



Planning Justification Brief

Applications for Consent and Zoning By-law Amendment 145 Hunter Road – Lepp Farms

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1.0 Introduction

NPG Planning Solutions Inc. (NPG) are planning consultants to George Lepp, “Owner” of 828263 Ont. Ltd and owner of 2.23 hectares of land in the Town of Niagara-on-the-Lake, municipally known as 145 Hunter Road (Subject Lands). NPG has been retained to provide professional planning advice on the applications related to the surplus farm dwelling located at 145 Hunter Road. The applications are for a Consent Application to sever a surplus farm dwelling from the Subject Lands and a rezoning of the retained lands to a Site-Specific Agricultural Purposes Only (APO-XX) Zone to prohibit new residential uses on the retained lands. A rezoning of the severed lands is proposed to acknowledge deficiencies for the existing buildings in terms of setbacks, minimum front yard setback, and a reduction in the rear yard setback.

The Provincial Policy Statement (2020) prohibits the creation of new residential lots in Prime Agricultural Areas, except where it can be demonstrated that a farm dwelling has been made surplus by a farm consolidation. In this case, the farm consolidation involves the acquisition of the agricultural parcel in the Town of Niagara-on-the-Lake by George Lepp/828263 Ont. Ltd. operating as a single farming operation as will be discussed further in Section 3.0 of this Planning Justification Report (PJR).

This PJR evaluates the appropriateness of the Consent and Zoning By-law Amendment applications when assessed against policies in the Provincial Policy Statement (PPS), 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 (ZBL) No. 500A-74, as amended.

Sections 4.1, 4.2, and 4.3 of this Report assess the proposed surplus farm dwelling severance against provincial and regional planning policies. Section 4.4 of this report establishes that the proposal conforms to the Town OP, while Section 5.0 provides planning justification for the proposed Zoning By-Law Amendment.

In the opinion of NPG, the proposed Consent and Zoning By-law Amendment applications constitute good land use planning, are in the public interest, and should be approved.

2.0 Description of Subject Lands and Surrounding Area

The Subject Lands are located in the Town of Niagara-on-the-Lake within the Agricultural Area on the south side of Hunter Road just outside the community of Old Town. The farm parcel is 2.23 hectares in size and irregularly shaped with 67.3 metres of frontage on Hunter Road, and a depth of 365 metres (approximately). There is an existing two-storey dwelling on the Subject Lands for which a new residential lot is proposed to be created (see Part 1 on Consent Sketch – **Appendix A**). There are no buildings or structures on the retained lands (Part 2). As Part 2 does not meet the minimum farm parcel size in Niagara-on-the-Lake, Part 2 is proposed to be merged with Parts 3 and 4 on Appendix A to create a larger farm parcel to achieve the minimum farm parcel size.

The Subject Lands are designated Agricultural in the Town's Official Plan and Zoning By-law 500A-74 zones the lands Rural (A). The Subject Lands are surrounded by existing Agricultural and Rural Residential uses (see **Figure 1 – Aerial Context**).



Figure 1 - Aerial Context

- North:** Residential (Single-detached dwellings) and Agricultural
- East:** Agricultural with Residential along Hunter Road
- South:** Agricultural with Residential along East and West Line
- West:** Residential (Single-detached dwellings) and Agricultural

2.1 Site Photos

The Subject Lands are further contextualized by photos collected during a site visit in July 2023. These photos show the existing buildings and structures on the Subject Lands and immediately surrounding properties, as well as their current use and general condition (See **Photos 1-6**).



Photo 1. View looking south from Hunter Road towards the single detached dwelling on the Subject Lands



Photo 2. View looking southeast from Hunter Road towards the row of cedars separating residential and agricultural uses.



Photo 3. View looking south from Hunter Road towards the agricultural uses located near the eastern lot line.



Photo 4. View looking south from Hunter Road towards the service lane related to the agricultural uses on the Subject Lands.



Photo 5. View looking south from the western wall of the dwelling towards the rear yard and the existing garage.



Photo 6. View looking west towards the existing garage structure and the western lot line. property line.

3.0 Proposed Development

3.1 Proposed Consent and Zoning By-law Amendment

The proposed consent is to create a new residential lot for the existing detached dwelling at 145 Hunter Road identified as Part 1 on the Consent Sketch (see Figure 2 below or **Appendix A**).

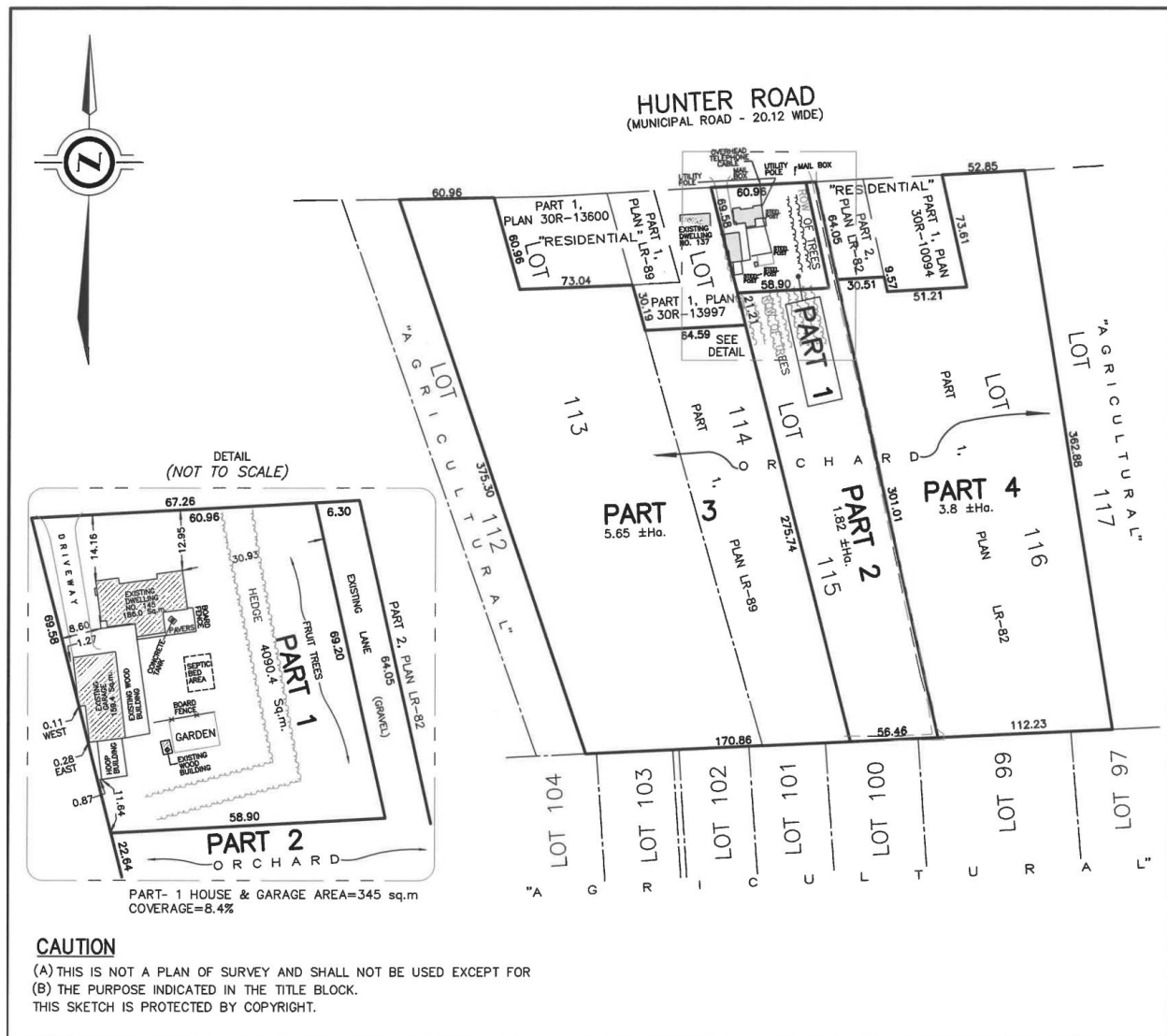


Figure 2. Consent Sketch

The severed lands (Part 1) contain the existing detached dwelling, the existing garage/storage building, as well as the driveway and the private septic system. Part 1 is proposed to have an area of 4,090.4 m² (0.4090 hectares or approximately 1 acre), lot frontage of 60.96 metres, and a lot depth of 69.4 metres. An assessment of the condition of the existing private septic system on Part 1, as well as determination of whether adequate space for a replacement septic system is available on the proposed lot, will be confirmed through a Private Sewage System Inspection/Review by Niagara Region staff.

The retained lands (Part 2) do not contain any buildings and are in agricultural production. No buildings are proposed for the retained lands. Part 2 is proposed to have an area of approximately 18,200 m² (1.82 hectares), lot frontage of 6.3 metres along Hunter Road, and a lot depth of 301.1 metres. The 6.3 metre frontage proposed will provide access via the existing lane used to service the agricultural parcel. As mentioned, Part 2 will be merged with Parts 3 and 4 to create an agricultural parcel with an approximate area of 11.27 hectares.

A Zoning By-law Amendment (ZBA) is expected to be required as a condition of consent to re-zone the retained lands to Site-Specific Agricultural Purposes Only (APO-XX) to ensure that new residential dwellings are prohibited in perpetuity on the retained lands. The severed lands are proposed to be rezoned to a Site-Specific Rural A (A-XX) zone to provide relief related to existing conditions and rear yard. The Zoning By-law Amendment is submitted with the consent application.

3.2 Farm Consolidation

The Subject Lands and detached dwelling is currently owned by George Lepp, in favour of 828263 Ont. Ltd (acquired February 2023). The Owner does not reside on the Subject Lands, but does reside at 72 Hunter Road (acquired 2003). The farm on the Subject Lands is to be consolidated with the farming operation located to the rear of 72 Hunter Road. Due to this consolidation, the dwelling located on the Subject Lands has been deemed surplus to the farming operation.

In addition to the farming operations located at 72 Hunter Road and the Subject Lands, the Owner operates farms at several other unaddressed parcels along Hunter Road, East and West Line, and Four Mile Creek Road. These parcels were acquired between June 1983 and 2023. Please see **Figure 2** below for a map of all agricultural parcels owned or operated by the Owner.

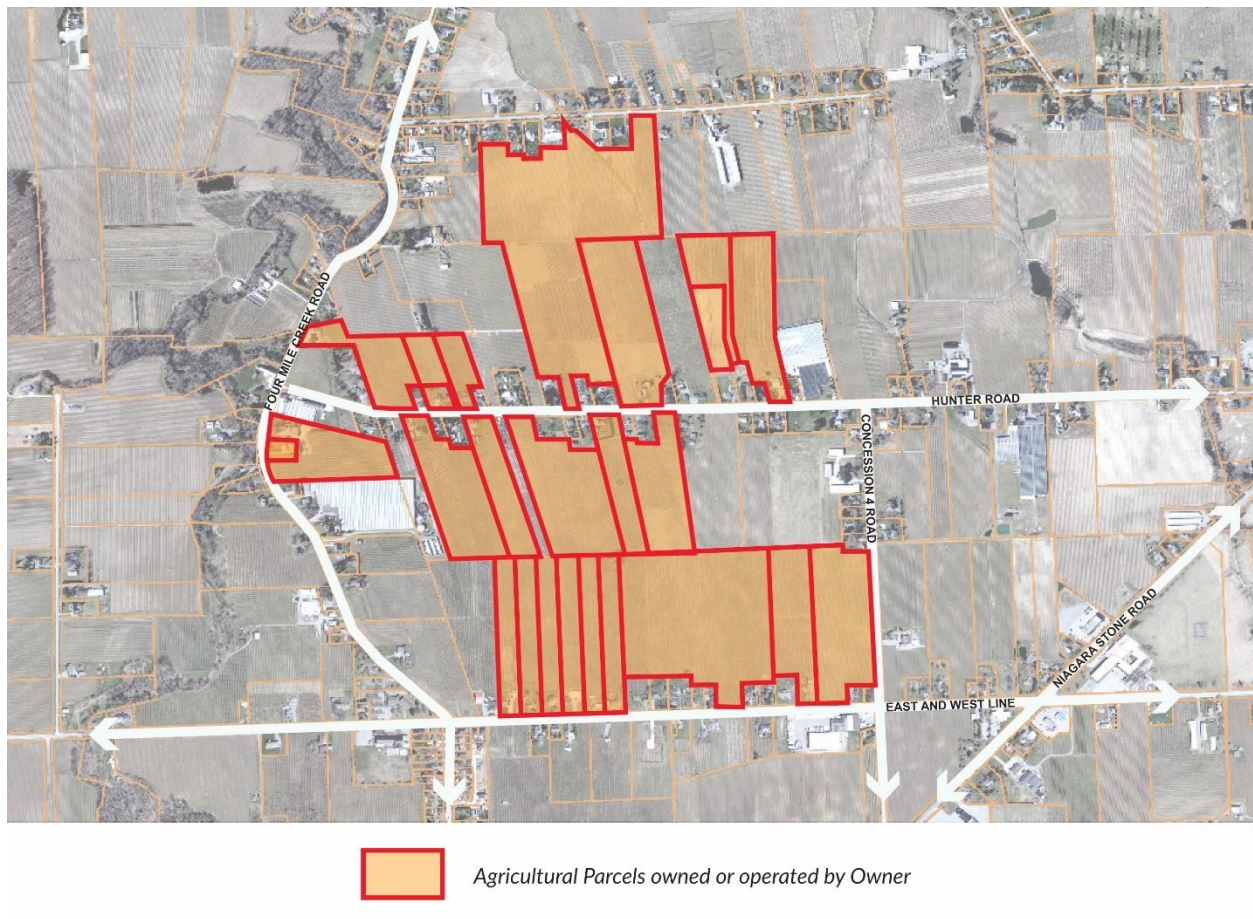


Figure 3. Farm Operation and Consolidation Map.

3.3 Existing Agricultural Laneway

During pre-consultation with the Town, justification was requested regarding maintaining the 6.3 metre laneway to the east of the residential parcel (Part 1). Maintaining the laneway can be supported as:

- The laneway is existing and has not resulted in any land use compatibility issues with the dwelling on the subject lands or the neighbouring dwelling to the east (155 Hunter Road).
- There are other examples of agricultural laneways between residential parcels on Hunter Road with no known land use compatibility concerns (agricultural access is provided between 72 & 84 Hunter Road, and 280 & 286 Hunter Road) (see Figure 4 for map).
- The laneway is exclusively for agricultural purposes and is not frequently used.
- The adjoining property to the east, as shown in the site photos, has a driveway and garage abutting the laneway which creates a distance between the laneway and the house on the property to the east.

- Part 4 does not have access to Hunter Road. The laneway will provide convenient access to Parts 2 and 4 supporting efficient farming practices following their merging.



Figure 4. Map identifying agricultural laneways between residential uses.

3.4 Pre-Consultation

The Pre-Consultation Agreement dated April 20, 2023 identified the following requirements for a complete application submission:

1. Planning Justification Brief
2. Draft Zoning By-law Amendment
3. Property Index Map and Parcel Registers
4. Consent Sketch
5. Detailed Septic Design

4.0 Planning Policies

4.1 Planning Act

The *Planning Act*, R.S.O. 1990, C.P.13, is the provincial legislation that sets out the basis for land use planning in Ontario. The Act describes how land uses may be controlled, and who may control them.”

Section 2

Section 2 of the *Planning 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 provides a summary of the provincial interests, along with an analysis as it relates to the Proposed Consent and the Zoning By-law Amendment Application:

Table 1 – Analysis of Section 2 of Planning Act

Section	Provincial Interest	Analysis
a)	the protection of ecological systems, including natural areas, features and functions	The proposed consent is located outside of ecological systems and natural areas.
b)	the protection of the agricultural resources of the Province	The proposed consent will ensure the retained lands will remain in agricultural production in perpetuity.
c)	the conservation and management of natural resources and the mineral resource base	The Site does not contain any natural resources or mineral resources.
d)	the conservation of features of significant architectural, cultural, historical, archaeological or scientific interest	There are no known significant features on the Site.
e)	the supply, efficient use and conservation of energy and water	This is not applicable.
f)	the adequate provision and efficient use of communication, transportation, sewage and water services and waste management systems	This is not applicable.
g)	the minimization of waste	This is not applicable.

Section	Provincial Interest	Analysis
h)	the orderly development of safe and healthy communities	This is not applicable.
h.1)	the accessibility for persons with disabilities to all facilities, services and matters to which this Act applies	This is not applicable.
i)	the adequate provision and distribution of educational, health, social, cultural and recreational facilities	These facilities are available in Old Town.
j)	the adequate provision of a full range of housing, including affordable housing	This is not applicable.
k)	the adequate provision of employment opportunities	This is not applicable.
l)	the protection of the financial and economic well-being of the Province and its municipalities	This is not applicable.
m)	the co-ordination of planning activities of public bodies	This will be addressed through the circulation of the planning applications to applicable public bodies.
n)	the resolution of planning conflicts involving public and private interests	This is not applicable.
o)	the protection of public health and safety	This is not applicable.
p)	the appropriate location of growth and development	This is not applicable.
q)	the promotion of development that is designed to be sustainable, to support public	This is not applicable.

Section	Provincial Interest	Analysis
	transit and to be oriented to pedestrians	
r)	the promotion of built form that:	This is not applicable.
r.i)	is well-designed	This is not applicable.
r.ii)	encourages a sense of place	This is not applicable.
r.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	This is not applicable.

ANALYSIS

In summary, it is our opinion that the proposed consent and the implementing Zoning By-law Amendment Application has regard for matters of public interest as stipulated in Section 2 of the *Planning Act*.

Section 51

Section 53(12) of the *Planning Act* provides that Council (or the Committee of Adjustment as its delegate) in determining whether provisional consent is to be given shall have regard to the matters under Section 51(24) in the *Planning Act*. The table below assesses the criteria outlined in Section 51(24) in relation to the proposed consent application.

Table 2 – Analysis of Section 51(24) of the Planning Act

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>	<p>The proposed consent has regard for matters of provincial interest provided in Section 2 of the <i>Planning Act</i>.</p> <p>Specifically, the proposed consent ensures the protection of agricultural resources of the Province.</p>

Criteria	Proposed Consent
(b) <i>whether the proposed subdivision is premature or in the public interest;</i>	The proposed consent will create a new residential lot to accommodate an existing detached dwelling rendered surplus from a farm operation due to consolidation. This is in the public interest and will not result in development that is premature.
(c) <i>whether the plan conforms to the official plan and adjacent plans of subdivision, if any;</i>	The proposed consent achieves the purpose and intent of the NOP and Town OP policies for surplus farm dwelling severances. The proposed lot is serviced by municipal water and is of sufficient size to accommodate a private on-site septic system.
(d) <i>the suitability of the land for the purposes for which it is to be subdivided;</i>	The residential lot proposed is occupied by an existing detached residential dwelling. The severed lands are suitable for the residential use in terms of topography and lot dimensions. The lot has driveway access to Hunter Road, a Town road that is open year round.
(e) <i>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>	Both the severed and retained lands will have appropriate frontage along a public road to provide safe access to them.
(f) <i>the dimensions and shapes of the proposed lots;</i>	The dimensions of the proposed lot are rectangular and consistent with the size and dimensions of other rural residential lots in the area in terms of lot area, frontage, and depth.
(g) <i>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>	The retained lands will be rezoned for Agricultural Purposes Only (APO) to prohibit the construction of new residential dwellings. It is anticipated that the APO zoning will be a condition of the consent for the residential dwelling.

Criteria	Proposed Consent
(h) <i>conservation of natural resources and flood control;</i>	There are no natural resources on site or flood control issues related to the proposed development.
(i) <i>the adequacy of utilities and municipal services;</i>	The severed lands will be adequately serviced. The retained lands will not have any buildings or structures and thus do not need servicing.
(j) <i>the adequacy of school sites;</i>	The proposed consent will create a new residential lot consisting of an existing farm dwelling. The proposed development will not impact the adequacy of school sites and is provided for by existing school sites and facilities in the area.
(k) <i>the area of land, if any, within the proposed subdivision that, exclusive of highways, is to be conveyed or dedicated for public purposes;</i>	No conveyance of land is required for highway purposes.
(l) <i>the extent to which the plan's design optimizes the available supply, means of supplying, efficient use and conservation of energy; and</i>	The proposed consent will create a new residential lot for an existing detached residential dwelling and will not impact the available supply, means of supplying, or efficient use and conservation of energy.
(m) <i>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.</i>	This is not applicable to the proposed consent as the lands are not subject to Site Plan Control.

CONCLUSION

All of the relevant matters contained within Section 51(24) of the *Planning Act*, have been considered throughout this PJR and the proposed consent. On that basis, the proposed surplus farming dwelling severance complies with Section 51(24) of the *Planning Act*.

4.2 Provincial Policy Statement (2020) (PPS)

The PPS provides the policy foundation for land use in Ontario. The PPS requires that proposals are consistent with the PPS, make efficient use of land and services, protect agricultural land, and supports opportunities for long-term economic prosperity.

4.2.1 Agricultural Policies

The Subject Lands are within the Prime Agricultural Area, and, more specifically, a Specialty Crop Area based on the policies and definitions in the PPS.

The PPS provides the following policy direction with respect to Lot Creation in Prime Agricultural Areas:

POLICY

2.3.1 Prime agricultural areas shall be protected for long-term use for agriculture.

2.3.3.2 In prime agricultural areas, all types, sizes and intensities of agricultural uses and normal farm practices shall be promoted and protected in accordance with provincial standards.

2.3.3.3. New land uses in prime agricultural areas, including the creation of lots and new or expanding livestock facilities, shall comply with the minimum distance separation formulae.

2.3.4.1 Lot creation in prime agricultural areas is discouraged and may only be permitted for:

c) a residence surplus to a farming operation as a result of farm consolidation, 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 residential dwellings are prohibited on any remnant parcel of farmland created by the severance. The approach used to ensure that no new residential dwellings are permitted on the remnant parcel may be recommended by the Province, or based on municipal approaches which achieve the same objective; and

2.3.4.3 The creation of new residential lots in prime agricultural areas shall not be permitted, except in accordance with policy 2.3.4.1(c).

POLICY

As discussed in Section 1.0 and 3.0, the existing detached dwelling on the Subject Lands has been deemed surplus to the farming operation of the applicant due to a farm consolidation. Part 1, the residential lot proposed, is large enough to accommodate the surplus farm dwelling and private servicing in accordance with Policy 2.3.4.1(c)(1).

The proposing Zoning By-law Amendment will prohibit the creation of a dwelling on the retained lands which will be the agricultural parcel.

There are no known livestock facilities or anaerobic digesters in the vicinity of the Subject Lands. On that basis, the proposed lot complies with the Minimum Separation Distance Formula.

CONCLUSION

Based on the foregoing, the proposed consent and Zoning By-law Amendment are consistent with the PPS.

4.3 Greenbelt Plan (2017)

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 C**).

4.3.1 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 farming 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 force 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 force in respect of the land on which the uses are established.*

ANALYSIS

The policies of the Greenbelt Plan largely mirror those of the PPS with respect 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 subsequently deemed to be surplus to a farming operation due to a farm consolidation.

The proposed surplus farming dwelling consent meets PPS and Greenbelt Plan policy requirements. The farm consolidation associated with this proposed consent is described in Section 1.0 & Section 3.0 of this report, while a discussion and analysis of relevant PPS policies is provided Section 4.2.1 of this PJR.

The new residential lot to be created for the surplus farm dwelling is just over 0.4 hectares in size, which is the minimum size preferred by Niagara Region to accommodate the use and appropriate sewage and water services, as will be discussed in Section 4.3 of this PJR.

To satisfy Policy 4.6 (1) f) ii) it is proposed that Agricultural Purpose Only zoning be applied to Part 2 of the Subject Lands to ensure their protection for longer term agricultural use. The application for the Zoning by-law Amendment is submitted concurrently with the consent application.

The dwelling on Part 1 (severed lands) is currently inhabited and can be seen on Niagara Navigator aerial imagery dating back to at least 1965, establishing it meets the Greenbelt Plan's definition for existing use which requires a legally established use prior to December 16, 2004.

CONCLUSION

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

4.4 Niagara Official Plan (2022)

The NOP is the long-term, strategic policy planning framework for managing growth in Niagara Region. The NOP identifies what needs to be protected, how and where growth should occur, and the policy tools needed to manage forecast growth and development.

4.4.1 Policies for Lot Creation in Specialty Crop Areas

The Subject Lands are within the Greenbelt Plan Area as identified on Schedule "A" (Local Municipalities) and Specialty Crop as identified on Schedule "F" (Agricultural Land Base). The Niagara Official Plan includes policies for the agricultural land for which the following policies apply.

POLICY

4.1.5.1 In the 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;

b) the consent is for a residence surplus to a farming operation as outlined 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;

i. 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 of two lots is not possible, the retained farm parcel shall be zoned to preclude its use for residential purposes.

ANALYSIS

For surplus farm dwelling severances, the policies of the NOP build upon those of the PPS and Greenbelt Plan. The farm consolidation that establishes the Consent Application meets the requirements of Policy 4.1.5.2 a) and is described in Sections 1.0 and 3.0 of this PJR. The existing dwelling is habitable and has existed on the Subject Lands since at least 1965.

The proposed lot area for the residential lot is 0.409 hectares which is consistent with the lot area of 0.4 hectares specified in Policy 4.1.5.2 b). The proposed lot area meets the general intent and purpose of the NOP as the proposed lot is serviced by municipal water, has an existing private sanitary system, and could accommodate a spare or replacement system. To reduce fragmentation of the agricultural land base, Part 2 (retained lands) are proposed to be rezoned to an Agricultural Purposes Only (APO) Zone to preclude its use for residential purposes. Part 2 will be merged with adjoining land (Parts 3 and 4 – refer to proposed Consent Sketch).

More broadly, the proposed consent meets NOP direction to protect lands in Specialty Crop Areas for long-term use for agriculture. The proposed lot will not result in lands being take out of agricultural production.

CONCLUSION

Based on the foregoing, the proposed consent conforms to the NOP.

4.5 Town of Niagara-on-the-Lake Official Plan (Town OP)

The Town OP is to guide Niagara-on-the-Lake's physical development through policy direction. Agriculture contributes to Niagara-on-the-Lake in terms of the landscape of the community and the economy of the community. The Town OP seeks to protect this unique

aspect of Niagara-on-the-Lake to ensure appropriate agricultural activities are located on lands outside of its urban area boundaries.

4.5.1 General Development Policies

Section 6 of the Town OP provides policies relating 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

As already noted, the proposed rezoning of the retained lands (Part 2) to an Agricultural Purposes Only (APO) Zone will protect these lands for long-term use for agriculture by prohibiting new residential uses. Part 2 will merge with Parts 3 and 4 to ensure the minimum farm parcel requirements are achieved. The severed lot (Part 1) will be of the size needed for the residential parcel.

4.5.2 Agriculture

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

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 and 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 existed 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 any 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 the 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 surplus farm dwelling arising from the consolidation of farm operations with property located at 72 Hunter Road. The proposed consents achieve all of the above criteria, Policy 7.4.4. e), as follows:

Criteria (i): The retained parcel (Part 2) is anticipated to be rezoned to Agricultural Purposes Only (APO) to prohibit a future residential use. This is anticipated to be a condition of the consent of Part 1.

Criteria (ii): The proposed consent is 0.4 ha (1 acre) in size.

Criteria (iii): Please see the description of the Farm Consolidation earlier in this report – all farms are located in Niagara-on-the-Lake.

Criteria (iv): The new lot fronts onto Hunter Road with the retained lands (Part 2) being farmed with Parts 3 and 4 as well as the lands at 72 Hunter Road. A portion of the existing lot will retain frontage on Hunter Road (to be part of Part 2) to allow farm equipment access. This access supports the farming operations.

Criteria (v): Please see the earlier analysis under the PPS (2020) regarding MDS.

Based on the foregoing, the proposed consent and Zoning By-law Amendment conform to the Town OP agricultural policies.

4.5.3 General Consent Policy

The policies under this section apply to the Subject Lands with respect to identifying general matters which will be considered through consent application. The policies which follow apply in addition to the previous policies outlined in Section 4.4.1 of this report.

POLICY

- 21.2.3 *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.*
- 21.2.4 *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...*
- 21.2.9 *Proposed new lots lines shall take into account the existing pattern of surrounding lands. Wherever possible, the 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.*

ANALYSIS

The severed lands contain one farm dwelling that is connected to an on-site septic system and municipal water services. A Private Sewage System Inspection/Review by Regional Staff was requested at the time of pre-consultation and will confirm the adequacy of sanitary sewage disposal on Part 1. The proposal meets the remaining policies, as the severed lot fronts on an existing public road (Hunter Road) that is maintained year-round. Finally, as noted above, the new lot avoids the creation of irregular boundaries that would present a challenge to farming operations on the retained lands or surrounding properties.

Section 21 of the Town OP speaks to 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 consent against these policy requirements.

Table 2 – Niagara-on-the-Lake Official Plan, Section 21.2 Consent Policy Review	
Policy	Proposed Development
<p>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></p>	<p>The proposed development ensures the preservation of prime agricultural land as the retained parcel will be rezoned to APO.</p>

Table 2 – Niagara-on-the-Lake Official Plan, Section 21.2 Consent Policy Review Policy	Proposed Development
<p>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 to permit the installation of an adequate means of sewage disposal.</i></p>	<p>This does not apply to the proposed development.</p>
<p>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>	<p>The severed (residential) parcel contains adequate servicing and the new lot lines do not render any aspects unsatisfactory.</p> <p>There are no buildings on the retained (agricultural) parcel so there is no need for servicing.</p>
<p>4. <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</i></p>	<p>Both parcels will retain frontage on Hunter Road, a public road of a reasonable standard of construction.</p>

Table 2 – Niagara-on-the-Lake Official Plan, Section 21.2 Consent Policy Review Policy	Proposed Development
<p><i>Local Road, Council will make the determination and its decision will take into consideration:</i></p> <p><i>a) The benefit versus cost; and</i></p> <p><i>b) whether the improvement required is needed on a short or long term basis.</i></p>	
<p>5. <i>Consents should have the effect of infilling in existing urbanized areas and not of extending the urban area.</i></p>	<p>The proposed development does not extend the urban area. The proposed development represents a surplus farm dwelling severance.</p>
<p>6. <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 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></p>	<p>The severed (residential) lot proposed conforms to the lot area and frontage requirements within the Rural A Zone for residential parcels. Relief is sought for minimum front yard, minimum rear yard, and accessory building yards for existing buildings and is discussed in more detail in Section 5.0 of this PJR. The relief is to recognize existing circumstances.</p> <p>The retained (agricultural) lot will be merged with Parts 3 and 4 to create a larger farm parcel with several point of frontage along Hunter Road.</p>
<p>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></p>	<p>No new accesses are proposed and no traffic hazards are anticipated.</p>

Table 2 – Niagara-on-the-Lake Official Plan, Section 21.2 Consent Policy Review Policy	Proposed Development
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 neighborhood.</i>	This is not applicable to the proposed development.
9. <i>Proposed new lots lines shall take into account the existing pattern of surrounding lands. Wherever possible, the 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>	The proposed development considers the standard lot size and frontage for residential parcels. The new lot lines do not create irregular boundaries and will not negatively impact the farming operations.
10. <i>Where a minor variance is required, it shall be made a condition of the consent.</i>	Zoning variances are reflected in the Draft Zoning By-law attached to this PJR. Approval of the Zoning By-law Amendment will be a condition of consent.
11. <i>Where a consent would have the effect of creating an additional access to a Provincial highway, a Regional road or a Niagara Parks Commission Road, or changing the location of an existing access to such a highway, then the approval to such addition or 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>	This does not apply to the proposed development.
12. <i>All consents within the area of the Niagara Escarpment Plan, as shown on the Schedules of this Official Plan, must be in accordance with the policies of the</i>	This does not apply to the proposed development.

Table 2 – Niagara-on-the-Lake Official Plan, Section 21.2 Consent Policy Review	Policy	Proposed Development
	<i>Niagara Escarpment Plan. The consent policies of this Plan shall prevail where they are more restrictive than the Niagara Escarpment Plan.</i>	

CONCLUSION

Based on the foregoing, the proposed consent conforms to the Town OP.

5.0 Proposed Zoning By-law Amendment

The Subject Lands are currently zoned Rural in the Town's ZBL No. 500A-74. The current zoning of the Subject Lands permits a single-detached dwelling and accessory buildings. After the provisional consent is granted to create a new lot for the surplus farm dwelling, a Zoning-By-law Amendment will need to be approved to rezone the retained lands to a Site-Specific Agricultural Purposes Only (APO-XX) Zone to ensure the long-term protection of the lands for agricultural purposes. This can be facilitated by a condition of consent.

The following table assesses Part 1 (severed lot) against the requirements for residential lots created by consent in a Rural (A) Zone listed in Schedule F of the Town's ZBL.

Table 3 – Compliance with Zoning By-law No. 500A-74, Section 4 Rural (A) Residential - (lots created by consent) Zone

No.	REGULATION	REQUIRED (metres ⁽²⁾)	PROPOSED (metres ⁽²⁾)	COMPLIANCE
4.1(b)	Permitted Uses	A one (1) family dwelling	As existing – no new residential dwellings	Yes
4.2	Zone Requirements	<ul style="list-style-type: none"> No person shall within the Rural (A) Zone use any lot or erect, alter or use any building or structure except in accordance with Schedule "F" - Zone Requirements Table as 	As Existing (Single Detached Dwelling)	Yes

No.	REGULATION	REQUIRED (metres ⁽²⁾)	PROPOSED (metres ⁽²⁾)	COMPLIANCE
		applicable to the Rural (A) Zone.		
Schedule F – Rural (A) Zone (b) Residential (lots created by consent)	Minimum Frontage	60.96 m	60.96 m	Yes
	Minimum Area	3716 m ²	4,090 m ²	Yes
	Minimum Lot Depth	60.96 m	69.4 m	Yes
	Maximum Lot Coverage	15%	< 15%	Yes
	Minimum Front Yard	15.24 m	12.95 m	No
	Minimum Interior Side Yard	3.05 m	0.0 m (garage)	No
	Minimum Rear Yard	15.24 m	11.64 m	No
	Minimum Dwelling Floor Area (one storey)	92.90 m ²	+/- 180 m ²	Yes
	Maximum Building Height	10.67 m	< 10.67 m	Yes
	Accessory Building Yards	3.05 m	0.0 m (garage)	No

The following table assesses Part 2 (retained lot) against the policies of the Agricultural Purposes Only (APO) Zone and Rural (A) Zone listed in Schedule F of the Town's ZBL.

Table 4 – Compliance with Zoning By-law No. 500A-74, Section 4B Agricultural Purposes Only

No.	REGULATION	REQUIRED (metres ⁽²⁾)	PROPOSED (metres ⁽²⁾)	COMPLIANCE
4.B.1	Uses Permitted	<ul style="list-style-type: none"> a farm including accessory building but not a house, providing that in the event the structures or the land is to 	No structures	Yes

No.	REGULATION	REQUIRED (metres ⁽²⁾)	PROPOSED (metres ⁽²⁾)	COMPLIANCE
		<p>be used for the purpose of a Specialized Farm Use as defined in Section 2.32 of this By-law, that a Certificate of Compliance shall have been obtained from the Ministry of the Environment and the Ministry of Agriculture and Food;</p> <ul style="list-style-type: none"> any use customarily carried on in the field of agriculture subject to the foregoing; a farm produce storage building 		
Schedule F – Rural (A) Zone (a) Rural	Minimum Frontage	As Existing (67.28 m)	6.3 m	No
	Minimum Area	As Existing (2.22 ha)	1.82 ha	No
	Minimum Lot Depth	As Existing (301.1m)	301.1 m	Yes
	Minimum Front Yard	15.24 m	N/A	N/A
	Minimum Interior Side Yard	3.05 m	N/A	N/A

No.	REGULATION	REQUIRED (metres ⁽²⁾)	PROPOSED (metres ⁽²⁾)	COMPLIANCE
	Minimum Exterior Side Yard	9.14 m	N/A	N/A
	Minimum Rear Yard	15.24 m	N/A	N/A
	Minimum Dwelling Floor Area	92.90 m ²	N/A	N/A
	Maximum Building Height	10.67 m	N/A	N/A

RESIDENTIAL (SEVERED) LOT RELIEF

MINIMUM REAR YARD

The intent of the minimum rear yard provisions in the Town Zoning By-law is to ensure residential parcels have adequate private amenity space. The rear yard is measured from the existing garage and hoop building located near the western lot line. There is significant amenity area located between the proposed rear lot line and existing dwelling. This deficiency will not negatively impact the private amenity area of the residential lot.

MINIMUM FRONT YARD, INTERIOR SIDE YARD AND ACCESSORY BUILDING YARDS

The relief being sought for the minimum front yard and accessory building yards reflects the existing conditions on the Subject Lands. The reduced front yard related to the dwelling and front lot line have not resulted in any negative impacts. The reduced accessory building yards related to the garage and hoop building to the western lot line has not resulted in any negative impacts to the adjacent residential parcel. The Owner will pursue an encroachment agreement with the neighbouring parcel to the west due to the garage encroaching 0.11 metres onto the neighbouring lands.

AGRICULTURAL (RETAINED) LOT RELIEF

MINIMUM FRONTAGE, LOT AREA,

Zoning relief related to the agricultural lot is being sought as it reflects a departure from existing conditions. The frontage and lot area proposed are all suitable for agricultural use and will not result in any negative impacts. As noted earlier, Part 2 will merge with Parts 3 and 4 which will create a larger parcel. However the zoning requirement is “as existing” which necessitates the need for the variance.

For the lot frontage, the requirement is also “as existing” however the consent reduces the frontage. It is noted that with the merger of Part 2 with Parts 3 and 4 there will be ample frontage on Hunter Road from Parts 3 and 4 to the merged parcel.

Part 1 and Part 2 of the proposal conform with the remaining provisions of the Zoning By-law. A Draft Zoning By-law has been prepared and can be found in Appendix B to this report.

6.0 Conclusion

It is our opinion the proposed Consent and Zoning By-law Amendment represent good land use planning and are in the public interest. They should be approved for the following reasons:

- The proposed consent ensures long-term protection of lands in the Niagara Region's Specialty Crop Area for agriculture.
- The proposed consent has regard for matters of provincial interest and the criteria provided in Section 51(24) of the *Planning Act*, is consistent with the PPS and conforms to the Greenbelt Plan;
- The proposed consent conforms to the general intent and purpose of the NOP;
- The proposed consent and ZBA conform to the Town OP;
- The proposed consent and the resulting merger of Part 2 with Parts 3 and 4 creates a larger farm parcel; and,
- The proposed consent and creation of the larger farm parcel represent good planning.

Report prepared by:



Max Fedchyshak, MPI.

Planner

NPG Planning Solutions Inc.

Report reviewed and approved by:



Mary Lou Tanner, RPP, FCIP

President

NPG Planning Solutions Inc.

7.0 Appendices

Appendix A – Consent Sketch



HUNTER ROAD
(MUNICIPAL ROAD - 20.12 WIDE)



PART- 1 HOUSE & GARAGE AREA=345 sq.m
COVERAGE=8.4%

CAUTION

(A) THIS IS NOT A PLAN OF SURVEY AND SHALL NOT BE USED EXCEPT FOR
(B) THE PURPOSE INDICATED IN THE TITLE BLOCK.
THIS SKETCH IS PROTECTED BY COPYRIGHT.

NOTE: THIS SKETCH IS NOT A PLAN OF SURVEY

SKETCH FOR PLANNING PURPOSES ONLY

145 HUNTER ROAD
TOWN OF NIAGARA-ON-THE-LAKE
REGIONAL MUNICIPALITY OF NIAGARA

SCALE 1 : 2500



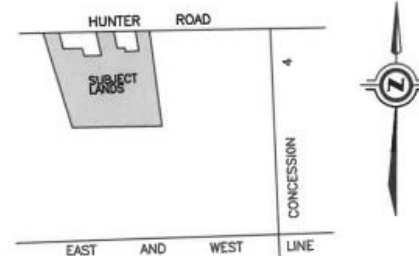
J.D. BARNES LIMITED

© COPYRIGHT 2023

METRIC NOTE

DISTANCES SHOWN ON THIS PLAN ARE IN METRES AND CAN BE
CONVERTED TO FEET BY DIVIDING BY 0.3048

KEY PLAN (not to scale)



TOWN OF NIAGARA-ON-THE-LAKE

LEGAL DESCRIPTION

LOTS 113-116, REGISTERED PLAN M-11

BOUNDARY INFORMATION HAS BEEN DERIVED FROM A FIELD
SURVEY DATED MAY 4, 2023. THIS IS NOT A PLAN OF
SURVEY.

JUNE 1, 2023
DATE

ALLAN J. HEYWOOD
ONTARIO LAND SURVEYOR



J.D. BARNES
LIMITED

LAND INFORMATION SPECIALISTS
4318 PORTAGE ROAD - UNIT 2, NIAGARA FALLS, ONT L2E 6A4
T: (905) 358-3693 F: (905) 358-4226 www.jdbarnes.com

SURVEYING
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AH	CHECKED
DATED: 06/01/2023	
Ref. No. 23-16-148-00	

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

145 Hunter Road
Roll 262702000918200

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:

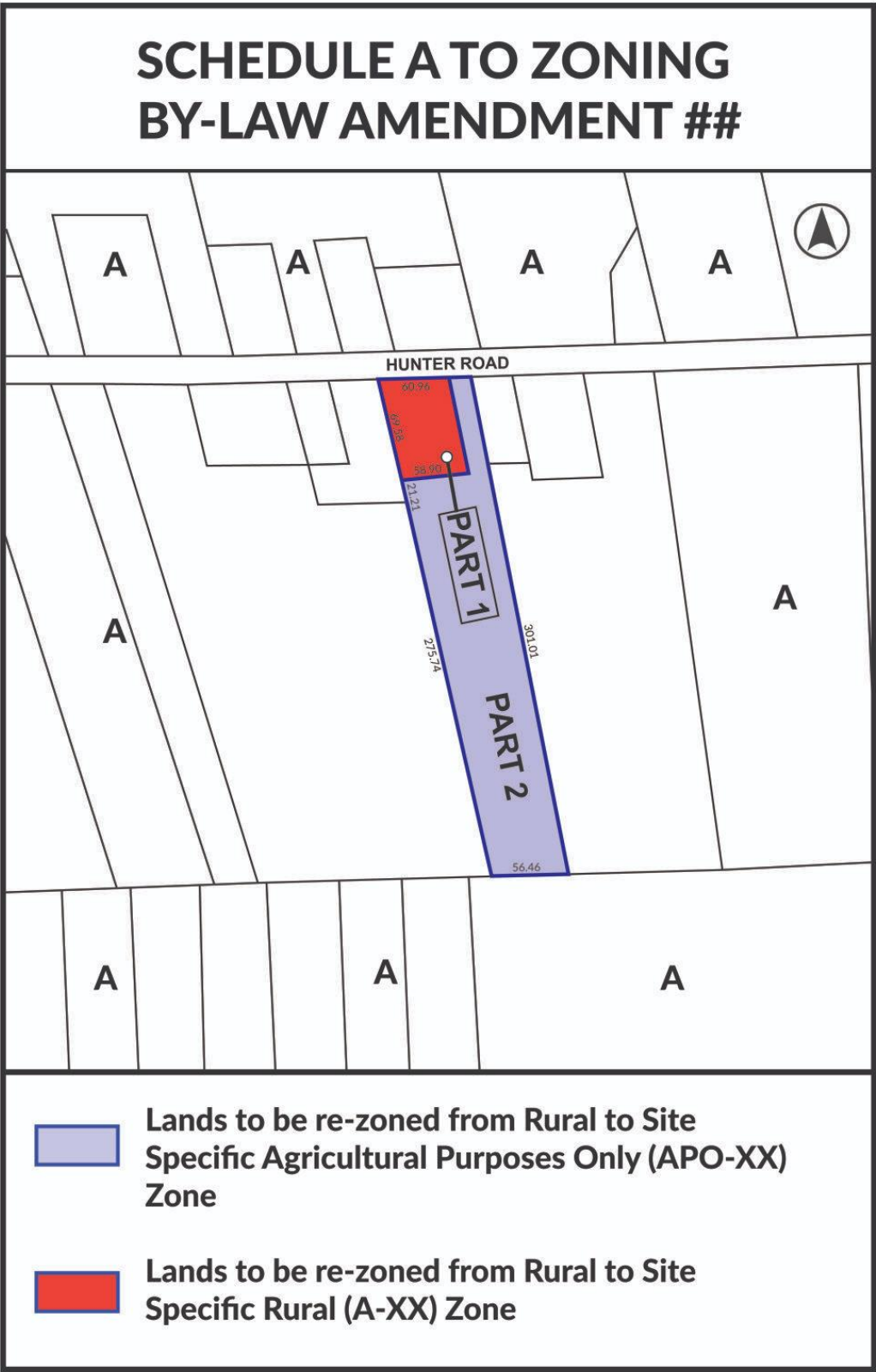
1. That Schedule 'A' is attached to and forms part of this By-law.
2. That Schedule 'A' of By-law 500A-74, as amended, is further amended by changing the zoning of Part 1 identified on Schedule 'A' (attached to and forming part of this By-law from "Rural (A) Zone" to "Rural (A-##) Site-Specific Zone" and by changing the zoning of Part 2 identified on Map 'A' (attached to and forming part of this By-law from "Rural (A) Zone" to Agricultural Purposes Only (APO-##) Site Specific Zone.

3. In lieu of the corresponding provisions of Schedule F to Zoning By-law 500A-74 as amended, the following provisions shall apply on the Subject Lands as shown as Part 1 (Rural A-## Site Specific-Zone) on Map 'A' attached hereto:
 - a) Minimum Front Yard: 12.9 metres
 - b) Minimum Rear Yard: 11.6 metres
 - c) Internal Side Yard Setback: 0.0 metres
 - d) Accessory Building Setbacks: 0.0 metres
4. In lieu of the corresponding provisions of Schedule F to Zoning By-law 500A-74 as amended, the following provisions shall apply on the Subject Lands as shown as Part 2 (Agricultural Purposes Only APO-## Site Specific Zone) on Map 'A' attached hereto:
 - a) Minimum Frontage: 6 metres
 - b) Minimum Area: 1.8 hectares
5. 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 _____, 2023.

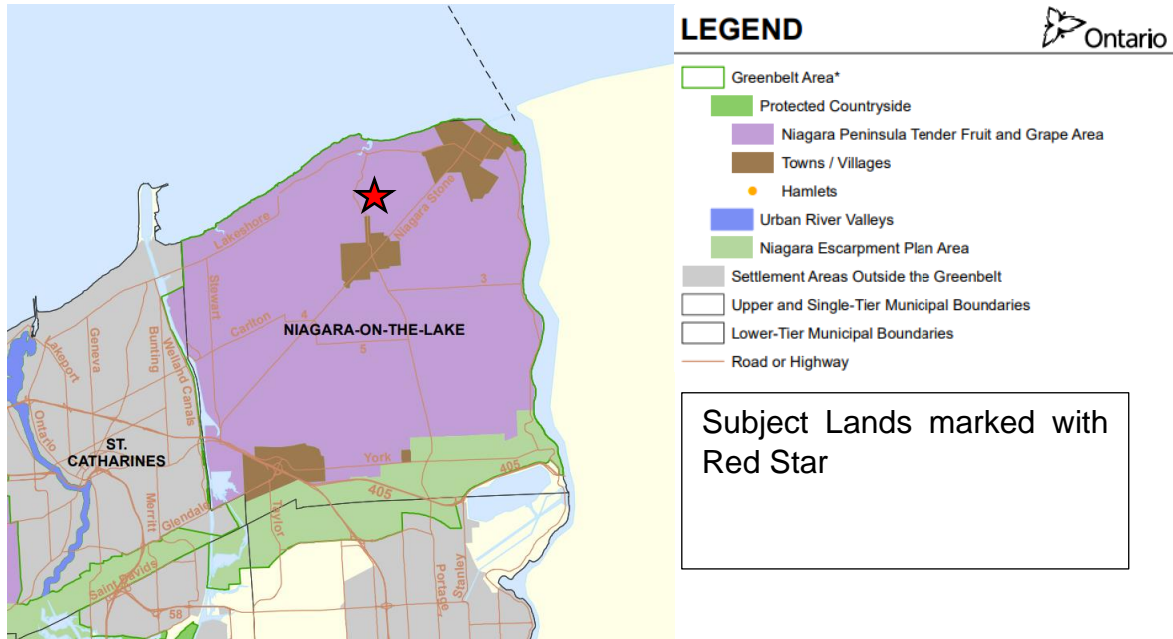
LORD MAYOR
GARY ZALEPA

TOWN CLERK
SHAUNNA ARENBURG



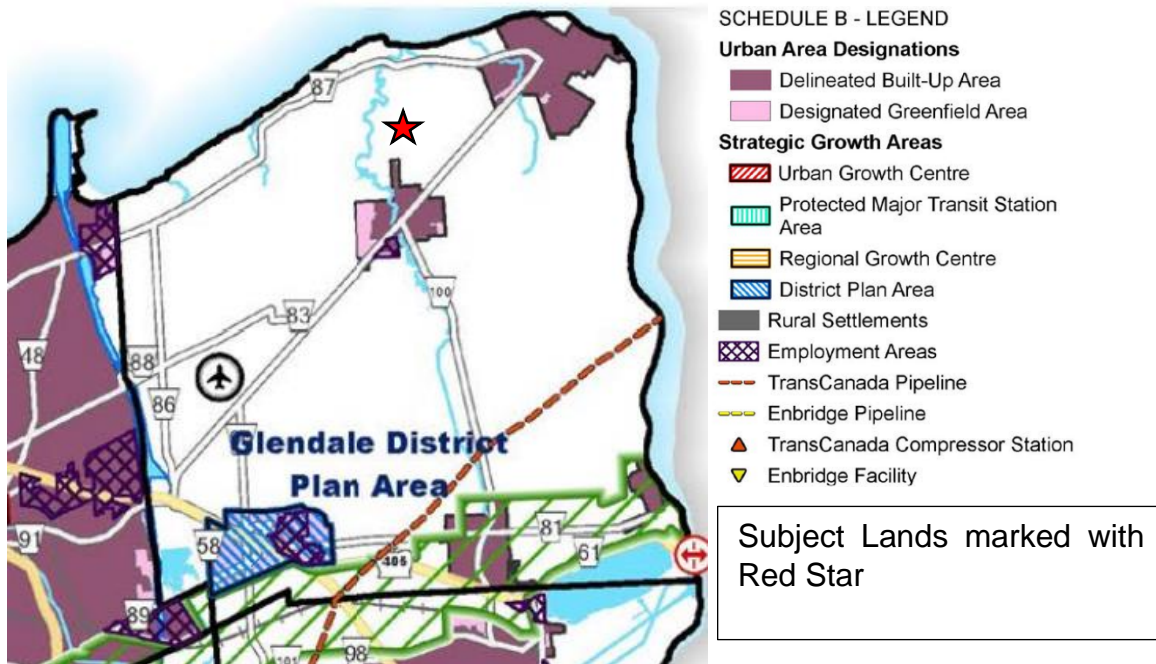
Appendix C – Greenbelt Plan

SCHEDULE 2 – Niagara Peninsula Tender Fruit and Grape Area: **Niagara Peninsula Tender Fruit and Grape Area**

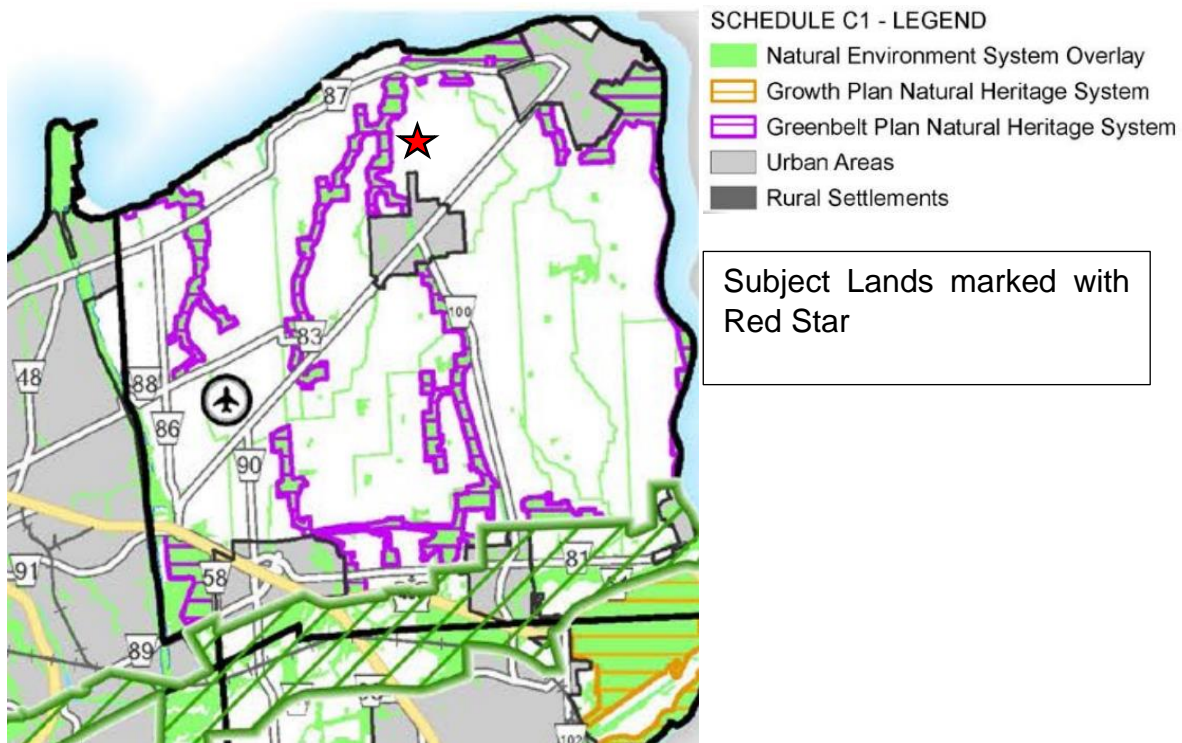


Appendix D – Regional Official Plan Schedules

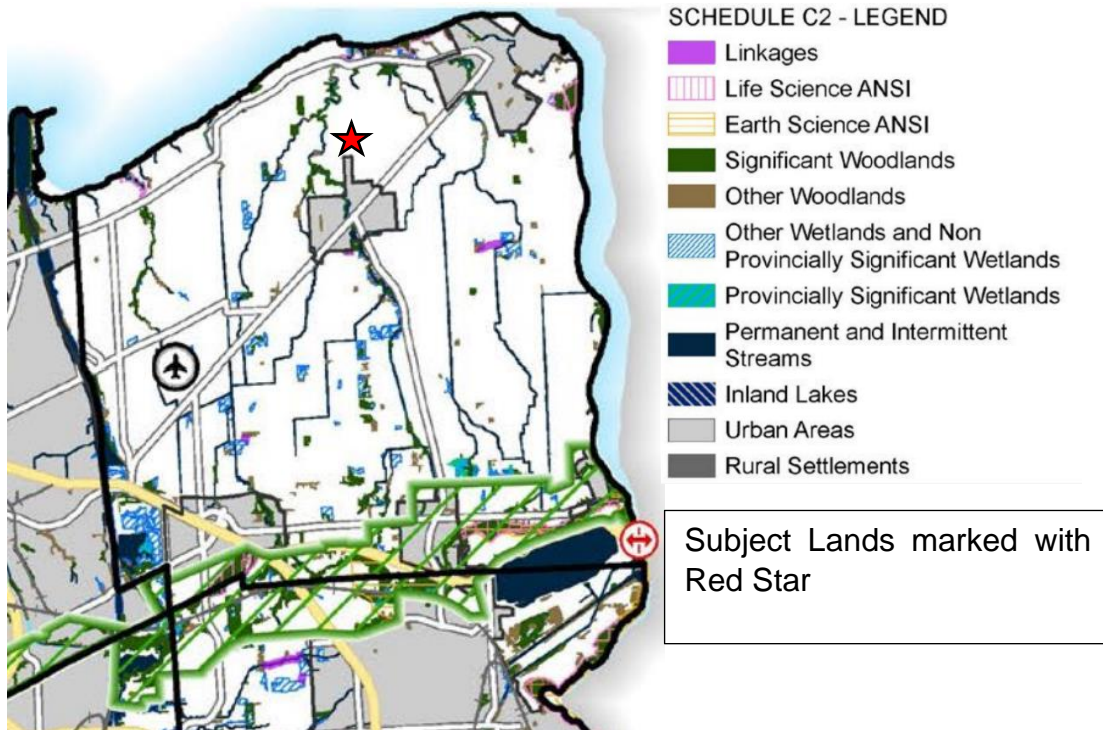
SCHEDULE B – REGIONAL STRUCTURE: **Settlement Area**



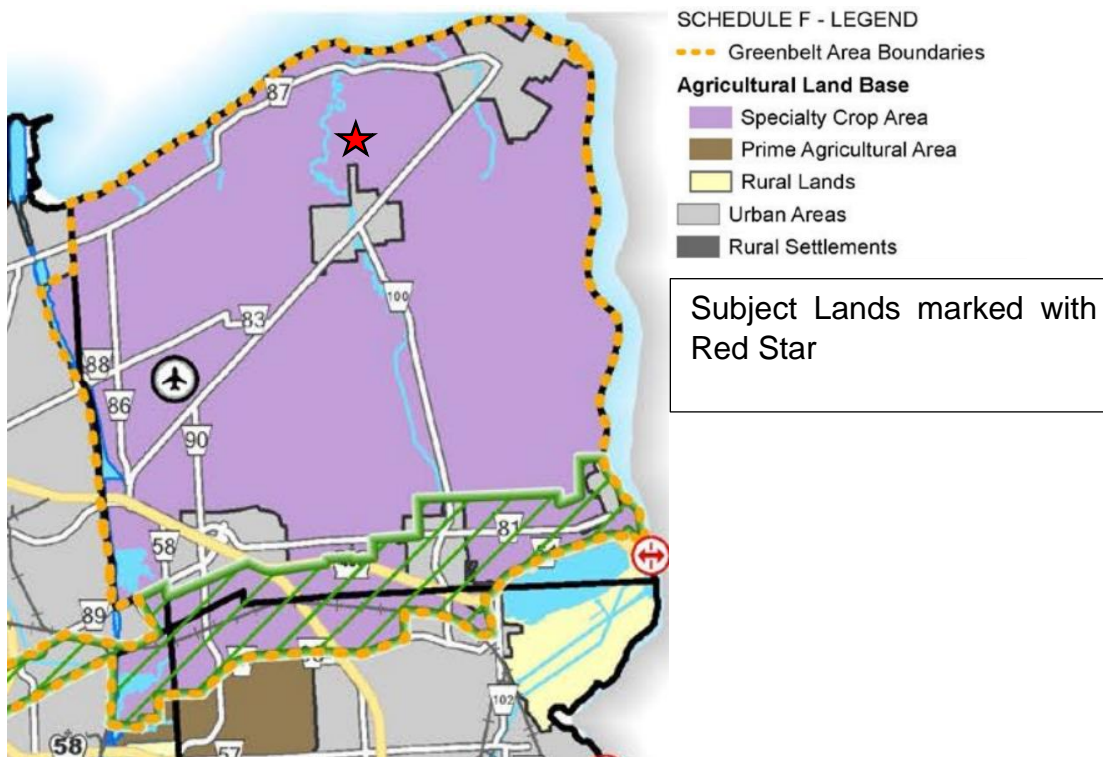
SCHEDULE C1 – NATURAL ENVIRONMENT SYSTEM OVERLAY and PROVINCIAL NATURAL HERITAGE SYSTEM: **Natural Environment System Overlay**



SCHEDULE C2 – NATURAL ENVIRONMENT SYSTEM – INDIVIDUAL COMPONENTS
and FEATURES: ***Permanent and Intermittent Streams***

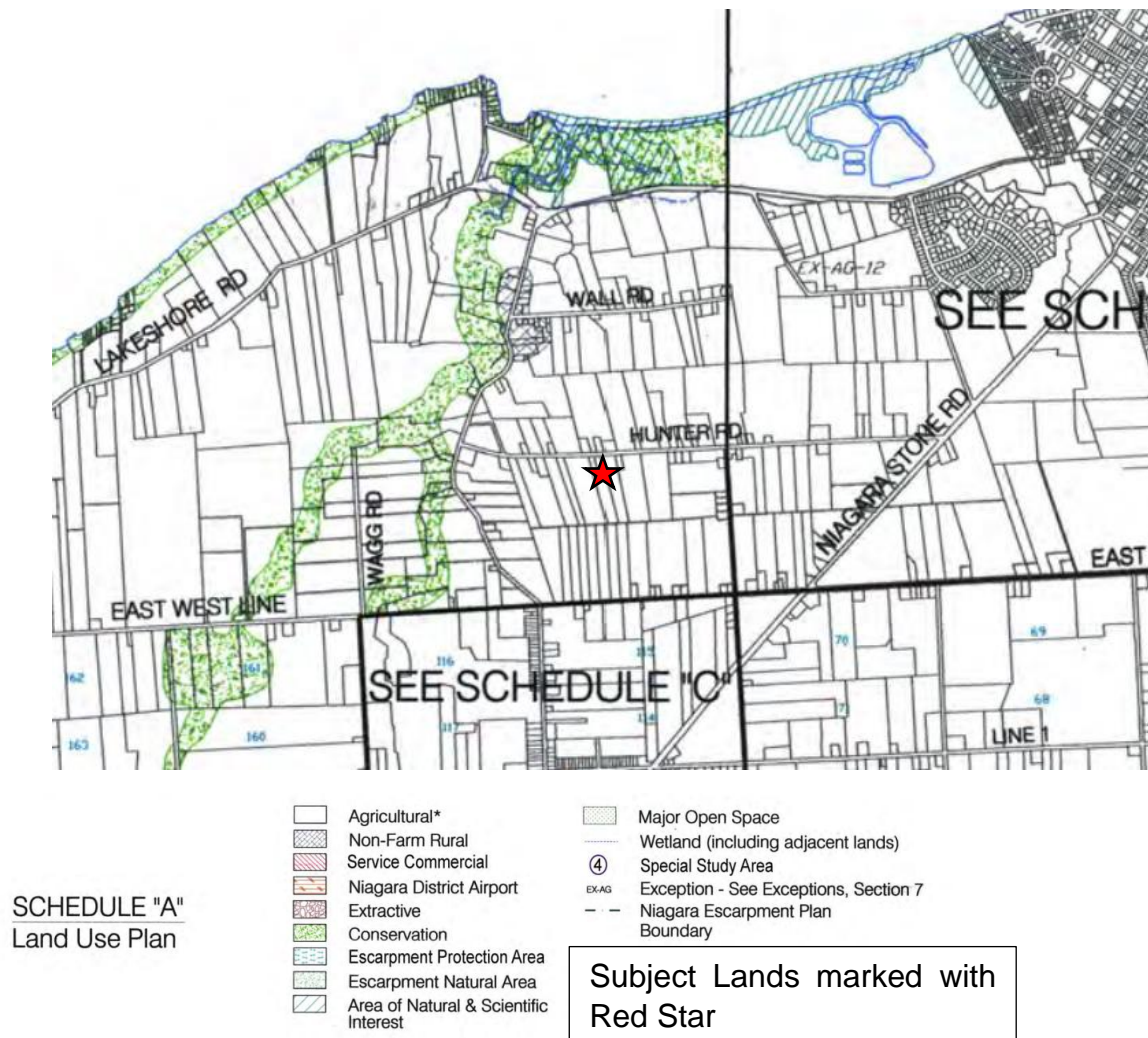


SCHEDULE F – AGRICULTURAL LAND BASE: ***Inside Greenbelt Plan; Specialty Crop Area***

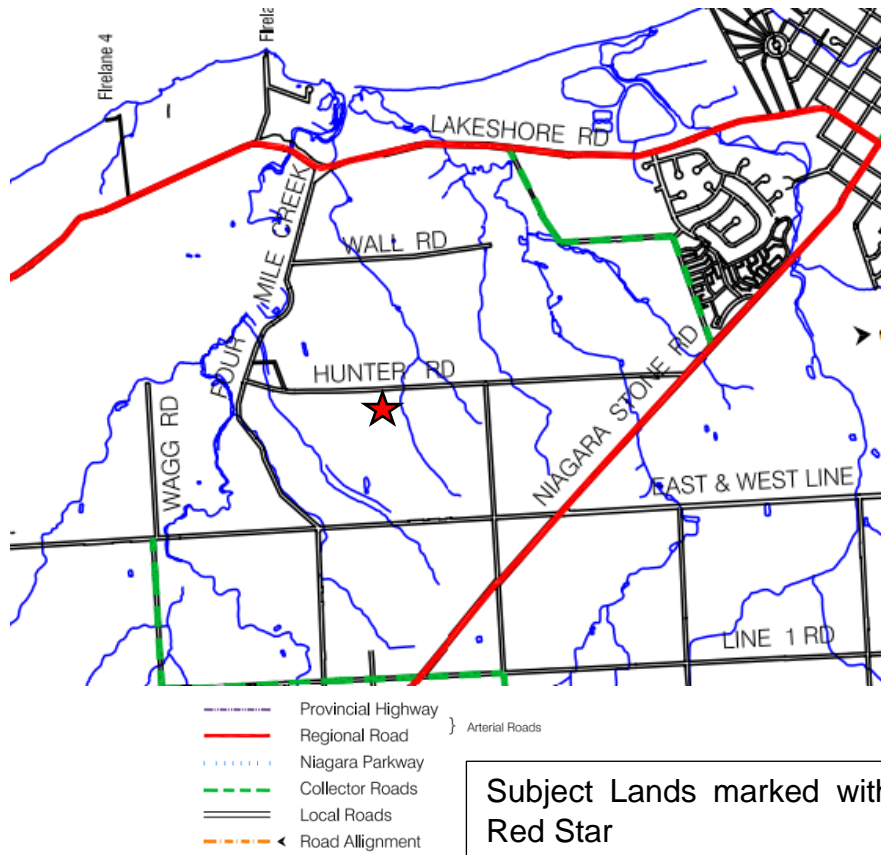


Appendix E – Town of Niagara-on-the-Lake Official Plan Schedules

SCHEDULE A – LAND USE PLAN, *Agricultural*



SCHEDULE G – TRANSPORTATION PLAN, **Local Road - Line 5 Road; Concession 2 Road**



SCHEDULE 'G'
Transportation Plan

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

SCHEDULE A to Zoning By-law No. 500A-74, RURAL AREA – **Agricultural (A) Zone**



Subject Lands marked with
Red Star