



Planning and Development Services

Prepared for: Committee of Adjustment

Meeting Date: November 21, 2024

Application Number: B47/24

Address: 4 and 6 Hagey Avenue, Fort Erie

Owner: 1365853 Ontario Limited

Applicant: Upper Canada Consultants(c/o William Heikoop)

1. Title

Consent Application B47/24 for lands located at 4 and 6 Hagey Avenue, Fort Erie.

2. Proposal

The purpose and effect of this application is to facilitate a Boundary Adjustment, partial discharge of mortgage and easement to permit demolition, construction and occupancy of a new Nursing Home. The proposed Boundary Adjustment conveys Parts 4, 5 and 6 on the consent sketch, attached as Appendix 1 hereto, to merge with Parts 1, 2 3, 7. Parts 8 and 9 will continue to be used as a Long Term Care Facility.

This Application has been submitted concurrently with Minor Variance Applications A72-24 & A73-24. Minor Variance Application A72-24 seeks to facilitate the construction of new Long Term Care Facility. Minor Variance Application A73-24 seeks permit a reduce setback to the existing Long Term Care Facility as a result of the boundary adjustment.

Table 1 outlines the lot areas and lot frontages for this proposal based on the submitted Consent Sketch:

Table 1 - Lot Frontages and Lot Areas

Part	Lot Area	Lot Frontage
4 Hagey Avenue	11,125.5 square metres	Approximately 68 metres
6 Hagey Avenue	10,041.3 square metres	Approximately 55 metres
Easement (Part 7)	3185.2 square metres	

3. Recommendations

It is recommended that Consent Application B47/24 be **APPROVED**, subject to the following conditions:

1. That the Applicant's Solicitor and/or Land Surveyor provide the Secretary-Treasurer with a legal description of the lands to be severed to be registered on title together with a draft copy of the reference plan for approval and an original and electronic copy (in AutoCAD.dwg and PDF format) of the deposited reference plan if required, for use in the issuance of the Certificate of Consent;
2. That the Applicant's Solicitor provide the Secretary-Treasurer with a firm Undertaking to register the Transfer and provide a copy of the registered Transfer as soon as possible after registration.
3. That the final certification fee payable to the "Town of Fort Erie" be submitted to the Secretary-Treasurer. Reminder: consent is not considered final prior to final consent certificate being issued;
4. The applicant shall, to the satisfaction of the Town of Fort Erie, be granted final approval of Minor Variance Applications A72-24 and A73-24. This condition shall not be considered fulfilled until said Minor Variance decisions to grant the approvals are final and binding;
5. In the event of any Tree removal on the subject lands, the Owner / Applicant shall submit a Tree Protection Plan, Arborist Report and Landscape Plan prepared by a qualified person demonstrating the re-planting using compensation ratios per Table B.1 of (Tree) By-law No. 33-2024, to the satisfaction of the Town.
6. That the existing Long Term Care Facility be demolished, to the satisfaction of the Town.

3.1. Analysis

3.2. Site Context

The subject lands are located on the south side of Hagey Avenue within the Southend Secondary Plan Area. The lands to be severed and merged (Part 4) from 6 Hagey Avenue and added to 4 Hagey Avenue are approximately 1035.1 square metres in area. The surrounding land use is a mix of industrial, institutional and residential uses. 4 and 6 Hagey Avenue currently contain existing Long Term Care Facilities. The facility located on 4 Hagey Avenue, will be demolished and reconstructed, and the facility located on 6 Hagey Avenue will remain intact.

The surrounding lands uses are as follows:

North: Institutional (Dougless Memorial Hospital)

East: Residential (Single detached Dwellings)

South: Opens Space and QEW Highway

West: Industrial (Rich Products of Canada)

3.3. Environmentally Sensitive Areas

Town Environmental Planning staff have confirmed that there are no environmentally sensitive areas on the subject lands as identified in the Town's Official Plan Schedule C - Natural Heritage Features or Schedule C1 – Natural Hazards and Fish Habitat.

The Niagara Peninsula Conservation Authority (NPCA) has confirmed that the subject lands are outside of NPCA regulated area. At the time of this writing no comments have been received from Niagara Region; however, the subject lands do not appear to be within the Natural Environment System in the Niagara Official Plan.

Tree removal shall be in accordance with the requirements of the Town's Tree By-law No. 33-2024.

3.4. Planning Context

Planning Act, R.S.O. 1990, c. P.13

A proposal for a boundary adjustment can be considered proper and orderly development without the need for a Plan of Subdivision pursuant to Section 51 of the Planning Act. Given the relatively limited scope of the development being proposed (in this case, no new lots are being created) it is the opinion of Planning Services staff that little would be gained from a development review through the Plan of Subdivision process.

Section 53(12) of the Planning Act requires that the criteria set out under Section 51(24) shall be given regard for matters such as health, safety, convenience, accessibility for persons with disabilities and welfare of the present and future inhabitants of the municipality when considering an application for Consent. The Planning Act requires that consents have regard to the dimensions and shapes of the proposed lots. The lands to be severed and merged will be irregular in shape. The proposed change in lot fabric will facilitate a boundary adjustment that will provide supplementary lands to facilitate the construction of a new 66 unit (96 beds) Long Term Care Facility, and to create an easement to facilitate a shared amenity space with the existing Long Term Care Facility located on 6 Hagey Avenue. It is the opinion of Planning Services staff that the application has appropriate regard for the Planning Act.

Provincial Planning Statement, 2024

The subject property is located within Built Up Area under the Provincial Planning Statement 2024 and the Niagara Official Plan. The proposed consent application for a boundary adjustment permits the use of Long Term Care Facilities. The Provincial Planning Statement and the Niagara Official Plan state that major facilities and sensitive land uses shall be planned and develop to avoid, or if avoidance is not possible, minimize and mitigate any potential adverse effects from the odour, noise and other contaminants. The subject lands currently have two existing Long Term Care Facilities located adjacent to an industrial use. The proposal is to demolish and relocate the Long Term Care Facility located at 4 Hagey Avenue. At this time, there is no change in land use contemplated through the applications, therefore the Town will rely on the Province's D6 Guidelines as best practice. A Noise Study will be required to appropriately address any mitigation measures to the construction design of the facility. This item will be required at the Site Plan Application stage.

The subject lands are located in an area of Archaeological Potential, under the PPS and NOP, development and site alteration shall not be permitted with these areas unless significant archaeological resources have been conserved or the land have been invested. A stage 1 Archaeological Assessment will be required at the Site Plan Application stage.

Therefore, it is of the opinion of Planning Services that the proposed lot addition is consistent with the PPS 2024, conforms to the Niagara Region Official Plan.

Town of Fort Erie Official Plan, 2021

Schedule 'A' of the Official Plan designates the subject lands as Institutional within the Town's Southend Secondary Plan area. The lands designated on Schedule "S-2" as "Institutional" recognize the existing institutional uses established within the Secondary Plan Area. The designation within the Plan Area shall be reserved for a variety of public and institutional uses. Institutional uses permit the use of residential care and health care facilities, nursing and retirement homes. The proposed lot addition will facilitate the construction of a new Long Term Care Facility with shared amenity spaced with the existing Long Term Care Facility located at 6 Hagey Avenue.

Therefore, it is of the opinion of the Planning Service staff that the proposed boundary adjustment will maintain the general intent and purpose of the Town's Official Plan.

Comprehensive Zoning By-law No. 129-1990, as amended

The subject lands are zoned Institutional (I-56) Zone, which permits the use of Long Term Care Facilities. The I-56 Zone permits a maximum of 72 units for Long Term Care Facilities. The proposal is to demolish and construct a new 66 unit (96 beds) Long Term Care Facility on 4 Hagey

Avenue. The proposed building on 4 Hagey Avenue is requesting a reduction from 50 metres to 1.2 metres along the eastern property line which is subject to a minor variation application A72/24.

As a result of the lot addition, the existing Long Term Care Facility located on 6 Hagey Avenue is also subject to minor variance application A73/24, to reduce the westerly minimum interior side yard setback from 7.5 metres to 5.0 metres. The reduction of both the interior side yard setbacks of 4 and 6 Hagey Avenue, will allow the new facility and existing facility to function as one development and will provide greater access and use to the proposed shared amenity space via easement.

Therefore, it is of the opinion of Planning Services that the proposed boundary adjustment for 4 and 6 Hagey Avenue will maintain the general and intent and purpose of the Town's Zoning By-law 129-90, as amended.

4. Comments from Departments, Community and Corporate Partners

Staff and Agency Comments

Environmental Planning

The subject property is located within the Town's Urban Boundary but not in the Natural Heritage system. There are no Natural Heritage features present. The lands are subject to the Town's tree By-law 33-2024. If any trees are proposed to be removed from the lands, the subsequent removal application must be accompanied by a Tree Protection Plan, an Arborist report (ISA Certified Arborist or per the Town's definition in the By-law) and a Landscape Plan (OALA in good standing).

Staff Response

Planning staff note that the request for an Arborist Report, Tree Preservation Plan and a Landscape Plan are now common conditions of approval required under the regulations of the Tree By-law. If no trees are being removed or impacted these conditions may be waived by Environmental Planning staff. A Landscape Plan would be required if compensation plantings are proposed in lieu of a payment.

Niagara Peninsula Conservation Authority (NPCA)

No objection. The subject lands are not within area under the regulation of the NPCA.

Niagara Region

No objection. The subject lands are within areas of archeological potential and that a Stage 1 Archaeological Assessment at minimum will be required.

The PPS and NOP state that major facilities (e.g. transportation infrastructure and corridors) and sensitive land uses shall be planned and developed to avoid, or if avoidance is not possible, minimize and mitigate any potential adverse effects from

odour, noise, and other contaminants. Staff acknowledge the current application is for a CS and MV, with a future Site Plan application needed to facilitate the construction of the long-term care facility. As such, staff highlight, at future Planning Act applications, staff require the submission of a Noise Impact Brief to assess transportation (QEW) and stationary noise sources (i.e. Rich Products of Canada) and recommend any site and building design mitigative measures, as outlined in the pre-consultation comments (dated April 27, 2023). The study shall be completed in accordance with the Ministry of the Environment, Conservation, and Parks (MECP) Environmental Noise Guideline NPC-300.

5. Conclusion

Based on the above analysis, Planning Staff recommend Consent Application B47/24 be **APPROVED** subject to recommended conditions.

6. Report Approval

Prepared by:
Robin Shugan, CPT, ACST
Intermediate Development Planner

Reviewed and Submitted by:
Devon Morton, MCIP, RPP
Supervisor of Development Approvals

7. Attachments

Appendix 1 – Site Plan