

<b>Prepared for:</b> Council-in-Committee	<b>Report No.:</b> CDS-074-06
<b>Agenda Date:</b> September 5, 2006	<b>File No.:</b> 350313

**Subject:**

**CONSIDERATION OF ADOPTION OF FINAL PROPOSED DRAFT OFFICIAL PLAN**

**Summary of Recommendations:**

**THAT Council approve report CDS-074-06; and,**

**THAT Council adopt the attached *“Fort Erie Official Plan Adopting By-law”* at its meeting of September 11, 2006; and,**

**THAT Staff assemble a formal Official Plan package including agency and public comments received through the process, minutes, related reports and background studies and forward same to the Region together with a request to approve the Official Plan; and,**

**THAT Public Notice of Council’s adoption of the Official Plan be provided in accordance with the requirements of the Planning Act together with direction indicating that any objections or appeals should be forwarded to the Region.**

**List of Stakeholders:**

The Corporation of the Town of Fort Erie  
Regional Municipality of Niagara  
Residents and property owners  
Realtors, Developers, and Builders

<b>Prepared by:</b>	<b>Submitted by:</b>	<b>Approved by:</b>
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### **Purpose of Report**

Report CDS-061-06 outlined recommended modifications to the Proposed Official Plan for Council based on public and agency input. The Report also identified the manner in which public comments and important agency comments were being addressed that were received on, before and after the April 19, 2006 Public Meeting. Council approved the recommendations of Report CDS-061-06 on July 10, 2006 authorizing staff to incorporate the recommended modifications to the Draft Official Plan.

This Report presents the Final Draft Official Plan, included under separate cover, incorporating the recommended modifications in CDS-061-06 and this report for Council adoption. The Report also responds to comments by delegations made on July 10, 2006, as well as public comments received in written correspondence. Finally, the Report presents a Draft Adopting By-law that will be presented formally for the approval of Council on September 11, 2006 (Provided Under Separate Cover). Modifications identified in this report as well as adopted in CDS-061-06 are shown in bold italics.

### **Background**

The presentation of the Final Proposed Draft Official Plan represents a significant milestone in the Town's land use planning program. The Official Plan is the long range planning document which identifies where and how the Town will grow. Opportunities for public input have been provided at key stages in the Official Plan update process which was initiated in 2001. The Draft Official Plan addresses key themes identified at the outset.

### **SUMMARY OF PUBLIC PROCESS**

Report CDS-061-06 provided a summary of the Official Plan Update process. On June 27, 2001 Council held a Public Meeting pursuant to Section 17 of the Planning Act to determine the need to update the Official Plan. From the June 2001 meeting, and subsequent input from local residents and stakeholders, planning staff were able to identify local concerns and desires expressed for the future of Fort Erie that would become major themes for the development of the New Official Plan. These themes are summarized as follows:

- *The need to preserve the existing natural areas of the Town including the creation of more public parkland and green spaces, especially along the Lake Erie shoreline;*
- *The need to preserve and promote the Town's rich history and tourism potential;*
- *The redevelopment of urban core areas, existing commercial areas, and neighbourhoods based on Provincial Smart Growth Initiatives;*
- *The preservation of the rural and agricultural areas of the Town, and*

- *The importance of creating an Official Plan that recognized and included the input of the residents of Fort Erie.*

These themes formed the foundation for the Official Plan and were maintained in the consideration of revisions in its development.

In addition the Town initiated separate studies that formed cornerstones for the foundation of the Town's Official Plan. These studies included the Municipal Housing Statement, Archeological Master Plan, Natural Areas Inventory, and Revised Urban Land Needs Assessment. During this time various Open Houses were held relating to these separate studies. An Agricultural Woodlots Assessment was completed by the Bert Miller Nature Club in accordance with the assessment criteria in the Natural Areas Inventory. The significance of the woodlots were identified on Schedule C of the Proposed Draft Official Plan that was made available for review and comment at Open houses and a Public Meeting in April/06.

In June 2004, the Town held two Open Houses pertaining to the first Draft Official Plan. At this time Council authorized the circulation of the first Draft Official Plan to key agencies and to make the Plan available for public comment. A significant amount of input was provided to the Official Plan Update process through the preliminary circulation of the 2004 Draft Official Plan. Comments were received from the Ministry of Municipal Affairs incorporating the concerns of other provincial agencies through the one window approach, the Regional Planning and Development Department, Niagara Peninsula Conservation Authority, and numerous public comments.

Obviously one of the important new sections of the Proposed Official Plan is the Natural Heritage Section. With respect to Environmental Conservation Areas the first Draft of the Official Plan had the underlying designation being the predominant designation. The policies were subsequently modified as per the Second Draft reviewed and discussed at the April 19/06 Public Meeting to indicate development can only proceed if the Natural Heritage policies of the plan can be satisfied. The strengthening of the policies is more in keeping with the recommendations of the Town's Natural Areas Inventory, Provincial Policy Statements and Regional Plan Amendment #187.

In mid April 2006, two Open Houses were held, prior to the Public Meeting, to outline key components of the Proposed Official Plan to the public. On April 19, 2006, Council held the Public Meeting under the Planning Act. Public input was received at the Open Houses and Public Meeting, as well as before and after these meetings.

Further delegations were made and correspondence received on the Proposed Draft Official Plan and recommended modifications on July 10, 2006.

## **Analysis**

### **DELEGATIONS- JULY 10, 2006**

Comments presented by delegations at the July 10, 2006 Council-in-Committee meeting and staff's response are attached as Appendix 1.

One of the delegations by Urban and Environmental Management (Mr. Rick Brady), related to an Environmental Protection Area designation on the lands associated with 767 Garrison Road. It is the consultant's preference this designation be removed. It is staff's recommendation that Council not defer the designation for 767 Garrison Rd because it is preferred for Council to explicitly state what the preferred land use of the site should be. In order to be consistent with provincial policy, the mapping therefore for the site has not been changed. However, Council has the option to designate the entire site for commercial purposes in support of the applicant's request and allow its ultimate disposition to be determined by the Region and MNR.

Mr. Feiertag attended as a delegation on July 10, 2006 concerning urban area boundary refinements concerns relative to his property. Planning staff's response is in Appendix 2M.

### **WRITTEN CORESPONDENCE- PUBLIC COMMENTS**

Staff response to public comments submitted on, just prior to or after Council-in-Committee's consideration of report CDS-061-06 at the July 10<sup>th</sup> meeting are outlined in Appendixes 2A to 2N. The actual written correspondence received is also attached.

### **ADDITIONAL MAPPING AND POLICY MODIFICATIONS**

#### **Abino Dunes Development**

Report CDS-061-06 indicated that staff would meet with NPCA staff to determine if any policy or mapping refinements were necessary to reflect the Abino Dunes Development which is reflected by detailed site specific zoning provisions, prior to bringing the Revised Proposed Official Plan to Council for adoption.

Most of the Abino Dunes Development is shown as Environmental Protection Area (EPA) in the Proposed Draft Official Plan, with a portion of the development as Rural Residential and Open Space. The EPA designation reflects backwater flooding areas and Dune Protection Areas (Hazard Lands) identified and generally regulated by the Niagara Peninsula Conservation Authority (NPCA). Some areas intended for residential development according to the site specific zoning by-law provisions were designated as an EPA in the Proposed Draft Official Plan.

Town Planning and Conservation Authority staff met to discuss necessary mapping refinements given the development permitted by the existing zoning for the subject lands. The development of the site was established by a site specific Official Plan amendment sometime ago. This amendment was carried over into a Special Policy designation in the existing Official Plan and corresponding detailed site specific zoning provisions have been incorporated in to the zoning by-law identifying the developable areas. The NPCA has agreed these developable areas can be designated as Rural Residential, but that areas designated as Open Space should be designated as Environmental Protection Areas to better reflect flooding and Dune Protection areas. The

Open Space designation would permit other land uses not compatible with the environmental areas. The mapping modifications are illustrated in Appendix 3.

Policy wise, SUBSECTION 4.7.4.4 RURAL RESIDENTIAL IN THE POINT ABINO AREA will be amended by adding the following policy:

II. Development within the Abino Dunes Development shall be in accordance with the provisions of Zoning By-law 129-90, as well as subject to Site plan Control.

There are some other rural residential and other uses such as the church and yacht club in the Point Abino Area that will be designated as Environmental Protection area because of Natural Hazards areas. There are non-conforming policies in the Proposed Official Plan that allow the zoning of longstanding uses that do not conform to the Official Plan. Furthermore, the Proposed Official Plan contains a Policy under Section 8 Natural Heritage which states:

*" Notwithstanding the Environmental Protection Designation, an appropriate zoning category will be applied to, or maintained for, existing development outside the 1:100 year floodplain or backshore flooding areas that recognizes the existing and approved residential use of the lands."* This Policy will also assist in maintaining an appropriate zoning for existing uses in this area. It is recommended the word "**residential**" be taken out of the Policy to allow the Policy to address other existing uses.

### **Jarvis Street/ Bridgeburg Community Improvement Plan**

It is recommended the Draft Official Plan be modified to incorporate the site specific policies related to the Façade Improvement Plan for the area, prior to repealing the existing Official Plan and allow for a continuation of the existing program. Therefore, the following modification is proposed to Sub- Section 6.5 IMPLEMENTATION of SECTION 6 COMMUNITY IMPROVEMENT by the addition of the following policy:

" VI The Jarvis Street/Bridgeburg Community Improvement Plan encourages property owners and merchants within the plan area to undertake structural and façade improvement to commercial buildings. Structural and façade improvements shall be undertaken in accordance with the Façade Streetscape Plan for the Bridgeburg Business Improvement Area. Eligible structural and façade improvements may also be undertaken in accordance with the provisions of the Bridgeburg Façade Improvement Grant Program.

The Façade Improvement Grant Program is intended to provide partial funding for the improvement of existing façade treatments on commercial properties within the Jarvis Street/Bridgeburg Business Improvement Area. Property owners and business proprietors willing to undertake façade improvements are eligible to apply.

The lands shown as being within the Community Improvement Project Area on Schedule A to By-law No. 205-85 are hereby designated as those lands subject to the Jarvis Street/ Bridgeburg Façade Improvement Grant Program.