

**From:** [PrimeCities](#)  
**To:** [Aimee Alderman](#)  
**Subject:** Draft Plan of Subdivision (26T-18-23-01), ZBLA (ZBA-14-2023), & OPA (OPA-05-2023), Hickory Ave & Tanbark Rd., Niagara-on-the-Lake  
**Date:** Friday, August 4, 2023 4:24:31 PM

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**8/4/2023**

**Aimee Alderman**

**Niagara-on-the-Lake**

**Niagara-on-the-Lake (Town)**

**Attention: Aimee Alderman**

**Re: Draft Plan of Subdivision (26T-18-23-01), ZBLA (ZBA-14-2023), & OPA (OPA-05-2023), Hickory Ave & Tanbark Rd., Niagara-on-the-Lake; Your File No. ZBA-14-2023, OPA-05-2023, 26T-18-23-01  
 Our File No. DTS: 37566 / Circ: 37670**

Dear Sir/Madam,

We have reviewed the circulation regarding the above noted application. The following paragraphs are to be included as a condition of approval:

**Bell Canada Condition(s) of Approval**

1) The Owner acknowledges and agrees to convey any easement(s) as deemed necessary by Bell Canada to service this new development. The Owner further agrees and acknowledges to convey such easements at no cost to Bell Canada.

2) The Owner agrees that should any conflict arise with existing Bell Canada facilities where a current and valid easement exists within the subject area, the Owner shall be responsible for the relocation of any such facilities or easements at their own cost.

Upon receipt of this comment letter, the Owner is to provide Bell Canada with servicing plans/CUP at their earliest convenience to [planninganddevelopment@bell.ca](mailto:planninganddevelopment@bell.ca) to confirm the provision of communication/telecommunication infrastructure needed to service the development.

It shall be noted that it is the responsibility of the Owner to provide entrance/service duct(s) from Bell Canada's existing network infrastructure to service this development. In the event that no such network infrastructure exists, in accordance with the Bell Canada Act, the Owner may be required to pay for the extension of such network infrastructure.

If the Owner elects not to pay for the above noted connection, Bell Canada may decide not to provide service to this development.

### Concluding Remarks:

To ensure that we are able to continue to actively participate in the planning process and provide detailed provisioning comments, we note that we would be pleased to receive circulations on all applications received by the Municipality and/or recirculations.

If you believe that these comments have been sent to you in error or have questions regarding Bell's protocols for responding to municipal circulations and enquiries, please contact [planninganddevelopment@bell.ca](mailto:planninganddevelopment@bell.ca) directly.

We note that WSP operates Bell Canada's development tracking system, which includes the intake and processing of municipal circulations. **However, all responses to circulations and requests for information, such as requests for clearance, will come directly from Bell Canada, and not from WSP.** WSP is not responsible for Bell's responses and for any of the content herein.

Should you have any questions, please contact the undersigned.

Yours Truly,

A rectangular box with a light gray border, containing a small blue square icon with a white question mark inside, indicating a redacted signature.

Juan Corvalan

Senior Manager - Municipal Liaison

Email: [planninganddevelopment@bell.ca](mailto:planninganddevelopment@bell.ca).

September 12, 2023

AIMEE ALDERMAN  
TOWN OF NIAGARA ON THE LAKE  
1593 FOUR MILE CREEK ROAD  
P.O BOX 100, VIRGIL, ON

Re: 26T-18-23-01 Opulence Subdivision

Dear Aimee,

This development will receive mail service to centralized mail facilities provided through our Community Mailbox program.

I will specify the conditions which I request to be added for Canada Post Corporation's purposes.

The owner shall complete to the satisfaction of the Director of Engineering of the Town of Niagara on the Lake and Canada Post:

- a) Include on all offers of purchase and sale, a statement that advises the prospective purchaser:
  - i) that the home/business mail delivery will be from a designated Centralized Mail Box.
  - ii) that the developers/owners be responsible for officially notifying the purchasers of the exact Centralized Mail Box locations prior to the closing of any home sales.
- b) The owner further agrees to:
  - i) work with Canada Post to determine and provide temporary suitable Centralized Mail Box locations which may be utilized by Canada Post until the curbs, boulevards and sidewalks are in place in the remainder of the subdivision.

- ii) install a concrete pad in accordance with the requirements of and in locations to be approved by Canada Post to facilitate the placement of Community Mail Boxes
  - iii) identify the pads above on the engineering servicing drawings. Said pads are to be poured at the time of the sidewalk and/or curb installation within each phase of the plan of subdivision.
  - iv) determine the location of all centralized mail receiving facilities in co-operation with Canada Post and to indicate the location of the centralized mail facilities on appropriate maps, information boards and plans. Maps are also to be prominently displayed in the sales office(s) showing specific Centralized Mail Facility locations.
- a) Canada Post's multi-unit policy, which requires that the owner/developer provide the centralized mail facility (front loading lockbox assembly or rear-loading mailroom [mandatory for 100 units or more]), at their own expense, will be in effect for buildings and complexes with a common lobby, common indoor or sheltered space.

Should the description of the project change, I would appreciate an update in order to assess the impact of the change on mail service.

If you have any questions or concerns regarding these conditions, please contact me.

I appreciate the opportunity to comment on this project.

Regards,

*A. Carrigan*

Andrew Carrigan  
Delivery Planning Officer  
[Andrew.Carrigan@canadapost.ca](mailto:Andrew.Carrigan@canadapost.ca)



September 13, 2023

Aimee Alderman, MSc, MCIP, RPP  
Senior Planner  
Community & Development Services  
Town of Niagara-on-the-Lake  
1593 Four Mile Creek Road  
PO Box 100  
Virgil, ON L0S 1T0

Dear Ms. Alderman,

**Re: Applications for Official Plan Amendment, Zoning By-law Amendment, and Draft Plan of Subdivision  
Files OPA-05-2023, ZBA-14-2023 & 26T-18-23-01 (Opulence)**

Thank you for circulating the District School Board of Niagara (DSBN) the above noted applications for Official Plan Amendment, Zoning By-law Amendment and Draft Plan of Subdivision for lands located on the north side of Hickory Avenue (south portion), west of Tanbark Road. We understand the applications propose the creation of 28 lots for single-detached dwellings. A block (Block 29) is also proposed as a walkway and for a servicing easement. The Official Plan and Zoning Bylaw Amendments proposed will redesignate and rezone the lands accordingly to facilitate the development.

DSBN Planning staff has completed its review and has no objections to the application. At this time, future students from this area would attend St. Davids PS (Gr. JK-8), and A. N. Myer Secondary School (Gr. 9-12).

Board staff request that, as a condition of approval, sidewalks be constructed within the development to facilitate student travel to the school/bus stop locations.

If you have any questions, feel free to contact me at ext. 54225.

Yours truly,

Sue Mabee, MCIP, RPP  
Supervisor of Planning Services

August 10, 2023

Aimee Alderman, MCIP, RPP  
Senior Planner  
The Town of Niagara-on-the-Lake  
Community & Development Services  
1593 Four Mile Creek Road – PO Box 100  
Virgil, ON L0S 1T0

Dear Aimee,

Re: Draft Plan of Subdivision, Official Plan Amendment, Zoning By-law Amendment  
1784510 Ontario Limited  
N Hickory Ave (south portion) – W Tanbark Rd  
Town of Niagara-on-the-Lake  
File No.: 26T-18-23-01, OPA-05-2023, ZBA-14-2023

Enbridge Gas does not object to the proposed application(s) however, we reserve the right to amend or remove development conditions.

This response does not constitute a pipe locate, clearance for construction or availability of gas.

The applicant shall use the [Enbridge Gas Get Connected tool](https://enbridge.outsystemsenterprise.com/GetConnected_Th/Login2?OriginalURL=https%3A%2F%2Fenbridge.outsystemsenterprise.com%2FGetConnectedApp_UI%2F) to determine gas availability, service and meter installation details and to ensure all gas piping is installed prior to the commencement of site landscaping and/or asphalt paving.  
([https://enbridge.outsystemsenterprise.com/GetConnected\\_Th/Login2?OriginalURL=https%3A%2F%2Fenbridge.outsystemsenterprise.com%2FGetConnectedApp\\_UI%2F](https://enbridge.outsystemsenterprise.com/GetConnected_Th/Login2?OriginalURL=https%3A%2F%2Fenbridge.outsystemsenterprise.com%2FGetConnectedApp_UI%2F))

If the gas main needs to be relocated as a result of changes in the alignment or grade of the future road allowances or for temporary gas pipe installations pertaining to phased construction, all costs are the responsibility of the applicant.

In the event that easement(s) are required to service this development, and any future adjacent developments, the applicant will provide the easement(s) to Enbridge Gas at no cost.

Sincerely,



**Willie Cornelio** CET  
Sr Analyst Municipal Planning  
Engineering

**From:** [ARABIA Gabriel](#)  
**To:** [Simone Alderman](#)  
**Subject:** Town of Niagara-On-The-Lake - 26T-18-23-01, OPA-05-2023  
**Date:** Monday, August 14, 2023 10:10:05 AM  
**Attachments:** [image001.png](#)

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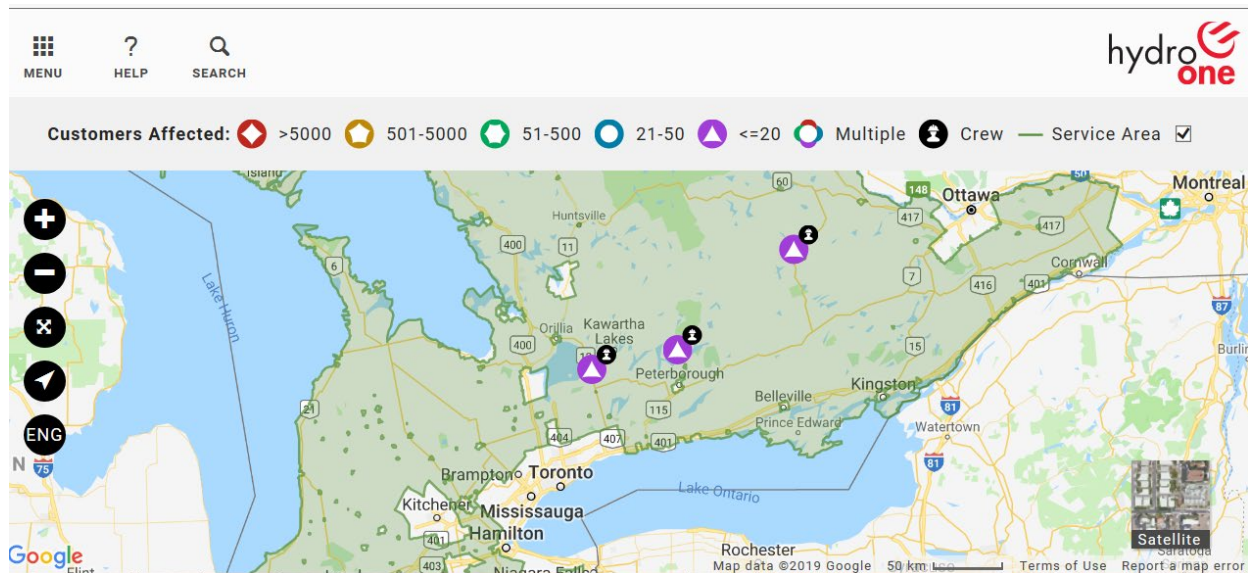
We are in receipt of your Plan of Subdivision application, 26T-18-23-01, OPA-05-2023 dated August 3<sup>rd</sup>, 2023 We have reviewed the documents concerning the noted Plan and have no comments or concerns at this time. **Our preliminary review considers issues affecting Hydro One's 'High Voltage Facilities and Corridor Lands' only.**

For proposals affecting 'Low Voltage Distribution Facilities' the Owner/Applicant should consult their local area Distribution Supplier. Where Hydro One is the local supplier the Owner/Applicant must contact the Hydro subdivision group at [subdivision@hydroone.com](mailto:subdivision@hydroone.com) or 1-866-272-3330.

To confirm if Hydro One is your local distributor please follow the following link:

[HydroOne Map](#)

Please select " Search" and locate address in question by entering the address or by zooming in and out of the map



If you have any further questions or inquiries, please contact Customer Service at 1-888-664-9376 or e-mail [CustomerCommunications@HydroOne.com](mailto:CustomerCommunications@HydroOne.com) to be connected to your Local Operations Centre

If you have any questions please feel free to contact myself.

Thank you,

**Dennis De Rango**

Specialized Services Team Lead, Real Estate Department

Hydro One Networks Inc.

Tel: (905)946-6237

Email: [Dennis.DeRango@HydroOne.com](mailto:Dennis.DeRango@HydroOne.com)

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August 24, 2023

Aimee Alderman, MCIP, RPP  
Senior Planner  
Town of Niagara-on-the-Lake

VIA EMAIL

Dear Aimee Alderman:

**Re: Request for Comments – OPA-05-2023, ZBA-14-2023, and 26T-18-23-01  
North Side of Hickory Avenue (south portion) – West of Tanbark Road (Opulence)  
Town of Niagara-on-the-Lake**

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Staff of the Niagara Escarpment Commission (NEC) received a request for comments related to the following applications under the Ontario Planning Act:

- Official Plan Amendment OPA-05-2023 to redesignate the subject lands to site-specific Low Density Residential to permit an increased density.
- Zoning By-law Amendment ZBA-14-2023 to rezone the lands from Residential Development (RD) to a Residential (R2) Zone with various site-specific provisions.
- Draft Plan of Subdivision 26-T-18-23-01 to facilitate the development of 28 lots for single-detached dwellings.

NEC staff have reviewed the following supporting plans and studies in preparing this response:

- Draft Plan of Subdivision, dated June 27, 2023, prepared by Upper Canada Consultants
- Draft Official Plan Amendment
- Draft Zoning By-law Amendment
- Functional Servicing Report, dated June 2023, prepared by Upper Canada Consultants
- Natural Heritage Constraints Analysis, dated February 2023, prepared by Ecological and Environmental Solutions
- Phase 1 Environmental Site Assessment, dated July 21, 2022, prepared by Niagara Soil Solutions Ltd.
- Phase 2 Environmental Site Assessment, dated August 15, 2022, prepared by Niagara Soil Solutions Ltd.
- Planning Justification Report, dated June 2023, prepared by Upper Canada Consultants
- Stage 1-2 Archaeological Assessment, dated January 14, 2023, prepared by Detritus Consulting



- Tree Inventory and Preservation Plan, dated March 30, 2023, prepared by Jackson Arboriculture
- Tree Preservation Plan, dated June 8, 2023, prepared by Jackson Arboriculture
- Traffic Impact Study, dated August 10, 2023, prepared by RV Anderson Associates

The subject lands are within the Niagara Escarpment Plan area but are located outside of the area of Development Control. For lands outside of the area of Development Control, NEC staff review planning applications to ensure that the policies of the Niagara Escarpment Plan (NEP) are upheld. Although the NEC is not the land use approval authority in areas subject to municipal zoning/areas outside of Development Control, section 13(1) of the Niagara Escarpment Planning and Development Act states that all by-laws within the NEP Area must not conflict with the NEP. Therefore, a detailed analysis of the NEP policies is required to ensure that the site-specific official plan amendment and zoning by-law does not conflict with the NEP.

### **Niagara Escarpment Plan Part 1 – Minor Urban Centre**

The lands are entirely within the Niagara Escarpment Plan (NEP) Area. The policies of the NEP apply to all lands within the Plan area. The lands are designated as within a Minor Urban Centre (St. Davids) by the NEP and are within the underlying Escarpment Protection Area designation.

Development is subject to the land use policies for Minor Urban Centres in Part 1.6 of the NEP. Part 1.6.6 of the NEP states that amendments to designations and/or land use policies within the boundaries of an approval official plan that is not in conflict with the NEP may be made without requiring an amendment to the NEP provided such an amendment does not involve Escarpment Natural Areas, Mineral Resource Extraction Areas or conflict with the Objectives and Development and Growth Objectives of this designation. Part 1.6.7 of the NEP states that 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 NEP.

Part 1.6.8 of the NEP contains the Development and Growth Objectives for Minor Urban Centres; those relevant to this application are discussed below:

3. *Development and growth should avoid Escarpment Protection Areas and be directed to Escarpment Rural Areas in a manner consistent with the Escarpment Rural Area Objectives and Part 2, the Development Criteria of this Plan.*
  - The development is within the underlying Escarpment Protection Area. There is no Escarpment Rural Area on the subject lands. The proposed development consists of low density, single dwellings and is surrounded by subdivisions of similar density.
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.*

- Development is proposed within an existing settlement area and as such no land use conflicts are anticipated. The development will constitute low density with maximum heights consistent with the Official Plan. NEC staff understand the development is subject to the St. Davids Urban Design Guidelines. NEC staff recommend the implementation of a landscape plan for screening.

5. *Development within Minor Urban Centres should encourage reduced energy consumption, improved air quality, reduced greenhouse gas emissions (consistent with provincial reduction targets to 2030 and 2050) and work towards the long-term goals of low carbon communities, net-zero communities and increased resilience to climate change, through maximizing opportunities for the use of green infrastructure and appropriate low impact development.*

- NEC staff understand there may be opportunities to address this objective through the development of the grading plan and building plans. NEC staff encourage the use of green infrastructure and low impact development in the future detailed design where possible.

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.*

- The Functional Servicing Report concludes that there is expected to be adequate capacity in the existing watermain and sanitary sewer system. The Traffic Impact Study anticipates that the existing road network can accommodate the proposed development without mitigation measures or alternative traffic controls.
- The Planning Justification Report includes an assessment of how the development will be designed to meet the St. Davids Urban Design Guidelines to ensure that community character is maintained.

9. *Growth and development in Minor Urban Centres shall be compatible with and provide for:*

- a) the protection of natural heritage features and functions;*
- b) the protection of hydrologic features and functions;*
- c) the protection of agricultural lands, including prime agricultural areas;*
- d) the conservation of cultural heritage resources, including features of interest to First Nation and Métis communities;*
- e) considerations for reductions in greenhouse gas emissions and improved resilience to the impacts of a changing climate;*
- f) sustainable use of water resources for ecological and servicing needs; and*

- g) *compliance with the targets, criteria and recommendations of applicable water, wastewater and stormwater master plans, approved watershed planning and/or subwatershed plan in land use planning.*
- There are no identified key natural heritage or hydrologic features on the property and the lands are within a settlement area separated from agricultural areas. No archaeological resources have been identified on the lands. The Functional Servicing Report concludes that the existing stormwater quantity and quality controls are adequate.

*10. Municipal sewage and water services will be the preferred form of servicing.*

- Municipal servicing is proposed.

## **Niagara Escarpment Plan Part 2 – Development Criteria**

Part 2 of the NEP contains the Development Criteria used in consideration of a development proposal. The proposal must be consistent with the Development Criteria contained in Part 2 of the NEP.

*Part 2.2.1: The Escarpment environment shall be protected, restored and where possible enhanced for the long term having regard to single, multiple or successive development that have occurred or are likely to occur.*

- A natural heritage constraints analysis and tree preservation plan have been submitted in support of the development. The wooded areas were determined to not meet the criteria for a significant woodland and no species at risk were identified. Most of the trees on the property are proposed for removal. Many of these are non-native, however the removal of trees will result in a loss of tree canopy.
- A landscape plan, including species and size, should be provided to ensure restoration and enhancement of tree cover across the site and demonstrate that Part 2.2.1 of the NEP is met.
- Phase 1 and 2 environmental site assessments were completed. The reports conclude that all soil samples meet Table 3 standards in a non-potable ground water condition for residential/parkland/institutional property use.

*2.2.6: Any development permitted should be designed and located in such a manner as to promote design and orientation that:*

- a) *maximizes energy efficiency and conservation and considers the mitigating effects of vegetation;*
- b) *maximizes opportunities for the use of renewable energy systems and alternative energy systems; and*
- c) *reduces greenhouse gas emissions so that the development is contributing to the goal of low-carbon communities and net-zero communities in Minor Urban Centres, Urban Areas, and Escarpment Recreation Areas.*

- NEC staff recognize that increased density will make efficient use of land within the urban boundary.
- NEC staff recommend consideration of low impact development and green infrastructure where possible in the detailed design.

#### **Part 2.4: Lot Creation**

- The objective is to direct the formation of new lots to those locations that are the least environmentally sensitive.
- The new lots are located entirely within a Minor Urban Centre. An official plan amendment and zoning by-law amendment are required to permit increased density and various site-specific provisions.
- The new lots do not include any key natural heritage or hydrologic features.

#### **Part 2.7: Development Affecting Natural Heritage**

- The objective is to protect and where possible enhance natural heritage features and functions in order to maintain the diversity and connectivity of the continuous natural environment.
- A significant woodland is located 60 m west of the project area. A natural heritage constraints analysis was submitted in support of the application and confirms that the plantation and hedgerow do not meet the criteria for a significant woodland or other woodland. There is no significant wildlife habitat on the property.
- No vegetative species at risk were observed on the property. No barn swallow nests were observed and as such barn swallow habitat is not anticipated to be impacted.
- Part 2.7.4 of the NEP states that development in other natural features not identified as key natural heritage features should be avoided. Such features should be incorporated into the planning and design of the proposed use wherever possible, and the impact of the development on the natural feature and its function shall be minimized.
- As per the tree preservation plan, most trees on the subject property are proposed for removal. NEC staff support the recommendation of the constraints analysis to restore the area through removal and management of invasive species and incorporating native species into landscaping and streetscaping. Staff also support the suggestion with the planning justification report to look for opportunities to relocate or preserve additional healthy trees during detailed design. These details should be included on a landscape plan.

## **Part 2.10: Cultural Heritage**

- The objective is to conserve the Escarpment's cultural heritage resources, including significant built heritage resources, cultural heritage landscapes, and archaeological resources.
- An archaeological assessment was completed and did not result in the identification of any archaeological resources. The archaeologist recommends no further study. NEC staff recommend confirming receipt of a letter from the Ministry of Citizenship and Multiculturalism and a standard advisory note.

## **Part 2.13: Scenic Resources and Landform Conservation**

- The objective of Part 2.13 (Scenic Resources and Landform Conservation) of the NEP is to ensure that development preserved the natural scenery and maintains Escarpment Related Landforms and the open landscape character of the Escarpment.
- As part of the Planning Justification Report, an assessment of the St. Davids Urban Design Guidelines and Streetscape Analysis was prepared. Development will also need to be appropriately sited and designed to minimize the impact on the scenic resources of the Escarpment, such as through the implementation of a landscape plan as noted above.

## **Conclusion**

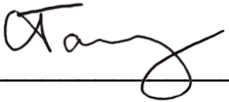
NEC staff have no objection to the approval of the draft plan of subdivision, official plan amendment, and zoning by-law amendment, subject to the following:

- The submission of a Landscape Plan
- The submission of a Grading and Drainage Plan
- That development occurs in accordance with the recommendations of the Natural Heritage Constraints Analysis, prepared by Ecological and Environmental Solutions, dated February 2023
- That development occurs in accordance with the recommendations of Tree Preservation Plan, prepared by Jackson Arboriculture, dated June 8, 2023
- Receipt of an acknowledgement letter from the Ministry of Citizenship and Multiculturalism and an advisory note regarding the identification of archaeological resources
- Consideration of the use of green infrastructure and low impact development in future detailed design where possible

I trust the above comments are of assistance in ensuring that the proposed does not conflict with the Niagara Escarpment Plan. If there are any questions or concerns, I can be reached at 905-703-5354 or [cheryl.tansony@ontario.ca](mailto:cheryl.tansony@ontario.ca).

Please send notice of decision.

Sincerely,



---

Cheryl Tansony  
Senior Planner  
Niagara Escarpment Commission

## **Growth Strategy and Economic Development**

1815 Sir Isaac Brock Way, Thorold, ON L2V 4T7

905-980-6000 Toll-free: 1-800-263-7215

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### **Via Email Only**

August 23, 2023

File Number: D.10.05.OPA-23-0036

D.18.05.ZA-23-0074

D.11.05.SD-23-0036

Aimee Alderman, MCIP, RPP

Senior Planner

Town of Niagara-on-the-Lake

1593 Four Mile Creek Road

PO Box 100, Virgil, ON L0S 1T0

Dear Ms. Alderman:

**Re: Regional and Provincial Comments**

**Official Plan Amendment, Zoning By-law Amendment, Draft Plan of Subdivision**

**Town File Number: OPA-05-2023, ZBA-14-2023 & 26T-18-23-01**

**Applicant: 1784510 Ontario Limited**

**Agent: Upper Canada Consultants (William Heikoop)**

**Address: North Side of Hickory Avenue (south portion) - West of Tanbark Road (Opulence Subdivision)**

**Town of Niagara-on-the-Lake**

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Staff from the Region's Growth Strategy and Economic Development Department have reviewed the information circulated with the applications for Official Plan Amendment, Zoning By-law Amendment and Draft Plan of Subdivision for the above-noted lands, identified as Opulence Subdivision, in the Town of Niagara-on-the-Lake.

The Draft Plan of Subdivision, prepared by Upper Canada Consultants (dated August 4, 2022, and certified by J.D. Barnes Limited on April 26, 2023) proposes the creation of 28 lots (Lots 1-28) for single-detached dwellings, one block (Block 29) for an easement/walkway, and a proposed roadway (Street A) on 1.776 hectares of land.

The Official Plan Amendment proposes to increase the maximum density on the subject lands from 6 units per acre to 8.23 units per acre to permit the proposed development.

The Zoning By-law Amendment proposes to rezone the subject lands from a Neighbourhood Development (ND) zone to a site-specific Residential 2 (R2-X) zone,

with modified provisions for lot frontage, minimum lot area, lot coverage, front and rear yard and exterior side yard setbacks, building height and permitted encroachments, to permit the proposed development.

A pre-consultation meeting for this proposal was held on November 3, 2022. The following Provincial and Regional comments are provided to assist the Town in considering the applications from a Provincial and Regional perspective.

## **Provincial and Regional Policies**

The subject lands are located within a Settlement Area under the Provincial Policy Statement (PPS) and designated Delineated Built-Up Area under A Place to Grow: Growth Plan for the Greater Golden Horseshoe (Growth Plan). The subject lands are situated within the Niagara Escarpment Plan (NEP) area according to the Greenbelt Plan, where the policies of the NEP apply. The NEP designates the subject lands as within the Minor Urban Centre of St. David's. The NEP policies note that uses in these Centres must align with permitted uses in approved local official plans, which are not in conflict with the policies in the NEP. Niagara Escarpment Commission (NEC) staff will evaluate the proposed development relative to the NEP to confirm whether it conforms to this plan. The subject lands are designated Delineated Built-Up Area in the Niagara Official Plan (NOP).

The PPS, Growth Plan and NOP direct growth to Settlement Areas and the Delineated Built-Up Area to efficiently use existing servicing, infrastructure, and public service facilities. An emphasis is placed on intensification and infill to foster the development of complete communities that have a mix of diverse land uses, and a range of housing options for the current and future population.

The proposed development is considered infill development and will result in residential intensification within the Built-Up Area, which will make more efficient use of designated urban land and existing infrastructure. To support the achievement of forecasted growth for Niagara Region as a whole required under the Growth Plan, the NOP directs municipalities to develop strategy and policies for managing population and employment growth, including those designed to achieve minimum residential intensification targets specified for each municipality. The proposed development, which will result in the creation of 28 single-detached dwellings, will contribute to the Town of Niagara-on-the-Lake's minimum residential intensification target of 25% allocated in the NOP.

Regional staff note that the NOP states that municipalities may establish standards for appropriate infill development within established residential neighbourhoods. Local compatibility considerations and interface with neighbouring land uses are local planning matters, and therefore Regional staff defer consideration of these aspects of the proposed development to Town Planning staff.



## **Natural Heritage**

There are currently no mapped natural heritage features on the subject lands, as identified in the NOP. The subject lands are however located within the adjacent lands of Significant Woodland and a review of aerial imagery available to the Region suggested that there was potential for additional wooded areas located on the subject lands that may be associated with the adjacent Significant Woodland feature. As such, a Constraints Analysis was requested at the pre-consultation stage to determine if these features met the criteria for identification as Regional Natural Environment System (NES) features (i.e. Significant Woodland, Other Woodland, Significant Wildlife Habitat, Habitat of Endangered or Threatened species, etc.).

Regional staff have reviewed the Constraints Analysis, prepared by Ecological & Environmental Solutions (dated February 2023), which confirms, following the completion of site-specific ecological surveys, that there are no Regionally-designated NES features present on the subject lands. Specifically, the report concludes that the cultural plantation and narrow hedgerow present on the subject lands do not contain rare species or provide a Significant Wildlife Habitat function, and are not large enough to meet Regional NES feature designation criteria. Staff have no objections to the findings of the report.

Staff recommend that the Tree Inventory and Preservation Plan Report, prepared by Jackson Arboriculture Inc (dated March 30, 2023), and the associated Tree Preservation Plan, prepared by Jackson Arboriculture Inc. (dated June 8, 2023) prepared for the subject lands be implemented to protect adjacent trees from construction-related impacts.

## **Archaeological Potential**

The PPS and NOP provide direction for the conservation of significant cultural heritage and archaeological resources. Specifically, Policy 2.6.2 of the PPS and Policy 6.4.2.1 of the NOP state that development and site alteration are not permitted on lands containing archaeological resources, or areas of archaeological potential, unless significant archaeological resources have been conserved.

Based on archaeological potential mapping included in the NOP, the subject lands exhibit the potential for the discovery of archaeological resources. Accordingly, a Stage 1-2 Archaeological Assessment, prepared by Detritus Consulting Ltd. (dated January 14, 2023) was provided with the applications. The Stage 1 background research determined that the subject lands exhibit moderate to high potential for the discovery of archaeological resources and recommended that a Stage 2 field assessment be undertaken for the manicured lawn and orchard portions of the subject lands. The Stage 2 field assessment did not result in the identification or documentation of any

archaeological resources. Accordingly, the Licensed Archaeologist recommended that no further archaeological assessment was warranted on the subject lands.

As of the date of this letter, a letter from the Ministry of Tourism, Culture, and Sport confirming that all archaeological resource concerns have met licensing and resource conservation requirements has not been received. Regional staff will require this be addressed as a draft plan condition. Further, recognizing that no archaeological survey, regardless of its intensity, can entirely negate the possibility of deeply buried archaeological materials, staff will require the inclusion of a standard warning clause in the subdivision agreement, relating to deeply buried archaeological materials that may be encountered during grading and construction activities. Conditions addressing these requirements have been included in Appendix 1.

## **Site Condition**

Based on historical aerial photography, the subject lands appear to have been planted with fruit trees. Although currently idle, the lands supported an orchard at a time when older generation pesticides containing lead and arsenic were in use. Information previously obtained from the Ministry of the Environment, Conservation and Parks (MECP), as well as from other sources, indicate that the application of lead arsenate pesticides can raise the concentration of lead and arsenic in the soil. To address Provincial and Regional policy relative to sites with potential contamination (Policy 3.2.2 of the PPS and Policy 6.3.1.5 of the NOP), a Phase One Environmental Site Assessment (ESA) with soil sampling was identified as a requirement at the pre-consultation meeting.

A Phase One ESA (dated July 21, 2022), and Phase Two ESA (dated August 15, 2022), both prepared by Niagara Solutions Ltd., were submitted with the applications. The Phase One ESA documented the historic use and storage of pesticides both on-site and off-site, and recommended that, based on these findings, a Phase Two ESA should be conducted to confirm the presence and extent of any potential contaminants on-site. The Phase Two ESA found that soil samples taken on-site met the MECP Table 3 (Full Depth Generic Site Condition Standards in a Non-Potable Ground Water Condition) site conditions standards for organochlorine pesticides and metals (arsenic).

The Phase Two ESA did not indicate whether further investigations of the subject lands are warranted, or if the Qualified Professional who prepared the report considers the subject lands suitable for residential use. To ensure Policy 3.2.2 of the PPS and Policy 6.3.1.5 of the NOP are addressed, Regional staff will require as a condition of draft plan approval that a letter (and/or updated Phase One ESA with soil sampling, at minimum) be submitted indicating that a Qualified Professional considers the subject lands suitable for residential use. Regional staff will also require that a Letter of Reliance from a Qualified Professional be submitted which indicates that, despite any limitations or qualifications included in the required assessment(s), the Region is authorized to rely on

all information and opinions provided within them. Regional staff note that should the findings of the Soil Sampling Program/ESA indicate contamination, it is the Region's practice to require the filing of a Record of Site Condition (RSC). An appropriate condition to address these requirements is included in Appendix 1.

## **Servicing**

Servicing for the proposed development will be under the jurisdiction of the Town of Niagara-on-the-Lake and will require the construction of a new watermain, sanitary and storm sewer system. New and extended services must be approved through the Town's consolidated linear Environmental Compliance Approval (ECA) process and drinking water license.

Conditions of draft plan approval requiring the owner to submit design drawings for the sanitary and storm drainage system to confirm Regional infrastructure capacity, as well as to acknowledge that any servicing allocation from Niagara Region will not be assigned until the plan is registered, and that any pre-servicing is at the risk of the owner, and that a similar clause be included in all offers and agreements of purchase of sale or lease for the development, are included in Appendix 1.

## **Waste Condition**

Niagara Region provides curbside waste and recycling collection for developments that meet the requirements of Niagara Region's Waste Collection Policy. The subject lands are eligible to receive Regional curbside waste and recycling collection, provided the owner brings the waste and recycling to the curbside on the designated pick-up day, and that the following limits are met:

- Blue/grey – no limit (collected weekly);
- Green – no limit (collected weekly); and
- Waste – 2 bag/can limit (collected bi-weekly).

The owner shall comply with Niagara Region's Corporate Policy for Waste Collection and complete the Application for Commencement of Collection. The form and policy can be found at the following link: [www.niagararegion.ca/waste](http://www.niagararegion.ca/waste).

Future engineering plans are to show the truck turning templates to ensure the design of the road will allow for the required truck movements.

The agent has requested information from Regional staff regarding the provision of a cul-de-sac at the end of Hickory Avenue to service the existing houses on Dyck Lane. The Region will require permanent easement over the cul-de-sac for waste collection to the existing houses.

Conditions to address these waste collection requirements are included in Appendix 1.

## Conclusion

In conclusion, Regional staff have no objection to the proposed Official Plan Amendment, Zoning By-law Amendment and Draft Plan of Subdivision applications from a Provincial and Regional perspective, subject to the conditions outlined in Appendix I, and any local requirements.

Subject to the satisfaction of the conditions in Appendix I, the proposal is consistent with the Provincial Policy Statement (PPS), and conforms to the intent of the Growth Plan and Niagara Official Plan (NOP).

In accordance with Policy 7.4.1.6 and 7.4.1.7 of the NOP and the Memorandum of Understanding, the proposed Official Plan Amendment is exempt from Regional Council approval.

Please send copies of the staff report and notice of the Town's decision on these applications. If you have any questions related to the above comments, please contact me at [amy.shanks@niagararegion.ca](mailto:amy.shanks@niagararegion.ca).

Kind regards,



Amy Shanks, MCIP, RPP  
Senior Planner

cc: Stephen Bureau, Development Approvals Technician, Niagara Region  
Adam Boudens, Senior Environmental Planner, Niagara Region

## Appendix 1

### Regional Conditions of Draft Plan Approval

#### Opulence Subdivision (North Side of Hickory Avenue - West of Tanbark Road)

1. That the applicant submit the Stage 1 and 2 Archaeological Assessment (prepared by Detritus Consulting Limited and dated January 14, 2023) (and any required subsequent archaeological assessments), as required by the licensed archaeologist or Ministry, to the Ministry of Tourism, Culture and Sport (MTCS) and receive an acknowledgement letter from the MTCS (copied to Niagara Region) confirming that all archaeological resource concerns have met licensing and resource conservation requirements prior to any development on the site. It should be noted that subsequent Stage 3 or 4 study may be recommended to mitigate any adverse impacts to significant archaeological resources found on the site through preservation or resource removal and documentation. If the licensed archaeologist or the Ministry recommends/requires further Stage 3 or 4 Archaeological Assessments, these report(s) must also be submitted to and acknowledged by the Ministry, to the satisfaction of Niagara Region, prior to clearance of this condition. No demolition, grading or other soil disturbances shall take place on the subject property prior to the issuance of a letter from the MTCS through Niagara Region confirming that all archaeological resource concerns have met licensing and resource conservation requirements.

2. That the following clause be included in the subdivision agreement:

*“Should deeply buried archaeological remains/resources be found on the property during construction activities, all activities impacting archaeological resources must cease immediately, notify the Archaeology Programs Unit of the Ministry of Tourism, Culture and Sport (MTCS) (416-212-8886) and a licensed archaeologist is required to carry out an archaeological assessment in accordance with the Ontario Heritage Act and the Standards and Guidelines for Consultant Archaeologists.*

*In the event that human remains are encountered during construction, all activities must cease immediately and the local police as well as the Cemeteries Regulation Unit of the Ministry of Government and Consumer Services (416-326-8800) must be contacted. In situations where human remains are associated with archaeological resources, MTCS should also be notified to ensure that the site is not subject to unlicensed alterations which would be a contravention of the Ontario Heritage Act.”*

3. That a Phase 1 Environmental Site Assessment (ESA), prepared by a Qualified Professional (QP) in accordance with the Environmental Protection Act and associated regulations as amended, as well as soil sampling analysis, be

submitted to Niagara Region. If the soil sampling analysis does not meet current criteria and site condition standards as outlined by the Ministry of the Environment, Conservation and Parks for residential uses, the owner must file a Record of Site Condition on the MECP's Brownfield Environmental Site Registry prior to clearing this condition. A reliance letter from a QP shall be submitted to Niagara Region, to indicate that, despite any limitations or qualifications included in the above submitted reports/documents, the Region is authorized to rely on all information and opinions provided in the reports submitted, in order to clear this condition.

4. That the owner provides a written acknowledgement to Niagara stating that draft approval of this subdivision does not include a commitment of servicing allocation by Niagara Region as servicing allocation will not be assigned until the plan is registered and that any pre-servicing will be at the sole risk and responsibility of the owner.
5. That the owner provides a written undertaking to Niagara Region stating that all Offers and Agreements of Purchase and Sale or Lease, which may be negotiated prior to registration of this subdivision shall contain a clause indicating that servicing allocation for the subdivision will not be assigned until the plan is registered, and that a similar clause be inserted in the subdivision agreement between the owner and the Town of Niagara-on-the-Lake.
6. That prior to final approval for registration of this plan of subdivision, the owner shall submit the design drawings (with calculations) for the sanitary and storm drainage systems required to service this development to confirm capacity of the Regional infrastructure.
7. That the owner ensure that all streets and development blocks can provide an access in accordance with the Regional Municipality of Niagara Corporate Policy and By-laws relating to the curbside collection of waste and recycling throughout all phases of development.
8. That the owner grant an easement to Niagara Region on 39 Dyck Lane for waste collection.

### **Clearance of Conditions**

Prior to granting final approval, the Town of Niagara-on-the-Lake must be in receipt of written confirmation that the requirements of each condition have been met satisfactorily and that all fees have been paid to the satisfaction of Niagara Region.

### **Subdivision Agreement**

Prior to final approval for registration, a copy of the executed Subdivision Agreement for the proposed development should be submitted to Niagara Region for verification that the appropriate clauses have been included. Niagara Region recommends that a copy of the draft agreement be provided in order to allow for the incorporation of any necessary revisions prior to execution.

**Note:** Clearance requests shall be submitted to the Region in accordance with the Memorandum of Understanding, which stipulates that requests for formal clearance of conditions are to be received and circulated to the Region by the local municipality. The local municipality is also responsible for circulating a copy of the draft agreement, and the Region is unable to provide a final clearance letter until the draft agreement is received. The Region is committed to reviewing submissions related to individual conditions prior to receiving the formal request for clearance. In this regard, studies and reports (one hard copy and a PDF digital copy) can be sent directly to the Region with a copy provided to the local municipality.