

January 28, 2022

Niagara Region  
1815 Sir Isaac Brock Way  
PO Box 1042  
Thorold, Ontario L2V 4T7

Attention: Isaiah Banach, Manager of Long-Term Planning

Dear Mr. Banach,

**RE: Settlement Area Boundary Expansion Request  
0 Nigh Road (Roll Number 270302001064700), SABR ID #1137  
2282344 Ontario Inc.**

#### **INTRODUCTION:**

We represent the Owners of the property identified above and are pleased to submit this letter to the Region as part of its review process for the Settlement Area Boundary Review (“boundary expansion”) forming part of their Municipal Comprehensive Review. The Regional Planning Department report, dated December 8, 2021 (PDS 41-2021), recommended the report be received by Regional Council. As part of the Region’s report, they also recommended four locations in the Town of Fort Erie be added to the boundary expansion and excluded our client’s lands.

Consistent with the Region’s request for comments on the proposed changes to the settlement area boundaries, and in order to provide sufficient time for review and input into the next draft (deadline of February 7, 2022), we are submitting this letter as a formal request that Regional staff reconsider their previous decision and that these lands be recommended to form part of the boundary expansion.

#### **HIGHLIGHTS:**

The following is a high-level summary of key events related to our client’s land with regards to the boundary expansion process:

- Report PDS 41-2021 did not support the inclusion of our lands as part of the Region’s initial review on what we believe to be primarily based on environmental concerns
- Town of Fort Erie Planning staff report PDS-41-2021 recommended our client’s lands be added to the boundary expansion, was supported by local Council, and in fact was identified as Priority # 3 (if we exclude the Crystal Beach areas, this property becomes Priority #1 in the Fort Erie area)
- existing hard and soft services are in close proximity to our client’s lands

- there are 2 unopened road allowances on the lands to facilitate the extensions of Parkside Avenue and Hollywood Street, which indicates the original intent to develop these lands
- our client's lands are contiguous to existing development and would represent a logical extension of the current settlement area boundary
- our request would not create a leapfrogging of development which would exacerbate urban sprawl

## **CONTEXT:**

### Land Use

Our lands are located adjacent to the current urban boundary limit, just west of Buffalo Road, abutting the current area of Crescent Park. This road contains numerous single-family homes that back onto our lands. Lands to the west, north and south are all designated as rural and either have existing rural estate lots or have the potential to be developed with rural estate lots. There is an active planning application to the immediate west of our lands seeking approval for 10 lots. As such, our request to introduce more housing in the area through this process would be consistent with the over arching land uses already designated by the local Official Plan.

By introducing a more intensive form of development consistent with the housing typology along Buffalo Road, rather than a rural estate type of development which also exists in the immediate area, we would be providing a much-needed supply of added housing in the immediate area to meet the housing needs of the Town of Fort Erie and the Region. This would also help to address the housing situation in the Greater Golden Horseshoe.

### Hard and Soft Services

We believe our client's lands are well situated to expand to the west without the need for major investment of public infrastructure, thus capitalizing on infrastructure investments that the Town of Fort Erie and the Niagara Region have already made. It offers a seamless opportunity to establish a component of a complete community consistent with Provincial policy and plans. Although our client's lands are smaller than the recommended properties, at 10.5 hectares there is still substantial opportunity for development on these lands. This site is located in close proximity to both hard and soft services that would form part of a complete community.

From a soft services perspective or community amenities perspective, our client's lands are situated within 500 metres of the Town of Fort Erie Municipal Centre, Ferndale Park, a Boys and Girls Club, a high school, a hotel that is being converted into a senior's home, as well as other amenities. All of these facilities are within walking distance of our client's lands. In addition, our client's lands are located on an existing transit route (Route 760 West-Yellow Line). It is our opinion this falls within the typical 15-minute neighbourhood, where all services are available within a 15-minute walk.

With respect to hard services, existing sanitary sewers, watermains, natural gas, and electricity are located within the Buffalo Road, Hollywood Street and Parkside Avenue road allowances and are within approximately 50 to 60 metres of our client's site. Given the proximity of these existing services to our client's lands, and the infrastructure capacity available, we believe it would be easier to utilize these services rather than having to invest significant time and public resources to provide hard servicing to expansion areas where such existing infrastructure is lacking and or constrained.

## Development Charges

It is our understanding that Niagara Region in recent years has constructed the new Dominion Road Sewage Pumping Station at a cost in the range of \$8,000,000 in close proximity to our client's lands. In addition, Rosehill Water Treatment Plant has also recently undergone a facility upgrade and both of these facilities are located within 1.5 kilometres of our client's site.

It is our contention that the use of existing facilities, which were constructed with significant cost, is beneficial when considering our proposal to include our client's lands for future development. The inclusion of our client's lands into the urban boundary and in time its future development would in turn contribute a significant influx of Development Charges dollars in the very near term. These dollars can be considered to offset the cost of the recently constructed facilities, as well as being used to advance other municipal initiatives. Currently the combined Municipal and Regional Development Charges range from approximately \$15,000 to \$40,000 per unit. This could potentially amount to several million dollars for the Town and the Region in the very near term, without having to incur any further capital expenditures.

## **BACKGROUND:**

### Provincial Framework

The Provincial Policy Statement ("PPS") under Managing and Directing Land Use to Achieve Efficient and Resilient Development and Land Use Patterns identifies a number of components that healthy, liveable and safe communities are sustained by. One of these include "promoting the integration of land use planning, growth management, transit-supportive development, intensification and infrastructure planning to achieve cost-effective development patterns, optimization of transit investments, and standards to minimize land consumption and servicing costs". (Section 1.1, subsection 1.1.1 e) It is our position that if our client's lands were added to the boundary expansion area it would meet the PPS.

The Growth Plan policies relating to population forecasts are minimums. The policies allow the Region the ability to exceed the forecasts to ensure an adequate supply of housing. More specifically the Growth Plan states "The minimum intensification and density targets in this Plan, including any alternative targets that have been permitted by the Minister, are minimum standards and municipalities are encouraged to go beyond these minimum targets, where appropriate, ..." (Section 5.2.5, subsection 1)

### Region of Niagara

On December 8<sup>th</sup>, 2021, Regional Planning staff brought forward a report (PDS 41-2021) to the Planning and Economic Development Committee identifying the recommended areas where they supported an urban boundary expansion. Our client's lands were not recommended as one of those sites. We respectfully disagreed with that decision and submitted a letter dated December 3, 2021, to the Regional Clerk, noting the same.

The basis of the lack of support for our client's lands was, as far as we can see, predicated on the environmental component of the criteria used to assess each request. It is our position that the requisite detailed analysis to consider an expansion under this specific component is considered incomplete. It is our understanding that there was no detailed field and/or study work

completed to warrant a true measure of the value of features on our lands, nor any other lands. It was based solely on mapping and data that we understand will be updated in the near future.

It is our understanding the Land Needs Assessment, which was used to determine the amount of land needed for the boundary expansion (both residential and employment), was based on the net area needed to meet the Regions projected population and employment numbers. In the absence of a more thorough analysis, we are wondering if we truly have the requisite lands available to meet the 105 hectares identified for growth in the Town of Fort Erie. Should the more detailed environmental analysis determine lands within the recommended sites need to be protected in perpetuity, resulting in a potentially significant shortfall of lands, where do we then find the lands needed to meet the growth targets?

### The Town of Fort Erie

In Report PDS-41-2021, Town Planning staff identified our client's lands as a prime candidate for inclusion in the Urban Boundary Expansion. More specifically the report states "four parcels have been identified as strategic lands for the Town to consider for future residential uses, should the need be identified". This was predicated on the recommendations from an independent report prepared by WSP, on behalf of the Town of Fort Erie. As noted in Report PDS-14-2021, the final recommendations of the eighteen (18) candidate locations considered within the Town of Fort Erie identified our lands as Priority #3. If we were to exclude the area of Crystal Beach our client's lands would become Priority #1 in the Town municipal centre area

We would like to acknowledge a lot of work by the Town of Fort Erie and WSP was undertaken in order to consider the merits of the various properties. On that basis, criteria were established to evaluate the eighteen (18) sites identified. As noted above, our client's lands were given a high priority for the purposes of being added into the boundary expansion area. Other lands in Fort Erie, which were at a much lower priority level in the Town of Fort Erie, have been recommended by Regional staff.

### **WHAT HAVE WE DONE?**

Our client has been involved in the process since December 2020. Although engaged and having had continual conversations with a variety of planning staff from both the local and Regional Niagara level, our client also retained professional services to undertake a number of studies to help inform the process. These studies along with a summary of each is provided below.

#### Environmental Constraints Analysis (as prepared by LCA Environmental Consultants)

Field studies were completed throughout the 2021 field seasons according to the Terms of Reference submitted to the Region of Niagara and Niagara Peninsula Conservation Authority (NPCA). This Study provides background information and current field data to inform of the constraints to development associated with the natural heritage features on the subject property and suitability for inclusion in the Urban Area Boundary expansion.

Based on the assessment, there was an unevaluated wetland identified in the southern portion of the property which will need to be assessed and has been identified as a high constraint to development in accordance with NPCA policies. The remainder of the property was identified as low constraint to development, with the exception of the remnant woodlot in the northwest corner, which is subject to Regional Woodland Conservation By-law No. 2020-79.

We understand that these lands were not considered as part of the recommended SABE areas based primarily on the Regional and provincial mapping. We have completed a comprehensive Environmental Constraints Report which highlights the potential development areas that have been incorrectly identified as other woodlands and concluded that there is development potential on these lands that could take advantage of the existing infrastructure.

#### Wastewater and Water Feasibility Analysis (as prepared by GM BluePlan Engineering)

An analysis to determine potential impacts to the existing and future systems was undertaken. The system was assessed using the Town of Fort Erie's existing water and wastewater models, developed, updated, and locally calibrated in 2016/17 as part of the Niagara Region's 2016 Master Servicing Plan Update, Fort Erie Water Distribution System Master Plan, and Fort Erie Pollution Prevention and Control Plan and Wastewater Master Plan (PPCP&MP) Study.

Water system analysis results identified the following:

- the local system can accommodate additional demands while maintaining 40-100 psi under average day and peak hour demand conditions for both existing and 2041
- fire flows to the development exceed the 75 L/s single family residential target and not the 150 L/s multi family residential target under existing and future conditions; additional upgrades and/or are required to improve local fire flows which may not be achieved internal to the development
- increased demands are within the established growth targets and are anticipated to be within the future facility capacities (storage, pumping, and supply)

Wastewater system analysis results identified the following:

- the Town's PPCP&MP identified existing capacity restrictions along the existing Dominion Road sewer and downstream Dominion SPS, however, these restrictions were primarily the result of high inflow and infiltration.
- based on the existing sewer capacity, there is insufficient existing capacity within the Buffalo Road sewer to accommodate the additional flows, under the existing 5-year design storm, without triggering sewer surcharging. As such, the Buffalo Road sewer would need to be upgraded to a minimum of 300 mm.
- using the Region's criteria, the Dominion SPS MSP listed capacity of 215 L/s is sufficient to accommodate the proposed developments additional flow contributions.
- a demonstrated reduction in the peak wet weather flows in the catchment upstream of the west Dominion Road sewer is needed to maintain existing sewer surcharging levels within the Dominion Road Sewer below the Town's 1.8 m criteria.

#### Transit and Transportation Feasibility (as prepared by Paradigm Transportation Solutions Limited)

A qualitative transit and transportation assessment of the above-noted lands was completed. It identified access to the subject lands is facilitated by a network of roadways under various jurisdictions. Generally, there were four categories of roadway hierarchy noted either adjacent to or in proximity to the subject lands, as follows:

- Provincial Highway (Garrison Road- west of Rosehill Road)
- Regional Arterial Road (Garrison Road- east of Rosehill Road and Dominion Road)
- Town Collector Roads (Buffalo Road and Rosehill Road)

- Local Roads (Nigh Road, Hollywood Street and Parkside Avenue)

The development has the potential to connect to and expand the current grid network established within the mature residential neighbourhood directly to the east of the subject lands. There are currently two connections to the lands from Buffalo Road, located directly opposite Hollywood Street and Parkside Avenue, as well as the potential to add a new connection to Nigh Road. This would allow the lands to potentially be constructed in a grid like network that would tie into the existing roadway network.

Based on a high-level review, accommodating a road network does not appear to encroach upon environmentally sensitive features. Given this, it is highly feasible to incorporate this parcel of land into the existing local road network while considering environmental matters.

The qualitative assessment suggests that designating the subject lands as urban area appears suitable and appropriate from a transit and transportation perspective. The lands have good access to major transportation corridors (roads, rails, and marine systems) through Garrison Road, Dominion Road and the QEW. The subject lands also offer a highly feasible option for establishing a proper local road network, and are highly feasible in providing active transportation facilities, although they do have a low feasibility option for extending transit service.

#### Archaeological Site Assessment: Stage I and Stage II (as prepared by Detritus Consulting Ltd.)

An archaeological investigation consistent with the Provincial Policy Statement states “development and site alteration shall not be permitted on lands containing archaeological resources or areas of archaeological potential unless significant archaeological resources have been conserved.” (Section 2.6.2) To meet the conditions of this legislation, a Stage 1-2 assessment of the Study Area was conducted.

Given the results of the Stage 2 assessment one area has been interpreted as a small activity area of unknown function, occupied by unspecified Aboriginal people during the pre-contact period. Given the fact that the Stage 2 assessment only recovered four non-diagnostic artifacts within a 10 metre-by-10 metre test pit survey, the site does not meet the criteria for a Stage 3 assessment per Section 2.2 Standard 1.a.ii(2) of the Standards and Guidelines (Government of Ontario 2011).

Subsequently this report has been submitted to the Ontario Ministry of Heritage, Sport, Tourism and Culture Industries for acknowledgment.

#### **CONCLUSION:**

The Region has asked that landowners submit their requests for consideration of an urban boundary expansion. Our client has been active in this process with the Town of Fort Erie and Regional staff since December 2020.

Fort Erie Council has endorsed the WSP recommendation that our client’s lands form part of the boundary expansion. We feel the identification of our lands by Town Council, as a high priority for inclusion in the boundary expansion, should be recognized and given greater consideration when the Region renders its report.

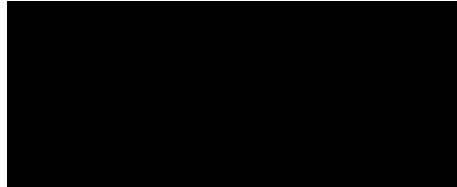
As part of the analysis that we have undertaken to date, we are fully aware that our client’s entire site is not suitable for development. It is our intention to identify those lands through the

required Environmental Impact Study for protection, with the requisite buffers, and dedicate them to the appropriate public authority for their long-term protection. Accordingly, we are prepared to continue to work with Regional and Town staff to ensure the requisite amount of land needed for the 30-year planning horizon of both Official Plans is satisfied.

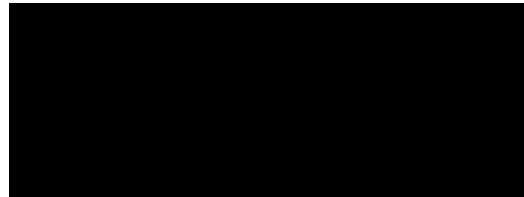
Based on our studies, which reaffirm the analysis undertaken by the Town, wherein no significant issues have been identified to suggest our site is not appropriate for inclusion, it is our opinion that our client's lands should be included in the boundary expansion. Accordingly, we respectfully request that the Region of Niagara staff and Regional Council support the inclusion of our lands into the Settlement Area Boundary Review.

We will gladly make ourselves available, at your convenience, to further discuss the merits of our lands prior to or after the February 7<sup>th</sup>, 2022, deadline for comments.

Respectfully submitted on behalf of 2282344 Ontario Inc.



Jim Harnum, CET, MBA  
Principal, Municipal VU Consulting Inc.



Bill Kim, MCIP, RPP  
Planner at Work Inc.

c.c. Michelle Sergi, Commissioner of Planning and Development Services  
Aaron Butler, Manager of Development Approvals, Town of Fort Erie  
Alex Herlovitch, Town of Fort Erie Planning Department