



The Municipal Corporation of the Town of Fort Erie

BY-LAW NO. 144-2000

**BEING A BY-LAW TO AUTHORIZE THE ACCEPTANCE OF AN
APPROVAL FOR PLANNING CONSULTING SERVICES –
ONTARIO MUNICIPAL BOARD HEARING – ZONING BY-LAW
NO.79-2000 – NORTH SIDE GARRISON ROAD – LARRY GIBSON
(350309)**

WHEREAS By-law No. 79-2000 being a by-law to amend Zoning By-law 129-90 – Larry Gibson, north side of Garrison Road, west of Green Acres Drive was approved at the Council meeting held April 25, 2000, and

WHEREAS at the Regular Council meeting held Monday, June 12, 2000 Resolution No. 2 was approved as follows:

WHEREAS the Solicitors for David Kompson, Jack Shaw, Miles Coates and Carlo Guerra have appealed Zoning By-law No. 79-2000 respecting the rezoning of lands on the north side of Garrison Road known as the Fort Erie Golf Club to accommodate a Tim Horton's Drive-thru, and

WHEREAS it is deemed necessary to engage the Town's Solicitor as well as expert planning advice to defend By-law No. 79-2000 at an Ontario Municipal Board Hearing;

NOW THEREFORE BE IT RESOLVED by the Municipal Council of the Town of Fort Erie that the Clerk is hereby authorized to engage Mr. Stuart Ellis, Town Solicitor to defend By-law No. 79-2000 and represent the municipality at the Ontario Municipal Board Hearing, and further

THAT: Mr. Ellis is authorized to engage expert planning advice at the expense of the municipality for this hearing, and

WHEREAS it is deemed necessary to accept a proposal attached hereto as Schedule "A", for Planning Consulting Services to act on behalf of the Town of Fort Erie at the Ontario Municipal Board Hearing for the appeal to Zoning By-law No. 79-2000;

NOW THEREFORE the Municipal Council of The Corporation of the Town of Fort Erie hereby enacts as follows:

1. **THAT** the proposal for Planning Consulting Services from Hynde, Paul Associates Incorporated, attached hereto as Schedule "A" be and it is hereby accepted and approved.

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2. **THAT** the Mayor and Clerk be authorized to execute the proposal for Planning Consulting Services attached hereto as Schedule "A".

READ A FIRST, SECOND AND THIRD TIME AND FINALLY PASSED THIS 17th DAY OF JULY, 2000.



MAYOR



CLERK

I, the Clerk, Carolyn J. Kett, of The Corporation of the Town of Fort Erie hereby certify the foregoing to be a true certified copy of By-law No. 144-2000 of the said Town. Given under my hand and the seal of the said Corporation this _____ day of _____, 2000.

HYNDE



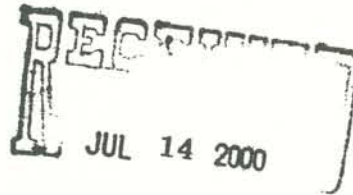
PAUL

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July 11, 2000



Via Fax: 871-6411

Town of Fort Erie
Municipal Centre
1 Municipal Centre Drive
Fort Erie, Ontario
L2A 2S6

TOWN OF FORT ERIE
Planning and Enforcement Dept.

Attention: Mr. Joe Mrozek
Acting Director of Planning and Property Safety

Re: Proposal for Planning Services
Ontario Municipal Board Hearing
Official Plan and Zoning By-law Amendments to
Permit a Tim Horton's on the North Side of Garrison Road
Town of Fort Erie
Our File: 00-036

Dear Mr. Mrozek:

Thank you for the opportunity to submit a proposal for providing consulting services in support of the Town's position at the OMB to approve Zoning and Official Plan amendment applications to permit a Tim Horton's restaurant and drive-thru at 1640 Garrison Road.

We have had an opportunity to review the information package provided to us on June 30, 2000 and feel confident that we can provide the appropriate strategy and expert planning evidence in support of the Town's position against an appeal by Kompson, Shaw, Coates and Guerra.

Our planning opinion is based on the "appropriate and suitable" location chosen by Tim Horton's to locate a restaurant facility. The planning criteria used by Tim Horton's to establish the basis for this location is sound and can be defended in light of the following:

- existing land use pattern along Garrison Road;
- market conditions for a Tim Horton's;
- lands located inside the Urban Area boundary established by the Regional Municipality of Niagara;
- minimal impact on surrounding land uses;
- excellent sight lines along Garrison Road;
- carrying capacity of Garrison Road;
- availability of municipal services; and
- site configuration.

Our experience and qualifications to represent the Town of Fort Erie at the Ontario Municipal Board can be highlighted as follows:

- 25 years of planning experience at both the public and private sector levels;
- consulting services to over 75 municipalities within the Province of Ontario;
- over 750 Ontario Municipal Board and other land use tribunal hearings (5 senior planners on staff);
- qualified technical staff to serve as backup for research and preparation of exhibits;
- sound knowledge of land use concerns in Fort Erie having planned for the private sector and worked on behalf of the Town of Fort Erie in the past;
- sound knowledge of the issues related to "stand alone" commercial uses having addressed these issues for both private and public sector clients;
- an appreciation of the Town's planning staff's position in the overall planning of Fort Erie and the position taken in regards to the subject applications.

In addition to the above, Ross Raymond, FCIP a designated "Fellow" in the Canadian Institute of Planners has joined Hynde, Paul Associates Incorporated. Mr. Raymond has worked for many public and private sector clients - specializing in OMB Hearings. Mr. Raymond has previously worked for the Ontario Municipal Board as a Mediator and brings this expertise to Hynde, Paul Associates.

We propose to use either Bob Miller, MCIP, RPP or Ross Raymond FCIP, RPP for this particular hearing.

The Town of Fort Erie's solicitor has worked with both Ross Raymond and Bob Miller and he will be able to draw on the expertise of all the Hynde, Paul staff to prepare for this hearing.

Based on the above review and our experience with similar projects, we are able to provide the following work programme and cost estimate for the OMB process.

WORK PROGRAMME	ESTIMATED FEES
1. <u>Background Analysis (Impact Statement)</u>	
• research existing files and background information concerning Official Plan and subject application	
• research similar land use hearing situations	
• site and neighbourhood visits for "impact analysis"	

- meetings and discussions with Town of Fort Erie staff, Regional Niagara staff, Council and representatives of community interest groups
- meetings with Tim Horton's representatives
- prepare alternative site analysis/planning impact statement \$3,000
- 2. OMB Pre-Hearing
 - prepare for and attend one day OMB Pre-Hearing (if required) (\$500)
- 2. Preparation for OMB Hearing
 - prepare document brief/exhibits for hearing
 - prepare "witness statement" (if required)
 - prepare visual exhibits for hearing
 - meetings and discussions with Town of Fort Erie staff and Town solicitor
 - meetings with Town solicitor for hearing preparation and strategy
 - meeting with Council of Fort Erie as required \$3,500 - \$4,000
- 4. Attendance at OMB Hearing
 - daily preparation and attendance at OMB Hearing is on a per diem rate \$1,200 per day

The estimated fees are based on the efforts required to address the work programme presented. Should it become necessary to address issues or concerns not identified in this work programme, or in greater detail than is currently anticipated by this retainer of services, we will discuss this further work and revised fee estimate with you prior to undertaking those additional items. The fees quoted are for professional services performed at time basis rates and are exclusive of GST.

Reimbursable project disbursements such as photography, printing, photocopying and facsimile and long distance telephone charges will be charged back to the client at out cost. Travel mileage is charged at a rate of \$0.30 per kilometer.

Our invoices are issued monthly for professional services expended and costs incurred in the preceding calendar month. Invoices are due and payable upon receipt, and we reserve the right to charge interest at a rate of 1 ½ % per month (18 % per annum) on accounts which are outstanding after thirty days from date of invoicing (unless alternative arrangement for payment is agreed upon in advance).

If the project is abandoned for any reason the client shall pay all fees for services rendered to date. The consultant's liability to the client is limited to the total amount of the fees received.

It is our policy that a retainer/deposit be provided with the authorization to proceed. In this case we will only require the appropriate authorization.

If these arrangements are acceptable, we would ask that you confirm this retainer and authorization by having the attached copies executed in the space provided and return one copy for our records.

Yours very truly

HYNDE, PAUL ASSOCIATES INCORPORATED

A handwritten signature in cursive script, reading "Greg A. Hynde".

Greg A. Hynde
Director of Planning

I/We _____ hereby accept and agree to the above noted terms and conditions for the retainer of services of Hynde, Paul Associates Incorporated.

Signed, Sealed in the Presence of _____

Witness _____


Signature

Position


Date