



Working together with our community

## Committee of Adjustment – July 20, 2022

Applicant: FRASER PRINGLE  
Roll Number: 33103370302320000  
Location: WDH CON 2 PT LOT 2 (151 Hwy 6, Simcoe)

Report Type: Boundary Adjustment  
File Number: BNPL2022150

Proposal: An application has been received to sever a parcel of land having no frontage, an irregular width of 19.812 metres, an irregular depth of 67.14 metres, and having an area of 1,224 square metres and retaining a parcel having an area 3.04 hectares as a boundary adjustment. Severed lands to be added to the rural residential parcel immediately to the east, Roll # 33703022700. Final lot size: 4,340 square metres.

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### Staff Recommendation:

**That Application BNPL2022150** for consent to permit a boundary adjustment, as described in the report, **BE REFUSED**.

**Reason:** This application is not consistent with the Provincial Policy Statement, does not comply with the policies of the Norfolk County Official Plan regarding the boundary adjustments within the agricultural designation and does not meet the intent of the Zoning By-law.

### Public Meeting Details

A public meeting is a statutory requirement in accordance with the *Planning Act*, and is intended to allow members of the public to submit written or oral comments in relation to the proposed development. Additionally, any person may make written submissions at any time prior to Committee of Adjustment making its final decision on the application.

### Site Characteristics

The subject lands are located at the north west corner of the intersection of Highway 6 and Port Ryerse Road. The area of the subject lands is approximately 1,224 square metres, with no frontage. As shown in the figure below, the subject lands are occupied by grass. The retained lands is occupied by a landscape supply, soil and mulch establishment, single detached dwelling and accessory structures. The benefiting lands are occupied by a single detached dwelling, detached garage and accessory structure.



Figure 1. Location of proposed boundary adjustment

## **Planning Application Analysis:**

### ***Planning Act Considerations***

Section 2 of the *Planning Act* outlines those land use matters that are of provincial interest and for which all county planning decisions shall have regard. The provincial interests that apply to development on this site are the protection of the agricultural resources of the Province; the conservation and management of natural resources and the mineral resource base; the orderly development of safe and healthy communities; the adequate provision of employment opportunities; the protection of public health and safety as well as the appropriate location of growth and development.

### **Provincial Policy Statement, 2020 Considerations**

The Provincial Policy Statement, 2020 (PPS) provides policy direction on matters of provincial interest related to land use planning and development, which is intended to be complemented by local policies addressing local interests. The PPS promotes healthy, livable and safe communities through the efficient use of land throughout the Province of Ontario. The PPS directs municipalities to focus their growth within settlement areas where full municipal services are available.

Section 1: Building Healthy Communities of the PPS promotes the building of strong, healthy communities and includes policies about avoiding development and land use patterns which may cause environmental or public health and safety concerns.

PPS Section 2, entitled Wise Use and Management of Resources, outlines that Ontario's long-term prosperity, environmental health and social well-being is dependant on conserving biodiversity and protecting natural heritage, water, agricultural, cultural heritage and archeological resources. Specifically regarding agriculture, Section 2.3 directs that prime agricultural areas are to be protected for the long-term. Prime agricultural areas are those where prime agricultural lands predominate and consist of land identified as Class 1, 2 and 3 by the Canada Land Inventory.

Policy 2.3.4.1, Lot Creation and Lot Adjustments outlines that lot creation in prime agricultural areas is discouraged and lists four circumstances where it may be considered. Additionally, policy 2.3.4.2 permits lot adjustments in prime agricultural areas for legal or technical *reasons*, which is defined as "severances for purposes such as easements, corrections of deeds, quit claims, and minor boundary adjustments, which do not result in the creation of a new lot".

**Planning Comment:** The subject lands are designated Agricultural by the Norfolk County Official Plan and are located in an area where prime agricultural land predominates. As indicated by PPS policy 2.3.4.2, minor boundary adjustments are permitted for legal or technical reasons. The property owner of 459 Port Ryerse Road has been maintaining the lands proposed to be severed and added to their property. Staff do not consider this as a legal or technical reason as defined by the PPS. Given the landscaping business that exists on the proposed retained lands, it is staff's opinion that the proposed boundary adjustment will increase the potential for land use conflict between the residential use and the landscaping business located on the agricultural parcel.

In conclusion, it is staff's opinion that the proposed application does not meet the intent of the PPS on the basis that policy 2.3.4.2 has not been satisfied to permit the boundary adjustment as no legal or technical reason has been provided.

### **Official Plan Considerations**

Existing Land Use Designation: "Agricultural Designation"

The majority of land within Norfolk County is designated Agricultural, reflecting the dominance of agriculture within the area. Lands designated as Agricultural are predominantly comprised of Class 1, 2 and 3 soil capability as identified by the Canada Land Inventory, which satisfy the provincial requirement to be considered as prime agricultural land. The policies are designed to protect agriculture from the intrusion of incompatible uses, such as non-farm related residential dwellings and other uses that are sensitive to agricultural practices. Agriculturally related uses are also permitted within the land use designation.

Norfolk County Official Plan Section 7.2.3 outlines policies regarding agricultural lot creation and lot adjustments. Consent to sever land may be considered for the a currently habitable farm dwelling that is deemed surplus to a farming operation as the result of farm consolidation of agricultural properties located within Norfolk County and

adjacent municipalities subject to the policies of Sections 7.2.3 b) and c). The Official Plan also permits consent applications for “technical reasons including minor boundary adjustments, corrections of deeds, quit claims, easements or rights-of-way, or other purposes that do not create an additional separate lot, and which do not change the lot configuration such that a non-agricultural lot is created which would not be in conformity with the policies of this Plan”.

Staff are of the professional opinion that the proposed boundary adjustment is not minor and not consistent with the Agricultural designation.

The General Consent to Sever Land policies of Official Plan Section 9.6.3.2 that application to the application are addressed in Table 1.

**Table 1: Section 9.6.3.2 Evaluation of General Consent to Sever Land Policies**

9.6.3.2 Policy Criteria	Staff Evaluation
d) The size of any parcel of land created by consent should be appropriate for the use proposed, considering the level of services available, the soil conditions, and other factors. No parcel shall be created which does not conform to the provisions of the Zoning By-law, except where a minor variance has been secured, in accordance with Section 9.6.3.1 (Minor Variances) of this Plan.	The proposed boundary adjustment will add land to the adjacent residential parcel. The proposed severed land is zoned Rural Industrial (MR). If the boundary adjustment is approved, the residential parcel will have dual zoning, which is not considered appropriate in this instance. It is recommended by staff that the severed lands stay with the industrial property to act as a buffer with the residential parcel. At a minimum, the zoning of the severed lands ought to be amended prior to the Committee of Adjustment considering this application.
g) On the granting of an application for consent, conditions may be imposed on the severed and retained parcels.	Recommended conditions are included as Attachment 1 for the Committee of Adjustment to consider.
i) Subject to the specific policies of this Plan, consents may be permitted for the purposes of making lot boundary corrections, for the purposes of granting easements, for conveyances and consolidations, and other such administrative or technical matters, provided that such matters are minor in nature. The County shall support the consolidation of undersized lots.	The application is not proposing a lot boundary correction as the neighbours have agreed to a situation where one neighbour would maintain a portion of the adjacent lot. An agreement between neighbours is not consistent with making a “lot boundary correction” as there is no error in the lot line location. It is staff’s professional opinion that the proposed boundary adjustment does not satisfy this policy.

In summary, it is the professional opinion of staff that the proposed boundary adjustment does not meet the overall intent and purpose of the Official Plan.

### **Zoning By-Law Considerations**

Existing Zoning:      Benefiting Lands: “Agricultural Zone (A)”  
                                 Severed Lands: “Rural Industrial Zone (MR)”  
                                 Retained Lands: “Rural Industrial Zone (MR)”

Uses permitted in the “Agricultural Zone” as outlined in the Zoning By-law, include, but are not limited to, single detached dwellings, home occupations, home industries, accessory residential dwelling units, farms and farm process, accessory to a farm.

Section 7.5 identifies a number of permitted uses within the “Rural Industrial” Zone, including commercial greenhouse, fertilizer dealership, flour mill, fuel storage depot, grain elevator and drying facilities and a saw mill.

The proposed boundary adjustment is proposing to sever a portion of a parcel zoned Rural Industrial and merge it with a parcel zoned Agricultural. The zoning of the severed lands permits additional uses that are not consistent with a rural residential lot. Prior to the boundary adjustment being considered by the Committee of Adjustment, Council should make a decision regarding the zoning on the severed lands. Despite the existing area being maintained as part of a rear yard for the residential parcel, the lands are intended to for rural industrial uses, with ought to be protected to ensure that land use compatibility concerns are reduced wherever possible. The proposed boundary adjustment may impact the long term use of the existing operation on the subject lands.

In summary, it is the professional opinion of staff that the proposed boundary adjustment does not meet the overall intent and purpose of the Zoning By-law.

### **Consultations:**

#### **Notice Provisions**

Pursuant to the requirements of the *Planning Act R.S.O. 1990, C. P. 13 (“Planning Act”)*, a notice of the statutory public meeting was posted on the subject lands 14 days in advance of the Public Meeting. Notifications were mailed to neighbours 60 m on July 6, 2022; and a yellow notification sign was posted on the site on June 17, 2022.

**Public Comments:** No public input has been received for this application and therefore was not considered as part of the recommendation.

#### **Technical Circulation Comments**

The application has been circulated to various internal departments and external agencies for review and comments.

**Building Inspector** – The building department has reviewed the proposal and has NO comments or conditions.

**Zoning Administrator** – No further comments from zoning

**Development Engineering** – Development Engineering has reviewed application **BNPL2022150** and have no comments.

**Forestry** – No comment from Forestry at this time

**GIS Services** – No requirements.

**Fire** – No comments received.

**Paramedic Services** – No comments received.

**Hydro One** – No comments received.

**Enbridge Gas** – Thank you for your correspondence with regard to the proposed Severance. Enbridge Gas Inc, (formerly Union Gas Ltd.), does have service lines running within the area which may or may not be affected by the proposed severance.

Should the proposed severance impact these services, it may be necessary to terminate the gas service and relocate the line according to the new property boundaries. Any Service relocation required due to a severance would be at the cost of the property owner. Also, should future gas service be required to either the severed or retained parcel, a request for gas service needs to be submitted to the Attachment Centre at 1-866-772-1045.

**Canada Post** – Please be advised that Canada Post does not have any comments on this application for severance and boundary adjustment as this will not affect mail delivery.

### **Conclusion:**

It is the professional opinion of planning staff that the subject application is not consistent with the policies of the PPS, does not conform to the Official Plan as it relates to consent to sever policies in the Agricultural designation and does not meet the general intent of the zoning by-law. Staff do not support this application and recommend that it be refused.

### **Attachments**

Attachment 1 – Proposed Conditions of Approval  
Map Location Map

Map A  
Map B  
Map C

Prepared By:  
Jennifer Catarino, MCIP, RPP  
Senior Planner  
For more information, call:  
519-426-5870 ext. 8013

## CONDITIONS:

1. Receipt of a letter from Norfolk County indicating that their requirements, financial or otherwise have been satisfied including:
  - a. Proof that property taxes are paid and up to date, or payment of any outstanding taxes;
2. That a zoning by-law amendment application for the severed lands changing the zoning from Rural Industrial Zone (MR) to Agricultural Zone (A) be approved by Norfolk County Council and confirmation provided to the Secretary Treasurer.
3. That a one square foot portion of land presently owned by: **PRINGLE JOHN FRASER & PRINGLE JOAN ARLENE** (assessment roll number **33703022700**) be conveyed to the abutting road allowance owned by Norfolk County (registered copy of document for conveyance and reference plan required) for the purposes of consolidating the subject lands and that the costs for completing same be at the expense of the applicant, if determined necessary by the applicant's solicitor.
4. That the severance subject of this application not be completed prior to the lands identified by assessment roll number **33703023200** being transferred to **PRINGLE JOHN FRASER & PRINGLE JOAN ARLENE** and that evidence of this transaction submitted to the Secretary-Treasurer prior to the issuance of the Certificate of Official.
5. That Section 50(3) or (5) of the Planning Act shall apply to any subsequent conveyance or transaction.
6. That the severed parcel becomes part and parcel of the abutting lands presently owned by **PRINGLE JOHN FRASER & PRINGLE JOAN ARLENE** assessment roll number **33703022700**.
7. That the solicitor acting in the transfer provides their undertaking in the following manner:

“In consideration of the Certificate of Official, I undertake to ensure that at the time of the registration of the said Certificate of Official or deed upon which time it has been affixed, the name of the registered owner of the abutting lands is the same as that of the Grantee in the said deed”.
8. Receipt of three copies of the registered reference plan for the severed parcel of land from the solicitor acting in the transfer.



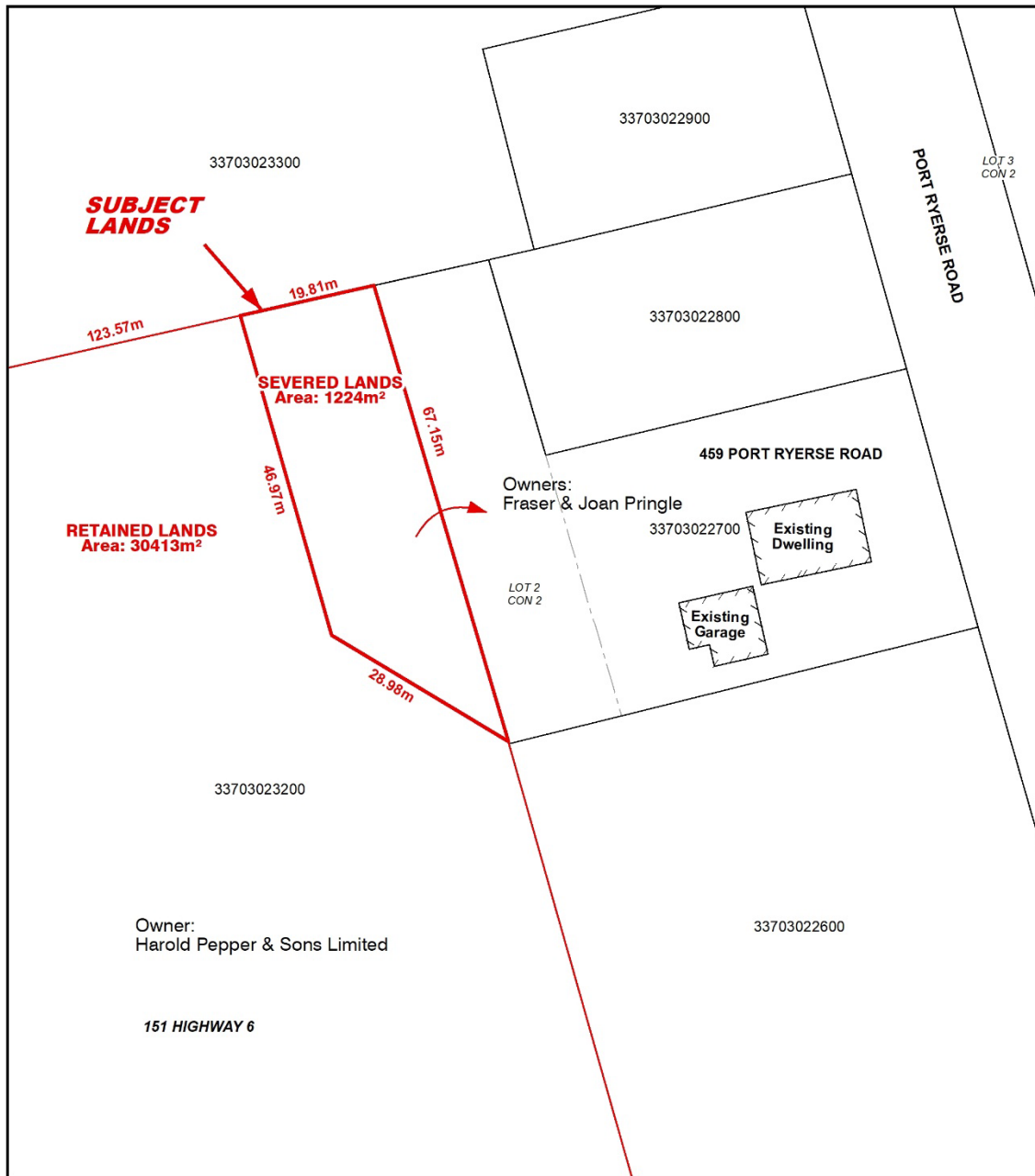
9. Receipt of three copies of the deed for the severed parcel of land, or if filling by electronic registration, receipt of the PIN print-out and three copies of the Transfer in Preparation from the solicitor acting in the transfer.
10. That the solicitor acting in the transfer provides an undertaking to provide the Secretary- Treasurer with a copy of the first page of the Receipted Transfer upon the completion of the electronic registration.
11. That the included conditions must be fulfilled and the Certificate of Official for consent be issued by the Secretary-Treasurer on or before the lapsing date noted below after which time the consent will lapse.

**LAPSING DATE:**

**JULY 20, 2023 subject to any extensions as necessitated by the potential impacts due to the Covid-19 pandemic.**

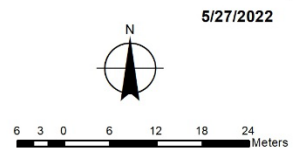
**LOCATION OF LANDS AFFECTED**  
CONCEPTUAL PLAN  
Geographic Township of WOODHOUSE

BNPL2022150



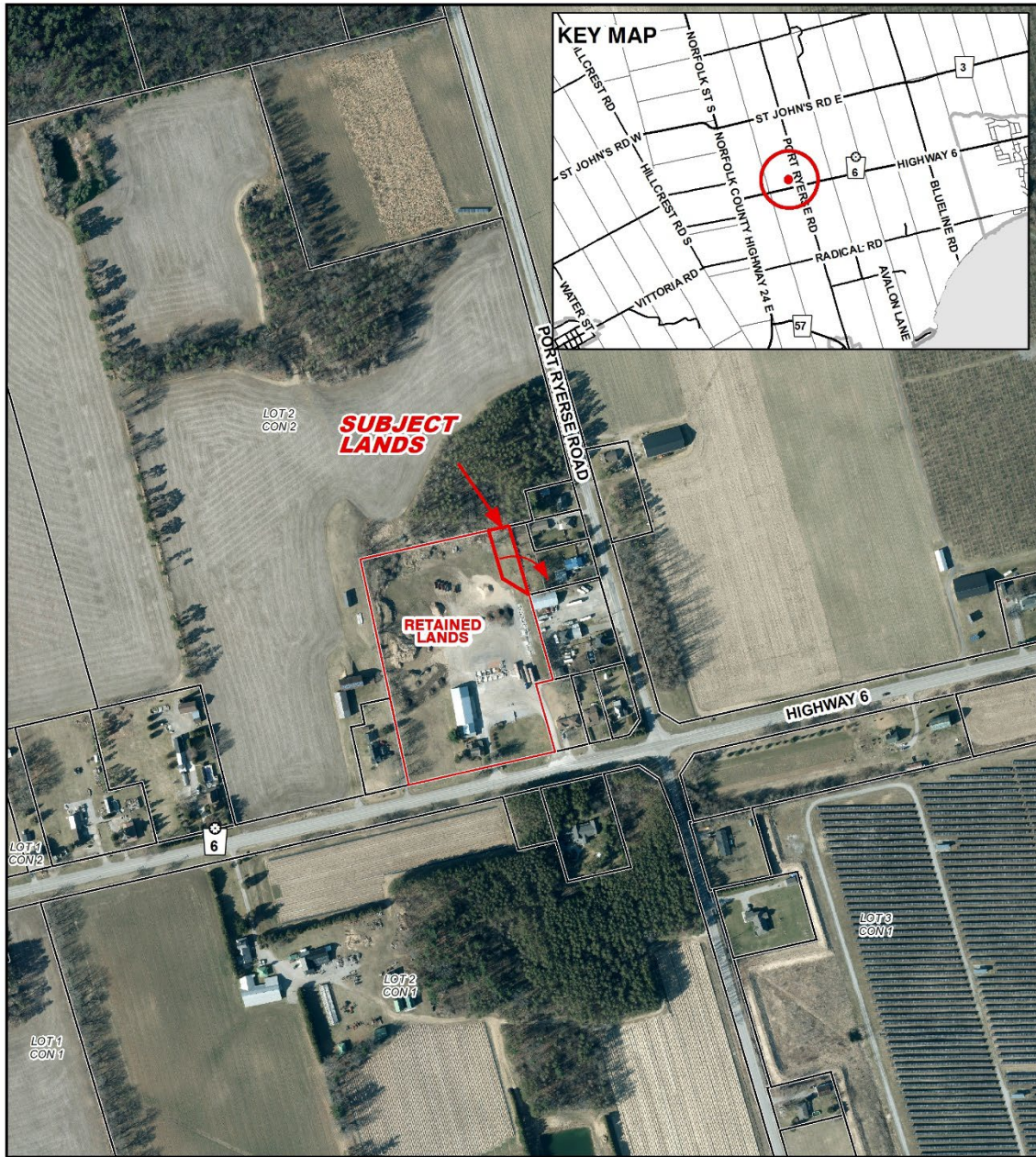
**Legend**

-  Subject Lands
-  Lands Owned



**MAP A**  
**CONTEXT MAP**  
Geographic Township of WOODHOUSE

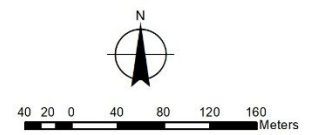
BNPL2022150



**Legend**

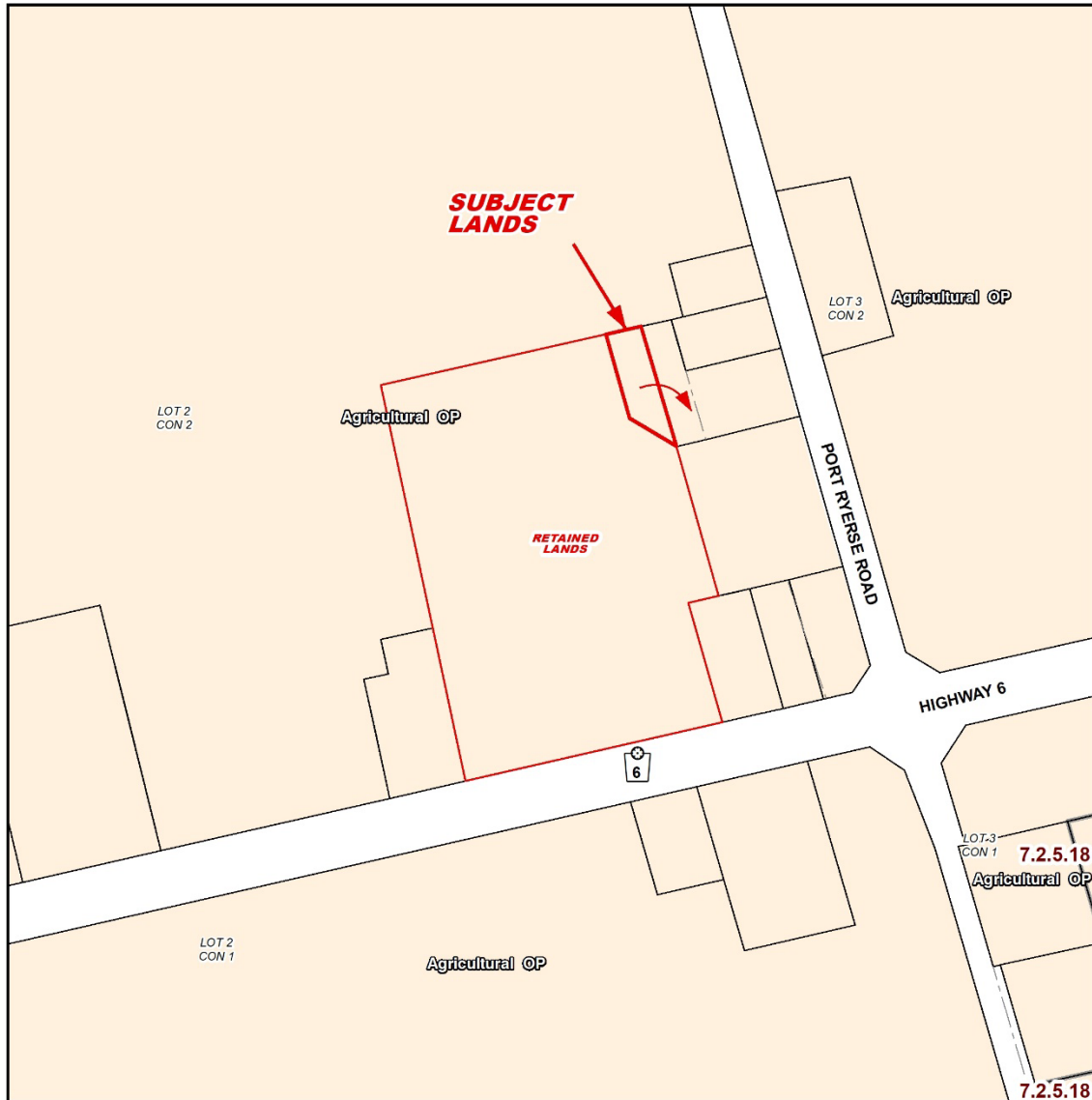
-  Subject Lands
-  Lands Owned
- 2020 Air Photo

5/27/2022



**MAP B**  
OFFICIAL PLAN MAP  
Geographic Township of WOODHOUSE

BNPL2022150



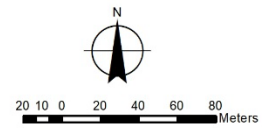
**Legend**

- Subject Lands
- Lands Owned

**Official Plan Designations**

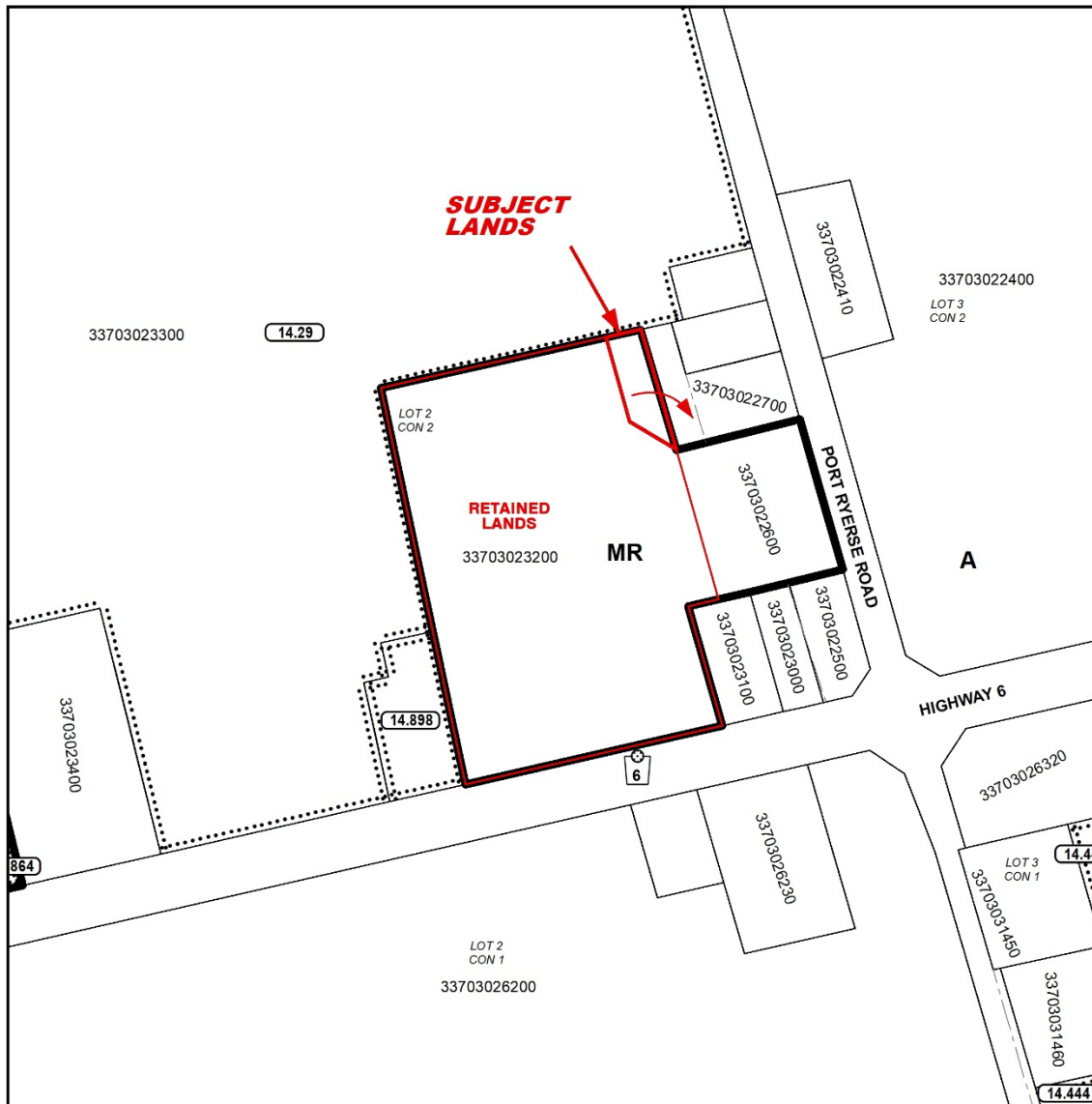
- Agricultural

5/27/2022



**MAP C**  
**ZONING BY-LAW MAP**  
Geographic Township of WOODHOUSE

BNPL2022150



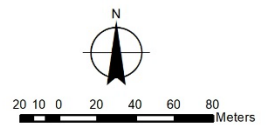
**LEGEND**

- Subject Lands
- Lands Owned

**ZONING BY-LAW 1-Z-2014**

- (H) - Holding
- A - Agricultural Zone
- MR - Rural Industrial Zone

5/27/2022





**COMMITTEE OF ADJUSTMENT  
REPORT REGARDING AN APPLICATION FOR  
CONSENT**

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**FILE NUMBER: BNPL2013016**

**MEETING DATE:** March 21, 2013  
**APPLICANT(S):** J. FRASER PRINGLE  
**AGENT(S):** CLINE BACKUS NIGHTINGALE & MCARTHUR - MARIA KINKEL  
**ROLL NUMBER:** 3310337030232000000  
**LOCATION:** WDH CON 2 PT LOT 2 RP, 37R1311 PART 1 (151 Hwy #6)

**PROPOSAL:**

An application has been received to sever a parcel of land having no frontage, a depth of 16.7m (55ft), a width of 66.6m (218.5ft) and having an area of 0.27acres (0.11 ha) as a boundary adjustment. Lands to be added to existing lot located at 459 Port Ryerse Road. Final Lot size 0.76 acres (0.30ha)

**PLANNING STAFF RECOMMENDATION:**

That Application **BNPL2013016 BE APPROVED**, subject to the attached conditions

**REASON:** The application complies with the policies in the Norfolk County Official Plan regarding technical severances and boundary adjustments.

**SITE FEATURES AND LAND USE:** The subject lands are approximately 0.27 acres (0.11 ha) in size and are located at the north east corner of 151 Highway # 6, west of Port Dover. There are no buildings located on the subject lands. The lands are grassed with some trees. The subject lands are surrounded by residential lots to the east, a woodlot to the north, an agricultural trucking business to the west and farmland to the south.

**PERTINENT CIRCULATION COMMENTS:**

**Building Inspector (Sewage System Review)** – no concerns

**Fire** – no comment at this time

**Forestry Division** - The Norfolk Forest Conservation Service has identified no concerns with this application.

**GIS Section** – no requirements

**Public Works and Environmental Services** – no requirements

## COMMUNITY PLANNING COMMENTS

The subject lands are designated for Agricultural purposes in the Norfolk County Official Plan and zoned General Industrial 'MG' in the City of Nanticoke Zoning By law NW 1-2000. It should be noted that the applicants have also submitted a Zoning By-law Amendment application which proposes to down zone the subject lands from General Industrial 'MG' to Agricultural 'A'. Planning staff anticipate this application to be heard at a Council meeting in April 2013.

The applicants are proposing to sever a 0.27 acre (0.11 ha) parcel of land located at the north east corner of 151 Highway #6. The lands are to be added to an existing residential lot located at 459 Port Ryerse Road. The agent has indicated that the purpose of the boundary adjustment is essentially to reflect the current use, as the property owners of 459 Port Ryerse Road have been using the strip of land for gardening and other agricultural purposes. The agent also indicated that the current use will not be changing.

The Norfolk County Official Plan and the Provincial Policy Statement permits lot adjustments for legal or technical reasons. Planning staff is of the opinion that the proposed boundary adjustment meets the requirements of the Norfolk County Official Plan as it is a technical boundary adjustment. Furthermore, the increase in size of the residential lot will further allow for sufficient space to dilute nitrates from the onsite sewage disposal system. Planning staff is of the opinion that the final proposed lot size of 0.76 acres is appropriate in this instance.

Planning staff support this application and recommend it be approved, subject to the attached conditions, as it is a technical severance that upholds the intent of the Norfolk County Official Plan.



Kayla Rell, B.A, M.A  
Planner

## SUBJECT TO THE FOLLOWING CONDITIONS:

1. Receipt of a letter from Norfolk County indicating that their requirements, financial or otherwise have been satisfied including:
  - a)  Cash-in-lieu of parkland dedication be paid in accordance with Section 51.1 of the Planning Act, R.S.O. 1990, c.p. 13 (\$350.00 - amount may be revised from time to time).
  - b)  Payment of any outstanding taxes.
  - c)  Drainage assessment reapportionment be undertaken pursuant to Section 65 of the Drainage Act, R.S.O. 1990 at the applicant's expense (\$\_\_\_\_\_)
  - d)  Road widening.
2.  Receipt of a letter from the Building Inspector (Part 8) indicating their requirements have been satisfied
3.  Receipt of a letter from the Public Works and Environmental Services Department indicating that their requirements have been satisfied concerning an entrance permit.
4.  Receipt of a letter from the Public Works and Environmental Services Department indicating that the applicant has entered into the necessary agreement with the County regarding road construction.
5.  Receipt of a letter from the Planning and Economic Development Department indicating that the applicant has entered into the necessary agreement regarding a comprehensive grading plan to address surface drainage of the property satisfying the Public Works and Environmental Services Department.
6.  Where the property is registered in Land Titles and where an agreement is required, that the solicitor acting in the transfer provide an undertaking to register the agreement once the deed has been filed and provide Norfolk County with a second original registered copy of said agreement.
7.  Receipt of a letter from the Secretary-Treasurer indicating that the zoning of the retained lands has been amended to meet the requirements of Section 2.3.4.1 (c) of the Provincial Policy Statement.
8.  Receipt of a letter from the Secretary-Treasurer indicating that a new civic address has been assigned to the **severed** parcel.
9.  Receipt of a letter from the Secretary-Treasurer indicating that a new civic address has been assigned to the **retained** parcel.
10.  That the severance subject of this application not be completed prior to the lands identified by Assessment Roll No. \_\_\_\_\_ being transferred to



and that evidence of this transaction submitted to the Secretary-Treasurer prior to the issuance of the certificate.

11.  That Section 50(3) or (5) of the Planning Act shall apply to any subsequent conveyance or transaction.
12.  That the severed parcel becomes part and parcel of the abutting lands presently owned by **John Fraser Pringle & Joan Arlene Pringle** Roll No. **3310-337-030-227**
13.  That the solicitor acting in the transfer provide his undertaking in the following manner: "In consideration of the Certificate by the Official I undertake to ensure that at the time of the registration of the said Certificate or deed upon which time it has been affixed, the name of the registered owner of the abutting lands is the same as that of the Grantee in the said deed".
14.  That a one square foot portion of land presently owned by:  
\_\_\_\_\_ (Roll No. \_\_\_\_\_) be conveyed to the abutting road allowance owned by Norfolk County (registered copy of document for conveyance and reference plan required) for the purposes of consolidating the subject lands and that the costs for completing same be at the expense of the applicant.
15.  Receipt of a letter from the Public Works and Environmental Services Department indicating that water and sewer connections have been installed to the severed and retained parcels.
16.  Subject to approval of the required Minor Variance Application No.:
17.  That a survey be submitted showing the required front, rear and side yard measurements of all existing buildings on the (severed or retained) parcel in accordance with all zone provisions to the satisfaction of the Planning & Economic Development Department.
18.  Receipt of five copies of the registered reference plan for the severed parcel of land.
19.  Receipt of three copies of the deed for the severed parcel of land, or if filing by electronic registration, receipt of the PIN print-out and *three* copies of the Transfer in Preparation.
20.  That the solicitor acting in the transfer provide an undertaking to provide the Secretary-Treasurer with a copy of the first page of the Receipted Transfer upon completion of the electronic registration.
21.  That the above conditions must be fulfilled and the Certificate for consent be issued on or before the lapsing date noted below after which time the consent will lapse.

LAPSING DATE: **March 21, 2014**