



## Town of Niagara-on-the-Lake

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**REPORT #:** CDS-23-215

**COMMITTEE DATE:** 2024-04-09

**DUE IN COUNCIL:** 2024-04-30

**REPORT TO:** COTW-Planning

**SUBJECT:** Opulence Subdivision OPA-05-2023, ZBA-14-2023 and 26T-18-23-01  
North of Hickory Avenue (South Portion), West of Tanbark Road

### 1. RECOMMENDATION

It is respectfully recommended that:

- 1.1 The Application for Official Plan Amendment (File No. OPA-05-2023) for lands located north of Hickory Avenue (south portion) and west of Tanbark Road (Opulence) be approved, and the draft Official Plan Amendment, attached as **Appendix IV** to this Report, be forwarded to Council for adoption;
- 1.2 The Application for Zoning By-law Amendment (File No. ZBA-14-2023) for lands located north of Hickory Avenue (south portion) and west of Tanbark Road (Opulence) be approved, and the draft Zoning By-law Amendment, attached as **Appendix V** to this Report, be forwarded to Council for adoption;
- 1.3 The Application for Draft Plan of Subdivision (File No. 26T-18-23-01) for lands located north of Hickory Avenue (south portion) and west of Tanbark Road (Opulence), attached as **Appendix I** to this Report, be approved, subject to the conditions of final approval contained in **Appendix VI** to this Report; and,
- 1.4 The Lord Mayor be authorized to endorse the Draft Plan of Subdivision for lands located north of Hickory Avenue (south portion) and west of Tanbark Road (Opulence), as approved, 20 days after notice of Council's decision has been given, provided that no appeals have been received.

### 2. EXECUTIVE SUMMARY

- This report provides a Staff recommendation to Committee regarding Applications for Official Plan Amendment, Zoning By-law Amendment and Draft Plan of Subdivision (the "Applications") for lands located north of Hickory Avenue (south portion) and west of Tanbark Road (Opulence).
- The Official Plan Amendment Application proposes to redesignate the subject lands from "Low Density Residential" to site-specific "Low Density Residential" to recognize an increased density.
- The Zoning By-law Amendment Application requests to rezone the subject lands from "Residential Development (RD) Zone" and "Residential (R1-11) Zone" to "Residential (R2) Zone" with site-specific provisions for lot frontage, lot area, lot coverage, front and

rear yard setbacks, exterior side yard setbacks, and encroachments.

- The Applications for Official Plan Amendment and Zoning By-law Amendment are proposed to facilitate the development of a 28-lot subdivision for single-detached dwellings fronting onto Hickory Avenue and the extension of Kenmir Avenue. One block (Block 29) is proposed for pedestrian connection, servicing, and emergency access purposes.
- Staff recommend approval of the Applications, as detailed in this report, as the proposal conforms to *Planning Act* requirements, is consistent with the Provincial Policy Statement and conforms to Provincial, Regional and Town planning policies.

### **3. PURPOSE**

This report provides a recommendation to the Committee respecting Applications under the *Planning Act* seeking approval of an Official Plan Amendment, Zoning By-law Amendment and Draft Plan of Subdivision for the subject lands known as Opulence, located north of Hickory Avenue (south portion) and west of Tanbark Road.

The Official Plan Amendment requests that the subject lands be redesignated from “Low Density Residential” to site-specific “Low Density Residential” to recognize an increased density.

The Zoning By-law Amendment Application requests to rezone the subject lands from “Residential Development (RD) Zone” and “Residential (R1-11) Zone” to “Residential (R2) Zone” with site-specific provisions for lot frontage, lot area, lot coverage, front and rear yard setbacks, exterior side yard setbacks, and encroachments.

The Draft Plan of Subdivision proposes to establish an extension to Kenmir Avenue with a cul-de-sac, the creation of 28 lots for single-detached dwellings, and one block for a pedestrian connection to Tanbark Road as well as to accommodate servicing and an emergency access.

The Applications were deemed complete on July 28, 2023.

The draft plan of subdivision is attached as **Appendix I** to this report.

### **4. BACKGROUND**

#### **4.1 Site Description and Surrounding Lands**

The subject lands are located to the west of Tanbark Road, and north side of Hickory Avenue (south portion), within the Urban Area of St. Davids. The location of the subject lands is shown on **Map 1** of **Appendix II** to this report.

The subject lands are vacant and have an area of 1.776 hectares (4.39 acres), with 6.38 metres of frontage on Tanbark Road, 108.73 metres of frontage on Hickory Avenue, and 18.0 metres of frontage on Kenmir Avenue. Access to the subject lands is via the St. Davids Estates Subdivision. The subject lands also contain a portion of a private road owned by the applicant, Dyck Lane. In June 2022, Council directed that the access from Dyck Lane to Tanbark Road be closed by the municipality and that access to the three properties on Dyck Lane to Tanbark

Road be provided via Hickory Avenue. During the Council Meeting on January 30, 2024, Town Council approved a by-law to close a portion of Tanbark Road at Dyck Lane. As such, Dyck Lane will cease operation as a right-of-way, and is incorporated into the proposed subdivision.

The surrounding lands contain residential uses, including single-detached dwellings and townhouses, and agricultural uses.

## **5. DISCUSSION / ANALYSIS**

### **5.1 Policy and Legislative Framework**

The Applications have been evaluated for consistency and conformity with the relevant Provincial, Regional, and local planning policies and legislation, as discussed in the following report sections. Applicable planning legislation and policies are provided in **Appendix III** to this report.

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

The Applications support the matters of provincial interest, are consistent with policy statements, and conform to provincial plans and upper-tier and lower-tier Official Plans, as demonstrated in the analysis provided in the following sections of this report.

#### 5.1.2 Provincial and Regional Planning Documents

The subject lands are designated as being within a “Settlement Area” according to the Provincial Policy Statement, 2020 (the “PPS”), within the “Delineated Built-up Area” according to A Place to Grow: Growth Plan for the Greater Golden Horseshoe, 2020 (the “Growth Plan”), and within the urban settlement area of St. Davids, which is identified as a “Minor Urban Centre” in the Niagara Escarpment Plan, 2017. The Niagara Official Plan, 2022 (the “NOP”), designates the subject lands as “Delineated Built-up Area.”

Policies in these plans encourage the achievement of complete communities through providing a range and mix of housing options and encourage residential intensification that more efficiently uses existing municipal infrastructure. The Applications would assist in achieving the Regional residential intensification target for development within the Delineated Built-up Area. The Applications also facilitate a better use of municipally serviced land by efficiently using the vacant lands within the Delineated Built-up Area for residential infill.

St. Davids is surrounded by “Specialty Crop Area” lands as identified in the Greenbelt Plan. Specialty Crop Areas are given the highest priority of protection in the Province. It is important for the Town to use urban land efficiently and accommodate growth and development with the existing urban boundaries to avoid the need for future boundary expansions and preserve Special Crop Areas over the long-term.

Within the Escarpment Area, the Niagara Escarpment Plan directs that development and growth should be limited to minimize land use conflicts, and all development should be of a design compatible with the scenic resources of the Escarpment. Further, development and growth should be minor only, relative to the size and capacity of the settlement area to absorb growth within the urban areas of St. Davids. Concentrating growth to urban areas in St. Davids

allows for the preservation of Escarpment Natural Areas and Escarpment Protection Areas and the scenic resources and open space character of the Niagara Escarpment.

Provincial and Regional policies address potential environmental contamination issues in accordance with O. Reg. 153/04, as amended. Since the subject lands had previously been utilized as an orchard, the presence of pesticides may be found on the subject lands. The applicant has submitted Phase One and Phase Two Environmental Site Assessments with the Applications. The Assessments provided that the soils on-site meet the applicable Site Condition Standards and are appropriate for the proposed residential use. Conditions of draft plan approval have been included in **Appendix VI** related to site conditions.

Provincial and Regional policies aim to protect and conserve archaeological resources through prohibiting development on lands that are deemed to have archaeological potential unless archaeological resources have been evaluated and conserved. A Stage 1-2 Archaeological Assessment was submitted with the Applications, which concluded that no archaeological resources were identified on the subject lands and no further archaeological assessment is recommended. The Ministry of Citizenship and Multiculturalism acceptance letter for the Stage 1-2 Archaeological Assessment has been received. A Condition has been included in **Appendix VI** requiring inclusion of a standard archaeological warning clause in the subdivision agreement respecting deeply buried resources.

Provincial and Regional policies also aim to protect natural heritage features and functions. A Tree Inventory and Preservation Plan and Constraints Analysis were submitted with the applications, which note that the treed area on-site does not meet Provincial or Regional criteria for a significant woodland, and no species at risk were identified. While most of the trees on the property are proposed for removal, many of these are non-native species. To ensure adequate tree canopy is achieved through the proposed development, a Landscape Plan will be required for implementation as part of the subdivision development. Conditions requiring the submission and implementation of a detailed Landscape Plan, as well the implementation of the Natural Heritage Constraints Analysis and Tree Inventory and Presentation Plan, are included in **Appendix VI**.

Staff consider the Applications to be consistent with the PPS and conform with the Growth Plan, Niagara Escarpment Plan and NOP.

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

The subject lands are currently designated “Low Density Residential” on Schedule D and “Built-up Area” on Schedule I-3 of the Town’s Official Plan, 2017 Consolidation, as amended (the “Town OP”). The subject lands are also within Special Policy Area A-3 (St. Davids). The Town OP Designation on the subject lands is shown on **Map 2** of **Appendix II** to this report.

The Town OP directs that growth and development is to be accommodated within the existing urban boundaries. Similar to the policies of the PPS, Growth Plan and NOP, the Town OP supports the development of compact, vibrant, sustainable, integrated and complete communities. The Town OP policies for intensification require that generally low density residential uses are not to exceed a maximum residential net density of 6 units per acre (14

units per hectare), unless accompanied by a detailed site and area analysis demonstrating that there will be minimal impact on surrounding neighbourhoods and be subject to a public review process.

The Official Plan Amendment application proposes to maintain the existing “Low Density Residential” designation, but requests a modest increase in density. The Applications would facilitate the creation of 28 lots for future single-detached dwellings, resulting in a residential net density of 20.33 units per hectare (8.24 units per acre). This represents a slight increase to the Town OP policies for intensification, as well as density provisions within St. Davids, where low density residential developments are not to exceed 14 units per hectare (6 units per acre). Surrounding developments exhibit a range of low and medium density uses. The implementation of a density of 8.24 units per acre would contribute to the variety of dwelling and lot sizes in the area, as supported by policies of the PPS, Growth Plan, NOP and the Town OP. The Applications would also facilitate a more efficient use of land and services, further contributing to the goals of the Residential designation as set out in the Town OP. Staff is satisfied that the proposed subdivision should be compatible with surrounding development.

A Planning Justification Report (“PJR”), prepared by Upper Canada Consultants, was submitted in support of the proposal. The report provides analysis in relation to applicable Town policies and outlines any potential impacts the development may pose to the surrounding area. A contextual analysis and streetscape review forms part of the PJR, where lots along the south portion of Hickory Avenue and properties along Kenmir Avenue were analysed in relation to the subject lands for land use compatibility purposes. The proposed lots for single detached dwellings within the Opulence subdivision can be considered in keeping with the surrounding lands, and are compatible with the surrounding neighbourhood due to similar built form and yard setbacks. Lot coverage varies in the surrounding area. Given the constraints resulting from the proposed cul-de-sac bulb and the effective transition from existing development along Hickory Avenue and Kenmir Avenue, Staff consider the proposal to be compatible with adjacent uses and the development will allow for further enhancement of the streetscape.

The proposal was considered by the Town’s Urban Design Committee during the September 27, 2023 meeting. The Town’s Urban Design Committee provided the following recommendations to be considered by Staff and the Applicant, as approved by Town Council on October 24, 2023:

- Concerns with there being no through-way road and would like to see direct access to Tanbark Road, if possible.
- Fencing to meet the St. Davids Guidelines but would like to see wrought-iron type fence (powder-coated metal).
- Distribute trees throughout the yards and refer to the Niagara-on-the-Lake tree planting guidelines.
- Parking and driveways to have more space for cars.
- To have more diversity of building types.
- Lot coverage.

In response to the Urban Design Committee recommendations, the applicant has advised that direct access to Tanbark Road is not possible due to the extent of lands owned and existing surrounding development. The development proposes a pedestrian walkway, servicing easement and emergency services access to Tanbark Road through Block 29, which comprises a portion of Dyck Lane. The connection to Tanbark Road in this location is not of a width sufficient to serve as a public road in accordance with Town standards and cannot be widened due to abutting existing development.

The applicant has agreed to implement decorative fencing in the subdivision design. Landscaping will be distributed throughout the subject lands, and will be implemented through a detailed Landscape Plan in alignment with the Town's tree guidance. These recommendations will be implemented through conditions of draft plan approval.

While the proposal includes single-detached dwellings, the dwellings will provide custom designs to offer diversity in size, façade and setbacks. The proposed lot coverage ranges from 45% to 50% with an additional 5% lot coverage requested for covered porches and decks. This lot coverage is similar to permissions within surrounding developments and is not anticipated to result in incompatibilities. The proposed parking and driveway locations and provisions align with the Town's Zoning By-law 4316-09, as amended.

#### 5.1.3.1 St. Davids Urban Design Guidelines

The Urban Design Policies for Special Policy Area A-3 require all development in St. Davids to be consistent with the St. Davids Urban Design Guidelines (the "Urban Design Guidelines").

##### 5.1.3.1.1 Housing Typology and Form

The Urban Design Guidelines express that new development should be consistent in form and design with the surrounding existing built fabric. The proposed Opulence subdivision provides for single-detached dwellings, which is consistent with built form in the surrounding area. Opulence would be connected to the St. Davids Estates subdivision via an extension to Kenmir Avenue, therefore there is a relationship between the two subdivisions.

The Urban Design Guidelines states that no one vernacular architectural style or period is dominant in St. Davids, and a mix of housing types is encouraged in new development to extend the Village's diverse architectural character and assist in meeting the demand for diverse housing types. While the proposal offers only single-detached dwelling built form, the dwellings will be custom designed to provide variety in façade and setbacks thereby providing a range in housing design and style.

##### 5.1.3.1.2 Character and Built Form

The Urban Design Guidelines state that the most important considerations for new construction to fit into St. Davids is the height and massing of the adjacent buildings. Dwellings to the north, in Courtland Valley are a mix of one and two-storey dwellings, whereas dwellings to the south, in St. Davids Estates are predominantly large two-storey dwellings.

The Urban Design Guidelines also direct that new Residential Areas should avoid a pattern of amorphous expansion and encourage new residential areas to be developed as new, distinct neighbourhoods of a defined size and unique character, but are well connected to the existing

Village fabric of St. Davids both in character and through multiple physical linkages. It is also recognized in the Urban Design Guidelines that diverse housing types and designs create great streets, and thereby, on any given street in St. Davids there is a striking lack of repetition.

The proposed site-specific Zoning provisions for Opulence are similar to Courtland Valley and St. Davids Estates to provide compatible and generally consistent form for single-detached dwellings. However, the proposed site-specific Zoning provisions for Opulence are not identical to either development, which provides the proposal with its own distinct character and identity, adding to the diversity in St. Davids, as directed by the St. Davids Urban Design Guidelines.

The Urban Design Guidelines direct that residential buildings should consider overall form, massing and proportions, and the rhythm of major repetitive building elements to create a street façade that is composed of a consistent and attractive variety of building elements. The Guidelines also indicate that the proportion of rooflines, wall planes and openings should be consistent with other buildings on the street. Although no building designs are being proposed at this time, it is anticipated that the architectural treatment of each individual dwelling would vary based on owner preferences, but the proposed site-specific Zoning provisions would control the overall massing and form and the placement and scale of major building elements such as the garages, porches, and the roofline. Staff will review individual building plans for consistency with the Urban Design Guidelines as part of the building permit review process. A condition of draft plan approval has been included to require design review of each dwelling.

There is no maximum height identified in the Urban Design Guidelines. Rather, the direction provided in the Urban Design Guidelines is that since the majority of existing buildings do not exceed two storeys in height, it is recommended that new buildings generally reflect the same proportions, particularly along the south end of Four Mile Creek Road where views to the Escarpment should be maintained. The maximum permitted height in Courtland Valley and St. Davids Estates is 10.67 metres. The proposed site-specific Zoning does not request relief from the zone standard of 10.0 metres in height. This height is consistent with the height permitted in surrounding neighbourhoods and is not anticipated to block views of the escarpment.

#### 5.1.3.1.3 Lot Area and Frontage

There is no minimum lot area identified in the Urban Design Guidelines. Lot area and depth is difficult to distinguish from the street. The Urban Design Guidelines also do not identify a minimum lot frontage, but do recognize that there may be lots with a width of 12 metres or less. The width of the proposed lots ranges from 12.6 metres to 24.5 metres.

#### 5.1.3.1.4 Setbacks

The minimum front yard setback in the Urban Design Guidelines is between 3 and 4.5 metres. The Urban Design Guidelines also state that there should be a variety of front yard setbacks, between 3 and 6 metres on any given street. The proposed lots along Hickory Avenue offer a front yard setback of 4.5 metres, and the front yard setback proposed along 'Street A' (Kenmir Avenue extension) is proposed to be 3.0 metres with a setback to the front face of the garage at 6.0 metres; these front yard setbacks conform to the Urban Design Guidelines. All garages are proposed to be located at least 1.5 metres behind the front face of the dwelling.

The Urban Design Guidelines indicate that rear yard setbacks should be a minimum of 7.5 metres, and that rear yard amenity areas should have a minimum depth of 5.5 metres with a minimum area of 50 square meters for singled-detached dwellings. The proposed minimum rear yard setbacks range from 5.0 metres to 6.0 metres with proposed site-specific encroachments for unenclosed and covered or uncovered porches, decks, patios and steps. While slightly lesser than the minimum rear yard setback of the Urban Design Guidelines, Staff consider the proposed site-specific rear yard setback to generally conform to the intent of the Urban Design Guidelines. The rear yard amenity spaces are expected to meet the minimum area requirements.

#### 5.1.3.1.5 Road and Pedestrian Connectivity

The Urban Design Guidelines encourage short blocks to encourage walking which results in environmental and safety benefits. Block lengths are encouraged not to exceed 250 metres, should be interconnected to disperse traffic, and through traffic is discouraged. To promote walking and cycling, the Urban Design Guidelines encourage walkways through blocks and to open spaces to increase accessibility throughout neighbourhoods, between public amenities and facilities, and to link recreational trails.

Where blocks exceed 250 metres, the Urban Design Guidelines state that mid-block connections, such as walkways, should be provided that are lit from adjacent street lights and generally have a minimum right-of-way of 3 metres with a concrete surface that requires minimal maintenance and is suitable for pedestrians and bicycles.

The proposal provides for an extension of Kenmir Avenue resulting in a total street length greater than 250 metres. However, the existing Kenmir Avenue offers an emergency access adjacent to the subject lands which provides access to Tanbark Road. The Applications also propose an access to Tanbark Road through Block 29, to be used for pedestrian and emergency access as well as a servicing easement. The walkway has a 6-metre right-of-way and would provide convenient access to Tanbark Road. Sidewalks are also required internal to the proposed subdivision, providing connections to surrounding areas.

A few residents have requested that the subject lands provide a formal and direct connection to Tanbark Road for vehicular traffic. Due to land ownership and existing development, the applicant is unable to provide a formal and direct access for vehicular traffic from the proposed subdivision to Tanbark Road. Further, the submitted Traffic Impact Study, prepared by RVA, does not indicate that an additional access is required to address any potential traffic impacts. The Study concludes that the proposed development would not result in any significant traffic increases at the intersection of Kenmir Avenue and Tanbark Road, and that the intersection can safely accommodate the anticipated traffic levels.

#### 5.1.3.1.6 Cul-de-Sac

The St. Davids Urban Design Guidelines note that culs-de-sac should not be permitted unless there are topographic or other features which limit through street opportunities. The subject lands do not provide a through street; however, the lands are adjacent to a parcel which, if subject to future development, would allow for a connection of the north and south portions of Hickory Avenue. Accordingly, Staff are satisfied that the intent of the St. Davids Urban Design



Guidelines are met due to additional opportunities for through streets as part of future development on surrounding lands.

## 5.2 Town of Niagara-on-the-Lake Zoning By-law 4316-09, as amended

The subject lands are zoned “St. Davids Community Zoning District – Residential Development (RD) Zone” and “Residential (R1-11) Zone” in the Town of Niagara-on-the-Lake Zoning By-law 4316-09, as amended. The existing zoning on the lands is shown on **Map 3** to **Appendix II** to this report.

The Zoning By-law Amendment application proposes to rezone the subject lands to “Residential (R2) Zone” with site-specific provisions to facilitate the development of a subdivision containing 28 lots for single-detached dwellings, a block for a pedestrian walkway and servicing easement, and the extension of a public road (Kenmir Avenue).

The following chart illustrates the standard R2 Zone provisions and the site-specific zoning provisions recommended by Staff:

Zone Requirement	R2 Zone	Site-Specific R2 Zone
Minimum lot frontage	15.0 metres	<u>Lots 1-7</u> 15.0 metres  <u>Lots 8-25</u> 12.6 metres
Minimum lot area	475 square metres	<u>Lots 1-7</u> 450 square metres  <u>Lots 8-11, 14-17, 20-25</u> 415 square metres  <u>Lots 12, 13, 18, 19</u> 333 square metres
Maximum lot coverage	40%	<u>Lots 1-28</u> 45%, plus an additional 5% lot coverage for covered and unenclosed porches, decks and patios
Minimum front yard setback to front face of dwelling	4.5 metres	<u>Lots 1-7</u> 4.5 metres  <u>Lots 8-28</u> 3.0 metres
Minimum front yard setback to	7.5 metres	<u>Lots 1-7</u> 7.5 metres

<b>Zone Requirement</b>	<b>R2 Zone</b>	<b>Site-Specific R2 Zone</b>
front face of the attached garage		<u>Lots 8-28</u> 6.0 metres
Maximum width of garage face		<u>Lots 1-25</u> 6.0 metres
Minimum exterior side yard setback	4.5 metres	<u>Lots 1-11, 14-17, 20-25</u> 3.0 metres
Minimum rear yard setback	7.5 metres	<u>Lots 1-11, 14-17, 20-25</u> 6.0 metres  <u>Lots 12, 13, 18, 19</u> 5.0 metres; however, a minimum of 50% of the width of the dwelling shall be setback a minimum of 6.0 metres from the rear lot line, and the second storey of the dwelling shall be setback a minimum of 6.0 metres from the rear lot line  <u>Lots 26, 27 28</u> 5.0 metres

Staff also recommend the following site-specific provisions related to Permitted Yard Projections and Encroachments.

The Zoning By-law permits for unenclosed and uncovered porch, deck, patio or steps to encroach by up to 1.5 metres into the required front or rear yard setback, and 0.6 metres into the required side yard setback. The requested site-specific provisions are as follows:

Lots 1-7, 8-11, 14-17, 20-25

To permit unenclosed and uncovered or covered 1-storey porch, deck, patio and steps, at ground level, to project up to 3.0 metres into the required rear yard, and 0.6 metres into the required side yard.

Lots 12, 13, 18, 19

To permit unenclosed and uncovered or covered 1-storey porch, deck, patio and steps, at ground level, to project up to 3.5 metres into a required rear yard that is 6.0 metres in depth, and 0.6 metres into the required side yard.

Lots 26-28

To permit unenclosed and uncovered or covered 1-storey porch, deck, patio and steps, at ground level, to project up to 2.0 metres into the required rear yard, and 0.6 metres into the required side yard.

The applicant has also requested that an ornamental fencing structure be permitted to project from the side of a dwelling to shared fence line (0.0 metre setback).

Staff consider the proposed reduction in lot frontage, lot area, and front, side, and rear yard setbacks, and proposed increase in lot coverage, to be appropriate and not impact the use of or compatibility with surrounding lands. The site-specific zoning will facilitate the location of the dwellings closer to public streets which will provide greater interaction between the public and private realm. The site-specific zoning is also requested to provide a transition in setbacks from the neighbouring St. Davids Estates subdivision with greater setbacks along Hickory Avenue in comparison to setbacks proposed along the internal extension of Kenmir Avenue. The applicant has indicated that the proposed encroachment for unenclosed and covered or uncovered porches, decks, balconies, patios and steps aligns with the intended building design and desire to provide dwellings on smaller lot areas to achieve Provincial, Regional and Town policy direction regarding growth and variety in housing style. Staff do not anticipate any land use compatibility concerns as a result of the proposed Amendment.

The remaining standard R2 Zone requirements will apply to the proposal. A draft Zoning By-law Amendment is attached as **Appendix V** to this report.

### **5.3 Consultation**

The Applications were circulated to Town departments and external Agencies. Notice of the Applications were provided as required by the *Planning Act*. Comments received from external Agencies are attached as **Appendix VII** to this report with overall comments summarized below.

#### Town Comments

Building – No objection.

Finance – No objection.

Fire and Emergency Services – No objection, subject to conditions related to detailed design and location of fire hydrants.

Operations – No objection. All infrastructure shall be constructed to current town specifications. Detailed engineering submissions will be reviewed as part of the plan of subdivision process, and will be addressed through conditions of approval.

Heritage – No objection.

#### Agency Comments

Bell Canada – No objection, subject to conditions of Draft Plan Approval.

Canada Post – No objection, subject to conditions of Draft Plan Approval.

District School Board of Niagara – No objection, subject to conditions of Draft Plan Approval for sidewalk construction.

Enbridge Gas – No objection.

Hydro One – No objection.

Niagara Escarpment Commission – No objection, subject to conditions of Draft Plan Approval.

Niagara Region – No objection, subject to conditions of Draft Plan Approval.

### Public Comments

An electronic Open House was held on August 28, 2023. The statutory Public Meeting was held on September 12, 2023, during which six (6) residents provided comments. Staff has also received written correspondence from ten (10) residents. The public comments and questions identified are attached as **Appendix VIII** to this report, and have been summarized below:

- Support for the preliminary house designs and anticipated quality of the development;
- Concerns with only one traffic access to the subject lands, related to traffic impacts, topography of the lands, emergency access, snow removal, pedestrian safety;
- Dyck Lane should be made into a formal/public road;
- Servicing and stormwater drainage concerns;
- Kenmir Avenue is not currently a Town-assumed road, concerns regarding process to allow development on a street that is not Town-assumed or owned at this time, including maintenance and connections to sewers;
- Concerns with the removal of trees on-site, and recommend replacement with mature trees;
- Concerns with small lot sizes and reduced setbacks for Lots 19 and 20 with regard to privacy;
- Dwelling heights are too tall, will impact views to the Niagara Escarpment;
- The proposal should not preclude opportunities for future development of surrounding lands;
- Proposed development will impact two lots of the St. Davids Estates subdivision, by landlocking them as a connection of the north and south Hickory Avenues is not proposed;
- Concerns with access issues respecting the closure of Dyck Lane and all accompanying requirements including readdressing, dwellings at the end of Dyck Lane need to be provided with a permanent access;
- Lands at the end of Dyck Lane currently have a servicing easement to Tanbark Road, how will this be addressed?
- Not compatible with adjacent luxury homes in the area;
- Too much density, too many dwellings;
- Want to understand the proposed dwelling concept and elevations prior to approval; and,
- Concerns regarding ongoing construction of adjacent subdivision lands, and addition of construction works required for the proposal.

In response to the above, Staff advises of the following:

### Traffic Impacts and Additional Access

- A Traffic Impact Study was submitted with the Applications, which did not recommend additional physical capacity or traffic control improvements in response to the proposed development and generated traffic. Based on the Study and staff review, Kenmir Avenue is able to accommodate and will not be negatively impacted by the additional traffic generated from the proposed Opulence subdivision.
- Town Fire and Emergency Services staff has advised that there are no concerns or issues with accessing the subject lands from an emergency services perspective. Block 29 will be created to ensure that access standards are met based on applicable codes

and will be able to accommodate a fire apparatus. Emergency services vehicles are able to maneuver to the site via Kenmir Avenue if required.

- From an operational and emergency services perspective, and with consideration of the topography of the area and along Kenmir Avenue, one main entrance to the site from Kenmir Avenue is acceptable.
- The proposed extension of Kenmir Avenue will be developed to Town public road standards to ensure that snow removal can be accommodated. The proposed subdivision will also include the provision of sidewalks to allow for safe pedestrian access to and from the subject lands.

#### Servicing and Stormwater Management

- Existing water and sanitary mains are found on Hickory Avenue, with capacity to accommodate the proposed development. Town Staff require the submission of detailed servicing calculations as conditions of Draft Plan Approval and, through review and approval, will ensure that all services are suitable to accommodate the Opulence subdivision.
- The subject lands are located within the Stormwater Drainage Area Plan, and will convey stormwater flows to existing storm sewers on Tanbark Road which drain to the existing Warner Road Stormwater Management Facility. The dwellings fronting Hickory Avenue (Lots 1-7) will convey stormwater flows to the existing storm sewers on Hickory Avenue, and all other dwellings will convey stormwater flows to the existing storm sewers on Tanbark Road through Block 29. Adequate capacity within the existing storm sewer system is expected, as well as in the Warner Road Stormwater Management Facility, without the need for modifications or upgrades. Detailed review of overall lot grading and stormwater management configuration will be addressed through conditions of Draft Plan Approval.
- Connections to existing water, sanitary and storm sewer mains will be addressed through conditions of Draft Plan Approval.
- Through the proposed subdivision development, lands to the west of Dyck Lane will not be required to connect to Town services, including sanitary services. However, these lands, within the urban area boundary, may connect to Town services in the future and/or as part of future development.

#### Tree Removal and Replacement, Privacy and Height

- To accommodate the proposed development, removal of 39 of 57 trees located on the subject lands is required. Most of these trees are located within a plantation area on the western portion of the subject lands. The Applicant has advised that trees will be retained where possible, in accordance with the Tree Inventory and Preservation Plan Report, and that additional mature trees will be planted throughout the subdivision lands. The planting of additional trees will be implemented through conditions of Draft Plan Approval.
- Concerns with regard to reduced setbacks and privacy, specific to the rear yard setback, will be mitigated through required mature tree plantings in rear yards, to be implemented through conditions of Draft Plan Approval.
- Concerns related to the proposed height have been addressed by the Applicant through a revised Zoning By-law Amendment to reduce the maximum height to 10.0 metres. This height is compatible with surrounding development and permissions, and maintains

the standard maximum building height of the R2 Zone. Dwellings in the Courtland Valley development to the north range in height from 9.1 metres to 10.67 metres, and dwellings within the St. Davids Estates subdivision to the south are permitted to have a maximum building height of 10.67 metres. Further, dwellings fronting Tanbark Road subject to the 'Residential (R1) Zone' are permitted a maximum building height of 10.0 metres.

- Given that the height aligns with permitted and existing building heights in the surrounding area, Staff do not anticipate impacts to views of the Niagara Escarpment. Niagara Escarpment Commission Staff have not indicated that any impacts to the Niagara Escarpment viewshed will result from the proposed development. The subject lands also slope downward from the south portion of Hickory Avenue to the north portion of Hickory Avenue, which will assist with ensuring suitable height of dwellings within the subdivision lands and reducing potential impacts to the view of the Escarpment.

#### Future Development of Abutting Lands

- Comments have been received recommending that the lands to the west of the subject lands provide a connection of the north and south Hickory Avenues. As this land is not owned by the Applicant, a connection of north and south Hickory Avenues is not possible with the current proposal. The proposed subdivision does not preclude the ability to connect the north and south Hickory Avenues should the lands to the west be proposed for future development. The Opulence subdivision also does not impact the ability of the lands to the west, within the urban area, to be serviced for the purposes of future development.
- Correspondence has also been received regarding lands within the St. Davids Estates subdivision, and the inability to develop two parcels which are currently used for the purposes of a temporary cul-de-sac. The development of these parcels can only occur at the time of the future connection of the north and south portions of Hickory Avenue, through lands to the west of this proposal. As the Applicant does not own these lands, the connection of Hickory Avenue is not feasible and is not proposed as part of the subject Applications. Accordingly, the proposal does not impact the ability of lands within the St. Davids Estates subdivision to be developed.

#### Dyck Lane

- During the Council Meeting on January 30, 2024, Town Council approved a By-law to close access to Dyck Lane at Tanbark Road.
- To accommodate the proposed subdivision, the closure of Dyck Lane is required. A condition of Draft Plan Approval has been included to ensure that Dyck Lane is unencumbered prior to final subdivision approval.
- Comments have been received recommending that Block 29 (Dyck Lane access to Tanbark Road) be used as a secondary entrance to the subject lands. The width of Dyck Lane is not sufficient to meet Town public road standards, and the width of Block 29 is unable to be widened due to surrounding existing development. As noted earlier in the report, only one main vehicular access (extension of Kenmir Ave) to the proposed subdivision is warranted.

### Density, Setbacks and Compatibility

- Some comments from residents and members of the public offered concerns regarding the density of the proposed subdivision, including the number of dwellings, the reduced setbacks, and general compatibility with existing dwellings in the area.
- The Official Plan Amendment Application seeks to permit an increased density of 8.24 units per acre, whereas the Town Official Plan permits a maximum density of 6 units per acre for low density residential developments. Staff consider the proposal to be a minimal increase, which maintains the intent of the low density residential target. Surrounding lands have a variety of densities, ranging from less than the low density residential target to medium density uses.
- The Zoning By-law Amendment Application proposes reduced setbacks for standards including lot frontage, lot area, lot coverage, front yard setbacks, exterior side yard setback and rear yard setback. The reduced setbacks are proposed to offer a transition from the existing St. Davids Estates subdivision while providing a range of dwelling and lot sizes. The proposed lot frontage and lot area are not anticipated to impact surrounding existing development; the smallest lots are located internal to the site, surrounding the cul-de-sac. Lot coverage is proposed to range from 45% to 50%, with an additional 5% lot coverage for covered porches and decks. Staff has no concerns with the proposed increase in lot coverage as the requested provision is similar to permissions within the Courtland Valley development to the north. The reduced front yard setbacks and exterior side yard setbacks will further enhance the connection between the private and public realm. The proposed rear yard setback and associated encroachment request will ensure that privacy from surrounding dwellings is maintained through the implementation of robust plantings and fencing along the perimeter of the subject lands.
- Dwelling designs are not required for the proposed Applications; however, the dwellings are to be designed to align with the St. Davids Urban Design Guidelines.
- Town Staff consider the proposed subdivision to be compatible with abutting lands as the proposed setbacks provide an intended transition in dwelling siting, and are in compliance with the St. Davids Urban Design Guidelines.

With regard to construction practices, Town By-laws regarding maintenance and property standards are in force and effect to ensure construction sites and surrounding lands are clean and maintained.

Staff has advised residents that spoke at the Public Meeting or submitted written comments of the Committee's consideration of the Applications this evening.

## **6. STRATEGIC PLAN**

The content of this report supports the following Strategic Plan initiatives:

### **Pillar**

1. Vibrant & Complete Community

### **Priority**

1.1 Planning for Progress

## **Action**

### **1.1 b) Planning for Progress Initiatives**

## **7. OPTIONS**

The Committee may approve, refuse or modify the proposed Official Plan Amendment, Zoning By-law Amendment and/or Draft Plan of Subdivision.

## **8. FINANCIAL IMPLICATIONS**

Not applicable.

## **9. ENVIRONMENTAL IMPLICATIONS**

Tree removal on the site is required to accommodate the proposed development. As provided in the Tree Inventory and Preservation Plan Report, a total of 57 trees are found on the subject lands. To facilitate the subdivision development, removal of 39 trees is required. The trees on the subject lands do not form part of the Regional Natural Heritage System, are not considered as Significant Woodlands, and do not contain habitats of significant wildlife or endangered or threatened species. Tree removal, maintenance and replacement will be addressed through conditions of Draft Plan Approval.

## **10. COMMUNICATIONS**

Once Council has made a decision on the Applications, notice of the decision will be given as required in the *Planning Act*. The decision of Council is subject to a 20-day appeal period. If no appeals are received during the appeal period, the decision of Council is final.

## **11. CONCLUSION**

Community and Development Services Staff recommend approval of Official Plan Amendment Application OPA-05-2023, Zoning By-law Amendment Application ZBA-14-2023, and Draft Plan of Subdivision Application 26T-18-23-01 as detailed in this report, since the Applications meet *Planning Act* requirements, are consistent with the Provincial Policy Statement, and conform with the Growth Plan, Niagara Official Plan and Town Official Plan.

## **12. PREVIOUS REPORTS**

- **CDS-23-181** – Public Meeting – North Side of Hickory Avenue (South Portion), West of Tanbark Road, Information Report – September 12, 2023

## **13. APPENDICES**

- **Appendix I** – Draft Plan of Subdivision
- **Appendix II** – Maps
- **Appendix III** – Planning Legislation and Policies
- **Appendix IV** – Draft Official Plan Amendment
- **Appendix V** – Draft Zoning By-law Amendment
- **Appendix VI** – Draft Plan of Subdivision Conditions
- **Appendix VII** – Agency Comments
- **Appendix VIII** – Public Comments



Respectfully submitted:

**Prepared by:**

A handwritten signature in black ink, appearing to read 'Aimee Alderman', with a large loop at the start.

**Aimee Alderman, MCIP, RPP  
Senior Planner**

**Recommended by:**

A handwritten signature in blue ink, appearing to read 'KMcCauley', with a stylized 'K'.

**Kirsten McCauley, MCIP, RPP  
Director of Community and Development  
Services**

**Submitted by:**

**Bruce Zvaniga, P.Eng.,  
Chief Administrative Officer (Interim)**