



Town of Niagara-on-the-Lake

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REPORT #: CDS-24-161

COMMITTEE DATE: 2024-11-12

DUE IN COUNCIL: 2024-11-26

REPORT TO: COTW-Planning

SUBJECT: Lands East and South of 419 Line 1 Road (No Municipal Address)
The Haven Condominium
Official Plan Amendment (OPA-02-2024), Zoning By-law Amendment (ZBA-04-2024), and Draft Plan of Vacant Land Condominium (26CD-18-24-02)

1. RECOMMENDATION

It is respectfully recommended that:

- 1.1 The Application for Official Plan Amendment (File No. OPA-02-2024) for lands located east and south of 419 Line 1 Road and east of Concession 6 Road, **BE APPROVED**, and that the draft Official Plan Amendment, attached as **Appendix IV**, be forwarded to Council for adoption;
- 1.2 The Application for Zoning By-law Amendment (File No. ZBA-04-2024) for lands located east and south of 419 Line 1 Road and east of Concession 6 Road, **BE APPROVED**, and that the draft Zoning By-law Amendment, attached as **Appendix V**, be forwarded to Council for adoption;
- 1.3 The Application for Draft Plan of Vacant Land Condominium (“The Haven”) (File No. 26CD-18-24-02) for lands located east and south of 419 Line 1 Road and east of Concession 6 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 (“The Haven”) for lands located east and south of 419 Line 1 Road and east of Concession 6 Road, as approved, 20 days after the notice of Council’s decision has been given, provided that no appeals have been received.

2. EXECUTIVE SUMMARY

- This report provides a Staff recommendation to Committee and Council regarding applications for an Official Plan Amendment, Zoning By-law Amendment, and Draft Plan of Vacant Land Condominium (“The Haven”) for the development of forty-eight (48) block townhouse dwelling units to be accessed via a private road, on lands located east and south of 419 Line 1 Road and east of Concession 6 Road.
- The Official Plan Amendment application proposes to redesignate the subject lands from “Low Density Residential” to “Medium Density Residential” with a site-specific exception to permit a maximum of 48 townhouse dwelling units and a maximum net

residential density of 44.5 units per hectare.

- The Zoning By-law Amendment proposes to rezone the subject lands from “Residential Development (RD) Zone” to “Residential Multiple (RM1) - Site Specific Zone.” Site-specific provisions are included for lot frontage, lot area per unit, unit area, lot coverage, front yard setbacks from a private road, interior side yard setbacks, setbacks from the rear wall of a dwelling unit, distance between buildings on the same lot, total width of garage doors, and encroachments into rear and front yards.
- The Draft Plan of Vacant Land Condominium (“The Haven”), proposes the creation of forty-eight (48) condominium units to be accessed via a private road, with common elements for landscaping, visitor parking, a private road and sidewalk, and servicing.
- Staff recommend approval of the Applications, as detailed in this report, as the proposal conforms to *Planning Act* requirements, is consistent with the Provincial Planning Statement and conforms with Provincial, Regional and Town planning policies.

3. PURPOSE

This report provides a recommendation to 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 on lands located east and south of 419 Line 1 Road and east of Concession 6 Road. The Applications would facilitate the development of forty-eight (48) block townhouse dwelling units to be accessed via a private road.

The Official Plan Amendment proposes to redesignate the subject lands from “Low Density Residential” to “Medium Density Residential” with a site-specific exception to permit a maximum of 48 townhouse dwelling units and a maximum net residential density of 44.5 units per hectare.

The Zoning By-law Amendment proposes to rezone the subject lands from “Residential Development (RD) Zone” to “Residential Multiple (RM1) - Site Specific Zone.” Site-specific provisions are included for lot frontage, lot area per unit, unit area, lot coverage, front yard setbacks from a private road, interior side yard setbacks, setbacks from the rear wall of a dwelling unit, distance between buildings on the same lot, total width of garage doors, and encroachments into rear and front yards.

The Draft Plan of Vacant Land Condominium (“The Haven”), attached as **Appendix I**, proposes to establish forty-eight (48) condominium units that will be accessed via a private road which connects to Line 1 Road, with common elements for landscaping, visitor parking, a private road and sidewalk, and servicing.

The Applications were deemed complete on April 5, 2024.

4. BACKGROUND

4.1 Site Description and Surrounding Lands

The subject lands are located to the east and south of Line 1 Road, east of Concession 6 Road, and west of Oakley Drive, within the Urban Area of Virgil. The location of the subject lands is shown on **Map 1** of **Appendix II**.

The subject lands have an area of approximately 1.32 hectares, with a total of 15.24 metres of frontage on Line 1 Road. The lands were previously severed from lands known municipally as 419 Line 1 Road, which was approved by the Town's Committee of Adjustment in August 2022. The lands are currently vacant. Municipal water and sewer are located on Line 1 Road and are available to the subject lands.

The surrounding lands include residential and agricultural uses.

4.2 Revisions

Since the Applications were initially submitted, in response to comments from Town departments, external agencies and the public, the applicant has made changes to the proposal related to the private road entrance location, the inclusion of a sidewalk, reduction in the number of townhouse units, rear yard setbacks, and number of visitor parking spaces.

To address comments related to compatibility with adjacent low density residential uses located along Line 1 Road, one (1) townhouse unit has been removed from the western townhouse blocks. The removal of the unit on the western blocks has the effect of increasing the interior side yard setback for Unit 48 (formerly Unit 50), from 3.0 metres to 5.0 metres, providing further separation from existing dwellings located at 417 and 415 Line 1 Road.

The applicant has added a 1.2 metre sidewalk located on the entire eastern side of the private road which connects to Line 1 Road in response to comments from the District School Board of Niagara and the public respecting safety for pedestrians.

One (1) townhouse unit has been removed on the eastern blocks, which allows the townhouse dwellings to be made wider with a decreased depth to accommodate the sidewalk. The introduction of the sidewalk necessitated a reduction in the rear yard setbacks of the eastern townhouse blocks, which back onto a parcel used for agriculture, from 6.0 metres to 5.1 metres.

Seven (7) visitor parking spaces have been added, bringing the total number of visitor parking spaces to twenty-two (22). The private road entrance from Line 1 Road has been shifted to the east by 1.97 metres in response to Town comments regarding the ability to retain an existing White Oak tree located within the Town's Line 1 Road allowance and partially located on the subject lands.

The applicant has also agreed to install residential fire sprinkler systems in each townhouse dwelling unit at the request of the Town's Fire and Emergency Services department and in response to public comments as there is only a single access point to the proposed development. This will aid in fire emergency response as well as increase the level of safety for the residents and responding firefighters.

Items specific to landscaping and other technical matters are to be addressed and implemented during the future Site Plan Application stage, as discussed in **Section 5.4**.

5. DISCUSSION / ANALYSIS

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

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

The Applications support the matters of provincial interest, are consistent with policy statements, and conform with 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, Regional and Town Planning Policies

The subject lands are identified as being within a “Settlement Area” according to the Provincial Planning Statement, 2024 (the “PPS”), and are within the “Designated Greenfield Area” under the Niagara Official Plan, 2022 (the “NOP”).

The subject lands are designated “Low Density Residential” on Schedule C and “Greenfield Area” on Schedule I-2 of the Town of Niagara-on-the-Lake Official Plan, 2017 Consolidation, as amended (the “Town OP”), within the Urban Area of Virgil. The Town OP designation on the subject lands is shown on **Map 2 of Appendix II**.

5.1.2.1 Summary of Proposed Official Plan Amendment

The Official Plan Amendment application proposes to redesignate the subject lands from “Low Density Residential” to “Medium Density Residential” with a site-specific exception to permit a maximum of 48 block townhouse dwelling units and a maximum residential net density of 44.5 units per hectare. The proposal, block townhouse dwelling units, are considered as a Medium Density Residential use in the Town OP.

Based on the below discussion, Staff recommend approval of the draft Official Plan Amendment for the subject lands, a copy of which is attached as **Appendix IV** to this report.

5.1.2.2 Archaeology

Provincial, Regional and Town policies provide direction for the conservation of significant cultural heritage and archaeological resources. Development and site alteration are not permitted on lands containing archaeological resources or areas of archaeological potential unless significant archaeological resources have been conserved.

Prior to the Applications being submitted, a Stage 1-2 Archaeological Assessment, dated March 6, 2017, was submitted to the Town which identified that no archaeological resources were encountered on the subject lands. In addition, the letter from the Ministry of Tourism, Culture and Sport was submitted to the Town which acknowledged the recommendations of the report and identified that the report had been entered into the Ontario Public Register for Archaeological reports.

The subject lands have been cleared of having archaeological potential.

5.1.2.3 Site Condition

The subject lands were previously planted with fruit trees at a time when older generation pesticides such as lead and arsenic were in use. Accordingly, a Phase I Environmental Site Assessment (“ESA”) inclusive of soil sampling was required to support the Applications. Phase I and II ESAs were submitted with the Applications. The Phase II ESA concluded that the soil samples taken on the subject lands meet the applicable Ministry of the Environment, Conservation and Parks Table 3 site condition standards. The report recommends that no further investigation is warranted and that the subject lands are not impacted by potential site contamination.

The condition of the subject lands is suitable to support the proposed development.

5.1.2.4 Housing and Density

Provincial, Regional and Town planning documents direct growth to Settlement Areas. These planning documents also encourage development patterns and densities for new housing that efficiently use land and provide a variety of housing options, and which optimize the use of resources and public investment in infrastructure and public service facilities. The policy direction focuses on supporting the development of compact, vibrant, and complete communities.

Regional and Town planning documents contain policies which direct that Designated Greenfield Areas are required to achieve a minimum density target of 50 residents and jobs combined per hectare. The proposal will yield a density of approximately 66 people and jobs per hectare. The proposal meets the minimum density target set out for Designated Greenfield areas and will help to diversify the existing housing stock in Virgil while optimizing the use of the subject lands in alignment with the Regional and Town policy direction.

Surrounding development includes one and two-storey single detached dwellings which front onto Concession 6 Road and Line 1 Road, and one-storey townhouse dwellings fronting onto Peachtree Lane, which all have rear yards that abut the subject lands. There is also a vineyard located to the east of the subject lands, which is zoned “Residential Development (RD) Zone” and, as such, the abutting lands are intended to be developed for residential purposes in the future.

The General Residential Policies in the Town OP direct that density is a function of service capacity and typography, and states that a minimum net density of 19.76 units per hectare (8 units per acre) should be utilized within the Greenfield Area. The Town OP directs that 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, which will be subject to a public review process. The Applications would allow for the development of 48 block townhouse dwelling units, which results in a residential net density of 44.5 units per hectare.

The request for an exception to permit a density higher than the maximum set out for the Medium Density Residential designation in the Town OP is considered acceptable given that the proposed development is not anticipated to result in incompatibility issues with or impacts to surrounding low density residential uses, as discussed in Section 5.1.2.6. Further, the

proposed density will contribute to providing a compact built-form and will help to diversify the housing stock in Virgil with options that are more attainable for a range of household incomes when compared to single-detached dwellings. The requested density will also facilitate a more efficient use of land and services, further contributing to the goals for Residential Greenfield Areas as set out in the Town OP.

Staff are of the opinion that development of greenfield areas should be comprehensively planned and considered to provide a diverse mix of housing types and land uses, provision of parks and open space, coordinated infrastructure strategies and investments, and pedestrian connectivity, among other considerations. The Applicant has identified that the subject lands could be integrated with the build-out of the abutting lands to the east, to ensure the area is comprehensively planned. There are opportunities for connectivity with the abutting parcel by extending the private road where the planned “hammer head” turnaround is located on the southern end of the subject lands. This will help to align with the policy direction to achieve a complete and connected community through the future development of the adjacent lands. No applications have been received to-date to facilitate development on the lands adjacent to the east.

5.1.2.5 Servicing, Transportation and Pedestrian Connectivity

Town Operations Staff has reviewed the Functional Servicing Report (the “FSR”), Grading Plan, and Stormwater Management Brief and Plan, as well as the updates to these studies that were submitted with the Applications.

There is an existing 250 mm municipal watermain on Line 1 Road that the proposed development is planned to connect to and provide domestic water supply and fire protection to the proposed 48 townhouse dwelling units. The FSR discusses the fire flow and domestic water requirements for the proposed development and concludes that, based on the supplied hydrant flow test results, the existing watermain can meet the fire flow and domestic water demands for the proposed development.

There is an existing 250 mm municipal sanitary sewer on Line 1 Road which is proposed to receive sanitary flows from the proposed development. This section of sanitary sewer extension was installed in 2022 to provide servicing for other development in the area and was accompanied by a new Sanitary Drainage Area Plan. The FSR identifies that the subject lands fall within the area of the Sanitary Drainage Area Plan and concludes that there is expected to have adequate capacity in the receiving sanitary sewer system to service the proposed development.

Town Operations Staff are satisfied with the proposed water and sanitary servicing strategy, subject to the Conditions of Draft Plan Approval regarding the submission of detailed engineering plans and reports for Town review and approval.

The submitted Stormwater Management Brief (the “SWMB”) proposes to connect the subject lands to the Town-owned storm sewer system on Line 1 Road, before discharging to the receiving watercourse being the Bergen Drain, which is tributary to Four Mile Creek. The SWMB proposes that prior to discharging to the Line 1 Road storm sewers, stormwater

management quality controls including an oil/grit separator are required for stormwater management flows discharging from the subject lands. Town Operations Staff has reviewed the SWMB and has confirmed that the necessary stormwater management controls can be achieved on the subject lands. Town Operations Staff are satisfied with the proposed stormwater management strategy, subject to the Conditions of Draft Plan Approval regarding the submission of detailed engineering plans and reports for Town review and approval.

The proposed development is located in close proximity to the Line 1 Road and Concession 6 Road intersection, which are both collector roads designed to accommodate higher traffic volumes. The Town OP directs that traffic to and from medium density residential development will not be directed towards local streets and the site should be within easy convenient access of a collector or arterial roadway. Town Operations Staff offered no concerns regarding traffic generated from the proposed development.

The proposal has been revised to provide a 1.2 metre sidewalk spanning the entire eastern length of the proposed private road to allow for safe pedestrian connectivity to Line 1 Road, at the request of the District School Board of Niagara. Town Operations Staff has advised that Line 1 Road is in the design phase for reconstruction from Four Mile Creek Road to Concession 6 Road, including the provision of sidewalks along the south side of Line 1 Road. The proposed sidewalk along the private road on the subject lands will provide connection to the future sidewalks along Line 1 Road for pedestrian connectivity and access to Homestead Park.

5.1.2.6 Land Use Compatibility

Policies within the Town OP provide direction to establish that development is appropriate and compatible within the Town's existing neighbourhoods. The Town OP recognizes that it is important to have a range and mix of built form within a neighbourhood to provide a range of housing options, subject to appropriateness and compatibility.

The subject lands are currently designated as "Low Density Residential" in the Town OP, which permits single-detached, semi-detached and duplex dwellings, as well as medium-density residential uses subject to a site-specific Zoning By-law Amendment and specific criteria being met. The proposed block townhouse dwelling units are considered a medium-density residential use. As per the policies of the "Medium Density Residential" designation, the design and location of medium-density residential development is to achieve several provisions:

- a) The height, bulk and arrangement of buildings and structures will achieve a harmonious design and integrate with the surrounding area and not negatively impact on lower density residential uses.

As noted, the surrounding area is comprised of one to two storey single detached and townhouse dwellings. The Applications are not seeking an increase in height from the standard provisions of the Residential Multiple (RM1) Zone, and as such will be consistent with surrounding development in terms of height. Sufficient setbacks are proposed to distance the townhouse units from the single-detached dwellings located to the west of the subject lands,

and the townhouse dwelling units south of the subject lands. The proposed townhouse dwelling units are located behind existing dwellings on Line 1 Road and accordingly impacts to the streetscape are not anticipated. Staff do not anticipate impacts to surrounding low density residential uses or the streetscape.

- b) Appropriate open space, including landscaping and buffering, will be provided to maximize privacy and minimize the impact on adjacent lower density uses.

The Draft Plan of Condominium identifies that 35.7% of the lands will be dedicated to landscaping, which is greater than the standard Residential Multiple (RM1) Zone required minimum of 30%. A Landscape Plan and Planting Plan will be required at the Site Plan Approval stage to determine the landscaping details, which will include trees and plantings to buffer the proposed development from abutting properties.

- c) Parking areas shall be required on the site of each residential development that are of sufficient size to satisfy the need of the particular development and that are well designed and properly related to buildings and landscaped areas.

The proposal provides a total of 118 parking spaces through one garage space and one driveway space for each townhouse dwelling unit, in addition to 22 visitor parking spaces for guests. The number of parking spaces proposed exceeds the minimum number of required parking spaces by 22 spaces. Given that most of the parking spaces are “tucked away” from Line 1 Road, with a limited number of parking spaces near the private road entrance onto Line 1 Road to be visually screened from 419 Line 1 Road by an existing board on board fence, Staff do not anticipate impacts to the streetscape or adjacent properties resulting from parking.

- d) Service areas shall be required on the site of each development (e.g. garbage storage, recycling containers).

The plans submitted with the Applications did not indicate the intention for waste collection. This will be addressed as part of the Site Plan Approval stage, in consultation with the Niagara Region, who has included Conditions of Draft Plan Approval regarding the submission of detailed information regarding waste collection. The development is required to provide waste collection services through Regional service or private means.

- e) The design of the vehicular, pedestrian and amenity areas of residential development will be subject to regulation by the Town.

The private road, parking areas, pedestrian access, and open space landscaped areas are required to meet the provisions of the Town’s Zoning By-law. The private road is six (6) metres wide and provides a “hammerhead turnaround” which allows emergency vehicles room to turnaround. Relief is being requested from the requirement for a parking area to be located a minimum of 1 metre from an interior side lot line to 0.4 metres. Staff are supportive of the relief being requested as there is an existing board on board fence which will be required to be extended through a Condition of Draft Plan Approval to provide visual screening of the parking area from lands known as 419 Line 1 Road. The property owner of 419 Line 1 Road has also

provided written comments to indicate support for these parking spaces. The subject lands are located within walking distance of Homestead Park, providing further amenity area for future residents to access beyond the rear yard amenity space being provided for each townhouse unit.

- f) Adequate municipal services can be provided to accommodate the needs of the development.

Adequate sanitary and water services can be provided to accommodate the needs of this proposal, with detailed design to occur at the Site Plan Approval stage.

- g) Traffic to and from the location will not be directed towards local streets and the site should be within easy convenient access of a collector or arterial roadway.

On Schedule G of the Town OP, both Line 1 Road and Concession 6 Road are identified as Collector Roads, which are designed to accommodate larger volumes of traffic. Town Operations Staff offered no concerns regarding traffic generated from the proposed development.

- h) Medium Density Residential sites will be placed in separate zoning categories in the Zoning By-law. Regulations will control height, density, coverage, unit size and parking.

The Zoning By-law Amendment seeks to place the subject lands within a site-specific Residential Multiple (RM1) Zone as discussed throughout this report, to regulate matters such as height, coverage, unit size and parking.

Based on the analysis contained within this report, Staff are of the position that the proposed development is compatible with the surrounding community.

5.1.2.7 Tree Protection and Preservation

Most of the subject lands do not contain any trees. However, Town Urban Forestry Staff have identified a mature, healthy White Oak tree which is largely situated in the Town's Line 1 Road allowance, and partially located on the subject lands. Town Urban Forestry Staff indicated an intention to preserve the White Oak tree. Staff discussed options with the applicant to protect this tree and reduce the amount of anticipated disturbance to the roots of the tree, given that the proposed private road and associated servicing are near the base of the tree.

The private road entrance from Line 1 Road has been shifted to the east by 1.97 metres (further away from the White Oak tree) in response to Town comments regarding the ability to retain the existing White Oak tree. Even with this proposal revision, it is unclear whether the White Oak tree will be capable of remaining in good health following construction on the subject lands. Therefore, Staff have included Conditions of Draft Plan Approval which require that the applicant retain a Certified Arborist to provide a professional opinion regarding whether the tree can be safely retained and remain in good health. If the tree can remain in good health, the applicant is required to submit a Tree Protection Plan with measures to be

implemented during site grading and during construction to safely retain the tree and monitor the health of the tree over a three (3) year period. If the tree cannot remain in good health or is found to not be in good health following construction during the three (3) year period, the applicant is required to pay a fee for the replanting of the tree, the dollar amount of which is to be determined by Town Urban Forestry Staff at the time of removal. The applicant will also be financially responsible for removing the tree and any associated cleanup.

5.1.2.8 Urban Design

The Town OP contains policies regarding design for development of Greenfield lands. The following provides an analysis of such policies:

- a) Block lengths should generally range between 200 and 250 metres.

The subject lands are proposed to be developed by a Plan of Condominium with townhouse dwelling units to be accessed via a private road. The private road is proposed to be less than 250 metres in length and the resulting blocks of townhouses will be less than 200 metres in length.

- b) Where blocks are longer than 250 metres, a through block pedestrian walkway or midblock parkette should be provided.

As noted, the block length is shorter than 250 metres; however, a sidewalk will be provided throughout the development. The Konik Estates Subdivision, which abuts the subject lands to the south, was not planned to connect to the subject lands. The subject lands may be connected to and integrated with the buildout of the lands to the east at the discretion of the future Condominium Corporation through a reciprocal access easement agreement with the abutting lands to provide a connection and allow connection to the lands. No applications have been submitted to the Town to facilitate development on the lands to the east or west.

- c) Streets should be based on a grid pattern.

As noted, there is only one private road planned to provide access to the townhouse dwelling units, which provides for a hammerhead design and turnaround for emergency vehicles and to make efficient use of the land.

- d) Lots should vary in size and shape.

Given that the subject lands are proposed to be developed through a Plan of Condominium, no new lots are being proposed.

- e) Lots adjacent to neighbourhood centres and parks should be planned for medium density development.

The subject lands are not located adjacent to a neighbourhood centre or park but are located within 500 metres of Homestead Park. The provision of townhouse dwellings aligns with medium density development, in accordance with the Town OP.

- f) Pedestrian connections from the public road right-of-way to adjacent public open spaces and natural areas should be provided.

As noted, a 1.2 metre sidewalk will be provided on the east side of the proposed private road, which will connect to future sidewalks planned on the south side of Line 1 Road. No natural areas or public open spaces are provided within the proposed development; however, Homestead Park is located approximately 500 metres to the southeast of the subject lands.

- g) Mixed land uses should be concentrated in central and accessible locations.

Only residential uses are proposed.

- h) Sidewalks shall be provided in accordance with approved Town policy.

A 1.2 metre sidewalk will be provided on the east side of the proposed private road, which will connect to future sidewalks planned on the south side of Line 1 Road and will be provided in accordance with approved Town policy.

- i) Garages for single, semi and townhouse units shall not exceed 50% of the building's façade and shall be setback from the front face of these units.

Provisions to implement this have been included in the site-specific zoning by-law to ensure garages for the proposed dwellings will not exceed 50% of the building façade and will be setback from the front face of all units. All garages shall be set back a minimum of 1.0 metres behind the front face of the dwelling on the ground floor, and all garages shall be a maximum of 50% of the width of the building façade.

5.1.2.9 Parkland

Staff request that the applicant provides 5% cash-in-lieu of parkland dedication for this plan of condominium rather than land within the development. The Town's existing park to the southeast on Homestead Drive is planned to be expanded as development proceeds in the area. The total park will be approximately 2.25 acres in area, to maximize resources and amenities in the area. A larger, centralized park will serve the entire neighbourhood. Homestead Park is located within walking distance of the subject lands, approximately 500 metres to the southeast.

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

Council adopted a proposed 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 "Residential" on Schedule B-3 and "Greenfield Areas" on Schedule B7, which permits townhouse dwelling units.

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

The subject lands are zoned "Virgil Community Zoning District – Residential Development (RD) Zone" under Zoning By-law 4316-09, as amended. The existing zoning on the lands is shown on **Map 3** to **Appendix II** of this report.

The Zoning By-law Amendment proposes to rezone the subject lands to “Residential Multiple (RM1) Zone” with site-specific provisions that are similar to the permissions established for the Konik Estates Phase 1 development, specifically those related to the townhouse dwellings located along Peachtree Lane, which abut the subject lands to the south. Relief from the standard RM1 provisions is requested from the minimum lot frontage, minimum lot area per unit, minimum unit area, maximum lot coverage, minimum front yard setbacks from a private road, minimum interior side yard setbacks, minimum setbacks from the rear of a dwelling unit, minimum distance between buildings on the same lot, maximum total width of garage doors, and encroachments into rear yard and front yard.

The following chart illustrates the standard RM1 Zone provisions and the site-specific zoning provisions recommended by Staff:

Zone Requirement	RM1 Zone (Block Townhouse Dwellings)	Site-Specific RM1 Zone
Minimum lot frontage	30.0 metres	15.2 metres (on Line 1)
Minimum lot area per unit	285 square metres	270 square metres 140 square metres minimum condominium unit area
Maximum lot coverage	35%	41% (entire development)
Minimum front yard setback	7.5 metres	4.5 metres from a private lane to the front wall of a dwelling unit 6.0 metres from a private lane to the front face of a garage Where a condominium unit is located on the same private lane for the front and flanking condominium unit line, the front yard setback shall be a minimum of 3 metres from a private lane to the front wall of a dwelling unit An attached garage shall be setback a minimum of 1 metre behind the front wall of a dwelling unit on the ground floor The front wall of a dwelling unit shall be interpreted to be the outside wall of a building, facing the location where access is provided from a private lane, excluding the front face of a garage

Zone Requirement	RM1 Zone (Block Townhouse Dwellings)	Site-Specific RM1 Zone
Minimum interior side yard setback	7.5 metres	0.0 metres to a common wall 2.0 metres from the end wall of a dwelling unit to a property line 5.0 m from the end wall of a dwelling unit to the northern property line, excluding the front lot line that divides the lot from Line 1 Road
Minimum rear yard setback	7.5 metres	6.0 metres from the rear wall of a dwelling unit to the southern property line 6.0 metres from the rear wall of a dwelling unit to the western property line 5.1 metres from the rear wall of a dwelling unit to the eastern property line The rear wall of a dwelling unit shall be interpreted to be the outside wall opposite to and farthest from the front wall of a dwelling unit
Minimum distance between buildings located on the same lot	Minimum distance between buildings located on the same lot of 3.0 metres (9.84 ft) between walls not containing windows to a habitable room, and 9.0 metres (29.53 ft) between walls where one wall contains a window to a habitable room, and 15.0 metres between walls where both walls contain a window to a habitable room.	3.0 metres from end wall to end wall 18.0 metres from a front wall to an end wall 15 metres from front wall to front wall

Zone Requirement	RM1 Zone (Block Townhouse Dwellings)	Site-Specific RM1 Zone
Minimum distance between any townhouse dwelling and a private roadway and parking area	6.0 metres	3.0 metres
Maximum total width of garage doors	Not applicable	50% of the front face of a dwelling unit

Staff also recommend the following site-specific provisions related to Parking Space Requirements, Additional Provisions, and Permitted Yard Projections and Encroachments.

The Zoning By-law requires driveways to be located to no closer than 1.0 metre from an interior property line, and that parking areas are located no closer than 1.0 metres to a rear or interior side lot line. The proposed site-specific RM1 zone proposes that the minimum interior side yard setback for a driveway shall be 0.0 metres from a condominium unit line where driveways are abutting, and that the minimum interior side yard setback for a parking area shall be 0.4 metres from a property line.

The Zoning By-law permits for unenclosed and uncovered porch, deck, patio or steps to encroach by up to 1.5 metres into the required front or rear yard setback, and 0.6 metres into the required side yard setback. The requested site-specific provisions are as follows on lands identified as RM1-47:

- a) an unenclosed and uncovered or covered porch, patio or steps may project 1.5 metres into a required front yard.
- b) an unenclosed and uncovered deck (such deck shall have a platform no greater than 1.2 metres above finished grade) or steps may project 2.0 metres into a required rear yard, provided that any unenclosed and uncovered deck is no greater than 7.5 square meters in area.

Staff consider the proposed reduction in lot frontage to be appropriate given that there is sufficient area to accommodate the 6-metre wide private road, sidewalk and associated landscaping on either side with no anticipated impacts to the streetscape, which provides access to the proposed townhouse dwellings. Staff consider the reduction in lot area per unit, lot coverage, front yard, interior side yard and rear yard setbacks to be acceptable as these provisions establish a compact built form that makes efficient use of the lands and provides a dwelling type that is attainable for a wider range of household incomes when compared to single-detached dwellings. Staff have also included a Draft Plan Condition to ensure that the visitor parking spaces nearest Line 1 Road are visually screened from lands at 419 Line 1 Road through the extension of an existing board-on-board fence which spans all property lines except for the eastern property line that abuts the parcel used for agricultural purposes. Further, while reduced front yard, rear yard and interior side yard setbacks are proposed, Staff

are of the position that these provisions will not impact the use of or compatibility with surrounding lands. The single-detached dwellings located along Concession 6 Road have rear yard setbacks which range from 13 metres to 20 metres, providing a minimum separation of 19 metres between the rear wall of the proposed townhouse dwelling units and rear wall of existing dwellings. The reduced rear yard setback from the eastern property line is supported as this parcel is currently used for agricultural purposes and there are no anticipated compatibility concerns. As noted, the subject lands are within 500 metres of Homestead Park, which provides accessible amenity area to the future residents beyond the amenity space provided in the rear and front yards of each dwelling unit, supporting the reduction in the rear and front yards. The site-specific provisions for the subject lands are similar to the permissions established for other adjacent developments, specifically those related to the townhouse dwellings located along Peachtree Lane, which abut the subject lands to the south, and provide a consistent design and development standard for the area.

The site-specific provision for minimum distance between buildings located on the same lot are appropriate as there is sufficient space provided to access the rear of the dwellings for maintenance. The proposed encroachments for unenclosed and uncovered decks in the rear yards of the dwellings will allow for the enhancement of rear yard amenity areas. The proposed encroachments for an unenclosed and uncovered or covered porch, patio or steps in the front yard will allow for landscaping in the front yard and provide consistency in the character of the streetscape.

The remaining standard RM1 Zone requirements will apply to the proposal. Staff recommend approval of the draft Zoning By-law Amendment for the subject lands, a copy of which 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** with overall comments summarized below.

5.3.1 Town Comments

Building – No objection.

Finance – No objection.

Fire and Emergency Services – No objection, subject to the Condition of Draft Plan Approval requiring that each townhouse dwelling be equipped with residential fire sprinklers as there is only a single access point to the proposed development.

Heritage – No objection. The subject lands have previously been cleared for having archaeological potential.

Operations – No objection, subject to the Conditions of Draft Plan Approval provided regarding the submission of detailed engineering plans and reports.

Urban Forestry – Staff have identified a mature, large and healthy White Oak tree located within the Town road allowance and partially located on the subject lands that will be impacted by the proposed private road. The applicant should take the necessary steps to preserve this tree at the entrance of the property. A Tree Protection Plan is required that sets out all the protection measures and a statement from a Certified Arborist that the tree can be retained. If the tree cannot be retained, the applicant is required to remove the tree and compensate the Town for the replanting of the tree. The full cost of tree removal and clean up would be the responsibility of the owner.

5.3.2 Agency Comments

Enbridge – No objection, subject to the Conditions of Draft Plan Approval provided regarding gas pipe installations and easements.

Niagara Region – No objection, subject to the Conditions of Draft Plan Approval provided regarding archaeology, a warning clause as the lands are in proximity to agricultural uses, servicing allocation and waste collection.

Canada Post – No objection, subject to the Conditions of Draft Plan Approval provided regarding the location of Centralized Mailboxes.

Niagara District School Board – No objection, subject to a Condition of Draft Plan Approval for a sidewalk to be constructed within the development to facilitate student travel to the school bus stop locations.

Niagara Catholic District Schoolboard – No objection.

Hydro One – No objection.

Niagara-on-the-Lake Hydro – No objection. No concerns with the electrical load required for the proposed development.

Bell Canada – No objection, subject to the Conditions of Draft Plan Approval regarding servicing and easements.

5.3.3 Public Comments

An electronic Open House was held on April 23, 2024, which was attended by four (4) residents. The statutory Public Meeting was held on May 7, 2024, during which three (3) residents provided comments. Staff has also received written correspondence from four (4) residents. Comments received from members of the public are attached as **Appendix VIII** to this report.

The comments received on this proposal, as well as Staff's responses, are provided in the table below:

Public Comment	Response
<p>Privacy and compatibility concerns related to rear yard setbacks for and height of the proposed townhouse dwellings.</p>	<p>Privacy and compatibility with respect to height, setbacks, and density, have been addressed throughout Sections 5.1.2.4, 5.1.2.6 and 5.2 of this report.</p>
<p>Two storey townhouses are inappropriate for this area as this does not align with existing townhouse bungalows in the area. If two storey townhouses are approved, the developer should plant large cedar trees between the two-storey townhouses and existing bungalows</p>	<p>The applicant is not seeking relief to increase height with respect to the standard provisions of the Residential Multiple (RM1) Zone. The applicant will be required to submit a Landscape Plan and Planting Plan at the Site Plan Approval Stage, as discussed in Section 5.4 of this report.</p>
<p>I am writing to express my full support for the proposed residential development adjacent to my property. I believe that this development project aligns with the vision and needs of our community.</p>	<p>Comment noted.</p>
<p>Concerns regarding redesignating the lands from Low Density Residential to Medium Density Residential and the impact of an increased density to surrounding properties and to traffic. The density is inconsistent with surrounding properties.</p>	<p>The density of the proposed development has been addressed in Section 5.1.2.4 of this report. Both Line 1 Road and Concession 6 Road are collector roads designed to carry higher volumes of traffic. Operations Staff has cited no concerns regarding traffic on these roads. Staff's position is that the density is compatible with surrounding properties.</p>
<p>No sidewalks internal to the proposed development will present safety concerns for pedestrians and children and will reduce walkability.</p>	<p>The applicant has revised the proposal to include a 1.2-metre-wide sidewalk spanning the entire length of the private road to provide safe access for pedestrians. A Condition of Draft Plan Approval has been included to address this.</p>
<p>Is it possible for emergency vehicles to navigate the site given there is only one entrance and exit to the lands and the "S curve" shape of the private road?</p>	<p>Town Fire and Emergency Services Staff have reviewed the proposal and did not raise any concerns with the ability for emergency vehicles to navigate the site. The applicant has agreed to implement a fire sprinkler system for each townhouse dwelling for increased safety to future residents and responding firefighters.</p>
<p>More parking spaces should be provided and there is not enough visitor parking.</p>	<p>The proposal exceeds the minimum parking requirements set out in the Town's Zoning By-law by 22 parking spaces, which are specifically for visitor parking.</p>

Public Comment	Response
Why is this development proposal being entertained by the Town when this proposal does not meet the following: minimum frontage, lot area, lot coverage, front setback, side setback, rear yard setback, distance between buildings, distance between dwelling and roadway requirements.	Provincial legislation requires the Town to receive all development applications under the <i>Planning Act</i> . Accordingly, the Town has an obligation to accept and review applications even if they do not comply with the requirements set out by the Town.
The front yard setbacks proposed leaves little to no front yard.	The proposed front yard setbacks are addressed in Section 5.2 of this report.
Concerns regarding noise disruptions to each other and existing neighbours.	Staff anticipate that the amenity areas of the proposed townhouse dwellings will produce a similar amount of noise to the amenity areas in the yards of existing surrounding single-detached and townhouse dwellings.
The application does not meet the four <i>Planning Act</i> tests for minor variance and as such request that the application be denied.	A Minor Variance is not being sought. The four <i>Planning Act</i> tests are not applicable to the Applications under review.
Concerns regarding the interior side yard setback with dwellings located on Line 1 Road as windows will overlook backyard and pool and car headlights will shine into the backyard sitting area and kitchen window.	The applicant has removed a townhouse dwelling unit to provide for a larger interior side yard setback between Unit 48 and the property line. A Landscape Plan and Planting Plan is required at the Site Plan Approval stage, which will address visual screening.

5.4 Future Site Plan Requirements

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

- Detailed Landscape Plan and Planting Plan
- Detailed Stormwater Management Report and Design
- Site Servicing Report, including water and sanitary, and stormwater management specifics
- Fire sprinkler system design
- Matters such as sidewalks, fencing, 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 and/or Zoning By-law Amendment applications and/or Draft Plan of Condominium and 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.

9. ENVIRONMENTAL IMPLICATIONS

There are no protected environmental features located on the subject lands.

Town Urban Forestry Staff have identified a mature, healthy White Oak tree which is largely situated in the Town's Line 1 Road allowance, and partially located on the subject lands. Staff discussed with the applicant options to protect this tree and reduce the amount of anticipated disturbance to the roots of the tree, given that the private road and associated servicing are near the base of the tree as noted in Section 5.1.2.7.

10. COMMUNICATIONS

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

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-02-2024), Zoning By-law Amendment Application (ZBA-04-2024), and Draft Plan of Vacant Land Condominium Application (26CD-18-24-02), as detailed in this report, since the Applications meet *Planning Act* requirements, are consistent with the Provincial Planning Statement, and conform with the Niagara Official Plan and Town Official Plan.

12. PREVIOUS REPORTS

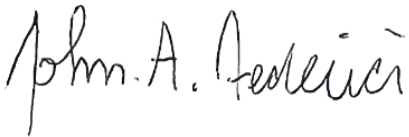
- **CDS-24-074** – Public Meeting – Unaddressed Lands South of 419 Line 1 Road, Information Report, May 7, 2024.

13. APPENDICES

- **Appendix I** – Draft Plan of 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** – Conditions of Draft Plan Approval
- **Appendix VII** – Agency Comments
- **Appendix VIII** - Public Comments

Respectfully submitted:

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