



Working together with our community

## Public Hearings Committee – June 06, 2023

Subject: Application ZNPL2023124 proposing to amend the zoning from Agricultural with a site specific provision 14.31 to Agricultural for the lands described as 6 Evans Street, Port Ryerse.

Report Number: CD 23-031  
Division: Community Development  
Department: Planning  
Ward: Ward 4  
Purpose: For Public Meeting

### Recommendation(s):

THAT staff Report CD-23-031 for development application(s) ZNPL2023124 be received for information;

AND FURTHER THAT any comments received as part of the statutory public meeting be considered as part of the decision.

### Public Meeting Notification:

A public meeting is a statutory requirement in accordance with the Planning Act, and is intended to allow members of the public to submit written or oral comments in relation to the proposed development. Additionally, any person may make written submissions at any time prior to County Council making its final decision on the application.

Pursuant to the requirements of the Planning Act R.S.O. 1990, C. P. 13 (“Planning Act”), a notice of the statutory public meeting was posted 20 days in advance of the Public Meeting. Notifications were mailed to neighbors within 120 m of the subject lands; and a yellow notification sign was posted on the site on May 3, 2023.

### Discussion:

The subject application is proposed to be approved through Delegated Approval per By-Law Number 2022-106. Through Schedule 19 of Bill 13, the Supporting People and Businesses Act, the Ontario *Planning Act* was amended by adding a new section 39.2 that allows the council of a local municipality to delegate the authority to pass by-laws under Section 34 that are minor in nature to a committee of council or an individual who is an officer, employee, or agent of the municipality.

That delegation of authority to pass by-laws under section 34 of the Planning Act includes other “minor” zoning by-law amendments. The subject application is considered minor because the resulting zoning change would entirely conform to the Official Plan land use designation and not require any site-specific provisions or relief. The Planning Act also provides that the delegation may be subject to conditions set out by Council, and that Council may withdraw this authority at any time through changing or rescinding the delegation by-law.

The subject zoning by-law amendment addresses permissions established through historical Zoning By-Law 7000-147-CN (included in Attachment A) which permits two single detached dwellings on a single lot for the farm. The intent of this by-law has since been satisfied through previous planning exercises - specifically, that one of these single detached dwellings has been the subject of a Zoning By-Law Amendment to re-zone a parcel from Agricultural to the Hamlet Residential (through application ZNPL2019124) for the purpose of its being severed through application BNPL2022240 as a single residential lot. The subject Zoning By-Law Amendment (ZNPL2023124) will fulfill a condition of severance file BNPL2022240, in order to conform with Norfolk County Official Plan and Zoning By-Law policies. The effect of this amendment will be that the subject lands conform to the intent and purpose of section 3.26 of the Zoning By-Law and section 7.2. of the Official Plan.

An overview summary of the development application(s) that have been submitted for the subject property at 6 Evans Street is contained within Attachment A. This includes an outline of the site context, the applications and technical reports, any technical or public feedback to date and overview of development considerations. The draft by-law amendment is included as Attachments B.

### **Strategic Plan Linkage:**

This report aligns with the 2022-2026 Council Strategic Priority "Creating a Sustainable Community and Positive Legacy".

Explanation: Development that results from applications under consideration can help contribute to a vibrant community and for business.

### **Conclusion:**

The application is recommended for approval through Delegated Authority through staff as per By-Law 2022-106.

**Attachments:**

Attachment A Development Application Overview  
Attachment B Existing Planning Policy and Zoning  
Attachment C Proposed Zoning Bylaw Amendment

**Approval:**

Approved By:  
Brandon Sloan, BES, MCIP, RPP  
General Manager  
Community Development Division

Reviewed By:  
Tricia Givens, MCIP, RPP  
Director of Planning  
Community Development Division  
Planning Department

Prepared By:  
Hannelore Yager, MscPl.  
Planner  
Community Development Division  
Planning Department

Attachment A - Report CD 23-031  
**Development Application Overview**

# 6 Evans Street, Port Ryerse

Application File Numbers: ZNPL2023124

Applicant: David L. and Chere Smith

**Statutory Public Hearing**

Date: June 6, 2023

# Site Context

## Characteristics:

- Located east of the intersection of Evans Street and King Street South in Port Ryerse
- Lake Erie to the south
- Privately serviced

## Surrounding Land:

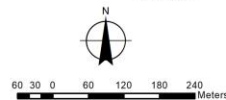
- Primarily residential to the west and agricultural to the north and east

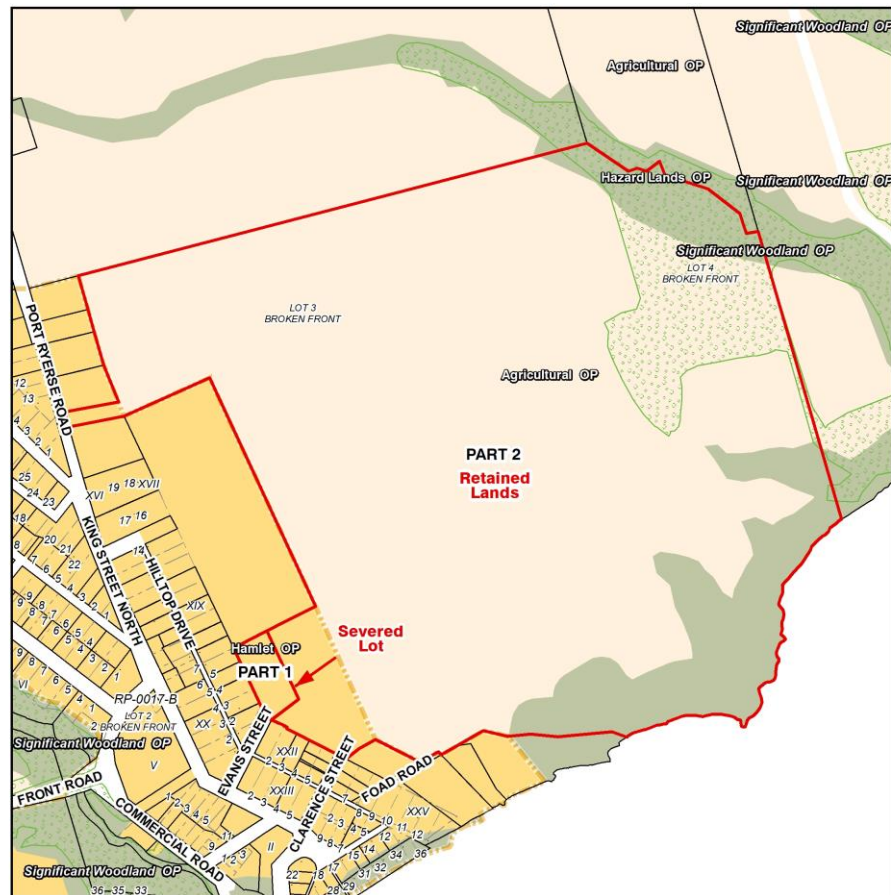


### Legend

- Subject Lands
- 2020 Air Photo

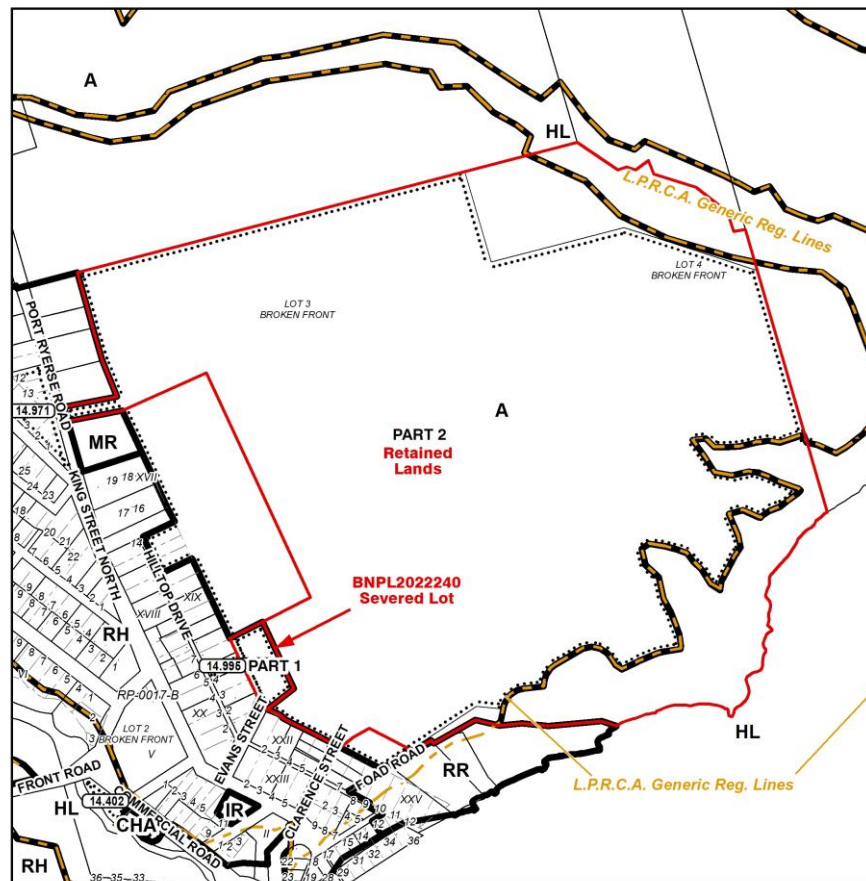
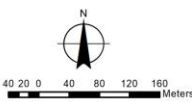
4/19/2023





- Legend**
- Subject Lands
- Official Plan Designations**
- Agricultural
  - Hazard Lands
  - Hamlet
  - Hamlet Area Boundary
  - Significant Woodland

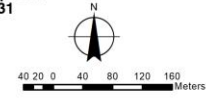
4/19/2023



- LEGEND**
- Subject Lands
  - LPRCA Generic RegLines
- ZONING BY-LAW 1-Z-2014**
- (H) - Holding
  - A - Agricultural Zone
  - CHA - Hamlet Commercial Zone
  - RH - Hamlet Residential Zone
  - HL - Hazard Land Zone
  - RR - Resort Residential Zone
  - MR - Rural Industrial Zone
  - IR - Rural Institutional Zone

- PART 1**  
 From: RH with Special Provisions 14.31 & 14.984  
 To: RH with Special Provision 14.984
- PART 2**  
 From: A with Special Provisions 14.31  
 To: A

4/19/2023



# Development Proposal

MAP D

CONCEPTUAL PLAN

Geographic Township of WOODHOUSE

ZNPL2023124



## Key Features:

- Two single detached dwellings and farm buildings
- One single detached dwelling is subject of severance BNPL2022240

## Proposed Zoning Amendment:

- Part 1: From Agricultural (A) with site specific provision 14.31 to Agricultural (A)
- Part 2: From Hamlet Residential (RH) with site specific provision 14.31 to Hamlet Residential (RH)

# Preliminary Review

## Technical Reports

- None required.

## Consultation Comments to Date:

- None received as of the writing of this report.

## Public Input

- None received as of the writing of this report



# Preliminary Considerations



**Agriculture:** Prime agricultural land shall be protected from the intrusion of incompatible uses, non-farm related rural development shall not be permitted except in accordance with 7.2.3 of the Official Plan or an existing lot of record.



**Housing:** The permission for a second single detached dwelling is proposed to be removed. All other as-of-right permissions for Accessory Residential Dwelling Units, Garden Suites remain for the subject lands. The Agricultural Zone also permits bunkhouses.

# Next Steps & Recommendation

- Consideration of Public Hearing Input
- Review of all Technical Comments
- Recommendation Report

## Public Hearing Committee Report Recommendation:

*THAT staff Report CD 23-031 for development application ZNPL2023124 be received for information;*

*AND FURTHER THAT any comments received as part of the statutory public meeting be considered in a future recommendation staff report.*

THE REGIONAL MUNICIPALITY OF HALDIMAND-NORFOLK

BY-LAW NO. 7000-147-CN

BEING A BY-LAW TO AMEND RESTRICTED AREA (ZONING) BY-LAW NO. 760-69, AS AMENDED, OF THE FORMER TOWNSHIP OF WOODHOUSE, NOW IN THE CITY OF NANTICOKE IN THE REGIONAL MUNICIPALITY OF HALDIMAND-NORFOLK.

WHEREAS Regional Council is empowered to enact this By-law, subject to the approval of the Ontario Municipal Board, by virtue of the provisions of Section 35 of The Planning Act, R.S.O. 1970, c. 349, as amended;

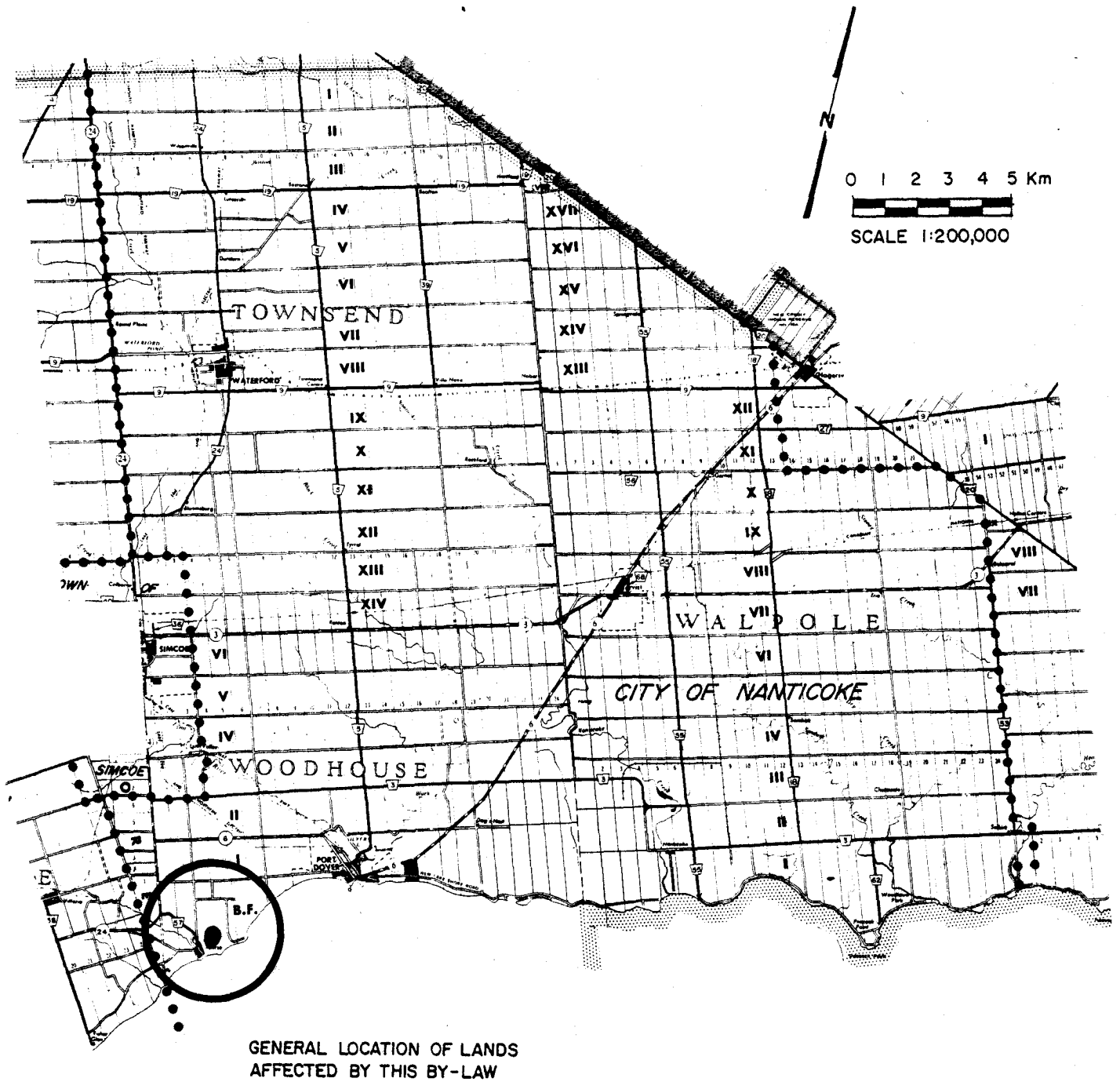
AND WHEREAS the Planning and Development Committee of Regional Council has recommended approval of the development of lands affected by this By-law as hereinafter set out;

AND WHEREAS Regional Council desires to implement said recommendation;

AND WHEREAS said recommendation conforms to the terms and intent of the Official Plan for the Haldimand-Norfolk Planning Area;

NOW THEREFORE the Council of the Regional Municipality of Haldimand-Norfolk hereby enacts as follows:

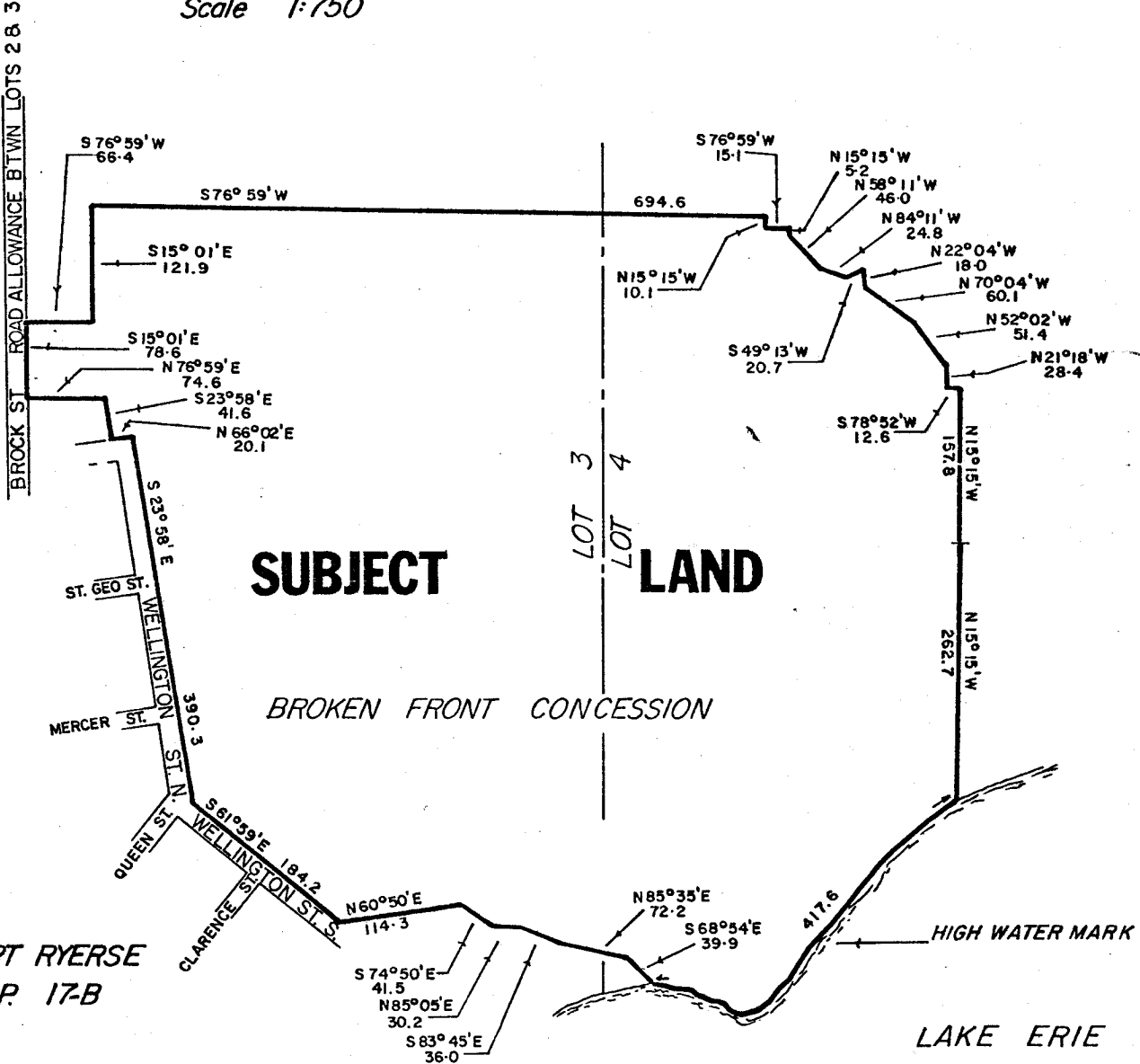
1. THAT notwithstanding any provisions to the contrary of Restricted Area (Zoning) By-law No. 760-69, as amended, of the former Township of Woodhouse now being part of the City of Nanticoke in the Regional Municipality of Haldimand-Norfolk, be and the same, nothing shall prevent the location of a second one family detached dwelling on the lands shown on Schedules "A" and "B", attached hereto and forming part of this By-law.



PASSED THE 11th DAY OF October IN THE YEAR 1979.

*Keith Richardson*  
REGIONAL CHAIRMAN  
*Johnston*  
REGIONAL CLERK

CITY OF NANTICOKE  
Formerly in the twp. of Woodhouse  
Scale 1:750



PORT RYERSE  
R.P. 17-B

PASSED THE 11th DAY OF October IN THE YEAR 1979

*Kurt Richardson*  
REGIONAL CHAIRMAN

*John Johnston*  
REGIONAL CLERK

EXPLANTORY NOTE TO BY-LAW NO. 7000-147-CN

The purpose of this By-law is to allow a second single family dwelling to be constructed on a farm located in Part of Lots 3 and 4, Broken Front Concession in the City of Nanticoke (Woodhouse).

This by-law further prescribes that any dwelling erected on the lands hereafter shall conform to the yard provisions of the Agriculture (A1) Zone.

David Smith  
File No. Z-NA-16/79  
P.D. Report No. 124/79

## **Attachment B – Planning Considerations**

### **Provincial Policy Statement, 2020 Considerations**

The Provincial Policy Statement, 2020 (PPS) provides policy direction on matters of provincial interest related to land use planning and development, which is intended to be complemented by local policies addressing local interests. The PPS promotes healthy, livable and safe communities through the efficient use of land throughout the Province of Ontario. The PPS directs municipalities to focus their growth within settlement areas where full municipal services are available.

The PPS policies are intended to be complemented by local policies addressing local interests. The PPS policies that are relevant to this site are related to building strong healthy communities, the wise use and management of resources, and protecting public health and safety.

Section 1: Building Healthy Communities of the PPS promotes the building of strong, healthy communities and includes policies about avoiding development and land use patterns which may cause environmental or public health and safety concerns. Section 1.1.3 highlights settlement areas shall be the focus of growth and development.

Section 2.3 (Agriculture) discusses the policies and priorities for agricultural lands. 2.3.1 Prime agricultural areas shall be protected for long-term use for agriculture.

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 Lot Creation and Lot Adjustments**

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

a) agricultural uses, provided that the lots are of a size appropriate for the type of agricultural use(s) common in the area and are sufficiently large to maintain flexibility for future changes in the type or size of agricultural operations;

b) agriculture-related uses, provided that any new lot will be limited to a minimum size needed to accommodate the use and appropriate sewage and water services;

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

d) infrastructure, where the facility or corridor cannot be accommodated through the use of easements or rights-of-way.

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).

**Planning Comment:** Staff maintain that the permissions for a second single detached dwelling granted through special provision 14.31 (By-Law 7000-147-CN) is no longer appropriate due to a series of planning exercises achieved by the property owner. Specifically, that a second single detached dwelling has been transitioned to a residential lot through a prior Zoning By-Law Amendment (ZNPL2023124) and severed off through consent application (BNPL2022240). By not removing the site specific provision (which provides permission for another, second single detached dwelling) there is a risk for continued agricultural fragmentation. Through the current PPS policies and permissions afforded by site specific provision 14.31, an additional, second single detached dwelling could be built legally and then severed off as a surplus farm dwelling.

It is staff's opinion that this conformity exercise will ensure for the portions of the lands understood to be prime agricultural areas the intent of PPS policies pertaining to lot creation will be maintained.

### **Official Plan Considerations**

Land Use Designation: "Hamlet Designation", "Agricultural Designation", "Hazard Land".

Natural Heritage Features: Significant Woodlands

Section 5.3.3.1. (Additional Residential Dwelling Units) identifies that ADUs that are permitted within a detached building or structure ancillary to a single detached dwelling. A maximum of three ADUs are permitted as-of-right, in addition to a single detached dwelling, on lands designated Agricultural and Hamlet. Section 5.3.3.2. (Garden Suites) permits one garden suite per lot in the Agricultural or Hamlet designation, however is not permitted on lots where a detached ADU already exists.

Section 6.6. (Hamlet Areas) indicates that limited growth is permitted in Hamlet areas, provided the growth is within the Hamlet Area boundary, and is not detrimental to: rural character of the surrounding agricultural and/or resource area, environmental or human health consequences, the County's financial sustainability.

Section 7.5. outlines permitted uses and land use provisions in the Hamlet designation, stating that "low density residential dwellings on lots suitably sized to accommodate



private servicing systems shall be the main permitted use”. The Hamlet designation also permits Accessory Residential Dwelling Units and Garden Suites.

Section 7.2. outlines land use policies for the Agricultural Designation. It highlights “The policies are designed to protect agriculture from the intrusion of incompatible uses, such as non-farm related residential dwellings and other uses that are sensitive to agricultural practices”.

Section 7.2.1. (permitted uses) notes that the primary use of the land shall be for farming activities, and that the farm holding shall generally consist of all agricultural lots, the primary farm residence, associated farm buildings and structures. Permitted uses include Accessory Residential Dwelling Units, Garden Suites, bunkhouses and single detached dwellings.

7.2.3. a) Consent to sever land may be considered for the following purposes:

- i) the assembly or disassembly of agricultural lots for agriculture uses including agriculturally related boundary adjustments which do not result in the creation of a new lot, subject to the policies of Section 7.2.4 (Agricultural Designation - Agricultural Lot Size Policies);
- ii) agriculture-related commercial and industrial uses in accordance with the policies of Section 7.2.2(Agricultural Designation – Land Use Policies);
- iii) agriculture-related commercial, institutional and industrial uses existing prior to August 24, 1978, provided the retained parcel of land is not considered a vacant lot, and subject to the policies of this Plan;
- iv) infrastructure and utilities, where the facility or corridor cannot be accommodated through the use of easements or rights-of-way;
- v) a currently habitable farm dwelling surplus to a farming operation as a result of the consolidation of farm properties located within Norfolk County and adjacent municipalities, subject to the policies of Sections 7.2.3(b) and (c);
- vi) technical reasons including minor boundary adjustments, corrections of deeds, quit claims, easements or rights-of-way, or other purposes that do not create an additional separate lot, and which do not change the lot configuration such that a non-agricultural lot is created which would not be in conformity with the policies of this Plan.

**Planning comment:** As indicated in the previous section, through the current Official Plan policies and permissions afforded by site specific provision 14.31, an additional, second single detached dwelling could be built legally and then severed off as a surplus farm dwelling.

It is staff’s opinion that this conformity exercise will ensure for the portions of the lands understood to be designated Agricultural the intent of Official Plan policies pertaining to lot creation and the protection of agricultural land from intrusion of incompatible uses, such as non-farm related residential dwellings, will be maintained.

Further, it is staff's opinion that the current permissions for single detached dwellings, ADUs, garden suites and bunkhouses offer a range of housing options for current and future property owners on lands designated Hamlet and Agricultural. Maintaining the ability to establish additional single detached dwellings on the subject lands introduces the potential for four dwelling units on both the lands to be retained and severed.

### **Zoning By-Law Considerations**

Existing Zoning: "Hamlet Residential Zone (RH)", "Agricultural Zone (A)", "Hazard Land Zone (HL)"

Site specific special provisions: 14.984, 14.31.

Site specific special provision 14.31 states, "in addition to the uses permitted in the A Zone, a second single detached dwelling shall also be permitted".

Site specific special provision 14.984 states, "In lieu of corresponding provisions in the Hamlet Residential Zone, the following shall apply:

- a) minimum lot frontage:
  - i. interior lot – 22.03 metres; [18-Z-2020]"

Section 5.7. outlines permitted uses and provisions for the "RH Zone". Single detached dwellings are permitted. The minimum lot frontage required is 30 metres.

Section 3.26. (Number of Dwellings per Lot) identifies that, "where this By-Law allows a dwelling to be located on a lot, not more than one (1) dwelling shall be permitted, except within Urban Residential Zones, Hamlet Zone (RH) and Agricultural Zone (A) in which an accessory residential dwelling unit is permitted".

**Planning Comment:** Prior to a severance, the lands identified as 6 Evans Street possess two single detached dwellings which was permitted through By-Law 7000-147-CN (site specific provision 14.31). A portion of the subject lands were re-zoned from Agricultural to Hamlet Residential with a site specific provision 14.984 (ZNPL2019362) for the purposes of severing this second, single detached dwelling with a reduced lot frontage of 22.03 metres. The site specific provision (14.31) could not be removed prior to the severance, as it would make the existing, second single detached house non-compliant with the Zoning By-Law.

As the severance will have the effect of separating two dwellings into two lots (thereby bringing both lots into conformity with provision 3.26. of the Zoning By-Law) site specific special provision 14.31 will not be necessary. Planning staff added a condition to severance file BNPL2022240 requiring this site specific provision be removed to ensure no future dwellings are built and/or severed. The effect of this removed site specific

provision will also mean that the subject lands are in conformity with the intent of the Zoning By-Law.



The Corporation of Norfolk County

By-Law \_\_-Z-22

Being a By-Law to Amend Zoning By-Law 1-Z-2014, as amended, for property described as Part Lots 16 and 17, Lot 12, 15, and 16, Part 1, Blocks 16 and 19, Plan 17B, Registered Plan 37R7623, Rural Area of Woodhouse, Norfolk County in the name of David L and Chere Smith.

WHEREAS Norfolk Council is empowered to enact this By-Law, by virtue of the provisions of Section 34 of the Planning Act, R.S.O. 1990, CHAPTER P.13, as amended;

AND WHEREAS this By-Law conforms to the Norfolk County Official Plan.

NOW THEREFORE the Council of The Corporation of Norfolk County hereby enacts as follows:

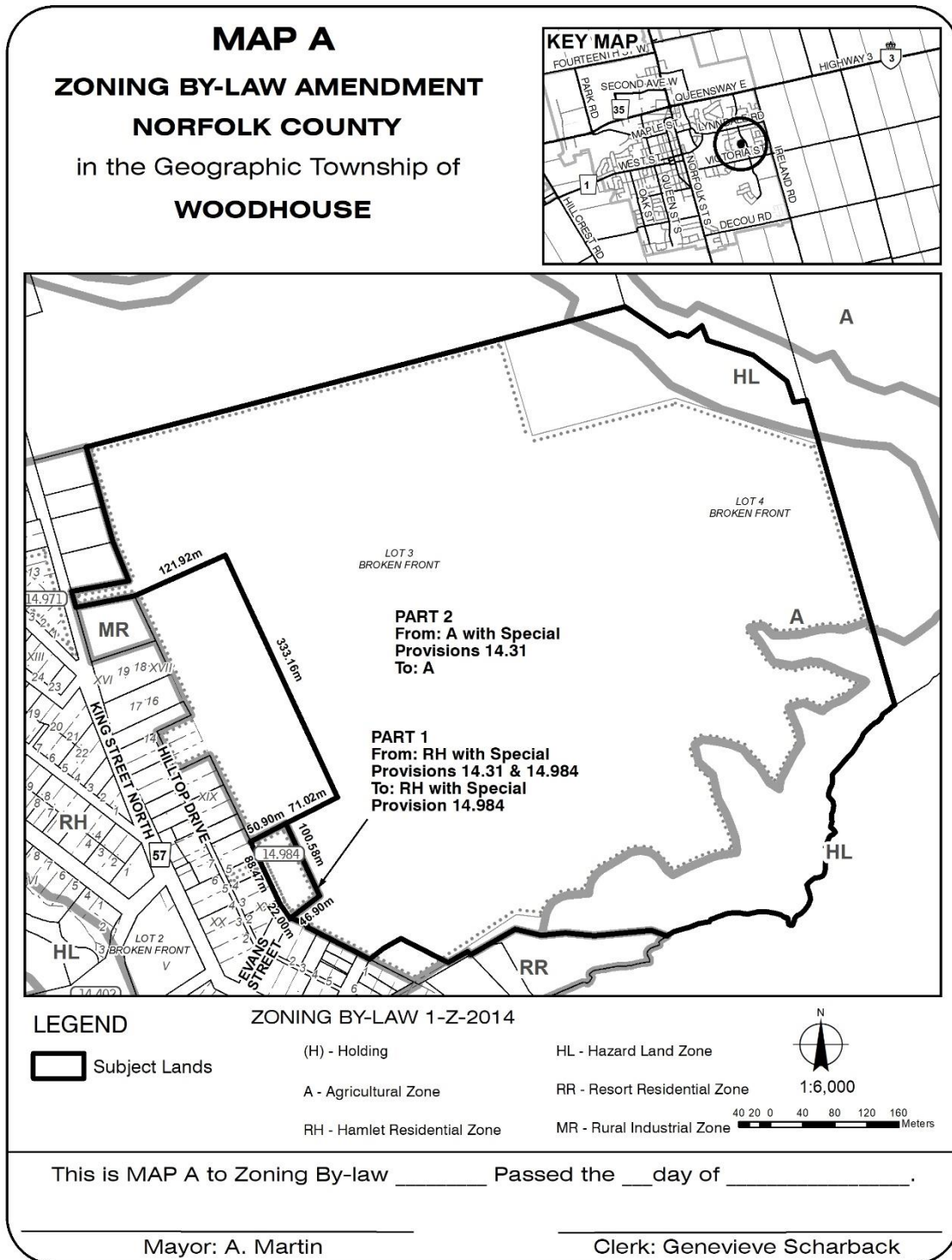
- 1. That Schedule A of By-Law 1-Z-2014, as amended, is hereby further amended by changing the zoning of the subject lands identified as Part 1 on Map A and from Hamlet Residential Zone with special provision 14.31 and 14.984 to Hamlet Residential Zone with special provision 14.984.
2. That Schedule A of By-Law 1-Z-2014, as amended, is hereby further amended by changing the zoning of the subject lands identified as Part 2 on Map A (attached to and forming part of this By-Law) from Agricultural Zone with special provision 14.31 to Agricultural Zone;
3. That the effective date of this By-Law shall be the date of passage thereof.

ENACTED AND PASSED this \_\_\_ day of \_\_\_\_, 2023.

\_\_\_\_\_  
Mayor

\_\_\_\_\_  
County Clerk

Applicant DAVID L AND CHERE SMITH
File Number «File\_Number»
Report Number CD 23-031
Assessment Roll Number 3310337060199000000
Delegated Approval by Director of Planning: \_\_\_\_\_ per By-Law Number 2022-106
Date of Approval: \_\_\_\_\_



Applicant DAVID L AND CHERE SMITH

File Number «File\_Number»

Report Number CD 23-031

Assessment Roll Number 3310337060199000000

Delegated Approval by Director of Planning: \_\_\_\_\_ per By-Law Number 2022-106

Date of Approval: \_\_\_\_\_

**Explanation of the Purpose and Effect of  
By-Law \_\_\_-Z-2022**

This By-Law affects a parcel of land described as Part Lots 16 and 17, Lot 12, 15, and 16, Part 1, Blocks 16 and 19, Plan 17B, Registered Plan 37R7623, Rural Area of Woodhouse, Norfolk County, located at 6 Evans Street.

The purpose of this By-Law is to change the zoning on the lands to remove the site specific provision 14.31 from Parts 1 and 2 of the subject lands. The change would have the effect of removing the permission for a second single detached dwelling on the subject lands.

Applicant DAVID L AND CHERE SMITH

File Number «File\_Number»

Report Number CD 23-031

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Delegated Approval by Director of Planning: \_\_\_\_\_ per By-Law Number 2022-106

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