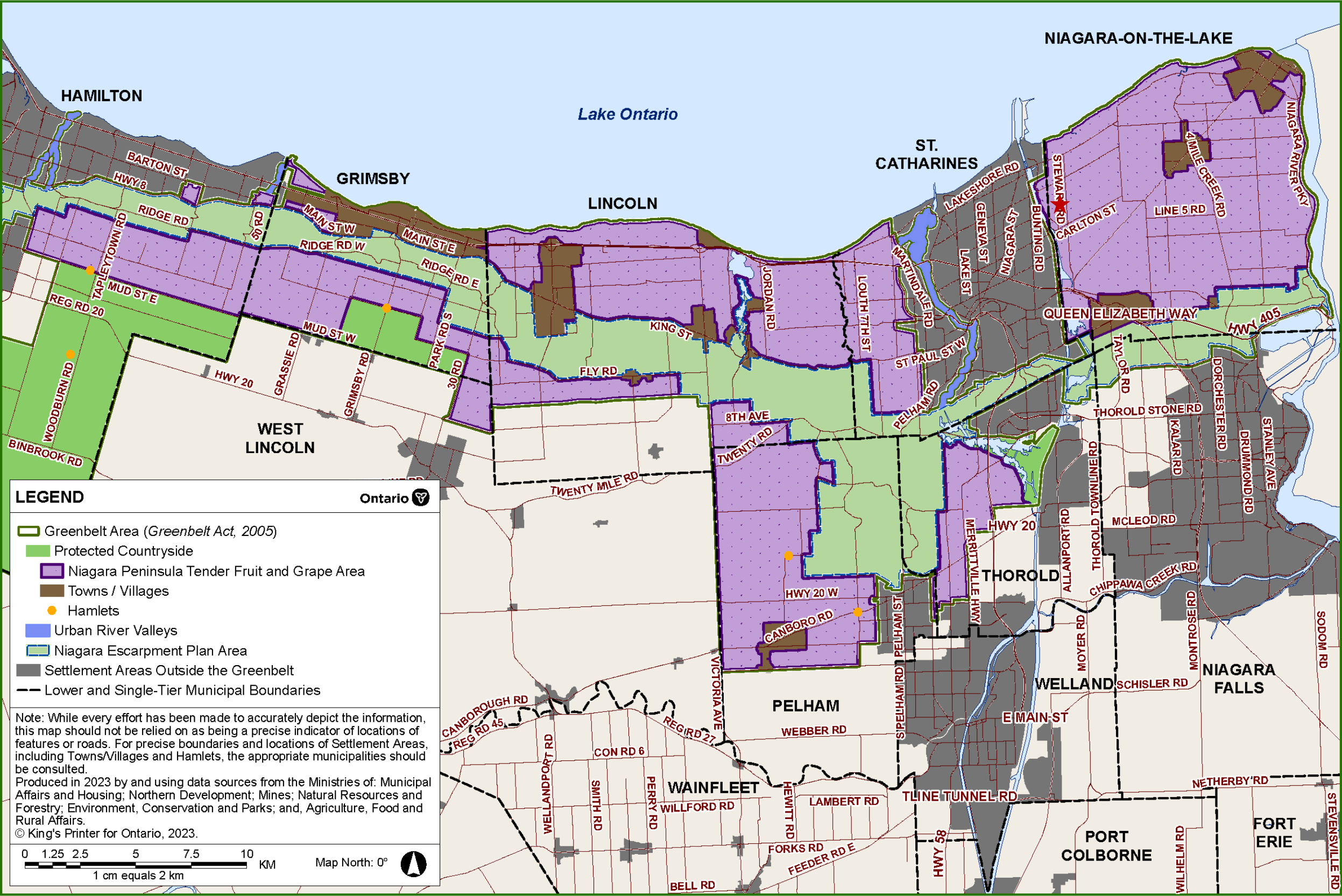
APPENDIX A – Consent Sketch



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APPENDIX B – Greenbelt Plan Schedules

Schedule 2 – Niagara Peninsula Tender Fruit and Grape Area



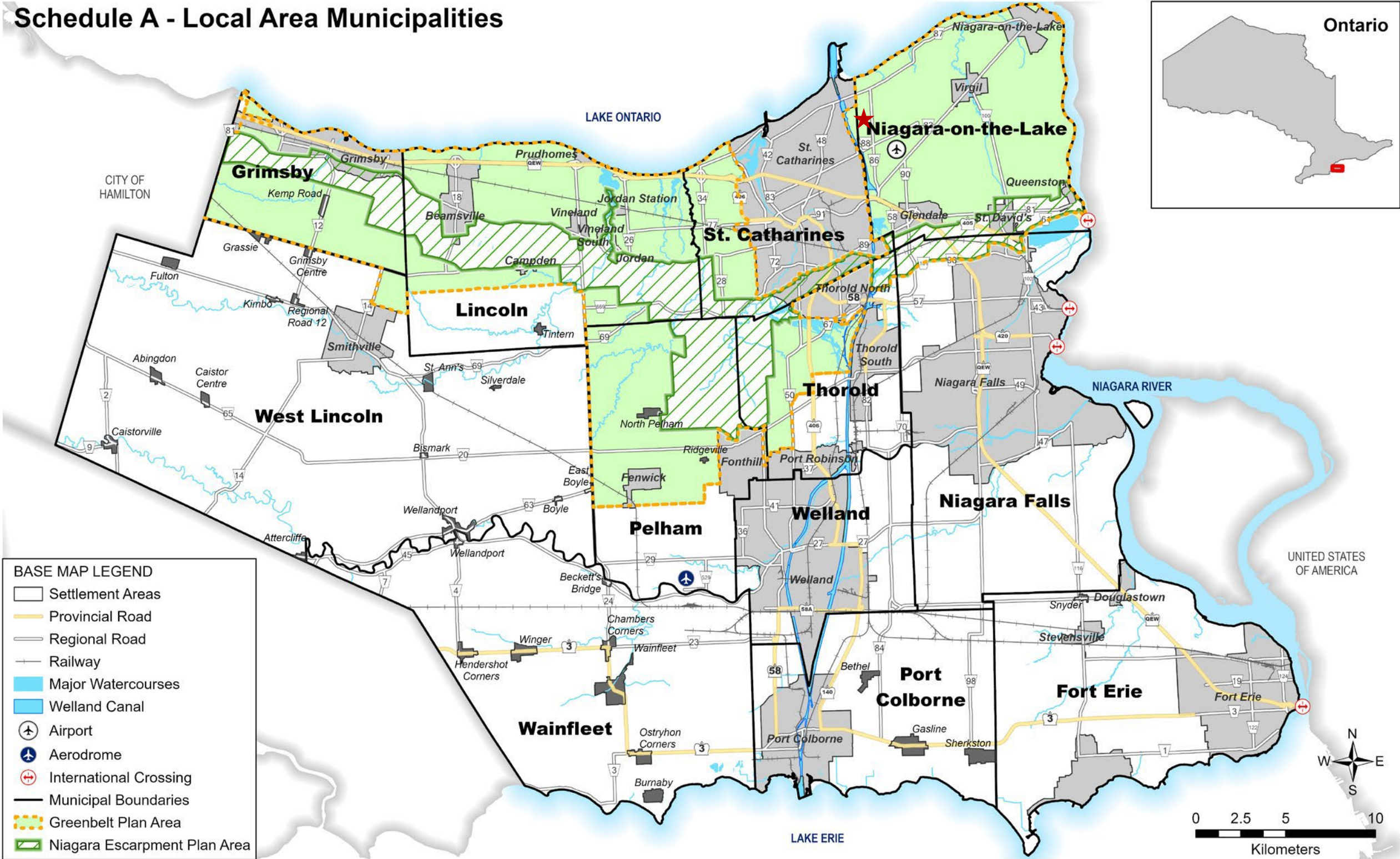
greenbelt
PLAN

Schedule 2:
Niagara Peninsula Tender Fruit
and Grape Area

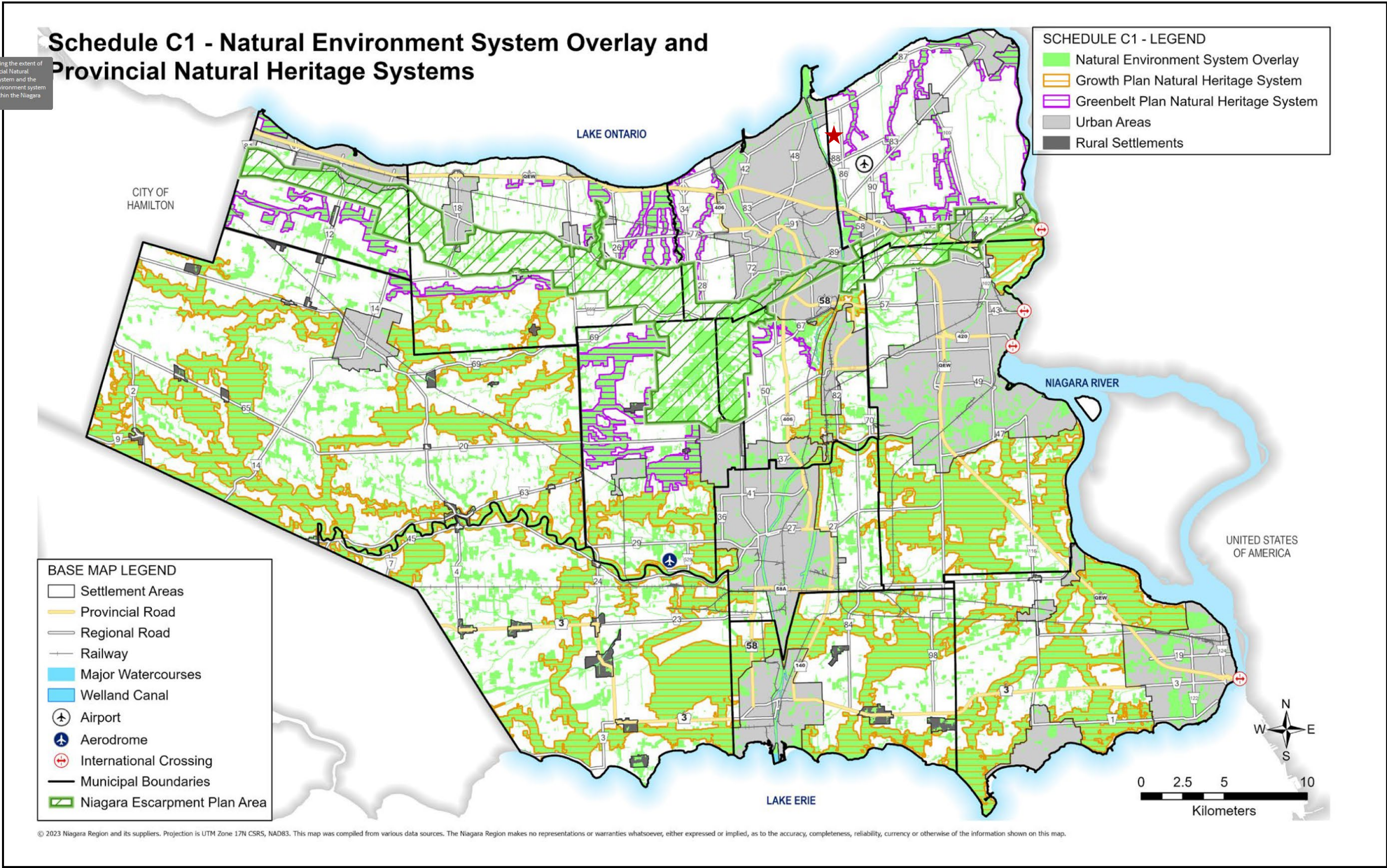
APPENDIX C – Niagara Official Plan Schedules

- Schedule A – Local Area Municipalities
- Schedule C1 – Natural Environment System Overlay and Provincial Natural Heritage Systems
- Schedule F – Agricultural Land Base
- Schedule K – Areas of Archaeological Potential

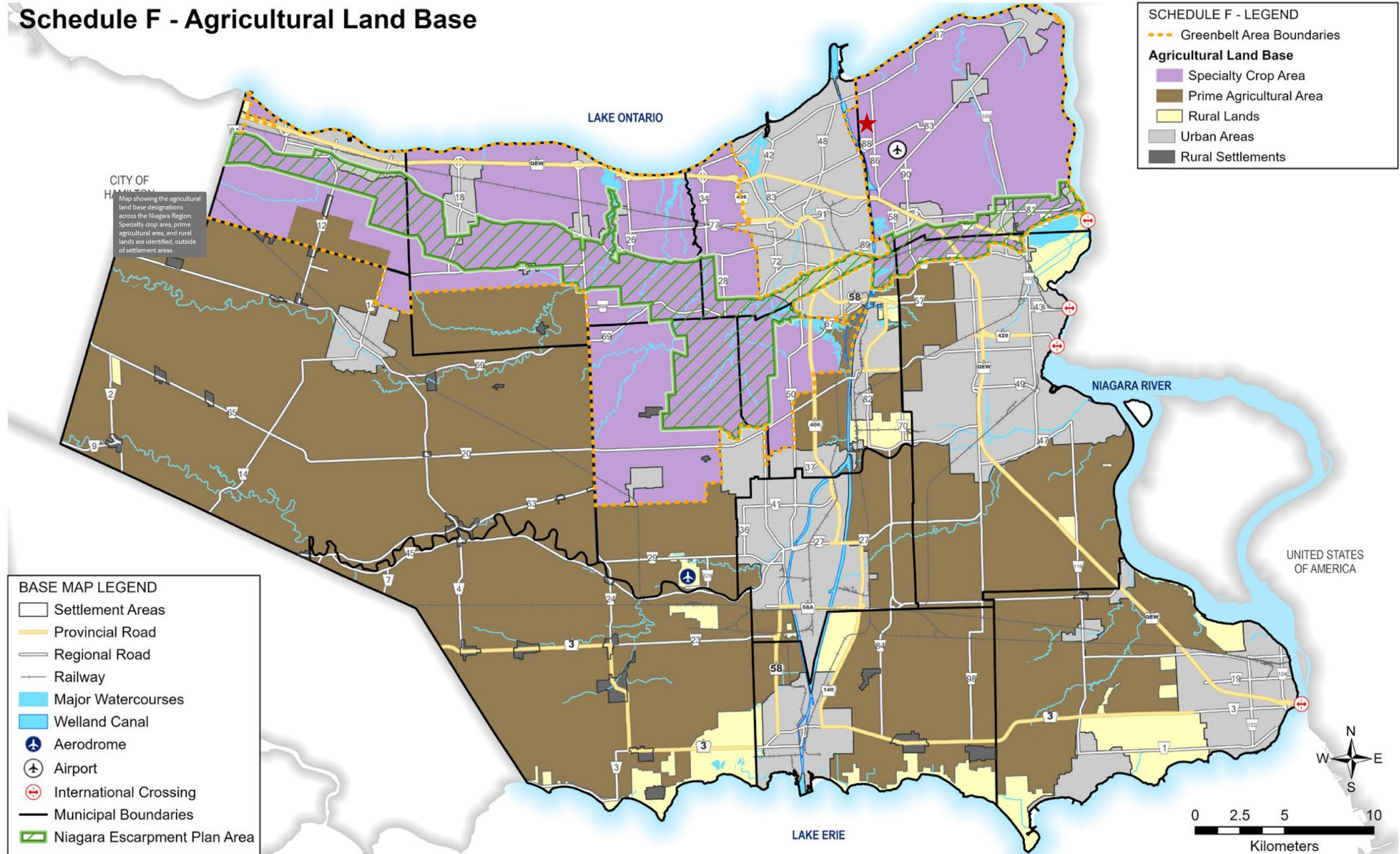
Schedule A - Local Area Municipalities



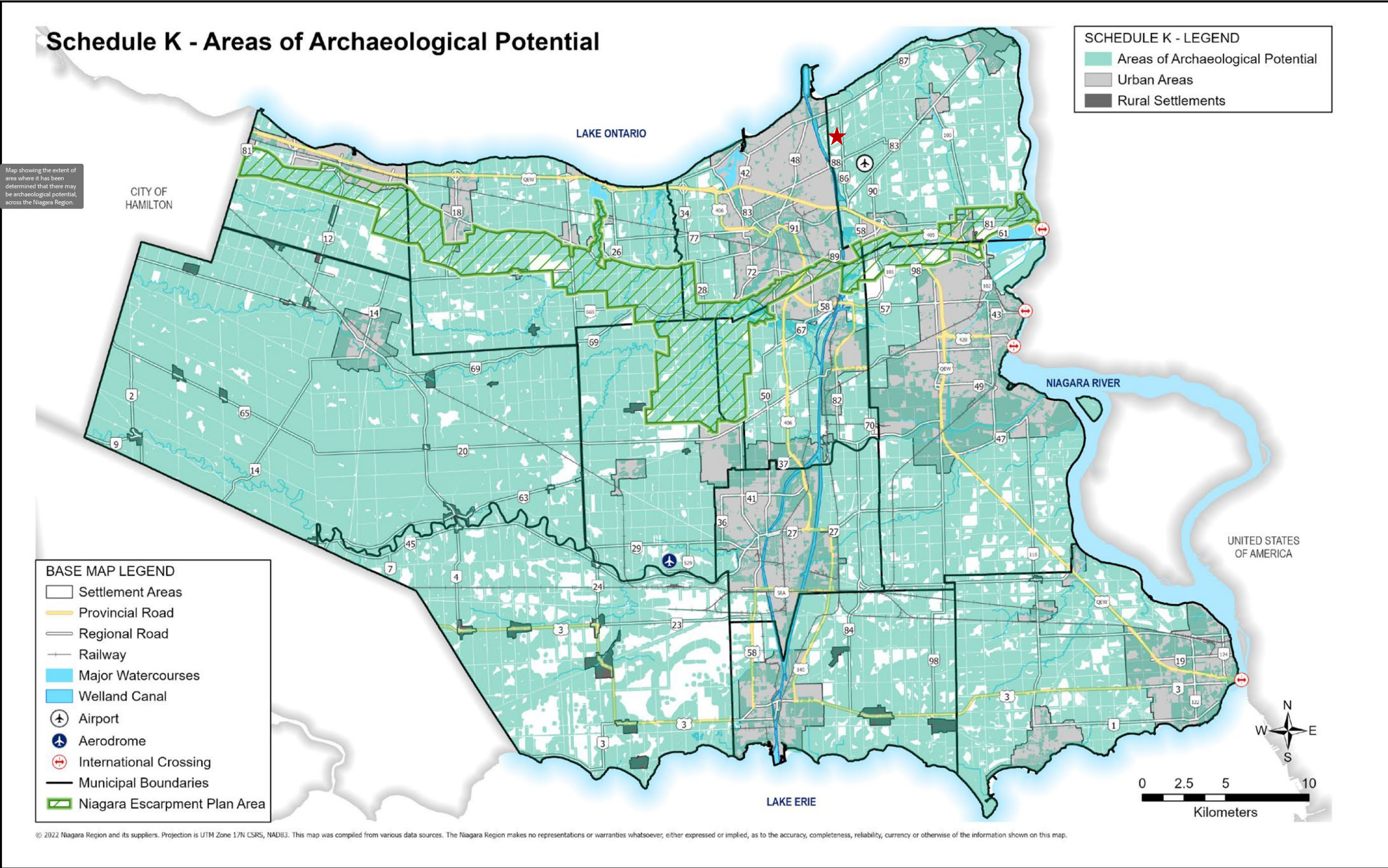
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Schedule F - Agricultural Land Base



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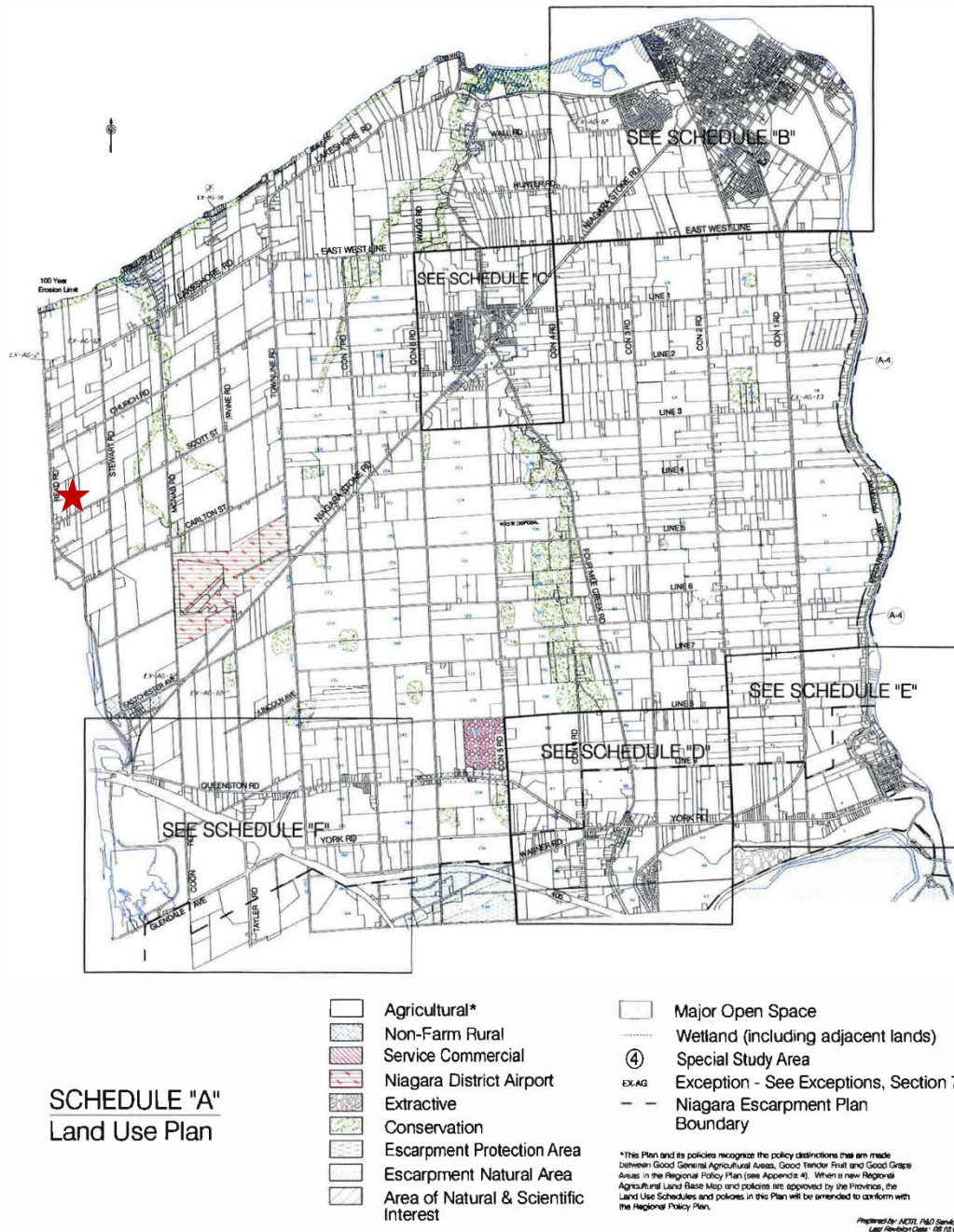


APPENDIX D – Town of Niagara-on-the-Lake Official Plan Schedules

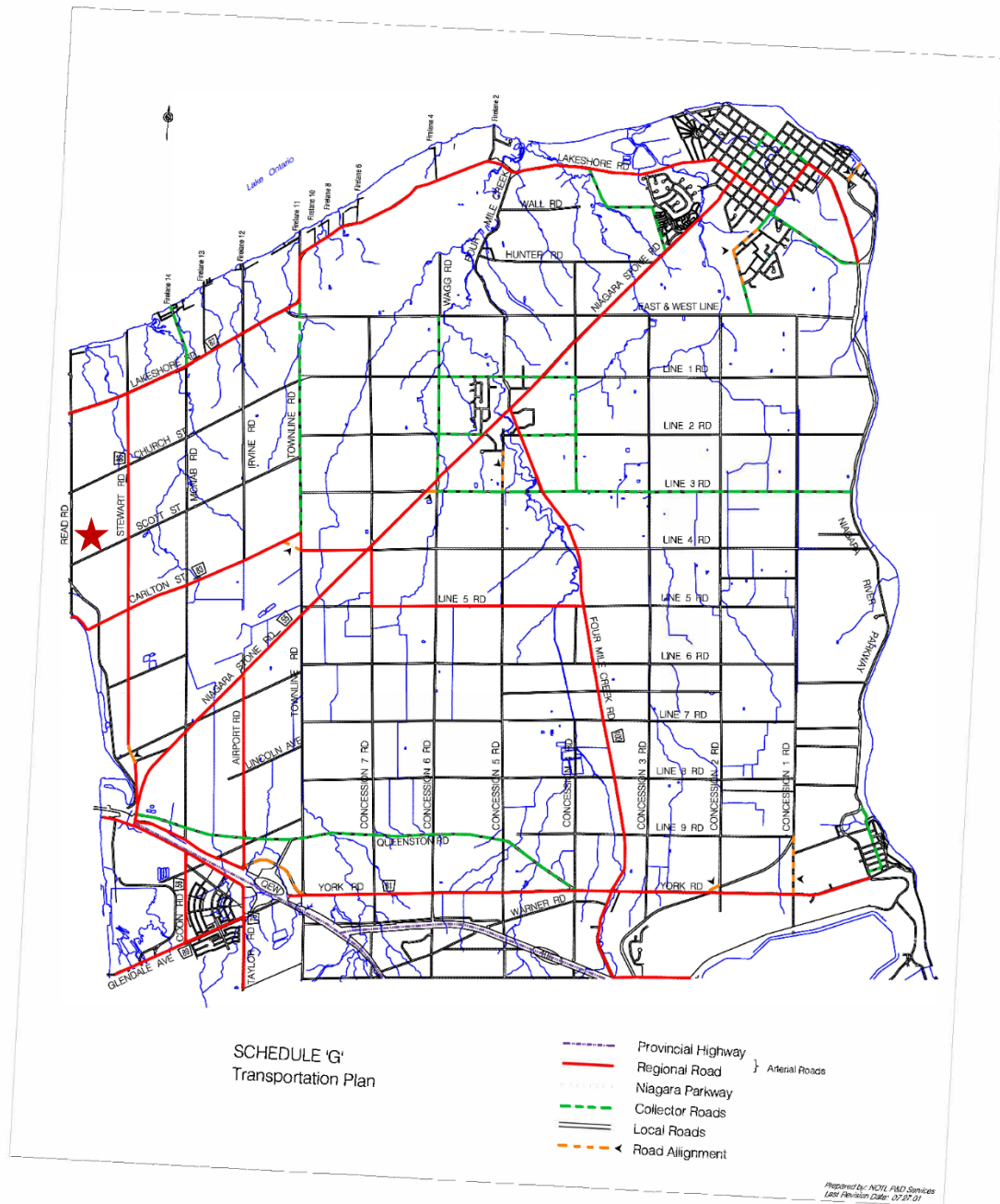
Schedule A – Land Use Plan

Schedule G – Transportation Plan

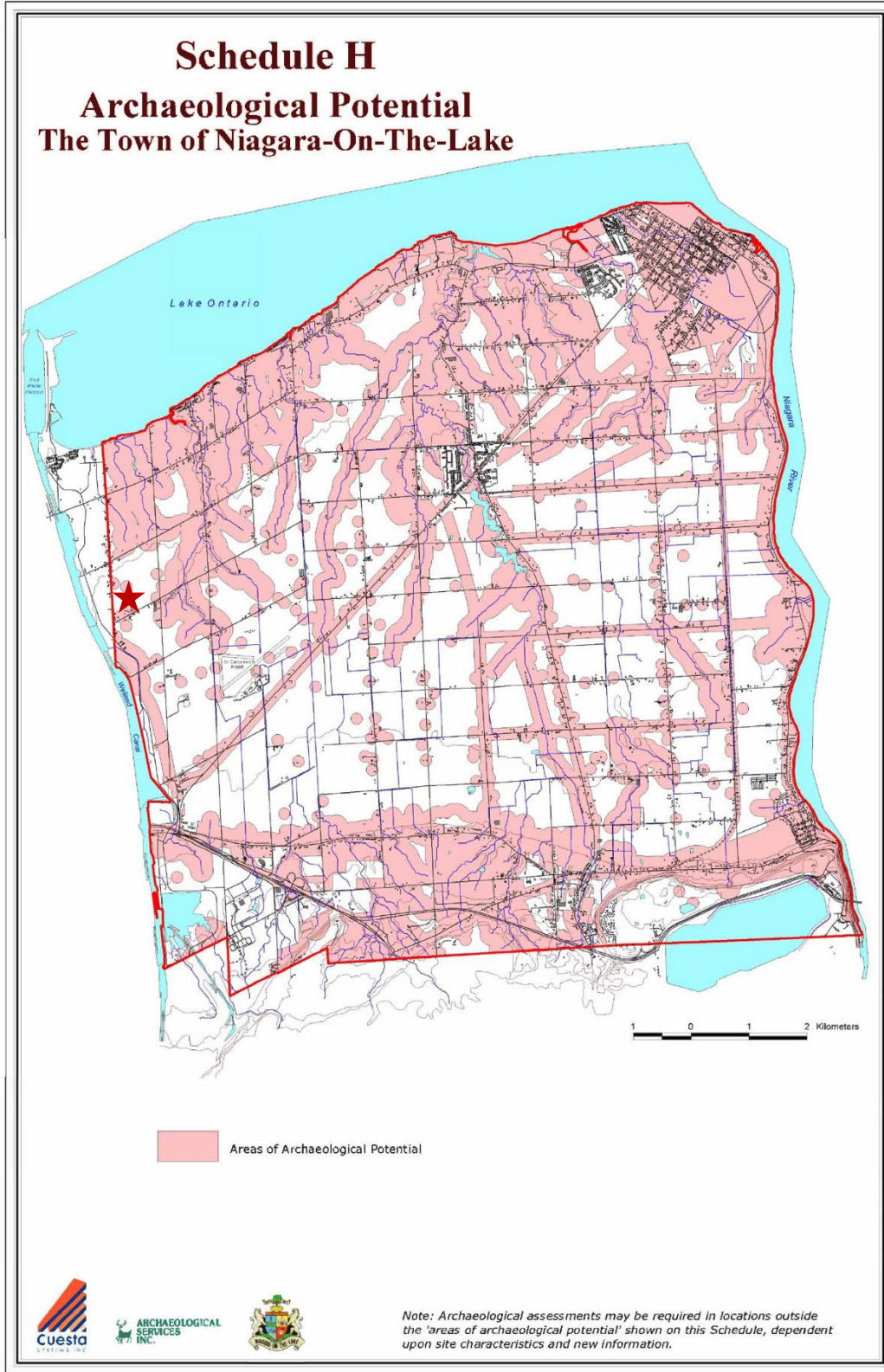
Schedule H – Areas of Archaeological Potential



Consolidated schedules as of July, 2017. In all instances, reference should be given to the original plan and amendments as approved by Council.



Consolidated Schedules as of July, 2017. In all instances, reference should be given to the original plan and amendments as approved by Council.



APPENDIX E – Town of Niagara-on-the-Lake Zoning By-law Schedule

