



Planning Justification Report

Plan of Vacant Land Condominium, Zoning By-law Amendment

2-15 Firelane 13B (excluding 5 & 10), Town of Niagara-on-the-Lake

Date: May 2025

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1.0 Introduction

NPG Planning Solutions Inc. (NPG) are planning consultants to 2482705 Ontario Inc., “Owners” of approximately 1.477 hectares of land in the Town of Niagara-on-the-Lake, municipally known as 2-15 Firelane 13B, excluding 5 and 10 (Subject Lands”). NPG has been retained to provide professional planning advice on applications for Zoning By-law Amendment and Draft Plan of Vacant Land Condominium Applications for the Subject Lands. The Applications are required to establish condominium ownership over the 10 existing dwelling on the Subject Lands.

This Planning Justification Report (PJR) provides an analysis of the proposed development and evaluates the appropriateness of Applications when assessed against policies in the Provincial Planning Statement (PPS), the Greenbelt Plan, Niagara Official Plan (NOP) 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.

The Subject Lands are designated Agricultural and Conservation in the Town OP and are zoned Shoreline One Family Residential (RC) Zone in Niagara-on-the-Lake Zoning By-law 500A-74 through By-law 500EY-88. The Shoreline One Family Residential Zone permits a one-family dwelling for year-round occupancy or seasonal dwelling. A Zoning By-law Amendment is required to limit the number of dwellings units to the existing 10 dwellings for year-round occupancy and recognize the private road on the Subject Lands, and to also address zone requirements related to the Draft Plan of Condominium

Sections 5.1, 5.2, 5.3 and 5.4 of this report present analysis of the Applications in relation to provincial and regional planning policies. Section 5.5 of this report discusses the proposal’s conformance with the general intent and objectives of the Town’s OP while Sections 6.0 provides justification for approval of the application for Zoning By-Law Amendment respectively.

2.0 Description of Subject Lands and Surrounding Area

The Subject Lands are located in the Town of Niagara-on-the-Lake, along the southern shore of Lake Ontario and are an irregularly shaped parcel located with a lot area of 1.477 hectares. The Subject Lands front onto and are accessed from a private road to the west being Firelane 13 - Roven Road, which intersects Firelane 13B Road. Firelane 13B is owned by the same owner of the Subject Lands.

Private Road, Firelane 13B Road, bisects the Subject Lands in an east-west direction and provides access to 10 single-detached dwelling units on the Subject Lands. The Subject Lands are zoned Shoreline One Family Residential (RC) Zone. Each of the single-detached dwellings has their own civic addresses as follows:

North side of Firelane 13B Road:

- 2 Firelane 13B Road
- 4 Firelane 13B Road
- 6 Firelane 13B Road
- 14 Firelane 13B Road

South side of Firelane 13B Road:

- 3 Firelane 13B Road
- 7 Firelane 13B Road
- 9 Firelane 13B Road
- 11 Firelane 13B Road
- 13 Firelane 13B Road
- 15 Firelane 13B Road

There are lots used for residential purposes addressed as 5 Firelane 13B and 10 Firelane 13B, located on the south and north sides of Firelane 13B, respectively. These are not part of the Subject Lands and are not part of the Applications. Please see Draft Plan of Condominium for the overall layout of the Subject Lands in context.

The Subject Lands are serviced via individual on-site sewage services and individual on-site water services, including septic systems and cisterns filled via trucked in potable water.

The Subject Lands abut Agricultural uses on the east and southern property lines, Firelane 13 - Roven Road to the west, and Lake Ontario to the north. The lot with frontage on the south side of Firelane 13b (5 Firelane 13b) features a single detached dwelling. See Figure 1 – Aerial Context Map below for more information. The Subject Lands are not in proximity to any known livestock facility.

2.1 Consent Applications

The Subject Lands received provisional approval of Consent Applications B-14/24 & B-15/24 at the January 16, 2025 hearing. The purposes of the Applications was to sever 356 m² of lands and 76 m² of lands to merge with abutting lands known municipality as 10 Firelane 13 B and 5 Firelane 13B, respectively. The proposed boundary was necessary to narrow the existing right-of-way that was considered oversized in width, and to add more depth to the abutting lots. The draft Plan of Condominium as described in Section 3.0 of this PJR reflects the revised lot configuration.

The Conditions of Consent require as follows:

B-15/24

1.1.5 That the owner/applicant obtains final approval through a Planning Act application for Part 1 to recognize any zoning deficiencies resulting from the conveyance of Part 3 to Part 5, to the satisfaction of the Director of Community and Development Services; and

1.1.6 That the owner/applicant obtains final approval through a Planning Act application for lands known municipally as 5 Firelane 13B Road (Parts 3 and 5), to recognize any zoning deficiencies resulting from the boundary adjustment, to the satisfaction of the Director of Community and Development Services.

B-14/24

1.1.5 That the owner/applicant obtains final approval through a Planning Act application for Part 1 to recognize any zoning deficiencies resulting from the conveyance of Part 2 to Part 4, to the satisfaction of the Director of Community and Development Services; and

1.1.6 That the owner/applicant obtains final approval through a Planning Act application for lands known municipally as 10 Firelane 13B Road (Parts 2 and 4), to recognize any zoning deficiencies resulting from the boundary adjustment, to the satisfaction of the Director of Community and Development Services.

This Application for Zoning By-law Amendment would fulfil conditions 1.1.5 from both Applications by recognizing a reduced lot area for the Subject Lands (retained lands from the previous Consent Applications).

It is our understanding that there are no zoning deficiencies resulting from the merger of Parts 2 and 4 or Parts 3 and 5. Therefore, zoning relief is not required to fulfill Condition 1.1.6.



Figure 1. Aerial Context Map

The Niagara Peninsula Conservation Authority (NPCA) Watershed Explorer Mapping identifies the following natural hazards associated with the Subject Lands (see Figure 2 below):

- There is a Great Lakes Regulatory Flood Level for the section of the shoreline along the Subject Lands. This feature is located in proximity to the waterfront, and as such, does not have a significant impact on the existing development of the Subject Lands.
- The entirety of the Subject Lands is shown as being within the Regulatory Erosion Hazard Limit for the section of shoreline. It is understood that development would not be permitted from the Top of Stable Slope.

Top of Stable Slope is measured from the shoreline with the following items being included:

- Stable slope allowance: 12 metres from waters edge
- Erosion allowance without shoreline protection: 26.85 metres from the stable slope allowance

A Coastal Engineering Assessment was prepared. The Coastal Engineering Assessment indicated that the installation of a shoreline protection could reduce the erosion allowance to 7.5 metres. This would result in an erosion hazard limit (Top of Stable Slope) of 19.5 metres. Top of Stable Slope is shown on the Site Plan.

- The last hazard that may have an impact on the Subject Lands is the wave up-rush limit (Flood Hazard Limit). Properties within this limit are prone to wave attack during a severe storm. Any development proposed within this area should incorporate measures into the design of the structure to protect all glass surfaces from wave action.

NPCA Natural Hazards Map

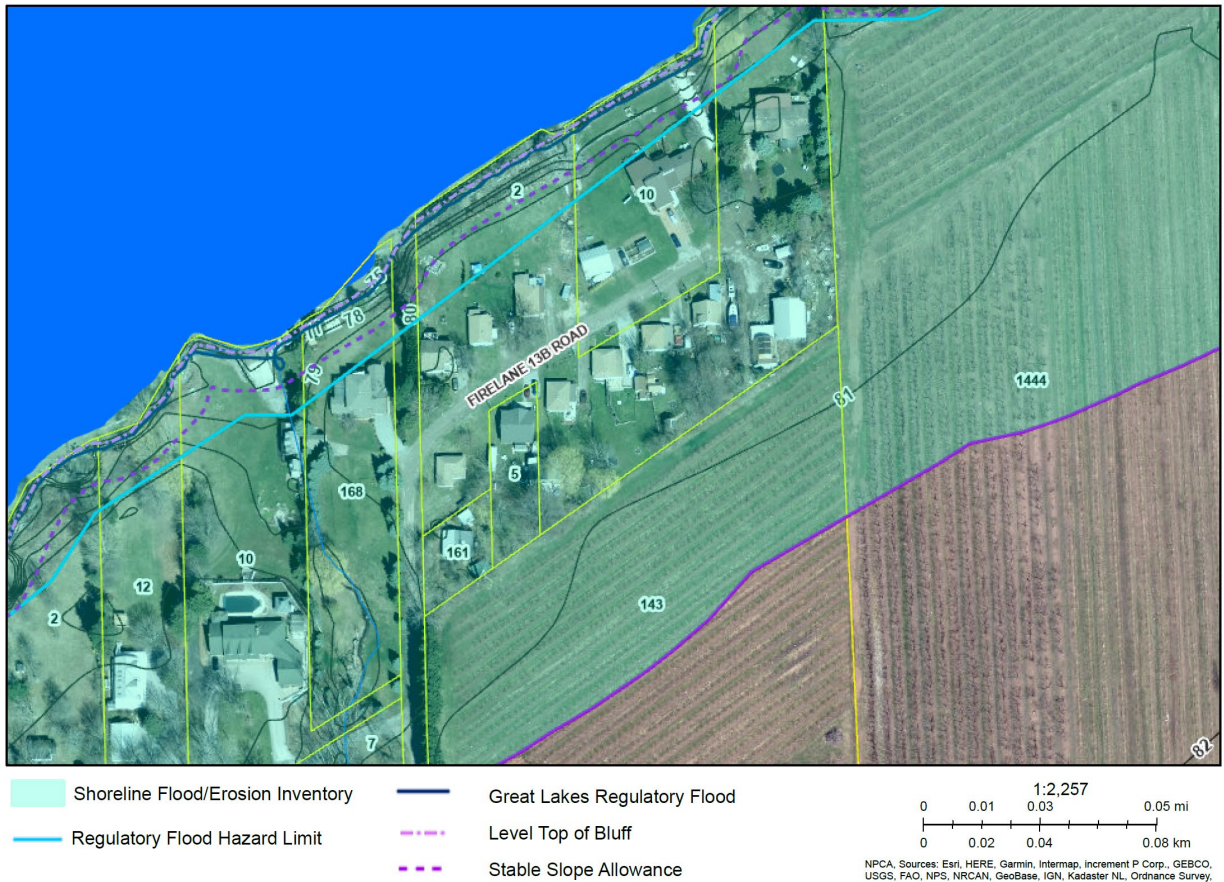


Figure 2. NPCA Natural Hazards Map (provided NPCA)

2.2 Existing Use

The Subject Lands are zoned Shoreline One Family Residential (RC) Zone. The existing zoning was approved November 10th, 1988 via Zoning By-law Amendment 500EY-88. The Town's Zoning By-law presently provides as follows:

7.1 Uses Permitted

No person shall within the Shoreline One-Family Residential (RC) Zone, use any lot, or erect, alter or use any building or structure for any purpose except one or more of the following uses:

(a) Residential Uses

a one-family dwelling for year-round occupancy or seasonal dwelling unit

a group home as in Section 2.36B and 3.35 (By-law 500MT-99)

Provision 7.3.3 of the By-law 500EY-88 states as follows:

Nothing in this By-law shall prevent the rebuilding or repair of an existing or permitted building or structure, even though such building or structure or the lot on which such building or structure is located does not conform to one or more of the

provisions of this By-law, provided that the yards appurtenant thereto are not reduced except in accordance with the provisions of this By-law.

The existing single-detached dwellings located on the Subject Lands are considered to be permitted based on Provision 7.3.3 of the Zoning By-law, which permits the rebuilding of existing buildings or structures. Based on the following information, all of the buildings have been constructed prior to the passage of Zoning By-law Amendment 500EY-88:

- Aerial photograph available on Niagara Navigator dated 1965. The Aerial photography shows the building footprints of all buildings on the Subject Lands, except for that municipally addressed as 14 Firelane 13B. The Aerial photograph is included in Appendix B to this report.
- There is a gap in aerial photos between 1971 and 2002; however, based on site visits, the dwelling municipally addressed as 14 Firelane 13B appears to be 1970s construction.
- Each of the dwellings on the Subject Lands has a unique civic address. The Town is responsible for assigning civic addresses. Civic addresses are typically only assigned to buildings and structures that are not accessory buildings. The Town would be unlikely to assign a civic address to a dwelling that had been constructed without permits.
- The Municipal Property Assessment Corporation property profile report generated November 18, 2022 recognizes 10 dwelling units on the Subject Lands.
- Based on the site visit March 2023, all the dwellings appear to have been constructed prior to the 1980s.

Site photos are included in the following section of this report:

2.3 Site Photos of Subject Lands



Photo 1. View looking north towards 2 Firelane 13B.



Photo 2. View looking south towards 3 Firelane 13B.



Photo 3. View looking north towards 4 Firelane 13B.



Photo 4. View looking south towards 5 Firelane 13B. Note this property is not part of the application.



Photo 5. View looking north towards 6 Firelane 13B.



Photo 6. View looking south towards 7 Firelane 13B.



Photo 7. View looking south towards 9 Firelane 13B.



Photo 8. Looking north towards 10 Firelane 13B.



Photo 9. Looking south towards 11 Firelane 13B.



Photo 10. Looking north towards 14 Firelane 13B.



Photo 11. Looking south towards 15 Firelane 13B.

3.0 Proposed Development

The Applications propose a Zoning By-law Amendment and Draft Plan of Condominium to facilitate the creation of 10 condominium units and common element for existing dwellings and a private road. The Zoning By-law Amendment proposes to rezone the Subject Lands from Shoreline One Family Residential (RC) Zone to a Site-specific Shoreline One Family Residential (RC-##) Zone recognize the existing uses of the Subject Lands.

Several of the dwelling units are currently serviced by shared septic systems and cisterns. To facilitate the Applications each dwelling will be required to have its own individual on-site services. As such, each dwelling unit will feature new septic systems. New septic systems and cisterns are proposed for each individual unit proposed, except for Units 1 (#2 Firelane) and 4 (#14 Firelane), where the existing cistern is proposed to be retained.

Proposed locations for septic and cistern locations are included in **Figure 3** below. As shown, the proposed septic systems and cisterns can all be located outside of the erosion hazard limit (Top of Stable Slope). Please see Site Plan included with this submission for greater detail):

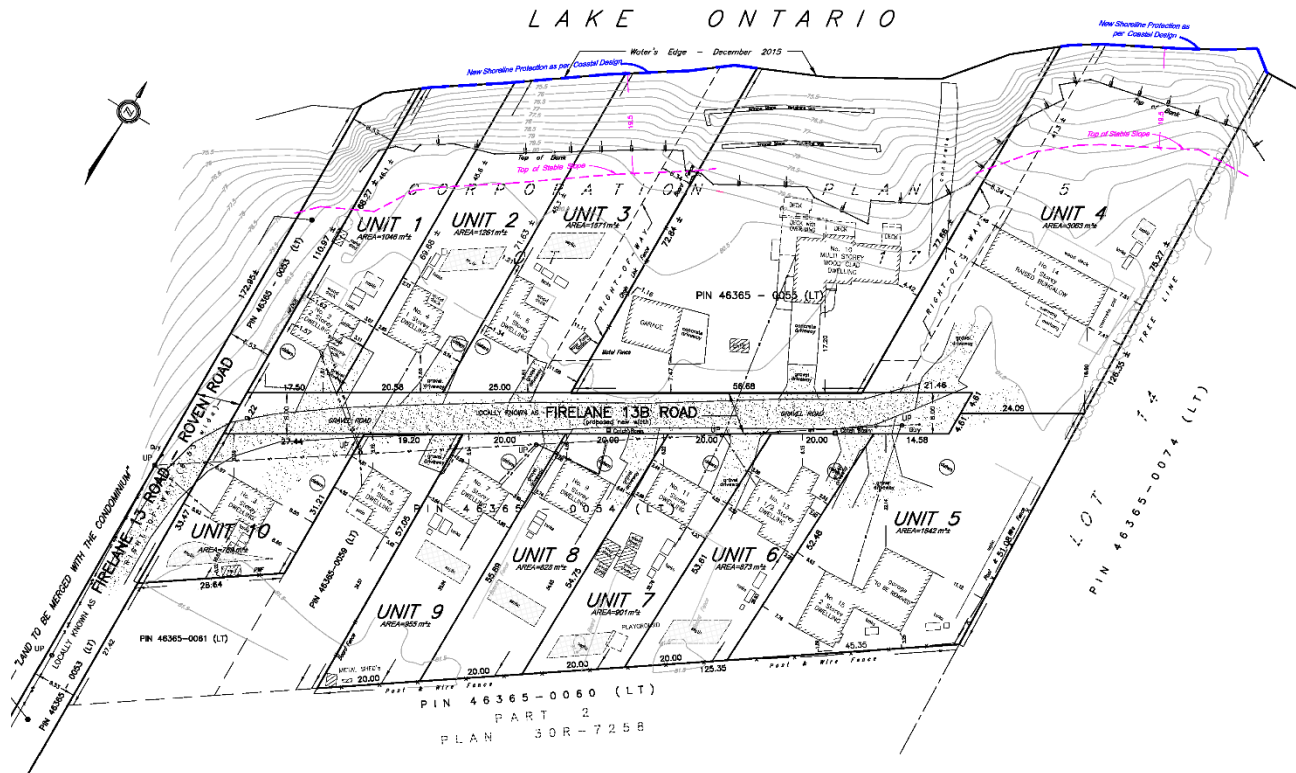


Figure 3. Site Plan prepared by JD Barnes identifying existing dwellings on the Subject Lands and proposed septic system locations.

The Applications are supported by the policies of the Greenbelt Plan (2017) as follows:

4.5 Existing Uses

1. All existing uses are permitted.

5.2.1 Decisions on Applications Related to Previous Site-Specific Approvals

Where an official plan was amended prior to December 16, 2004 to specifically designate land use(s), this approval may continue to be recognized through the conformity exercise addressed in section 5.3 and any further applications required under the Planning Act or the Condominium Act, 1998 to implement the official plan approval are not required to conform with this Plan.

Where a zoning by-law was amended prior to December 16, 2004 to specifically permit land use(s), this approval may continue to be recognized through the conformity exercise described in section 5.3, and any further applications required

under the Planning Act or the Condominium Act, 1998 to implement the use permitted by the zoning by-law are not required to conform with this Plan.

Applications to further amend the site-specific official plan or zoning by-law permissions referred to above for uses similar to or more in conformity with the provision of this Plan are also permitted. All such applications should, where possible, seek to achieve or improve conformity with this Plan.

Zoning By-law Amendment 500EY-88 was approved November 10, 1988 to recognize several non-complying dwellings located along the Lake Ontario shoreline. Section 7.1 of the Zoning By-law Amendment approved for the Subject Lands, identified the only permitted use being:

a one-family dwelling for year-round occupancy or a seasonal dwelling unit

Provision 7.3.3 of the By-law 500EY-88 states as follows:

Nothing in this By-law shall prevent the rebuilding or repair of an existing or permitted building or structure, even though such building or structure or the lot on which such building or structure is located does not conform to one or more of the provisions of this By-law, provided that the yards appurtenant thereto are not reduced except in accordance with the provisions of this By-law.

The above provisions specifically permit residential use of the Subject Lands. The number of dwellings for the Subject Lands is restricted to that which is existing, as indicated in Section 7.3.3 of the Town Zoning By-law. In this regard, Section 5.2.1 of the Greenbelt Plan applies regarding the Applications for Zoning By-law Amendment and Plan of Condominium.

3.1 Project background and context

On August 3, 2017 a pre-consultation meeting was held between the Town of Niagara-on-the-Lake, Niagara Region, and the Niagara Peninsula Conservation Authority to confirm requirements for Complete Applications for the proposed Zoning By-law Amendment and Draft Plan of Condominium to recognize the existing dwelling units. In September 2018, applications for Zoning By-law Amendment and Draft Plan of Vacant Land Condominium were submitted to the Town. The applications were deemed incomplete. In June 2021 revised applications were submitted to the Town which were also deemed incomplete. A pre-consultation meeting was held on January 18, 2024 due to the length of time which has lapsed since the initial 2017 pre-consultation meeting.

The Subject Lands received provisional approval of Consent Applications B-14/24 & B-15/24 at the January 16, 2025 hearing. The result of the Application was to sever portions of the existing right-of-way forming part of the Subject Lands to enlarge abutting residential lots not part of the Subject Lands.

3.2 Pre-con summary

The 2024 pre-consultation notes, and subsequent correspondence has determined that the following reports, studies, or plans are required to facilitate the proposal at the Zoning By-law Amendment Stage:

- Planning Justification Report and Draft Zoning By-law Amendment
- Draft Plan of Condominium
- Hydrogeological Study
- Septic System Plan
- Coastal Engineering Report
- Site Plan
- Property Index Map and Parcel Registers

The following reports, studies, or plans will be required as conditions of Condominium Approval:

- Stage 1-2 Archaeological Assessment
- Geotechnical Report (based on location of septic systems)
- Landscape Plan
- Tree Inventory Preservation Plan

The reports, studies, or plans which are required at the Zoning stage are summarized in the following section.

4.0 Supporting Studies Review

4.1 Preliminary Hydrogeological Assessment and Supplemental Septic Design Comments

Soil-Mat Engineers & Consultants prepared a Preliminary Hydrogeological Assessment and Geotechnical Assessment dated November 28, 2016 to assess the site conditions with respect to the supply of water and on-site sewage treatment for the Subject Lands. The Preliminary Hydrogeological Assessment and Geotechnical Assessment indicated that there are no records for water wells for any of the existing dwellings on the Subject Lands, suggesting that they are presently serviced with cisterns and trucked in municipal potable water. The Preliminary Hydrogeological Assessment further indicated that the existing water well record information indicates few existing water wells within the study area. The available water well records further indicate limited yield from the shale bedrock aquifer, generally well less than the typical required minimum rate of 5 gpm for domestic potable water supply. As such, it would not be considered feasible to supply the proposed dwellings by on-site private supply wells.

6M Contracting Ltd prepared septic designs for each of the lots. Soil-Mat Engineers & Consultants reviewed the proposed design and prepared a Supplemental Septic Design letter to evaluate the use of tertiary septic systems (such as Bionest) to support the 10 dwellings on site. Soil-Mat Engineers & Consultants provides as follows in the letter dated September 22, 2023: "In general, Soil-Mat Engineers has no objection to the use of the

Bionest system, provided it has been designed specifically for this site based on the available information.” Total septic flows are presently 9,950 L per day less than the maximum limit of 10,000 L per day permitted to be approved by the Region of Niagara.

4.2 Costal Engineering Assessment

A Costal Engineering Assessment was prepared by Ranking Costal Engineering dated April 15, 2024. The assessment determined the current shoreline protection is successfully reducing the erosion rate. Due to the shoreline protection on the west section of the property extending higher into the bank than the east section, it is more likely that the east section will experience erosion in the future.

The erosion hazard limit was calculated at 38.85 metres from the shoreline. The assessment recommends the construction of a new break wall in the next 15-years. This would reduce the erosion hazard limit to 19.5 metres.

4.3 Tree Inventory Preservation Plan

A Tree Inventory Preservation Plan (TIPP) was noted as required during pre-consultation but Town Staff agreed to allow the TIPP to be addressed through conditions of Draft Condominium Approval. It is acknowledged that the only site works proposed as part of the proposed development is the installation of new septic systems and trees may need to be removed to accommodate these systems. Mitigation measures will be implemented to maximize the protection of existing trees through Tree Protection Zones (TPZ) and other measures as required. These measures will be outlined through the full submission of the TIPP prepared by a certified arborist during the conditions phase.

5.0 Planning Policies

5.1 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 *Planning 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 Applications.

Table 5.1.1: Analysis of Provincial Interest – Section 2 of Ontario Planning Act

SECTION	PROVINCIAL INTEREST	ANALYSIS
b)	<i>the protection of the agricultural resources of the Province</i>	The Subject Lands are not being used for agricultural purposes and are unlikely to be put into agricultural production in the future. The Applications would not permit the intensification of use, which may have the

SECTION	PROVINCIAL INTEREST	ANALYSIS
		potential to result in land use compatibility challenges with abutting agricultural uses to the south and east.
f)	<i>the adequate provision and efficient use of communication, transportation, sewage and water services and waste management systems</i>	There are no municipal services near the Subject Lands. The dwellings will continue to be serviced via private water services (well or cistern) and on-site private septic systems. Replacement septic systems have been designed for each of the dwellings. These designs were reviewed by Soil-Mat Engineers. There were no objections regarding the proposed septic designs.
j)	<i>the adequate provision of a full range of housing, including affordable housing</i>	Condominiumization would support the existing residential use of the Subject Lands.

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.

Subsection 24(1) of the *Planning Act* requires that by-laws passed by Council shall conform to official plans that are in effect.

Section 34 of the *Planning Act* permits councils of local municipalities to pass and/or amend zoning by-laws for such purposes as may be set out in the by-law, and for regulating construction and land use within the municipality.

Section 9(2) of the *Condominium Act, 1998, S.O. 1998, c. 19* provides that the provisions of sections 51, 51.1 and 51.2 of the *Planning Act* that apply to a plan of subdivision apply with necessary modifications to a Condominium description or an amendment to a Condominium description.

Consistency and conformity with Provincial, Regional and Town policies are discussed in-depth in the subsequent sections of this report. Subject to the analysis provided in the following sections of this report, the Application is considered to comply with the provisions of the *Planning Act*.

5.2 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. The Subject Lands are considered to be within a Rural Area and more specifically a Prime Agricultural Area and Specialty Crop Area.

In this regard, the following policies apply:

5.2.1 Housing

Section 2.2 of the PPS provides direction policies related to housing. The following policies apply to the proposal:

POLICY

2.2.1 Planning authorities shall provide for an appropriate range and mix of housing options and densities to meet projected needs of current and future residents of the regional market area by:

b) permitting and facilitating

- 1. all housing options required to meet the social, health, economic and well being requirements of current and future residents, including additional needs housing and needs arising from demographic changes and employment opportunities;*

ANALYSIS

The Applications would allow for ownership of the existing dwellings on the Subject Lands, contributing the full range of housing options required to meet social, health, economic and well-being requirements of current and future residents.

5.2.2 Sewage, Water and Stormwater

Section 3.6 of the PPS provides direction for the servicing of development, as follows:

POLICY

3.6.1 Planning for sewage and water services shall:

- e) be in accordance with the servicing options outlined through policies 3.6.2, 3.6.3, 3.6.4, and 3.6.5*

3.6.4 Where municipal sewage services and municipal water services or private communal sewage services and private communal water services are not available, planned or feasible, individual on-site sewage services and individual on-site water services may be used provided that site conditions are suitable for the long-term provision of such services with no negative impacts...

ANALYSIS

Septic systems and cisterns have been designed for the Subject Lands based on a Preliminary Hydrogeological Assessment prepared by Soil-Mat Engineers. Soil-Mat Engineers reviewed the septic system designs and provided Supplemental Septic Design Comments dated on September 22, 2023, as follows:

In general, SOIL-MAT ENGINEERS has no objection to the use of the Bionest system, provided it has been designed specifically for this site based on the available information.

Subject to the acceptance of the Preliminary Hydrogeological Assessment, the septic system designs, and the Supplemental Septic Design Comments, the Applications are consistent with the Sewage, Water and Stormwater policies of the PPS.

5.2.3 Agriculture

The Subject Lands are located within a prime agricultural area and more specifically within a specialty crop area. Section 4.3 of the PPS provides the following relevant policies regarding agriculture:

POLICY

4.3.1.2 As part of the agricultural land base, prime agricultural areas, including specialty crop areas, shall be designated and protected for long-term use for agriculture.

4.3.2 Permitted Uses

2.3.3.1 In prime agricultural areas, permitted uses and activities are: agricultural uses, agriculture-related uses and on-farm diversified uses based on provincial guidance.

Proposed agriculture-related uses and on-farm diversified uses shall be compatible with, and shall not hinder, surrounding agricultural operations. Criteria for these uses may be based on provincial guidance or municipal approaches, as set out in municipal planning documents, which achieve the same objectives.

4.3.3 Lot Creation and Lot Adjustments

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;*

4.3.3.3 The creation of new residential lots in prime agricultural areas shall not be permitted, except in accordance with policy 4.3.3.1.c).

ANALYSIS

The residential use of the Subject Lands would not be permitted as a new use under the PPS. These Applications do not propose to intensify or change the use of the Subject Lands.

Condominiumization is not considered to be lot creation, as no new lots would be created. The differentiation between lots and lands described within a Plan of Condominium is reinforced in Section 50(3) of the *Planning Act*. There are no policies in the PPS that would prohibit the creation of units through a Plan of Condominium.

As there is no change in use or lot creation proposed, the Applications are consistent with Policies 4.3.3 of the PPS.

For the following reasons, the Applications are also consistent with the broader intent of the PPS described in Policy 4.3.1.2 pertaining to the long-term protection of prime agricultural areas for agriculture, as follows:

- Lands in agricultural production or that have the potential to be farmed in the future are not proposed to be taken out of agricultural production; and
- There is no potential to aggravate an existing land use compatibility conflict regarding the interface between agricultural and residential uses.

5.2.4 Cultural Heritage and Archaeology

Section 4.6 of the PPS includes the following regarding archaeology:

POLICY

4.6.2 *Planning authorities shall not permit development and site alteration on lands containing archaeological resources or areas of archaeological potential unless the significant archaeological resources have been conserved.*

4.6.4 *Planning authorities are encouraged to develop and implement:*

a) archaeological management plans for conserving archeological resources;

ANALYSIS

The Subject Lands have been identified as being within the Zone of Archaeological Potential in the Town's Archaeological Masterplan and Schedule K of the Niagara Official Plan. An archaeological assessment confirming that there are no archaeological resources on Subject Lands will be required and undertaken as a condition of the condominium approval. This archaeological assessment has been determined to be necessary by the Town and Region to address the installation of septic systems.

5.2.5 Natural Hazards

Section 5.2 of the PPS provides as following regarding Natural Hazards...

POLICY

2. Development shall generally be directed to areas outside of:

- a) *hazardous lands adjacent to the shorelines of the Great Lakes -St. Lawrence River System and large inland lakes which are impacted by flooding hazards, erosion hazards and/or dynamic beach hazards;*

ANALYSIS

The PPS defines development as “the creation of a new lot, a change in land use, or the construction of buildings and structures requiring approval under the *Planning Act*”. The proposed Applications seek to condominiumize the existing lot and would not result in the creation of any new lots. The Subject Lands would still be for residential use. Therefore, the Applications do not achieve the definition of “development” contained within the PPS. Regardless, the construction of a new break wall would mitigate the natural hazards associated with the Great Lakes.

5.2.6 Summary of PPS

Based on the on the forgoing, the Applications are consistent with the PPS.

5.3 Greenbelt Plan (2017)

The Greenbelt Plan identifies where urbanization should not occur to provide permanent protection to the agricultural land base and the ecological and hydrological features, areas and functions occurring on this landscape. As per Section 1.4 of the Greenbelt Plan “the policies of [the Greenbelt Plan] take precedence over the policies of the PPS to the extent of any conflict, except where the relevant legislation provides otherwise. Where the policies of [the Greenbelt Plan] address the same, similar, related or overlapping matters as policies in the PPS, applying the more specific policies of [the Greenbelt Plan] satisfies the requirements of the more general policies in the PPS.

The Subject Lands are designated Protected Countryside and Niagara Peninsula Tender Fruit and Grape Area in Schedule 1 and 2 of the Greenbelt Plan, respectfully (see Appendix E of this report for mapping).

5.3.1 Vision of the Greenbelt Plan

Section 1.2.1 identifies the vision for the Greenbelt Plan, as follows:

POLICY

The Greenbelt is a broad band of permanently protected land which:

- *Protects against the loss and fragmentation of the agricultural land base and supports agriculture as the predominant land use;*
- *Gives permanent protection to the natural heritage and water resource systems that sustain ecological and human health and that form the environmental framework around which major urbanization in southcentral Ontario will be organized;*
- *Provides for a diverse range of economic and social activities associated with rural communities, agriculture, tourism, recreation and resource uses; and*

- *Builds resilience to and mitigates climate change.*

ANALYSIS

The Applications do not conflict with any of the above components of the vision of the Greenbelt Plan, as there will not be any lands or potentially farmable lands taken out of agricultural production, nor is intensification proposed that could potentially aggravate an existing land use compatibility conflict regarding the interface between agricultural and residential uses. There is also no anticipated impacts to natural heritage and water resource systems.

5.3.2 Specialty Crop Area & Non-Agricultural Use Policies

The Greenbelt Plan provides the following policies regarding permitted uses in specialty crop areas:

POLICY

3.1.2 Specialty Crop Area Policies

- 1. All types, sizes and intensities of agricultural uses and normal farm practices shall be promoted and protected and a full range of agricultural uses, agriculture-related uses and on-farm diversified uses are permitted based on the provincial Guidelines on Permitted Uses in Ontario's Prime Agricultural Areas. Proposed agriculture-related uses and on-farm diversified uses shall be compatible with and shall not hinder surrounding agricultural operations.*
- 2. Lands shall not be redesignated in official plans for non-agricultural uses. Non-agricultural uses may be permitted subject to the policies of sections 4.2 to 4.6. These non-agricultural uses are generally discouraged in specialty crop areas and may only be permitted after the completion of an agricultural impact assessment.*

4.1.1 General Non-Agricultural Use Policies

- 1. Non-agricultural uses are not permitted in the specialty crop areas as shown on Schedule 2 and Schedule 3 of this Plan or within prime agricultural areas in the Protected Countryside, with the exception of those uses permitted under sections 4.2 to 4.6 of this Plan.*

4.5 Existing Uses

- 1. All existing uses are permitted.*
- 2. Single dwellings are permitted on existing lots of record, provided they were zoned for such as of the date the Greenbelt Plan came into force. Municipalities are encouraged to retain existing lots of record for agricultural uses and discourage non-agricultural uses where appropriate.*

5.2.1 Decisions on Applications Related to Previous Site-Specific Approvals

Where a zoning by-law was amended prior to December 16, 2004 to specifically permit land use(s), this approval may continue to be recognized through the conformity exercise described in section 5.3, and any further applications required under the Planning Act or the Condominium Act, 1998 to implement the use permitted by the zoning by-law are not required to conform with this Plan.

Applications to further amend the site-specific official plan or zoning by-law permissions referred to above for uses similar to or more in conformity with the provision of this Plan are also permitted. All such applications should, where possible, seek to achieve or improve conformity with this Plan.

ANALYSIS

The policies of the Greenbelt Plan would not permit the establishment of new residential uses on the Subject Lands. However, as the residential use of the Subject Lands is permitted via By-law 500EY-88 and had been existing well before the Greenbelt Plan came into force, such use is permitted to continue. The Applications do not propose to change the use. Both the Zoning By-law Amendment Application and Plan of Condominium are required to implement uses that were existing and specifically permitted prior to the adoption of the Greenbelt Plan.

5.3.3 Summary of Greenbelt Plan

Based on the on the forgoing, the Applications conform with the Greenbelt Plan.

5.4 Niagara Official Plan (2022)

On Nov. 4, 2022, the Minister of Municipal Affairs and Housing approved the Niagara Official Plan, with modifications. The Niagara Official Plan (NOP) is the Regional Municipality of Niagara’s long-term, strategic policy planning framework for managing growth coming to Niagara. The policies of the NOP will guide land use and development thereby influencing economic, environmental, and planning decisions until 2051 and beyond.

The NOP identifies: what we need to protect; how and where we will grow; and policy tools to manage the same. Resources such as the natural environment system, agricultural system, source water, aggregates and petroleum, and cultural heritage and archaeology each are protected for specific reasons whether it be ecological, economic, cultural heritage or community health.

The NOP builds upon the policy foundation provided by the Provincial legislation, policies and plans and provides additional and more specific land use planning policies to address issues facing Niagara.

Table 1 – NOP Schedules and Designations of Subject Lands

SCHEDULE	SUBJECT LAND DESIGNATION
C3 – Key Hydrologic Areas Overlay	Significant Groundwater Recharge Area, Highly Vulnerable Aquifers
F – Agricultural Land	Specialty Crop Area

Base	
H – Mineral Aggregate Resource Area	Tertiary – Sand and Gravel Significance
K – Areas of Archaeological Potential	Area of Archaeological Potential

In this regard the following policies apply:

5.4.1 Key Hydrologic Areas

The Subject Lands features of a portion of the Lake Ontario shoreline. Lake Ontario is considered a Key Hydrologic Feature outside of settlement areas. Section 3.1.10 of the NOP provides policies related to key hydrologic areas and features within the Region. The following apply to the proposal:

POLICY

3.1.10.1 Development or site alteration shall not be permitted unless it can demonstrated that it will not have negative impacts on:

- a) the quantity and quality of water in key hydrologic areas, key hydrologic features, sensitive surface water features, and sensitive ground water features;*
- b) the hydrologic functions of key hydrologic areas, key hydrologic features, sensitive surface water features, and sensitive groundwater features;*
- c) the interaction and linkage between key hydrologic areas, key hydrologic features, sensitive surface water features, and sensitive groundwater features and other components of the natural environment system;*
- d) the natural hydrologic characteristics of watercourses such as base flow, form and function, and headwater drainage areas;*
- e) natural drainage systems and shorelines areas; and*
- f) flooding or erosion*

ANALYSIS

As discussed, the Applications do not achieve the definition of development per the PPS 2024. Further, the Applications would not result in any physical changes to the Subject Lands except for servicing infrastructure. All servicing infrastructure is proposed to be outside the erosion hazard limit and is not anticipated to result in any negative impacts to the key hydrologic feature.

5.4.2 Natural Hazards

Section 3.1.23 of the NOP provides policies related to natural hazards within the Region. The following apply to the proposal:

POLICY

3.1.23.1 Development shall generally be directed, in accordance with guidance developed by the Province (as amended from time to time), to areas outside of:

- a. hazardous lands adjacent to the shorelines of Lake Erie and Lake Ontario which are impacted by flooding hazards, erosion hazards and/or dynamic beach hazards;*
- b. hazardous lands adjacent to river, stream, and small inland lake systems which are impacted by flooding hazards and/or erosion hazards; and*
- c. hazardous sites*

3.1.23.2 Development or site alteration shall not be permitted within:

- a. the dynamic beach hazard;*
- b. defined portions of the flooding hazards along the Niagara River;*
- c. areas that would be rendered inaccessible to people and vehicles during times of flooding hazards, erosion hazards and/or dynamic beach hazards, unless it has been demonstrated that the site has safe access appropriate for the nature of the development and the natural hazard; and*
- d. a floodway regardless of whether the area of inundation contains high points of land not subject to flooding.*

ANALYSIS

The proposed Applications will have no impact on any hazardous lands. The only physical changes to the Subject Lands will be due to the installation of new servicing infrastructure. Replacement septic systems and cisterns can all occur outside the erosion hazard with the installation of a break wall.

5.4.3 Previous Site-Specific Approvals in the Greenbelt Plan Area

Section 3.1.30.5.2 of the Greenbelt Plan provides policies that reflect Section 5.2.1 of the Greenbelt Plan, as follows:

POLICY

3.1.30.5.2 Where a zoning by-law was amended prior to December 16, 2004 to specifically permit land use(s), this approval may continue to be recognized through any further applications required under the Planning Act or the Condominium Act, 1998 to implement the use permitted by the zoning by-law are not required to conform to the Greenbelt Plan.

ANALYSIS

For the reasons noted in Section 5.3.2 of this Planning Justification Report, the Application conform with the above policies of the NOP.

5.4.4 Objectives of the Agricultural System

Section 4.1 of the NOP provides the following relevant objectives regarding the Agricultural System:

POLICY

- b) protect the region's agricultural land base;*
- d) restrict and control non-agricultural uses to minimize potential conflicts;*
- f) protect specialty crop areas from fragmentation;*
- j) recognize and control changes to existing uses to ensure a viable agricultural system.*

ANALYSIS

The Applications do not conflict with any of the objectives noted above. As described above, the Subject Lands are used exclusively for residential purposes and are unlikely to be farmed in the future. For this reason, there is no impact to the Region's agricultural land base. The Applications would not facilitate intensification that could potentially aggravate an existing land use compatibility conflict regarding the interface between agricultural and residential uses.

5.4.5 Agricultural Policies

Section 4.1 of the NOP provides the following policies relevant to agriculture:

POLICY

4.1.1 Region's Agricultural Land Base

4.1.1.1 The geographic continuity of the agricultural land base, as shown in Schedule F, and the functional and economic connections to the agrifood network will be maintained and enhanced in accordance with the policies of this section.

4.1.1.2 Prime agricultural areas and specialty crop areas, as shown on Schedule F, shall be protected for long-term use for agriculture. Prime agricultural areas are areas where prime agricultural lands predominate. Specialty crop areas shall be given the highest priority for protection, followed by Canada Land Inventory Class 1, 2, and 3 lands, and any associated Class 4 through 7 lands within the prime agricultural area, in this order of priority.

4.1.1.4 An agricultural system has been identified in which all types, sizes, and intensities of agricultural uses and normal farm practices shall be promoted and protected in accordance with Provincial standards. Removal of land from prime agricultural areas may only occur for expansions or identification of settlement areas in accordance with Section 2.2.5 of this Plan. Revisions to the Greenbelt Plan and Niagara Escarpment Plan boundaries and redesignation of specialty crop areas are prohibited.

4.1.2 Specialty Crop Areas and Prime Agricultural Areas

4.1.2.2 In specialty crop areas, all existing uses lawfully used for such purpose prior to December 16, 2004 are permitted. In specialty crop areas, single detached dwellings and accessory structures are permitted on existing lots of record, provided they were zoned for such or permitted through other regulation as of December 16, 2004.

ANALYSIS

The dwellings are permitted based on Policy 4.1.2.2 of the NOP. The Applications will not impact the agricultural land base or surrounding agricultural land uses.

5.4.6 Non-Conforming Uses in the Agricultural System

Policy 4.1.10.1 of the NOP provides that “this Plan shall not prohibit the continued operation of legally established uses, such as residential, commercial, employment, agricultural, and institutional uses.” Section 4.1.10.2 of the NOP permits “expansions to existing buildings and structures, accessory structures and existing uses, as well as conversions or redevelopment of legally existing uses that bring the use more into conformity with this Plan, are permitted subject to demonstration of the following:”

POLICY & ANALYSIS

SECTION	POLICY	ANALYSIS
a)	new municipal services are not required	The Subject Lands will continue to be serviced via individual on-site services
b)	the proposal does not expand into key natural heritage features and key hydrological features, unless there is no other alternative in which case any expansion shall be limited in scope and kept within close geographical proximity to the existing structure	There is no expansion into key natural heritage features and key hydrological features
c)	if applicable, the proposed new use complies with the Specialty Crop Guidelines, as amended from time to time	Specialty Crop Guidelines do not exist.
d)	for conversions or redevelopments only, the completion of an agricultural impact assessment by a qualified professional	The proposal is not considered to be a conversion of use or redevelopment. There are no changes that would impact agricultural uses.

SECTION	POLICY	ANALYSIS
e)	the proposal does not result in the intrusion of new incompatible uses	The dwellings are existing on the Subject Lands. There are no changes that would result in the intrusion of incompatible uses on agricultural lands.
f)	the proposed use is in accordance with the minimum distance separation formulae	There are no livestock facilities in proximity to the Subject Lands. This provision does not apply.

5.4.7 Municipal Water and Wastewater Servicing Outside of Urban Areas

The NOP provides as following regarding servicing outside of Urban Areas:

POLICY

5.2.3.3 All development outside the urban areas shall be serviced by sustainable individual on-site water and individual on-site sewer services, except an existing lot of record outside the urban areas may be permitted to connect to existing municipal services subject to the following:

a) where municipal sewers or water supply mains have been extended outside the urban areas to correct an existing health problem as determined by the Medical Officer of Health or where there is a clean-up order from the Ministry of Environment, Conservation and Parks.

5.2.3.4 Individual water supply and sewage disposal systems are permitted outside the urban areas provided the site conditions are suitable for the long-term provision of such services with no negative impacts...

ANALYSIS

The Subject Lands will be serviced via private on-site servicing infrastructure (such as Bionest septic systems) and cisterns. As described in Section 4.1, the installation of Bionest septic systems and cisterns was considered in the Hydrogeological Report and Supplemental Septic Design Comments prepared by Soil-Mat Engineers. Soil-Mat Engineers provides that it has no objection to the use of the Bionest septic systems and cisterns, provided that the septic systems have been designed specifically for the site based on the available information.

5.4.8 Archaeology – Conservation in Accordance with Provincial Requirements

Section 6.4.2 of the NOP identifies policies regarding archaeology. The following policies apply:

POLICY

6.4.2.1 Development and site alteration shall not be permitted on lands containing archaeological resources or areas of archaeological potential unless significant

archaeological resources have been conserved or the land has been investigated and cleared or mitigated following clearance from the Province.

6.4.2.7 When an archaeological assessment is required, the assessment will follow the applicable guidelines and processes as dictated by the Province, such as the Standards and Guidelines for Consultant Archaeologists, and an acknowledgement letter from the Province verifying this shall be required prior to final to any final approvals.

ANALYSIS

The submission of a Stage 1 & 2 archaeological assessment has been determined to be necessary by the Town and Region to address the installation of septic systems. The subject assessment will be undertaken as a condition of the condominium approval.

5.4.9 Summary of the Niagara Official Plan

Based on the on the forgoing, the Applications conform with the NOP.

5.5 Town of Niagara-on-the-Lake Official Plan (July 17, 2017, Office Consolidation)

The Town of Niagara-on-the-Lake Official Plan sets out policies that deal with legislative and administrative concerns, policies to guide physical growth and policies to express a wide variety of social, economic and environmental concerns. The Subject Lands are designated “Conservation” and “Agricultural” as per Schedule “A” of the Town Official Plan. The following policies apply:

5.5.1 Frontage on a Public Street

Section 6.11 of the Town Official Plan recognizes existing residential development on Firelanes and provides the following policies regarding their development:

POLICY

(1) Within the area north of Lakeshore, there are a number of existing private roads known as "Firelanes". Notwithstanding that all lots must have frontage on a public street, residential development along the south shore of Lake Ontario is recognized. Consents to create new lots are not permitted. Vacant lots in this area existing on the date of passing of this Plan may develop for single detached residential use, subject to a site specific amendment to the zoning by-law and the following policies:

a) Existing lots considered for development or redevelopment within the Firelanes area must have been existing on the date of passing of this Official Plan, and must be held in distinct and separate ownership from abutting properties.

b) Written approval must be received from the Niagara Regional Health Services Department regarding proposed water source and sewage treatment facilities prior to development.

c) *The Niagara Regional Health Services Department is satisfied that the lot, on its individual merit, is capable of supporting a dwelling unit, private water and sanitary sewage disposal systems.*

d) *Written approval must be received from the Niagara Peninsula Conservation Authority regarding slope stability and erosion control prior to development.*

ANALYSIS

The policies of the Town Official Plan recognize the general precedence for residential development along the Firelanes. All dwelling units located on the Subject Lands are existing and have been continuously used since prior to the passing of Zoning By-law Amendment 500EY-88, and each proposed unit is capable of supporting a dwelling and private sanitary services. As per the Preliminary Hydrogeological Assessment and Supplemental Septic Design Comments described in Section 4.1 of this Planning Justification Report, the Subject Lands can safely be serviced by individual on-site sewage services and individual on-site water services.

Subject to review of these submission materials, the Applications conform with Section 6.11 of the Town Official Plan.

5.5.2 Non-complying Uses

Section 6.20 of the Town Official Plan recognizes existing non-complying uses, and states as follows:

The land use polices and designations of this plan represent a concept which will be worked towards. However, it is recognized that there are existing in the Town many uses of land that do not presently comply with this concept and that this situation is likely to persist for a long time. Moreover, many of these uses have been established for a considerable number of years and frequently a large measure of stability has been obtained between them and their neighbors. While a conscious planning program would not seek deliberately to foster a mixture of uses that were believed to be detrimental to each other, it must be recognized that there are many existing situations that can be tolerated in the interim without serious adverse results.

The Plan, therefore, while endeavoring to obtain a high degree of land use compatibility for new development, intends that there be a greater degree of leeway in land use for existing areas where time and custom have achieved acceptable levels of compatibility.

The following criteria are identified for considering planning applications regarding non-complying uses:

POLICY & ANALYSIS

SECTION	POLICY	ANALYSIS
(1)	Where a property has an existing use of land that does not comply with the land use designation shown in this Plan, or to any other applicable policy in this Plan it may, notwithstanding the policies of this Plan, be zoned for the existing use provided that:	
(1) a)	The zoning will not permit any change of use or performance standard that will aggravate any situation detrimental to adjacent complying uses	The proposed Zoning By-law Amendment would not permit a change in a performance standard or a reduction in setbacks from surrounding agricultural uses that may aggravate an existing situation.
(1) b)	The use does not constitute a danger to surrounding uses and persons by virtue of a hazardous nature, the traffic generated, or other nuisance	There are no nuisances anticipated to result from the Applications.
(1) c)	That full regard has been given to protection and/or enhancement of heritage resources.	There are no significant built heritage resources anticipated to be impacted. The Subject Lands are in an area of archaeological potential. If the scope of work regarding the installation of septic systems warrants the completions of an archaeological assessment, such assessment will be required to be undertaken as a condition of approval.
(1) d)	It does not interfere with desirable development in adjacent areas that are in conformity with this Plan.	The Subject Lands are unlikely to be returned to a use that is in conformity with the Agricultural designation of the Town Official Plan. The proposal is not anticipated to interfere with the desirable development of adjacent areas.
(2)	Where an existing use in one or more of these respects is incompatible, it will not be so zoned and will expressly be made a non-conforming use in any zoning by-law.	Residential use of the Subject Lands has existed for several decades. This use has achieved a significant degree of land use compatibility with the surrounding lands.
(5)	Where a zoning change as provided for in Policy (1) or where an expansion of a nonconforming use is proposed under Policy (4) the proponent shall submit to the	This Planning Justification Report fulfills this policy requirement.

SECTION	POLICY	ANALYSIS
	Town Council for review and approval a planning impact analysis.	

5.5.3 Site Servicing

The Subject Lands are presently and will continue to be serviced by individual on-site septic systems. The Town Official Plan provides the following policies:

POLICY

6.25 Private Water Supply and Private Sewage Disposal

Where development is to take place on individual well and sewage disposal systems, the following policies for private systems shall be complied with before any such development will be permitted:

- a) The lot area shall comply with requirements of the authority having jurisdiction for the type of development proposed and the type of private system to be used.*
- b) The size of lots which are to be serviced in an unserviced area with private on site on-site sewage disposal shall not exceed an area of 0.4 hectares or 1 acre of useable land except if additional area is necessary because of private servicing concerns as determined by the authority having jurisdiction.*
- e) Each private sewage disposal system shall require approval by the authority having jurisdiction. Generally, the provision of private systems shall be restricted to residential development. If, in the opinion of the authority having jurisdiction any area appears questionable for the proper operation of a private sewage disposal system, an evaluation of the subject lands by a competent authority, shall be required before development is allowed to proceed.*
- f) The improvement of existing substandard private systems shall be encouraged by all means available to the municipality.*

6.30(2) Sanitary Sewers

- e) Existing private sanitary sewage systems are recognized outside of any Urban Boundary. New private sanitary sewage systems are permitted for any lot created or existing outside of an Urban Boundary in accordance with the policies of this Plan and subject to the approval of the authority having jurisdiction*

ANALYSIS

The Subject Lands are currently serviced via private septic systems and cisterns. Following approval of the proposed Applications each unit will feature its own private septic systems. Subject to the acceptance of the Preliminary Hydrogeological Assessment and Supplemental Septic Design Comments, the Applications conform with the above policies.

5.5.4 Land Use Policies

As described in Section 5.5.1 of this Planning Justification Report, Section 6.11 of the Town Official Plan recognizes existing residential development on Firelanes. This use is not specifically identified in the Agricultural or Conservation designations. In this regard, the proposal should be evaluated based on how it relates to the goals, objectives and general policy direction for both designations. The following apply:

POLICY

7.2 Goals and Objectives (Agriculture)

- (1) To help ensure the preservation of prime agricultural lands for farming with particular emphasis on the preservation of specialty crop lands.*
- (6) To ensure that agricultural areas are protected from harassment and conflict from non-farm residents and non-farm related uses through measures such as preventing the development of non-farm uses in the Agricultural designation.*
- (7) To consider the impact on agriculture as the primary guideline in evaluating development proposals in the agricultural areas.*

16.2 Goals and Objectives (Conservation/Wetlands)

- (4) To control development within the 100 year erosion limit of Lake Ontario.*
- (7) To delineate and regulate development on all lands having inherent physical environmental hazards such as flood susceptibility, poor drainage or other physical conditions which act as a constraint to development in order to prevent loss of life and to minimize property damage and social disruption.*
- (8) To preserve and enhance the amenities and natural resources offered by waterways, wetlands and natural areas in the Town.*

16.4 General Conservation Policies

- (5) Existing uses will be recognized despite the hazardous characteristics of the land. Expansions of such uses will, however, be discouraged unless they are in conformity with the following:*
 - a) Reconstruction and/or minor additions to existing buildings or structures, pump houses, storage sheds and in-ground swimming pools which are approved by the Niagara Peninsula Conservation Authority, in accordance with the Fill, Construction and Alteration to Waterways Regulations;*

ANALYSIS

Although multiple residential units would not be permitted in either land use designation as a new use, the proposed Zoning By-law conforms with policies identified in sections Section 6.11 and 6.20 of the Town Official Plan described in Sections 5.5.1 and 5.5.2 of this Planning Justification Report recognizing residential development along the Firelanes and regarding planning applications for non-complying uses.

In addition to the above, the proposal does not conflict with broader goals, objectives and policy direction contained within the Town Official Plan. In particular, the proposal recognizes existing residential use and would not intensify such uses. The proposal would also not remove lands from agricultural production and is not anticipated to result in a land use conflicts with agricultural land use.

Additionally, all of the development is proposed outside of the revised erosion hazard limit.

5.5.5 Summary of the Town Official Plan

Based on the on the forgoing, the Applications conform with the Town Official Plan. In particular, the use is recognized as per Section 6.11 of the Town Official Plan, as discussed in Section 5.5.1 of this PJR. The number of dwelling units on the Subject Lands represents a non-complying situation. Policies regarding this matter are required to be considered in regard to Section 6.20 of the Town Official Plan. As per the analysis described in Section 5.5.2 of this Planning Justification Report, the Applications conform with the non-complying use polices.

6.0 Proposed Zoning By-law Amendment

The Subject Lands are zoned Shoreline One Family Residential (RC) in accordance with Zoning By-law No. 500A-74 (See Appendix H – Zoning Map). A Zoning By-law Amendment application is required to rezone the Subject Lands to a Site-Specific Shoreline One Family Residential (RC-##) Zone. The Zoning By-law Amendment is required to permit block townhouse dwellings with site-specific zone regulations.

RC Regulations	RC Requirement	Proposed Concept	Compliance
<u>Permitted Uses</u>	A one-family dwelling for year-round occupancy or seasonal dwelling unit A group home	10 single-detached dwellings	No. Only one dwelling unit is permitted on the Subject Lands.
Minimum Lot Area	Existing on the date of passing of this By-law	1.43 hectares	No.

Minimum Lot Frontage and/or Depth	Existing on the date of passing of this By-law	As existing	Yes
Maximum Height	10.6 m	<10.6 m	Yes
Maximum Coverage	Existing on the date of passing of this By-law or 15% of the lot area.	As existing	Yes
Minimum Front Yard	Existing on the date of passing of this By-law or 7.0 m	As existing	Yes
Minimum Rear Yard	Existing on the date of passing of this By-law or 7.0 m	As existing	Yes
Minimum Exterior and/or Interior Side Yard	Existing on the date of passing of this By-law or 3.0 m	As existing (1.2 m to condo line; 1.57 m to lot line)	Yes
Minimum Building Area	Existing on the date of passing of this By-law or: 92.9 sq. m. for one storey 139.35 square metres for two storey	As existing	Yes
Accessory Building yards	Existing on the date of passing of this By-law or 1.5 m	As existing	Yes
Special Provisions	All lots existing on the date of the passing of this By-law, which are subject to the provisions of the "Shoreline One-Family Residential (RC) Zone" shall be exempt from Section 3.11 "Frontage on a Public Road or Street" of Zoning By-Law No. 500A-74, as amended, provided written approval is obtained from the Niagara Regional	All dwellings front on a private road or Lake Ontario	Yes

	<p>Health Unit regarding source of water and proposed method of sewage disposal, as well as written approval from the Ministry of Natural Resources regarding slope stability and erosion control.</p>		
	<p>All lots existing on the date of the passing of this By-law which are subject to the provisions of the "Shoreline One-Family Residential (RC) Zone" shall be exempt from Section 3.4 "Accessory Use" of Zoning By-law No. 500A-74, as amended, only insofar as it would apply to inground, unenclosed pools within a front yard.</p>		<p>Yes</p>
	<p>Nothing in this By-law shall prevent the rebuilding or repair of an existing or permitted building or structure, even though such building or structure or the lot on which such building or structure is located does not conform to one of more of the provisions of this By-law, provided that the yards appurtenant thereto are not reduced</p>		<p>Yes</p>

	except in accordance with the provisions of this By-law.		
	Nothing in this By-law shall prevent a horizontal extension or addition from being made to an existing building or structure or lot or the use thereof does not conform to one or more of the provisions of this By-law, provided such extension or addition itself is designed, located, used, and otherwise is in compliance with the provisions of this By-law, except that all yards appurtenant to an existing building or structure shall be deemed to conform to the yard and setback requirements of this By-law, notwithstanding that the width or depth of such yards might be less than that required elsewhere herein.		Yes

Permitted Uses

The Zoning By-law permits one (1) single-detached dwelling on the Subject Lands. The Subject Lands features ten (10) single-detached dwellings which have existed since the date of the passing on the by-law. These residential uses have achieved land use compatibility with the surrounding uses and have not resulting in any negative impacts to the surrounding lands. The proposed Zoning By-law Amendment is required to recognize the ten (10) single-detached dwellings.

Zone Requirements

Although the dwellings on the Subject Lands comply with the zone requirements, site-specific provisions are proposed to achieve compatibility for replacement dwellings that may be constructed in the future, as follows:

1. Relief regarding lot area is required for the reduced lot area for the Subject Lands resulting from Approval of Consent Applications B-14/24 and B-15/24. Recognition of the reduced lot area is required to fulfil conditions of approval of the previous consent application.
2. The front yard setback would be measured from condominium lines abutting the private road within the Plan of Condominium. To recognize the existing context in which dwellings are situated in proximity to the private road, it is proposed that the front yard setback be 4.5 metres to the front face of a dwelling and 6.0 metres for the front face of a garage or as existing for existing dwellings.
3. The rear yard setback would be measured from the lot line opposite to the condominium lines abutting the private road within the Plan of Condominium. To recognize the existing permissions, it is proposed that the permitted rear yard setback be 7.0 metres for new dwellings or as existing for existing dwellings. Dwellings would also be required to be setback 7.5 metres from the NPCA Top of Stable Slope.
4. The minimum interior side yard setback from a condominium unit line is proposed to be 1.2 metres, or as existing for existing dwellings and accessory buildings. Dwellings would still need to be setback 1.5 metres from lot lines.

7.0 Summary and Conclusion

It is our opinion the proposed Zoning By-law Amendment and Draft Plan of Condominium applications represent good land use planning, are in the public interest and should be approved for the following reasons:

- The Applications are necessary to recognize an existing legal use of the Subject Lands;
- The Applications conform with Provincial, Regional and Town policy documents, and in particular polices under section 4.5 of the Greenbelt Plan regarding existing uses and section 5.2.1 of the Greenbelt Plan regarding decisions on applications related to previous site-specific approvals;
- The Applications would not permit intensification of the residential use of the Subject Lands, and as such are not anticipated to result in impact adjacent agricultural uses;
- The Applications do not negatively impact natural hazards related to the Lake Ontario shoreline;

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- The Subject Lands can be adequately serviced via individual on-site sewage services and individual on-site water services; and
- The Applications are supportive of the existing housing stock on rural lands.

Report prepared by:



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8.0 Appendices

Appendix A – Draft Zoning By-law Amendment

**THE CORPORATION
OF THE
TOWN OF NIAGARA-ON-THE-LAKE
BY-LAW NO. 500A-74-##**

Firelane 13B Road
Roll 262702001612300

A BY-LAW TO AMEND BY-LAW NO. 500A-74, AS AMENDED, ENTITLED A BY-LAW TO REGULATE THE USE OF LAND AND THE CHARACTER, LOCATION AND USE OF BUILDINGS AND STRUCTURES THEREON.

WHEREAS the Town of Niagara-on-the-Lake Council is empowered to enact this By-law by virtue of the provisions of Section 34 of the Planning Act, R.S.O, 1990, c.P.13, as amended;

AND WHEREAS this By-law conforms to the Town of Niagara-on-the-Lake Official Plan.

NOW THEREFORE THE COUNCIL OF THE CORPORATION OF THE TOWN OF NIAGARA-ON-THE-LAKE enacts as follows:

1. That Map 'A' is attached to and forms part of this By-law.
2. That Schedule 'A' of By-law 500A-74, as amended, is further amended by changing the zoning of the Lands identified on Map 'A' (attached to and forming part of this By-law from "Shoreline One Family Residential (RC) Zone" to "Shoreline One Family Residential (RC-##) Site-Specific Zone".
3. In lieu of the corresponding provisions of Section 7.2 of Zoning By-law 500A-74 as amended, the following provisions shall apply on the Subject Lands as shown

(Shoreline One Family Residential RC-## Site Specific-Zone) on Map 'A' attached hereto:

7.1(a) Ten (10) one-family dwellings shall be permitted

7.2 (a) Minimum Lot Area: 1.4 hectares

7.2 (e) Minimum Front Yard:

i. New Dwellings:

1. Minimum front yard setback to front face of dwelling: 4.5 metres
2. Minimum front yard setback to front face of the attached garage: 6.0 metres

7.2 (f) Minimum Rear Yard:

- i. New Dwellings: the greater of 7 metres or 7.5 metres from the Stable Top of Slope

7.2 (g) Minimum Exterior and/or Interior Side Yard:

- i. New Dwellings: 1.2 metres from condominium unit line or a 1.5 metres lot line

4. In addition to the Special Provisions identified in Section 7.3 of the Zoning By-law, the following provisions shall apply to the Subject Lands:

7.3.5 Unless stated otherwise, front yard, rear yard and exterior and/or interior side yard setbacks shall be measured from condominium unit lines.

7.3.6 Notwithstanding any other provisions of this By-law, where a dwelling was lawfully constructed prior to the date of passing of this By-law, and the existing setback from any lot line is less than the minimum required setback, such existing setback shall be deemed to comply with the requirements of this By-law.

5. In addition to the Definitions identified in Section 7.4 of the Town Zoning By-law, the following shall apply to the Subject Lands:

For the purpose of implementing the regulations of the Site-specific Shoreline One Family Residential (RC-##) Zone, the following definition of a "Front Unit Line" shall apply and shall be used in interpreting definitions 2.83, 2.84 and 2.86 in regard to setbacks from unit lines:

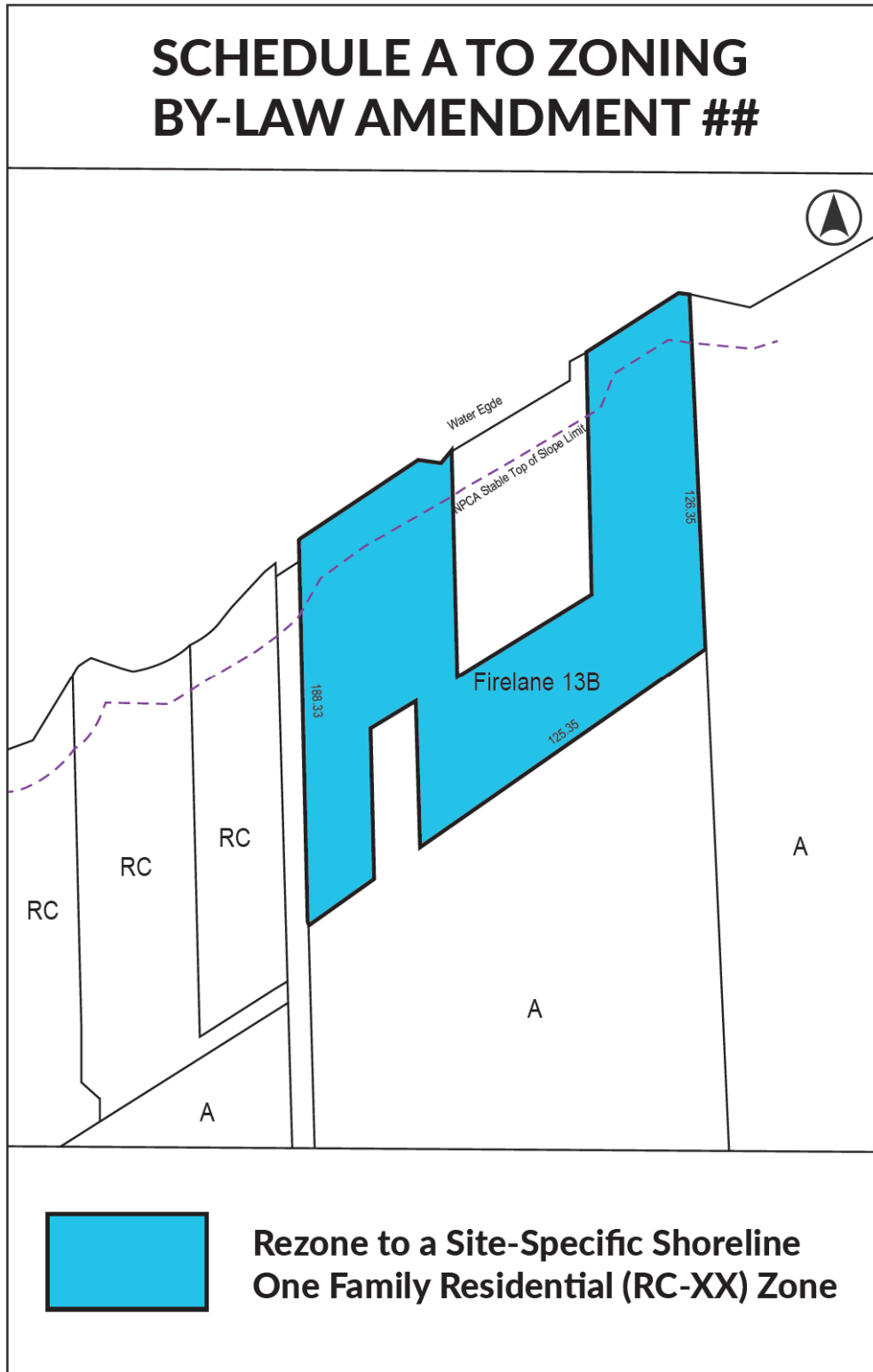
"Unit Line Front" means the condominium unit line that divides a condominium from a private street forming part of the condominium corporation. In the case of a lot that fronts on more than one street, the street onto which the principal means of access is provided shall be deemed to be the front lot line.

That the effective date of this By-law shall be the date of final passage thereof.

READ A FIRST, SECOND AND THIRD TIME THIS ____ DAY OF _____, 2025.

LORD MAYOR GARY ZALEPA

TOWN CLERK GRANT BIVOL



Appendix B – Historical Aerial Photos

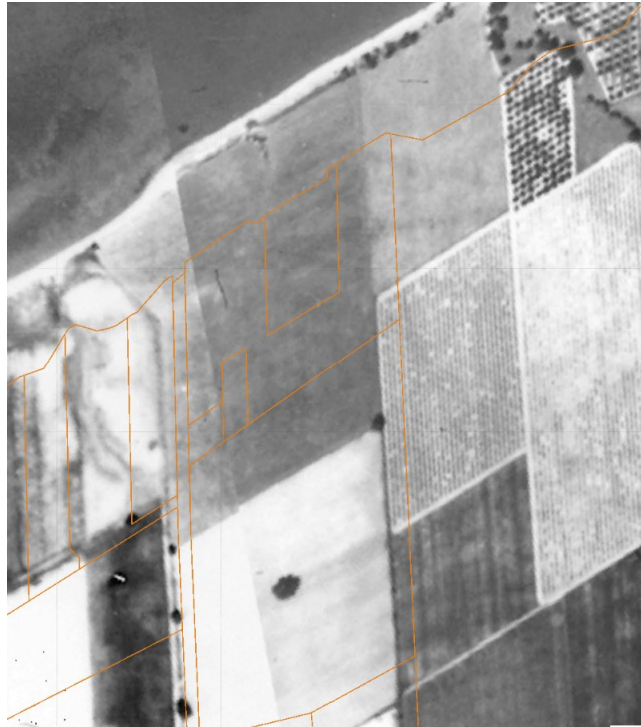


Photo 1. Aerial Photo of the Subject Lands, dated 1934. Source: Niagara Navigator



Photo 2. Aerial Photo of the Subject Lands, dated 1954-1955. Note, the lands are for residential use. Source: Niagara Navigator



Photo 3. Aerial photo of the Subject Lands, dated 1965. Source: Niagara Navigator



Photo 4. Aerial photo of the Subject Lands, dated 1971. Source: Niagara Air Photo Index

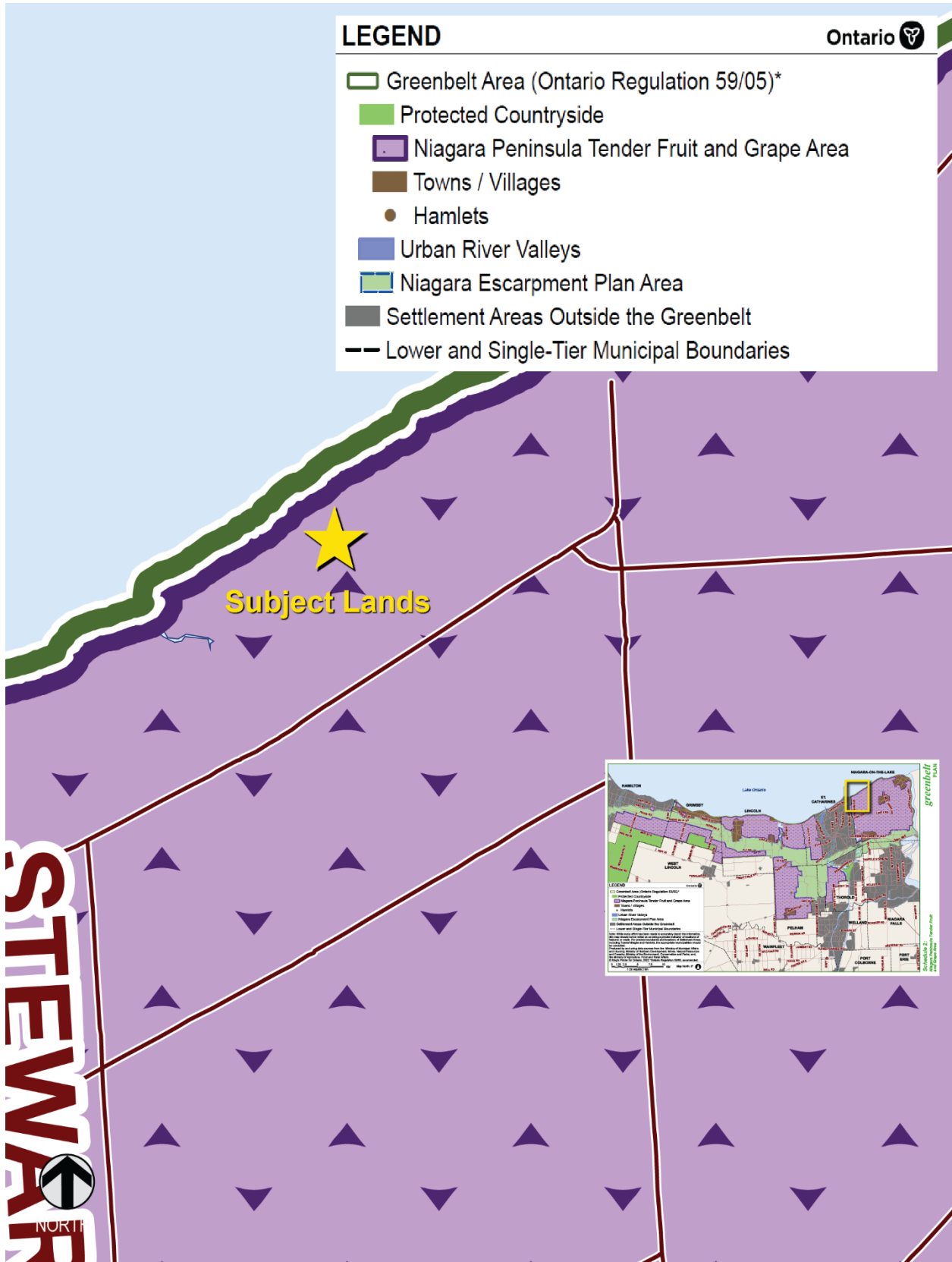


Photo 5. Aerial Photo of the Subject Lands, dated 2002. Source: Niagara Air Photo Index



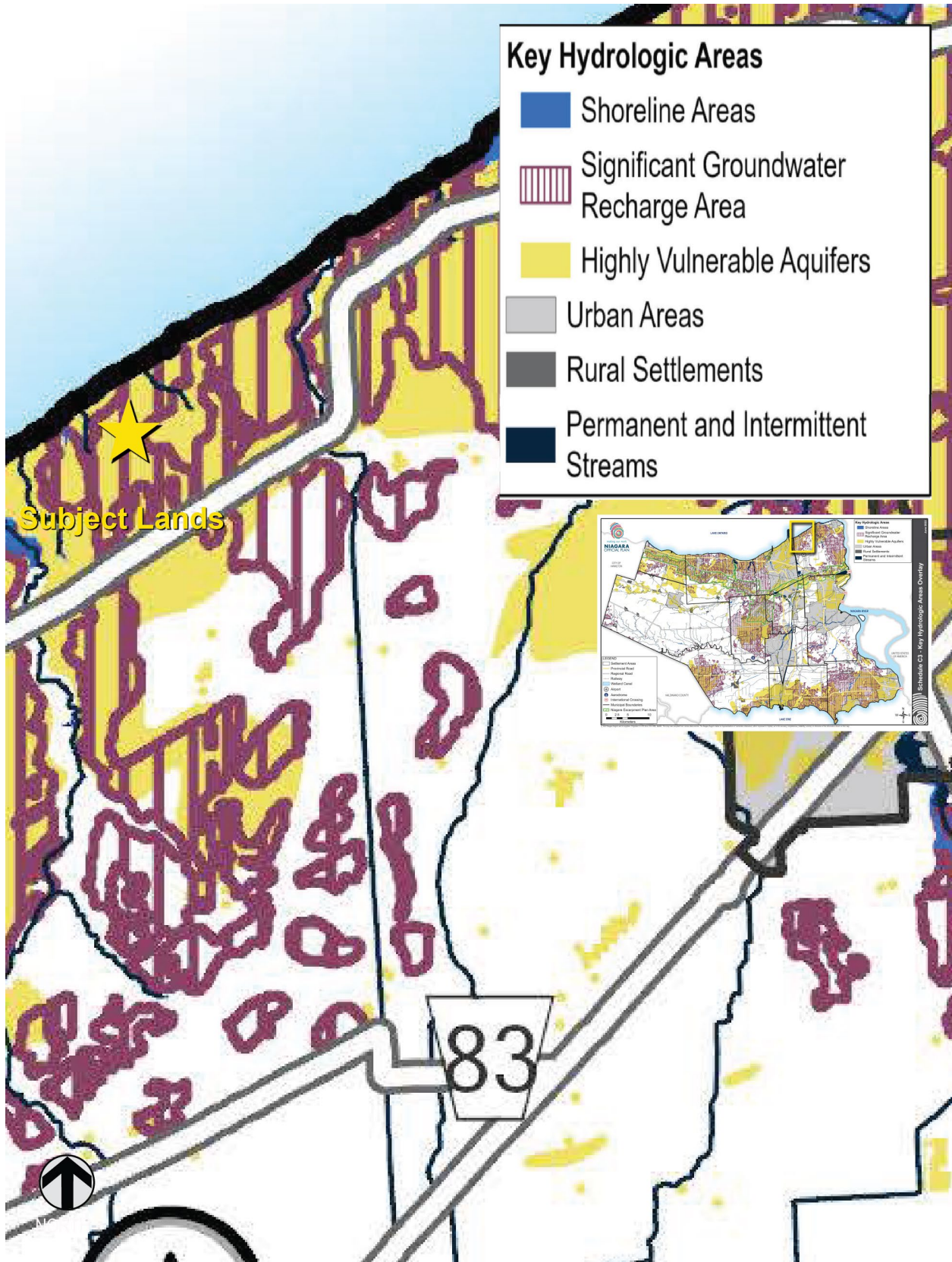
Photo 6. Aerial Photo of the Subject Lands, dated 2020. Source: Niagara Navigator

Schedule 2 – Niagara Peninsula Tender Fruit and Grape Area

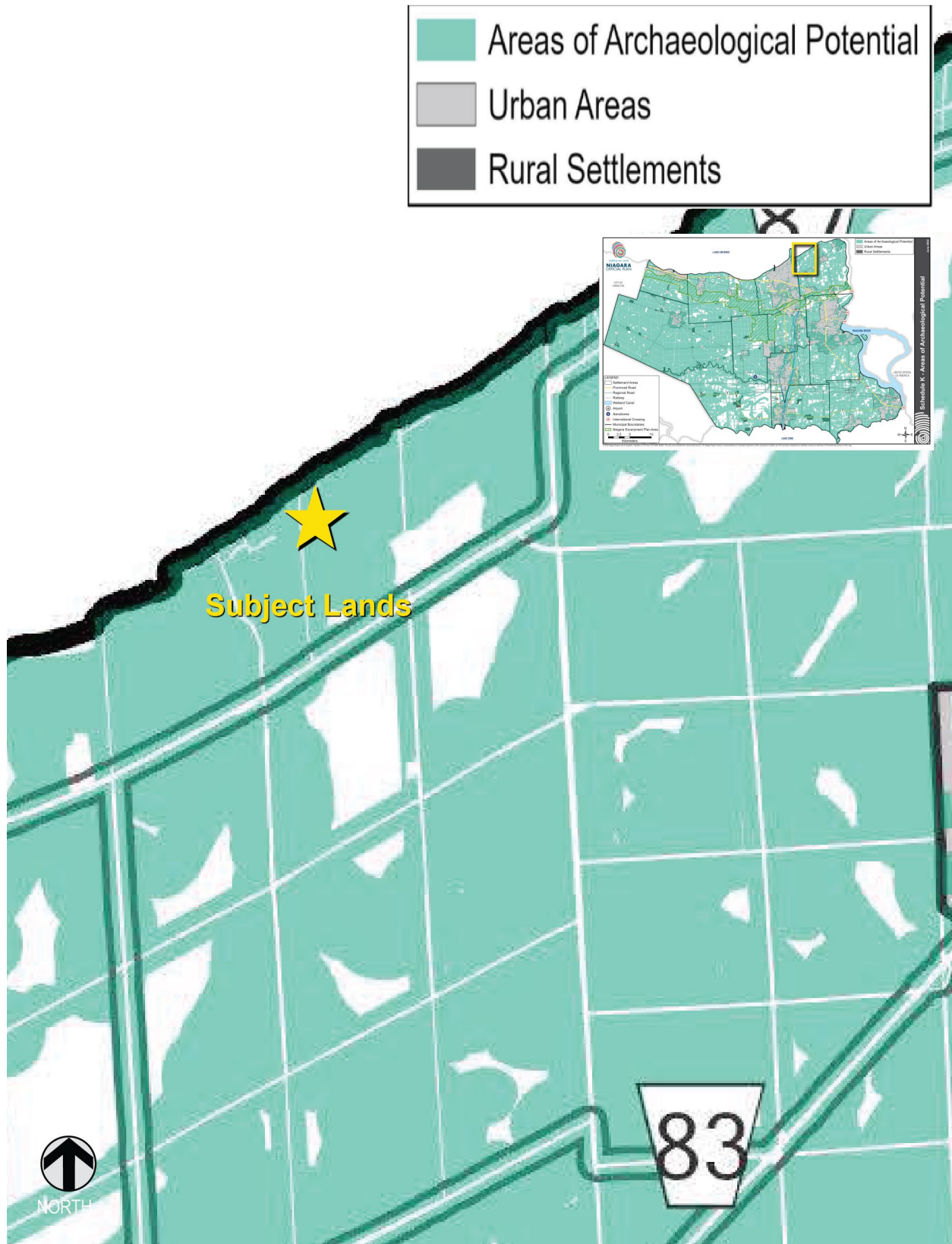


Appendix F – Region of Niagara Schedules

Schedule C3 – Key Hydrologic Areas Overlay



Schedule K – Areas of Archaeological Potential

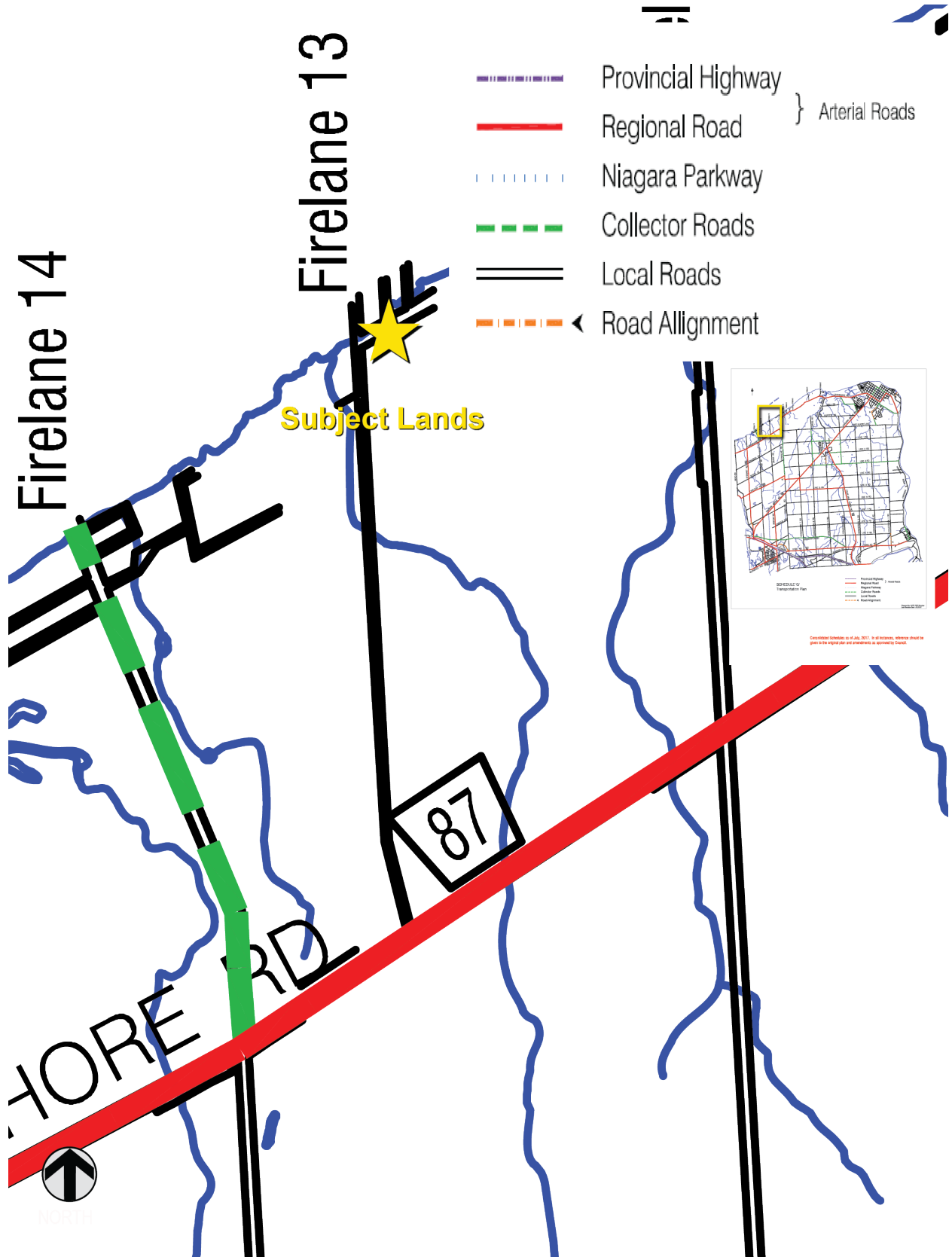


Appendix G – Town of Niagara-on-the-Lake Official Plan Schedules

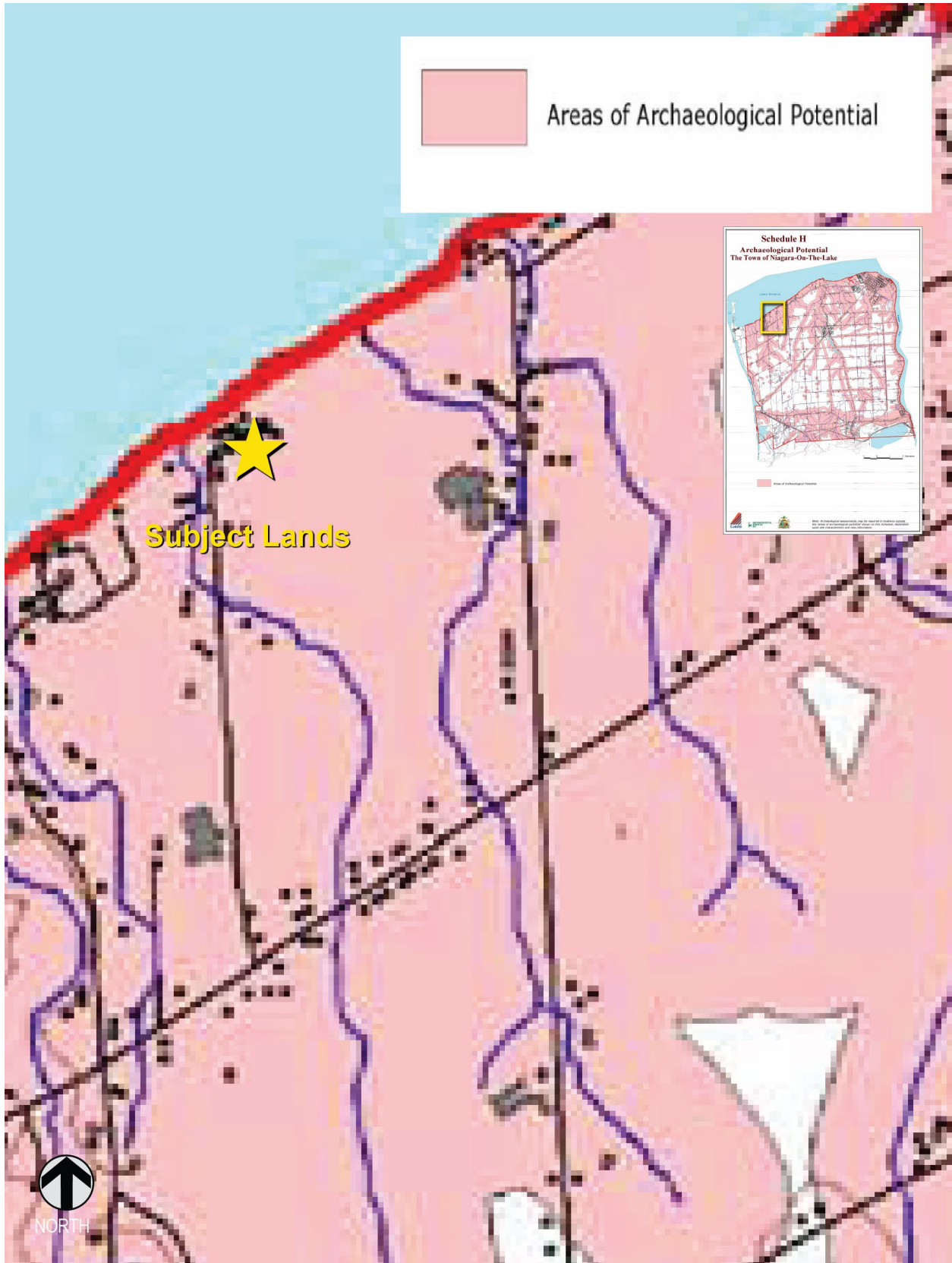
Schedule A – Land Use Plan



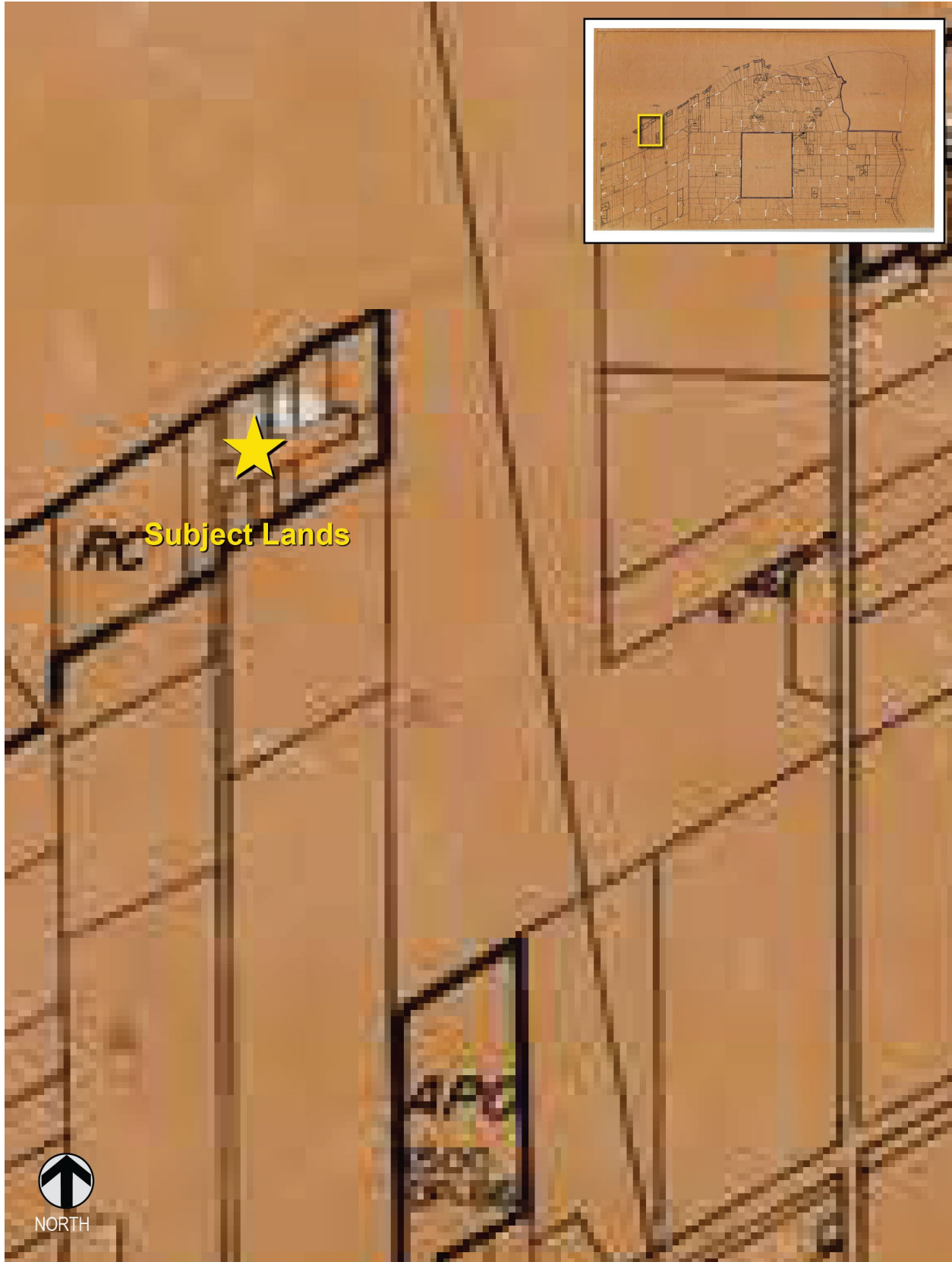
Schedule G – Transportation Plan



Schedule H – Areas of Archaeological Potential



Appendix H – Town of Niagara-on-the-Lake Zoning By-law Schedule



Appendix I – Correspondence with Town Staff Regarding TIPP

From: Victoria Nikoltcheva <Victoria.Nikoltcheva@notl.com>
Sent on: Tuesday, May 14, 2024 7:53:12 PM
To: Jesse Auspitz <jauspitz@npgsolutions.ca>; Max Fedchyshak <mfedchyshak@npgsolutions.ca>; Leo DiFabio <leo@leodifabio.com>; Dylan Earl <dylanearl@maximaholdings.ca>
CC: Aimee Alderman, MSc, MCIP, RPP <aimee.alderman@notl.com>
Subject: Re: Firelane 13B (ZBA, Vacant Land Condo) - Compiled Preconsultation Agreement & Comments

Hi Jesse,

Further to our conversation earlier, we acknowledge that tree removal and protection measures can be addressed through the draft condominium agreement. In lieu of any arborist report or tree inventory to evaluate the applications, Staff can accept a statement within your Planning Justification Report to acknowledge that trees may need to be removed as a result of septic installations and considerations will be taken to minimize impacts on trees, where possible.

Please feel free to reach out again if you have any further questions.

Thank you,

Victoria Nikoltcheva

Planner II

Victoria.Nikoltcheva@notl.com

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