



## Town of Niagara-on-the-Lake

1593 Four Mile Creek Road  
P.O. Box 100, Virgil, ON L0S 1T0  
905-468-3266 www.notl.com

**REPORT #:** CDS-24-085 **COMMITTEE DATE:** 2024-07-16  
**REPORT TO:** COTW-Planning **DUE IN COUNCIL:** 2024-07-30  
**SUBJECT:** 308 Four Mile Creek Road – OPA-08-2023, ZBA-18-2023, 26CD-18-23-01

### 1. RECOMMENDATION

It is respectfully recommended that:

- 1.1 The Application for Official Plan Amendment (File No. OPA-08-2023) for lands municipally known as 308 Four Mile Creek Road, **BE APPROVED**, and that 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-18-2023) for lands municipally known as 308 Four Mile Creek Road, **BE APPROVED**, and that 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 Vacant Land Condominium (26CD-18-23-01) for lands municipally known as 308 Four Mile Creek Road, attached as **Appendix I** to this report, **BE APPROVED** subject to the conditions contained in **Appendix VI** to this report; and
- 1.4 The Lord Mayor be authorized to **ENDORSE** the Draft Plan of Vacant Land Condominium for 308 Four Mile Creek Road, 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 the Committee and Council regarding applications for an Official Plan Amendment, Zoning By-law Amendment, and Draft Plan of Vacant Land Condominium for the development of nine (9) block townhouse dwelling units, with a portion of the subject lands identified for future development (Phase 2), to be accessed via a private road, located at 308 Four Mile Creek Road.
- The Official Plan Amendment proposes to redesignate a portion of the lands from “Prestige Industrial (Cannery Park)” and “Conservation” to “Low Density Residential” and site-specific “Conservation” to facilitate residential uses, refine the boundary of the environmental conservation area and allow for a private road.
- The Zoning By-law Amendment proposes to rezone the subject lands from “Enterprise (E-17) Site-Specific Zone” and “Enterprise (E) Zone” to “Residential Multiple (RM1-H) – Site-Specific Holding Zone” and “Open Space (OS) Site Specific Zone” based on the condominium layout. Site-specific provisions are included to allow for a private road, for minimum front yard setback from a private road, minimum rear yard setbacks, maximum

garage door width and garage setback from the front face of a dwelling, minimum interior side yard setback, minimum distance between buildings on the same lot, and encroachment into the front yard and rear yard for a porch, with the inclusion of a Holding (H) symbol to require the filing of a Record of Site Condition.

- The Draft Plan of Vacant Land Condominium proposes the creation of nine (9) block townhouse dwelling units to be accessed via a private road, with common elements for landscaping, the private road, and environmental conservation area, and identifies a portion of the subject lands for future development (Phase 2).
- No proposals or applications have been submitted for the future development of the Phase 2 lands.
- 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 with the intent of Provincial, Regional, and Town planning policies.

### **3. PURPOSE**

This report provides a recommendation to the Committee and Council regarding Applications under the *Planning Act* for an Official Plan Amendment, Zoning By-law Amendment, and Draft Plan of Vacant Land Condominium for the proposed residential development comprised of block townhouses at 308 Four Mile Creek Road.

The Applications would facilitate the development of nine (9) block townhouse dwelling units and identify a portion of the subject lands for future development (Phase 2). The owner has completed all works associated through a Niagara Peninsula Conservation Authority permit to realign the Four Mile Creek watercourse and establish an appropriate environmental buffer for the watercourse. The portions of land containing the watercourse and its associated buffer are to be protected.

The Official Plan Amendment proposes to redesignate a portion of the lands from “Prestige Industrial (Cannery Park)” and “Conservation” to “Low Density Residential” and site-specific “Conservation” to facilitate residential uses, refine the boundary of the lands designated as “Conservation” in line with the realignment works already undertaken, and allow for a private road and infrastructure subject to approval from the Niagara Peninsula Conservation Authority.

The Zoning By-law Amendment proposes to rezone a portion of the subject lands from “Enterprise (E-17) Site Specific Zone” and “Enterprise (E) Zone” to “Residential Multiple (RM1-H) – Site-Specific Holding Zone” and “Open Space (OS) Site-Specific Zone” based on the condominium layout. Site-specific provisions are included for minimum front yard setback from a private road, minimum rear yard setbacks, maximum garage door width and garage setback from face of dwelling, minimum interior side yard setback, minimum distance between buildings on the same lot, and encroachment into the front yard and rear yard for a porch, with the inclusion of a Holding (H) symbol to require the filing of a Record of Site Condition. The portions of the subject lands that comprise the realigned watercourse and associated buffer lands will be zoned to only permit conservation area uses. Through discussion with the Niagara Peninsula Conservation Authority, a private road and infrastructure may be permitted in a portion of the conservation area, subject to their approval .

The Draft Plan of Vacant Land Condominium, attached as **Appendix I** to this report, proposes to establish nine (9) units for residential development and one (1) block for future development (Phase 2), which will be accessed via a private road which connects to Four Mile Creek Road. The Applications were deemed complete on August 29, 2023. The applicant signed a waiver agreement to continue to work with the Town.

#### **4. BACKGROUND**

The subject lands are located on the west side of Four Mile Creek Road, north of York Road, and south of Millpond Road within the Urban Area of St. Davids. The Four Mile Creek is located on the western and central portions of the property. The creek was re-aligned under a permit from the Niagara Peninsula Conservation Authority (the “NPCA”) to enhance the natural flow of the watercourse and to accommodate future development in a more efficient manner. The development portion of the subject lands is located adjacent to the realigned watercourse and its associated buffer lands. The location of the subject lands is shown on **Map 1 of Appendix II** to this report.

The subject lands are approximately 1.5 hectares (3.7 acres) in area and consist of one parcel that is parted by the creek, with 212 metres of frontage along Four Mile Creek Road. The proposed condominium lands are 0.909 hectares (2.24 acres) in area and contain one (1) single-detached dwelling located at the southern end of the property.

The grade of the property slopes from south to north, with a significant slope just south of the creek. There are some mature trees on the property, including a row of cedar trees along the north property line. Municipal infrastructure, including watermains, sanitary sewers and storm sewers, exist along Four Mile Creek Road.

The surrounding lands contain residential uses to the north and south of the subject lands, with agricultural uses to the west, and industrial and commercial uses to the east.

#### **5. DISCUSSION / ANALYSIS**

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 policies and legislation are provided in **Appendix III** to this report.

##### 5.1.1 Planning Act, R.S.O 1990, c. P13

The Applications support the matters of provincial interest, are consistent with policy statements, and conform with the intent of 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 (PPS), within the “Delineated Built-up Area” according to A Place to Grow: Growth Plan for the Greater Golden Horseshoe, 2020 (Growth Plan), “Towns/Villages” within the “Protected Countryside” in the Greenbelt Plan, 2017 (Greenbelt Plan), and are 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.”

### 5.1.2.1 Employment

Provincial and Regional planning documents provide direction for municipalities to designate and preserve lands for employment within settlement areas. Policies provide particular consideration for lands located adjacent to or near major goods movement facilities and corridors for manufacturing, warehousing and logistics. An important distinction is made between lands that are located within Employment Areas and employment lands outside of Employment Areas, since separate policy requirements are associated with each.

Employment Areas are Regionally identified and designated to accommodate a specific amount of employment allocated to the Region by the Province. The Growth Plan provides policy which directs that these lands may only be converted to non-employment uses through a Regional municipal comprehensive review subject to specific criteria being met. The subject lands are not considered as an Employment Area.

The subject lands are identified locally as employment lands located outside of a Regionally identified Employment Area. Provincial and Regional policies require that consideration may be given to a land use change for employment lands outside of an Employment Area where the development will retain space for a similar number of jobs to remain accommodated on site. Staff have evaluated the Applications in the context of this policy direction, the technical work submitted to support the Applications, and the feasibility of the subject lands to build out as an employment use. The technical work submitted to support the employment lands conversion on the subject lands included a Conversion Justification and a Review of the Preliminary Niagara Region Land Needs Assessment and Employment Land Conversion Justification, which were summarized and built upon in the Planning Justification Report (PJR) submitted. Further justification was also provided to support the conversion in response to comments.

The Official Plan Amendment application proposes to redesignate the development portion of the subject lands from “Prestige Industrial (Cannery Park)” and “Conservation” to “Low Density Residential” to facilitate residential uses. The Town OP sets out policies to protect employment lands from inappropriate conversion to non-employment uses. Conversion of employment lands to non-employment uses must demonstrate that:

- There is a need for the conversion;
- The Town will meet employment targets allocated to the Town;
- The conversion will not adversely affect the overall viability of the employment area and the achievement of the Town’s density targets;
- The lands are not required over the long term for the employment purposes for which they are designated;
- Cross jurisdictional issues, including but not limited to infrastructure, the environment and land supply have been considered; and,
- The conversion of employment lands to another land use will not adversely impact the development of lands already designated and planned for such other uses.

The need for the conversion has been examined in the context of the documents submitted in support of the Applications and the location and size of the site. Staff accept the applicants assertion that future employment uses on the subject lands would be constrained by the developable area associated with the portion of the site identified for employment uses.

Further, the southern portion of the subject lands is identified for residential uses, and there are residential uses to the north of the subject lands. This would limit the types of employment uses that would be able to locate on the subject lands with respect to potential compatibility concerns related to noise, odour or dust impacts on the adjacent and abutting residential lands. It is noted that Official Plan Amendment No. 48 redesignated employment lands to the north of the subject lands for residential subdivisions, and that the subject lands are a remnant piece of land remaining from a larger former employment designation.

The Region, as part of its municipal comprehensive review process, completed a Land Needs Assessment to determine whether sufficient Regionally identified Employment Area lands were available to accommodate the employment targets assigned by the province. Through this work, it was determined that there is a sufficient land supply within Regionally identified Employment Areas to accommodate the employment targets allocated to the Town.

The submitted Planning Justification Report identifies that, while the lands are currently vacant, if the subject lands were used for employment purposes, it is estimated that 6.6 jobs could be accommodated on the subject lands based on the assumptions from the Niagara Region Development Charges Background Study, 2022. The PJR further estimates that the proposed residential development could yield a population of approximately 32 people. Based on this population yield, the PJR estimates that the proposed development could potentially accommodate 10-15 jobs through a live-work situation, which is supported by Census data which demonstrates that the proportion of the population working from home has increased. Staff are satisfied that the 6.6 jobs that would have otherwise been accommodated on the subject site will be retained on the subject lands, given that work from home rates have increased since the COVID-19 pandemic.

A Noise Feasibility Study was submitted with the Applications, discussed above, which determined that potential adverse noise impacts from existing industrial uses in proximity to the subject lands can be appropriately mitigated. As such, Town staff do not anticipate that the proposed conversion would have an impact on the long-term viability of nearby industrial uses, and do not anticipate that these uses would have an impact on proposed residential uses.

Staff have reviewed the analyses provided by the applicant and accept that future employment uses on the subject lands would be constrained by the developable area associated with the portion of the site designated and zoned for employment uses. The southern portion of the subject lands is designated and zoned for residential uses, and there are residential uses to the north of the subject lands, which would limit the types of employment uses that would be able to locate on the subject lands with respect to potential compatibility concerns related to noise, odour or dust impacts on the adjacent lands. Additionally, the site does not have direct access to a 400 series highway and is a remnant parcel of vacant employment land in Cannery Park.

#### 5.1.2.2 Land Use Compatibility

Provincial planning documents require that major facilities (including manufacturing uses and industries) and sensitive land uses are to be planned and developed to avoid, or if avoidance is not possible, minimize and mitigate any potential adverse effects from odour, noise, and other contaminants, and minimize risk to public health and safety. The subject lands are located west of existing industrial and commercial uses which front onto Four Mile Creek

Road, including cold storage, a food manufacturer, chocolate factory, veterinary clinic, and offices.

A Noise Feasibility Study was completed to evaluate potential impacts from the industrial and commercial uses noted above and from traffic on Four Mile Creek Road to the proposed sensitive (residential) land uses and to identify mitigation measures to address such impacts. The Study indicated that future traffic levels will exceed the Ministry of the Environmental, Conservation and Parks (the “MECP”) guidelines for all dwellings fronting onto Four Mile Creek Road. The Study further indicated that the sound levels of surrounding commercial and industrial uses are expected to be within the applicable MECP criteria at the proposed residential uses. To mitigate road traffic noise, the Study recommended that future dwelling units be equipped with forced air ventilation systems with ductwork sized for future installation of central air conditioning, and that for any exterior wall a double-glazed window that meets Ontario Building Code requirements is installed to provide adequate sound insulation. To ensure that the recommendations of the Noise Feasibility Study are implemented, Conditions of Draft Plan approval have been incorporated to address potential noise impacts.

#### 5.1.2.3 Housing

Provincial and Regional planning documents encourage efficient development patterns that provide a variety of housing options, optimize the use of land, resources and public investment in infrastructure and public service facilities, and consider impacts to climate change. The Applications align with Provincial and Regional policies to provide additional housing and a more diverse housing stock to address current housing needs.

The proposal is for block townhouse dwelling units, which will assist in diversifying the housing stock in the St. Davids Urban Area, and the Town overall. These townhouse units, as well as the proposed additional dwelling unit within each townhouse, would cater to residents of different age groups, lifestyles, incomes and household sizes. Under the *Planning Act*, an additional dwelling unit would be permitted within the primary dwelling unit as of right. The compact built form proposed would make efficient use of existing infrastructure and will support the Town in achieving its minimum intensification rate of 25% as set out in the NOP.

#### 5.1.2.4 Natural Heritage System

Provincial and Regional planning documents direct that environmental and natural heritage features are to be protected and wisely managed in accordance with applicable policies. Natural features and areas should be protected for the long term and the diversity and connectivity of natural features and ecosystem function should be maintained, restored or where possible, improved.

Within the Escarpment Plan 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.

The Region has advised in the comments provided that, per policy 3.1.30.3.1 of the NOP, any required environmental studies may be evaluated in accordance with the Regional policies that existed at the time the pre-consultation meeting was completed. Accordingly, the environmental policies of the previous Regional Official Plan apply to the Applications.

Regional Environmental Planning staff have reviewed the Applications in the context of the policy direction of the previous Regional Official Plan (2014 Consolidation) and the work that has been undertaken to re-align the watercourse on the subject lands through NPCA Permit. Regional staff are satisfied with the measures outlined in the NPCA work permit, which includes a requirement to plant and maintain a 15-metre naturalized buffer adjacent to the watercourse. Conditions of Draft Plan Approval have been included to implement this required naturalized buffer and the approval and implementation of a detailed landscape plan, in addition to other environmental best management practices.

NPCA Staff have reviewed the Applications and have confirmed that the works associated with the above-noted work permit to realign the watercourse are complete. The NPCA is supportive of the Applications provided that the common element block which contains the watercourse is placed within an environmental conservation zone, and subject to Conditions of Draft Plan Approval related to NPCA review and approval of detailed design drawings and documents. NPCA Staff is requiring that the applicant construct a chain link fence along the environmental buffer for the creek to protect the environmental area. It is noted that there were comments received during the Public Meeting from a resident regarding a turtle that has been sighted near the subject lands. The chain link fencing along the creek block and environmental buffer will establish a boundary to contain any wildlife such as the turtle sighted within the watercourse. The chain link fence will also ensure that the creek cannot be accessed by residents as no gates will be permitted.

Town Staff have maintained the Conservation designation on the subject lands for the portions of the property that comprise the watercourse and associated buffer and have placed these lands into a site-specific zone which only permits conservation uses to ensure that these lands are protected over the long term.

Staff consider the Applications to be consistent with the PPS and conform with the intent of 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 identified as “Prestige Industrial (Cannery Park)” and “Conservation” on Schedule F, and “Built-up Area” on Schedule I-3 of the Town’s Official Plan (the “Town OP”). The subject lands are located within Special Policy Area A-3 (St. Davids) and are subject to the St. Davids Urban Design Guidelines. The Town OP designations on the subject lands are shown on **Map 2 of Appendix II** to this report.

The Official Plan Amendment application proposes to redesignate a portion of the subject lands from “Prestige Industrial (Cannery Park)” and “Conservation” to “Low Density Residential” and site-specific “Conservation” to facilitate residential uses, refine the boundary of the lands designated “Conservation” and allow for a private road and infrastructure subject to approval from the Niagara Peninsula Conservation Authority. The “Low Density Residential” designation permits Medium Density Residential uses, provided that the lands are placed in a

separate zoning category in the Zoning By-law to control height, density coverage, unit size and parking. The proposed townhouse dwelling units are considered as a Medium Density Residential use in the Town OP. Medium density residential development is also subject to the Medium Density policies of Section 9 and the St. Davids Secondary Plan policies, as discussed in the following sections.

#### 5.1.3.1 Urban Design

The Applications are subject to the St. Davids Urban Design Guidelines (the “Design Guidelines”). The proposal was considered by the Urban Design Committee during the October 25, 2023, meeting. The Town’s Urban Design Committee provided the following recommendations:

- Architectural treatment should consider more varied colours and design; confirm garage doors are not more than 50% the width of the façade;
- Designs could consider rear garages similar to surrounding development accessed by small lane to the rear and therefore move dwellings closer to Four Mile Creek Road consistent with surrounding heritage structures and remove private road, recommend development is reviewed against and consistent with St. Davids Urban Design Guidelines;
- Landscaping should not use soldier-course plantings as this is not a formal setting, landscaping does not complement Four Mile Creek watercourse;
- Parking and Circulation should consider accommodation of guest parking; and
- Encourage Applicant to provide background regarding the Four Mile Creek watercourse and consideration of flooding in their reports.

The submitted PJR 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 study was completed to evaluate the surrounding land uses in the context of applicable policies in the Town OP. The proposed townhouse dwellings and the units of land within the Draft Plan of Vacant Land Condominium can be considered in keeping with the surrounding lands and compatible with existing residential uses due to the similar built form and setbacks.

Provisions have been included in the amending Zoning By-law to establish that garage doors will not exceed more than 50% of the width of the dwelling unit. Staff have considered the recommendation for rear garages accessed by a small lane to the rear. Maintaining vehicular traffic further from the re-aligned watercourse and associated buffer lands through maintaining garages at the front of the property is considered more desirable for the purposes of reducing impacts to the natural environment. Each unit is equipped with two parking spaces, including one garage space and one driveway space.

Staff consider the Applications to be consistent with the St. Davids Urban Design Guidelines, given that sidewalks are being provided along Four Mile Creek Road, natural features are being preserved and enhanced, street trees will be planted, a variety of setbacks are provided, and there is a requirement for a future detailed landscape plan. Further, garages are proposed to be setback from the main building façade to create a strong public realm within the condominium lands, which front onto Four Mile Creek Road. A Condition of Draft Plan



Approval has been included to review the building permit design to ensure alignment with the Design Guidelines prior to future development proceeding.

#### 5.1.3.2 Employment Lands

Staff have completed a detailed analysis of the employment land conversion in Section 5.1.2.1 of this report. Please refer to this section for the analysis of the applicable employment policies in the Town OP.

#### 5.1.3.3 Housing and Density

The Town OP supports intensification and infilling within appropriate areas throughout the Built-up Area in accordance with land use compatibility, urban design, and other applicable land use compatibility criteria. The Town OP sets out a target that a minimum of 15% of all new dwelling units occurring annually to occur within the Built-up Area.

The General Residential Policies in the Town OP direct that density is a function of service capacity and typography, and that the visual impression of the Town is a low rise, low density small-town community. The Town OP directs that low density residential developments will not exceed a net density of 14 units per hectare and medium density residential developments will not exceed a net density of 30 units per hectare unless accompanied by a detailed site and area analysis demonstrating that there will be minimal impact on surrounding neighbourhoods and which will be subject to a public review process. The proposed net residential density for the Applications is 20 units per hectare factoring in the additional dwelling unit for each townhouse, and as such the proposal does not exceed the maximum net density of 30 units per hectare. The proposal complies with the requirements of the Medium Density Residential designation. As noted, Medium Density Residential uses are permitted within the “Low Density Residential” designation.

The re-designation of the subject lands aligns with the Town’s Official Plan direction for a more diverse housing stock to address current housing needs. The Applications will add townhouse dwellings to the housing stock, which would cater to residents of different age groups, lifestyles, incomes, and household sizes. Staff are of the opinion that the proposed development is compatible with adjacent residential uses, and that it will contribute to assisting the Town in reaching its intensification target.

#### 5.1.3.4 Archaeology

The following archaeological assessments were submitted with the applications:

- Stage 1-2 Archeological Assessment (portion of parcel east of the creek);
- Stage 1-2 Archeological Assessment (portion of parcel west of the creek);
- Stage 3 Archeological Assessment (portion of parcel west of the creek); and
- Stage 4 Mitigation of Impacts (portion of parcel west of the creek).

The first Stage 1-2 Archaeological Assessment assessed the portion of the parcel that is east of the Four Mile Creek (prior to the creek re-alignment), which is where the nine (9) townhouse dwelling units are proposed. The assessments concluded that no further archaeological work is recommended for this portion of the property as the investigation resulted in the identification and documentation of no archaeological resources. The Ministry of Citizenship and Multiculturalism (MCM) confirmed that all archaeological resource concerns associated with

this portion of the property met licencing and resource conservation requirements, and that the report has been entered into the Ontario Public Register of Archaeological Reports.

The second Stage 1-2 Archaeological Assessment assessed the remainder of the subject lands, which is identified to future development (Phase 2), being the lands west of the Four Mile Creek prior to its realignment. The Stage 2 assessment documented the discovery of two (2) sites, which fulfilled the criteria for a Stage 3 Archaeological Assessment, as determined by the licensed archaeologist. The Stage 3 assessment recommended that further Stage 4 works be undertaken for one (1) of the two (2) sites identified through the Stage 3 assessment. The Stage 4 Mitigation of Impacts report concluded that the remaining site is fully mitigated and is clear of any further cultural heritage value or interest, in the opinion of the licensed archaeologist. The MCM confirmed that there are no outstanding concerns for impacts to archaeological resources on the property, and that the report has been entered into the Ontario Public Register of Archaeological Reports.

The Region has included Conditions of Draft Plan Approval for the implementation of standard warning clauses to be inserted into the condominium agreement related to deeply buried archaeological materials that may be encountered during construction activities.

#### 5.1.3.6 Site Condition

A Draft Phase I Environmental Assessment (“ESA”) was submitted with the Applications, which evaluated the entirety of the development lands for potential soil contamination and/or impacts, subject to the Ministry of the Environment Conservation and Parks (“MECP”) requirements under O.Reg 511/09. The portion of the subject lands which is south and west of the Four Mile Creek has historically been used for agricultural use as orchards from at least 1934 to approximately the 1980’s. The portions of the subject lands the are north and east of the Four Mile Creek was owned by the former cannery operation and comprised several buildings that were used to house migrant workers until approximately 1965 when the area was cleared for a gravel parking area. Recreational vehicle trailers were stored on this portion of the property from 2013 to 2020.

Given the prior uses on the property, the ESA identified potentially contaminating activities which took place on the subject lands which require further investigation. These are related to potential pesticides used for agricultural operations, and fuel storage tanks and an electrical transformer located on the adjacent property to the east. The ESA concluded that a Phase II Environmental Site Assessment will be required to assess the Areas of Potential Environmental Concern before a Record of Site Condition can be submitted.

Given that further work is required to assess the Areas of Potential Environmental Concern, Staff recommend that as part of the rezoning, a Holding symbol is placed on the subject lands. The Holding symbol would be removed upon the applicant confirming that any required remediation has been completed in combination with the filing of a Record of Site Condition with the MECP. The Region has included a Condition of Draft Plan Approval to ensure that this work is completed.

#### 5.1.3.7 Servicing, Transportation and Pedestrian Connectivity

The policies of the Official Plan require that all urban development shall be serviced with full municipal services, including sanitary sewers, watermain and storm sewers. A Functional

Servicing Report (“FSR”) has been completed in support of the Applications. The FSR concludes that the existing 150 mm diameter watermain on Four Mile Creek Road is expected to have adequate capacity to provide domestic water supply and fire protection to service the development, and that the receiving 300 mm diameter sanitary sewers on Four Mile Creek Road will have adequate capacity to service the lands. Further, the FSR identifies that stormwater quantity controls are not required for Phase 1, given that the existing storm sewer on Four Mile Creek Road was sized to have adequate capacity to serve Phase 1. On site stormwater quantity controls will be provided for the Phase 2 lands, before discharging to the Four Mile Creek.

Staff have included Conditions of Draft Plan Approval to require the approval of detailed servicing plans to meet Town, Regional and Provincial standards to ensure that the appropriate construction and maintenance of infrastructure, and to ensure that the condominium corporation is responsible for the costs associated with ongoing site servicing internal to the subject lands.

With respect to pedestrian connectivity, the Region has required that a road widening be transferred along the frontage of the subject lands. The Applications provide for a sidewalk to be constructed within the road allowance to be transferred to the Region along Four Mile Creek Road, which will connect to the sidewalk that terminates at Millpond Road. This will improve pedestrian connectivity and access to the subject lands. Staff and the Region have included a Condition of Draft Plan Approval to address the requirement for the sidewalk.

A Site Distance Review was completed to support the Applications for the proposed driveway entrance to the private road to access the subject lands. The Site Distance Review concluded that there are no sight distance issues identified for the proposed site driveway onto Four Mile Creek Road, and that the driveway location meets the prescribed sight distances set out in applicable guidelines for a design speed of 60 km/hour. The Region has included a Condition of Draft Plan Approval for the applicant to submit an updated memorandum to confirm the gradient of the road and to further analyse the driveway location in the context of single-unit trucks.

#### 5.1.3.8 Tree Protection and Preservation

An Arborist Report was submitted as part of the Applications to provide an inventory and description of trees within and adjacent to the subject lands, and to provide recommendations for tree preservation or removal based on tree health, condition, and potential for integration with the proposed development. A total of 23 trees were inventoried on and adjacent to the subject lands, of which 17 are identified for removal. A White Cedar hedge is also proposed to be removed. The remaining trees on the subject lands and abutting lands are recommended to be protected by implementing arboriculture best management practices included in the Arborist Report, in addition to the robust plantings that occurred through the NPCA work permit within the watercourse and associated environmental buffer area.

Comments were provided during the Public Meeting, which offered concerns regarding the preservation and protection of one tree on the adjacent property to the north. The submitted Arborist Report has set out specific instructions for tree protection measures on the adjacent property during site grading and construction, which have been reviewed and confirmed by the Town’s Urban Forestry By-law Enforcement Officer. Conditions of Draft Plan Approval have

been included for recommended tree protection measures, both on the subject lands and adjacent property, through adherence to the recommendations in the Arborist Report, documentation of the process undertaken by a Certified Arborist and the submission of a detailed landscape plan.

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

Council adopted a proposed new Official Plan in November 2019. The proposed Official Plan has not been approved and is therefore not in effect but represents Council’s intent. The subject lands are designated “Employment (Special Policy Area S4-19)”, “Conservation”, “Residential” and “Built-up Area” in the proposed Town Official Plan. An Official Plan Amendment would be required to address the change in land use to Residential and to refine the Conservation designation under the proposed Official Plan.

**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 – Enterprise (E-17) Site-Specific Zone,” “St. Davids Community Zoning District – Enterprise Zone” and “Residential (R1) Zone” under Zoning By-law 4316-09, as amended.

The application for Zoning By-law Amendment requests to rezone the development portion of the lands to “Residential Multiple (RM1) – Site Specific Holding Zone”. Staff recommend the inclusion of a Holding symbol to require the filing of a Record of Site Condition with the Ministry prior to any site alteration on the subject lands.

The following chart outlines the existing “Residential Multiple (RM1) Zone” standards for block townhouses in comparison to the proposed “Residential Multiple (RM1) Site Specific Zone”:

<b>Zone Requirement</b>	<b>RM1 Zone – Block Townhouse</b>	<b>RM1 Site Specific Holding Zone</b>
Minimum front yard setback	6.0 metres	6.0 metres from a private lane to the main façade of a dwelling unit  16.0 metres from a property line abutting Four Mile Creek Road to the main façade of a dwelling unit  An attached garage shall be setback a minimum of 1 metre behind the main façade of the dwelling unit on the ground floor
Minimum interior side yard setback	6.0 metres	1.2 metres from a dwelling unit or covered porch to a property line  0 metres from a common wall
Minimum rear yard setback	6.0 metres	41.0 metres from the rear face of a dwelling unit to a property line  8.0 metres from the rear of a condominium unit line to the rear face of a dwelling unit

<b>Zone Requirement</b>	<b>RM1 Zone – Block Townhouse</b>	<b>RM1 Site Specific Holding Zone</b>
Minimum distance between buildings on the same lot	3.0 metres between walls not containing windows to a habitable room  9.0 metres between walls where one wall contains a window to a habitable room  15.0 metres between walls where both walls contain a window to a habitable room	2.4 metres from end wall to end wall
Minimum distance between any townhouse dwelling and an internal driveway and parking area to the front of the dwelling, and to the front face of the garage	4.5 metres to the front of the dwelling  6.0 metres to the front face of a garage	Not applicable
Maximum total width of garage doors	Not applicable	50% of the front face of a dwelling unit

The RM1 site-specific zone provisions allow for a reduced minimum interior side yard setback to a property line and to a common wall, as well as a reduced minimum distance between buildings located on the same lot. Staff are supportive of these site-specific provisions as the applicant has proposed a 1.8-metre-high privacy wood fence on the northern limit of the property to mitigate potential impacts to the abutting property, which will be implemented through Site Plan Approval, and the reduced minimum distance between buildings provides sufficient space to access the rear yards of the townhouse dwelling units. Given that this is a proposed condominium development, the provisions clarify that front yard setbacks are to the property line and to a private lane. In addition, the site-specific provisions allow for a greater minimum rear yard setback to ensure that the Four Mile Creek and associated buffer lands are protected from development. A provision has been added to establish that the maximum total width of garage doors will not exceed 50% of the front face of the dwelling unit, to align with the St. Davids Urban Design Guidelines. The remainder of the zoning provisions of the RM1 Zone with respect to block townhouses would apply.

The portion of the property that comprises the Four Mile Creek and its associated buffer lands is proposed to be rezoned to an “Open Space (OS) – Site Specific Zone,” which restricts the use permitted on the lands to only conservation purposes and a private road and infrastructure, subject to approval from the Niagara Peninsula Conservation Authority. This

site-specific provision will ensure that these lands and their environmental features are protected over the long term.

Staff support the site-specific provisions contained in the draft Zoning By-law Amendment. 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.

#### 5.3.1 Town Comments

Building – No objections.

Fire and Emergency Services – No objections.

Finance – No objections.

Heritage – No objections.

Operations – No objections. Draft plan conditions are included to ensure that detailed servicing designs are submitted for review and approval.

Parks – No objections. Draft plan conditions included to require a detailed landscape plan for review and approval.

Forestry – No objections. Tree permits and replacements will be required for trees being removed. Draft plan conditions are included to address this.

Drainage – No objections. The property is located within the Four Mile Creek Drain watershed, and a future maintenance assessment schedule will have to be reapportioned by a Drainage Engineer. A draft plan condition is included to address this.

#### 5.3.2 Agency Comments

Bell – No objections. Draft plan conditions requested for the conveyance of easements.

Canada Post – No objections. The development falls within the Post Office Box-served boundaries of the St. Davids Post Office.

Hydro One – No objections.

Enbridge Gas – No objections. Draft plan conditions requested for the conveyance of easements and potential relocation of gas main.

District School Board of Niagara – No objections.

Niagara Peninsula Conservation Authority – No objections. Draft plan conditions are included to require the submission of detailed grading, storm servicing, construction sediment and

erosion control drawings for review and approval. Further conditions included to require a chain link fence along the creek block for protection of the environmental area.

Niagara Region – No objections. Draft plan conditions are included to address site condition and potential remediation, land use compatibility, environmental protection, servicing, waste collection, road widening and driveway access, and urban design.

Niagara Escarpment Commission – No objections, subject to draft plan conditions being included to require the submission of a final Landscape Plan, Grading and Drainage Plan, and Phase 2 Environmental Site Assessment, and to ensure that development occurs in accordance with the recommendations of the Geomorphic Assessment and Arborist Report. The NEC will be consulted on these items through the site plan process.

### 5.3.3 Public Comments

An electronic Open House was held on September 18, 2023, and a Public Meeting was held on October 2, 2023. No members of the public were in attendance at the Open House, and one (1) member of the public presented at the Public Meeting. Written comments were received by the same member of the public who attended the Public Meeting, which are provided in **Appendix VIII** to this report, with comments summarized below:

- Potential impacts from the development to the critical roots of the trees on the abutting property to the north. Tree protection has been addressed in Section 5.1.3.8.
- Potential impacts to wildlife, specifically a turtle that has been sighted near the subject lands. Information related to this comment is provided in Section 5.1.2.4.
- Potential flooding to abutting property to the north.
- Potential impacts of streetlights to neighboring properties.
- Safety issues regarding traffic and the ability to enter and exit the property.
- Requesting that a privacy fence be installed by the developer before construction begins and before cedar hedge is removed.

The comments regarding potential impacts of streetlights to neighbouring properties and the request for a privacy fence to be installed before the cedar hedge is removed will be addressed during the Site Plan Approval stage. The applicant has shown a 1.8-metre-high wood privacy fence on the northern edge of the property on the draft Site Plan submitted, and Conditions of Draft Plan Approval have been included to address lighting. The remaining comments have been addressed throughout the sections of this report.

### **5.4 Future Site Plan Requirements**

As noted throughout the report, there are a number of site plan requirements to be addressed as part of a future site plan application, including but not limited to:

- Landscape Plan and Planting Plan
- Lighting Plan
- Site Servicing Report, including water and sanitary, and stormwater management specifics.
- Streetscape Plan
- Detailed Stormwater Management Report
- Lot Grading Plan

- Erosion and Sediment Control Plan
- Matters such as sidewalks, waste management, and all other site works

## **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 Vacant Land Condominium and associated conditions.

## **8. FINANCIAL IMPLICATIONS**

The applicant is responsible for all costs associated with the development. The Town will collect Development Charges at the time of issuance of building permits. The Town will also hold securities as part of a future Condominium Agreement and Site Plan Agreement.

## **9. ENVIRONMENTAL IMPLICATIONS**

The Four Mile Creek was re-aligned on the subject lands through a Niagara Peninsula Conservation Authority Work Permit. This environmental area, which comprises the watercourse and associated buffer area, will continue to be protected through the Official Plan designation and site-specific zoning.

Draft Plan Conditions of Approval have been included by the Niagara Peninsula Conservation Authority and the Region to ensure that detailed grading, storm servicing, construction sediment, and erosion control drawings are submitted for review and approval before any development may proceed on the subject lands. In addition, there is a requirement to construct a chain link fence along the creek block and environmental buffer to protect the environmental area and to establish that wildlife is contained within the environmental area to restrict access to the residential properties.

Comments on protection of the environmental area have been provided throughout the report.

## **10. COMMUNICATIONS**

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

Recent changes to provincial legislation have been made through Bill 185 and third-party appeals are restricted.



## 11. CONCLUSION

Community and Development Services Staff recommend approval of the Official Plan Amendment Application (OPA-08-2023), the Zoning By-law Amendment Application (ZBA-18-2023) subject to a Holding provision, and the Draft Plan of Vacant Land Condominium Application (26CD-18-23-01) subject to conditions, as detailed in this report, as the Applications meet *Planning Act* requirements, are consistent with the Provincial Policy Statement, and conform with the intent of the Growth Plan, Greenbelt Plan, Niagara Escarpment Plan, Regional Official Plan, and Town Official Plan.

## 12. PREVIOUS REPORTS

- **CDS-23-210** – Public Meeting – 308 Four Mile Creek Road, Information Report – October 3, 2023.

## 13. APPENDICES

- **Appendix I** – Draft Plan of Vacant Land Condominium
- **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 Condominium Conditions
- **Appendix VII** – Agency Comments
- **Appendix VIII** – Public Comments

Respectfully submitted:

**Prepared by:**



**John Federici, MCIP, RPP  
Senior Planner**

**Recommended by:**



**Aimee Alderman, MCIP, RPP  
Manager of Planning**

**Recommended by:**



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

**Submitted by:**



**Bruce Zvaniga  
Chief Administrative Officer (Interim)**