



# The Town of Niagara-On-The-Lake

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1593 Four Mile Creek Road  
P.O. Box 100  
Virgil, Ontario  
L0S 1T0

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**Report:** CS-15-028 **Committee Date:** June 08, 2015

**Due in Council:** June 22, 2015

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**Report To:** Corporate Services Advisory Committee  
**Subject:** 1875 Niagara Stone Road (Former NDSS Site)  
Request for Expressions of Interest

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## 1. RECOMMENDATION

It is respectfully recommended:

- 1.1 That Council approve the draft Request for Expressions of Interest (RFEI) attached to this report, and direct staff to issue the RFEI to acquire proposals for the development of 1875 Niagara Stone Road (former Niagara District Secondary School site); and
- 1.2 That Council appoint the Chair of Operations (Councillor/Deputy Lord Mayor John Wiens) and Chair of Community & Development (Councillor Jamie King) along with the Senior Management Team to the RFEI Review Committee; and
- 1.3 That the Town engage the services of a Fairness Monitor.

## 2. PURPOSE / PROPOSAL

The purpose of this report is to receive direction from Council to start the process to acquire expressions of interest from qualified Proponents who are interested in developing the school formerly known as the Niagara District Secondary School located at 1875 Niagara Stone Road in Niagara-on-the-Lake.

The Town expects to enter into an agreement with the successful Proponent to permit the use of the former Niagara District Secondary School for the Proponent's operations. The proposed operations must meet the Town's development, planning, financial and economic objectives described in this document and ensure compliance with all applicable law, including Official Plan and Zoning By-law requirements.

## 3. BACKGROUND

At its December 15, 2014, meeting, Council provided direction to purchase the former Niagara District Secondary School site at 1875 Niagara Stone Road. An Agreement of Purchase and Sale was finalized on February 27, 2015, with the District School Board of Niagara for the purchase of the former Niagara District Secondary School at 1875 Niagara Stone Road and the southeast side of Niagara Stone Road and north side of East West Line.

#### **4. DISCUSSION / ANALYSIS**

Staff is recommending a three-stage procurement process as follows:

##### **Stage 1 - Request for Expressions of Interest (RFEI)**

This Request for Expressions of Interest is the first stage of the process.

Through this RFEI stage, the Town intends to:

- identify those Proponents who are able to demonstrate that they have the experience, expertise and financial capability to successfully develop the former secondary school property, and
- assess the Responses on how well they meet the stated criteria, including how the Proposals would contribute to the local community.

In particular, the Town is looking at this stage for Proponents to present options for the former secondary school property that are unique and creative in the way they satisfy the Town's economic and financial requirements.

With respect to the development component of the submission, the Town is seeking only a conceptual design of the proposed improvements at this RFEI stage. The design quality of the submissions will not be reviewed as part of the evaluation process at this stage.

The Proponents whose proposals submitted in response to this RFEI (where the submission document itself is referred to throughout this RFEI as the "Response") are considered by the Town to best satisfy the Town's criteria will be shortlisted and provided with the opportunity to submit a more detailed Proposal in response to the Request for Proposal ("RFP") issued in Stage 2. It is anticipated that the three Proponents with the best overall ranking after the evaluation of Responses will be selected to move forward to the next Stage.

##### **Stage 2 - Request for Proposal (RFP)**

At the RFP stage, shortlisted Proponents will be expected to provide a detailed proposal package, including a comprehensive plan for the former secondary school site that addresses each of the requirements which will be included as part of the RFP. An evaluation of the development improvements contained in the submission will be included at that stage. The required graphic documentation to be submitted for Stage 2 will be described in the RFP.

In addition, the proposals submitted in response to the RFP will be required to include detailed proposals on the fees payable to the Town for use of the school property.

##### **Stage 3 - Negotiation**

Upon selection of the successful proposal at the RFP stage, the Town will enter into Stage 3, being the negotiations to finalize the terms with the successful Proponent for the use of the former school property, which will be subject to approval by Town Council.

The detailed draft RFEI, which is attached to this report, outlines the business context and Town objectives, property background and Planning requirements, the RFEI process, deliverables, and expectations of each bidder and the evaluation criteria for decision making.

The following key milestones are identified in the RFEI:

<b>1.5 SCHEDULE OF PROCUREMENT PROCESS</b>	
The following outlines the anticipated schedule for the three-stage procurement process:	
<b>Stage 1</b>	
Request for Expressions of Interest issued	Week of June 22, 2015
RFEI Closing	July 30, 2015
Evaluation and Selection of Shortlisted Proponents	August 2015
Report to Committee on RFEI Process	September 14, 2015
Report to Council	September 21, 2015
<b>Stage 2</b>	
Request for Proposal issued to Shortlisted Proponents	Fall 2015
RFP Closing	Fall 2015
Evaluation and Selection of Preferred Proponent	Fall 2015
<b>Stage 3</b>	
Negotiation of Agreement(s)	TBA
Report to Committee on RFP Process	TBA
Report to Council	TBA
Commencement of Operations	TBA
All dates and time periods shown are subject to change	

Staff are also recommending appointing a Fairness Monitor to oversee the RFEI. A Fairness Monitor is primarily used to support the credibility of procurement procedures for the public sector. A Fairness Monitor who is independent of the contracting body is appointed to give comfort to those involved in the bidding process that the advertised procurement procedure is followed, that all parties are treated equally during the process, and that any procedural problems, including conflicts of interest, are identified, and cured if possible in a manner that does not prejudice any bidders.

A Fairness Monitor would review the procurement process and provide advice on its structure, monitor its implementation, attend evaluation meetings, and write a final report indicating whether the process was properly managed and fairly implemented.

The cost for the Fairness Monitor is estimated not to exceed \$5,000.00.

## 5. FINANCIAL IMPLICATIONS

There are sufficient funds in the 2015 Operating Budget to cover the expenditures associated with the RFEI.

## 6. COMMUNICATIONS

The Request for Expressions of Interest will be publicly advertised through the Town's website, local newspapers, Biddingo.com, and MERX.com. Biddingo.com and MERX.com are on-line portals that connect suppliers providing various goods and services to buyers from the provincial, municipal, education, Crown corporation, housing, construction and healthcare sectors, and private companies across Canada. Staff see it as a great tool in reaching out to potential vendors for this project.

## 7. CONCLUSION

The property at 1875 Niagara Stone Road is an important asset for the Town, particularly given its potential uses and accessible location within our community. A thoughtful and well-defined process to determine its future use is imperative to ensure an outcome which ultimately benefits the residents of Niagara-on-the-Lake.

**Respectfully submitted,**



**Holly Dowd**  
**Director of Corporate Services / Town Clerk**



**Sheldon Randall**  
**Director of Operations**



**Mike Galloway, MBA, CMO**  
**Chief Administrative Officer**

### ATTACHMENTS



Request for Expressions of Interest - 1875 Niagara Stone Road.pdf

### WEB ATTACHMENTS

### ATTACHMENTS FOR LINK



**REQUEST  
FOR  
EXPRESSIONS OF INTEREST**

**FOR THE USE OF  
THE FORMER NIAGARA DISTRICT SECONDARY SCHOOL  
1875 NIAGARA STONE ROAD**

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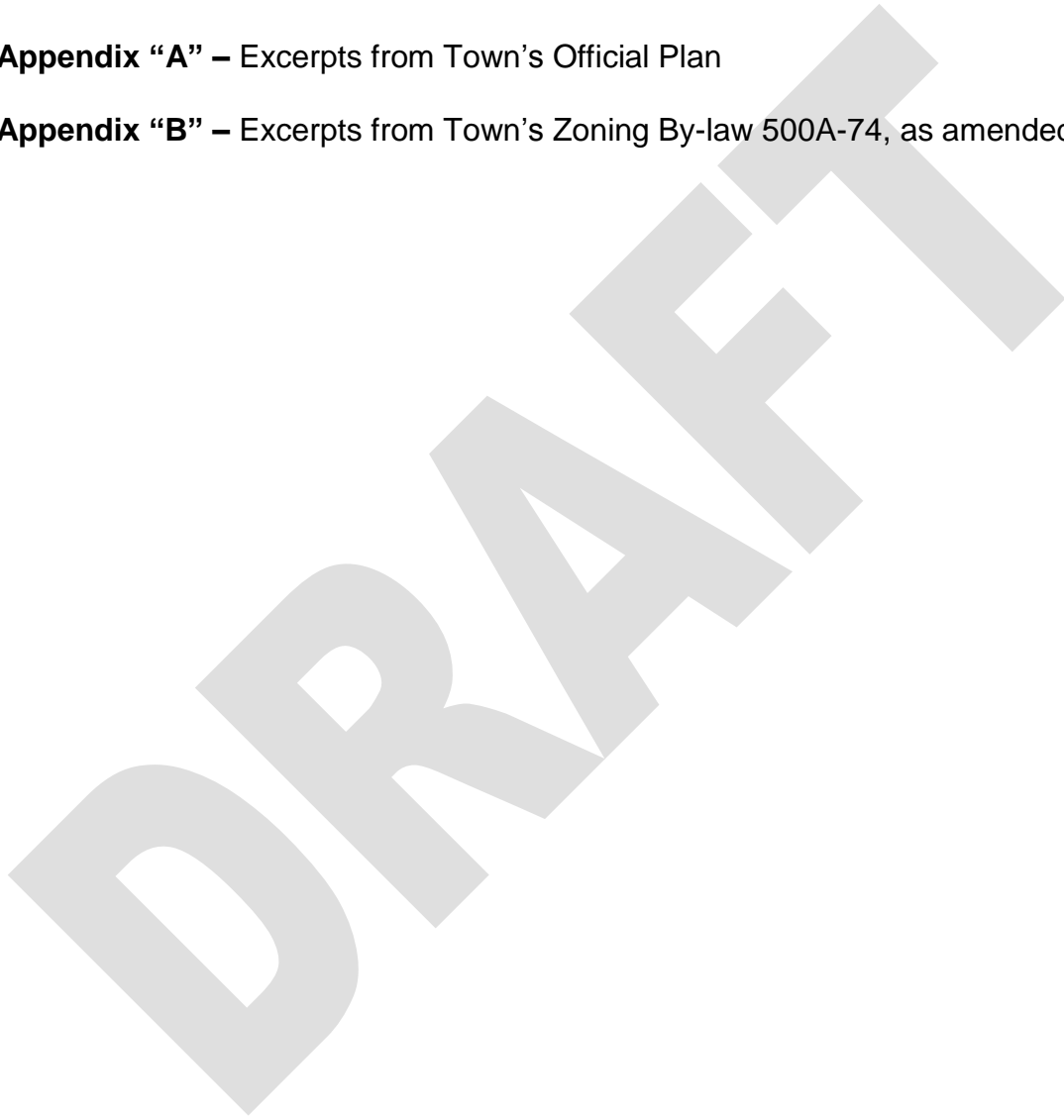
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# **1. THE REQUEST FOR EXPRESSIONS OF INTEREST**

## **1.1 INTRODUCTION AND OVERVIEW**

### **1.1.1 Nature of Opportunity**

The Corporation of the Town of Niagara-on-the-Lake (the "Town") is seeking expressions of interest from qualified Proponents who are interested in developing the school formerly known as the Niagara District Secondary School located at 1875 Niagara Stone Road in Niagara-on-the-Lake. The area of the property is approximately 29.56 acres.

The Town expects to enter into an agreement with the successful Proponent, to permit the use of the former Niagara District Secondary School for the Proponent's Operations. The proposed Operations must meet the Town's development, planning, financial and economic objectives described in this document and ensure compliance with all applicable law, including Official Plan and Zoning By-law requirements.

### **1.1.2 Three-Stage Process**

This section describes the three-stage process the Town intends to follow leading to the granting of a use to a successful Proponent for its Operations.

#### **.1 RFEI – Stage 1**

This Request for Expressions of Interest ("RFEI") is the first stage of the process.

Through this RFEI stage, the Town intends to

- identify those Proponents who are able to demonstrate that they have the experience, expertise and financial capability to successfully develop the former secondary school property, and
- assess the Responses on how well they meet the stated criteria, including how the Proposals would contribute to the local community.

In particular, the Town is looking at this stage for Proponents to present options for the former secondary school property that are unique and creative in the way they satisfy the Town's economic and financial requirements.

With respect to the development component of the submission, the Town is seeking only a conceptual design of the proposed improvements at this RFEI stage. The design quality of the submissions will not be reviewed as part of the evaluation process at this stage.

The Proponents whose proposals submitted in response to this RFEI (where the submission document itself is referred to throughout this RFEI as the "Response") are considered by the Town to best satisfy the Town's criteria will be shortlisted and provided with the opportunity to submit a more detailed Proposal in response

to the Request for Proposal ("RFP") issued in Stage 2. It is anticipated that the three Proponents with the best overall ranking after the evaluation of Responses will be selected to move forward to the next Stage.

## **.2 RFP – Stage 2**

At the RFP stage, shortlisted Proponents will be expected to provide a detailed proposal package, including a comprehensive plan for the former secondary school site that addresses each of the requirements which will be included as part of the RFP. An evaluation of the development improvements contained in the submission will be included at that stage. The required graphic documentation to be submitted for Stage 2 will be described in the RFP.

In addition, the proposals submitted in response to the RFP will be required to include detailed proposals on the fees payable to the Town for use of the school property.

## **.3 Negotiation – Stage 3**

Upon selection of the successful proposal at the RFP stage, the Town will enter into Stage 3, being the negotiations to finalize the terms with the successful Proponent for the use of the former school property, which will be subject to approval by Town Council.

### **1.1.3 Key Elements of the RFEI**

Proponents considering submitting a Response should be aware of the following key aspects of this RFEI, which are described in greater detail in this document and the attached appendices:

- The proposal must comply with all planning, zoning, licensing and policy requirements applicable to the use of the property.

### **1.2 BACKGROUND TO THE RFEI**

The former NDSS property is located at 1875 Niagara Stone Road north of the intersection at East West Line in the Town of Niagara-on-the-Lake.

This property is owned by the Town. The Town is seeking Expressions of Interest from interested Proponents for the use of this property.

### **1.3 OUTLINE OF TOWN'S REQUIREMENTS**

The following sections describe in greater detail the Town's objectives and requirements to be satisfied by the Responses submitted by Proponents.

Submissions will be assessed based upon how well these objectives and requirements are met.

### 1.3.1 Requirements Affecting Use

#### **.1 Official Plan**

Under the Town's current Official Plan (the "**OP**"), the former secondary school land's designation is "Conservation" and "Agricultural" Special Exception EX-AG-7 which permits 'Existing Secondary Schools.'

Non-complying uses are also permitted in the OP, subject to the policies set out **Appendix "A."**

Proponents should refer to the Town's OP Land Use Schedule and satisfy themselves that their proposal complies with the OP provisions.

#### **.2 Zoning By-law**

These lands fall under the Town's Zoning By-law 500A-74, as amended, (the "**Zoning By-law**"), and are zoned "Institutional" as per Section 19. A copy of the permitted uses and zone requirements are attached as **Appendix "B."**

Proponents should carefully consider the permitted uses under that zone *and* satisfy themselves that their proposal complies with the Zoning By-law permissions and restrictions.

#### **.3 Green Belt Plan**

All proponents should be familiar with the policies and requirements of the Green Belt Plan and its associated legislation; this parcel is located in the "Protected Countryside" designation of the Green Belt Plan. The Green Belt Plan is under review and the Region and Town recently made submissions to the Province requesting special policy consideration for the area. This special policy consideration IS NOT asking that the property be removed from the Green Belt but that new policies allow the Town and Region to collaboratively prepare land use policies that enable more private investment on previously developed sites such as this.

#### **.4 Archaeological Assessment**

Use of lands other than the developed portions (i.e. building and paved parking areas) will be subject to an archaeological assessment.

#### **.5 Obligation of Compliance on Proponents**

All proposals should conform with existing OP and Zoning By-law requirements, but alternatives will be considered that serve the public interest and conform with the Green Belt Plan. The Town may choose not to consider proposals that require a Zoning By-law amendment or a minor variance for use of the former secondary school property.

Proponents are responsible for determining conformance of their proposals with existing planning and zoning legislation, or, if not, must identify how the proposed use of the former secondary school could reasonably be brought into compliance with all relevant legislation.

### **1.3.2 Site Requirements**

Proponents whose responses offer improvements which promote and enhance the Town's objectives shall be evaluated favourably.

### **1.3.3 Fee**

At this RFEI stage, Proponents are not required to provide a formal offer for a-fee. A formal offer will be required to be made by shortlisted Proponents at the RFP stage.

However, Proponents should be mindful of the requirement to propose an attractive and competitive offer of a fee to the Town at the RFP stage in developing their proposed Operations described in their Response to this RFEI.

## **1.4 CONTRACT TERMS AND FORMAL REQUIREMENTS**

### **1.4.1 Key Terms**

Proponents must provide in their Response a summary of the key contractual terms and conditions they consider to be essential to their proposal, for consideration by the Town.

In particular, Proponents should provide what they consider to be the appropriate term, including any options to renew, which would be considered necessary for the viability and success of the proposed Operations.

### **1.4.2 Limitations on the Town**

In developing and preparing their proposals, Proponents must take into account limitations and/or restrictions imposed upon the Town by law which may affect the nature of the proposed structure(s) contemplated by the Proponent.

In particular, Proponents should be aware of section 106 of the Municipal Act, 2001.

### **1.4.3 Future Security of Obligations**

Those Proponents who are shortlisted and invited to participate in the RFP – Stage 2 process may be required as part of the RFP to provide evidence of their commitment by way of security in the form of a deposit or letter of credit.

Proponents may also be required to demonstrate their ability to provide security in respect of the obligations to carry out the Operations under the proposed agreement(s).

## 1.5 SCHEDULE OF PROCUREMENT PROCESS

The following outlines the anticipated schedule for the three-stage procurement process:

### Stage 1

Request for Expressions of Interest issued	week of June 22, 2015
RFEI Closing	July 30, 2015
Evaluation and Selection of Shortlisted Proponents	August 2015
Report to Committee on RFEI Process	September 14, 2015
Report to Council	September 21, 2015

### Stage 2

Request for Proposal issued to Shortlisted Proponents	Fall 2015
RFP Closing	Fall 2015
Evaluation and Selection of Preferred Proponent	Fall 2015

### Stage 3

Negotiation of Agreement(s)	TBA
Report to Committee on RFP Process	TBA
Report to Council	TBA
Commencement of Operations	TBA

All dates and time periods shown are subject to change.

## 2. THE RFEI RESPONSE

This Section describes what the Town requires Proponents to include in the Responses submitted in response to this RFEI.

### 2.1 THE PROPONENT

#### 2.1.1 PROPONENT TEAM

The Town is interested in receiving Responses from interested Proponents who have a proven track record of owning and operating a successful Operation.

In that regard, the Town requires Proponents to describe in their Response who will be involved in the proposed Operations, including:

- the owner(s)
- the operators
- key suppliers
- the financial partner(s), if any

Proponents are required to include in their Response an organizational chart identifying the various participants on the Proponent's team and the relationships among them.

### **2.1.2 QUALIFICATIONS AND EXPERIENCE**

The Town is seeking qualified Proponents who can demonstrate an ability to successfully operate a business.

To demonstrate the requisite qualifications and experience, Proponents are to provide in their Response a description of one or more similar operation(s) to the proposed Operations, owned and operated by the Proponent. The description of the operation(s) should include:

- the size and nature of the operation(s)
- the number of customers annually
- any challenges faced by the operation(s) and how they were overcome
- the impact of the operation(s) on the local economy

### **2.1.3 FINANCIAL STRENGTH**

In order to assess the financial capability of the Proponents each Proponent must provide the following information:

- details of the ownership structure of the Proponent. In the case of privately owned companies, this should include the name of the principal shareholder(s), partners or principals
- the Proponent's most recent consolidated financial statements
- one bank reference including the name, address and telephone number of the contact person at the Proponent's primary bank
- in the case of public company Proponents must provide a copy of the most recent annual report

- details regarding any material litigation in which the Proponent is currently involved.

Where the Proponent consists of more than one corporation, such as a partnership, joint venture, or consortium, then each of the members of the Proponent team must provide the information required in this section.

## **2.2 THE PROPOSED OPERATIONS**

### **2.2.1 THE NATURE OF THE BUSINESS**

The Town requires Proponents to describe in their Response the nature of the proposed Operations and use of the former school property, including:

- purpose of the use of the property

### **2.2.2 TRAFFIC MANAGEMENT**

The Town is concerned about the impact of vehicles and other transportation resulting from the Operations. Proponents must satisfy the Town that they have carefully planned suitable accommodation for traffic created by the Operations.

The Response should address each of the following elements, in the form of a traffic management plan:

#### **.1 *Parking***

Proponents should present a parking plan which describes how the employees and visitors parking will be handled, including location, turnover, frequency, and the use of private and public parking facilities.

## **2.3 THE LOCATION OF THE OPERATIONS**

### **2.3.1 IMPROVEMENTS**

Proponents should describe what improvements would be made to the former secondary school property for the proposed Operations.

### **2.3.2 MAINTENANCE AND REPAIR**

Proponents should describe what, if any, repairs of the area are required to be undertaken and how maintenance would be carried out.

## **2.4 OPERATIONAL ISSUES**

### **2.4.1 REQUIREMENTS OF THE OPERATION**

Proponents should describe what the proposed Operations may require in terms of any particular or special requirements, such as the following:

- Security measures
- Safety measures
- Servicing measures

### **2.4.2 IMPACTS OF THE OPERATION**

#### **.1 NOISE IMPACTS**

Proponents should describe the anticipated noise levels associated with carry out the proposed Operations, and what measures would be taken to mitigate the impact of noise.

#### **.2 REFUSE**

Proponents should describe how garbage and other refuse would be handled, by providing a refuse management plan.

### **2.4.3 PUBLIC ACCESS**

Proponents should address issues of accessibility.

## **3. SUBMISSION OF RESPONSES AND PROCESS**

### **3.1 CLOSING OF RESPONSE SUBMISSIONS**

#### **3.1.1 Closing Time and Date**

Proponents who wish to respond to this RFEI must submit **TEN (10)** original copies of their Response to the Town in a sealed package on or before **2:00:00 p.m.** local time (the “Closing Time”) on Thursday, July 30, 2015, (the “Closing Date”) to

**Town Clerk**  
Town of Niagara-on-the-Lake  
1593 Four Mile Creek Road  
P.O. Box 100  
Virgil, ON L0S 1T0  
Tel: 905-468-3266  
Fax: 905-468-2959

Time will be determined in accordance with the time clock on the phone at the Customer Service Counter.

Envelopes should be clearly marked "RFEI for former Niagara District Secondary School property."

### **3.1.2 Delivery of Responses**

Each Proponent is responsible for the actual delivery of its Response to the address and location listed above and Responses will not be considered unless actually received at that location prior to the Closing Time on the Closing Date regardless of whether the Responses have been given to couriers, delivery services, Canada Post or employees or agents of the Town.

Responses received after the Closing Time on the Closing Date will not be considered and will be returned to the Proponent unopened. Responses submitted by fax will not be considered.

### **3.1.3 Opening of Responses**

All Responses will be opened publicly by the Town Clerk or the Director of Operations. Proponents may be present or represented at the opening.

All Responses will be opened in public at:

**Location: Town of Niagara-on-the-Lake**

1593 Four Mile Creek Road  
Virgil, ON L0S 1T0  
Council Chambers

**Date:** Thursday, July 30, 2015

**Time:** 2:00 p.m.

As the Town's request is for expressions of interest rather than tenders, the opening is intended only to publicly record the names of the Proponents from whom Responses were received, and therefore details of each submission will not be read out.

## **3.2 RESPONSE SUBMISSION REQUIREMENTS**

As this is an RFEI and not a proposal call, the level of detail of the Response should be the minimum necessary to address the requirements of this RFEI, but sufficient to satisfy the Town that the Proponent would be able to meet its obligations if shortlisted.

While no limitation is being placed on the length of Responses, the Town encourages Proponents to be succinct in describing their proposal in response to this RFEI.

Proponents must include in their Responses the following information to permit a proper evaluation of how well they meet the criteria and objectives of this RFEI:

### **3.2.1 Formal Submission Requirements**

Proponents must submit the Response Compliance Form (attached to the RFEI as **Appendix “●”**) with their Response. The Response Compliance Form will confirm, among other things, receipt of any addenda, and will be required to be signed by an authorized officer of the Proponent.

### **3.2.2 Proponent Submission Requirements**

Proponents should demonstrate their capability by addressing the experience and qualifications as set out in Section 2.1.

### **3.2.3 Operations Submission Requirements**

Proponents must include in their Response the information requested as part of their Operations proposal the information requested in Sections 2.2, 2.3, and 2.4.

## **3.3 QUESTIONS AND CLARIFICATIONS DURING RFEI PERIOD**

All questions and requests for clarification regarding the RFEI which are of a technical nature should be directed to:

**Mr. Sheldon Randall**  
Director of Operations  
Town of Niagara-on-the-Lake  
1593 Four Mile Creek Road  
P.O. Box 100  
Virgil, ON L0S 1T0  
Tel: 905-468-3266  
Fax: 905-468-2959

Answers to questions asked by any of the Proponents will be provided by the Town to all Proponents in writing by fax, by means of an addendum. Proponents shall not be entitled to rely on information provided orally and not in writing.

Any questions and requests for clarification from the Proponents are to be received by the Town by **Thursday, July 23, 2015**. Any questions received after that time will not be answered.

## **3.4 NO CONTACT WITH TOWN DURING RFEI**

During the RFEI process, Proponents shall not contact any person at the Town other than Sheldon Randall, including any member of Town staff or members of Council, for information regarding the RFEI or for any other reason related to the RFEI. Failure to follow this requirement may lead to disqualification without further notice or warning.

### **3.5 SITE VISIT**

The Town will be providing site visits as part of the RFEI process. Proponents are encouraged to view the site and may contact the Director of Operations, Sheldon Randall, at 905-468-3266 to schedule a date and time. Requests for a copy of the architectural plans for the site can also be directed to the Director of Operations.

### **3.6 ISSUANCE OF ADDENDA**

The Town may make additions, deletions, or alterations to requirements of the RFEI at any time prior to the closing of the RFEI. Any such changes will be distributed to all Proponents in writing.

Receipt of written notice of the change must be confirmed by the Proponent on the Response Compliance Form.

### **3.7 CONFLICT OF INTEREST DECLARATION**

Each Proponent (on its own behalf and on behalf of all members of its team, if any) shall declare in its Response any real or perceived conflict of interest which either presently exists or can reasonably be foreseen as arising in the future, as a result of:

- the Proponent's participation in the RFEI process
- the Proponent's participation in the subsequent RFP process if shortlisted
- the submission of a Response
- the performance of its obligations and responsibilities under agreements for the Licence and Operations, if the Proponent is ultimately selected as the successful Proponent through the RFP process.

### **3.8 INTENT TO PARTICIPATE IN RFP**

By submission of a Response to this RFEI, a Proponent is representing to the Town that:

- it is participating in the RFEI process in good faith
- it has a serious and legitimate interest in being selected to be shortlisted; and
- it intends to participate in the RFP process if shortlisted.

## 4. EVALUATION OF PROPOSALS AND SELECTION OF SHORTLISTED PROPONENTS

### 4.1 SELECTION COMMITTEE

The Committee which will evaluate the Responses for the purpose of short listing Proponents will be composed of members of Town staff and two members of Town Council.

The Committee may be assisted by technical, financial and legal advisers, as required.

### 4.2 EVALUATION CRITERIA

The Town will be evaluating the Responses received in response to this RFEI with a view to shortlisting those Proponents whose Responses, in the Town's sole opinion, best satisfy the requirements and objectives of the Town.

#### 4.2.1 Weightings at RFEI Stage

In this RFEI – Stage 1, weightings have been assigned to the criteria against which the Responses are being evaluated, as set out below. The Town will be seeking the most experienced and qualified Proponents who are providing the best combination of elements in their Response to satisfy the Town's requirements and objectives.

#### 4.2.2 Evaluation Criteria

In addition to threshold requirements of meeting the commencement date and making improvements to the proposals, the Responses which will be most favourably evaluated are those which provide the best long-term overall benefits to the Town.

In evaluating the proposals, the Selection Committee intend to apply the following scoring to the Responses:

<b>.1</b>	<b><i>The Proponent</i></b>	
	(Section 2.1)	<b>30%</b>
<b>.2</b>	<b><i>The Proposed Operations</i></b>	
	(Sections 2.2, 2.3, 2.4)	<b><u>70%</u></b>
		<b><u>100%</u></b>

#### **4.3 CLARIFICATIONS**

The Town is entitled to seek clarifications and supplementary information relating to the clarification from Proponents after the RFEI Closing Date. The responses received from a Proponent shall form part of that Proponent's Response.

In particular, in order to assist in the evaluation and comparison between Responses, Proponents may be asked to provide information regarding the effect, if any, of suggested changes to their Responses.

#### **4.4 VERIFICATION OF INFORMATION**

The Town reserves the right to make enquiries of third parties, including those who were not listed as references, to satisfy itself regarding the Responses.

#### **4.5 FAIRNESS MONITOR**

The Town may elect to retain a fairness monitor to oversee the procurement process described in this RFEI.

#### **4.6 SHORTLISTING OF PROPONENTS**

Once the evaluations are complete, the Town intends to shortlist the highest evaluated Proponents who have satisfactorily addressed the requirements of this RFEI to invite them to respond to the RFP in Stage 2.

The Selection Committee may make recommendations and may seek approval of Town Council before proceeding further with the shortlisted Proponents to the next stage. Those Proponents shortlisted will be notified of the decision to invite them to proceed to Stage 2.

Unsuccessful Proponents will be notified of the decision not to include them in the shortlisted group. The Town is not required to give reasons or explanations.

Depending on the Responses received in response to this RFEI, and the results of the evaluation, the Town, at its sole option and without affecting any other right it may have under this RFEI:

- may elect not to proceed to the RFP as Stage 2 and cancel or abandon any further process initiated by this RFEI;
- may, by way of a de-briefing, make suggestions to one or more shortlisted Proponents regarding the unacceptability of particular aspects of their Response prior to the issuance of the RFP in Stage 2.

## 5. TERMS AND CONDITIONS OF THE RFEI

The following additional terms and conditions govern this RFEI:

- This RFEI is simply an invitation to Proponents to submit an expression of interest in accordance with this RFEI, and is not a tender or a proposal call. This RFEI does not constitute an offer of any kind on the part of the Town.
- This RFEI describes a number of requirements and objectives which will be also be dealt with in greater detail in the RFP stage. Proponents wishing to be shortlisted must use this RFEI as a means of appreciating the nature of the opportunity, and in particular those risks and responsibilities associated with the use of the former high school property. Proponents who are unwilling or unable to accept or effectively deal with these issues should not submit a Response.
- No contractual or other legal obligations arise on the part of the Town to any Proponent by this RFEI or the submission of a Response by a Proponent nor is any legal relationship created between the Town and any Proponent until such time as an agreement, if any, is subsequently reached with a Proponent and approved by Town Council.
- Neither the issuance of this RFEI to a Proponent nor receipt of the Response by the Town shall create any legal obligation on the part of the Town to any Proponent or imply any obligation or commitment on the part of the Town to enter into an agreement of any kind with a Proponent for anything contained in this RFEI.
- The Town reserves the right to negotiate with Proponents, seek clarification from Proponents regarding their Responses and invite modifications to the Responses submitted.
- The Town reserves the right to cancel the RFEI at any time without any obligation to any Proponent and makes no guarantee that the process initiated by this RFEI will continue.
- The Town reserves the unilateral and exclusive right to make changes, including substantial changes, to this RFEI, such as changes to:
  - requirements
  - schedule and deadlines
  - process

provided that those changes are issued by way of addenda in the manner set out in this RFEI.

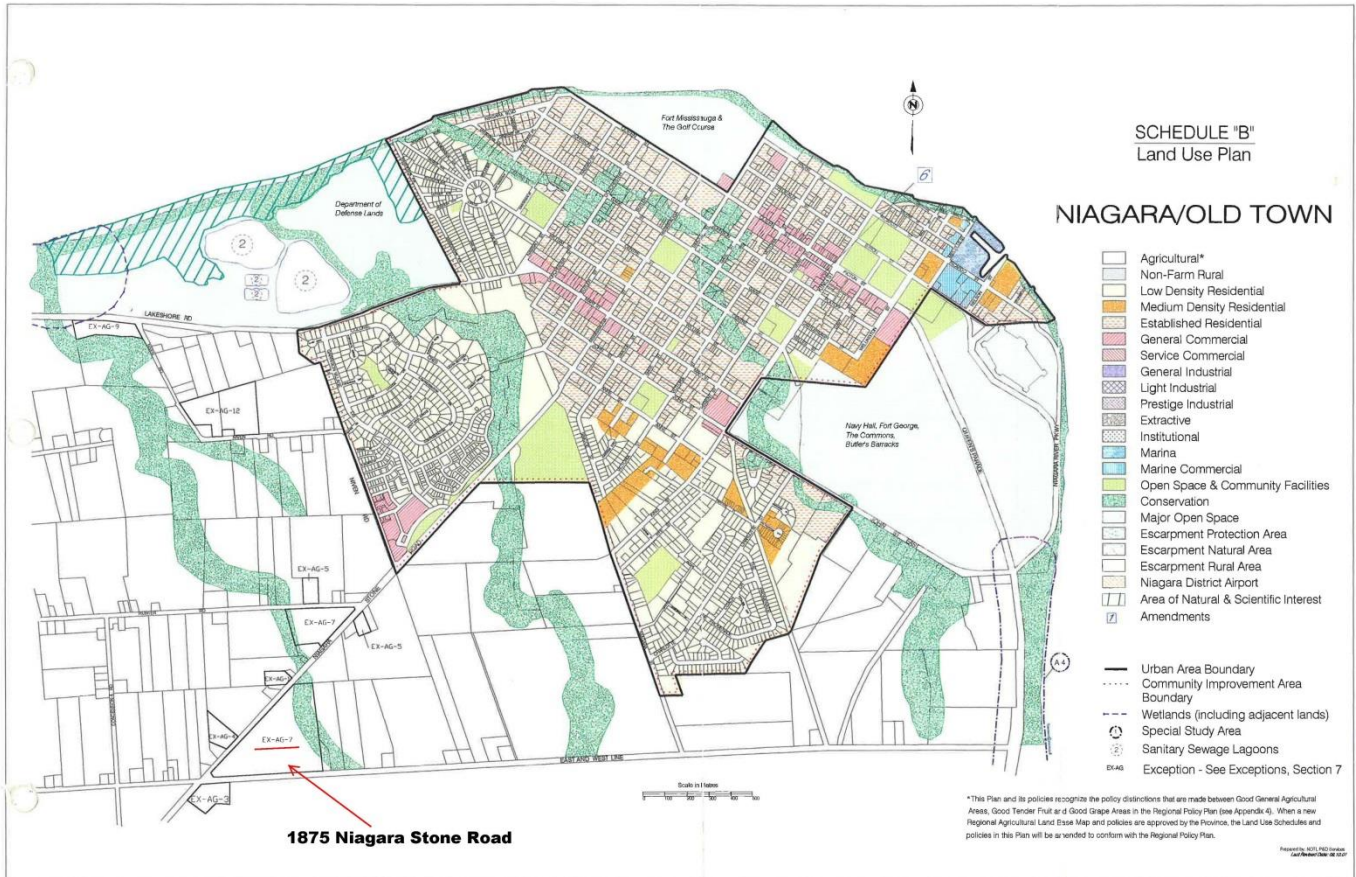
- If a single Response is received, the Town may reject the Response of the sole Proponent and cancel this RFEI process or enter into direct negotiations with the sole Proponent or issue a new RFEI for the same or similar requirements.
- The Town may waive compliance with the requirements of this RFEI and consider a Response which does not meet all of the requirements of this RFEI.
- By submitting a Response, each Proponent agrees to waive any right to claim damages against the Town for any reason, cause, or thing arising out of the RFEI process.
- Information provided to Proponents through the RFEI is for information purposes only and the Town makes no representation regarding the accuracy of the information provided to Proponents through this RFEI.
- By submitting a Response, a Proponent is deemed to have:
  - investigated and satisfied itself regarding any and all conditions affecting the Project or its proposal; and
  - based its Response on its own examinations, knowledge, information and judgment, and not on any statement, representation or information made or given by, or on behalf of, the Town other than information provided in this RFEI or by way of any addenda.
- The Town will not be liable for any expenses, costs, losses or any direct or indirect damages incurred or suffered by any Proponent or any third party arising from or related in any way to this RFEI, including, without limitation, if, for any reason, the RFEI process is delayed beyond anticipated milestone dates.
- The Town has no obligation to Proponents for the costs of preparing Responses or participating in the RFEI process.
- Proponents are not permitted to publicize the fact of their involvement in the RFEI process or that they may have been shortlisted without the prior written consent of the Town.
- Proponents are required to keep the facts, data, and other information which comes to their knowledge through the RFEI process confidential.
- Proponents are to refrain from discussing or communicating with other Proponents regarding the preparation of their Responses.

- Proponents should be aware that information provided to the Town may be subject to public disclosure pursuant to the *Municipal of Freedom Information and Protection of Privacy Act*, R.S.O. 1990, Chapter M.56. Accordingly, Proponents are advised to indicate in their Responses what if any information is considered proprietary, technical or of a financial nature, or otherwise intended to be supplied in confidence, if it is their intent that such information should remain confidential.
- The Town may disqualify any Proponent whose Response contains misrepresentations or any other inaccurate misleading information.
- The Town may disqualify any Proponent or the Response of any Proponent who is in or in the future will be in a conflict of interest, engaged in improper conduct (such as collusion with other Proponents or fraud) or which is otherwise prohibited by this RFEI.

DRAFT

SCHEDULE "B"  
Land Use Plan

NIAGARA/OLD TOWN



## SECTION 7: Agriculture

### BACKGROUND

The majority of land in the Town of Niagara-on-the-Lake is in agricultural production. The farms of Niagara-on-the-Lake produce a diverse range of agricultural crops including fruit, grapes, various field crops, livestock and greenhouse products. Agricultural policies are therefore an important element of the Town's Official Plan. The main uses permitted in the agricultural area is farming. The conservation of the natural environment is also permitted provided that vegetation within the natural environment does not consist of species that are harmful to agricultural crops such as choke cherry which can infest healthy peach trees. Secondary uses are permitted which support and are related to the agricultural industry.



The policies of this Plan are directed towards preserving the agricultural land base particularly prime agricultural land. To this end policies in the Plan do not permit land uses that are not related to the agricultural industry.

The Tender Fruit Industry is an important component of the agricultural industry in Niagara-on-the-Lake. This Plan supports the continued economic viability of the Tender Fruit Industry. To this end the Council for the Town of Niagara-on-the-Lake will continue to support programs, financial and otherwise from senior levels of Government, that encourage the development and well-being of the Tender Fruit Industry and its participants. The Plan supports the full implementation of the proposed "Business Plan for the Ontario Tender Fruit Industry". In the event that the necessary measures for the support and development of the Industry are not sufficient to provide the level of protection needed the municipality may consider revising its agricultural policies.

In addition the farm size necessary for a successful farm operation in this municipality is considerably different from that of other parts of Ontario. It is a common practice in the Agricultural Industry to expand operations and farm size in times of economic prosperity through the acquisition of additional land or farm amalgamation. Conversely in times of economic restraint it may be necessary to

reduce the size of the farm holding. This Plan supports the common practice in expanding and contracting farm size as necessary and recognizes that farm size in Niagara-on-the-Lake because of unique soil, climate conditions and farming intensity is not typical of other parts of Ontario.

Economic prosperity and economic restraint is not directly related to only the national economy but also applies to individual farm operations. For example a farm may expand as a result of increased family size with sons and daughters as part of the farm operation and may similarly reduce in size as the family ages. Health or age considerations of the farm family may also be a factor in the need to reduce farm size. Economic considerations could include significant changes in the cost of borrowing money or the value of the crop being grown (i.e. field crops vs. orchards or vineyards).

The Niagara Region is also one of Canada's most celebrated grape and wine producing areas. The blending of soils and temperate climate combine into a longer growing season ideal for producing grapes of the quality necessary for fine wines. The Niagara Region is now experiencing a renaissance in its wine industry through the production of high quality internationally popular wines. This renaissance has resulted in the development of Farm and Estate Wineries which are small production wineries located in the agricultural areas producing high quality wines from local vineyards. The popularity of Ontario wines has resulted in an increased demand for Estate and Farm Wineries. The Plan permits wineries in the agricultural area as uses which support and are related to the agricultural industry in the same fashion as agricultural markets and roadside fruitstands. Wineries that cannot comply with the policies of this Section are not permitted and encouraged to locate in a more appropriate urban commercial or industrial area.

The soils in Niagara-on-the-Lake have a high capability for the production of common field crops. As well, they are highly suited to the production of specialty crops. The unique climate that is present in the Town as a result of its location below the Niagara Escarpment makes it an area that is suitable for producing a wide range of tender fruits and grapes.

The Region of Niagara's Official Plan contains several categories which designate the agricultural lands of Niagara-on-the-Lake according to potential uses. These include "good tender fruit" areas, "good grape" areas, "good general agricultural" areas, and "rural" areas. Schedule "A" to this plan shows such lands as being designated for Agricultural use. However, policies in the Plan recognize the designations on the Agricultural Land Base Map in the Regional Policy Plan and provide a distinction between good tender fruit/good grape land and those lands of lesser agricultural value.

## **GOALS AND OBJECTIVES**

- (1) To help ensure the preservation of prime agricultural lands for farming with particular emphasis on the preservation of specialty crop lands.
- (2) To help preserve the existing and potential agriculturally productive land giving highest priority to Good Tender Fruit/Grape Lands.
- (3) To allow flexibility to farm operations in both type and size and to permit the expansion and contraction of farm operations as necessary provided that the farm remains economically viable and that the size of the farm is appropriate and common in the area.
- (4) To permit a limited amount of farm-related development by way of retirement lots, selectively located small scale agriculturally related commercial and industrial developments.
- (5) To ensure that existing small scale industries and commercial uses supportive of agricultural operations are allowed to expand where appropriate, while requiring new development or redevelopment not primarily related to agriculture is to locate in appropriately designated areas (ie. Light Industrial, General Commercial, etc.).
- (6) To ensure that agricultural areas are protected from harassment and conflict from non-farm residents and non-farm related uses through measures such as preventing the development of non-farm uses in the Agricultural designation.
- (7) To consider the impact on agriculture as the primary guideline in evaluating development proposals in the agricultural areas.

## LAND USE DESIGNATIONS

### AGRICULTURAL

In the agricultural designation the following uses shall be permitted:

**Main Uses:** The main use permitted is agriculture including all types of farming, their related buildings and structures, the farm residence, the raising of animals and fowl, market gardening, greenhouses and nurseries, forestry and reforestation. Conservation of water, soil, wildlife and other natural resources in their natural state is also permitted.

**Secondary Uses:**

Uses permitted with a Main Use:

- roadside produce outlets
- farm wineries
- home industries and occupations including bed & breakfasts
- group homes
- accessory buildings and structures
- farm help houses and additional farm dwellings for seasonal or full time farm help

Uses permitted independent of a Main Use:

- agricultural markets
- estate wineries
- small scale industrial and commercial activities that are directly related to and serve

agriculture and require a location in close proximity to farms. Provided that such uses are not in conflict with the Niagara Escarpment Plan, as amended from time to time and it is not possible for such uses to locate in Urban Areas. Such uses should also be located so that their effect on surrounding prime agricultural land and viable farm operations is minimized.

- retirement lots

## GENERAL AGRICULTURE POLICIES

The following policies shall apply to all lands designated for agricultural use:

### (1) REGIONAL POLICY PLAN LAND USE DESIGNATIONS

This Plan and its policies recognize the policy distinctions that are made between the Good General Agricultural Areas, Good Tender Fruit and Good Grape Areas in the Regional Policy Plan (see Appendix 4). When a new Regional Agricultural Land Base Map and policies are approved by the Province, the Land Use Schedules and policies in this Plan will be amended to conform with the Regional Policy Plan.

### (2) MINIMUM DISTANCE SEPARATION REQUIREMENTS

- a) All new or expanding livestock barns shall be subject to the Minimum Distance Separation (M.D.S.) II requirements. New livestock barns shall be encouraged to locate on lands designated "Good General Agriculture" in the Regional Policy Plan.
- b) All new development located on lands designated "Good Tender Fruit or Good Grape" in the Regional Policy Plan shall be subject to the Minimum Distance Separation (M.D.S.) I requirements.
- c) All new development located on lands designated "Good General Agriculture" in the Regional Policy Plan shall be subject to the Minimum Distance Separation (M.D.S.) I requirements or a distance separation of 300 metres whichever is greater. Exceptions only to the 300 metre separation distance are as follows:
  - (i) lots of record existing prior to the adoption of this Plan are exempt from the minimum separation distance of 300 metres but not the M.D.S. requirements;
  - (ii) the minimum distance of 300 metres does not apply to farm retirement lots. However, the M.D.S. requirements will be applied to retirement lots.

### (3) SECONDARY USE POLICIES

- a) The following development policies shall apply to all secondary uses permitted in the agricultural designation.
  - (i) Such uses shall avoid wherever reasonably practical Good Tender Fruit/Good Grape land as shown in the Regional Policy Plan.

- (ii) Such uses shall be encouraged wherever reasonably practical to locate on a relatively self-contained or isolated area separated from other agricultural lands by woodland, roads, railways or ravines.
- (iii) The location of the facility or use imposes no operating constraints or results in no reduction of the efficiency of any existing farms.
- (iv) An adequate and potable water supply shall be available and it shall be the responsibility of the applicant to provide a report on the adequacy of the water supply, if required by the Town or the authority having jurisdiction.
- (v) Soils shall be suitable or made suitable to support an individual waste disposal systems subject to the approval of the authority having jurisdiction.
- (vi) Adequate drainage and outlets shall be available for storm water run-off. Approval of drainage provisions may be required from the Town, the Region, the Ministry of Transportation and/or the Niagara Peninsula Conservation Authority and/or the Niagara Parks Commission.
- (vii) Adequate entrances and exits to roads shall be so located as to minimize travel hazards. Ribbon development along roadways shall be discouraged.
- (viii) Adequate off-street loading, parking spaces and access points shall be provided for all commercial and industrial development. Access points shall be clearly defined by pavement breaks, landscaping, curbing or other acceptable means. Outside storage may be limited.
- (ix) The municipality may impose appropriate controls through available legislation to ensure that the hours of operation of any secondary use does not conflict with adjacent land uses.
- (x) The lands shall be appropriately zoned and, where necessary, a Development Agreement be entered into.
- (xi) Development on treed areas, steep slopes, ravines, watercourses and any other natural or cultural resource shall be avoided.

**b) WINERIES**

Subject to the applicable general agricultural policies of this Plan Wineries are permitted subject to the following policies:

**Estate Wineries**

- (i) The minimum acreage for an Estate Winery shall be established in the implementing Zoning By-law and shall generally be a contiguous parcel of at least 8 hectares (20 acres) the majority of land being in full vineyard production. This acreage is required to provide a rural setting for the Winery, land for the ponding of waste water and associated vineyards. Proposals for lesser acreage will be considered where it is demonstrated that the proponent can comply with all other policies of the plan and that the reduced area will not jeopardize the rural image of an Estate Winery. Notwithstanding the minimum acreage requirement of this plan, existing Estate Wineries as of the date of adoption of this Plan, having less than the minimum acreage will be recognized in the implementing zoning by-law providing all other policies of the plan are complied with.

- (ii) The production of wine from an Estate Winery shall be subject to the following criteria:
  - a) all wines produced shall be made from predominately locally grown fruit;
  - b) all wines produced are to be made from predominately locally grown fruit crushed and fermented on site;
  - c) an Estate Winery shall have the capability to bottle of all the wine produced on site.
- (iii) All Estate Wineries shall be subject to a site specific zoning by-law amendment to control their number and location within the municipality.
- (iv) The retail sale of wine shall be permitted as part of an Estate Winery. The amount of floor space will be limited in the implementing zoning by-law so as not to detract from the main use of the land and not adversely affect other uses permitted in the agricultural area.
- (v) A hospitality room where food and wine is prepared and served, the sale of products permitted in an agricultural market and over-night accommodation such as a bed & breakfast may also be given consideration where it is clearly demonstrated that such uses are only accessory to and complement the estate winery. These uses shall only be permitted on an individual case by case basis and subject to a site specific zoning by-law amendment where the floor space may be restricted.
- (vi) Estate Wineries shall be required to locate with direct or convenient access to an improved roadway with sufficient capacity to accommodate the anticipated traffic.
- (vii) As indicated in sub-section (i) above, on-site vineyards are an important aspect of the image of an Estate Winery and encourages the use of local fruit in the production of wine. As such land not intended for building or on-site services shall be planted in vineyards and the Council may make vineyard planting a condition of the-amending By-law to be completed prior to the issuance of a building permit.

#### Farm Wineries

- (i) Farm Wineries shall be permitted in the implementing zoning by-law as part of a farm operation. The minimum acreage required for a farm shall be specified in the implementing zoning by-law.
- (ii) The production of wine from a Farm shall be subject to the following criteria:
  - a) all wines produced shall be made from fruit grown exclusively on site;
  - b) all wines produced are to be made from fruit grown, crushed and

- fermented on site;
- c) all wines produced shall be bottled on site.

- iii) The retail sale of wine produced on site shall be permitted. The maximum retail floor space shall be limited in the implementing zoning by-law to 18.5 square metres (200 square feet) provided that it does not conflict with any minimum floor area requirement for licensing approval.

#### Escarpment Wineries

Within the area of the Niagara Escarpment Plan, the establishment of estate and farm wineries shall conform to the policies of the Escarpment Plan. Wineries proposed within the Niagara Escarpment Plan shall be assessed on the basis of Escarpment Plan policies and on their individual merits by the Niagara Escarpment Commission. A Development Permit will be required from the Niagara Escarpment Commission within its area of Development Control.

#### c) **ADDITIONAL DWELLINGS**

All farm holdings may have accommodation for full-time and seasonal laborers. If a residence is required to provide accommodation for full-time farm help or seasonal farm help, the dwelling units providing accommodation shall be permitted as part of a farm unit where the nature of the farm is such that help needs to be located nearby.

Zoning By-law Amendment applications for additional farm-related dwelling units, shall be evaluated having regard for the type of farm operation, other holdings of the operator, the suitability of the location of the dwelling units as to adjacent land uses, access, number of units, etc.

Additional permanent and portable dwellings may be permitted without severance for full time farm help.

#### d) **RETIREMENT LOTS**

Consents to sever for a farm-related residential lot may be permitted for a farmer who is of retirement age retiring from active working life and selling the farm subject to the following criteria:

- (i) the applicant is a bona-fide full-time farmer.
- (ii) the applicant has farmed in Niagara since the 20th of December 1973 (the date of the adoption of the Official Plan for the Niagara Region)

#### 4) **CONSENTS**

- a) Consents are permissible if the parcel to be severed and the parcel to be

retained are both for agricultural use and each parcel is large enough to support a potentially viable farm operation and of a size that is appropriate and common in the area.

- b) Consents are permitted for minor boundary adjustments or easements provided that:
  - (i) the boundary adjustment is minor, or
  - (ii) the land for which the consent is requested is to be added to adjoining lands where there is an existing farm operation;
  - (iii) the parcel to be retained is large enough to support a potentially viable farm operation;
  - (iv) the consent must comply with other policies of the Plan, and
  - (v) the consent must not create a separate lot for a residential dwelling.
- c) Consents to convey may be permitted for infilling purposes in good General Agricultural Areas as shown in the Regional Policy Plan for a bona-fide, full-time farmer from the farm subject to the following criteria:
  - (i) the land from which the severance is take must continue to be a viable farm parcel and is an appropriate size, common in the area as determined by the Town and the authority having jurisdiction.
  - (ii) the land is situated between two permanent dwellings fronting on the same side of the road whose lot boundaries are not more than 100 metres (300 feet) apart and are located on lots not exceeding 0.8 hectares (2 acres) in area that exist in separate ownership and were created prior to 1991; and
  - (iii) any lot so created shall not be subdivided further.
- d) Consents may be granted for land which is to be added to adjoining lands on which there is an existing farm operation, and where the parcel to be retained is large enough to support a viable farm operation.
- e) Consents may be granted where two or more adjoining farms have been amalgamated to form one contiguous parcel under the ownership of a full-time farmer and an existing house which is capable of habitation is considered surplus and is not required for farm help employed on the farm, and consent is requested for conveyance of a lot with the surplus house thereon.
- f) In areas shown as Good General Agriculture in the Regional Policy Plan consents may be granted for existing small-scale agriculturally related commercial and industrial uses subject to the applicable policies of SECTION 21 GENERAL CONSENT POLICY.

## EXCEPTIONS

Within the agricultural designation certain lands are shown as exceptions. Generally these lands are occupied by existing uses which over time have established a level of compatibility with the agricultural community. In many instances the lands are occupied by buildings and structures that represent a substantial investment in the community that should be considered as a resource. In other situations the lands were the subject of previous planning approval where buildings have yet to be constructed.

- (1) Where lands are shown as EXCEPTIONS in the agricultural area, the uses permitted shall be limited in the implementing zoning by-law to the following:
  - a) The existing or approved use of the lands as explained in each exception (see Policy (2));
  - b) Any use permitted in the agricultural designation of this Plan subject to the policies of Section 7 of the Plan;
  - c) Any use having a similar impact to that of the existing use that is deemed reasonably compatible with the agricultural area to take advantage of existing buildings and facilities. Such uses shall only be permitted by a site specific amendment to the zoning by-law;
  - d) Zoning restriction for lot coverage, height, etc., may be applied to limit development and expansion of any building so as not to adversely affect the agricultural area.
- (2) The following are exceptions to the agricultural designation. The explanation with each exception indicates the existing use of the lands at the time of the adoption of the Plan as well as any previous planning approval given or any subsequent approvals.

EX-AG-1      The use of the property is limited to any use permitted in the agricultural designation and notwithstanding other policies in this Policy, a mini-storage use is permitted.

EX-AG-2      The Willis Lakeshore Fruit Market has been in operation for over 50 years, retailing and wholesaling agricultural products along with small scale commercial goods. While agricultural markets are a permitted secondary use in the agricultural designation the sale of goods not directly related to agriculture is not permitted. The Willis property is identified as EX-AG-2 which shall permit as an ancillary use to an agricultural market the sale of small scale goods and merchandise at retail. The types of products sold and limitations on the size of buildings will be established in the implementing zoning by-law.

EX-AG-3      The subject property is located at the south-east corner of East & West Line and Niagara Stone Road (Hwy. 55). The property is currently vacant but has been zoned for commercial use.

EX-AG-4      The lands are occupied by a small commercial plaza. The front portion of the lands are serviced with sanitary sewers and water, the rear portion of the lands are outside of the service area. Building extensions for

commercial purposes on to the rear lands will require an amendment to the service area boundary and to this Plan.

- EX-AG-5 Existing Churches
- EX-AG-6 Existing Public Schools
- EX-AG-7 Existing Secondary Schools
- EX-AG-8 The lands are occupied by an existing campground (Shalamar Lake Campground) which was designated in the Township of Niagara Official Plan as open space permitting the campground use.
- EX-AG-9 Existing Public Parks
- EX-AG-10 Notwithstanding the provisions of Policy (4) of Section 21 and Policy (1)a) of Section 6, Frontage On A Public Street the lands shown as Part 1 and Part 2 (as shown in Official Plan Amendment No. 3) may be conveyed and developed as distinct and separate lots.
- EX-AG-11 Notwithstanding other policies in this Policy, a municipal fire station is permitted on a site consisting of approximately 0.6 hectares (1.4 acres) and located on the south side of R.R. 55 (Niagara Stone Road), west of Concession 6 Road and north of Line 3 Road in the Town of Niagara-on-the-Lake. Furthermore, the fire station is to be connected to piped municipal water and sanitary sewer facilities.
- EX-AG-12 Notwithstanding other policies in this Policy, a golf course, driving range or other outdoor sports practice facility is permitted.
- EX-AG-13 Notwithstanding other policies in this Policy, a private club is permitted.
- EX-AG-14 The use of the property is limited to any use permitted in the agricultural designation and notwithstanding other policies in this Policy, a 21 room Inn including a 40 seat restaurant and permitted all within the existing 3 storey building formerly used as a museum/art gallery located on the lands known municipally as 16104 Niagara River Parkway. An uncovered outdoor patio use in association with the restaurant is also permitted on the lands.

## SECTION 16: Conservation/Wetlands

### BACKGROUND

The Conservation/Wetland designation applies to lands considered environmentally significant or where lands are considered unsuitable for buildings purposes and require special attention to avoid loss of life and property damage.

Within this designation are included Provincially significant wetlands, flood prone and shoreline erosion areas, area of natural and scientific interest, woodlots and fish habitats.



The Province of Ontario has adopted a Wetlands Policy Statement. The goals and objectives of the Statement are to ensure that Wetlands are identified and adequately protected; to achieve no loss of Provincially Significant Wetlands; and to encourage the conservation of other Wetlands (eg. Classes 4 to 7).

Niagara-on-the-Lake has four provincially significant Wetlands:

- Welland Canal Turn Basin and Reservoirs - Class I
- Four Mile Creek Estuary - Class III
- Eight Mile Creek Estuary - Class III
- Virgil Conservation Area - Class III

The Wetlands Policy Statement encourages municipalities to recognize the benefits that wetlands provide including: hydrologic fish and wildlife habitat, and pollution abatement. The Policy Statement prohibits development within a Provincially significant Wetlands but does allow development on adjacent lands (land within 120 metres - 400 feet) of a wetland subject to specific criteria.

The parks and recreation program of the Ministry of Natural Resources is responsible for the Provincial park system and also has the objective of identifying and assessing unique or representative physical, biological cultural and historical features, i.e. Areas of Natural and Scientific Interest (ANSI). In Niagara-on-the-Lake there are two Provincially significant ANSI's: the

Niagara River Bedrock Gorge and the Two Mile-Four Mile Creek Plain.

The Ministry of Natural Resources and the Niagara Peninsula Conservation Authority has monitored the erosion rate of the Lake Ontario shoreline. Within Niagara-on-the-Lake, the erosion rate is as high as 2.76 metres (9 feet) per year. The final draft of the Lake Ontario Shoreline Management Plan authorized by the Conservation Authority identifies the erosion problem and techniques and regulations to address it.

The Niagara River is a significant cold and warm water fishery which supports recreational and tourism sport angling and commercial bait fish. In addition to this river, Lake Ontario supports a seasonal salmonoid sport fishery which has an important Spring run of rainbow trout, chinook and coho salmon along its shoreline. To protect and enhance the fish habitat, the Plan provides that wherever possible that there be a natural buffer along the shore of Lake Ontario, the Niagara River and inland waterways. The Welland Canal is also recognized as a warm water fishery resource.

## GOALS AND OBJECTIVES

- (1) To protect wetlands from incompatible activities.
- (2) To encourage the retention of woodlots and the reforestation of low capability farmland.
- (3) To protect areas of natural and scientific interest.
- (4) To control development within the 100 year erosion limit of Lake Ontario.
- (5) To petition the senior levels of government for physical and financial assistance in stabilizing the Lake Ontario shoreline.
- (6) To increase public access to the Niagara River and Lake Ontario and to prevent damage to the shoreline.
- (7) To delineate and regulate development on all lands having inherent physical environmental hazards such as flood susceptibility, poor drainage or other physical conditions which act as a constraint to development in order to prevent loss of life and to minimize property damage and social disruption.
- (8) To preserve and enhance the amenities and natural resources offered by waterways, wetlands and natural areas in the Town.
- (9) To preserve and protect provincially significant wetlands in accordance with provincial policy statements.

## LAND USE DESIGNATIONS

### CONSERVATION

Within the Conservation designation as shown on the Land Use Schedules the following uses are permitted:

**Main Uses:**

Forestry, fisheries management, wildlife management, waterfowl production,

floodplains, environmental protection, public and private parks (parks are permitted only within urban boundaries), activities and facilities of the Niagara Parkway Commission.

**Secondary Uses:**

Uses permitted with a Main Use:

- accessory buildings and structures subject to the approval of the authority having jurisdiction

Uses permitted independent of a Main Use:

- shoreline protection works
- any agricultural use permitted in Section 7 of this Plan
- yard space for any use permitted in an abutting designation
- accessory buildings or structures not used for human habitation permitted in an abutting designation subject to the approval of the authority having jurisdiction

## WETLANDS

Where lands designated as a Provincially significant wetland the following policies shall apply:

- (1) Provincially significant wetlands as identified in this Plan shall be left in their natural state and no development of a wetland shall be permitted.
- (2) Any alteration to existing grades, the placing or removal of fill shall not be permitted without the written permission of the Town, the Ministry of Natural Resources and the Niagara Peninsula Conservation Authority.
- (3) Any public utilities permitted in Section 6 of this Plan shall avoid any wetland unless absolutely essential. The location of any public utility facility shall require the approval of the Town, the Ministry of Natural Resources and the Niagara Peninsula Conservation Authority.
- (4) Any development proposed on adjacent lands within 120 metres (400ft.) of a provincially significant wetland may be permitted subject to the written approval of the Town and the Ministry of Natural Resources and/or the Niagara Peninsula Conservation Authority and only if it does not result in any of the following:
  - a) loss of Wetland Function;
  - b) subsequent demand for future development which will negatively impact on existing Wetland functions;
  - c) conflict with existing site-specific wetland management practices;
  - d) loss of contiguous Wetland Area

The proponent shall demonstrate by an Environmental Impact Study (EIS) the manner in which items a) to d) have been addressed.

- (5) On adjacent lands, (being within 120 metres (400ft.) of a provincially significant wetland, established Agricultural activities are permitted without an EIS. Agricultural Activities shall mean: ploughing, seeding, harvesting, grazing, animal husbandry, and buildings

and structures associates with these farming activities. This includes such activities on areas lying fallow as part of conventional rotation cycle.

- (6) For the purpose of this policy development shall mean:
- a) the construction, erection or placing of a building or structure;
  - b) activities such as site grading, excavation, removal of top soil or peat and the placing or dumping of fill;
  - c) drainage works, except for the maintenance of existing municipal and agricultural drains.

## AREAS OF NATURAL AND SCIENTIFIC INTEREST

The Town shall have regard to any development on or within 120 metres (393 feet) of any A.N.S.I. (Area of Natural or Scientific Interest) to ensure that there are no negative effects on the A.N.S.I. The Municipality shall control the design and development of any abutting lands to ensure protection and compatibility with an A.N.S.I. Areas of Natural and Scientific Interest are designated in this Plan.

## GENERAL CONSERVATION POLICIES

- (1) The provision of protection works or the dumping of material along the Lake Ontario and Niagara River shorelines is prohibited without the prior written authorization of the Town and the Ministry of Natural Resources, as per the provisions of the Shoreline Protection Act and the Lake and Rivers Improvement Act. Notwithstanding the provisions of this policy Shoreline Protection Works carried out in accordance with the requirements of the Shoreline Protection Act and the Lake and Rivers Improvement Act shall not require an amendment to this Plan.
- (2) No buildings or structures, or addition thereto nor the placement or removal of fill material, shall be permitted within or adjacent to the Niagara River, Lake Ontario or any inland watercourse, and its associated valley system, without the prior written authorization of the Conservation Authority or the Ministry of Natural Resources.
- (3) No buildings or structures or additions to such buildings or structures nor the placement or removal of fill material shall be permitted in any floodline or fill line as established by the Niagara Peninsula Conservation Authority without written approval from the Conservation Authority. Floodlines along One and Eight Mile Creek are regulated to the 1:100 year storm flood level. Two and Four Mile Creeks are regulated to the Regional Storm Flood level.
- (4) No buildings or structures or additions to such buildings or structures nor the placement or removal of fill material shall be permitted within the 100 year erosion limit of Lake Ontario without the written approval of the Niagara Peninsula Conservation Authority.
- (5) Existing uses will be recognized despite the hazardous characteristics of the land.

Expansions of such uses will, however, be discouraged unless they are in conformity with the following:

- a) Reconstruction and/or minor additions to existing buildings or structures, pump houses, storage sheds and inground swimming pools which are approved by the Niagara Peninsula Conservation Authority, in accordance with the Fill, Construction and Alteration to Waterways Regulations;
  - b) Additions or extensions, including new structures, to existing agricultural operations which are not likely to incur significant flood damage, or will not result in impediments to flow or floodwater storage, which are approved by the Niagara Peninsula Conservation Authority in accordance with the Fill, Construction and Alteration to Waterways Regulation.
- (6) No plans to divert, channelize or in any way alter an inland natural watercourses, located within the Conservation designation, shall proceed without the prior written authorization of the Conservation Authority and the Ministry of Natural Resources.
- (7) Any applications for the redesignation of Conservation lands will be carefully reviewed and shall not adversely impact on the natural environment. Council shall, in conjunction with appropriate public agencies including the Conservation Authority, the Ministry of Natural Resources and the Region, require a proponent to submit a study prepared by a qualified environmental specialist. Such a study shall contain:
- a) A description of the natural environment and existing physical characteristics including a statement of environmental quality.
  - b) A description of the proposed development and the potential effect on the natural environment.
  - c) A description of the costs and benefits in economic, social, and environmental terms of any engineering works and/or resource management practices needed to mitigate the potential effects.
  - d) An evaluation of alternatives including other locations to the proposal.

There is no public obligation, however, either to change the designation of, or to purchase any area within the Conservation designation, particularly if the environmental hazard would be difficult or costly to overcome.

- (8) Conservation lands may not necessarily be considered acceptable as part of a parkland dedication under the Planning Act, 1983.
- (9) Conservation lands will be placed in appropriate zoning categories in the implementing Zoning By-laws.
- (10) In interpreting the boundary of any conservation designation the following principals shall apply:
- a) Where lands abut the Lake Ontario or the Niagara River the boundary of the conservation designation shall be the top of the bank adjacent to the Lake or river. On undeveloped land a minimum 15 metre (49.2 feet) natural buffer area shall be provided along the lake or river to protect fish habitat. Where development is

anticipated or an addition to an existing building, variations to the natural buffer area may be considered, subject to the approval of the Town of Niagara-on-the-Lake in consultation with the Ministry of Natural Resources and the Niagara Peninsula Conservation Authority. The Town where deemed necessary may also request within the buffer area a maintenance area (generally 8 metres (26.2 feet) wide).

- b) Where lands abut any other watercourse or valley area designated conservation the boundary of the conservation designation shall be the floodline as established by the Niagara Peninsula Conservation Authority. In the absence of any floodline mapping the boundary of the conservation designation shall be the top of the bank adjacent to the watercourse or valley area. Where deemed necessary an appropriate maintenance area (generally 8 metres (26.2 feet) wide) may be required by the Town of Niagara-on-the-Lake.
  - c) Where lands designated conservation are within an Urban Boundary as shown in this Plan and does not form part of any shoreline, watercourse or valley area development may be permitted but restricted to preserve existing trees or other natural feature.
  - d) Where lands designated conservation are outside of an Urban Boundary as shown on this Plan and does not form part of any shoreline, watercourse or valley area, main agricultural uses shall be permitted but may be restricted to preserve existing trees or other natural features. Agricultural activities may be permitted within a floodline subject to the approval of the authority having jurisdiction.
- (11) Within the 100 year erosion limit of Lake Ontario, as shown on Schedule "A" to this Plan any use permitted shall be subject to the approval of the Conservation Authority and will only be permitted if the erosion hazard has been adequately overcome by protective measures approved by the Ministry of Natural Resources or to the satisfaction of the Niagara Peninsula Conservation Authority which may require shoreline protection works to be installed prior to development taking place.



## **SECTION 19 - INSTITUTIONAL (INST) ZONE**

### **19.1 Uses Permitted**

No person shall within the Institutional (Inst) Zone use any lot, or erect, alter or use any building or structure for any purpose except one or more of the following uses:

#### **(a) Residential Uses**

- a dwelling unit or units permitted under the provisions of Section 3.9 of this By-law
- an eating establishment where included within an Institutional building
- a parking lot

#### **(b) Open Space**

- a bowling green or tennis court
- an outdoor skating rink
- a private park or zoo including accessory buildings
- a swimming area

#### **(c) Institutional Uses**

- a cemetery
- a clubhouse
- a church or other religious institution
- a senior citizen's home, a hospital
- a museum
- a meeting hall
- a school
- a Public Use in accordance with the provisions of Section 3.21 of this By-law.
- a day care facility

### **19.2 Zone Requirements**

No person shall within the Institutional (Inst) Zone use any lot or erect, alter or use any building or structure except in accordance with Schedule "F" - Zone Requirements Table as applicable to the Institutional (Inst) Zone, or in accordance with any applicable paragraphs of Section 21 - Special Provisions.

# ZONE REQUIREMENTS TABLE

## SCHEDULE F TO BY-LAW 500A-74

ZONE	PERMITTED USES			MINIMUM LOT REQUIREMENTS				MINIMUM YARDS				MINIMUM DWELLING FLOOR AREA		MAXIMUM BUILDING HEIGHT	ACCESSORY BUILDING YARDS
				FRONTAGE	AREA ( <sup>m</sup> ²)	DEPTH	MAX. LOT COVERAGE	FRONT	INTERIOR SIDE	EXTERIOR SIDE	REAR	1 STOREY ( <sup>m</sup> ²)	2 STOREY ( <sup>m</sup> ²)		
4	A	a)	RURAL	125'	10 ac	---	15% (i)	50'	10'	30'	50'	1,000	1,500	35'	---
		b)	RESIDENTIAL (lots created by consent)	200'	40,000	200'	15%	50'	10'	30'	50'	1,000	1,500	35'	10'
		c)	OPEN SPACE	300'	10 ac	600'	15%	50'	10'	30'	50'	---	---	35'	10'
5	RR	a)	RURAL	125'	5 ac	---	15% (i)	50'	10'	30'	50'	1,000	1,500	35'	10'
		b)	RESIDENTIAL	200'	40,000	200'	15%	50'	10'	30'	50'	1,000	1,500	35'	10'
			RESIDENTIAL -Niagara Parkway north of Dee Rd	200'	40,000	200'	15%	50'	10'	30'	50'	1,600	2,200	35'	10'
			RESIDENTIAL - Siemens Subdivision	125'	43,750	350'	15%	40'	5'	---	25'	1,200	1,800	35'	10'
		c)	OPEN SPACE	200'	2 ac	300' 200'	15%	50'	10'	30'	50'	---	---	35'	10'
6	RS	a)	RESIDENTIAL	100'	20,000	200'	15%	50'	10'	30'	50'	1,000	1,800	35'	10'
		b)	REG'D PLAN - Sheppard	100'	20,000	200'	15%	40'	5'	10'	25'	1,200	1,800	35'	5'
		c)	OPEN SPACE	150'	30,000	200'	15%	50'	10'	30'	50'	---	---	35'	10'
		d)	INSTITUTIONAL	125'	25,000	200'	15%	50'	10'	30'	50'	---	---	35'	10'
				as existing on Nov. 10, 1988			15% or as existed	or as existed on Nov. 10, 1988				92.9 m <sup>2</sup>		10.6 m	1.5 m or as existed
8	R1	a)	RESIDENTIAL water & sewer	60'	7,200	120'	33%	25'	5'	15'	25'	1,000	1,500	35'	5'
			water, no sewer	200'	40,000	200'	15%	25'	10'	15'	25'	1,000	1,500	35'	5'
			no water, no sewer	200'	40,000	200'	15%	25'	10'	15'	25'	1,000	1,500	35'	5'
		b)	INSTITUTIONAL	120'	15,000	125'	15%	25'	10'	15'	25'	---	---	35'	5'

ZONE	PERMITTED USES	MINIMUM LOT REQUIREMENTS				MINIMUM YARDS				MINIMUM DWELLING FLOOR AREA		MAXIMUM BUILDING HEIGHT	ACCESSORY BUILDING YARDS	
		SECTION - SYMBOL - PARAGRAPH - TYPE	FRONTAGE	AREA (m <sup>2</sup> )	DEPTH	MAX. LOT COVERAGE	FRONT	INTERIOR SIDE	EXTERIOR SIDE	REAR	1 STOREY (m <sup>2</sup> )			2 STOREY (m <sup>2</sup> )
9	R2 a) RESIDENTIAL (Serviced) - Single	60'	7,200	120'	33%	25'	5'	15'	25'	1,000	1,500	35'	5' ✓	
		30'	3,600	120'	33%	25'	SEE (ii)	15'	25'	1,000	1,500	35'	5'	
	b) INSTITUTIONAL	120'	15,000	125'	33%	25'	10'	15'	25'	---	---	35'	5'	
10	R3 a) RESIDENTIAL (Serviced)	100'	12,500	125'	33%	25'	10'	15'	25'	See (iii)	See (iii)	35'	5'	
	b) INSTITUTIONAL	120'	15,000	125'	15%	25'	10'	15'	25'	---	---	35'	5'	
11	RM4 a) RESIDENTIAL (Water & Sewer)	60'	See (iv)	---	33%	25'	25'	25'	25'	See (iii)	See (iii)	35'	50% of building height	
	b) INSTITUTIONAL	120'	15,000	125'	15%	25'	10'	15'	25'	---	---	35'	5'	
12	C1 a) RESIDENTIAL	---	---	---	---	---	---	---	---	---	---	---	---	
	b) COMMERCIAL	50'	5,000	100'	50%	15'	4'	15'	25'	---	---	35'	25' -rear 4' -side	
	c) INSTITUTIONAL	120'	15,000	125'	15%	25'	10'	15'	25'	---	---	35'	5'	
	d) COMMERCIAL -Old Town	30'	5,000	100'	75%	---	4'	4'	15'	---	---	35'	4'	
12A	C2 a) RESIDENTIAL	---	---	---	---	---	---	---	---	---	---	---	---	
	b) COMMERCIAL	60'	12,000	200'	50%	50'	10'	25'	25'	---	---	35'	See (v)	
	c) INSTITUTIONAL	60'	12,000	200'	50%	50'	10'	25'	25'	---	---	35'	See (v)	
13	C3 a) RESIDENTIAL	---	---	---	---	---	---	---	---	---	---	---	---	
	b) COMMERCIAL	60'	12,000	200'	50%	50'	10'	25'	25'	---	---	35'	See (v)	
	c) OPEN SPACE	60'	9,000	150'	50%	50'	10'	30'	25'	---	---	35'	See (v)	
	d) INSTITUTIONAL	60'	9,000	150'	50%	50'	10'	25'	25'	---	---	35'	See (v)	
14	C4 a) RESIDENTIAL	---	---	---	---	---	---	---	---	---	---	---	---	
	b) COMMERCIAL	60'	7,200	120'	50%	15'	4'	15'	25'	---	---	35'	See (v)	
	c) INSTITUTIONAL	120'	18,000	150'	20%	50'	10'	30'	25'	---	---	35'	5'	

ZONE	PERMITTED USES			MINIMUM LOT REQUIREMENTS				MAXIMUM YARDS				MINIMUM DWELLING FLOOR AREA		MAXIMUM BUILDING HEIGHT	ACCESS BUILDING YARDS
				FRONTAGE	AREA (m <sup>2</sup> )	DEPTH	MAX. LOT COVERAGE	FRONT	INTERIOR SIDE	EXTERIOR SIDE	REAR	MINIMUM DWELLING FLOOR AREA			
												1 STOREY (m <sup>2</sup> )	2 STOREY (m <sup>2</sup> )		
15	M1	a) RESIDENTIAL	---	---	---	---	---	---	---	---	---	---	---	---	---
		b) COMMERCIAL													
		sewer	200'	40,000	200'	50%	50'	10'	30'	25'	---	---	35'	See (v)	
		no sewer	200'	40,000	200'	25%	50'	10'	30'	25'	---	---	35'	See (v)	
		c) INDUSTRIAL													
		sewer	200'	40,000	200'	50%	50'	10'	30'	25'	---	---	35'	See (v)	
		no sewer	200'	40,000	200'	25%	50'	10'	30'	25'	---	---	35'	See (v)	
		d) OPEN SPACE	120'	18,000	150'	20%	50'	10'	30'	25'	---	---	35'	See (v)	
16	M2	a) RESIDENTIAL	---	---	---	---	---	---	---	---	---	---	---	---	
		b) COMMERCIAL	200'	40,000	200'	25%	50'	10'	30'	25'	---	---	35'	See (v)	
		c) INDUSTRIAL	200'	40,000	200'	25%	50'	10'	30'	25'	---	---	35'	See (v)	
17	M3	a) INDUSTRIAL	ZONE REQUIREMENTS AS ESTABLISHED PURSUANT TO SECTION 21 OF THIS BY-LAW												
17A	M4	a) INDUSTRIAL	45 m	4045 m <sup>2</sup>	---	40%	8 m	3 m	8 m	8 m	---	---	12 m	---	
17B	M5	a) INDUSTRIAL	45 m	4045 m <sup>2</sup>	---	35%	8 m	3 m	8 m	8 m	---	---	10 m	---	
17C	M6	a) INDUSTRIAL	45 m	4045 m <sup>2</sup>	---	40%	8 m	3 m	8 m	8 m	---	---	12 m	---	
18	OS	a) OPEN SPACE	---	---	---	5%	50'	10'	30'	25'	---	---	35'	See (v)	
19	INST	a) RESIDENTIAL	---	---	---	---	---	---	---	---	---	---	---	---	
		b) OPEN SPACE	120	15,000	125'	15%	50'	10'	30'	25'	---	---	35'	See (v)	
		c) INSTITUTIONAL	120'	15,000	125	15%	50'	10'	30'	25'	---	---	35	See (v)	
20	PDH	a) RURAL	125	5 ac	200'	15%	50'	10'	30'	50'	---	---	35'	---	
		b) RESIDENTIAL													
		sewer	60'	7,200	120'	33%	25'	5'	15'	25'	---	---	35	5	
		no sewer	200'	40,000	200'	15%	50'	10	30'	50'	---	---	35'	10'	

#### NOTES

- (i) Green houses may be extended to a total maximum coverage of 50%
- (ii) Minimum interior side for a party wall on a property line = 0'. All other interior yards = 5'
- (iii) Minimum unit area 600 sq.ft. for one bedroom plus 150sq.ft. per each additional unit.

- (iv) Multiple Dwelling - lot size shall be 7,500 sq.ft. for the first unit plus 2,500 sq.ft. for each additional unit  
Apartment Building - lot size shall be 6,000 sq.ft. for the first unit plus 1,500 sq.ft. for each additional unit
- (v) Same as main building yards but shall not be located in a front yard
- (vi) Accessory Use - 1 storey and 3 metres