

Working together with our community

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Public Hearings Committee – July 05, 2023

Subject: Development Applications OPNPL2023137 and ZNPL2023138 - 106 Brown Street, Port Dover.

Report Number:	CD 22-040
Division:	Community Development
Department:	Planning
Ward:	Ward 6
Purpose:	For Public Meeting

Recommendation(s):

THAT staff Report CD-23-040 for development application(s) OPNPL2023137 and ZNPL2023138 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.

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 9th, 2023.

Discussion:

The applicant is proposing to amend the Norfolk County Official Plan and Zoning By-Law 1-Z-2014 to facilitate the replacement the existing residential dwelling located in the Hazard Land (HL) Zone with a new dwelling on a larger footprint.

The increase in total useable floor area from the existing is 68.31m² (only mainfloor) to the proposed total useable floor area of 168.75m² (includes main floor, second floor and basement) resulting in an increase of total useable floor area of 100.44 m². However,

the building footprint is only increasing by 3.5 m^2 (existing: 146.35 m², proposed 149.82 m²).

The purpose of the Official Plan Amendment application is to amend the Norfolk County Official Plan to add a Special Policy Area to the subject lands to permit a single family dwelling with total useable floor area of 100.44 m2 in the Hazard Land Designation.

The purpose of the Zoning By-Law Amendment application is to amend the Norfolk County Zoning By-Law 1-Z-2014 to add a Special Provision to permit a single family dwelling with total useable floor area of 100.44 m in the Hazard Land Zone.

An overview summary of the development application(s) that have been submitted for the subject property at 106 Brown 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 existing planning framework is contained within Attachment B and the draft by-law amendment(s) are included as Attachments D and E.

Strategic Plan Linkage:

This report aligns with the 2022-2026 Council Strategic Priority "Empowering Norfolk".

Explanation: The development that results from applications under consideration can contribute to a vibrant community by working with all levels of government to ensure Norfolk is successful.

Conclusion:

A recommendation report will be provided on this matter following review of the circulation, planning considerations and this statutory public hearing meeting regarding the submitted, "complete" development applications.

Attachments:

Attachment A Development Application Overview Attachment B Existing Planning Policy and Zoning Attachment C Technical Comments Attachment D Proposed Official Plan Amendment Attachment E Proposed Zoning Bylaw Amendment

Approval:

Approved By: Brandon Sloan, BES, MCIP, RPP General Manager Community Development Division Reviewed By: Tricia Givens, M.Sc.(PL), MCIP, RPP Director of Planning Community Development Division Planning Department

Prepared By: Fabian Serra, M.Sc. (PL) Planner Community Development Division Planning Department Attachment A - Report CD 23-040 Development Application Overview

106 Brown Street, Port Dover

Application File Numbers: OPNPL203137 & ZNPL2023138

Applicant: Gregg Brown

Agent: Land Pro Planning Solutions

Statutory Public Hearing Date: July 5th, 2023



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Site Context

MAP A CONTEXT MAP Urban Area of PORT DOVER OPNPL2023137 ZNPL2023138



Site Characteristics:

- 0.15 acres (607 square meters)
- Located along Brown Street in Port Dover.
- Located within the Urban Area of Port Dover.
- An existing residential dwelling is located on the subject lands.

Surrounding Land:

North, East, West: Residential Lands South: Lake Erie

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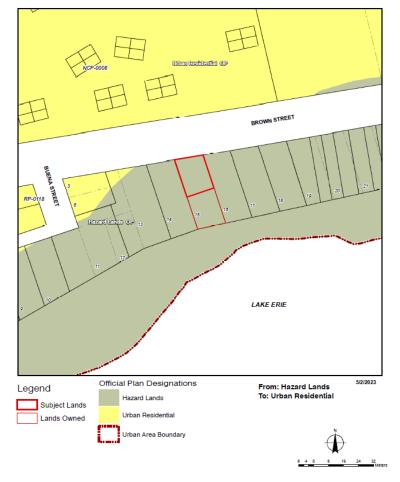
2

Site Context

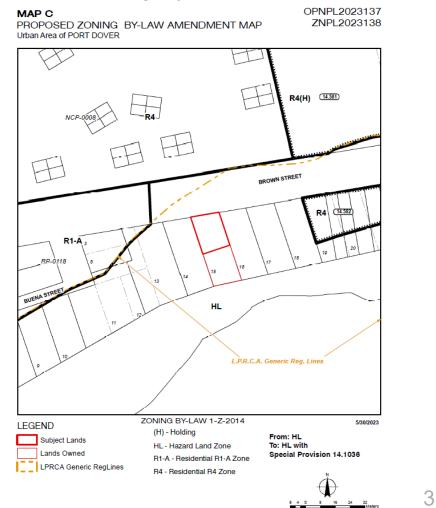
Official Plan Map

MAP B

PROPOSED OFFICIAL PLAN AMENDMENT MAP Urban Area of PORT DOVER OPNPL2023137 ZNPL2023138



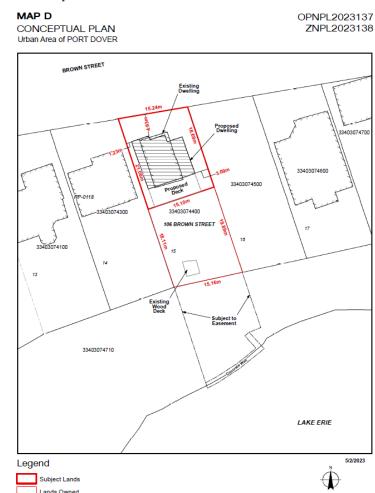
Proposed Zoning By-law Amendment Map





Development Proposal

Concept Plan



Key Features/Proposed Subdivision:

Development Proposal:

 An Official Plan and Zoning By-law amendment to replace the existing dwelling and construct a new dwelling on a larger footprint.

Proposed OP Amendment:

 To amend the Norfolk County Official Plan to add a Special Policy Area to the subject lands to permit a single family dwelling with total useable floor area of 100.44 m2 in the Hazard Land Designation.

Proposed Zoning Amendment:

 To amend the Norfolk County Zoning By-Law 1-Z-2014 to add a Special Provision to permit a single family dwelling with total useable floor area of 100.44 m in the Hazard Land Zone.





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Preliminary Review

Technical Reports:

- Planning Justification Report (Land Pro Planning Solutions, March 2023)
- Erosion and Sediment Control Plan (Greck, March 2023).
- Grading and Servicing Plan (Greck, March 2023).
- Coastal Engineering Analysis (AHYDTECH Geomorphic Ltd. October 2022)
- Slope Stability Assessment (Soil-Mat Engineers and Consultants Ltd., September 15th, 2022)
- Site Survey (Jewitt and Dixon, February, 2023)
- Concept Plan (Land Pro Planning Solutions, March 2023)
- Architectural Drawings (VS Design Studio)

Technical Comments:

LPRCA – slope stability concerns.

Public Input:

No Public input has been received at time of submission of this report and presentation.





Preliminary Considerations

Key Items		Preliminary Review
Housing	ி	The subject lands consists of a residential dwelling. The applicant is proposing to demolish the existing dwelling and construct a larger dwelling on a similar footprint.
Hazard Lands	شیر ا	The subject lands is zoned and designated Hazard Land.

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Next Steps & Recommendation

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

Public Hearing Committee Report Recommendation:

THAT staff Report CD 23-040 for development applications OPNPL2023137 & ZNPL2023138 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.





Attachment B – Existing Planning Policy and Zoning Considerations

Report CD 23-040

Planning Act

Section 2 of the Planning Act outlines those land use matters that are of provincial interest and for which all county planning decisions shall have regard. The provincial interests that apply to development on this site are:

- (h) the orderly development of safe and healthy communities;
- (j) the adequate provision of a full range of housing, including affordable housing;
- (p) the appropriate location of growth and development and

Section 34 of the Planning Act permits amendments to the zoning by-law by Councils of local municipalities.

Provincial Policy Statement (PPS)

1.0 Building Strong Healthy Communities

Ontario is a vast province with urban, rural, and northern communities with diversity in population, economic activities, pace of growth, service levels and physical and natural conditions. Ontario's long-term prosperity, environmental health and social well-being depend on wisely managing change and promoting efficient land use and development patterns. Efficient land use and development patterns support sustainability by promoting strong, liveable, healthy and resilient communities, protecting the environment and public health and safety, and facilitating economic growth.

1.1.1 Healthy, liveable and safe communities are sustained by:

a) promoting efficient development and land use patterns which sustain the financial well-being of the Province and municipalities over the long term;

b)accommodating an appropriate affordable and market-based range and mix of residential types (including single-detached, additional residential units, multi-unit housing, affordable housing and housing for older persons), employment (including industrial and commercial), institutional (including places of worship, cemeteries and long-term care homes), recreation, park and open space, and other uses to meet long-term needs;

1.1.3 Settlement Areas

Settlement areas are urban areas and rural settlement areas, and include cities, towns, villages and hamlets. Ontario's settlement areas vary significantly in terms of size, density, population, economic activity, diversity and intensity of land uses, service levels, and types of infrastructure available.

The vitality and regeneration of settlement areas is critical to the long-term economic prosperity of our communities. Development pressures and land use change will vary across Ontario. It is in the interest of all communities to use land and resources wisely, to promote efficient development patterns, protect resources, promote green spaces, ensure effective use of infrastructure and public service facilities and minimize unnecessary public expenditures.

1.1.3.1 Settlement areas shall be the focus of growth and development.

Planning Comment: The subject lands are located within the urban settlement area of Port Dover.

1.1.3.2 Land use patterns within *settlement areas* shall be based on densities and a mix of land uses which:

a) Efficiently use land and resources;

b) Are appropriate for, and efficiently use, the *infrastructure* and *public service facilities* which are planned or available, and avoid the need for their unjustified and/or uneconomical expansion;

Section 3.1 outlines policies as it pertains to Natural Hazards. Section 3.1.1 states that development shall generally be directed to areas outside of:

a) Hazardous lands adjacent to the shorelines of the Great Lakes which are impacted by flooding hazards, erosion hazards and/or dynamic beach hazards;

Section 3.1.7 outlines that further to policy 3.1.6, and except as prohibited in policies 3.1.2 and 3.1.5, development and site alteration may be permitted in those portions of hazardous lands and hazardous sites where the effects and risk to public safety are minor, could be mitigated in accordance with provincial standards, and where all of the following are demonstrated and achieved:

- a) development and site alteration is carried out in accordance with floodproofing standards, protection works standards, and access standards;
- b) vehicles and people have a way of safely entering and exiting the area during times of flooding, erosion and other emergencies;
- c) new hazards are not created and existing hazards are not aggravated; and
- d) no adverse environmental impacts will result.

Norfolk County Official Plan

6.8.1 Lakeshore Special Policy Area

The Lakeshore Special Policy Area (LSPA) is identified on Schedule "A" to this Plan. The Lakeshore Special Policy Area Secondary Plan, included in Chapter 11 of Part II – The Secondary Plans, complements the general policies and land use designations of Part I – The Primary Plan and provides more detailed planning strategies and land use policies to address the special lakeshore attributes and the unique local land use arrangements to ensure the community, environmental and economic sustainability of the County's lakeshore. The LSPA Secondary Plan must be read in conjunction with the policies of the Part I – The Primary Plan. Where a conflict arises between the Part I – The Primary Plan and the LSPA Secondary Plan, the policies of the LSPA Secondary Plan shall prevail.

11.3.2.1 Lakeshore Special Policy Area - Urban Areas

e) Development within the Urban Areas shall respect and reinforce the existing character of the community and surrounding landscape. Development within the Urban Areas shall be reviewed and evaluated in accordance with the LSPA Community Design Guidelines

Section 7.3.2 Hazard Land Designation

Land Use Policies of 'Hazard Land Designation' states that Hazard lands are lands that have inherent environmental hazards such as flood susceptibility, erosion susceptibility, instability and other physical conditions which are severe enough, if developed upon, to pose a risk to occupants of loss of life, property damage and social disruption. In these areas, a reasonable compromise shall be made between the extent of the hazard and the continued use and future development of the area. This situation is particularly applicable to the Urban Areas, Hamlet Areas and Resort Areas, as set out on Schedule "A" of the Official Plan.

7.3.2 a) outlines that Development on Hazard Lands which would aggravate or contribute to the hazard shall not be permitted.

7.3.2.2 outlines Shoreline Policies across Norfolk County. Subsection c outlines that development and site alteration may be permitted in Hazard Land areas other than those identified in Section 7.3.2.2(b), where the risk to public safety and other effects can be absorbed, managed or mitigated in accordance with the following standards:

- i. the flooding and erosion hazards can be safely addressed, and the development and site alteration is carried out in accordance with floodproofing standards, protection works standards, and access standards;
- ii. existing hazards are not aggravated or new hazards are not created;

- iii. no adverse environmental impacts will result, and no negative impact on Provincial Significant Features or Natural Heritage Features will result;
- iv. Vehicles and people have a way of safe ingress and egress during times of flooding, erosion or other emergencies; and
- v. Development is carried out in accordance with established standards and procedures.

Subsection f) outlines that the replacement of an existing building or structure may be permitted provided the hazard has been adequately addressed through the use of accepted engineering and resource management practices. Acceptable replacement shall not result in an increase of more than 50 m2 to the original usable floor area of the building or structure, or alter the original use or affect shoreline processes.

Zoning By-law

The subject lands are zoned Hazard Lands in the Norfolk County Zoning By-Law.

The current Hazard Land use zoning does not permit Residential dwellings as a permitted use. The purpose of the Zoning By-Law Amendment is to rezone the northern portion of the subject lands from Hazard Lands to Urban Residential Type 1-B (R1-B) to permit the construction of a dwelling in replacement of the existing dwelling.

The proposed Zoning By-Law amendment would establish zone provisions for the following:

The purpose of the Zoning By-Law amendment is to establish zone provisions for the following:

a) minimum front yard setback – 4.93 meters.

CD-23-040 OPNPL2023137/ZNPL2023138 – 106 Brown Street, Port Dover

Attachment C: Technical Comments

Development Engineering: Development Engineering has reviewed application **ZNPL2023124, OPNPL2023137** and have the following comments.

General Comments:

1. Any changes/modifications/additions to an existing driveway will require an Entrance Permit through Public Works. The required parking must be within the parcel and should not interfere with Norfolk County's Right of Way.

2. The applicant must be aware that prior to the demolition of the old dwelling a permanent disconnection permit must be gained to disconnect the existing services and Water meter. These are to be obtained from the Norfolk County Environmental Services Department. Further instructions on the reconnection process will also be provided by Environmental Services.

Long Point Region Conservation Authority: The Long Point Region Conservation Authority (LPRCA) has reviewed the above noted application as per the delegated responsibility of this Conservation Authority, with respect to provincial interests within land use planning and development in areas subject to natural hazards.

The subject property at 106 Brown Street in Port Dover is located entirely within the Lake Erie shoreline erosion hazard. It is staff's understanding that the Official Plan amendment will add a special policy area to the subject lands to allow the residential use with the increased floor space, and the Zoning Bylaw amendment will add a special provision to the subject lands to allow the residential use with the increased floor space. LPRCA supports the policies contained in the current Official Plan and Zoning By-law for the subject land.

<u>Delegated Responsibility from the Ministry of Natural Resources and Forestry, Section</u> 3.1 of the Provincial Policy Statement, 2020

Conservation Authorities have been delegated responsibilities from the Minister of Natural Resources and Forestry to represent the provincial interests regarding natural hazards encompassed by Section 3.1 of the Provincial Policy Statement, 2020 (PPS). The overall intent of *Section 3.0 - Protecting Public Health and Safety* of the PPS is to reduce the potential public cost or risk to Ontario's residents from natural or human-made hazards.

The application is subject to the following subsections of section 3.1 of the Provincial Policy Statement:

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

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

As it relates to this application, staff reviewed <u>Provincial Policy Statement 2020</u> and <u>MNR's Great Lakes – St. Lawrence River Shorelines and Large Inland Lakes</u> <u>Technical Guide (2001)</u> and can provide the following for your consideration.

MNR's Great Lakes – St. Lawrence River Shorelines and Large Inland Lakes Technical Guide (2001)

The bluff affecting the subject lands is approximately 12 metres high. A geotechnical investigation completed in September of 2022 has determined the slope to be stable. The erosion on the shoreline is approximately 0.3m per year; meaning the shoreline has a potential to erode 0.3m per year.

The erosion hazard limit for the Lake Erie shoreline is determined by measuring the stable slope and adding a 30 metre allowance for ongoing lake erosion.

The application meets the definition within the guide of redevelopment, based on the proposed size of the dwelling. The Technical Guide allows for the redevelopment of the dwelling provided the dwelling is a minimum of 18 metres setback from the stable top of bank. The application as proposed does not meet the minimum setback from the stable top of bank.

The application would facilitate the redevelopment of the subject lands with a structure that proposes an increase in habitable space that is larger than what is supported by the Technical Guide and is therefore not consistent with section 3.1.1 b) of the PPS.

While staff acknowledge the technical studies- the *Slope Stability Assessment* (Soil-Mat Engineers, 2022) and the *Coastal Engineering Analysis* (Ahydtech, 2022), the studies are not consistent with *MNR's Great Lakes Technical Guide* (2001). The development setback as concluded from the above-mentioned studies is incorrect. Further technical analysis is included in Appendix A below.

Staff can advise that the proposed Official Plan amendment and Zoning Bylaw amendment application is not consistent with section 3.1.1. b) of the Provincial Policy Statement, 2020.

Ontario Regulation 178/06 – Requirements for permission to development on the subject lands

For the applicant's information, the subject property is regulated under Ontario Regulation 178/06. Based on the information contained in this application, LPRCA staff would not be able to recommend approval of this application.

Appendix A

Comments on the Submitted Studies:

LPRCA staff has reviewed the following studies:

- 1. Slope Stability Assessment (Soil-Mat Engineers, 2022)
- 2. Coastal Engineering Analysis (Ahydtech, 2022)

Please see the following comments regarding the above-mentioned studies and the relevance to the Provinces *MNR's Great Lakes Technical Guide (2001)*.

The Slope Stability Assessment (Soil-Mat Engineers, 2022) found the slope on the south of the property to be stable. LPRCA staff agree with this analysis. LPRCA staff also accepts the use of the 60-year erosion rate to establish the Erosion Allowance. However, the calculation of the development setback is incorrect. The two allowances must be added together. *MNR's Great Lakes Technical Guide* (2001) determines the top of stable slope first, then adds the erosion setback. It is important to note that for a stable slope, the top of stable slope is the physical top of slope and the erosion setback is measured back from the top of slope.

In regards to the Coastal Engineering Analysis (Ahydtech, 2022), this study was not required from LPRCA staff as the information can be found within the *Shoreline Management Plan* (Philpott Coastal Engineers, 1989) and the *Norfolk County Lake Erie Hazard Mapping and Risk Assessment* (Baird, 2020). The extent of the study was regarding the slope and hazard delineation, with a mention of the shoreline protection. LPRCA staff have not accepted the report and made comments directly to the consultant on its deficiencies.

LPRCA staff accept the coastal engineer's recommendations about the lifespan of the existing shore protection to a maximum of 40 years. However, it is important to note that there is no documentation in the report about how the wave analysis has been applied or about the structural assessment to conclude the condition and life of the wall.

Building: Reviewed - Comments are as follows:

The building department has reviewed the proposal and has NO comments or conditions.

No Ontario Building Code review has been completed at this time and will be done at permit application stage.

Please reach out to the building department as you get closer to having the planning and applicable approvals in place and staff will be happy to assist you with information on preparing for the building and septic permit stage of the project.

All general permitting inquires: by email: <u>permits@norfolkcounty.ca</u> or by phone: 519-426-5870x6016

Please refer to our website for current forms, and fees. <u>https://www.norfolkcounty.ca/business/building/</u>

Zoning: Reviewed – No Comments.

Canada Post: Reviewed – No comments.

GIS: Reviewed – No comments.

Realty Services: Reviewed – No Comments.

Fire: Reviewed – No comments.

Paramedic Services: Reviewed – No comments.



The Corporation of Norfolk County

By-Law 6-OP-2023

Being a By-Law to Adopt Amendment Number 155 to the Norfolk County Official Plan in respect of lands described as Lot 15, Plan 118, Urban Area of Port Dover, Norfolk County, municipally known as 106 Brown St., Port Dover in the name of Gregory Brown.

WHEREAS the *Planning Act, R.S.O. 1990, CHAPTER P.13*, as amended, Section 17 (22) states that "When the requirements of subsection (15) to (21), as appropriate, have been met and the Council is satisfied that the plan as finally prepared is suitable for adoption, the Council may adopt all or part of the Plan and, unless the plan is exempt from approval submit it for approval.";

AND WHEREAS the Council of The Corporation of Norfolk County has considered an amendment to the Norfolk County Official Plan in accordance with the provisions of the Planning Act, R.S.O. 1990, c.P.13 as amended, Sections 17, 21 and 22.

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

- 1. That amendment number 158 to the Norfolk County Official Plan as set out in the text and Schedule "A" attached hereto is hereby adopted.
- 2. That the effective date of this By-Law shall be the date of passage thereof.

ENACTED AND PASSED this 15th day of August, 2023.

Mayor A. Martin

County Clerk G. Scharback

Amendment Number 158 to the Norfolk County Official Plan

Part A: Preamble to the Amendment

The purpose of amendment number 158 to the Norfolk County Official Plan is to redesignate the northern portion of the subject lands from Hazard Land to Urban Residential to permit residential development on the subject lands and to construct a new dwelling on a larger footprint.

Location of the Lands Affected

As shown on the attached 'Schedule "A", the subject lands are located on Lot 15, Plan 118, Urban Area of Port Dover, Norfolk County.

Basis of the Amendment

The subject lands are currently designated 'Hazard Land' within the Norfolk County Official Plan. A request to amend the Official Plan has been made to change the land use designation of the northern portion of the subject lands from Hazard Land to Urban Residential. The proposed Official Plan amendment would facilitate the residential redevelopment on the subject lands on a larger footprint.

Part B: The Amendment

That the Norfolk County Official Plan is hereby amended as follows:

Map Schedule Amendment

That Schedule B, Land Use, in the Norfolk County Official Plan is further amended by identifying all the lands shown as the subject lands on 'Schedule "A" attached to and a part of this amendment with Hazard Lands Designation.

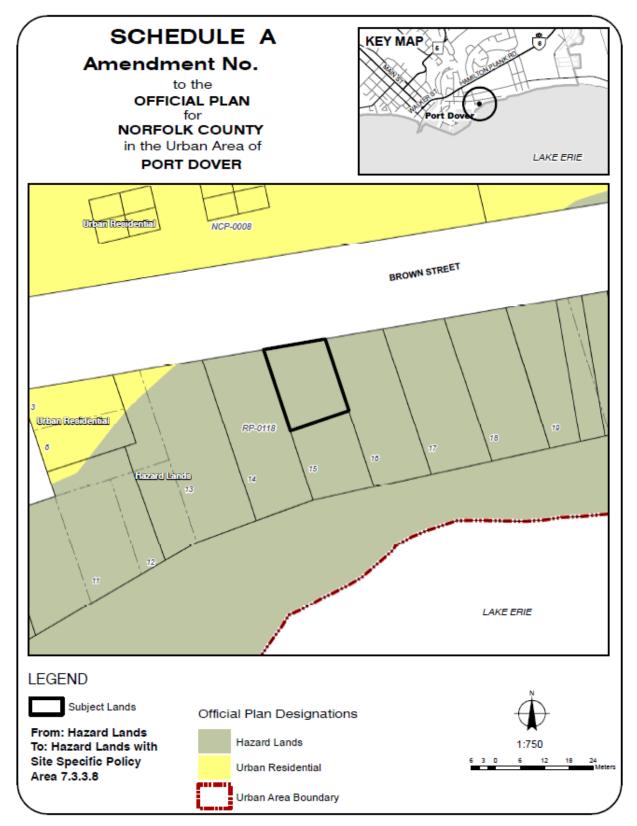
Text Amendment

That the following site specific policy area be added to Section 7.3 Hazard Lands Designation:

On land designated Hazard Land – Site Specific Policy Area 7.3.3.8 on Schedule "B" to this Plan, in addition to the uses permitted, a single detached dwelling with a total useable floor area of 100.44 m2 in the Hazard Land Designation

Part C: Additional Information

This document will be implemented by Norfolk County enacting an appropriate amendment to the Norfolk County Zoning By-Law 1-Z-2014.



Applicant Gregory Brown File Number OPNPL2023137 Report Number CD 23-040 Assessment Roll Number 33403074400

The Corporation of Norfolk County

By-Law 23-Z-2023

Being a By-Law to Amend Zoning By-Law 1-Z-2014, as amended, for property described as Lot 15, Plan 118, Urban Area of Port Dover, Norfolk County, municipally known as 106 Brown St., Port Dover in the name of Gregory Brown.

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 herby further amended by delineating the lands identified as the subject lands on Map A (attached to and forming part of this By-Law) as having reference to Special Provision 14.1036
- 2. That Subsection 14 Special Provisions is hereby further amended by adding 14.1036 as follows:

14.1036 In lieu of the *permitted* in the *Hazard Land Zone* (HL), the following uses are permitted on the subject lands in accordance with the provisions of the HL Zone and the by-law unless otherwise identified below:

a) *Dwelling, single detached* with the following provisions:

- i. minimum front yard: 4.93 metres;
- ii. minimum interior side yard:
 - a) Attached garage 1.2 metres
- iii. Minimum rear yard 18.20 metres
- iv. Maximum building height 8.8 meters
- v. Total useable floor area 100.44 square metres

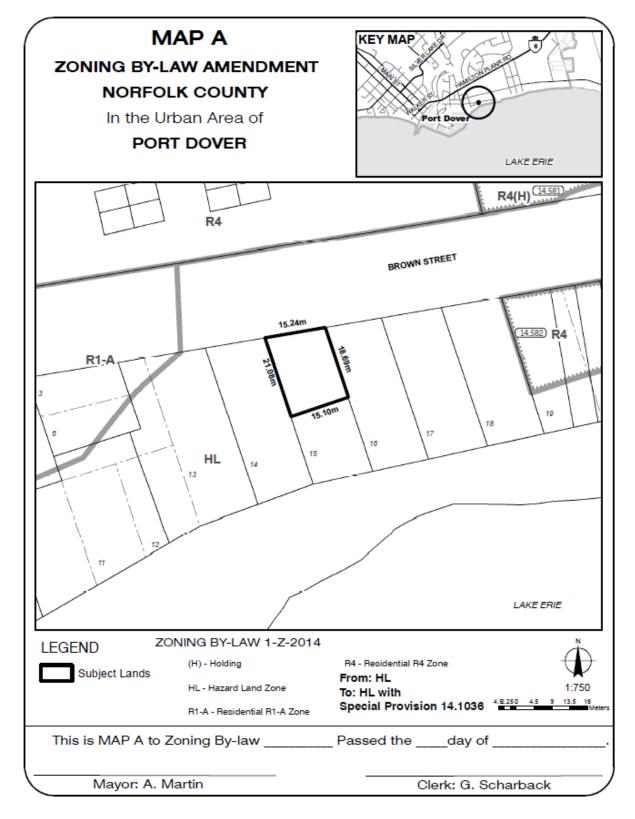
3. That this By-Law shall become effective upon final approval of the related Amendment number 158 to the Norfolk County Official Plan.

ENACTED AND PASSED this 15th day of August, 2023.

Mayor A. Martin

County Clerk G. Scharback

Applicant GREGORY BROWN File Number ZNPL2023138 Report Number CD 23-040 Assessment Roll Number 3310334030744000000



Applicant GREGORY BROWN File Number ZNPL2023138 Report Number CD 23-040 Assessment Roll Number 3310334030744000000

Explanation of the Purpose and Effect of

By-Law 23-Z-2023

This By-Law affects a parcel of land described as Lot 15, Plan 118, Urban Area of Port Dover, Norfolk County, municipally known as 106 Brown St., Port Dover. The purpose of this By-Law is to amend the Norfolk County Zoning By-Law 1-Z-2014 to add a Special Provision to permit a single family dwelling with total useable floor area of 100.44 square metres in the Hazard Land Zone.