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**PLANNING & DEVELOPMENT DEPARTMENT  
MEMORANDUM**

**To:** Council & Clerk

**From:** Brian Treble, Director of Planning and Building

**Date:** March 6, 2023

**Subject:** Proposed Township Official Plan Amendment to Implement Provincial Changes (Bill 109, 23 and others) as first outlined in staff report PD-082-2022 dated December 12, 2022

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Dear Council,

On December 12, 2022, staff presented report PD-082-2022 that highlighted some of the new planning requirements of Bill 23 and 109. Many of these new rules require amendments to the Township Official Plan. Staff asked for and obtained permission in that report to proceed with required policy changes. Many municipalities are including more extensive support, review and justification for planning applications, as part of the pre-consultation exercise such that the formal applications are complete and thoroughly justified before submission. This should then mean that the formal planning approval process should be more streamlined.

Given the extensive nature of the changes being proposed, staff provide this memo and draft amending document so that Committee and Council have an idea of likely changes prior to public consultation.

Keep in mind that this is still a work in progress and will continue to be reviewed by staff, and agencies, but should be good place to start the public consultation process from.

This memo and attachment are provided so that Committee and Council have advance knowledge of the extensive nature of the proposed amendments and why staff will be commencing a public consultation process.

Attachments:

1. Draft Amendment to address Provincial changes including Bill 109 and Bill 23

Respectfully Submitted,



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Brian Treble, MCIP, RPP  
Director of Planning and Building

# **DRAFT AMENDMENT TO ADDRESS PROVINCIAL CHANGES** **INCLUDING BILL 109 AND BILL 23**

## **SECTION 18**

### **IMPLEMENTATION**

#### **18.1 General**

- a) The designations shown on Schedule 'B-1' to 'B-4', 'C-1' to C-6', 'D', 'E-1' to 'E-3' and Schedule 'F' to this Official Plan are to be interpreted in a general fashion and are not to be precisely scaled. Where roadway or natural features such as water courses identify a distinct separation between designations such boundaries shall be used to provide a distinct interpretation of the boundary, of the designation. Minor refinements to the boundaries of the designations in association with development applications shall not require an amendment to this Official Plan.
- b) This Official Plan is required to conform to the Township Official Plan and shall be "consistent with" Provincial Policy Statements.
- c) The Urban Area Boundaries as delineated in the Township Official Plan are fixed, and shall only be changed by Amendment to the Township Official Plan.
- d) The boundaries of Hamlet Settlement Areas are generally fixed, however, accessory uses to any permitted use may extend into adjacent lands designated Agricultural without an amendment to this Plan, but subject to a Zoning By-law Amendment.
- e) This Official Plan will be implemented by means conferred upon Council by the Planning Act, the Municipal Act and such other statutes as may be applicable. In particular, this Plan shall be implemented by the Zoning By-law, neighbourhood plans, site plan control, subdivision and part-lot control, consents to severances, the property standards by-law, demolition control, provision of municipal services, public works, energy conservation and any other application legislation.
- f) In order to ensure that the policies of the Official Plan are being implemented, the following controls will be regularly reviewed:
  - i. The Zoning By-law;

- ii. Subdivision and Part-Lot Control;
- iii. Site Plan Control and Design Guidelines, and;
- iv. All other practices and procedures involved in processing development applications.

## **18.2 Zoning By-law**

- a) Following adoption of this Plan, it is intended that a comprehensive Zoning By-law will be enacted by the Township Council to establish development standards and control growth within the Township. Such Zoning By-law is to be updated from time to time and must be reviewed within three years of the completion of an Official Plan 5 Year review.
- b) It is not intended to zone each area for the ultimate use as designated on Schedule 'B-1' to 'B-4', 'D', and 'E-1' to 'E-3' - Land Use Plan. Certain areas designated for residential, commercial or industrial uses may be zoned as an interim measure in an agricultural, holding or development zone and when such areas are deemed necessary for development, they will be rezoned in an appropriate category to permit the uses set forth in this Plan.
- c) By-laws may be passed, subject to the policies of Section 17.14 of this Plan, to amend the Zoning By-law and to permit the extension and enlargement of existing uses of any land, buildings or structures which do not conform with the land use classification of the Official Plan and of the Zoning By-law. Such an amending by-law passed pursuant to Section 34(10) of The Planning Act, R.S.O. 1990, shall be considered in conformity with the Official Plan if it complies with the policies contained in Section 17 of this Plan.
- d) An amendment to the Zoning By-law is required to permit the establishment of areas for uses other than those included in the initial implementing Zoning By-law. In considering an amendment to the Zoning By-law with a view to zoning additional areas for a particular use or changing the zoning of a particular area, the Council shall have due regard to the policies in this Plan and Schedules 'B-1' to 'B-4', 'C-1' to C-6', 'D', 'E-1' to "E-3' and Schedule 'F'.
- e) By-laws may be passed to protect significant archaeological sites by prohibiting any use of land and the erecting, locating or using of any class or classes of building or structures on land that is the site of significant archaeological resources as per Section 34(1) 3.3 of The Planning Act R.S.O 1990.

## **18.3 Conditional Zoning**

**18.3.1** In accordance with Section 34 of the Planning Act, Council may, through a zoning amendment, impose one or more conditions on the use, erection or location of lands and/or buildings and structures that may be fulfilled subsequent to approval of the amendment and must be fulfilled prior to the issuance of a building permit for development. Conditions that may be imposed through a zoning by-law amendment shall be consistent with prescribed Provincial regulations and may include: a requirement to implement measures identified through the zoning amendment review, the provision of services and infrastructure and the protection of natural resources, built environments, sustainability, energy efficiency, and public health and safety.

**18.3.2** Council may require the owner of land subject to a zoning amendment to enter into an agreement to implement, maintain and/or enforce a condition of zoning approval or to provide a time limit for completion of such conditions. The agreement will be registered on title against the lands and will be enforced against the present and subsequent owners

#### **18.4 Cash-In-Lieu of Parking Requirements**

- a) Council may enter into agreements with landowners exempting the owner, to the extent specified in the agreement, from the requirements of providing or maintaining parking facilities.
- b) In accordance with the Planning Act R.S.O. 1990, such an agreement should contain provisions requiring the land owner to make one or more payments of cash to the municipality in lieu of providing parking as established by Clause (a) above, a schedule of payments should also be established
- c) The agreement shall be registered in the Registry Office.
- d) When all monies agreed upon have been paid to the Township, the landowner may request that the Town Clerk provide a certificate, in registerable form, certifying that all monies have been paid or that the agreement has been terminated.

#### **18.5 Temporary Use By-law And Garden Suites**

##### **18.5.1 Temporary Use By-law**

Council may, in a by-law passed under the Planning Act, authorize the temporary use of lands, buildings or structures for any purpose set out therein that is otherwise prohibited by this Plan or by the Zoning By-law. Such a by-law may

be in effect for a maximum period of three years for all temporary uses, except garden suites. Garden suites may have by-laws passed to be in effect for up to twenty (20) years from the date of passage (*Amended by OPA 61, 2021*). Council may extend the term of the by-law, by further by-law amendment, for a maximum additional three (3) year term.

Council shall satisfy itself that the proposed use is temporary, and will not create detrimental effects on the surrounding area. Temporary uses not allowed by the applicable policies of this Plan will not be permitted. Temporary uses, buildings and structures that are not farm-related shall not be permitted in the Unique or Good General Agricultural Areas.

Upon expiry of a Temporary Use By-law, uses permitted by that By-law must cease and cannot be considered as non-conforming uses. The type of uses envisaged by Council as requiring a temporary use by-law include, but shall not be limited to: temporary use of a mobile home as a dwelling unit, or the existence of two homes on one lot while one of the homes is under construction.

#### **18.5.2 Garden Suites**

A garden suite shall be defined as a one-unit detached residential structure containing bathroom and kitchen facilities, ancillary to an existing residential structure and is designed to be portable and temporary.

- a) In considering such proposals for a garden suite, the following shall be considered:
  - i. The unit shall only be used on a temporary basis in conjunction with an existing dwelling on the same lot;
  - ii. The lot size/layout in terms of accommodating the garden suite without unreasonable loss of private outdoor amenity area;
  - iii. Compatibility of the garden suite with the surrounding neighbourhood in terms of general form, privacy, shadowing and separation distance;
  - iv. Adequacy of site access and on-site parking
  - v. The unit is not placed in the front yard of the lot or the required front yard required by the Zoning By-law;
  - vi. No additional access is provided to the lot from a public road;
  - vii. Placement of the unit is not exclusively removed from the existing dwelling;

- viii. The proposed site is capable of accommodating an approved septic and water supply system as determined by the Township of West Lincoln, or verification that adequate municipal services can be provided on this lot.
- ix. The location of such unit shall be in accordance with the Minimum Distance Separation Formulas where the use is proposed near any livestock operation.
- x. The main dwelling unit and the proposed garden suite are clustered in the same general location on the property.

## **18.6 Site Plan Control**

- a) All of the Township of West Lincoln shall be considered a site plan control area pursuant to Subsection 41(2) of The Planning Act, R.S.O. 1990. Land uses which are exempt from these provisions would be:
  - i Single detached, semi-detached and duplex dwellings and group homes, except where such dwellings are located on the same lot as another dwelling.
  - ii Agricultural buildings and structures with the exception of agri-tourism uses, commercial farm markets, permanent or mobile farm help houses and greenhouses.
  - iii Any building or structure erected for the purpose of flood or erosion control by the Township or Niagara Peninsula Conservation Authority.
  - iv Any building or structure exempted under the Planning Act.
  - v Any building or structure accessory to the uses stated above.
  - vi Notwithstanding (i) and (ii) above, single detached dwellings or mobile homes used for farm help houses shall be subject to site plan control to regulate the location of the dwelling, preferably in close proximity to main farm buildings. In no case shall a road widening be required as a condition of site plan approval for a help house.
  - vii Notwithstanding Policy 10.4.3 within Environmental Protection Areas, Environmental Conservation Areas, Fish Habitat, and adjacent lands as set out in Table 10.2 all uses shall be subject to site plan control to ensure that the objectives and policies of Section 10 are met. An applicant for site plan approval shall be required to submit a scoped Environmental Impact Study.
- b) Council shall enact a site plan control by-law to designate those lands which

it considers desirable as site plan control areas.

- i Pursuant to Section 41(4) of The Planning Act, R.S.O. 1990, all development within such areas designated by Council as a site plan control area, shall require the approval of Council or a delegate of Council of one or all of the following as Council may determine based on the merits of each application:
  - i. Plans showing the location of all buildings, structures, facilities and works to be constructed in conjunction with the development.
  - ii. Drawings showing plan and elevation of each building to be constructed including apartment and multiple-residential buildings.
  - iii. That the site plan drawings include design criteria, design measures, or architectural controls as determined by Township Council or their delegate as they related to the sustainability of proposed development within the Urban Area of Smithville.
- c) Council may, in its Site Plan Control By-law, delegate approval authority to a designated member of staff and may require the following in order to ensure the orderly development as part of the Site Plan Approval Process:
  - i As a condition to the approval of plans and drawings referred to in (b) above, Council may require one or more of the following including road widenings abutting the property; access ramps; signage; vehicle loading, parking, walkways and surfacing of such areas; lighting; landscaping; refuse storage facilities; easements for municipal purposes; and site grading and drainage facilities. The owner shall enter into an agreement with the Township ensuring the provision of all buildings, structures, facilities and works required under Subsection 17.6 hereof.
  - ii Pursuant to Subsection 41(9) of The Planning Act, R.S.O. 1990, local road widenings may be required to the extent shown on Schedule "C" - Major Roads Plan as a condition of development of any lands within a designated site plan control area abutting any local road indicated on Schedule 'F' - Major Roads Plan.
  - iii Required road widenings will be taken along the side of the road the subject lands are located on equal to a maximum of one-half the required road widening except where topographic features dictate otherwise. Road widening requirements adjacent to Regional Roads will be added by amendment to this Plan subsequent to the completion of the Regional Roads Right-of- Way Study.

- iv Council may adopt guidelines to establish specifications for site works. Alternatively, Council may delegate, by by-law, the adoption of such guidelines to the Director of Planning and Building. Site plan guidelines may establish minimum standards for site works
- d) Site Plan agreements, ensuring the provision of certain items and ensuring development proceeds in accordance with the approved plans, shall be executed and may be registered on title. Agreements may include, but not be limited to, the following items:
  - i. Access ramps, curbs and signage.
  - ii. Parking, loading and driveway areas and their surface treatment.
  - iii. Pedestrian walkways and ramps, including surface treatment lighting.
  - iv. Walls, fences, landscaping and buffering.
  - v. Garbage storage facilities.
  - vi. Easements for the construction and maintenance of public services and utilities.
  - vii. Grading and site drainage.
  - viii. Site servicing.
  - ix. Road widenings.
  - x. Exterior design including, but not limited to, character, scale, appearance and design features of buildings and their sustainable designs.
  - xi. Sustainable design elements on adjoining municipal roads such as, but not limited to, trees, shrubs, hedges, plantings, pavement, furniture, curb ramps, and bicycle parking facilities.
  - xii. Facilities designed to have regard for accessibility for persons with disabilities.
  - xiii. Facilities for lighting, including floodlighting, of the land or any buildings or structures thereto.
  - xiv. Conveyance of part of the land to the municipality to the satisfaction of and at no expense to the Township for a public right of way, where



such right of way is shown or is described in this Plan.

xv. Protection for natural heritage resources. The Planning Act, as amended from time to time, may alter these requirements. Such changes shall not require an amendment to this Plan.

- a) A building permit shall be issued in respect of any development in the site plan control area only where the plans required have been approved by the municipality and the required agreements ensuring the provision of certain items and ensuring that development proceeds in accordance with the approved plans are executed.
- b) The Township may grant a conditional site plan approval by imposing one or more conditions through the granting of approval of site plan drawings and the execution of a site plan agreement. These conditions may include, but are not limited to, completion of certain studies and drawings, implementation of recommended measures in said studies and completion of recommended on and off-site works. Agreements detailing the conditions may specify deposits to secure necessary works, as well as expiry dates of conditions.
- c) The Regional Municipality of Niagara shall be circulated site plans where development is proposed along Regional Road allowances and/or adjacent to other Regional owned lands or operated facilities.

## **18.7 Subdivision Control**

- a) The Subdivision Plan approval process and Subdivision Agreements pursuant to the Planning Act, 1990, will be used by Council to ensure that the policies and land uses of the Official Plan and Secondary Plan are complied with and that a high standard of design is maintained in new development area.
- b) Council will only recommend approval for those Plans of Subdivision which conform with the following criteria:
  - i. The Plan of Subdivision conforms with the policies of this Plan;
  - ii. Adequate servicing such as water supply, sewage disposal facilities, storm water drainage, solid waste collection and disposal, roads, communications/telecommunications infrastructure, pedestrian facilities and fire and police protection can be provided;
  - iii. The Township is able to provide necessary services without imposing undue increases in taxation on all residents, and;

- iv. The Plan of Subdivision is not deemed to be premature, and it is considered necessary in the public interest.

## **18.8 Interim Control By-law**

In areas where Council wishes to review the existing land uses or establish new policies, and where a study of land use planning policies for the area has been directed, council may adopt an Interim Control By-law. The Interim Control By-law restricts the land use to its present use until the required studies are completed, at which time the Zoning By-law may be amended to reflect the desired use. Timing and extensions for such a by-law will be subject to the provisions of The Planning Act, 1990.

## **18.9 Holding Zone**

- a) In situations where the ultimate use of land is precisely known, but where Council wishes to delay development, a Holding Zone may be applied by using the Symbol 'H' in conjunction with a land use zoning category under any or all of the following circumstances:
  - ~~i. when development or redevelopment is anticipated in accordance with the provisions of this Plan, but where the details of such development have not been determined;~~
  - ~~ii. when land assembly is required to permit orderly development or redevelopment;~~
  - ~~iii. when the level of engineering and/or community services is not adequate to support the ultimate use, but such services are to be provided at a later date in accordance with the relevant provisions of this Plan.~~
  - i. To encourage orderly development of lands in the municipality in situations where other lands in the same zone category should be developed first.
  - ii. To phase development in accordance with the necessary approvals and the orderly progression of sanitary sewers and waterlines.
  - iii. To provide for further study of lands for the purpose of establishing design criteria for development.
  - iv. Undertaking one or more studies listed in Policy 18.17 of this Plan, that has been identified as necessary through the processing of any

development application. Correspondingly, the removal of the holding provision is conditional upon the following.

- v. The substantial development of other lands in the same zone category or the need for large parcels of land which cannot be accommodated in these other lands in the same zone category.
  - vi. The necessary approvals have been obtained to facilitate the logical progression of sanitary sewers and waterlines.
  - vii. A study has been carried out and design criteria has been established relevant to the lands, and the necessary implementing agreements have been entered into.
  - viii. Completion of the requisite studies listed in Policy 18.17 of this Plan and the implementation of any recommended measures through the appropriate development, subdivision, and condominium or site plan agreement.
- b) The objective of the Holding Zone is to identify the ultimate use of land and to limit or to prevent the ultimate use in order to achieve orderly, phased development and to ensure that the servicing and design criteria established in this Plan have been met prior to the removal of the 'H' symbol.
  - c) The actual Holding By-law shall clearly specify the land uses to be permitted in the interim, the conditions for removal of the holding provision and any regulations applying to the lands during the period of time the holding provision is in place. Interim uses shall be limited to uses that are considered to be compatible with the ultimate use of land. The timing of the removal of the holding provision would be dependent on meeting the conditions identified in the Holding By-law. When all conditions specified in the Holding By-law are met, Council may consider passing a by-law to remove the holding symbol and allow development to take place in accordance with the zoning category or categories assigned.

## **18.10 Community Improvement**

### **18.10.1 Objectives**

- a) To preserve, rehabilitate and redevelop the existing built environment.
- b) To maximize the use of existing public infrastructure, facilities, lands and amenities.
- c) To coordinate private and public community improvement activities.

- d) To guide the Township in setting priorities for municipal expenditure respecting community improvement projects.
- e) To participate, wherever possible, in Federal, Provincial and/or Regional programs to facilitate community improvement.
- f) To reconcile existing land use conflicts and minimize future land use conflicts.

#### **18.10.2 Criteria for Selection of Community Improvement Areas**

- a) The Township may designate by by-law one or more Community Improvement Project Area(s), the boundary of which may be part or all of the entire Urban Area of Smithville, and/or part or all of one or more of the Hamlet Communities, with the Urban Area of Smithville and the Hamlet Communities as defined in this Plan, and as amended from time to time.
- b) For an area to be identified as a Community Improvement Project Area, one or more of the following conditions must be present:
  - i. Buildings, building facades, and/or property, including buildings, structures and lands of heritage and/or architectural significance, are in need of preservation, restoration, maintenance, repair, rehabilitation, energy efficiency or renewable energy improvements, or redevelopment;
  - ii. Deficiencies in physical infrastructure including but not limited to the sanitary sewer system, storm sewer system, and/or watermain system, roadways, sidewalks, curbs, streetscapes and/or street lighting, and municipal parking facilities;
  - iii. Vacant lots and/or underutilized properties and buildings which have potential for infill, redevelopment or expansion to better utilize the land base;
  - iv. Commercial areas with high vacancy rates and/or poor overall visual quality of the built environment, including but not limited to, building facades, streetscapes, public amenity areas and urban design;
  - v. Presence of buildings and/or lands of architectural or heritage significance;
  - vi. Known or suspected environmental contamination;

- vii. Deterioration or deficiencies in the level of community and social services such as public open space, municipal parks, neighbourhood parks, indoor/outdoor recreational facilities, and public social facilities;
  - viii. Non-conforming, conflicting, encroaching or incompatible land uses or activities threaten to disrupt the predominant land use and lifestyle of the citizens of the area;
  - ix. Demonstrated deficiency in the condition or provision of accessible parking;
  - x. Demonstrated problem or deficiency associated with the circulation and/or access of traffic;
  - xi. A shortage of land to accommodate widening of existing rights-of-way, building expansion, parking and/or loading facilities;
  - xii. Other significant barriers to the repair, rehabilitation or redevelopment of underutilized land and/or buildings; and,
  - xiii. Other significant environmental, social or community economic development reasons for community improvement.
- c) Priority for the designation of Community Improvement Project Areas and the preparation and adoption of Community Improvement Plans shall be given to:
- i. Downtown Smithville;
  - ii. Those areas where the greatest number of criteria for selection of Community Improvement Project Areas are present; and/or,
  - iii. Those areas where one or more of the criteria for selection of Community Improvement Project Areas is particularly acute; and/or,
  - iv. Those areas where one or more of the criteria for selection of Community Improvement Project Areas exists across the Urban Area of Smithville and/or across one or more of the Hamlet Communities.

d) Phasing

The phasing of community improvements shall be prioritized according to:

- i. The financial capability of the Township to fund community improvement projects;

- ii. Availability and timing of senior government programs that offer financial assistance for community improvement efforts; and,

The timing of related capital expenditures from various municipal departments to ensure community improvements are coordinated as much as possible with departmental priorities.

e) Implementation

In order to implement a Community Improvement Plan in effect within a designated Community Improvement Project Area, the Township may undertake a range of actions, including:

- i. The municipal acquisition of land and/or buildings within Community Improvement Project Areas, and the subsequent;
  - 1 Clearance, grading, or environmental remediation of these properties;
  - 2 Repair, rehabilitation, construction or improvement of these properties;
  - 3 Sale, lease, or other disposition of these properties to any person or governmental authority;
  - 4 Other preparation of land or buildings for community improvement.
- ii. Provision of public funds such as grants and loans to owners of land and their assignees;
- iii. Application for financial assistance from and participation in senior level government programs that provide assistance to municipalities and/or private landowners for the purposes of community improvement;
- iv. Provision of information on municipal initiatives, financial assistance programs, and other government assistance programs;
- v. Support of heritage conservation through the Ontario Heritage Act, 1990 and the Local Architectural Conservation Advisory Committee (LACAC);
- vi. Establishment of a Business Improvement Area;
- vii. Refinement of zoning controls and application of flexible land use policies within designated Community Improvement Project Areas to the extent that they complement community improvement goals and objectives; and,

viii. Enforcement of the Township's property standards by-law.

iv. All developments participating in programs and activities contained within Community Improvement Plans shall conform with the policies contained in this Plan, the Zoning-By-law, Maintenance and Occupancy By-laws, and all other related municipal policies and by-laws.

x Council shall adopt such special measures as may be necessary to implement the goals and objectives for Community Improvement.

### **18.11 Committee of Adjustment**

It is the intent of Council pursuant to Sections 44 and 53 of The Planning Act, 1990, to appoint a Committee of Adjustment to assist in the administration of the Zoning By-law.

- a) The function of the Committee of Adjustment is to process applications relating to consent(s) and minor variance(s) to the Zoning By-law, or applications regarding extensions or enlargements of on-conforming uses, pursuant to Section 45 of The Planning Act, 1990.
- b) The Committee of Adjustment shall consider the policies and general intent of this Plan and Zoning By-law s when dealing with such applications.

### **18.12 Community Benefits Charges**

- ~~a) Council may consider the requirement to provide community benefits pursuant to Section 37 of the Planning Act in exchange for increases in height and/or density of development beyond those permitted in the Zoning By-law.~~
- ~~b) The policies of this Section apply to the areas designated Urban on the Schedule 'B-4' Land Use Plan.~~
- ~~c) Prior to the enactment of an amendment to the Zoning By-law pursuant to an application submitted under Section 34 of the Planning Act, Council shall be satisfied that the proposal represents good planning including good urban design principles outlined in Part VII of this Plan and is in conformity with the provisions of this Plan. In this regard, Council may permit increases in height and/or density that exceed the maximum height and/or density definitions of this Plan, without further amendment to this Plan where Council is satisfied that the proposed by-law would otherwise be in conformity with all other aspects of this Plan and Council is satisfied that the proposal represents good planning including good urban design principles outlined in Part VII of this Plan.~~

- d) Pursuant to the provisions of Section 37 of the Planning Act, Council may seek to secure community benefits including but not limited to the following matters:
- i. Provision of public access, pedestrian and vehicular, to public facilities and sites;
  - ii. Walkways and public space and connections to external walkways and trail systems;
  - iii. Preservation of natural areas and woodlots, beyond open space dedication requirements;
  - iv. Provision of parkland requirements beyond dedication requirements;
  - v. Provision for various housing types including housing for special needs, assisted or low-income housing, in accordance with the Official Plan;
  - vi. Provision of public parking;
  - vii. Provision of underground parking resulting in opportunities for housing intensification or affordable housing on lands no longer required for surface parking;
  - viii. Conservation of buildings and sites of architectural, archaeological or historic importance;
  - ix. Provision of community and open space facilities, such as community and recreational facilities or municipal facilities;
  - x. The provision of any public work, initiative or matter in conformity with this Plan.
- e) In the consideration of the enactment of a Zoning By-law Amendment to permit the increased height and/or density of development, Council shall be satisfied that the benefit sought to be secured is demonstrably connected to the increase in height and/or density of development.
- f) Prior to the enactment of a Zoning By-law Amendment pursuant to an application submitted under Section 34 of the Planning Act, Council shall require the owner seeking the increase in height and/or density of development in exchange for community benefit, to enter into one or more agreements dealing with the provision of facilities, services or matters including the timing of conveyances or payments for community benefits to the municipality. The agreement shall be registered against the land to which it applies.



- a) Council may pass, under Section 37 of the Planning Act, a by-law that imposes community benefits charges to pay for the capital costs of facilities, services and matters required due to development and redevelopment.
- b) A community benefits charge may be imposed with respect to development or redevelopment that requires:
  - i. A zoning by-law or an amendment to a zoning by-law;
  - ii. The approval of a minor variance;
  - iii. A conveyance of land to which a part lot control by-law applies;
  - iv. An approval of a plan of subdivision;
  - v. A consent;
  - vi. The approval of a condominium description; and
  - vii. The issuing of a Building Permit in relation to a building or structure.
- c) The Planning Act, as amended from time to time, may list one or more types of developments that are exempt from a community benefits charge. Such exemptions shall apply under this Plan. Furthermore, amendment of the community benefits by-law to address changes to these exemptions under the Planning Act shall not require an amendment to this Plan.
- d) Prior to passing a community benefits charge by-law, the Township shall adopt a community benefits charge strategy that identifies the facilities, services and matters that will be funded with community benefits charges. The facilities, services and matters that may be funded with community benefit charge may include, but shall not be limited to:
  - i. The provision of public parking
  - ii. The provision of urban amenities, including streetscaping, parks and related public realm improvements
  - iii. The provision of public art, heritage and culture facilities
  - iv. The provision of active transportation, including bike lanes and trails.
- e) A community benefits charge shall be in the amount of 4% of the value of the land, which is subject to development or redevelopment, as

determined by an appraisal. The community benefits charge by-law shall specify the requirements of this valuation. Any changes to the Planning Act that affect the above noted value shall not require an amendment to this Plan.

### **18.13 Official Plan Review**

- a) Council will determine the need to carry out a comprehensive review of this Plan at intervals of approximately five years. The purpose of this review will be to measure the performance of the Plan's policies against its goals, and to revise goals, policies or means of implementation where deemed necessary. In addition, during this review, this Plan will be amended to conform with amendments to the Niagara Regional Policy Plan, Provincial Growth Plan, Provincial Policy Statements and Planning Act. As a result of this review process, this Plan may be amended from time to time.
- b) Housekeeping amendments shall be carried out as required to address changes in legislation or where there is a demonstrated need for policy revisions on certain issues. These revisions shall be processed as amendments under the Planning Act.
- c) Amendments to this Plan shall not be required for Office Consolidation of the Plan; or for changes such as typographical, editorial, or formatting corrections to text or Schedules, which do not change the intent of the Plan.

### **18.14 Land Severances**

#### **18.14.1 General Policies for Consents**

- a) Development will be in accordance with the designated uses as shown on the Official Plan Land Use Maps and the provisions of the Zoning By-law.
- b) Any lot or remnant parcel created must have adequate frontage on a public road that is maintained year-round and is of an adequate standard of construction to provide access for the intended use.
- c) No land severance shall create a traffic hazard, or have limited sight lines on curves or grades.
- d) Access to a Provincial Highway, a Regional road or a local road shall be in accordance with the access provisions of the appropriate road authority.
- e) Consents will not be granted when any parcel involved requires access to be obtained where a traffic hazard would be created because of limited sight

lines on curbs or grades or in proximity to intersections. The geometric and safety requirements of the applicable road authority shall apply.

- f) Consent will be granted only when it has been established that for all parcels involved, soil and drainage conditions are suitable to permit the proper siting of a building, to obtain a sufficient and potable water supply where applicable and permit the installation of an adequate means of sewage disposal. Consents requiring installation of septic tank systems, or other private sewage disposal systems will meet appropriate standards of the Ontario Building Code.
- g) Consent will be granted only when confirmation of sufficient reserve sewage system capacity and reserve water system capacity within municipal sewage services and municipal water services.
- h) No land severance shall be permitted in any hazardous area that is subject to flooding, erosion or steep slopes except for a severance, which meets the satisfaction of the Ministry of Natural Resources or the Niagara Peninsula Conservation Authority. This may include a requirement for an adequate setback from stable top of slope.
- i) No land severance shall be permitted unless adequate lot grading and drainage can be addressed. Further, no land severance shall be permitted unless drainage can be properly outlet from the area, without impacting neighbouring properties, to the satisfaction of the Township.
- j) Any consent will be required to conform with the policies of this plan and the provisions of the Zoning By-law.
- k) Where a consent is granted which does not conform with the Plan or Zoning By-law, the Municipality may appeal the decision to the Ontario Municipal Board.
- l) Consents will be permitted for infrastructure corridors and facilities where easements or rights of ways are not feasible.

#### **18.14.2 Agriculture Consent Policies**

In areas designated "Agriculture" on the Land use Plan, consents for conveyance will be in accordance with the following Policies and Actions:

- a) Where the land being conveyed or retained is for agricultural purposes, consent may be granted where both the severed and the retained parcels respect the need for long term agricultural flexibility. In determining if the land is to be used for agricultural purposes, the following criteria will be met:

- i. Agriculture must be the intended use of the lands being retained and severed
  - ii. Smaller lot severances for greenhouses can be permitted subject to the condition that any new dwellings on the property are allowed only after the greenhouse and other farm buildings have been constructed or substantially completed. It is important that small lot severances for greenhouse operations be of sufficient size so that these ample room for future purposes.
- b) Where the land being conveyed or retained is for a commercial or industrial use which is related to the processing of agricultural products or the servicing of farms and is required in proximity to farms, a consent may be granted subject to the agriculture policies of this plan as they apply to Agriculture Commercial and Industrial Uses.
- c) Where the land being conveyed is from an existing non-farm parcel, a consent may be granted to sever lands to be added to an existing abutting farm operation.
- d) Where the land being conveyed is to be added to an abutting, existing non-farm use, consents will be allowed provided that a minimum amount of productive agricultural land is involved and the conveyance is for legal or technical reasons.
- e) Conveyances for agricultural purposes will be subject to the applicable minimum distance separation requirements and where intensive animal operations are involved a Nutrient Management Plan or other Municipal or Provincial approvals will be required prior to severance.
- f) Where land is being conveyed as part of a minor boundary adjustment, which do not result in the creation of a new lot, consent applications are permitted for legal or technical reasons.
- g) Consents will not be allowed which have the effect of creating lots for non-farm uses. Non-farm rural residential lots will not be allowed with the exception of Surplus Farm Dwelling severances. In the Good General Agricultural Area where a dwelling is acquired through farm consolidation and is surplus to the needs of the farm operation it may be severed subject to the following:

*(added by OPA No. 47)*

  - i. The residence is surplus to a farm operator (bona-fide farmer); and
  - ii. That the residence subject to the application for consent is at least 10 years of age, as of the date of application; and,
  - iii. It is the intention to utilize the existing dwelling and the Council and/or Building Inspector will not issue a demolition permit or

- building permit for a new residence unless the existing residence has been occupied for a reasonable length of time, or has, after transfer, been partially destroyed by fire or other natural disaster; and,
- iv. Where a barn exists in the immediate vicinity to the surplus residence on the lands that are subject to the consent, the Committee may require the demolition of the barn; and,
  - v. That the area to be severed and the remnant parcel shall comply with the provisions of the Zoning By-law. In greater detail, the retained agricultural lands shall have a minimum of 10 hectares being actively used for the growing of crops, the raising of livestock or the raising of other animals for food, fur or fiber; and,
  - vi. That the consent complies with the Minimum Distance Separation Formula I; and,
  - vii. The separated residential parcel has a lot size of 0.4 hectares (1 acre) except to the extent of any additional area deemed necessary to support the residence and the private services required to serve that residence, as determined through a septic evaluation. Under no circumstances shall a severed residential lot be greater than 1.0 hectares. The created lot must be of regular shape (i.e. rectangular or square) whenever possible; and,
  - viii. The remnant farmland shall be rezoned Agricultural Purposes Only (APO) in perpetuity or be merged on title with an abutting piece of Agricultural lands, provided the lands are not already zoned Agricultural Purposes Only (APO); and,
  - ix. Where there are two or more dwellings legally existing on one lot, and neither was built for the purpose of a permanent farm help house, only one surplus farm severance shall be permitted in compliance with this policy; and,
  - x. Farm Help houses are not eligible for surplus farm dwelling severances.
- h) Consents will not be allowed which have the effect of creating lots for non-farm uses. Non-farm rural residential lots will not be allowed with the exception of Surplus Farm Dwelling severances. In the Unique Agricultural Area, where a dwelling is acquired through farm consolidation and is surplus to the needs of the farm operation it may be severed subject to the following: *(added by OPA No. 47)*
- i. The residence is surplus to a farm operator (bona-fide farmer); and,
  - ii. That the residence subject to the application for consent existed as of the date that the Provincial Greenbelt plan came into effect (December 16, 2004); and,
  - iii. It is the intention to utilize the existing dwelling and the Council and/or Building Inspector will not issue a demolition permit or building permit for a new residence unless the existing residence has been occupied for a reasonable length of time, or has, after

- transfer, been partially destroyed by fire or other natural disaster; and,
- iv. Where a barn exists in the immediate vicinity to the surplus residence on the lands that are subject to the consent, the Committee may require the demolition of the barn; and,
  - v. That the area to be severed and the remnant parcel shall comply with the provisions of the Zoning By-law. In greater detail, the retained agricultural lands shall have a minimum of 10 hectares being actively used for the growing of crops, the raising of livestock or the raising of other animals for food, fur or fiber; and,
  - vi. That the consent complies with the Minimum Distance Separation Formula I; and,
  - vii. The separated residential parcel has a lot size of 0.4 hectares (1 acre) except to the extent of any additional area deemed necessary to support the residence and the private services required to serve that residence, as determined through a septic evaluation. Under no circumstances shall a severed residential lot be greater than 1.0 hectares. The created lot must be of regular shape (i.e. rectangular or square) whenever possible; and,
  - viii. The remnant farmland shall be rezoned Agricultural Purposes Only (APO) in perpetuity or be merged on title with an abutting piece of Agricultural lands, provided the lands are not already zoned Agricultural Purposes Only (APO); and,
  - ix. Where there are two or more dwellings legally existing on one lot, and neither was built for the purpose of a permanent farm help house, only one surplus farm severance shall be permitted in compliance with this policy; and,
  - x. Farm Help houses are not eligible for surplus farm dwelling severances.

#### **18.14.3 Natural Environment Consent Policies (for EPA & ECA lands)**

In areas designated Natural Environment on the Land Use Plan, consents for conveyance will be granted in accordance with the following policies:

- a) All consents must conform with the Natural Environment policies of the plan.
- b) Consents may be granted for the conveyance of land to public bodies or agencies engaged in the protection, reestablishment and management of the natural environment.
- c) Consents may be granted where both the severed and retained parcels satisfy the agricultural policies of this plan.
- d) Consents may be granted for title correction purposes and for minor lot boundary adjustments.

#### **18.14.4 Consent Policies for Smithville**

In areas designated on Schedule 'B-4' on the Land Use Plan, consents for conveyance will be granted in accordance with the following policies:

- a) It is intended that most new lots will be created by the registered plan of subdivision process subject to the policies of this Plan and The Planning Act (RSO 1990).
- b) If a registered plan of subdivision is determined not to be necessary, consents may be granted subject to the goals and policies of this Plan and the following criteria:
  - i. Consents will be granted only in areas where the undue extension of any major service will not be required.
  - ii. Consents will be granted only when all the created parcels involved abut on an existing public road of standard construction acceptable to the Municipality.
  - iii. Consents shall have the effect of infilling existing built-up areas and not of extending built-up areas unduly.
  - iv. Consents will not be granted which will hinder or restrict the interior development of a block of land.
- c) The granting of a land severance may be made conditional upon a development agreement between the Township and the applicant.

#### **18.14.5 Hamlet Settlement Areas**

In area designated as Hamlet Settlement Areas on the Land Use Plan, consent for conveyance will be granted in accordance with the following policies.

- a) The minimum lot size for lots created in a Hamlet designation shall be approximately 1.0 hectare as required to satisfy the Township Building Department and Part 8 of the Ontario Building Code for long term operation of a waste disposal system, unless a hydrological assessment determines that a smaller lot size will be adequate to accommodate private water and sewage treatment facilities.
- b) Where lands are proposed for severance along the Hamlet Settlement Area boundary, the remnant parcel outside the Hamlet Settlement Area boundary shall be rezoned APO (Agricultural Purposes Only).



- c) Severances for correcting or adjusting lot boundaries or for conveying land to an abutting lot for land assembly purposes may be granted provided:
  - i. The conveyance does not lead to the creation of an undersized or irregularly shaped lot unsuited for its intended purpose and contrary to the requirements of the Zoning By-law.
  - ii. The lands being conveyed will be registered in the same name and title as the lands with which they are being merged.
  - iii. Severances may be granted for the conveyance of land to public bodies or agencies engaged in the protection, re-establishment or management of the natural environment.
  - iv. Creation of lots for industrial, commercial, or public uses may be undertaken by registered plan of subdivision or the consent of the Committee of Adjustment subject to the policies of the Official Plan and the provisions of the Zoning By-law.

## **18.15 Non-Complying Standards of Development and Non-Conforming Uses**

### **18.15.1 General**

It shall be a policy of this Plan to differentiate between non-conforming standards of development and non-conforming uses of land. In this regard, the policies of Subsections 17.14.2 and 17.14.3 below apply.

### **18.15.2 Non-Complying Standards of Development**

- a) The extension or enlargement of any building or structure, the use of which is in compliance with this Official Plan and the applicable Zoning By-law, but which does not comply with the standards of development (i.e. lot area, setbacks, parking, landscaping) shall not be considered a non-conforming use under Subsection 17.14.3 below or Section 34 (10) of The Planning Act, 1990.
- b) Relief from current standards of development as set out in the Zoning By-law shall be based on the merits of each application and may be considered by amendment to the Zoning By-law or by minor variance through the Committee of Adjustment.

### **18.15.3 Non-Conforming Uses**

- a) A land use which is lawfully in existence prior to the passage of the implementing Zoning By-law and which continues to be utilized for such



purpose may continue as a legal non-conforming use or may be deemed to conform to the intent of the Plan for the purpose of the By-law. In the latter case, such uses may be zoned in accordance with their present use and performance standards provided:

- i. The zoning does not permit any significant change of use of performance standards that will result in or aggravate any situation detrimental to adjoining land uses;
  - ii. The use does not constitute a danger to surrounding uses by its hazardous nature of the traffic which it generates;
  - iii. The criteria of subsection (b) are satisfied; and
  - iv. The lands shall be subject to the site plan control provisions of Section 41 of The Planning Act, 1990.
- b) In accordance with Section 34(10) of The Planning Act, 1990, council may amend a By-law passed under Section 34 to permit the extension or enlargement of any land, building or structure prohibited by the Zoning By-law provided the following requirements are met. The Committee of Adjustment will be similarly guided in considering applications under Section 45 of the Planning Act, 1990;
- i. It is not possible to relocate such a use to a place where it will conform to the By-law;
  - ii. The proposed extension or enlargement will not unduly aggravate the situation already created by the existence of the use and should, if possible, be designed to alleviate adverse effects of the use such as outside storage;
  - iii. The abutting uses will be afforded reasonable protection by the provision of appropriate buffering and setbacks;
  - iv. The proposed extension or enlargement should be in appropriate proportion to the size of the non-conforming use;
  - v. Adequate provision will be made for safe access and adequate off-street parking and loading facilities;
  - vi. All services, including private sewage disposal and water supply systems, shall be or can be adequate; and
  - vii. The expansion is not detrimental to the neighbourhood in consideration of the following:

1. History of complaints;
2. Effect on the character of the neighbourhood;
3. Amount and type of signage;
4. Unnecessary noise, odours, traffic or parking problems;
5. Compliance with the Minimum Distance Separation Formulas and;
6. The quality of the agricultural land including soils, climate, and the nature of the agricultural activity in the area.

## **18.16 Hazardous and Obnoxious Uses**

### **18.16.1 Background**

No land shall be used and no building or structure shall be erected, altered or used for any purpose which is obnoxious, and without limiting the generally of this subsection for any purpose that creates or is likely to become a nuisance or offensive, or both.

- a) by the creation of noise or vibration, or
- b) by reason of the emission of gas, fumes, smoke, dust, or objectionable odour, or
- c) by storage or use of toxic wastes including PCB's, or
- d) by reason of the unsightly storage of goods, wares, merchandise, salvage, refuse matter, motor vehicles, trailers, or parts of vehicles or trailers, machinery or other such material.

Notwithstanding the above, any use which is operating in accordance with all applicable Federal, Provincial and local rules and regulations is deemed not to be obnoxious.

## **18.17 Preconsultation/Complete Application**

### **18.17.1 Preconsultation**

Pre-consultation provides an opportunity for an applicant to ascertain what is required to be submitted for a complete application under the Planning Act, any Provincial Plans, the Regional Niagara Policy Plan and this Plan. It will provide the opportunity to discuss the nature of the application, development and planning issues, the need for additional information and the planning process. Preconsultation may also involve the Niagara

Region, the Niagara Peninsula Conservation Authority, Provincial Ministries or other agencies that may have an interest in the application as determined by the Township.

- a) Pre-consultation between the applicant and the Township is required prior to the submission of an application for an official plan amendment, zoning by-law amendment, a request for a Minister's Zoning Order or an application under the Community Accelerator Tool, draft plan of subdivision, draft plan of condominium, consent or site plan control. Completion of the preconsultation process and preparation of studies and information in accordance with the requirements stated in pre-consultation shall be considered a requirement for submission of a complete application
- b) Notwithstanding Section 14.1.1, the Director of Planning and Building or designate may determine that pre-consultation is not necessary based on the scale of development or the complexity of planning issues associated with the proposed application.
- c) Pre-consultation will determine what is required to be submitted for a complete application and will provide the opportunity to discuss the nature of the application; development and planning issues; the need for additional information and/or reports to be submitted with the application; and the planning and approval process including the appropriateness of concurrent applications, where applicable.
- d) Pre-consultation shall involve two stages:

Stage 1 – Pre-Consultation

Identifying the studies, information and material to be submitted with a complete application and preparation and approval of any necessary terms of reference.

Stage 2 – Complete Application Review

Evaluation and review of studies, reports, information and material to determine if such studies, report information and material are complete and meet requirements stipulated in a pre-consultation checklist. Such review shall occur within the provisions of the Planning Act for a complete application.

- e) The Township may consult with agencies which may have an interest in a proposed application, including but not limited to the Region, Niagara Peninsula Conservation Authority, Provincial Ministries, electric generation or transmission entities and railways or other agencies that may have an interest in the application as determined

by the Township in determining if the submission meets the requirements of a complete application.

- f) The Township may pass a by-law requiring and establishing the requirements of mandatory pre-consultation, including but not limited to the following:
  - i. Expiry dates of pre-consultation checklists
  - ii. Requirements to resubmit a preconsultation request to address substantial changes to a proposal
  - iii. Fees for pre-consultation which may include fees for preparation and review of terms of reference
  - iv. The format of the pre-consultation meeting including required and eligible participants

#### **18.17.2 Complete Application Requirements**

- a) Complete applications are those that contain all reports, studies and information required by the Planning Act, any Provincial Plans, the Regional Niagara Policy Plan and this Plan. A complete application allows Council, the public, municipal staff and commenting agencies to review all relevant information early in the process resulting in fewer processing delays and provides Staff and Council with the required information to make solid recommendations and decisions. In order to ensure that all possible information is available to the Township, the public and agencies involved in reviewing an application under the Planning Act, the prescribed information required under the Planning Act shall be provided along with additional information and/or reports that may be required, as determined through preconsultation, such as, but not limited to, the following:
- b) A planning justification report describing the appropriateness of the site for a proposed use and compatibility of the proposed development with surrounding land uses and consistency with the Planning Act and its Policy Statements and conformity with any Provincial Plans, the Regional Niagara Policy Plan and this Plan.
- c) A neighbourhood plan, to determine how a development may integrate into surrounding lands that may be subject to development or redevelopment.
- d) A needs study for residential proposals for development within a local and

## Regional context.

- e) A servicing study addressing the availability of adequate municipal services and facilities for the proposed use and its impact on existing municipal services and facilities and may include servicing modelling, or a private sewage disposal or water servicing plan addressing the impact on the quality and/or quantity of surface or ground water. This includes a storm sewer drainage or risk management plan required.
- f) A hydrology, hydrogeology and/or sub-watershed study to determine to address any impacts on an aquatic natural heritage system, including groundwater.
- g) A private well assessment and well monitoring report to evaluate impacts on private wells or water supply systems.
- h) An environmental impact study for proposals located on or adjacent to:
  - i) lands containing natural heritage features; and
  - ii) lands within 120m of a Provincially Significant Wetland or a Wetland regulated by the NPCA which is greater than 2ha, 50m of a Significant Habitat of a Threatened or Endangered Species, a Provincially Significant Life Science ANSI or any lands designated as Environmental Conservation Area within the Plan; or 30 m of a fish habitat, flood/erosion hazard, or a Wetland regulated by the NPCA and less than 2ha in size.
- f) A species at risk study.
- g) A slope stability or geotechnical study for proposals within or adjacent to valleylands, steep slopes or hazard lands.
- h) A traffic impact study where the development proposal may affect traffic patterns, safety or the intensity of traffic or revisions to a roadway or entrance.
- i) A parking demand analysis, where a reduction in parking requirements is proposed, to determine an appropriate parking supply.
- j) A sight line analysis, which may be included in a traffic impact study, to evaluate the safety of entrances and exits into a site.
- k) A construction impact mitigation study, to address the mitigation of impacts on surrounding properties, including but not limited to

construction traffic management, vibration mitigation and haul routes.

- l) A photometric analysis, to determine how the impacts of floodlighting on surrounding streets and properties will be mitigated.
- m) A parking demand analysis to examine parking needs and their impact on-site or off-site and on adjacent lands.
- n) A microclimatic assessment that addresses sun shadowing, pedestrian scale wind impacts, snow and ice hazards of a development on the subject lands as well as surrounding properties and roads.
- o) An agricultural impact assessment for non-agricultural uses proposed outside of the Urban Area Boundary to evaluate the capability of the site for agricultural use including soil, micro-climate and drainage conditions, the pattern of agricultural or non-agricultural activities, and any potential impacts on surrounding agricultural activities.
- p) A tree inventory and tree preservation plan, where an individual significant tree or any group of trees, including a woodland as defined by the Region's Tree and Forest Conservation By-law, may be impacted by a proposed development.
- q) The impact of the proposed development on the quality and quantity of ground and surface water and the watershed and, if required, the identification of methods of protection, including a stormwater management plan.
- r) A noise and vibration study and an air quality study to address impacts of roads, rail lines, air traffic etc. on development proposals involving residential uses and other similar sensitive uses.
- s) A land use compatibility study in accordance with Provincial regulations and guidelines, including D Series guidelines, which may include one or more of the studies listed under 14.2.1.20 of Part 4 of this Plan, to address the impacts of industrial uses on residential uses and other similar sensitive uses.
- t) A cultural heritage impact study where development is proposed on or adjacent to lands, structures, or buildings listed on the Township's Register of Heritage Properties, or is proposed within or adjacent to a cultural heritage landscape.
- u) A park and trail needs assessment that demonstrates how the proposed development integrates or conforms with the Township's Bike and Trails

Master Plan or any other plan that the Township may pass from time to time.

- v) An archaeological study if the lands are within an area of archaeological potential.
- w) A financial impact study addressing the financial implications of the proposal on the Township, neighbouring lands or the general market in the Township.
- x) The location, size and type of livestock operation proposed or within the vicinity of a new lot or land use outside of the urban area boundary in accordance with the information required for calculation of a Minimum Distance Separation.
- y) An Environmental Site Assessment (Phase 1, 2 or 3) where there is the potential of contamination of land due to previous uses that will assess existing conditions and address the need for further environmental testing or remediation in accordance with Provincial regulations and guidelines. Such Environmental Site Assessment may include a Letter of Reliance from a qualified professional that state the Township or relevant agencies are authorized to rely on information and opinions provided in such Assessments. However, where the development or redevelopment proposal is subject to an environmental assessment or related assessment or study pursuant to the Environmental Assessment Act, the Environmental Protection Act, or other pertinent legislation, additional studies may not be required.
- z) A public consultation and future consultation strategy report, to identify methods to engage the public.
- aa) One or more plans to illustrate the current site conditions and the proposed development, which may include but is not limited to a site plan which may include an Ontario Building Code Matrix, zoning compliance review and road widening details, elevation plan, landscape plan/details, streetscape plan, site grading plan, site servicing plan, erosion and sediment control plan, drainage area plan, topographical and boundary survey, conceptual and contextual plans.
- bb) An urban design brief.
- cc) Information, studies and/or reports shall be prepared by a qualified professional and submitted in an electronic format along with a hard copy to the Township to make this information readily available to the public and commenting agencies including, but not limited to, the Region and Niagara Peninsula Conservation Authority. Where the Township,

Region, Niagara Peninsula Conservation Authority or other agency has requested additional information and/or reports, there may be a request for a peer review of any information and/or report. The applicant shall be responsible for all costs for a peer review which shall be payable upon submission of an invoice from the Township, Region, Niagara Peninsula Conservation Authority, or any other agency.

dd) Any information, studies and/or reports shall be prepared in accordance with requirements of the Planning Act and any Provincial policy statements or plans that are in effect, as well as terms of reference approved through a preconsultation process and the requirements and guidelines adopted by the Township and other agencies who may have an interest in the application.

ee) The Director of Planning and Building or their designate shall be responsible for determining whether a planning application is complete. If an application is submitted without preconsultation, adequate supporting information and/or reports, and any application review fees required by the local municipality, the Region, Niagara Peninsula Conservation Authority or any other public agency, the application may be deemed to be incomplete.

ff) The Director of Planning and Building or their designate shall determine if revision requests made subsequent to the submission of a complete application meet the intent of the original application. Substantial changes to an application may require a new pre-consultation and the filing of a new application. Revisions made to an application in response to Township or agency comments, or in response to public comments, shall not require the filing of a new application.

a) ~~Pre-consultation between the applicant and the Township is required prior to the submission of an application for an Official Plan Amendment, Zoning By-law Amendment, draft plan of subdivision, draft plan of condominium, or site plan control unless the Director of Planning or designate determines that pre-consultation is not necessary based on the scale of development or the complexity of planning issues associated with the proposed application. Pre-consultation will determine what is required to be submitted for a complete application and will provide the opportunity to discuss the nature of the application; development and planning issues; the need for additional information and/or reports to be submitted with the application; and the planning and approval including appropriateness of concurrent applications, where applicable. Pre-consultation may also involve the Region of Niagara, the Niagara Peninsula Conservation Authority or other agencies that may have an interest in the application as determined by the Township. A by-law shall be approved by Council requiring pre-~~



~~consultation. Pre-consultation shall be considered a requirement for the submission of a complete application.~~

- ~~b) In order to ensure that all possible information is available to the Township, the public and agencies involved in reviewing an application under the Planning Act, the prescribed information required under the Planning Act shall be provided along with additional information and/or reports that may be required, as determined through pre-consultation, such as but not limited to the matters outlined in subsection 17.16.1. Nothing in the Plan shall prevent the requirement of additional studies after pre-consultation if, in the opinion of the Director of Planning or designate, the study is required to evaluate the application. Upon review of the studies required under this clause, updates, corrections or other modifications may be required prior to any decisions being made.~~
- ~~c) Information and/or reports shall be prepared by a qualified professional and submitted in an electronic format and/or a hard copy to the Township to make this information readily available to the public and commenting agencies including the Region of Niagara and the Niagara Peninsula Conservation Authority. Where the Township, the Region of Niagara, or the Niagara Peninsula Conservation Authority has requested additional information and/or reports, there may be a request for a peer review which shall be payable upon submission of an invoice from the Township, the Region of Niagara or the Niagara Peninsula Conservation Authority.~~
- ~~d) The Director of Planning or their designate shall be responsible for determining whether a planning application is complete. If an application is submitted without pre-consultation, adequate supporting information and/or reports, and any application review fees required by the Township, the Region, the Niagara Peninsula Conservation Authority or any other public agency, the application shall be deemed to be incomplete.~~
- ~~e) Schedule for Complete Application (The Township may require one or more of the following studies as part of a complete application)~~

<b>Information Requirement</b>	<b>Application/Development Scenario</b>
Planning Justification Report	A report demonstrating how a proposed development or site alteration meets goals, objectives and policies of Provincial plans and policy statements, the Regional Policy Plan and the Township's Official Plan and provides an indication of whether it conforms to applicable Provincial plans and policies.

Conceptual Site Plan	Any development proposal for major commercial, industrial, institutional or multiple residential to include a conceptual site plan illustrating the development pattern of the lands in question.
Land Use/Market Needs Report	Any proposal for major commercial or residential development to consider the existing supply of available land and future land use needs in the Township and in the Region.
Urban Design/Landscape Plans	Any proposal for infill development, redevelopment or intensification or where a site plan agreement is required will include plans illustrating how the proposal will be compatible with the character of adjacent uses and the surrounding neighbourhood. These plans and related descriptive details may include building elevations shadow/wind impacts and streetscaping.
Archaeology Assessment	Any development or site alteration proposed in proximity to lands that contain known archaeological resources or areas of archaeological potential.
Cultural Heritage Impact Analysis	Any development or site alteration proposed on or adjacent to lands, structures or buildings designated under the Ontario Heritage Act or listed on an approved heritage resource inventory.
Environmental Impact Study	Any proposal for development or site alteration within or adjacent to any natural heritage feature or natural hazard identified on the Region's Core Natural Heritage Map, the regulated area of the Niagara Peninsula Conservation Authority or the Township's Official Plan shall provide an inventory and assessment of ecological features and functions to determine areas to be protected and any mitigation measures.

Environmental Planning Study or Sub-Watershed Study	Any proposal for a secondary plan or an urban boundary expansion to include an environmental inventory and assessment with recommendations on where development may take place, features to be protected, appropriate policies for planning documents, and an environmental management plan to maintain, enhance, restore and monitor environmental conditions both during and after development. Any environmental planning study or sub-watershed plan shall address the guidelines and terms of reference of all agencies with jurisdiction.
Tree Preservation Plan	Any development or site alteration that may have adverse effects on a significant tree or group of trees, including woodland as defined by the Region's Tree and Forest Conservation By-law. A significant tree may be one that because of its size, age or species it is considered to be significant to the neighbourhood, streetscape or cultural heritage landscape.
Floodplain and Hazard Lands Mapping	Any development or site alteration proposed near floodplains or hazard lands identified by the regulations of the Niagara Peninsula Conservation Authority.
Geotechnical Report	A report to provide detailed information of soil composition, stability and limitations for the type of development proposed.
Environmental Assessment	Any development or site alteration on lands or adjacent lands that were previously used for a purpose that may have caused contamination of the property should be accompanied by one or more reports to assess existing conditions and address needs for any further environmental testing or remediation necessary in accordance with Provincial regulation and guidelines.

Air Quality/Noise & Vibration Study	Any development for a sensitive land use that is located near a major facility such as transportation corridor, industrial use, sewage or water treatment facility, pumping station or landfill operation.
Agricultural Impact Assessment	Any proposed development or site alteration for a non-agricultural use on lands situated outside the Urban Area to evaluate the capacity of the site for agricultural use including soil, microclimate and drainage conditions, the existing pattern of agricultural or non-agricultural activities, and any potential impacts on surrounding agricultural activities.
Farm Operation and Ownership	Any development or site alteration for a secondary use to agriculture or an application for consent on lands designated for agricultural purposes.
Alternative Site for Non-Agricultural Uses	A non-agricultural use proposed in an Agricultural area will demonstrate that there are no reasonable alternative locations available in Urban Areas, Hamlet Areas or lower priority agricultural lands in the Region.
Minimum Distance Separation I & II	A non-agricultural use proposed adjacent to an active or potential livestock facility will include a review of these facilities and calculations to determine conformity with Minimum Distance Separation requirements.
Mineral Aggregate Resources Impact Study	Where development or site alteration is proposed on lands within or adjacent to an area of known mineral aggregate resources, it shall be demonstrated that the resource use will not be hindered in the future, that the proposed development or use serves a greater long term public interest, and that other impacts are evaluated.
Municipal Servicing Study	To address the availability of adequate municipal services and impacts on existing municipal services and facilities.

Stormwater Management Plans	To address how stormwater runoff will be handled in terms of water quality, quantity, lot grading and drainage controls, and erosion and sedimentation measures.
Traffic/Parking Impact Analysis	Any development or site alteration that may have a significant impact on traffic flow and safety which may include an analysis of parking standards.
Hydrogeological Study and Private Servicing plans	Any development outside of the Urban Area where private sewage disposal and water systems are proposed should provide an assessment of soil and groundwater conditions, an evaluation of the ability of the site to accommodate private services and a plan illustrating the location of services, drainage and lot grading.
Financial Impact Analysis	To address financial implication of a proposed development on the provision of municipal services and utilities that may cause a financial, environmental or economic hardship for the Township and Region.

### 18.18 Home Industry

Home industries may be permitted in the Agricultural and Hamlet Area subject to the following: *(amended by OPA No. 47)*

- a) The use is small in scale and remains secondary to the principal use of the property, and in the Agricultural Area home industries shall be secondary to the principal agricultural use of the property. *(amended by OPA No. 47)*
- b) In the Agricultural Area, all of the property remains designated and zoned agricultural,
- c) New uses are compatible with and do not hinder surrounding agricultural uses,
- d) The use complies with other policies in the Plan, and
- e) No future severance is permitted in the Agricultural Area

The permitted locations, size, activities and other aspects of a home industry shall be established in the implementing zoning bylaw. *(amended by OPA No. 47)*

### **18.19 Land Use Compatibility**

Sensitive land uses shall be protected from the adverse impacts of noise, vibration, odours, emissions, litter, dust and other contaminants. In order to achieve this, Council will request that appropriate studies be undertaken where sensitive land uses may be impacted. Such studies shall be submitted to Council prior to approval in principle of a development or land use change (i.e.: prior to establishing the principle of development).

### **18.20 Potentially Contaminated or Brownfield Sites**

Potentially contaminated or brownfield sites are sites where the environmental condition of the property or properties may have potential for adverse effects on human health, ecological health or the natural environment. In order to prevent these adverse effects, prior to permitting development on these properties, it is important to identify these properties and ensure that they are suitable or have been made suitable for the proposed land use(s) in accordance with provincial legislation, regulations and standards.

While the identification of potentially contaminated sites is important in the planning application review process, the policies in this section should not be interpreted as a commitment on the part of the Township to identify all contaminated sites. Rather, these policies should be regarded as an effort by the municipality to responsibly utilize available information in the planning application review process to help ensure that development takes place only on sites where the environmental conditions are suitable for the proposed use of the site.

#### **18.20.1 Policies**

- a) The following list of general uses represents current or past activities on a property that may be causing or may have caused environmental contamination:
  - i. activities involved with the elimination or disposal of waste and other residues, including, but not limited to landfill sites and waste disposal areas;
  - ii. any activities involving the storage and/or use of hazardous substances, including but not limited to fuels, oils, chemicals, paints or solvents;

- iii. railway lands.
- b) The Township will utilize available information in the planning application review process to help ensure that development takes place only on sites where the environmental conditions are suitable for the proposed use of the site.
- c) The Township will require development proponents to document previous uses of a property or properties that are subject of a planning application and/or properties that may be adversely impacting a property or properties that are subject of a planning application in order to assist in the determination of the potential for site contamination.
- d) Where the Township determines that there is a proposed change in land use to a more sensitive use on a property or properties that have been identified through the Township's planning application review process as "potentially contaminated", the Township will:
  - i. Require as a condition of planning approval, written verification to the satisfaction of the Township from a Qualified Professional as defined by provincial legislation and regulations, that the property or properties in question are suitable or have been made suitable for the proposed use in accordance with provincial legislation, regulations and standards, including where required by the Township or provincial legislation and/or regulations, filing by the property owner of a Record of Site Condition (RSC) signed by a Qualified Person in the Environmental Site Registry, and submission to the Township of written acknowledgement from the Ministry of Environment specifying the date that the RSC was filed in the Environmental Site Registry;
  - ii. establish conditions of approval for planning applications to ensure that satisfactory verification of suitable environmental site condition is received as per d) i);
  - iii. where applicable, utilize the holding provisions of the Planning Act to ensure that satisfactory verification of suitable environmental site condition is received as per d) i).
- e) Where the Township is deeded land for public highways, road widenings, parks, stormwater management, easements, or for any other purpose, the Township may require, as a condition of transfer, satisfactory verification of environmental site condition as per d) i).
- f) Development on, abutting or adjacent to lands affected by oil and gas hazards; or former mineral aggregate operations or petroleum resources operations may be permitted only if rehabilitation measures to address and

mitigate known or suspected hazards are under-way or have been completed.

- g) Contaminated sites shall be remediated as necessary prior to any activity on the site associated with the proposed use such that there will be no adverse effects.

#### **18.21 Status Zoning**

Use of land that existed legally at the date of the adoption of this Official Plan may be deemed to conform. Such uses may be zoned to reflect their present use and performance standards provided:

- a) The zoning will not permit any significant change of use or zone provisions that will aggravate any situation detrimental to adjacent conforming uses;
- b) The uses to be recognized shall be zoned in such a way that any significant enlargement, expansion or change of use must be by amendment to the Zoning By-law;
- c) They do not constitute a danger to surrounding uses and persons by virtue of their enjoyment of property; and
- d) That these uses conform with all servicing requirements including private sewage disposal systems, water supplies, and applicable approvals have been obtained; and
- e) They do not interfere with the desirable development or enjoyment of the adjacent area.

#### **18.22 Alternative forms of Housing**

In the future, the changing profile of the population in West Lincoln and in the Region will create demands for smaller and more diverse forms of housing. Specifically, the population is aging and census data indicates a continuing trend toward an increase in one (1) parent families (70% of which are lone female parents) and smaller family size. Pressure to accommodate this demand will be felt across the Region and within the Township in new and existing neighbourhoods and requires flexible and responsive municipal policies and regulations. The following is not intended to be all inclusive. As circumstances warrant other forms of housing may be considered in order to meet an identified demand.

#### **18.23 Group Homes**



Group homes provide needed housing opportunities for particular individuals within West Lincoln based on residents' physical, mental, emotional, social or legal status. In order that these group homes may locate and operate in the most suitable manner, the following policies shall apply.

- (a) The following types of Group Homes shall be permitted without an amendment to the Zoning By-law:
- i. Approved Homes (Psychiatric Care);
  - ii. Homes for Special Care (Psychiatric Care);
  - iii. Supportive Housing Programs, Adult Community Mental Health Program;
  - iv. Children's Residences;
  - v. Accommodation Services for the Developmentally Handicapped;
  - vi. Satellite Residences for Seniors;
  - vii. Homes for Physically Disabled Adults;
  - viii. Halfway Houses for the Socially Disadvantaged.

These group homes will be allowed to establish in all zones which will permit residential uses, as well as in any existing residence, provided that the lot size and configuration are sufficient to accommodate adequate parking, green space and amenity areas.

*(Original (b) deleted by OPA No. 47)*

- (b) The proposed expansion of any group home operation shall be subject to municipal review and satisfy these policies and all applicable Provincial, agency and zoning requirements.
- (c) The Township's Zoning By-law will contain provisions to guide group homes. The Township will co-operate with the various agencies having approval authority.
- (d) Group Homes may only operate subject to the provisions of this Section, the provisions of the implementing Zoning By-law and all necessary Provincial approvals. Further, all Group Homes in West Lincoln must be registered with the Township pursuant to Section 163 of the Municipal Act, 2001, S.O. 2001."

## **18.24 Delegated Authority**

- a) Council may, by by-law, delegate the authority to pass by-laws under Section 34 of the Planning Act, that are of a minor nature, to an individual who is an officer or employee of the Town (i.e., Director of Planning and Building or designate).
- b) Delegation of authority to pass by-laws under Section 34 of the Planning Act shall be limited to:
  - i. a by-law to remove a holding “H” symbol;
  - ii. a by-law to authorize the temporary use of land, buildings, or structures subject to the criteria contained in Section G4.1.2 of this Plan; and
  - iii. minor zoning by-law amendments.
- c) The delegation of authority to pass a by-law to authorize the temporary use of land, buildings, or structures and to pass minor zoning by-law amendments is subject to the following criteria:
  - i. an Official Plan Amendment is not required, and the proposal maintains the general intent and purpose of the Town’s Official Plan, including its vision, goals, objectives, and policies;
  - ii. a Draft Plan of Subdivision is not required in accordance with Section XX of the Town’s Official Plan; and
  - iii. any concerns raised by the public and/or staff during the application review and consultation process are resolved prior to the passing of the by-law.”