

COMMITTEE OF ADJUSTMENT

Department of Planning and Building Services
3540 Schmon Parkway, P.O. Box 1044
Thorold, ON L2V 4A7
905-227-6613

February 6, 2025

TO: Chairperson and Members of the Committee of Adjustment

SUBJECT: Consent Application D10-17-2024
Chippawa Creek Road
Parts 7-11 & 14-34 59R-8603
Assessment Roll # 2731 000 029 02900 0000

PROPOSAL

An application has been submitted for consent for the purpose of creating a new lot on lands municipally known as Chippawa Creek Road in the City of Thorold (See Figure 1). The applicant is proposing to sever the subject lands to create one (1) new parcel of land for a future Rural Industrial use.

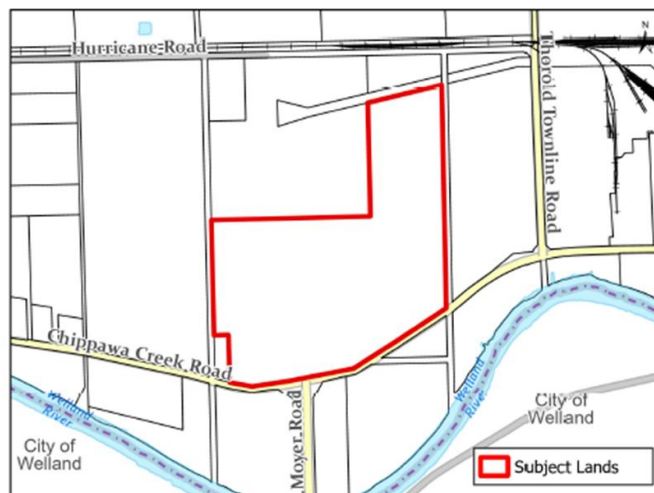


Figure 1: Location Map – Chippawa Creek Road

A proposed severance sketch, prepared by J.D. Barnes, dated August 29, 2024, has been submitted as part of this application (See Figure 2), showing the proposed severed 3.07 hectare lot (Part 1) for future industrial use and the retained 43 hectare parcel (Part 2),

for continued farming, utilizing (3) existing structures on the property for storage of farm equipment as well as construction equipment and materials.

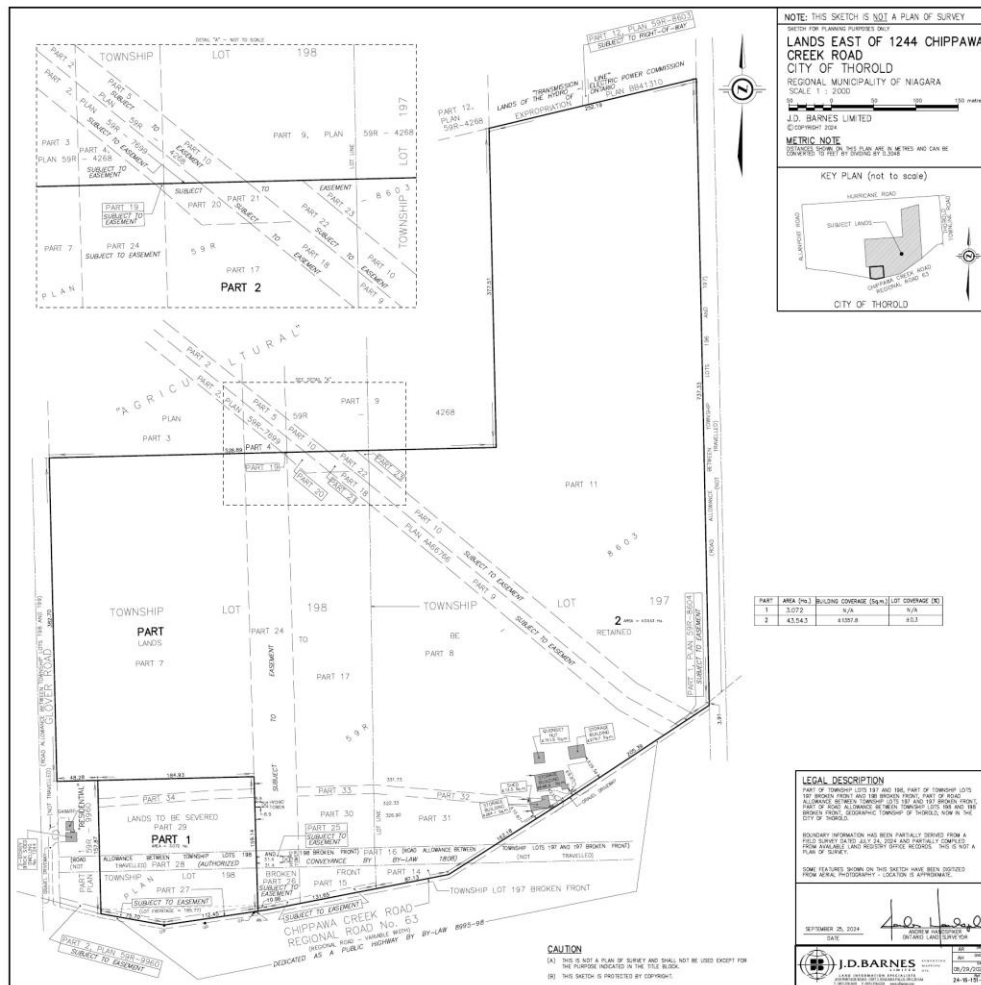


Figure 2: Proposed Consent – Chippawa Creek Road

Site Description

The subject lands are located north of Chippawa Creek Road and south of Hurricane Road, with Allanport Road located to the west and Thorold Townline Road located to the east. The subject lands are approximately 46.6 hectares in total lot area with a depth of 737.33 metres, and a frontage of 609.94 metres.

The proposed severed land (Part 1) will be 3.07 hectares in size with 186 metres of frontage of vacant land and is proposed to be developed in accordance with the Rural Industrial Zoning permissions in accordance with Table 8.2 – Permitted Uses in Employment Zones, under the City of Thorold Comprehensive Zoning By-law (60)2019.

The proposed retained parcel (Part 2) will be 43 hectares in size with 586 metres of frontage. Part 2 currently contains three (3) storage buildings used to store farm and construction equipment and materials, a shed and a Quonset hut and in agricultural production in accordance with the City of Thorold Comprehensive Zoning By-law (60)2019.

Background Review

The subject lands are zoned as Utility (U), Environmental Protection 1 (EP1), and Rural Industrial (M4) in accordance with the City of Thorold Comprehensive Zoning By-law 60-2019.

In the City of Thorold Official Plan (2016), the subject lands are designated Rural Industrial, Environmental Protection One, and Environmental Protection Two. The retained Part 2 lands also contain an easement for the TransCanada Pipeline and Enbridge Pipeline as per Schedule D, Transportation and Utilities of the City of Thorold Official (2016). As per Schedule C, Floodplains and Hazard Lands, the subject lands are located within the Welland River Subwatershed. Further, as per Schedule B, Natural Heritage System, a Provincially Significant Wetland and Wooded Area has been identified on the subject lands.

On July 4th, 2024, a Pre-Consultation Meeting was held for the proposed severance under the Rural Industrial (M4) zone. The Pre-Consultation Meeting identified that a Site Plan Control application would be required for future development of the newly created rural industrial parcel (Part 1).

CONSENT PLANNING ANALYSIS

The application for consent was reviewed with consideration of applicable policies in the *Provincial Planning Statement (2024)*, the *Regional Official Plan*, the *City of Thorold*

Official Plan and the City of Thorold Comprehensive Zoning By-law 60 (2019).

Provincial Planning Statement (2024) (PPS)

A new Provincial Planning Statement (2024 PPS) is in force and effect since October 24, 2024. Similar to the 2020 PPS, the 2024 PPS considers the lands to be Rural Lands. Policy 2.6 provides guidance for the development of Rural Lands whereby rural land uses are permitted and development should be sustained by rural service levels and avoid the need for expansion of infrastructure. New lots shall also comply with the minimum distance separation formulae. The proposed lot will be serviced with private water and septic services appropriate for the future use of the lands and the future use will need to comply with the minimum distance separation formulae. Specifically, these matters will be addressed as part of the Site Plan approval process.

Overall, the proposed development is consistent with the 2024 Provincial Planning Statement, the Regional Official Plan and City of Thorold Official Plan.

Region of Niagara Official Plan

The subject lands are designated Rural Lands and Rural Employment Area in the Region of Niagara Official Plan. Section 4.1.8.1 of the Niagara Region Official Plan states that the predominant use of Rural Lands will continue to be agriculture, but some non-agricultural related development may be permitted. Section 4.2.8 of the Niagara Region Official Plan provides further direction on existing Rural Employment Areas and states that any new development within a rural employment area shall be subject to the land use permissions of the Local Official Plan and be subject to Site Plan Control. NOP policy 5.2.3.3 and 5.2.3.4 set out that all development outside of urban areas shall be serviced by individual private water and sewage disposal systems.

City of Thorold Official Plan (2016)

Schedule A Land Use, of the City of Thorold Official Plan (2016), identifies the subject lands are designated Rural Industrial. In accordance with Section B2.4.1 of the City's Official Plan, the Rural Industrial designation is applied to lands in the City that are suitable to accommodate a range of Rural Industrial uses that do not require full Municipal servicing. Section B2.4.2 identifies the permitted uses within the Rural Industrial designation.

Furthermore, in accordance with Section B2.4.6 Lot Creation, of the City of Thorold Official Plan (2016), the creation of one new lot from an existing lot within the Rural

Industrial designation may permitted where the intent is to establish a new industrial use subject to the following policies:

- a) The severed and retained lots have lot frontages of at least 46 metres and lot areas of at least 1.0 hectare;
- b) The retained lot is currently occupied by an existing industrial use;
- c) The severed and retained lot can be serviced with a private well and septic system in accordance with Regional Health requirements and/or Part 8 of the Building Code Act;
- d) New industrial uses will be subject to site plan control;
- e) The severed and retained lot(s) lot will be compatible with existing adjacent land uses; and,
- f) Where the proposed lot abuts or forms part of a natural heritage feature identified by this Plan, the applicable natural heritage policies applicable to the feature shall be addressed prior to any approval.

In addition, proposals for the creation of new lots by consent are assessed against the criteria of Section D4.2.1 General Criterial for New Lots By Consent of the City of Thorold Official Plan (2016). Section D4.2.1 identifies that prior to considering an application to create a new lot for any purpose, the Committee of Adjustment shall be satisfied that the proposed lot,

- a) Fronts on and will be directly accessed by a public road that is maintained on a year-round basis;
- b) Will not cause a traffic hazard as a result of its location on a curve or a hill;
- c) Is in keeping with the intent of relevant provisions and performance standards of the zoning by-law;
- d) Can be serviced with an appropriate water supply and means of sewage disposal;
- e) Will not have a negative impact on the drainage patterns in the area;

- f) Will not compromise the ability to develop the remainder of the lands, if such lands are designated for development by this Plan;
- g) Will not have a negative impact on the features and functions of any environmentally sensitive feature in the area;
- h) Conforms with Regional lot creation policy as articulated in the Regional Official Plan, and the lot creation policies of the NEP, where applicable; and,
- i) Complies with Provincial Minimum Distance Separation Formulae, where applicable.

Staff is of the opinion that both the proposed and retained lot would meet all relevant criteria of the aforementioned policy. Namely, the lots would: front on an existing public road; utilize existing municipal services; and not cause negative impacts in terms of traffic or drainage.

The lot areas of the proposed parcels meet the minimum lot and requirements of the Rural Industrial (M4) zoning applying to the lands under Comprehensive Zoning By-law 60 (2019) and are relatively flat. The proposed lot fronts onto Chippawa Creek Road (Regional Road 63) and will obtain access through the site plan approval process. Grading and drainage will also be addressed through the site plan approval process.

Accordingly, the proposed development meets the intent of the City of Thorold Official Plan (2016).

City of Thorold Comprehensive Zoning By-law 60-2019

The subject lands are zoned Rural Industrial (M4) in the City's Zoning By-law 60-2019 which permits limited commercial and industrial uses, contractor's yards and construction uses as per Section 6.1.1 of the City of Thorold Comprehensive Zoning By-law (60)2019. Both the severed and retained lots meet the lot area and frontage requirements of the City's Zoning By-law.

Part of the subject land are zoned as Environmental Protection 1 (EP1) on the retained lands to which the Region had no comments.

Overall, the proposed severance conforms with the zoning requirements of the City of Thorold Comprehensive Zoning By-law 60(2019) and the construction of any future buildings will be subject to the Site Plan Approval process.

Technical Considerations

Staff have reviewed the following technical considerations in the planning analysis of the proposed consent application:

Private Servicing

The Pre-Consultation Meeting comments required the applicant to undertake a site inspection with Regional staff for private servicing. Following the site inspection for private servicing, Regional staff have confirmed that there appears to be enough useable area within the newly created lot (Part 1) to construct a class 4 sewage system in the future.

Regional staff have no objection to the creation of the new lot from a private servicing perspective as proposed given there is enough useable area for future septic systems on both the retained and newly created lots.

Land Use Compatibility

A Land Use Compatibility Study addressing the Ministry of Environment, Conservation and Parks D Guidelines may be required at the Site Plan stage depending on future the future proposal.

Regional Road

The existing road width on property frontage along Chippawa Creek Road does not meet the NOP requirements. Regional staff have proposed a road widening of approximately 3.05 m to be dedicated to the Region of Niagara as part of the Site Plan Application process.

For the retained lands the Region has identified that a road widening dedication may be required. Should this leave the front yard setback deficient in accordance with the City's Comprehensive Zoning By-law, a Minor Variance application may be required and identified through the Site Plan Application process.

Prior to any construction/work taking place within the Regional road allowance, a Regional Construction Encroachment and/or Entrance Permit must be obtained from the Transportation Services Division, Public Works Department. In addition, the placement of any sign, notice or advertising device within 20m of the centerline of Chippawa Creek Road will require a Regional Sign permit.

Regional Bicycle Network

The subject lands have frontage along a road which is designated as part of the Regional Niagara Bicycling Network. The Region has the intent to when the opportunity arises, establish appropriate signage as well as additional pavement width and, elimination of on-street parking.

Regional Infrastructure

The 400 mm diameter Regional watermain on Chippawa Creek Road is not to be damaged or disturbed during any future construction works for the proposed development. New connections are not permitted to Regional mains outside of the urban area.

Archaeological Potential

Regional staff requires a Stage 1-2 archaeological assessment be completed at the time of Site Plan, along with the associated Ministry of Citizenship and Multiculturalism (“MCM”) letter of acknowledgement. No site disturbance is to take place prior to receipt the MCM letter of acknowledgement by the City and the Region.

Regional staff will require the inclusion of the standard archaeological warning clause in the future Site Plan Agreement:

“If deeply buried or previously undiscovered archaeological remains/resources are found during development activities on the subject lands, all activities must stop immediately. If the discovery is human remains, contact the Niagara Regional Police Services and coroner to secure the site. If the discovery is not human remains, the area must be secured to prevent site disturbance. The project proponent must then follow the steps outlined in the Niagara Region Archaeological Management Plan: Appendix C found at the following link: <https://www.niagararegion.ca/projects/archaeologicalmanagementplan/default.aspx>.”

Utilities

The subject property is abutting and/or bisected by the Hydro One high voltage transmission corridor Hydro one has indicated no objection *in principle* to the proposed severance. However, protection of easement rights will be addressed as part of the future site plan application.

COMMENTS

The application was circulated in accordance with the requirements of the Planning Act to property owners within 60 metres of the subject lands. The application was also circulated to internal departments and external agencies for comments, which are summarized below.

Agency & Department Comments

Building Department

- No concerns.

Engineering Department

- No comments.

Fire and Emergency Services

- No comments.

Bell

- No comments received.

MTO

- No comments received.

Hydro One

- No comments.

Cogeco

- No comment.

Heritage Thorold

- No comment.

Town of Pelham

- No comment.

CN Railway

- No comments received.

Niagara Region

- Regional Staff does not object to the proposed development, please see attached comments provided.

NPCA

- The area of the proposed severance does not encroach on NPCA Regulated Areas and therefore NPCA staff have no objection to Consent Application D10-17-2024.
- If future proposed works are to encroach within NPCA Regulated Areas and associated buffer areas, the NPCA will require review, approval and Permits from this office prior to the commencement of any works on site.

Public Comments

- No Public comments were received as of the date of the writing of the report.

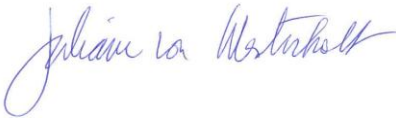
CONCLUSION/RECOMMENDATION

It is the recommendation of Planning staff that consent application D10-17-2024 be approved subject to the following conditions:

1. That the applicant provides the Secretary-Treasurer with a legal description, acceptable to the Registrar, of the subject parcel, together with a copy of the deposited reference plan, if applicable, for use in the issuance of the Certificate of Consent.
2. That the owner provides a lawyers undertaking, to the satisfaction of the City, to forward a copy of documentation confirming the transaction has been carried out, the document to be provided within two years of issuance of the consent certificate, or prior to the issuance of a building permit, whichever occurs first.
3. Any future agreements entered into for this development include a clause that requires the owner to obtain a certificate from an Ontario Land Surveyor stating that all existing and new evidence is in place at the completion of said development.
4. That a final certification fee payable to the City of Thorold, be submitted to the Secretary-Treasurer and that all conditions of consent be fulfilled.
5. That the payment of 2% of the value of the new lot, being Part 1, of the submitted severance sketch be made to the City of Thorold in lieu of dedication of land for park purposes pursuant to Section 53(13) of the Planning Act, R.S.O. 1990, as amended.
6. That all of these conditions shall be fulfilled within a period of two years after the giving of the Notice of Decision of the Committee of Adjustment, pursuant to Subsection 53(41) of the Planning Act, failing which this consent shall be deemed to be refused.



Prepared by:
Nicolette van Oyen, BES, MCIP, RPP
Senior Planner,
MHBC for City of Thorold Planning



Reviewed By:
Juliane vonWesterholt, BES,MCIP,RPP
Associate Planner,
MHBC for City of Thorold Planning

