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December 4, 2025

Hon. Rob Flack, Minister
Municipal Affairs and Housing
777 Bay Street, 17th Floor
Toronto, ON M7A 2J3

Dear Minister Flack:

Re: Town of Fort Erie Official Plan – By-law No. 78-2025
ERO Number: 025-1181
Ministry Reference Number: 26-OP-255436

We are writing on behalf of Zeljko Holdings Limited, the registered owner of the property municipally known as 0-4494 Kraft Road (the “**Subject Property**”) in the Town of Fort Erie (the “**Town**”). The new Town of Fort Erie Official Plan (the “**New Official Plan**”) was adopted by Town Council on August 25, 2025 and has been sent to the Minister of Municipal Affairs and Housing for approval pursuant to the *Planning Act*. The New Official Plan is intended to comprehensively apply provincial land use and planning policies while also addressing local priorities.

The Subject Property is located at the northwest corner of the intersection of Dominion Road and Kraft Road and is approximately 37.4 hectares (92.5 acres) in size with approximately 347 metres of frontage along Dominion Road and 1,017 metres of frontage along Kraft Road. The Subject Property is currently undeveloped. It is within the *Settlement Area (Urban Area)* in the New Official Plan and situated within a *Designated Growth Area*, and is proposed to be designated *Community Area* and *Natural Environment System*.

Our client is in the process of preparing a comprehensive development application to facilitate the development of the Subject Property with a new residential subdivision that will contain approximately 300 to more than 500 new homes, depending on the type of use (i.e. single detached, semi-detached, townhouses, etc.) which will provide much needed housing consistent with the Province’s Housing Supply Action Plan (HSAP) commitment to significantly increase housing supply.

Over the past year, our client, through their consultants, took part in the Town’s consultation process; however, the final version of the New Official Plan contains several significant issues which remain outstanding that we wish to draw to your attention as requiring further modification.

1. Secondary Plan Requirement

Requested Change:

Insert new Policy F.4.1.10. immediately below F.4.1.9. as: “Notwithstanding any other policy in this Plan, where demonstrated by site-specific technical studies that development may proceed independently of the secondary plan process, the requirement for a secondary plan will be waived.”

Rationale:

In our view, not all sites within *Designated Growth Areas*, such as the Subject Property, require a secondary plan to be prepared prior to being developed as contemplated by the current policies in the New Official Plan. Policies F.4.1.1. and F.4.1.2. currently impose severe restrictions on sizeable lands within *Designated Growth Areas* that could otherwise be developed without the need for a secondary plan.

This requested change allows for exemptions based on site-specific technical studies in lieu of waiting for a secondary plan to be completed. Also, in our view, the New Official Plan already contains sufficient policy to manage growth effectively, as well as to address local contexts, thus making secondary plans somewhat redundant. Further, this requested change allows our client to quickly and efficiently develop a large and significant urban designated parcel, which will directly result in the creation of a substantial number of new homes.

Additional justification for the requested change is provided in the enclosed planning letter prepared by The Biglieri Group Ltd., dated July 29, 2025, which is included as **Attachment A** and was previously submitted to the Town as comments on the New Official Plan. Our client had a preliminary consultation meeting with the Town about the proposed development application, which the Town stated was premature because of the above noted secondary plan requirement. This reflects the delay this requirement causes.

In addition, Policy F.4.1.2. includes the term “large scale development”, however this term is undefined in both policy and in the Glossary of Defined Terms (Section F.11). Without a clear definition or threshold, such as a minimum number of units, site area, or square footage, it is unclear how this term will be applied. This lack of clarity will introduce uncertainty for landowners and developers, as the Town will retain discretion to determine what constitutes large scale development on a case-by-case basis.

2. Subwatershed Study Requirement

Requested Change:

Insert new Policy G.31.3. immediately below G.31.2. as: “Notwithstanding any other policy or Schedule in this Plan, where demonstrated by site-specific technical studies that a subwatershed study is not required, the requirement for a subwatershed study will be waived.”

Rationale:

The Subject Property has been identified on Schedule O - Site Specific Policy Areas (SSPA) of the New Official Plan as within SSPA G.31 “Kraft Drain Area”. In our view, not all sites require a subwatershed study to be prepared prior to being developed, as contemplated by the current policy in the New Official Plan.

Site Specific Policy G. 31.1. currently imposes a severe restriction on lands within the Kraft Drain Area that could otherwise be developed without the need for a subwatershed study. This requested change allows for exemptions based on site-specific technical studies in lieu of waiting for a subwatershed study to be completed. Also, in our view, the New Official Plan already contains sufficient environmental policy to provide watershed guidance for defined local areas within *Settlement Areas*, including the Kraft Drain Area, thus making a subwatershed study somewhat redundant.

This requested change also allows our client to quickly and efficiently develop a large and significant urban designated parcel, which will directly result in the creation of a substantial number of new homes. Additional justification is provided in the enclosed planning letter prepared by The Biglieri Group Ltd., dated July 29, 2025, which is included as **Attachment A**. Moreover, at the aforementioned preliminary consultation meeting with the Town about the proposed development application, the Town stated that the meeting was premature because of the above noted subwatershed study requirement. This reflects the delay caused by this requirement.

3. Amended Mapping

Requested Changes:

Modify Schedule A – Town Structure by changing certain parts of the Subject Property labeled as *Natural Environment System* to *Settlement Area*.

Modify Schedule B – Designated Growth Areas by changing certain parts of the Subject Property labeled as *Natural Environment System* to *Settlement Area*.

Modify Schedule C – Employment Areas by changing certain parts of the Subject Property labeled as *Natural Environment System* to *Settlement Area*.

Modify Schedule D – Delineated Built Up Area by changing certain parts of the Subject Property labeled as *Natural Environment System* to *Settlement Area*.

Modify Schedule D.1 – Delineated Built Up Area by changing certain parts of the Subject Property labeled as *Natural Environment System* to *Settlement Area*.

Modify Schedule E – Land Use Plan by changing certain parts of the Subject Property labeled as *Natural Environment System* to *Community Area*.

Modify Schedule F – Natural Environment System by removing certain parts of the Subject Property labeled as *Natural Environment System*.

Modify Schedule G – Natural Environment System Features by removing certain parts of the Subject Property labeled as *Natural Environment System Features*.

Modify Schedule I – Hazardous Lands by removing certain parts of the Subject Property labeled as *Approximate Regulatory Limit of the Niagara Peninsula Conservation Authority*.

Rationale:

The mapping in the New Official Plan is inconsistent throughout for the Subject Property, does not adopt current Ministry of Natural Resources mapping, and despite the aforementioned inconsistencies, designates nearly all of the Subject Property as part of the *Natural Environment*

System, which is based on outdated and/or inaccurate data. Our client's ecological consultant has demonstrated that these environmental overlays are overstated, and erroneous and recent Ministry of Natural Resources (MNR) mapping confirms little to no provincially significant wetlands presence on-site.

In our view, the inconsistent and broad environmental mapping in the New Official Plan functionally sterilizes a site within a *Designated Growth Area* thus creating unnecessary barriers to development. Additional justification for this position is provided in the enclosed planning letter prepared by The Biglieri Group Ltd., dated July 29, 2025, which is included as **Attachment A**, and more specifically, in the enclosed commenting letter prepared by GEI Consultants, dated July 25, 2025, which is included as **Attachment B**. The requested updated mapping of the schedules in the New Official Plan is included as **Attachment C**. We note that the Town's Mayor has noted concerns that the *Natural Environment System* mapping appears to be inaccurate during one of the Town Council meetings which dealt with the New Official Plan.

In our view, not only are the above-noted policies and schedules in the New Official Plan overly restrictive and internally inconsistent, but in their current form they significantly slow or even prevent any development on the Subject Property. This is despite the fact that our client's consultants have demonstrated the opportunity to improve the policy language and correct the mapping errors which now stand untenably in the way of the creation of approximately 300 to more than 500 new homes.

To demonstrate how the Subject Property could develop if the New Official Plan were less dependent on Town-initiated secondary planning exercises and subwatershed studies with no foreseeable timeline, and more reliant on site-specific technical work, our client's planning consultant has prepared a developable area map and two development concepts. These documents illustrate the residential subdivision potential of the Subject Property if the New Official Plan schedules are corrected to reflect ground-truth natural environment conditions confirmed by GEI Consultants, as outlined in their letter (**Attachment B**). These developable area and development concept maps are included as **Attachment D** to this letter. In our view and that of the client's ecologist and land use planner, these represent an appropriate and technically sound build-out scenario for the Subject Property. If the New Official Plan is not amended to provide relief to the overly preclusive policy language and the inaccurate/inconsistent mapping the delivery of approximately 300 to more than 500 new homes may be jeopardized.

Thank you for your consideration of these requested changes. Should you have any questions, require any additional information or would like to meet to discuss further, please do not hesitate to contact the writer.

Sincerely,

McCarthy Tétrault LLP



Michael Foderick

MF/JC/rj
Attachments