

## PLANNING LEGISLATION AND POLICIES

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

#### ***Provincial interest***

**2** *The Minister, the council of a municipality, a local board, a planning board and the Tribunal, in carrying out their responsibilities under this Act, shall have regard to, among other matters, matters of provincial interest such as,*

- (a) the protection of ecological systems, including natural areas, features and functions;*
- (b) the protection of the agricultural resources of the Province;*
- (c) the conservation and management of natural resources and the mineral resource base;*
- (d) the conservation of features of significant architectural, cultural, historical, archaeological or scientific interest;*
- (e) the supply, efficient use and conservation of energy and water;*
- (f) the adequate provision and efficient use of communication, transportation, sewage and water services and waste management systems;*
- (g) the minimization of waste;*
- (h) the orderly development of safe and healthy communities;*
- (h.1) the accessibility for persons with disabilities to all facilities, services and matters to which this Act applies;*
- (i) the adequate provision and distribution of educational, health, social, cultural and recreational facilities;*
- (j) the adequate provision of a full range of housing, including affordable housing;*
- (k) the adequate provision of employment opportunities;*
- (l) the protection of the financial and economic well-being of the Province and its municipalities;*
- (m) the co-ordination of planning activities of public bodies;*
- (n) the resolution of planning conflicts involving public and private interests;*
- (o) the protection of public health and safety;*
- (p) the appropriate location of growth and development;*
- (q) the promotion of development that is designed to be sustainable, to support public transit and to be oriented to pedestrians;*
- (r) the promotion of built form that,*
  - (i) is well-designed,*
  - (ii) encourages a sense of place, and*
  - (iii) provides for public spaces that are of high quality, safe, accessible, attractive and vibrant;*
- (s) the mitigation of greenhouse gas emissions and adaptation to a changing climate. 1994, c. 23, s. 5; 1996, c. 4, s. 2; 2001, c. 32, s. 31 (1); 2006, c. 23, s. 3; 2011, c. 6, Sched. 2, s. 1; 2015, c. 26, s. 12; 2017, c. 10, Sched. 4, s. 11 (1); 2017, c. 23, Sched. 5, s. 80.*

#### **Policy statements**

#### **Policy statements and provincial plans**

**3 (5)** *A decision of the council of a municipality, a local board, a planning board, a minister*

of the Crown and a ministry, board, commission or agency of the government, including the Tribunal, in respect of the exercise of any authority that affects a planning matter,

- (a) shall be consistent with the policy statements issued under subsection (1) that are in effect on the date of the decision; and
- (b) shall conform with the provincial plans that are in effect on that date, or shall not conflict with them, as the case may be. 2006, c. 23, s. 5; 2017, c. 23, Sched. 5, s. 80.

### **Official Plans**

#### **24 Public works and by-laws to conform with plan**

(1) Despite any other general or special Act, where an official plan is in effect, no public work shall be undertaken and, except as provided in subsections (2) and (4), no by-law shall be passed for any purpose that does not conform therewith. R.S.O. 1990, c. P.13, s. 24 (1); 1999, c. 12, Sched. M, s. 24.

### **Zoning by-laws**

**34** (1) Zoning by-laws may be passed by the councils of local municipalities:

#### **Restricting use of land**

1. For prohibiting the use of land, for or except for such purposes as may be set out in the by-law within the municipality or within any defined area or areas or abutting on any defined highway or part of a highway.

#### **Restricting erecting, locating or using of buildings**

2. For prohibiting the erecting, locating or using of buildings or structures for or except for such purposes as may be set out in the by-law within the municipality or within any defined area or areas or upon land abutting on any defined highway or part of a highway.

#### **Marshy lands, etc.**

3. For prohibiting the erection of any class or classes of buildings or structures on land that is subject to flooding or on land with steep slopes, or that is rocky, low-lying, marshy, unstable, hazardous, subject to erosion or to natural or artificial perils.

#### **Contaminated lands; sensitive or vulnerable areas**

- 3.1 For prohibiting any use of land and the erecting, locating or using of any class or classes of buildings or structures on land,
  - i. that is contaminated,
  - ii. that contains a sensitive groundwater feature or a sensitive surface water feature,  
or
  - iii. that is within an area identified as a vulnerable area in a drinking water source protection plan that has taken effect under the Clean Water Act, 2006.

#### **Natural features and areas**

- 3.2 For prohibiting any use of land and the erecting, locating or using of any class or classes of buildings or structures within any defined area or areas,

- i. *that is a significant wildlife habitat, wetland, woodland, ravine, valley or area of natural and scientific interest,*
- ii. *that is a significant corridor or shoreline of a lake, river or stream, or*
- iii. *that is a significant natural corridor, feature or area.*

### **Significant archaeological resources**

3.3 *For prohibiting any use of land and the erecting, locating or using of any class or classes of buildings or structures on land that is the site of a significant archaeological resource.*

### **Construction of buildings or structures**

4. *For regulating the type of construction and the height, bulk, location, size, floor area, spacing, character and use of buildings or structures to be erected or located within the municipality or within any defined area or areas or upon land abutting on any defined highway or part of a highway, and the minimum frontage and depth of the parcel of land and the proportion of the area thereof that any building or structure may occupy.*

### **Area, density and height**

*(3) The authority to regulate provided in paragraph 4 of subsection (1) includes and, despite the decision of any court, shall be deemed always to have included the authority to regulate the minimum area of the parcel of land mentioned therein and to regulate the minimum and maximum density and the minimum and maximum height of development in the municipality or in the area or areas defined in the by-law. 2006, c. 23, s. 15 (1).*

## **Provincial Policy Statement, 2020**

### **1.1 Managing and Directing Land Use to Achieve Efficient and Resilient Development and Land Use Patterns**

1.1.1 *Healthy, livable and safe communities are sustained by:*

- a) *promoting efficient development and land use patterns which sustain the financial well-being of the Province and municipalities over the long term;*
- b) *accommodating an appropriate affordable and market-based range and mix of residential types... to meet long-term needs;...*
- e) *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;*

### **1.1.3 Settlement Areas**

1.1.3.1 *Settlement areas shall be the focus of growth and development.*

1.1.3.2 *Land use patterns within settlement areas shall be based on densities and a mix of land uses which:*

- a) *efficiently use land and resources;*
- b) *are appropriate for, and efficiently use, the infrastructure and public service facilities which are planned or available, and avoid the need for*

- their unjustified and/or uneconomical expansion;*
- c) *minimize negative impacts to air quality and climate change, and promote energy efficiency;*
- d) *prepare for the impacts of a changing climate;*
- e) *support active transportation;*
- f) *are transit-supportive, where transit is planned, exists or may be developed;*

## **2.6 Cultural Heritage and Archaeology**

2.6.2 *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.*

## **A Place to Grow: Growth Plan for the Greater Golden Horseshoe, 2020**

### **2.2 Policies for Where and How to Grow**

#### **2.2.1 Managing Growth**

4. *Applying the policies of this Plan will support the achievement of complete communities that:*
  - a) *feature a diverse mix of land uses, including residential and employment uses, and convenient access to local stores, services, and public service facilities;*
  - b) *improve social equity and overall quality of life, including human health, for people of all ages, abilities, and incomes;*
  - c) *provide a diverse range and mix of housing options, including additional residential units and affordable housing, to accommodate people at all stages of life, and to accommodate the needs of all household sizes and incomes;*
  - d) *expand convenient access to:*
    - i. *a range of transportation options, including options for the safe, comfortable and convenient use of active transportation;*
    - ii. *public service facilities, co-located and integrated in community hubs;*
    - iii. *an appropriate supply of safe, publicly-accessible open spaces, parks, trails, and other recreational facilities; ...*
  - e) *provide for a more compact built form and a vibrant public realm, including public open spaces;*
  - f) *mitigate and adapt to the impacts of a changing climate, improve resilience and reduce greenhouse gas emissions, and contribute to environmental sustainability; ...*

## **Niagara Escarpment Plan (NEP), 2017**

### **1.5 Escarpment Rural Area**

#### **1.5.1 Objectives**

1. *To maintain the scenic resources of lands in the vicinity of the Escarpment and the open landscape character of the Escarpment.*
2. *To conserve cultural heritage resources, including features of interest to First Nation and Métis communities.*
3. *To encourage forest management and recreation.*
4. *To provide for compatible rural land uses.*

5. *To encourage agriculture and protect agricultural lands and prime agricultural areas.*
6. *To provide a buffer for ecologically sensitive areas of the Escarpment.*
7. *To provide for the consideration of new Mineral Resource Extraction Areas which can be accommodated by an amendment to this Plan.*

## **1.6 Minor Urban Centre**

### **1.6.1 Objectives**

1. *To recognize, maintain and enhance existing rural settlements or provide concentration points for development and growth in rural areas.*
2. *To ensure that cumulatively the existing Minor Urban Centres and any associated development and growth can be accommodated and serviced in a manner that would be environmentally sustainable over the long term.*
3. *To promote the co-location of compatible public services to address local community needs in convenient locations that are accessible by walking, cycling and public transit, where available.*
4. *To conserve cultural heritage resources, including features of interest to First Nation and Métis communities.*
5. *To ensure that new development is compatible with the identity and traditional character of Minor Urban Centres.*
6. *To direct the growth of villages, hamlets, and settlement areas away from Escarpment Natural Areas and Escarpment Protection Areas into Escarpment Rural Areas in a logical manner with the least possible environmental and agricultural disruption.*
7. *To ensure that any growth will be in accordance with a municipal official plan and/or secondary plan that is not in conflict with the Niagara Escarpment Plan.*

### **1.6.7 Land Use Control**

*Land use control within a Minor Urban Centre with an approved official plan and/or secondary plan that is not in conflict with the Niagara Escarpment Plan may be exercised either through by-laws passed under the Planning Act or through Development Control as authorized under the provisions of the Niagara Escarpment Planning and Development Act.*

*By-laws or by-law amendments must not conflict with the Objectives and Development and Growth Objectives of this designation, and the Development Criteria in Part 2 of the Niagara Escarpment Plan.*

### **1.6.8 Development and Growth Objectives**

3. *Development and growth should avoid Escarpment Protection Areas and be directed to Escarpment Rural Areas in a manner consistent with Escarpment Rural Area Objectives and Part 2, the Development Criteria of this Plan.*
4. *Development and growth should be limited to minimize land use conflicts (e.g., with agriculture) and all development should be of a design compatible with the scenic resources of the Escarpment. Where appropriate, provision for adequate setbacks, and maximum heights for buildings, structures and screening shall be*

required to minimize the visual impact of development, consistent with any applicable provincial guidance...

6. Development and growth should be minor only, relative to the size and capacity of the settlement to absorb new growth, so that the community character is maintained...
10. Municipal sewage and water services will be the preferred form of servicing...

## **Part 2 Development Criteria**

### **2.4 Lot Creation**

1. Lot creation, including lots created within Urban Areas, Minor Urban Centres and Escarpment Recreation Areas, shall be subject to conformity with official plans and/or secondary plans and, where applicable, zoning by-laws that are not in conflict with the Niagara Escarpment Plan, and the criteria set out under Part 2, Development Criteria.
2. New lots to meet residential needs should be created primarily in designated Urban Areas, Minor Urban Centres and Escarpment Recreation Areas.
3. Ribbon or strip development should be prevented.
4. The size and configuration of new lots shall be subject to the requirements of official plans and/or secondary plans, and where applicable, zoning by-laws and the objectives of the designation.
5. New lots must:
  - a) maintain and enhance the existing community character and/or open landscape character of the Escarpment; and
  - b) protect and enhance existing natural heritage and hydrologic features and functions.

## **Niagara Official Plan, 2022**

### **2.1 Forecasted Growth**

The Niagara Region is planning to accommodate a minimum population of 694,000 people and 272,000 jobs by 2051. This represents an increase of over 200,000 people and 85,000 jobs compared to 2021. Effective and proactive growth management is needed to ensure there is appropriate housing, employment, and infrastructure available to support Niagara's growth. Land use, housing, and servicing is planned using the forecasts set out in Table 2-1. The Region will monitor these forecasts to ensure growth is planned for and managed based on reliable data. The objective of this section is as follows:

- a) coordinate Regional growth forecasts with land use, transportation, infrastructure and financial planning.

**Table 2-1**

<b>Municipality</b>	<b>Population</b>	<b>Employment</b>
Niagara-on-the-Lake	28,900	17,610

### **2.2 Regional Structure**

The objectives of this section are as follows:

- a) manage growth within urban areas;

- b) *accommodate growth through strategic intensification and higher densities;*
- c) *protect and enhance the character of rural settlements;*
- d) *plan for the orderly implementation of infrastructure and public service facilities; and ensure settlement area expansions support Regional forecasts and growth management objectives; and*
- e) *promote transit-supportive development to increase transit usage, decrease greenhouse gas emissions, and support the overall health of the community.*

## **2.2.1 Managing Urban Growth**

2.2.1.1 *Development in urban areas will integrate land use planning and infrastructure planning to responsibly manage forecasted growth and to support:*

- a) *the intensification targets in Table 2-2 and density targets outlined in this Plan;*
- b) *a compact built form, a vibrant public realm, and a mix of land uses, including residential uses, employment uses, recreational uses, and public service facilities, to support the creation of complete communities;*
- c) *a diverse range and mix of housing types, unit sizes, and densities to accommodate current and future market-based and affordable housing needs.*
- d) *social equity, public health and safety, and the overall quality of life for people of all ages, abilities, and incomes by expanding convenient access to:*
  - i. *a range of transportation options, including public transit and active transportation;*
  - ii. *affordable, locally grown food and other sources of urban agriculture;*
  - iii. *co-located public service facilities; and*
  - iv. *the public realm, including open spaces, parks, trails, and other recreational facilities;*
- e) *built forms, land use patterns, and street configurations that minimize land consumption, reduce costs of municipal water and wastewater systems/services, and optimize investments in infrastructure to support the financial well-being of the Region and Local Area Municipalities;*
- g) *opportunities for intensification, including infill development...*
- h) *opportunities for the integration of gentle density, and a mix and range of housing options that considers the character of established residential neighbourhoods;*
- k) *orderly development in accordance with the availability and provision of infrastructure and public service facilities; and*
- l) *mitigation and adaptation to the impacts of climate change by:*
  - iii. *promoting built forms, land use patterns, and street configurations that improve community resilience and sustainability, reduce greenhouse gas emissions, and conserve biodiversity.*

**Table 2-2**

<b>Municipality</b>	<b>Units</b>	<b>Rate</b>
Niagara-on-the-Lake	1,150	25%

## **2.3 Housing**

The objectives of this section are as follows:

- a) provide a mix of housing options to address current and future needs;
- b) provide more affordable and attainable housing options within our communities; and
- c) plan to achieve affordable housing targets through land use and financial incentive tools.

### **2.3.1 Provide a Mix of Housing Options**

2.3.1.1 The development of a range and mix of densities, lot and unit sizes, and housing types, including affordable and attainable housing, will be planned for throughout settlement areas to meet housing needs at all stages of life.

2.3.1.4 New residential development and residential intensification are encouraged to be planned and designed to mitigate and adapt to the impacts of climate change by:

- a) facilitating compact built form; ...

## **Town of Niagara-on-the-Lake Official Plan, 2017 Consolidation, as amended**

### **6.32.3 Special Policy Area A-3 (St. Davids)**

#### **A. Objectives**

It is the intent of this Plan with respect to the St. Davids community to provide for the following planning policy objectives:

2. Maintain the urban area boundaries as the limit to the service area in support of the municipal servicing strategy and protection of abutting agricultural lands for farming purposes;
3. Protect the ecosystem integrity of woodlots, the Four Mile Creek watercourse, and the Niagara Escarpment;
4. Protect the views of the Niagara Escarpment...;
5. Provide for efficient future growth within the urban area boundaries based on a comprehensive plan for municipal infrastructure and compatible land uses...;
8. Provide for a diversity of housing types to meet the needs of the resident community;

#### **B. Policies**

##### **General Development Policies for St. Davids**

Development in St. Davids shall be governed by the general development policies of this Plan and the following specific policies:

1. Where appropriate the scale, massing, and design of any new development shall be compatible with the character of adjacent development...;
2. New development shall be designed, where appropriate to preserve and enhance the streetscape in terms of such elements as building setback, façade design, and façade density;



3. *New development shall respect established building lines and significant landscape features...;*
6. *Proposals for infill development shall be designed to be sensitive to the attributes of adjacent properties in terms of such elements as scale, massing, building separations, and landscaped open space;*

### **Servicing**

5. *All lots shall be served by municipal water and wastewater services.*

### **Land Division and Land Assembly**

3. *Small scale land division by consent of the Committee of Adjustment shall generally be discouraged except for the division of blocks within a plan of subdivision, the consolidation of remnant land parcels, minor lot boundary adjustment, and minor infilling along existing public roadways.*

### **Residential Land Use**

1. *Low density residential land uses and building types are recognized as the predominant permitted housing type intended in the St. Davids Special Policy Area. A mix of low density building types shall be encouraged.*
2. *Low density residential projects may be developed to a maximum 6 units per acre net density as provided for in the residential density policies of this Plan.*

### **Urban Design**

2. *All development, redevelopment, and infill in St. Davids shall be designed in a manner consistent with urban design guidelines adopted by Council:*

#### **Village Of St. Davids Urban Design Guidelines (2005)**

##### **7.1 Infill**

##### **7.1.2 Guidelines: Additions and Renovations**

- c) *When adding structure to an existing building, particularly a heritage structure, care should be taken to match materials used in the original building in colour, texture and type.*
- d) *While elements and details that are true to the building should be introduced, the distinction between old and new should not be obvious to the casual observer.*

##### **7.2 Private Realm: Architectural Elements**

##### **7.2.6 Guidelines: Garages and Accessory Structures**

- a) *New garages should be built as separate buildings recessed from the house or off of a private laneway.*
- b) *Garages and outbuildings should reinforce and complement the character of the house in terms of style, shape and materials.*

##### **7.3 Private Realm: New Residential Built Form**

##### **7.3.2 Guidelines: Single Detached and Attached Dwelling Setbacks**

- m) *To provide flexibility in house design and garage orientation, lot coverage requirements should be replaced by Rear Yard Amenity Areas. Generally*

*Rear Yard Amenity Areas are the exterior contiguous spaces placed at the rear of the house which may include grass, landscape design, pools, and patio features. They should have a minimum depth of 5.5 metres and the following minimum area requirements.*

- *Single-detached/Semi-detached: 50 square metres*

#### **7.3.3 Guidelines: Garages**

- a) The garage door should not occupy more than 50 percent of the street-facing façade of a house.*
- b) It should be recessed from the front façade by at least one metre.*
- c) The garage should not project beyond the main building façade, except where a front porch is applied, in which case the garage may only project to the depth of the front porch.*

### **Section 6A: Growth Management Policies**

#### **4.4 Intensification Objectives**

##### **Objectives**

*The objectives of the intensification policies of this Plan are to:*

- b) Provide land use policy directions for accommodating additional growth within the Built-up Areas;*
- c) Provide a policy framework that supports intensification and infilling throughout the Town's Built-up Area...*
- e) Direct intensification to the Built-up Areas where development will not impact designated heritage areas, adjacent heritage resources and/or heritage resources on the property, estate lots and the residential character of the property or the surrounding area.*

##### **Built-Up Area Intensification Policies**

*The Town will support appropriate infilling and intensification within the limits of the Built-Up Area. The following policies apply:*

- a) The Town plans to accommodate 15% of its forecasted intensification development within the Built-up Area between 2015 and 2031.*
- b) The predominant built form for intensification and redevelopment within the residential areas of the Built-up area will be single detached, semi-detached and townhomes and low-rise apartment buildings subject to the relevant development and compatibility policies of this plan...*
- e) The Town will update zoning standards to ensure that the zoning requirements provide sufficient opportunities to support and encourage growth and intensification through redevelopment...*
- h) The Town will ensure that intensification and redevelopment is consistent with the heritage and character of the Built-up Area. Urban design guidelines for the Built-up Area may be prepared and used as a tool to achieve compatible built form with intensification and redevelopment...*
- k) The Town will utilize maximum and minimum densities to ensure that intensification areas/sites are not underdeveloped. Minimum net density shall be 14 units per hectare (6 units per acre) and maximum density of 30 units per hectare (12 units per acre).*

- l) *During the development approval process that consideration will be given with respect to capacity of existing infrastructure including utilities and type of improvements, if any, which may be necessary to serve the Built-up Area.*

#### **4.6 Land Use Compatibility Policies**

##### ***Residential Neighbourhoods***

*Neighbourhoods are stable but not static. There is a degree of change that occurs within neighbourhoods over time and the policies of this provide that this change will be appropriate and compatible within the Town's neighbourhoods and throughout the entire Built-Up Area.*

##### ***Compatibility and Appropriate Infrastructure***

*Intensification and/or redevelopment should be consistent with:*

- a) *The existing and/or planned built form and heritage of the property and surrounding neighbourhood;*
- b) *The existing and/or planned natural heritage areas of the site and within the surrounding neighbourhood;*
- c) *The existing and/or planned densities of the surrounding neighbourhood; and,*
- d) *The existing and/or planned height and massing of buildings within the surrounding neighbourhood.*
- e) *Development proposals will demonstrate compatibility and integration with surrounding land uses by ensuring that an effective transition in built form is provided between areas of different development densities and scale. Transition in built form will act as a buffer between the proposed development and existing uses and should be provided through appropriate height, massing, architectural design, siting, setbacks, parking, public and private open space and amenity space.*
- f) *Intensification and/or redevelopment shall be compatible and integrate with the established character and heritage of the area and shall have regard to:*
  - *Street and block patterns*
  - *Lot frontages, lot area, depth*
  - *Building Setbacks*
  - *Privacy and over view*
  - *Lot grading and drainage*
  - *Parking*
  - *Servicing*

### **Section 9: Residential**

#### **9.2 Goals and Objectives**

- (1) *To ensure that sufficient lands have been placed in a Residential designation to accommodate the anticipated population in a suitable variety of locations, densities and unit types.*

- (2) *To improve the housing supply of rental and moderately priced housing by the municipality becoming involved in or promoting the involvement of others in the various government housing programs.*
- (3) *To ensure that new development or redevelopment is appropriately located, is compatible with surrounding land uses, incorporates energy efficient aspects in its design, retains to the greatest extent feasible desirable natural features and uses land in an efficient manner...*
- (4) *encourage the development of economical housing in a suitable environment.*
- (5) *To ensure that existing housing and existing residential areas shall be preserved and improved...*
- (7) *To encourage infill residential development of vacant or underutilized parcels of land in residential areas where such development will be compatible with existing uses and where it will contribute to the more efficient use of sewer and water services and community facilities.*
- (8) *To minimize the potential for land use compatibility problems which may result from the mix of residential densities or the mix of residential and non-residential uses.*
- (9) *To promote the maintenance and rehabilitation of the existing housing stock.*
- (11) *To encourage the development of well-designed and visually distinctive forms.*

### **9.3 Land Use Designations**

#### **9.3.1 Low Density Residential**

##### **Main Uses:**

*Low Density Residential uses such as single-detached.... dwellings*

### **9.4 General Residential Policies**

#### **(3) Conversion of Non-Residential Buildings to Residential Use**

*It is a policy of the Plan that existing non-residential buildings and properties within the Residential land use designation may be converted to residential use... subject to the following provisions:*

- a) *The conversion to residential use shall enhance the appearance of the property and improve its compatibility with adjacent residential uses.*
- b) *The site shall be large enough to accommodate the required amount of off-street parking.*
- c) *Municipal services shall be sufficient to accommodate the proposed use.*
- d) *Landscaping, privacy screening and other appropriate measures shall be provided wherever possible to provide a buffer between the proposed use and adjacent residential uses which may be negatively affected by the conversion.*
- e) *The site shall be placed in the appropriate zone of the implementing Zoning Bylaw.*
- f) *Where an area is predominately non-residential in nature the Town in consultation with the authority having jurisdiction shall be satisfied that an*

*incompatible land use situation does not result from the introduction of a residential use.*

#### **(4) Residential Density**

*The maximum number of dwelling units per acre is a function of the capacity to provide municipal services and the topography of the site. The visual impression of density is expressed in the mass and arrangement of the buildings on the site. In Niagara-on-the-Lake the visual impression is that of a low rise, low density small-town community. While that impression should be maintained it is possible to consider a variety of housing forms that will complement this image. Generally low density residential developments will not exceed 6 units per acre (14 units per hectare) residential net density and medium density residential developments will not exceed 12 units per acre (30 units per hectare) residential net density unless accompanied by a detailed site and area analysis demonstrating that there will be minimal impact on surrounding neighbourhoods and development and which will be subject to a public review process. The Council reserves the right to establish in an implementing zoning by-law the maximum number of units to be permitted on any property subject to the relevant policies of this Plan and applicable Provincial Policy.*

### **Section 16: Conservation/Wetlands**

#### **16.1 Background**

*The Conservation/Wetland designation applies to lands considered environmentally significant or where lands are considered unsuitable for buildings purposes and require special attention to avoid loss of life and property damage.*

#### **16.2 Goals And Objectives**

- (1) To protect wetlands from incompatible activities.*
- (2) To encourage the retention of woodlots and the reforestation of low capability farmland.*
- (3) To protect areas of natural and scientific interest.*
- (7) To delineate and regulate development on all lands having inherent physical environmental hazards such as flood susceptibility, poor drainage or other physical conditions which act as a constraint to development in order to prevent loss of life and to minimize property damage and social disruption.*
- (8) To preserve and enhance the amenities and natural resources offered by waterways, wetlands and natural areas in the Town.*
- (9) To preserve and protect provincially significant wetlands in accordance with provincial policy statements.*

#### **16.3 Land Use Designations**

##### **16.3.1 Conservation**

##### **Main Uses:**

*Forestry... floodplains, environmental protection...*

##### **Secondary Uses:**

Uses permitted with a Main Use:

- *Accessory buildings and structures subject to the approval of the authority having jurisdiction.*

Uses permitted independent of a Main Use:

- *Shoreline protection works*
- *Yard space for any use permitted in an abutting designation*
- *Accessory buildings or structures not used for human habitation permitted in an abutting designation subject to the approval of the authority having jurisdiction.*

**Town of Niagara-on-the-Lake Proposed Official Plan, 2019**

**2.6 Complete Communities**

**2.6.2 Healthy Neighbourhoods**

2.6.2.1 *Healthy neighbourhoods and communities are essential to the quality of everyday life in Niagara-on-the-Lake, from housing to community services, arts and culture and heritage. Components of healthy communities in the Town include:*

- Vibrant, walkable, complete settlement areas with a mix of housing, jobs, parks, shops and services in close proximity to each other;*
- retention of schools and family supportive institutions including pre-schools, elementary schools and post-secondary schools;*
- a range of quality housing choices to meet the needs of people in all stages of life;*
- Community Design and heritage guidelines to ensure growth will conserve and, where possible, enhance the cultural heritage resources of the Town;*
- measures to protect the Town's scenic beauty, tree cover and landscaping;*

2.6.2.2 *Development applications will be required to identify how the development will contribute to the health of the community.*

**2.6.3 Housing**

2.6.3.1 *A diversity of housing types and tenure and affordable housing options contribute to the liveability of neighbourhoods and the quality of life for residents. To ensure a stable workforce and market for goods and services, businesses, both urban and rural depend on housing with access to jobs, public transportation, recreation, schools, parks and services.*

2.6.3.4 *New housing will be directed to the Settlement Areas.*

2.6.3.5 *The Town will maintain a minimum three-year supply of residential units as well as the infrastructure to support that supply.*

**Section 4 Settlement Areas**

**4.5 Intensification Strategy**

**4.5.2 Objectives**

4.5.2.1 *The objectives of the intensification policies of this Plan are to:*

- a) *Support the Built-up Areas by strategically directing most intensification to Intensification Areas identified on Schedule B7;*
- b) *Provide policy for accommodating additional growth within the Built-up Areas;*
- c) *Provide a framework that supports intensification and infilling throughout the Town's Built-up Area;*
- d) *Provide a framework that allows for second dwelling units;*
- e) *Ensure any proposal for intensification conserves cultural heritage resources; Intensification will be directed to the Built-up Areas where development will not impact cultural heritage resources; and*
- f) *Ensure that intensification and infilling are consistent with the character of the surrounding neighbourhood.*

### **4.5.3 Policies**

4.5.3.2 *The predominant built form for intensification and redevelopment within the residential areas of the Built-up Area will be single-detached, semi-detached, townhouses, and low-rise apartment buildings subject to the relevant development and compatibility policies of this Plan.*

4.5.3.4 *The Town will ensure that intensification and redevelopment conserves cultural heritage resources. Community Design Guidelines will be prepared and used as a tool to achieve compatible built form with intensification and redevelopment. Adaptive reuse of cultural heritage resources will be strongly encouraged.*

4.5.3.10 *In considering an application for development approval on lands in the Established Residential and Residential designations, or on properties not currently zoned for high density residential development, Council shall ensure infill and intensification development and redevelopment respects and reflects the existing pattern and character of adjacent development, by adhering to the development criteria outlined below, unless otherwise specified in a Heritage Conservation District Plan:*

- a) *the lot frontage(s) and lot area(s) of the proposed new lot(s) shall be consistent with the sizes of existing lots on both sides of the street on which the property is located;*
- b) *the proposed new building(s) shall have heights, massing and scale appropriate for the site and generally consistent with that permitted by the zoning for adjacent properties and properties on the same street;*
- c) *front and rear yard setbacks for the new building(s) shall be consistent with the front and rear yards that exist on the same side of the street;*
- d) *the setback between new building(s) and the interior side lot line shall increase as the lot frontage increases;*
- e) *the new building(s) shall have a complementary relationship with existing buildings, while accommodating a diversity of building styles, materials and colours;*
- f) *existing trees and vegetation shall be retained and enhanced through new street tree planting and additional on-site landscaping;*

- g) *the width of the garage(s) and driveway(s) at the front of new building(s) shall be limited to ensure that the streetscape is not dominated by garages and driveways;*
- h) *new driveways and service connections shall be sited to minimize tree loss;*
- i) *impacts on adjacent properties shall be minimized in relation to grading, drainage, access and circulation, privacy and microclimatic conditions such as shadowing;*
- j) *the orientation and sizing of new lots shall not have a negative impact on significant public views and vistas that help define a residential neighbourhood;*
- k) *proposals to extend the public street network should be designed to improve neighbourhood connectivity, improve local traffic circulation and enhance conditions for pedestrians and cyclists; and*
- l) *road and/or municipal infrastructure shall be adequate to provide water and wastewater service, waste management services and fire protection.*

## **4.7 Land Use Compatibility**

### **4.7.2 Compatibility**

- 4.7.2.1. *Intensification within the Built-up Areas should be compatible with surrounding existing and planned land uses. Intensification and/or redevelopment should be compatible with the property and the surrounding neighbourhood, having regard to:*
  - a) *conserving natural heritage and cultural heritage resources;*
  - b) *Existing and/or planned densities;*
  - c) *Lot frontages, area and depth;*
  - d) *Building setbacks;*
  - e) *Privacy;*
  - f) *Parking;*
  - g) *Servicing, lot grading and drainage; and,*
  - h) *The existing and/or planned height and massing of buildings.*
- 4.7.2.2. *Development proposals shall demonstrate compatibility and integration with surrounding land uses by ensuring that an effective transition in built form is provided between areas of different development densities and scale. Transition in built form will act as a buffer between the proposed development and existing uses and should be provided through appropriate height, massing, architectural design, siting, setbacks, parking, public and private open space and amenity space*

## **4.8 Community Design**

### **4.8.1 Design Policies**

- 4.8.1.1. *The character of the Town is reflected in its cultural heritage resources, including, but not limited to, its heritage character areas, rural landscapes, tree-lined urban and semi-urban streetscapes, low profile development, walkable communities, and variety of architectural and design features.*



- 4.8.1.2. *Community Design Guidelines are used to integrate new development into the fabric of the community and to preserve its character and enhance those attributes that are important to residents and visitors. Community Design involves the arrangement and design of buildings, public spaces, transportation systems, services, landscaping and amenities.*
- 4.8.1.3. *Community Design Guidelines are used to focus attention on the quality, layout and design of built form, landscapes and the public realm, and can be at a broad, community-wide scale, or at a local, street-level scale. Preparing and implementing design guidelines for both the public realm and the private realm contribute to the quality of life in the community, and ultimately create healthy, complete and accessible communities.*
- 4.8.1.4. *Community Design Guidelines should be based on the following:*
  - a) *Encourage a compact, walkable and well-connected community;*
  - b) *Provide a linked public open space system;*
  - c) *Encourage the enhancement of streetscapes;*
  - d) *Integrate public infrastructure into the landscape; and*
  - e) *Conservation of cultural heritage resources.*
- 4.8.1.5. *The Town may develop Community Design Guidelines for all or parts of each settlement area. These guidelines may be implemented through the preparation and approval of secondary plans, community improvement plans, heritage district plans, or through a community planning permit system. Community Design Guidelines may be adopted by the Town as free-standing initiatives following a public review and may be incorporated into site plan approval or development approval standards.*

#### **4.10 Residential Areas**

4.10.2.1 *Objectives for residential development areas are as follows:*

- c) *To ensure new housing is appropriately located, is compatible with surrounding land uses, incorporates energy efficient aspects in its design, retains important natural heritage features and uses land efficiently.*
- d) *To ensure that existing housing and existing residential areas are conserved and improved...*
- f) *To encourage infill residential development of vacant or underutilized parcels of land in residential areas where such development will be compatible with existing uses and where it will contribute to the more efficient use of municipal services and community facilities...*
- h) *To promote the maintenance and rehabilitation of the existing housing stock...*
- k) *To provide an appropriate mix of housing to meet the Town's long-term land needs and housing growth in the Town...*

#### **4.10.5 Residential Designation**

4.10.5.1 *Character:*

- a) *In the Residential designation, a variety of residential uses, types and densities are to be permitted, as detailed in the secondary plans, where such secondary plans have been approved.*

#### **4.10.5.2 Permitted Uses:**

- a) *In general, the housing mix in the Residential designation will include low rise structures, including:*
  - *single-detached dwellings...*

### **4.14 Community Facilities**

#### **4.14.1 Background and Identification**

- 4.14.1.1 *Community facilities are intended to provide for the culture, education, health and welfare of the existing and future residents of the Town.*
- 4.14.1.2 *The Community Facilities designation recognizes the larger-scale community facilities currently in existence in the Town and provides policies for the ongoing operation of such facilities.*
- 4.14.1.3 *Smaller-scale community facilities may be permitted in appropriate locations in Residential designations.*
- 4.14.1.4 *Community facilities may be permitted in Commercial and Employment designations.*

#### **4.14.2 Objectives**

- 4.14.2.1 *The objectives for the Community Facilities designation are as follows:*
  - a) *To provide for appropriately-located parks and community facilities that are accessible to the people they serve, while not having an adverse effect on abutting land uses.*
  - b) *To encourage the location of community facilities at strategic locations with convenient access for residents.*
  - c) *To recognize the changing needs of the community and the subsequent need for redevelopment of community facilities.*
  - d) *To ensure the conservation of cultural heritage resources through the process of change.*

#### **4.14.3 Permitted Uses**

- 4.14.3.1 *Community facilities include a full range of uses such as private and public schools, day care facilities, treatments centres and clinics, health care facilities, community centres, places of worship, government offices, libraries, emergency service facilities, public and private cemeteries, parks, trails, and specialized housing (e.g. nursing homes/retirement homes).*

#### **4.14.4 Policies**

- 4.14.4.2 *In considering an application for the conversion of lands designated Community Facilities, Council shall ensure that the development respects and reflects the existing pattern and character of adjacent development, by adhering to the development criteria outlined below, unless otherwise specified in a heritage conservation district plan:*
  - a) *The lot frontage(s) and lot area(s) of any proposed new lot(s) (including any retained lot(s)) shall be consistent with the sizes of existing lots on both sides of the street on which the property is located;*

- b) *The proposed new building(s) shall have heights, massing and scale appropriate for the site and generally consistent with that permitted by the zoning for adjacent properties and properties on the same street;*
- c) *Front and rear yard setbacks for the new building(s) shall be consistent with the front and rear yards that exist on the same side of the street;*
- d) *The setback between new building(s) and the interior side lot line shall increase as the lot frontage increases;*
- e) *The new building(s) shall have a complementary relationship with existing buildings, while accommodating a diversity of building styles, materials and colours;*
- f) *Existing trees and vegetation shall be retained and enhanced through new street tree planting and additional on-site landscaping;*
- g) *The width of any garage(s) at the front of new building(s) and width of driveway(s) on the property shall be limited to ensure that the streetscape is not dominated by garages and driveways;*
- h) *New driveways and service connections shall be sited to minimize tree loss;*
- i) *Impacts on adjacent properties shall be minimized in relation to grading, drainage, access and circulation, privacy and micro-climatic conditions such as shadowing;*
- j) *The orientation and sizing of new lots shall not have a negative impact on significant public views and vistas that help define a residential neighbourhood;*
- k) *Proposals to extend the public street network should be designed to improve neighbourhood connectivity, improve local traffic circulation and enhance conditions for pedestrians and cyclists;*
- l) *Road and/or municipal infrastructure shall be adequate to provide water and wastewater service, waste management services and fire protection; and*
- m) *The development conforms with any provisions applicable to any heritage character area in which the property is located.*

#### **4.15 Conservation**

- 4.15.1 *Lands designated Conservation within the Settlement areas are subject to the applicable provisions of Section 8, Natural Heritage.*
- 4.15.2 *The designation applies to lands considered environmentally significant or where lands are considered unsuitable for building purposes and require special attention to avoid loss of life and property damage. These include identified woodlands, wetlands and flood prone lands.*
- 4.15.3 *Within the Conservation designation, the following uses are permitted: forestry, fisheries and wildlife management, conservation, public and private parks, and trails.*
- 4.15.5 *Accessory buildings and structures permitted in an abutting designation and not used for human habitation may be recognized subject to the approval of Town or NPCA, as applicable.*
- 4.15.6 *The re-designation of Conservation lands may only be considered where it is demonstrated that the proposal complies with the applicable requirements in Section 8.*

## **Section 5 Niagara Escarpment Plan Area**

### **5.1. Background**

- 5.1.1. *The Province of Ontario, through the Niagara Escarpment Planning and Development Act, provides for the maintenance of the Niagara Escarpment and land in its vicinity substantially as a continuous natural environment. Within the Niagara Escarpment Plan Area, development is to be compatible with the natural visual and physical environment in accordance with the NEP.*
- 5.1.2. *Within the Town, the Niagara Escarpment Plan (NEP) contains lands designated as Escarpment Natural Area, Escarpment Recreation Area, Escarpment Protection Area and Escarpment Rural Area. Queenston and St. Davids are designated as Minor Urban Centres in the NEP.*
- 5.1.3. *Within the Niagara Escarpment Development Control Area, all development unless specifically exempted by regulation under the Niagara Escarpment Planning and Development Act, shall require a development permit from the Niagara Escarpment Commission. No other permits, including building permits, will be issued unless a development permit has been issued from the Niagara Escarpment Commission.*
- 5.1.4. *The provisions of the Niagara Escarpment Plan apply to development within the NEP.*

### **5.2. Policies**

- 5.2.1. *The NEP sets out designations, policies and development criteria which, when applied, determine how land should be used throughout the area of the NEP. The NEP policies identify permitted uses and lot creation policies for each designation.*
- 5.2.2. *The policies and development criteria of the NEP apply in the Niagara Escarpment Plan Area, as shown on Schedule "A" of this Plan.*
- 5.2.3. *The Regional Official Plan contains land use designations and policies affecting lands within the Niagara Escarpment Plan Area. Where the Regional Official Plan policies or the Policies of this Plan are not in conflict with the policies of the NEP but are more restrictive, the Regional Official Plan policies or the policies of this Plan would take precedence over the policies of the NEP.*
- 5.2.4. *In commenting on Development Permit applications within the Niagara Escarpment Plan Area, the Town will ensure that comments reflecting its interests are conveyed to the NEC. Where there is a conflict between the Official Plan and the NEP, the provisions of the NEP prevail; unless the provisions of this Official Plan are more restrictive than the NEP, in which case the more restrictive policies prevail.*
- 5.2.7. *In addition to the Policies and Development Criteria of the NEP any new use may be subject to site plan approval from the Town and approvals from other agencies, such as the NPCA.*

## **Section 7 Heritage, Archaeology and Culture**

### **7.3 Archaeological Resources**

- 7.3.4 *The Town will promote conservation of its archaeological resources and will:*

- a) *Require an archaeological assessment by a licensed archaeologist, as a result of a proposal or plan for site alteration or development if any portion of the subject property fall within a zone of archaeological potential...*

## **Section 8 Natural Heritage**

### **8.1 A Unique Local Natural Heritage System**

8.1.1 *The Town's natural heritage features will be protected and enhanced through the identification of a Natural Heritage System that reflects the policies in the Regional Official Plan, the Niagara Escarpment Plan...*

### **8.2 Natural Heritage Objectives**

8.2.1 *The Natural Heritage System identifies and protects significant natural heritage features and functions for the long term for their ecological benefit, contribution to human health, and preservation of the Town's natural heritage. This ecological benefit is achieved through the protection of natural heritage features and linkages within the Town's Natural Heritage System and within the Conservation designation in the settlement areas.*

### **8.3 Components of Niagara-on-the-Lake's Natural Heritage System**

8.3.17 *In addition to Significant Valleylands, and although not part of the natural heritage system, along valleylands where the valley bank height is equal to or greater than three (3) metres the following provisions apply:*

- c) *Within Settlement areas, the Town supports the maximum use of land for development while avoiding hazardous conditions and where consistent with the natural heritage policies of this Plan. A reduced setback may be considered where an existing lot provides insufficient depth to accommodate the required setback provided that a geotechnical report submitted by the applicant and approved by the NPCA finds that the reduced setback, with mitigative measures, will maintain long term bank stability with no adverse environmental impacts, will not create new hazards or increase existing ones, and that no development or site alteration will be permitted below the top of the valley bank.*
- d) *Where possible existing vegetation should be maintained within the setbacks required under this policy. Vegetation below the top of the valley slope shall not be disturbed.*

### **8.4 General Policies**

8.4.1 *Development should maintain, enhance or restore ecosystem health and integrity. Priority is to be given to avoiding negative environmental impacts. If negative impacts cannot be avoided, then mitigation measures shall be required.*

### **8.5 Development and Site Alteration**

8.5.11 *Where significant wildlife habitat or significant valleylands have been identified, development and site alteration will only occur where it has been demonstrated that there will be no negative impacts on the natural features or their ecological*

*functions.*