



Planning Justification Report

Zoning By-law Amendment

1594 Concession 6 Road, Niagara-on-the-Lake

For: Red Roof Retreat

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1.0 Introduction

NPG Planning Solutions Inc. are planning consultants to Steffanie Bjorgan, of Red Roof Retreat “Owner” of approximately 4.025 hectares (9.95 acres) of land in the Town of Niagara-on-the-Lake, municipally known as 1594 Concession 6 Road (“Subject Lands”). NPG has been retained to provide professional planning advice on the proposed development of new uses on the Subject Lands—a Respite Care Facility and Adult Day Program for persons with special needs. Implementation of the proposed development requires a site-specific Zoning By-law Amendment to include a Respite Care Facility and Adult Day Program as permitted uses, as well as to request relief from minimum lot area, frontage, and front yard setback provisions in Zoning By-law 500A-74.

This Planning Justification Report (“PJR”) provides an analysis of the proposed development and evaluates the appropriateness of proposed Zoning By-law Amendment when assessed against policies in the Provincial Planning Statement (“PPS”), Greenbelt Plan, Niagara Official Plan (“NOP”), the Niagara-on-the-Lake Official Plan (“Town’s OP”) and the Town of Niagara-on-the-Lake Zoning By-law 500A-74.

Sections 5.1, 5.2, 5.3 and 5.4 of this PJR present analysis of the proposed development in relation to provincial and regional planning policies. Section 5.5 of this PJR discusses the proposal’s conformity with the Town’s OP while Section 6.0 provides justification for the proposed Zoning By-law Amendment.

2.0 Description of Subject Lands and Surrounding Area

The Subject Lands are within the Specialty Crop Area – Tender Fruit and Grape Area as per the Greenbelt Plan (2017) and are located west of the Urban Area Boundary of Virgil in the Town of Niagara-on-the-Lake and have an irregular shape and depth. The Subject Lands have frontage of 27.43 metres on Concession 6 Road, and a total area of roughly 9.95 acres. Currently a single-detached dwelling and ten accessory buildings are present on the Subject Lands. The rear portion of the Subject Lands includes a riparian corridor and other natural features that have been restored and integrated with passive uses. The Subject Lands are located in a primarily rural landscape surrounded by agricultural lands and rural residential parcels to the north, south and west. To the east are residential land uses in the community of Virgil. Please refer to **Figure 1 – Aerial Context Map** and Photos 1-22 on the following pages for more details.



Figure 1 – Aerial Context Map

The Subject Lands are impacted by the Four Mile Creek and its associated floodplain. Four Mile Creek is considered to be a Permanent/Intermittent Stream, as per the Region's Natural Environment System (NES) mapping. Moreover, the Subject Lands encompass Other Woodlands along Four Mile Creek's associated riparian corridor. These features constrict the rear of the site, west of the developed area. Importantly, development is proposed well outside natural heritage features.

The Subject Lands were originally a horse farm owned by the Froese Family, which was built in the early 1970s. In November of 1993, the Subject Lands were purchased by Anagram Rehabilitation. In January of 1995, By-law 500JK-95 rezoned the Subject Lands to a site-specific Rural (A) Zone to include the following as a permitted use: "a group home for rehabilitation and long-term living program for persons with acquired brain injuries."

The site-specific permission for a group home on the Subject Lands pre-dates the use and permission for "group home" being added to the Zoning By-law as a permitted use

throughout the Rural (A) Zone in 1999 via By-law 500MT-99, which defined a “group home” as:

“a supervised single housekeeping unit in which persons requiring a group living arrangement for their well-being by reasons of physical, mental, emotional, social or legal impairment live as a family under responsible supervision. The ‘group home’ must be approved by the Province of Ontario, licensed by the Municipality and in compliance with Municipal By-laws.”

Anagram Rehabilitation ran the group home until it was sold to ResCare Premier in 2000, which continued the same operations. The property was vacated and put up for sale in 2004.

Red Roof Retreat, which has been a registered charity since 2001, purchased the property in October 2005 after a successful community fundraising campaign.

Red Roof Retreat specializes in respite and recreation programs, offering summer camps, adult day care, and most importantly a weekend respite program for children with special needs. The respite program for children with special needs started in July 2006. Red Roof Retreat is licensed by the Ministry of Children, Community, and Social Services to operate a children’s residence on the Subject Lands.

There have been numerous improvements made to the property since Red Roof Retreat acquired the lands in 2005. These improvements include accessible facilities, an accessible playground, and nature trails, which were created through close collaboration with the Niagara Peninsula Conservation Authority (NPCA). Red Roof Retreat currently employs fifteen (15) full time staff members and additional part-time employees for seasonal programs. Due to popularity and demonstrated need, Red Roof Retreat has expanded their operations and the services they offer. Hence the need for a Zoning By-law Amendment to add Respite Care Facility and Adult Day Program as permitted uses and address other minor relief from the Zoning By-law.



Image 1: View of the existing main use on the Subject Lands, looking west from the frontage of the Subject Lands



Image 2: View of the residential dwelling across Concession 6 Road, looking southeast along the Subject Lands frontage



Image 3: View of the residential dwelling across Concession 6 Road, looking northeast along the Subject Lands frontage



Image 4: View looking east along the southern lot line of the Subject Lands



Image 5: View of the abutting lands to the south looking south



Image 6: View of the abutting lands to the north, looking north

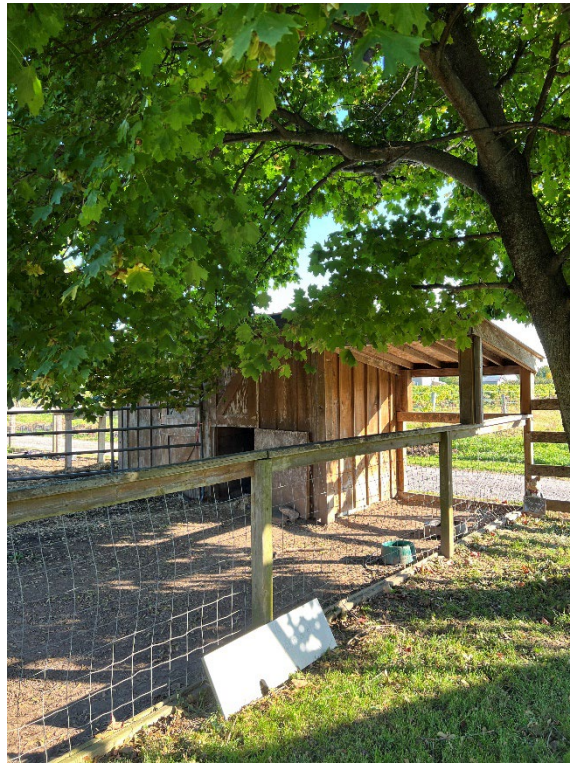


Image 7: View of existing accessory structure #1



Image 8: View of existing accessory structure #2



Image 9: View of existing accessory structure #3



Image 10: View of existing accessory structure #4



Image 11: View of existing accessory structure #5



Image 12: View of existing accessory structure #6



Image 13: View of existing accessory structure #7



Image 14: View of existing accessory structure #8



Image 15: View of existing accessory structure #9



Image 16: View of existing accessory structure #10



Image 17: Existing animal pen area (to be removed)



Image 18: Existing campfire area



Image 19: Existing retaining wall, looking east



Image 20: Existing foot bridge on the Subject Lands



Image 21: View of the watercourse on the Subject Lands



Image 22: View of the existing accessible playground

3.0 Proposed Development

The applicant is proposing a Zoning By-law Amendment to facilitate the demolition and construction of the existing dwelling at the front of the Subject Lands for a new Respite Care Facility and Adult Day Programming space for Red Roof Retreat, as well as the construction of an associated accessory structure (open space pavilion).

For context, the respite program will provide planned short-term and time-limited breaks for families and caregivers of children and adults with special needs, while the Adult Day Program will offer physical and personal care, social and emotional support, recreation and leisure activities for young adults with special needs.

The proposed Respite Care Facility would have a building footprint of 297.30m², which corresponds to an increase of approximately 95.1m² from the original dwelling on-site. The proposed Respite Care Facility would also have a height of 8.82 metres measured from average grade to the mean between the eaves and ridge.

The proposed building would have front yard setbacks of 3.95 metres to the front covered porch, and 7.13 metres to the front wall of the building. The Town Operations Department comments indicate that the Town requires the conveyance of a road widening measuring approximately 2.9 metres. The proposed front yard setbacks are measured to the required road widening.

Vehicular access is proposed via an existing driveway along Concession 6 Road, which provides access to parking at the southside of the proposed building. A total of 10 parking spaces are provided to accommodate the development as proposed.

Importantly the proposal only seeks to re-develop the portion of the Subject Lands containing the existing single storey dwelling and asphalt area, no disturbance is in proximity to Four Mile Creek, its associated floodplain or woodlands.

Floor plans have been provided for the proposed Respite Care Facility. The proposed floor plan would provide one (1) double bedroom and four (4) single bedrooms as well as kitchen, great room and washroom on the first floor. Program space, office space, and board room are proposed on the second floor, whereas the basement will be used for storage purposes. An accessible elevator is also proposed in the room at the southwest corner of the building to provide ease of access for participants of the program.

The proposed building could accommodate a maximum of five (5) overnight respite guests and seven (7) participants in the Adult Day Program that is offered. The overnight respite program is offered on weekends, while the Adult Day Program operates Monday to Friday, 8:30am to 4:30pm. The staff to guest ratio for the respite program could require 2 to 4 staff be present on-site, while the Adult Day Program runs with up to five (5) staff on site.

Zoning By-law Amendment

The Subject Lands are presently zoned “Rural (A) Site Specific Zone” pursuant to amending By-law 500JK-95. The Application for Zoning By-law Amendment proposes to rezone the Subject Lands to “Rural (A)” with site-specific exceptions related to the Uses Permitted and Zone Requirements related to the following:

Permitted Uses:

The current Site-Specific Zoning By-law 500JK-95 does not include the current use of the Subject Lands as a permitted use. It is requested that the following uses are added:

- Respite Care Facility
- Adult Day Program

As the above uses are not defined in the Town Zoning By-law, definitions are required. The following definitions are proposed:

Respite Care Facility: shall mean premises used for the provision of short-term non-emergency supervised care for individuals of any age who require medical, physical, or cognitive support, intended to provide relief to their caregivers. A Respite Care Facility may offer services, such as:

- (a) preventive medicine,
- (b) counselling and emotional support,
- (c) social, recreational or educational programs, particularly for individuals with complex or special needs or,
- (d) day or overnight care

Adult Day Program: means supervised programming in a group setting for dependent adults, such as the frail elderly, individuals with Alzheimer’s, or

individuals with disabilities. Services may include leisure activities, meals and personal care.

Zone Requirements:

- To reduce the required minimum lot area from 4.05 ha to 4.0 ha;
- To reduce the required minimum lot frontage from 38.10 metres to 27. metres; and
- To reduce the required minimum front yard from 15.24 metres to 3.5 metres.

Parking and Visitor Parking Requirements:

- a minimum of five (5) parking spaces shall be provided for Respite Care Facility and Adult Day Program staff.
- a minimum of four (4) parking spaces combined shall be provided for visitors and Respite Care Facility guests and Adult Day Program participants.

The proposed Zoning By-law Amendment is discussed in Section 6.0 and included as Appendix F of this report.

4.0 Supporting Studies Review

4.1 Archeological Assessment

A Stage 1-2 Archaeological Assessment of the Subject Lands was conducted by Detritus Consulting Ltd. and resulted in no archaeological resources identified or documented. Given the results of the investigation and documentation of no archaeological resources, no further archaeological assessment of the Subject Lands is recommended

The relevant reports have been submitted to the Local Indigenous Communities for review. The compliance letter issued by Ministry of Tourism, Culture and Sport's will be submitted to the relevant reviewing agencies when available.

4.2 Functional Servicing Study

Quartek Group Inc. has prepared a Functional Servicing Report (FSR), dated October 2024. The FSR assesses the functional sizing of the proposed storm, sanitary and water services, and post-development flows from the site to determine the impact on existing municipal infrastructure. The FSR recommends the following:

Water Services

- The Subject Lands are served by a 19mm water service connected to a 250mm municipal watermain, which will need to be decommissioned and replaced with a 150mm polyethylene service.

- Fire protection is adequately covered by an existing hydrant near the northeast corner of the site. Hose path distances are within the limits set out by the Ontario Building Code (OBC).
- Domestic water demand for the new Respite Care Facility is based on a fixture count totaling 26.7 fixture units. This translates to daily water demand of 2.0L/s.

Sanitary Sewage

- The existing private sewage disposal system, approved in 1997, will be decommissioned and replaced to support facility expansion, in line with OBC requirements.
- The new system's design sewage flow is 3,130L/day. The treatment system, designed by Waterloo Biofilter Systems Inc., includes an oil/grease interceptor, a 12,700-liter anaerobic digester tank, a 4,700 liter pump tank, and a WBF 119 basket biofilter tank, complying with Level IV treatment standards.
- The design incorporates imported sand for a required contact area of 392 square metres and a stone layer of 64 square metres.

Stormwater Management

- The site is generally flat, with surface runoff contained on-site. A portion of the runoff drains to a watercourse at the west end of the property and infiltrates into the soil.
- The proposed system will handle runoff up to a 5-year storm event via catch basins and storm sewers to direct water to an infiltration trench. Excess runoff will flow through a swale to overland discharge.
- Runoff from the paved and landscaped areas will enter the storm system, while roof runoff will discharge to the surface. An infiltration trench will provide temporary storage for site runoff allowing for infiltration into native soil.

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 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. Table 1 provides a summary of the provincial interests, along with an analysis as it relates to the proposed development and the subject Application.

Table 1: Analysis of Provincial Interest – Section 2 of Ontario *Planning Act*

SECTION	PROVINCIAL INTEREST	ANALYSIS
a)	<i>the protection of ecological systems, including natural areas, features and functions</i>	The Subject Lands contain natural heritage features to the rear of the property. Site alteration is only proposed at the front of the property, away from any natural heritage features.
b)	<i>the protection of the agricultural resources of the Province</i>	The Subject Lands are within the Niagara Peninsula Tender Fruit and Grape Area and are designated Agricultural as per Schedule 'A' to the Town of Niagara-on-the-Lake Official Plan. The Subject Lands are not presently farmed. No lands are anticipated to be removed from agricultural production.
d)	<i>the conservation of features of significant architectural, cultural, historical, archaeological or scientific interest</i>	A Stage 1-2 Archaeological Assessment was prepared by Detritus Consulting. No archaeological resources were found, and no further archaeological assessment of the Study Area is recommended.
f)	<i>the adequate provision and efficient use of communication, transportation, sewage and water services and waste management systems</i>	The FSR concluded that the proposed development could be serviced via a connection to existing municipal water service on Concession Road 6 and proposed private sewage disposal system.
h.1)	<i>the accessibility for persons with disabilities to all facilities, services and matters to which this Act applies</i>	<p>The development is for respite care and day programming for children and adults with special needs. Many improvements to the accessibility of the site have been completed. These improvements include accessible facilities, an accessible playground, and nature trails, which were created by means of thorough collaboration with the Niagara Peninsula Conservation Authority (NPCA).</p> <p>The site includes two (2) barrier-free parking space and a shallow ramp with a slope less than 1:20, which connects the parking area to the wrap around verandah along the south façade of the building. The verandah is level</p>

SECTION	PROVINCIAL INTEREST	ANALYSIS
		with the main floor, ensuring an accessible route to the building's entrance. An elevator is provided in the southwest wing of the building which provides easy access to all floors.
i)	<i>the adequate provision and distribution of educational, health, social, cultural and recreational facilities</i>	Red Roof Retreat specializes in respite and adult day care programs for children and adults with disabilities. The proposed use is licensed by the Ministry of Children, Community, and Social Services.
k)	<i>the adequate provision of employment opportunities</i>	The proposed uses will employ up to 20 people.
m)	<i>the co-ordination of planning activities of public bodies</i>	This will be addressed through the circulation of the planning application to applicable public bodies identified in the pre-consultation agreement.
o)	<i>the protection of public health and safety</i>	The proposed building is significantly setback from any flood hazards.

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.

SUMMARY

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 (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 PPS applies to all

decisions in respect of the exercise of any authority that affects a planning matter made on or after October 20, 2024. Section 3 of the *Planning Act* requires that decisions affecting planning matters shall be consistent with policy statements issued under the Act.

5.2.1 How to Read the Provincial Planning Statement

Chapter 1 of the PPS provides direction on how it is intended to be read. The following are key policies that are relevant to the Applications:

POLICY

The Provincial Planning Statement is more than a set of individual policies. It is to be read in its entirety and the relevant policies are to be applied to each situation. When more than one policy is relevant, a decision-maker should consider all of the relevant policies to understand how they work together. The language of each policy, including the Implementation and Interpretation policies, will assist decision-makers in understanding how the policies are to be implemented.

There is no implied priority in the order in which the policies appear. While specific policies sometimes refer to other policies for ease of use, these cross-references do not take away from the need to read the Provincial Planning Statement as a whole.

Geographic Scale of Policies

The Provincial Planning Statement recognizes the diversity of Ontario and that local context is important. Policies are outcome-oriented, and some policies provide flexibility in their implementation provided that provincial interests are upheld....

Relationship with Provincial Plans

The Provincial Planning Statement provides overall policy directions on matters of provincial interest related to land use planning and development in Ontario, and applies province-wide, except where this Provincial Planning Statement or another provincial plan provides otherwise.

Provincial plans, such as the Greenbelt Plan and the Oak Ridges Moraine Conservation Plan, build upon the policy foundation provided by the Provincial Planning Statement. They provide additional land use planning policies to address issues facing specific geographic areas in Ontario.

Provincial plans are to be read in conjunction with the Provincial Planning Statement. They take precedence over the policies of the Provincial Planning Statement to the extent of any conflict, except where the relevant legislation provides otherwise.

Where the policies of provincial plans address the same, similar, related, or overlapping matters as the policies of the Provincial Planning Statement, applying the more specific policies of the provincial plan satisfies the more general

requirements of the Provincial Planning Statement. In contrast, where matters addressed in the Provincial Planning Statement do not overlap with policies in provincial plans, the policies in the Provincial Planning Statement must be independently satisfied.

Land use planning decisions made by municipalities, planning boards, the Province, or a commission or agency of the government must be consistent with the Provincial Planning Statement. Where provincial plans are in effect, planning decisions must conform or not conflict with them, as the case may be.

ANALYSIS

As will be discussed in the following sections, the specific policies of the PPS would not typically permit the proposed use in a Specialty Crop Area. These specific policies are identified in Section 4.3.5 of the PPS, analyzed in the following sections of this PJR, and provide that non-agricultural uses are not permitted in Speciality Crop Areas.

In considering the planning matter, the PPS is clear that it recognizes the “diversity of Ontario and that local context is important.” Relevant to this Application:

- the Subject Lands are in proximity to a settlement area boundary, and as such, compatibility should be considered in relation to urban uses east of Concession 6 Road and agricultural uses to the west of Concession 6 Road;
- the institutional type of use had been established in 1995 to permit a group home for persons with acquired brain injuries and has since existed in a similar capacity; and
- the Subject Lands are not presently in agricultural production, and Four Mile Creek and its associated floodplain that transect the Subject Lands are anticipated to pose barriers to farming.

In addition to the above, the PPS is required to be read in conjunction with Provincial plans, and particularly, the Greenbelt Plan. As will be discussed in the subsequent sections of this PJR, Section 4.5 of the Greenbelt Plan permits all existing uses including “expansions to existing buildings and structures, accessory structures and uses and/or conversions of legally existing uses which bring the use more into conformity with this Plan.” The Greenbelt Plan including Section 4.5 are discussed in Section 5.3 of this PJR.

When considering the entirety of the PPS, local context, and policies of the Greenbelt Plan (as discussed in Section 5.3 of this PJR), the Application is consistent with the PPS.

5.2.2 Building Homes, Sustaining Strong and Competitive Communities

Chapter 2 of the PPS includes general policies that relate to building communities. These include policies that relate to planning for people and homes contained within Section 2.1 and policies that relate to development in rural areas contained within Section 2.5. The following are relevant:

POLICY

2.1.6 *Planning authorities should support the achievement of complete communities by:*

- a) accommodating an appropriate range and mix of land uses, housing options, transportation options with multimodal access, employment, public service facilities and other institutional uses (including schools and associated child care facilities, long-term care facilities, places of worship and cemeteries), recreation, parks and open space, and other uses to meet long-term needs;*
- b) improving accessibility for people of all ages and abilities by addressing land use barriers which restrict their full participation in society; and*
- c) improving social equity and overall quality of life for people of all ages, abilities, and incomes, including equity-deserving groups.*

2.5.1 *Healthy, integrated and viable rural areas should be supported by:*

- a) building upon rural character, and leveraging rural amenities and assets;*
- b) promoting regeneration, including the redevelopment of brownfield sites;*
- c) accommodating an appropriate range and mix of housing in rural settlement areas;*
- d) using rural infrastructure and public service facilities efficiently;*
- e) promoting diversification of the economic base and employment opportunities through goods and services, including value-added products and the sustainable management or use of resources;*
- f) providing opportunities for sustainable and diversified tourism, including leveraging historical, cultural, and natural assets;*
- g) conserving biodiversity and considering the ecological benefits provided by nature; and*
- h) providing opportunities for economic activities in prime agricultural areas, in accordance with policy 4.3.*

2.5.2 *In rural areas, rural settlement areas shall be the focus of growth and development and their vitality and regeneration shall be promoted.*

ANALYSIS

The proposed Respite Care Facility and Adult Day Program will contribute to the achievement of a complete community by improving accessibility, social equity, and overall quality of life for an equity deserving group (persons with disabilities) by providing a safe and attractive facility with outdoor amenities for short-term accommodation and day programming.

The location of the Subject Lands within a Specialty Crop Area but adjacent to the boundary of the Virgil settlement area located along the eastern side of Concession 6 Road is an important planning consideration. Red Roof Retreat is an important community asset. The proposed development will be compatible with the rural character of Niagara-on-the-Lake and support services and programming needed by area residents. Specifically, the new building to replace the existing single detached dwelling will be similar in scale to surrounding buildings and designed to fit into the rural residential context along this section of Concession 6 Road. The hobby farm at the rear of the Subject Lands is also compatible with the general rural character of the area and nearby agricultural uses. The hobby farm and other natural and rural amenities on-site provide therapeutic benefit and are integrated into Red Roof Retreat's programming—indicating the proposed development leverages rural amenities and assets in a unique way on the Subject Lands.

5.2.3 Agriculture

The Subject Lands are considered to be within a Specialty Crop Area. Section 4.3.1 of the PPS requires that “prime agricultural areas, including specialty crop areas, shall be designated and protected for long-term use for agriculture.” In this regard, Section 4.3.2 of the PPS provides that “permitted uses and activities are: agricultural uses, agriculture-related uses and on-farm diversified uses...”. The proposed uses are considered to be non-agricultural. Non-agricultural uses are only permitted in limited circumstances, as per Section 4.3.5 of the PPS. **Table 2** below provides an analysis of these policies:

POLICY & ANALYSIS

Table 2: Criteria for Considering Non-Agricultural Uses in Prime Agricultural Area

SECTION	POLICY	ANALYSIS
4.3.5,1.	<i>Planning authorities may only permit non-agricultural uses in prime agricultural areas for...</i>	See below.
4.3.5,1. a)	<i>extraction of minerals, petroleum resources and mineral aggregate resources; or</i>	Does not apply.
4.3.5,1. b)	<i>limited non-residential uses, provided that all of the following are demonstrated:</i>	See below.
1.	<i>the land does not comprise a specialty crop area</i>	Read in isolation, the proposed use would not be permitted within a specialty crop area. This policy needs to be read in conjunction with the Existing Use policies contained in Section 4.5 of the Greenbelt

SECTION	POLICY	ANALYSIS
		Plan. The existing use policies of the Greenbelt Plan permits existing uses and expansions/conversions of existing uses which bring the use more into conformity with the Plan.
2.	<i>the proposed use complies with the minimum distance separation formulae</i>	A potential chicken barn is located approximately 975 metres from the location of the proposed Respite Care Facility building on the Subject Lands. This is beyond the investigation distance of 750 metres provided by MDS Guideline #6 in OMAFRA Publication 853 for a proposed Type A land use.
3.	<i>there is an identified need within the planning horizon identified in the official plan as provided for in policy 2.1.3 for additional land to accommodate the proposed use; and</i>	The Town Official Plan has not identified a specific need for the proposed use. This policy needs to be read in conjunction with the Existing Use policies contained in Section 4.5 of the Greenbelt Plan. The existing use policies of the Greenbelt Plan permits existing uses and expansions/conversions of existing uses which bring the use more into conformity with the Plan.
4.	<i>alternative locations have been evaluated, and</i> <i>i. there are no reasonable alternative locations which avoid prime agricultural areas; and</i> <i>ii. there are no reasonable alternative locations in prime agricultural areas with lower priority agricultural lands.</i>	The proposed building to accommodate the use would be located in approximately the same location where the existing use was previously accommodated. Relocating the use to an alternate location would likely remove lands from agricultural production.
4.3.5,2.	<i>Impacts from any new or expanding non-agricultural uses on the agricultural system are to be avoided, or where avoidance is not possible, minimized and mitigated as</i>	The proposal does not require additional land and will not result in lands being removed from agricultural production. As the lands are not presently used for or anticipated to be used for agricultural

SECTION	POLICY	ANALYSIS
	<i>determined through an agricultural impact assessment or equivalent analysis, based on provincial guidance.</i>	<p>production due to the existing use and Four Mile Creek that transects and poses a barrier to farming, the continuity of the agricultural land base is not anticipated to be impacted by the proposed development.</p> <p>The proposed building is to be reconstructed on the northside of the Subject Lands, aligned with the residential lot to the north. This alignment would minimize potential impacts on the agricultural parcel to the south.</p>

5.2.4 Cultural Heritage and Archaeology

The Subject Lands are located within an area of archaeological potential as per Schedule K of the Niagara Official Plan. Section 4.6 of the PPS provides policies regarding cultural heritage and archaeology and states as follows:

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.*

ANALYSIS

A Stage 1-2 Archaeological Assessment prepared by Detritus Consulting Ltd. did not identify and/or recover archaeological resources and recommends no further archaeological assessment of the study area on the Subject Lands be undertaken. The proposed development is consistent with the requirements of PPS policy 4.6.2.

SUMMARY

Section 4.3.5 of the PPS does not permit non-agricultural uses in Specialty Crop Areas. As detailed in Chapter 1 of the PPS, the Application must be considered in relation to local context and the intent of the policy. The PPS aims to designate and protect prime agricultural areas for long-term use for agriculture.

The Application is not anticipated to result in any significant impacts to agricultural lands. Specifically, the Subject Lands are in proximity to a settlement area boundary, and the institutional type of use had been established in 1995. Additionally, the Four Mile Creek that transects the Subject Lands poses a technical constraint to establishing a farming

operation. The existing situation and constraints make it unlikely that the Subject Lands would be farmed in the future. To mitigate any potential impacts, the proposed building has been located towards the front of the Subject Lands, in the approximate location of the existing dwelling. The location of the proposed building would ensure that agricultural lands are not tarnished.

The Greenbelt Plan provides additional guidance and permits existing uses including expansions and conversions of such uses, subject to meeting criteria identified in the Greenbelt Plan. The Greenbelt Plan policies are more specific and provide overlapping guidance on the matter. These criteria are discussed in Section 5.3 of this PJR.

In summary, while the Application does not meet the specific policy direction of 4.3.5 of the PPS, the Application meets the broader intent of protecting Prime Agricultural Areas, and more specifically Specialty Crop Areas. The existing use policies contained in Section 5.4 of the Greenbelt Plan, discussed in the following sections of this PJR, provide overlapping policy guidance. Subject to meeting these policies of the Greenbelt Plan, the Application is considered to be consistent with the PPS.

5.3 Greenbelt Plan (2017)

The Subject Lands fall within the Protected Countryside of the Greenbelt Plan and more specifically are designated Niagara Peninsula Tender Fruit and Grape Area as per Schedule 2 of the Greenbelt Plan. The Niagara Peninsula Tender Fruit and Grape Area is a Specialty Crop Area. The delineation of this area is based on provincial soil and climate analysis of the current and potential tender fruit and grape production areas. The Greenbelt Plan identifies where urbanization should not occur in order to provide permanent protection to the agricultural land base and the ecological and hydrological features, areas and functions occurring on this landscape.

5.3.1 Protected Countryside Goals

Section 1.2.2 of the Greenbelt Plan includes goals aimed at improving both urban and rural areas, as well as enhancing the overall quality of life within the Protected Countryside. The following goals are relevant to this application:

GOALS

- a) Protection of the specialty crop area land base while allowing agriculture-supportive infrastructure and value-added uses necessary for sustainable agricultural uses and activities;*
- b) Support for the unique nature of specialty crop areas as our vital fruit and vegetable growing regions, which include:*
 - i. The Niagara Peninsula specialty crop area, a destination for and centre of agriculture focused on the agri-food sector and agritourism related to grape and tender fruit production...*

c) Protection of prime agricultural areas by preventing further fragmentation and loss of the agricultural land base caused by lot creation and the redesignation of prime agricultural areas...

ANALYSIS

The intent of the Greenbelt Plan is to prevent the establishment of non-agricultural uses on prime agricultural lands in order to maintain the integrity of the agricultural land base. The Application would not result in the redesignation of agricultural use or further fragmentation and loss of the agricultural lands base as the institutional use of the Subject Lands predates the Greenbelt Plan. The Application proposes a minor expansion of this existing use. To further mitigate impacts, the proposed building has been located towards the front of the Subject Lands in the approximate location of the existing dwelling which would be demolished. For these reasons, the proposal conforms with the broader goals of the Greenbelt Plan.

5.3.2 Specialty Crop Area Policies

Section 3.1.2 of the Greenbelt Plan provides the following relevant policies regarding Specialty Crop Area in the Greenbelt Plan:

POLICY

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.*
5. *Where agricultural uses and non-agricultural uses interface, land use compatibility shall be achieved by avoiding or, where avoidance is not possible, minimizing and mitigating adverse impacts on the Agricultural System, based on provincial guidance. Where mitigation is required, measures should be incorporated as part of the non-agricultural uses, as appropriate, within the area being developed.*

ANALYSIS

The proposal does not involve redesignation of the Subject Lands to a non-agricultural use and would not result in lands being removed from agricultural production. The Subject Lands are not in agricultural production and include an existing non-agricultural use. As per Policy 3.1.2, 2. of the Greenbelt Plan non-agricultural uses are permitted in the Specialty Crop Area in limited situations, and subject to policies contained within Section 4.5 of the Greenbelt Plan. These policies are evaluated in the following section of this PJR.

5.3.3 General Policies for the Protected Countryside

Non-agricultural uses are generally not permitted in the Specialty Crop Areas, with some exceptions. Section 4.5 and 5.2.1 of the Greenbelt Plan provides exceptions in which non-agricultural uses may be permitted, as follows:

POLICY

4.5 Existing Uses

For lands falling within the Protected Countryside, the following policies shall apply:

1. *All existing uses are permitted.*
4. *Expansions to existing buildings and structures, accessory structures and uses and/or conversions of legally existing uses which bring the use more into conformity with this Plan are permitted subject to a demonstration of the following:*
 - a) *Notwithstanding section 4.2.2.2, new municipal services are not required; and*
 - b) *The use does not expand into key natural heritage features or key hydrologic features or their associated vegetation protection zones, 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.*

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.

ANALYSIS

The Subject Lands currently contain an existing single-detached dwelling with site-specific permissions for “a group home for rehabilitation and long term living program for

persons with acquired brain injuries.” This use is contained within the existing single-detached dwelling on the Subject Lands. The Subject Lands also have general permissions for related uses such as a “one (1) family dwelling” and “small scale tourist accommodation.”

The proposed Respite Care Facility and Adult Day Program use is similar to the group home use. Specifically, the proposed uses would provide supervised living for residents with disabilities. The key difference being is that accommodation at a Respite Care Facility is intended to be temporary. Of note, temporary accommodation is permitted on the Subject Lands, and throughout the Rural A zone but as a small-scale tourist accommodation. In this case, the proposed use would support caregivers by providing temporary accommodation for people with disabilities, rather than for tourism.

Permissions to allow for the Adult Day Program complements the proposed Respite Care Facility Use. This use can be considered an expansion to the existing uses on the Subject Lands as it would allow for expanded service delivery. This use can be put in place without a need to construct additional buildings or structures, and without impacting the surrounding agricultural lands.

The proposal conforms with the requirements of Policy 4.5, 4. as:

1. New municipal services are not required as the proposed development would continue to be serviced via municipal water and private septic systems.
2. The use would not expand into key natural heritage features or key hydrologic features or their associated vegetation protection zones.

SUMMARY

The Greenbelt Plan does not permit new non-agricultural uses in speciality crop areas.

The Subject Lands have site-specific approvals via By-law 500JK-95 to permit “a group home for rehabilitation and long-term living program for persons with acquired brain injuries.” The Greenbelt Plan recognizes existing uses and permits applications to amend site-specific zoning by-law permissions to those similar to or more in conformity with those contemplated in the Greenbelt Plan. The Application meets the criteria for permitting an amendment to a Zoning By-law for a similar use, as site specific permissions had been established in 1995, prior to the date the Greenbelt Plan came into effect.

The Greenbelt Plan also permits expansions to these uses, provided new municipal services are not required and the use would not expand into key natural heritage features or key hydrologic features or their associated vegetation protection zones. The Additional of the Adult Day Program Use meets these criteria for expansions to existing uses.

5.4 Niagara Official Plan (2022)

The NOP is the Regional Municipality of Niagara’s long-term, strategic policy planning framework for managing growth coming to Niagara. 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.

Table 3 below summarizes the designation of the Subject Lands in the NOP (**refer to Appendix C**).

Table 3 NOP Relevant Schedules

	Schedule	Designation
C1	Natural Environment System Overlay and Provincial Natural Heritage Systems	Natural Environment System Overlay
C2	Natural Environment System - Individual Components and Features	Other Woodlands Permanent & Intermittent Streams
C3	Key Hydrologic Areas Overlay	Highly Vulnerable Aquifer
F	Agricultural Land Base	Speciality Crop Area
K	Areas of Archaeological Potential	Areas of Archaeological Potential

Of note, development is proposed well outside any Natural Heritage System component identified in Schedules C1 through C3 of the NOP.

5.4.1 Specialty Crop Areas and Prime Agricultural Areas

The agricultural land base in Niagara Region is comprised of Prime Agricultural Areas, including Specialty Crop Areas, and Rural Lands. The Subject Lands fall within a Specialty Crop Area. The NOP includes several relevant objectives and policies to ensure the protection of Specialty Crop Areas:

OBJECTIVES

- b. protect the region's agricultural land base;*
- c. ensure agriculture is the predominant land use in specialty crop areas and prime agricultural areas;*
- d. restrict and control non-agricultural uses to minimize potential conflicts;*
- j. recognize and control changes to existing uses to ensure a viable agricultural system.*

POLICY

- 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 seven lands within the prime agricultural area, in this order of priority.

- 4.1.2.1 *Specialty crop areas shall not be redesignated in official plans for non-agricultural uses. Non-agricultural uses may be permitted subject to Policies 4.2 to 4.6 of the Greenbelt Plan and Section 4.1.3 of this Plan.*
- 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 Application does not propose the redesignation of lands but does involve the expansion of an existing non-agricultural use within lands designated Specialty Crop Area on Schedule F of the Niagara Official Plan.

The use is considered to be an existing use, as per Policy 4.1.2.2 of the NOP, and is permitted to continue. A group home for rehabilitation and long-term living program for persons with acquired brain injuries is permitted on the Subject Lands in accordance with a site-specific zoning By-law adopted in 1995. The Town's comprehensive Zoning By-law was amended in 1999 to provide general permission to establish group homes in any residential zone or residence in the Town. A group home was established on the Subject Lands, in accordance with the zoning, following the adoption of the site-specific Zoning By-law.

Policies regarding how non-conforming uses should be treated are contained in Section 4.1.10 of the NOP and discussed in the following section.

5.4.2 Non-Conforming Uses in the Agricultural System

The NOP includes policies regarding existing non-conforming uses, including the expansion of such uses. Section 4.1.10.1 of the NOP is clear that: the NOP 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 provides that 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

Table 4 Criteria for Considering Expansions to Existing Uses

SECTION	POLICY	ANALYSIS
a.	<i>new municipal services are not required;</i>	New municipal services are not required as the proposed development would continue to be serviced via municipal water and private septic systems.
b.	<i>the proposal does not expand into key natural heritage features and key hydrologic 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;</i>	The use would not expand into key natural heritage features or key hydrologic features or their associated vegetation protection zones.
c.	<i>if applicable, the proposed new use complies with the Specialty Crop Guidelines, as amended from time to time</i>	There are no Specialty Crop Guidelines.
d.	<i>for conversions or redevelopments only, the completion of an agricultural impact assessment by a qualified professional;</i>	The proposed building would be in the general location of the existing building. In considering the scale of the use and the location of the building significant impact are not anticipated on adjacent agricultural lands.
e.	<i>the proposal does not result in the intrusion of new incompatible uses; and</i>	The proposed use is similar in terms of scale and impact to the permitted group home facility. The difference is that accommodation would be provided on a temporary basis. Permissions for the Adult Day Program use is not anticipated to result in significant impacts to adjacent uses. The proposed use is small in scale and would accommodate at most 8 patrons. Those attending the Adult Day Program would be supervised by employees of the facility to ensure that patrons do not trespass onto adjacent lands.

SECTION	POLICY	ANALYSIS
f.	<i>the proposed use is in accordance with the minimum distance separation formulae.</i>	A potential chicken barn is located approximately 975 metres from the location of the proposed Respite Care Facility building on the Subject Lands. This is beyond the investigation distance of 750 metres provided by MDS Guideline #6 in OMAFRA Publication 853 for a proposed Type A land use.

5.4.3 Plan Healthy and Safe Communities

Section 6.3 of the NOP provides policies regarding healthy communities. One of the objectives of the NOP is to plan healthy and safe communities that provide high quality of life. The Region provides as follows to achieve this direction.

POLICY

6.1.3.1 *The Region shall support healthy communities by:*

b. planning for all ages, incomes, abilities and populations;

ANALYSIS

The Application would meet a need and provide necessary services to persons with disabilities—an equity deserving group with unique needs. The Application conforms with the general direction of supporting healthy communities.

5.4.4 Archaeology

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.*

ANALYSIS

A Stage 1-2 Archaeological Assessment prepared by Detritus Consulting Ltd. recommends no further archaeological assessment of the study area on the Subject Lands be undertaken after no archaeological resources were identified. On that basis, the proposed development conforms to the direction provided in Policy 6.4.2.1.

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

The Niagara-on-the-Lake Official Plan ('Town OP') provides policy direction to guide the Town's physical development. Most of the land in Niagara-on-the-Lake is in agricultural production. The policies of the Town OP are directed towards preserving the agricultural land base, particularly prime agricultural land. To this end, the Town OP does not permit land uses in the agricultural designation that are not related to the agricultural industry. The Town OP also includes policies that recognize and support non-complying uses.

Table 5 below summarizes the designation of the Subject Lands in the Niagara-on-the-LakeP (refer to Appendix D).

Table 5 NOTL OP Relevant Schedules

	Schedule	Designation
A	Land Use Plan	Agricultural
G	Transportation Plan	Collector Roads (Concession Road 6)
H	Archaeological Potential	Areas of Archaeological Potential

5.5.1 General Development Policies – Group Homes

The Town OP provides a definition of Group Homes as well as general provisions regarding such uses, as follows:

POLICY

Group Home: means a housekeeping unit or units in a residential building in which up to six (6) persons (excluding the staff or the receiving family) live as a family under responsible supervision. Subject to approval by the municipality up to ten (10) residents may be permitted in a group home. The home is licensed or approved under provincial statute and is in compliance with municipal by-laws.

6.12 GROUP HOMES

The following types of group homes administered under Provincial legislation shall be permitted to establish in any residential zone or residence in the Town of Niagara-on-the-Lake, subject to the following policies:

(1) The types of group homes to be permitted are:

- a) approved homes*
- b) homes for special care*
- c) supportive housing programs, adult community mental health programs*
- d) children's residences*
- e) accommodation services for the developmentally handicapped*

f) *satellite residences for seniors*

In addition to the above, homes for physically disabled adults are also permitted when the province licenses funds or approves a group home program for physically disabled adults. Halfway houses for the socially disadvantaged, halfway houses for alcoholics, halfway houses for ex-offenders and community resources centers are permitted in this Plan but may require an amendment to the implementing zoning by-law where deemed necessary by the municipality.

- (2) *To prevent the undue concentration of group homes in one location a separation distance of up to 460 metres (1509 feet) may be required between group homes. This requirement shall implemented through the municipal zoning by-law.*

ANALYSIS

The site-specific zoning for the Subject Lands allows a group home for rehabilitation and long term living program for persons with acquired brain injuries on the Subject Lands, as well as group home.

The proposed development will expand this existing use to include a Respite Care Facility and Day Programming for persons with disabilities.

Although accommodation is temporary, the proposed use serves a similar function to a group home and meets all of the remaining criteria for a group home in the Town OP.

An analysis of conformity should be regarding whether a proposed use meets the “goals, objectives and policies established primarily to manage and direct physical change and the effects on the social, economic, built and natural environment of the municipality or part of it, or an area that is without municipal organization” as established in Section 16(1) of the *Planning Act*. An Official Plan is not intended to regulate land use. That is intended to be provided through the Zoning By-law, which implement the policy direction of the Official Plan. To this end, Ontario Land Tribunal jurisprudence holds that Official Plans are intended to be to be interpreted broadly and liberally. This position is advanced in *Bele Himmel Investments Ltd. v. City of Mississauga* (decision issued by the former Ontario Municipal Board), in which it is stated that:

Official Plans are not statutes and should not be construed as such [...] Official Plans set out the present policy of the community concerning its future physical, social and economic development [...] It is the function of the Board in the course of considering whether to approve a by-law to make sure that it conforms with the Official Plan. In doing so, the Board should give to the Official Plan a broad liberal interpretation with a view to furthering its policy objectives.

The intent of the Town OP is to maintain the low-density residential character of the use. The Town has set a precedent for allowing temporary accommodation where low density residential uses are contemplated by permitting uses such as cottage rentals, bed and

breakfast establishments and small scale tourist accommodations in single-detached dwellings as-of-right.

The low density residential character of the surrounding area is maintained by the proposal. The proposed Respite Care Facility meets the required height provisions, respects the existing scale and massing of residential uses in its immediate vicinity, and will be appropriately screened from surrounding properties. Operationally, the Respite Care Facility is designed to accommodate up to five (5) overnight respite guests and seven (7) participants in the Adult Day Program. As noted previously, respite services are offered on weekends, while the Adult Day Program runs Monday to Friday, so these uses operate on the Subject Lands but not simultaneously. The intensity of use proposed will therefore be comparable to the types of group homes listed in Section 6.12 of the Town's Official Plan, the temporary accommodation uses noted above, or the secondary uses permitted within the Agricultural designation, as noted below in Section 5.5.3 of this PJR.

Also, as noted previously the proposed Respite Care Facility and Adult Day Program benefit from being located on the Subject Lands. The low-density rural and agricultural landscape and on-site amenities—hobby farm, trails, outdoor seating areas, and natural features—form an integral part of the experience and programming offered to guests of the Respite Care Facility and participants in the Adult Day Program.

The proposed development therefore conforms to the general intent of Section 6.12.

5.5.2 Agriculture – Goals and Objectives

The Subject Lands are designated Agricultural. Relevant goals and objectives regarding the agricultural designation are contained within Section 7.2 of the Town OP as follows:

GOALS AND OBJECTIVES

- (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 nonfarm 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.*

ANALYSIS

The Subject Lands have permissions for a Group Home as per the Town Zoning By-law. Of note, the Subject Lands are not in agricultural production. The location of the proposed building has been carefully sited in approximately the same location as the existing building to ensure that potentially farmable lands are not built-upon. The proposed use is not anticipated to result in any additional impacts to adjacent agricultural lands, as patrons of the site will be supervised by employees reducing the potential for trespass.

5.5.3 Agriculture – Uses

The Subject Lands are designated Agricultural. Policies regarding uses are contained in Section 7.3.1 of the Town OP, as follows:

POLICY

Main Uses: *The main use permitted is agriculture including all types of farming, their related buildings and structures, the farm residence, the raising of animals and fowl, market gardening, greenhouses and nurseries, forestry and reforestation. Conservation of water, soil, wildlife and other natural resources in their natural state is also permitted.*

Secondary Uses:

Uses permitted with a Main Use:

- *roadside produce outlets*
- *farm wineries*
- *home industries and occupations including bed & breakfasts*
- *group homes*
- *accessory buildings and structures*
- *farm help houses and additional farm dwellings for seasonal or full time farm help*

ANALYSIS

Group Homes as well as short-term accommodation (bed & breakfast) are contemplated within the Agricultural designation. The proposed use is in line with the types of uses contemplated within the Agricultural designation.

5.5.4 Agricultural – Minimum Distance Separation Requirements

Section 7.4(2) of the Town OP provides policy direction regarding Minimum Distance Separation Requirements. The following apply:

POLICY

- b) *All new development located on lands designated "Good Tender Fruit or Good Grape" in the Regional Policy Plan shall be subject to the Minimum Distance Separation (M.D.S.) requirements.*

ANALYSIS

A potential chicken barn is located approximately 975 metres from the location of the proposed Respite Care Facility building on the Subject Lands. This is beyond the investigation distance of 750 metres provided by MDS Guideline #6 in OMAFRA Publication 853 for a proposed Type A land use.

5.5.5 Agriculture – Secondary Uses

The Town Official Plan includes Secondary Use Policies. These Secondary Use Policies as described in Table 6 below provide a list of requirements for considering secondary uses the agricultural designation:

POLICY & ANALYSIS

Table 6

SECTION	POLICY	ANALYSIS
i)	<i>Such uses shall avoid wherever reasonably practical Good Tender Fruit/Good Grape land as shown in the Regional Policy Plan.</i>	The proposed development is an expansion of an existing non-agricultural use and does not remove lands from agricultural production.
ii)	<i>Such uses shall be encouraged wherever reasonably practical to locate on a relatively self-contained or isolated area separated from other agricultural lands by woodland, roads, railways or ravines.</i>	The proposed Respite Care Facility will replace an existing dwelling on the Subject Lands located near the portion of the property fronting Concession 6 Road adjacent the Virgil settlement area. The rear portion of the property includes a hobby farm and nature area with walking trails. To the north are residential uses, while to the south are lands planted with grape vines.
iii)	<i>The location of the facility or use imposes no operating constraints or results in no reduction of the efficiency of any existing farms.</i>	The location of the proposed uses is close to the property's frontage along Concession 6 Road where there are other non-agricultural uses on both sides of the street. The proposed development is not anticipated to pose an operating constraint to any existing farms or reduce their efficiency.
iv)	<i>An adequate and potable water supply shall be available and it shall be the responsibility of the applicant to provide a report on the adequacy</i>	An FSR prepared by Quartek Group confirms the site is and will continue to be serviced by municipal water supply.

SECTION	POLICY	ANALYSIS
	<i>of the water supply, if required by the Town or the authority having jurisdiction.</i>	
v)	<i>Soils shall be suitable or made suitable to support an individual waste disposal systems subject to the approval of the authority having jurisdiction.</i>	The FSR prepared by Quartek Group establishes the native soils on site are clay/clayey silt in nature. Because the native soils have a percolation rate in excess of 15min/cm, sand complying with OBC 8.7.7 will have to be imported for the construction of the leaching bed.
vi)	<i>Adequate drainage and outlets shall be available for storm water run-off. Approval of drainage provisions may be required from the Town, the Region, the Ministry of Transportation and/or the Niagara Peninsula Conservation Authority and/or the Niagara Parks Commission.</i>	The FSR prepared by Quartek Group states that water runoff will be managed via an on-site drainage system and infiltration trench, incorporating best management practices. The filtered runoff is also designed to drain into a watercourse located at the western portion of the Subject Lands.
vii)	<i>Adequate entrances and exits to roads shall be so located as to minimize travel hazards. Ribbon development along roadways shall be discouraged.</i>	The Subject Lands have an existing driveway that provides ingress/egress to Concession 6 Road. The proposed development will use this existing access.
viii)	<i>Adequate off-street loading, parking spaces and access points shall be provided for all commercial and</i>	Adequate off-street loading and parking and access points will be provided for the proposed Respite Care Facility.

SECTION	POLICY	ANALYSIS
	<i>industrial development. Access points shall be clearly defined by pavement breaks, landscaping, curbing or other acceptable means. Outside storage may be limited.</i>	
ix)	<i>The municipality may impose appropriate controls through available legislation to ensure that the hours of operation of any secondary use does not conflict with adjacent land uses.</i>	Conflict with between the proposed Respite Care Facility and adjacent land uses is not anticipated.
x)	<i>The lands shall be appropriately zoned and, where necessary, a Development Agreement be entered into.</i>	A site-specific zoning by-law amendment is proposed to expand the uses permitted on the Subject Lands to include the Respite Care Facility and day programming.
xi)	<i>Development on treed areas, steep slopes, ravines, watercourses and any other natural or cultural resource shall be avoided.</i>	The proposed development is located on the portion of the Subject Lands closest to Concession 6 Road, avoiding the treed area located at the rear of the property.

5.5.6 Archaeological Planning

As indicated, the Subject Lands are within an Area of Archaeological Potential. Section 18.5 of the Town OP provides relevant policies regarding archaeology:

POLICY

- (1) An archaeological resource assessment may be required by the Regional Municipality of Niagara as the delegated authority (Planning and Development Department) in consultation with Town of Niagara-on-the-Lake as a result of a planning application should any portion of the subject property fall within a zone of archaeological potential as shown on Schedule "H" to this Official Plan or where an archaeological site has been previously registered on the property.*
- (2) An archeological assessment will be required for the entire property. For lands located outside an urban area boundary where the entire property will not be developed consideration may be given on a site specific basis by the Ministry of Tourism, Culture, and Sport in consultation with the Town to exempt the areas that will not be developed from requiring an archaeological assessment.*

ANALYSIS

A Stage 1-2 Archaeological Assessment was completed by Detritus Consulting Ltd. No archaeological resources were identified and the Assessment determined no further archaeological assessment of the Subject Lands is warranted.

5.5.7 Transportation

Concession 6 Road is identified as a Collector Road as per Schedule "G" of the Town Official Plan.

POLICY

20.2.3 COLLECTOR ROADS

Schedule "G" "Transportation Plan" identifies the Collector Roads in the Town.

- a) Collector Roads are intended to afford organization for the local road system and to provide the main connecting points to the Arterial Roads. They are expected to be reasonably continuous, and to carry lower traffic volumes than the Arterial Roads.*
- b) The right-of-way width for Collector Roads shall be sufficient to accommodate the intended traffic volumes as well as on-street parking. The right-of-way width the construction of the road and the location of all necessary services shall be the satisfaction of the Town.*

20.3 GENERAL TRANSPORTATION POLICIES

- (2) When the necessity for road widenings, jog eliminations or daylighting triangles becomes apparent on Ministry of Transportation highways, Regional Roads or Town-owned streets, the Town will protect and/or obtain same when development applications are approved or road works are undertaken.*

- (7) As a condition of development approval the Town may require the dedication of road widenings to achieve the right-of-way widths as set out in Table 1.

The Municipal Roads Section Table provides a Right-of-Way width of 26 metres.

ANALYSIS

The Subject Lands have frontage on Concession 6 Road, which has a designated ROW width of 26 metres – the current width is deficient by 2.9 metres. As such, a 2.9 metre road widening will be conveyed and has been identified on the Site Plan.

6.0 Proposed Zoning By-law Amendment

The subject property is presently zoned Rural (A) Site Specific Zone pursuant to amending By-law 500JK-95 (See **Appendix E**). The current zoning of the Subject Lands permits group homes, however a further Zoning By-law Amendment is required to permit the new use, as well as the zoning deficiencies associated with the reconstruction of the new Respite Care Facility.

The following table assesses the proposed development on the Subject Lands against the policies of the Rural (A) Site Specific Zone.

Table 7: Compliance with Zoning By-law No. 500A-74, Rural (A) Zone

No.	REGULATION	REQUIRED	PROPOSED	COMPLIANCE
3.35.1 – Group Home Parking Provisions	Where a 'group home' is permitted, the following provisions shall apply:	<p>(i) 1 parking space for every staff member for the 'group home' with stacked parking to a depth of one vehicle permitted in a driveway</p> <p>(ii) Visitor Parking is at a rate of 1 visitor parking space for group homes having up to 6 residents and 2 visitor spaces for group homes having more than 6 residents.</p>	Total of 10 parking spaces proposed with 2 barrier-free spaces.	Yes

No.	REGULATION	REQUIRED	PROPOSED	COMPLIANCE
		Total of 6 spaces required.		
21.A.61.1	Uses Permitted	That in addition to the uses permitted in a Rural (A) Zone the following use shall also be permitted on the lands described on Schedule "A" (*) attached hereto: <i>"A group home for rehabilitation and long term living program for persons with acquired brain injuries."</i>	A Respite Care Facility and Adult Day Program.	No
Schedule F – Rural (A) Zone	Minimum Frontage	38.10 m	27.43 m (existing condition)	No
	Minimum Area	4.05 ha	4.025 ha	No
	Minimum Lot Depth	N/A	-	Yes
	Maximum Lot Coverage	15%	Approx. 2.2%	Yes
	Minimum Front Yard	15.24 m	3.95 m	No
	Minimum Interior Side Yard	3.05 m	3.1 m	Yes
	Minimum Exterior Side Yard	9.14 m	N/A	Yes
	Minimum Rear Yard	15.24 m	Approx. 226 m	Yes
	Minimum Dwelling Floor Area (two-storey)	139.3 m ²	297.30 m ² (main dwelling)	Yes
	Maximum Building Height	10.67 m	8.82 m	Yes

No.	REGULATION	REQUIRED	PROPOSED	COMPLIANCE
	Maximum Accessory Building Height	4.5 m	4.05 m	Yes
	Minimum Accessory Building Yards	3.05 m	<p>Wood sided storage building (south lot line): 4.29m;</p> <p>Animal shelter #1: 4.45m;</p> <p>Animal shelter #2: 4.62m;</p> <p>Wood sided storage building #2: 4.8m;</p> <p>Wood side storage building #3: 3.87m (east lot line); 11.35m (north lot line);</p> <p>New Pavilion: 14.36m (north lot line); 23.83m (east lot line)</p>	Yes

REQUESTED SITE-SPECIFIC PROVISIONS

PERMITTED USES

A Zoning By-law Amendment is requested to amend the permitted uses section of amending By-law 500JK-95 to include the current uses of the Subject Lands being ***“a Respite Care Facility” and “Adult Day Program”***.

PARKING RATES

The following parking requirements are prescribed for the Subject Lands:

- (a) a minimum of five (5) parking spaces shall be provided for Respite Care Facility and Adult Day Program staff.
- (b) a minimum of four (4) parking spaces combined shall be provided for visitors and Respite Care Facility guests and Adult Day Program participants.

The proposed site-specific parking requirements address the parking needs anticipated for the Respite Care Facility and Adult Day Program uses. The Respite Care Facility as a use is similar to a Group Home and would require 1 parking space per staff member and 1 parking space in total for visitors under existing zoning regulations applicable to the Subject Lands. The anticipated parking needs for the Adult Day Program do not correspond with the parking rates provided for the most comparable uses in Section 3.19 of the Town's Zoning By-law 500A-74.

A review of parking rates required by other municipalities did not identify a direct comparable. The review did reveal a number of municipalities require 2.5 spaces per 100 square metres of floor area for day cares—the closest comparable provided in most parking regulations reviewed. That is a considerably lower rate than the 1 parking space for 18.5 square metres of floor area the Town currently requires for day cares. Given the proposed site-specific requirement includes a minimum number of parking spaces be provided for staff members and that the Adult Day Program will not occupy the entire floor area or be offered at the same time as the overnight respite program, the combined minimum requirement provided above is considered appropriate.

MINIMUM FRONTAGE

Zoning relief is being requested for the Subject Lands to address deviations from the current zoning regulations. The intent of the minimum frontage requirement in the Town Zoning By-law is to ensure that parcels have adequate room for access and safety from the public street. Of note, the existing frontage of the Subject Lands is already deficient and is not proposed to change as part of the application. Accordingly, the Zoning By-law Amendment is requested to recognize existing circumstances.

MINIMUM LOT AREA

Zoning relief is being requested to address the existing conditions on the Subject Lands. The lot has an area of 4.025 hectares, which is deficient by 0.025 hectares or 250 m² and is the existing condition on the Subject Lands. Correspondence with Town Planning staff has confirmed that no prior zoning by-law amendments or minor variance application have been approved for the decreased area present on the Subject Lands. The proposed lot area will be staying in its as-existing conditions and as such the Zoning By-law Amendment is requested to request relief from existing circumstances.

MINIMUM FRONT YARD SETBACK

The intent of the minimum front yard depth provision in the Town's Zoning By-law is to ensure that buildings and structures are appropriately set back from the street and to maintain proper access and privacy.

The location of the building has been carefully considered to facilitate the provision of parking at the rear of the building and to ensure that the proposed building maintains a street presence. The reduced front yard setback is necessary achieve these objectives, allow for adequate building footprint, while at the same time maintaining access to rear parking along the south side of the building.

7.0 Summary and Conclusion

It is our opinion the proposed Zoning By-law Amendment represents good land use planning, is in the public interest, and should be approved for the following reasons:

- The proposed development has regard for matters of Provincial interest outlined in Section 2 of the Planning Act;
- The proposed development is consistent with the Provincial Planning Statement and conforms to the Niagara Official Plan;
- The proposed development conforms to the Niagara-on-the-Lake Official Plan;
- The proposed development benefits from the unique characteristics of the Subject Lands and location within a rural landscape near urban communities; and,
- Permitting the Respite Care Facility and Adult Day Program use on the Subject Lands will improve the social equity, quality of life, and opportunity to fully participate in society for both children and adults with special needs in the area, as well as their families and other unpaid caregivers.

Report prepared by:



Rob Fiedler, PhD

Intermediate Planner

NPG Planning Solutions Inc.

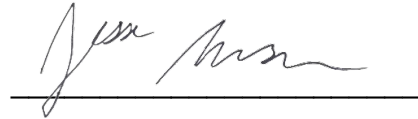


Dan Banatkiewicz, Hons. BA

Planner

NPG Planning Solutions Inc.

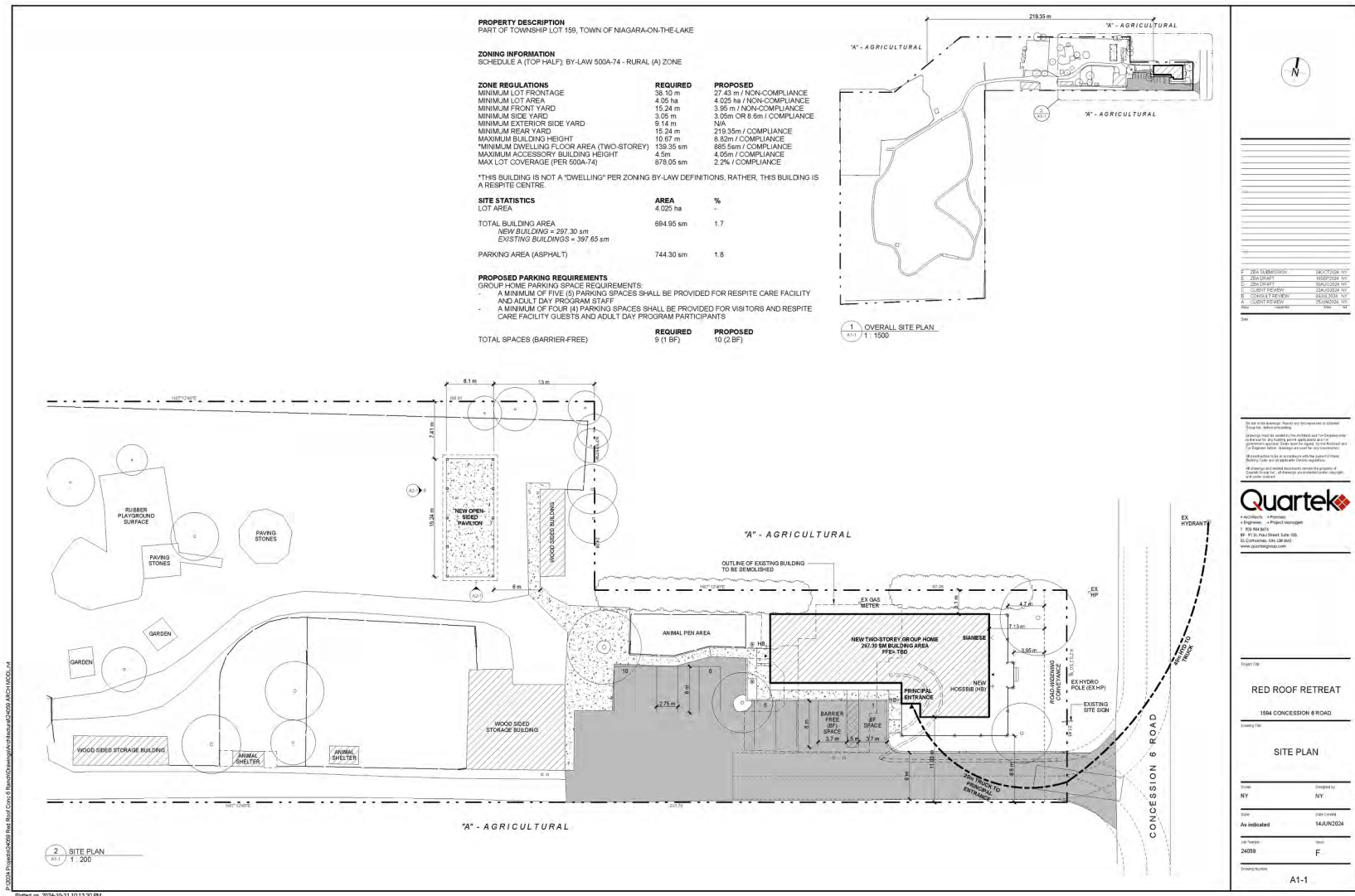
Report reviewed and approved by:

A handwritten signature in black ink, appearing to read 'Jesse Auspitz', is positioned above a horizontal line.

Jesse Auspitz, MCIP, RPP
Principal Planner, Toronto
NPG Planning Solutions Inc.

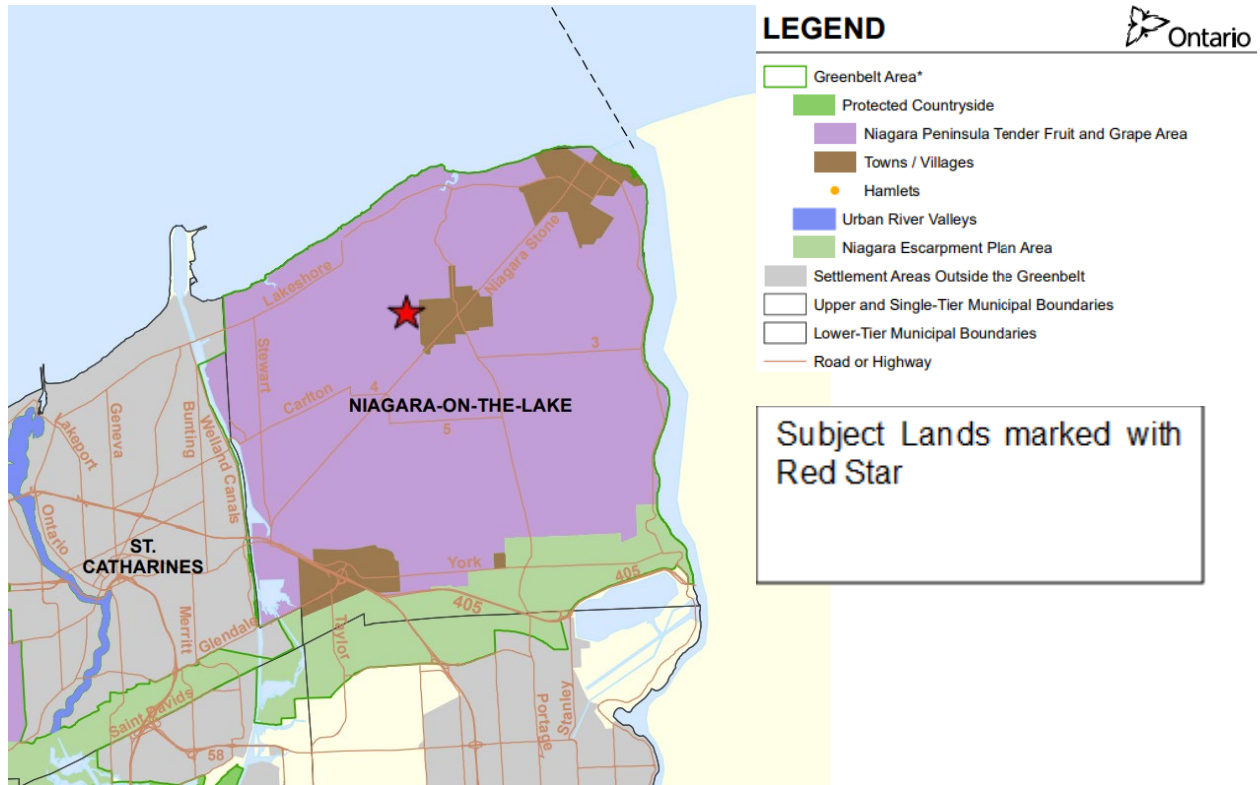
8.0 Appendices

Appendix A – Site Plan



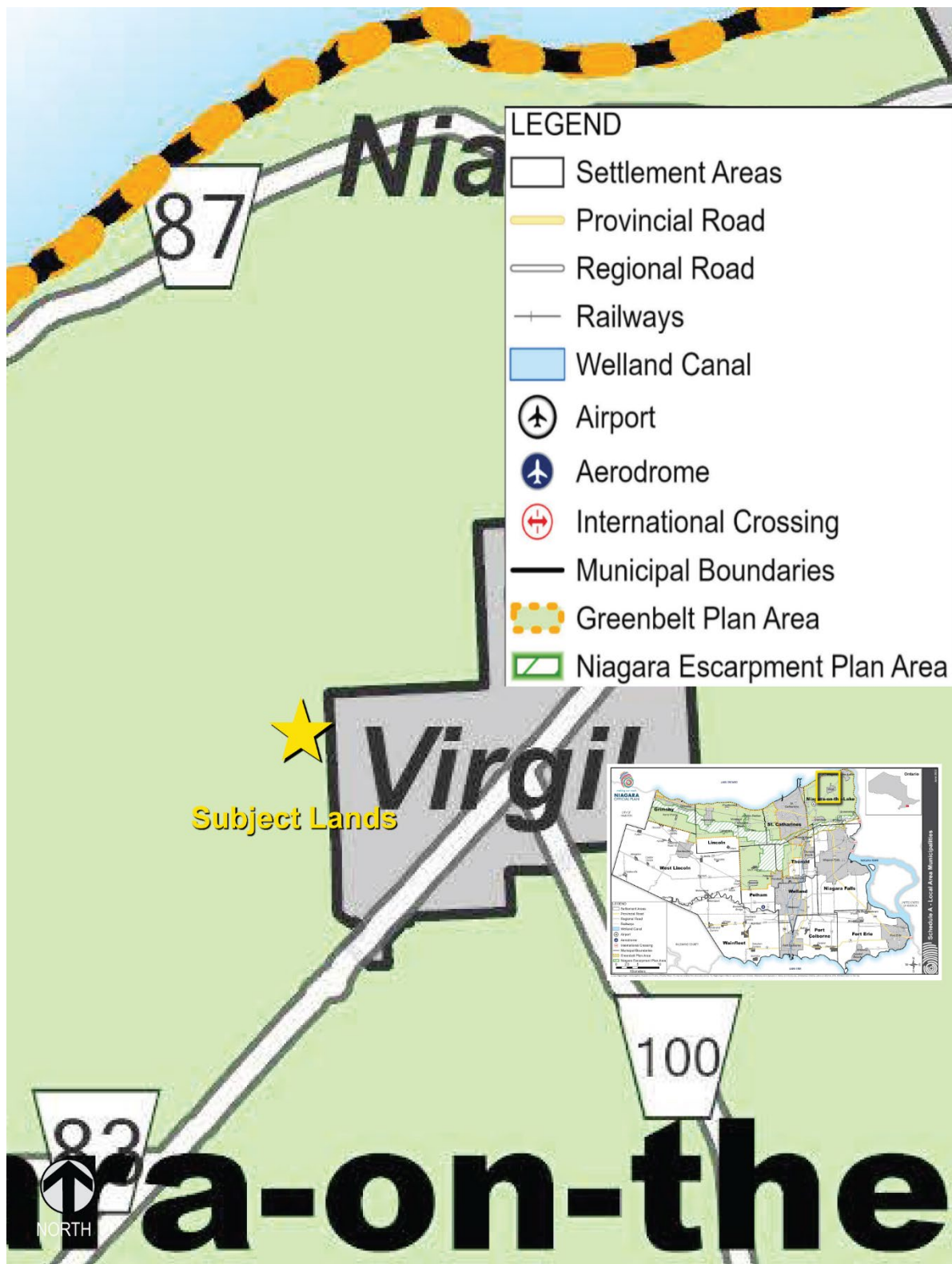
Appendix B – Greenbelt Plan

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

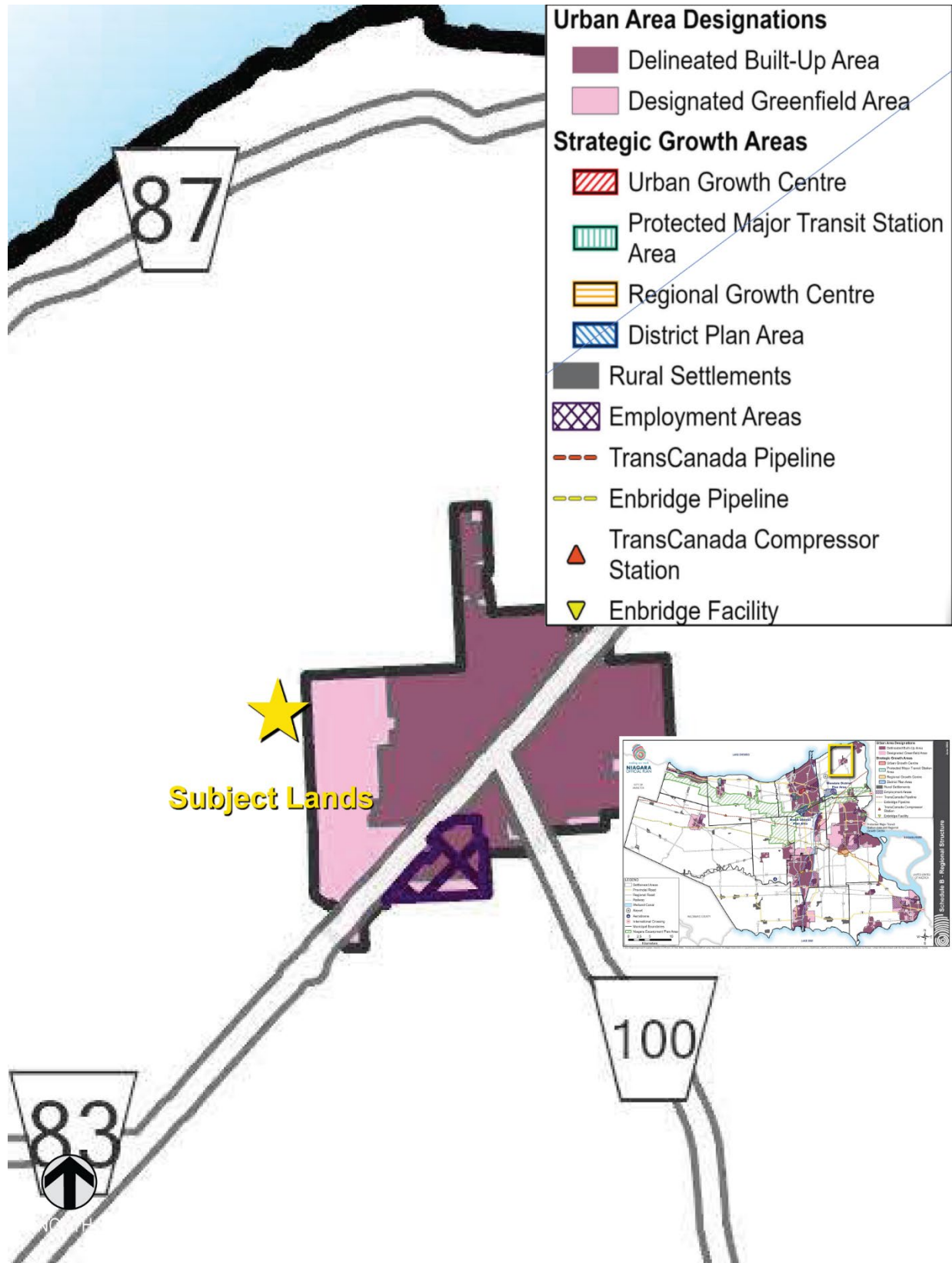


Appendix C – Regional Official Plan Schedules

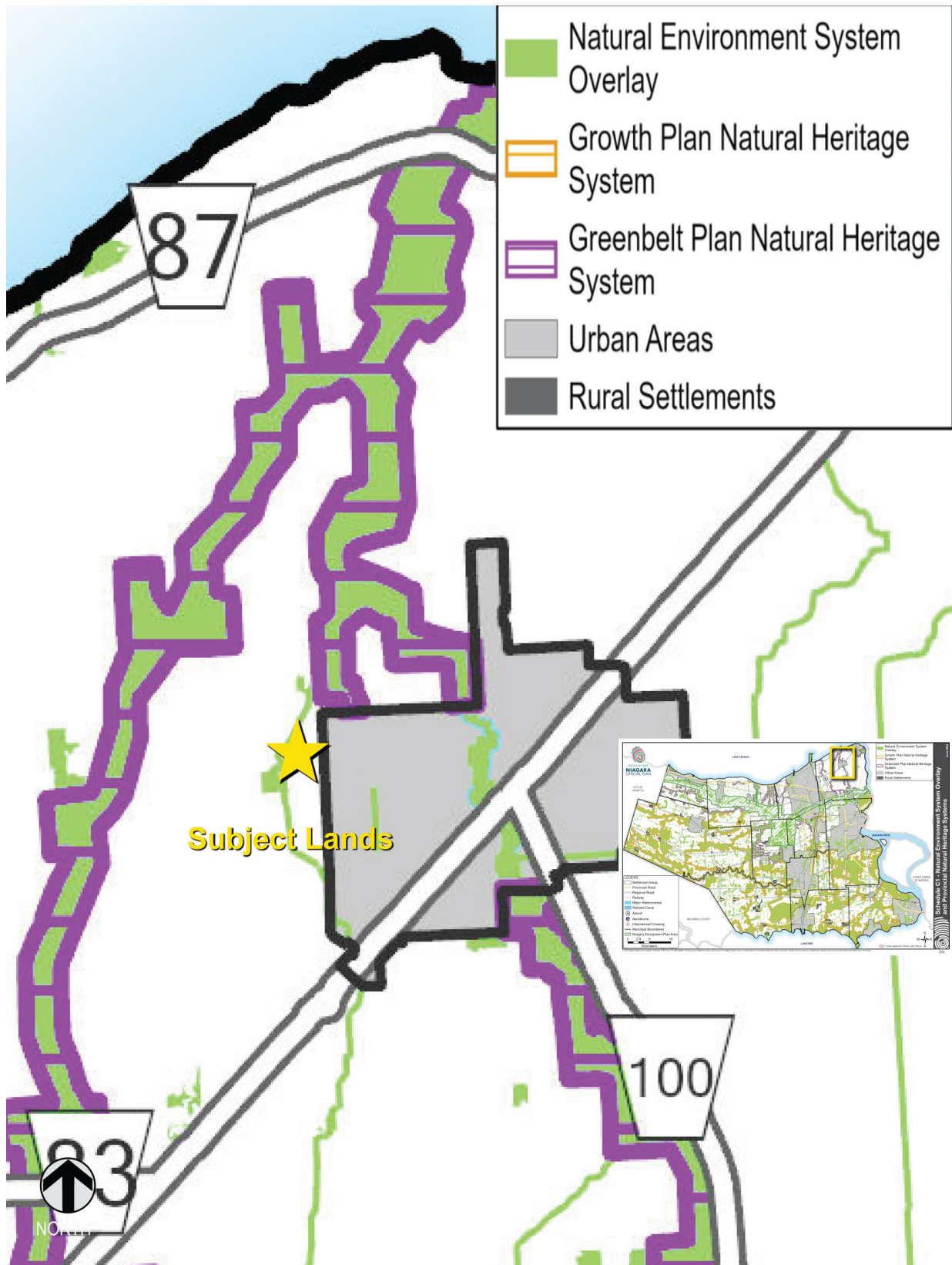
Schedule A – Local Area Municipalities



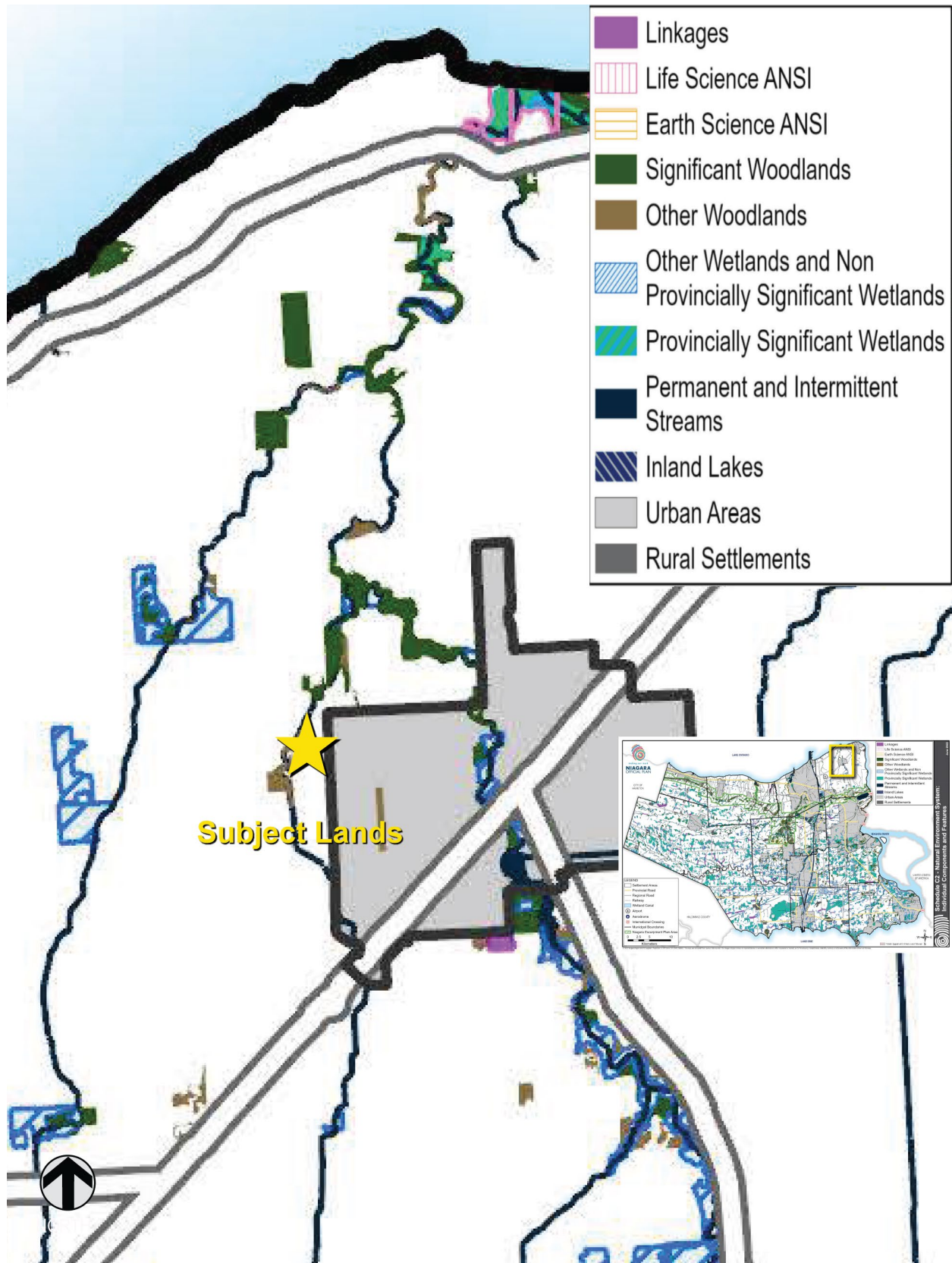
Schedule B – Regional Structure



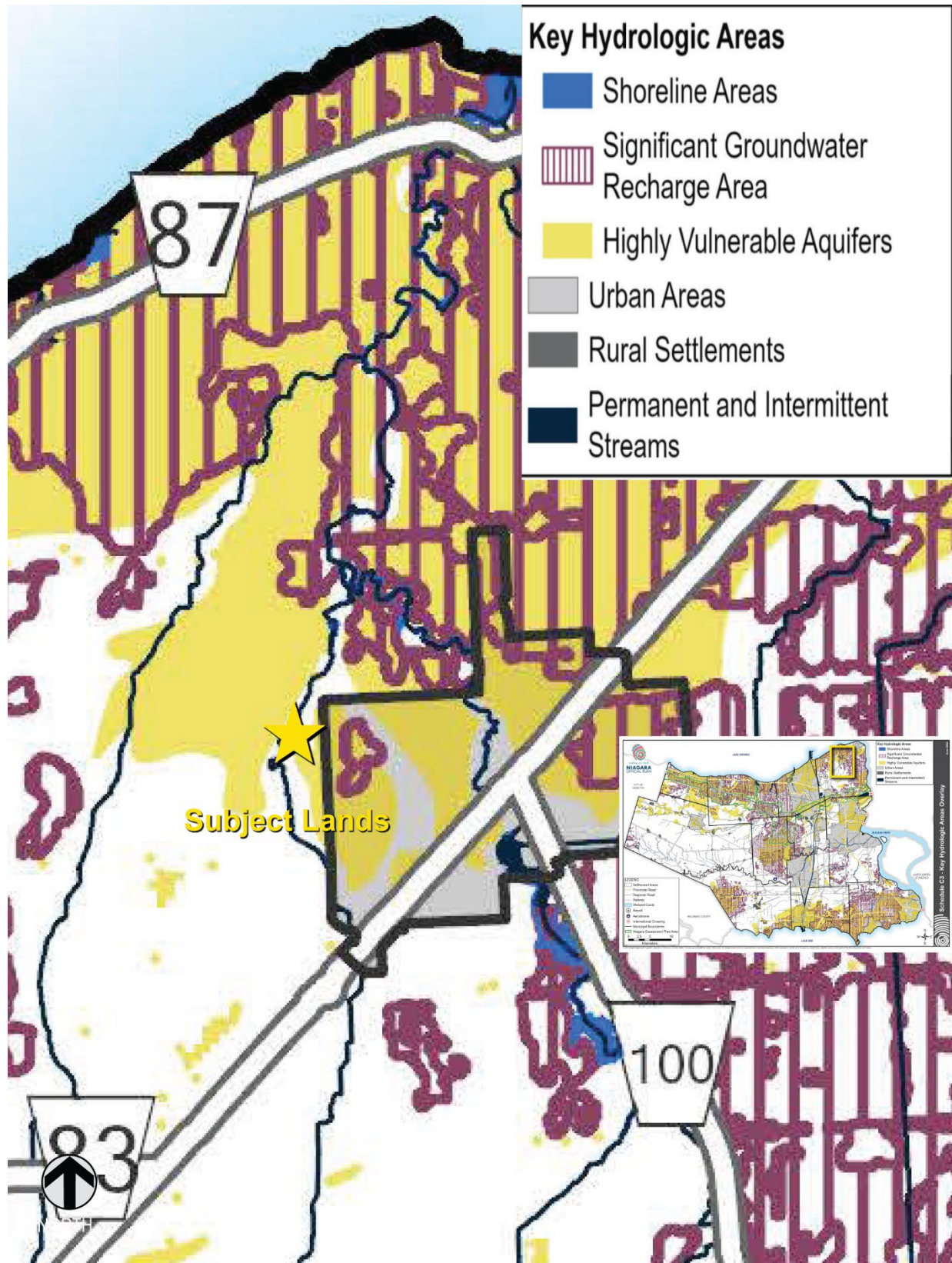
Schedule C1 – Natural Environment System Overlay and Provincial Natural Heritage Systems



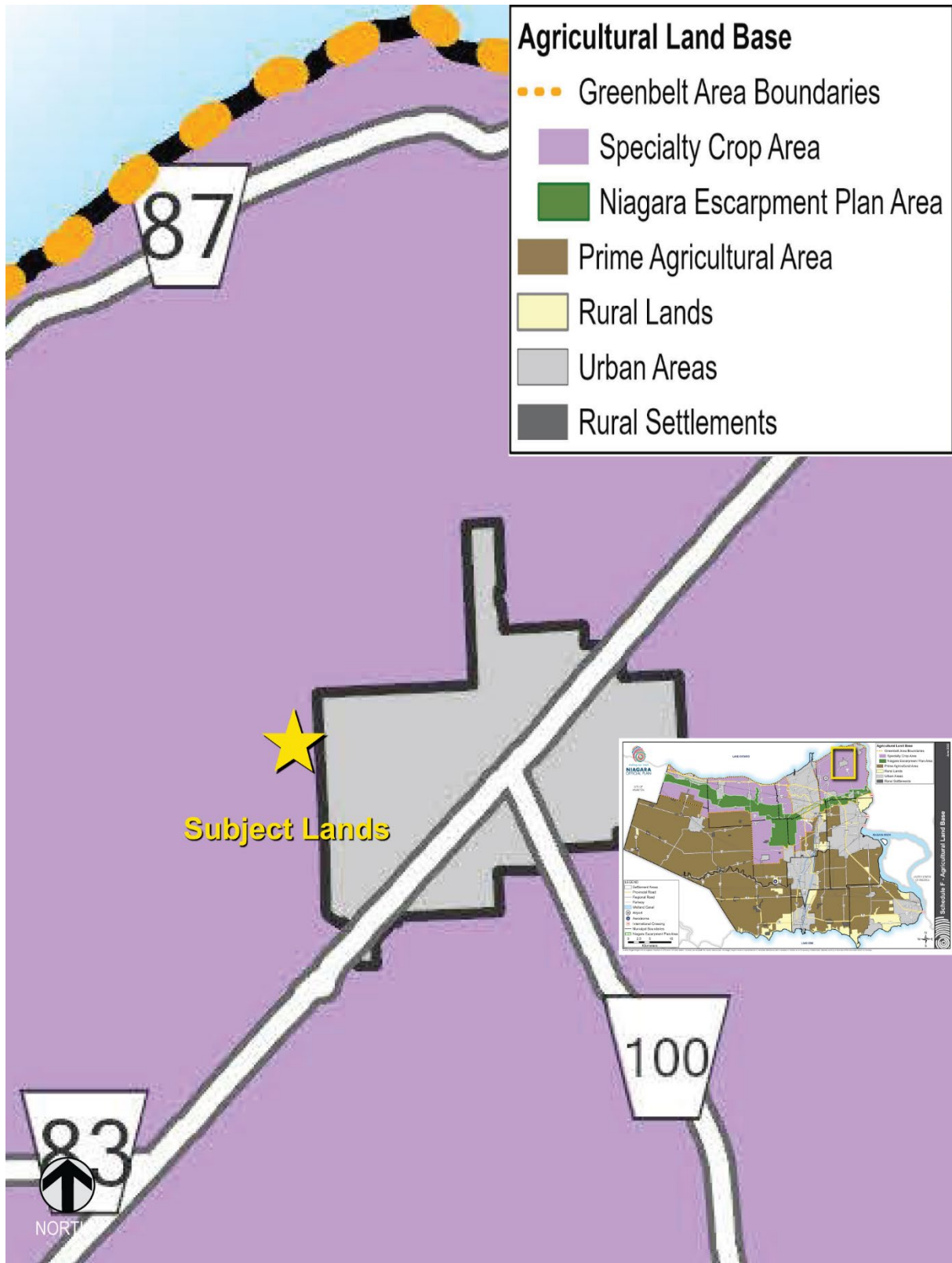
Schedule C2 – Natural Environment System – Individual Components and Features



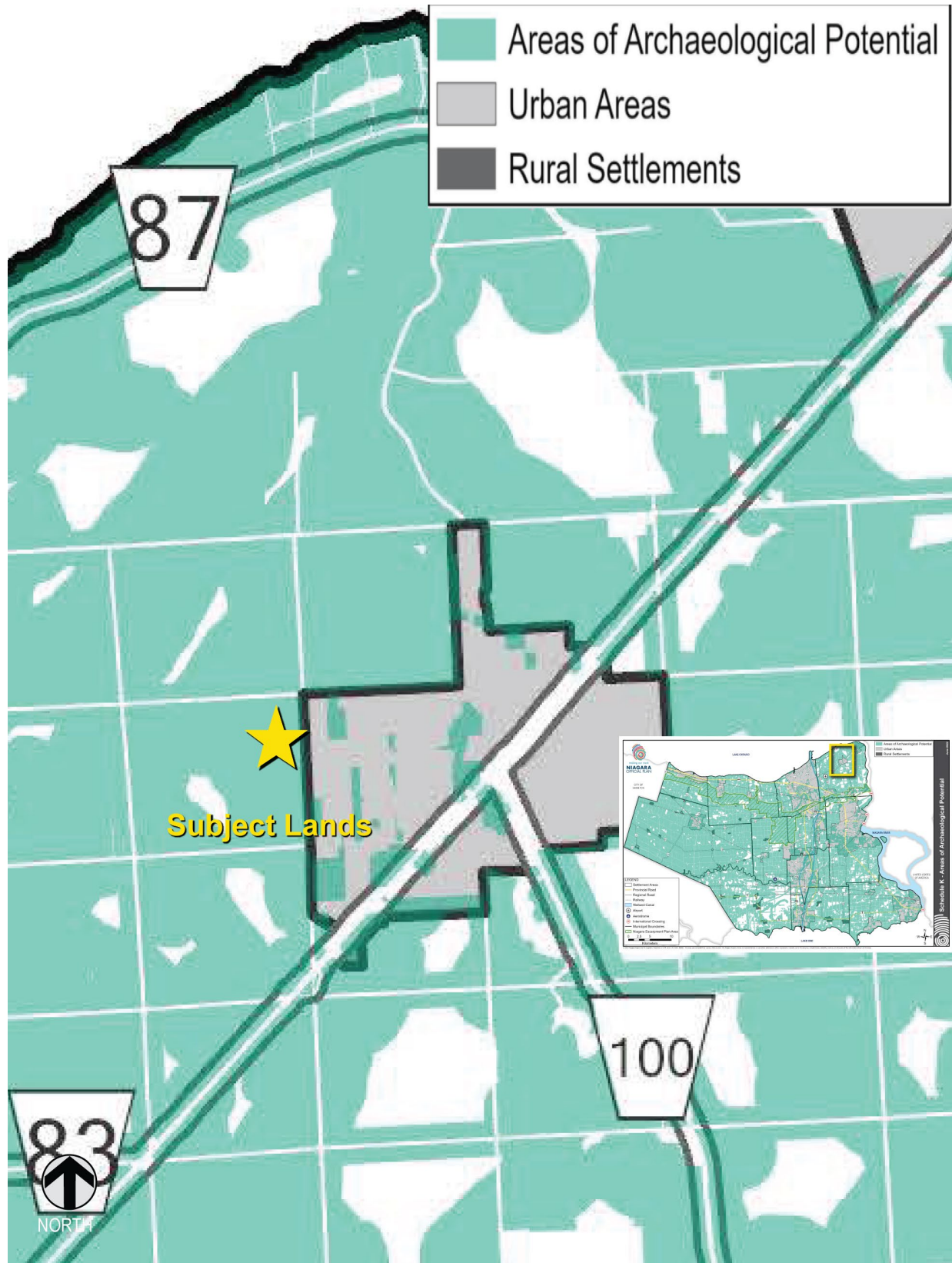
Schedule C3 – Key Hydrologic Area Overlay



Schedule F – Agricultural Land Base

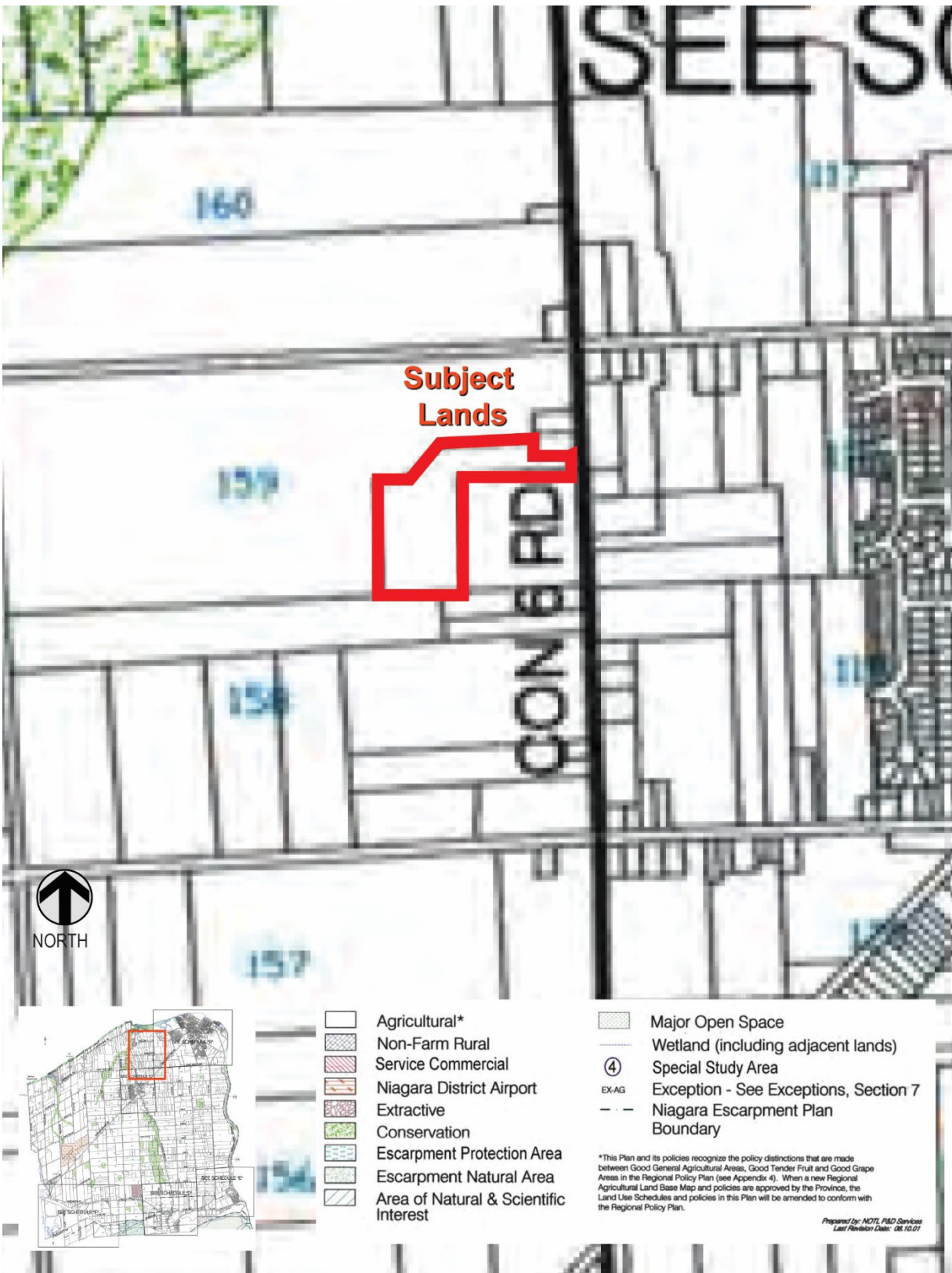


Schedule K – Areas of Archaeological Potential

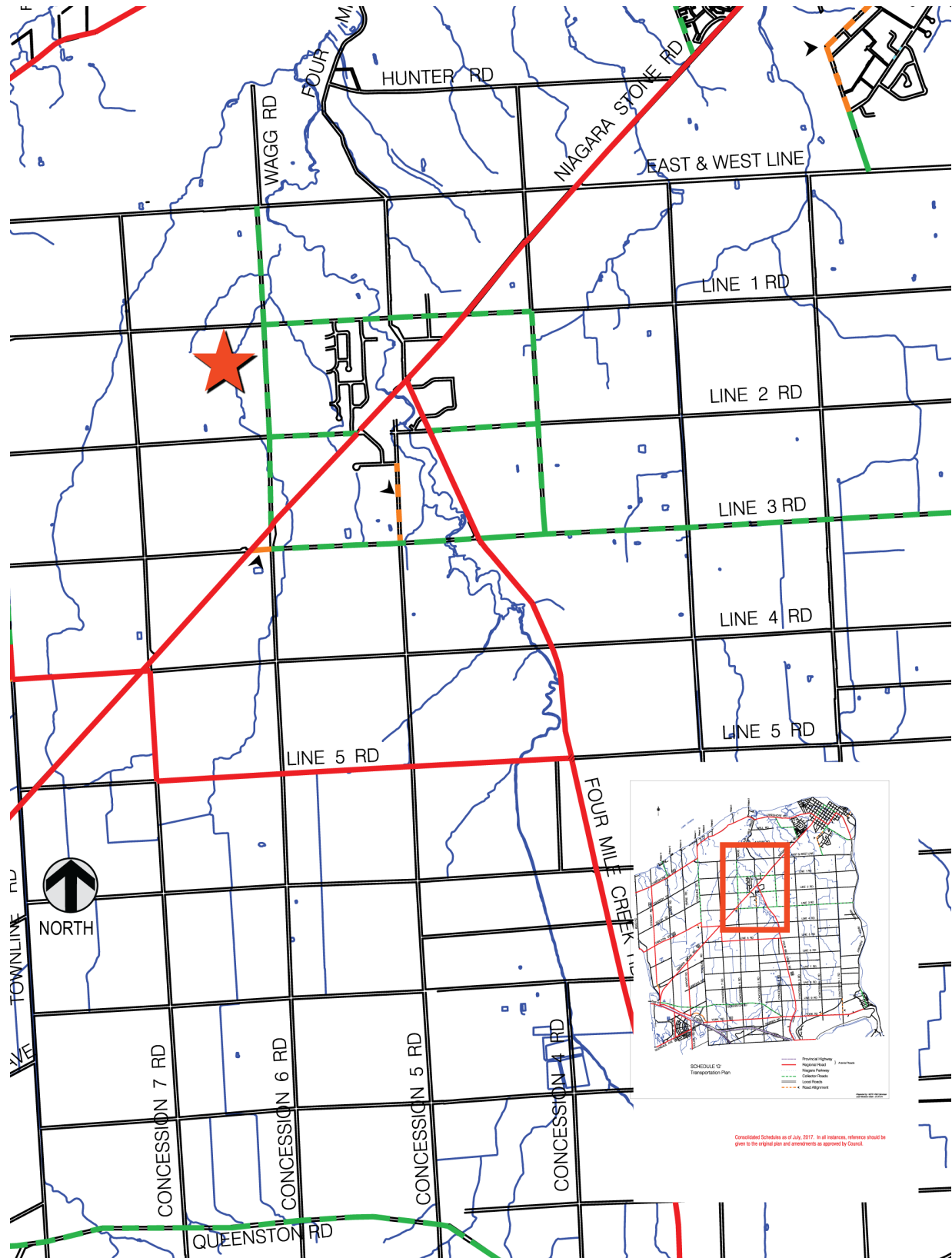


Appendix D – Town of Niagara-on-the-Lake Official Plan Schedules

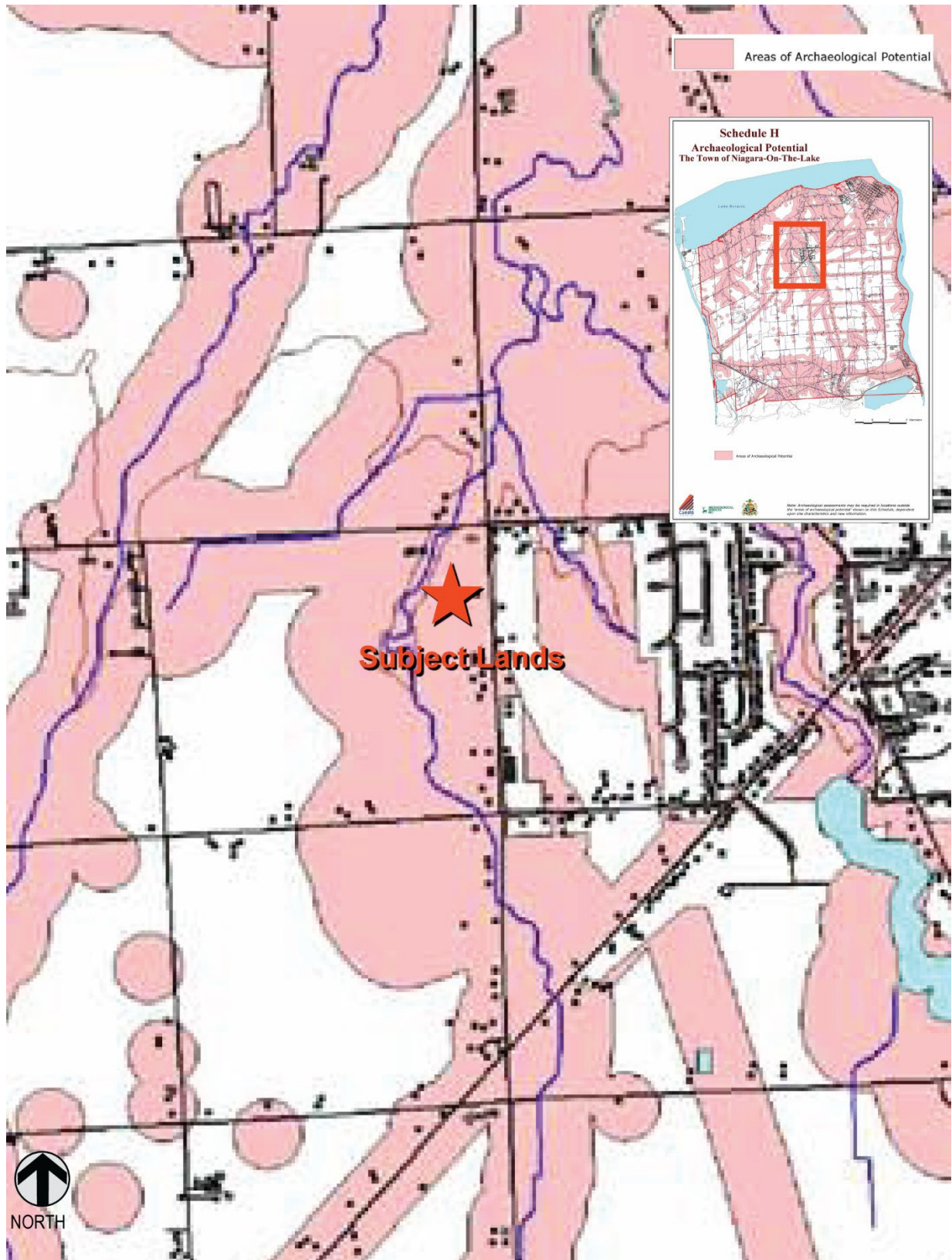
Schedule A – Land Use Plan



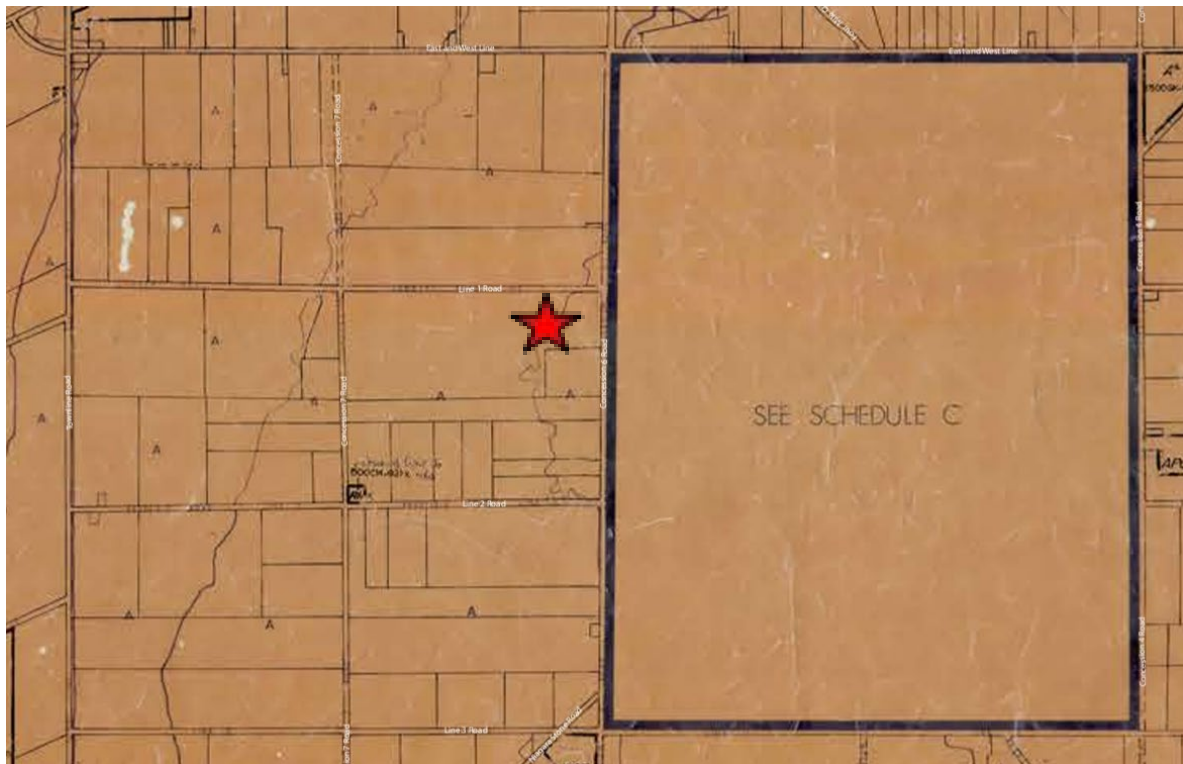
Schedule G – Transportation Plan



Schedule H – Archaeological Potential



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



Subject Lands marked with
Red Star

**THE CORPORATION
OF THE
TOWN OF NIAGARA-ON-THE-LAKE
BY-LAW NO. 500A-74-##
1594 Concession 6 Road
Roll 262702001501800**

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 the lands identified on Schedule 'A' (attached to and forming part of this By-law) from "Rural (A) Zone" to "Rural (A-##) Site-Specific Zone".
3. That Subsection 21.A 'Special Exceptions' of By-law 500A-74, as amended is further amended by adding the following section:

21.A.61 1594 CONCESSION 6 ROAD

1. That in addition to the uses permitted in a Rural (A) Zone the following use shall also be permitted on the lands described on Schedule "A" attached hereto:
 - a. Respite Care Facility
 - b. Adult Day Program
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 (Rural A-## Site Specific-Zone) on Map 'A' attached hereto:
 - a. Minimum Lot Frontage: 27.0 metres (existing condition)

- b. Minimum Front Yard: 3.5 metres
 - c. Minimum Area: 4.0 ha
5. For the lands identified on Schedule A (attached to and forming part of this by-law), the following definitions shall apply:

Respite Care Facility shall mean *premises used for the provision of short-term non-emergency supervised care for individuals of any age who require medical, physical, or cognitive support, intended to provide relief to their caregivers. A Respite Care Facility may offer services, such as:*

- (a) preventive medicine,
- (b) counselling and emotional support
- (c) social, recreational or educational programs, particularly for individuals with complex or special needs or;
- (d) day or overnight care

Adult Day Program shall mean supervised programming in a group setting for dependant adults, such as the frail elderly, individuals with Alzheimer's, or individuals with disabilities. Services may include leisure activities, meals and personal care.

6. For the lands identified on Schedule A (attached to and forming part of this by-law), the following parking requirements shall apply:
- a. a minimum of five (5) parking spaces shall be provided for Respite Care Facility and Adult Day Program staff.
 - b. a minimum of four (4) parking spaces combined shall be provided for visitors and Respite Care Facility guests and Adult Day Program participants.
7. 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 _____, 2024.

LORD MAYOR
GARY ZALEPA

TOWN CLERK
GRANT BIVOL

