



## Town of Niagara-on-the-Lake

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**REPORT #:** CDS-25-156      **COMMITTEE DATE:** 2025-12-02  
**REPORT TO:** COTW-Planning      **DUE IN COUNCIL:** 2025-12-09  
**SUBJECT:** 1839 Four Mile Creek Road  
Official Plan Amendment (OPA-03-2025) & Zoning By-law Amendment (ZBA-03-2025) – Recommendation Report

### 1. RECOMMENDATION

It is respectfully recommended that:

- 1.1 The Application for Official Plan Amendment (File No. OPA-03-2025) for lands known municipally as 1839 Four Mile Creek Road, **BE APPROVED**, for reasons outlined in this report, and that the draft Official Plan Amendment, attached as **Appendix V**, be forwarded to Council for adoption; and
- 1.2 The Application for Zoning By-law Amendment (File No. ZBA-03-2025) for lands known municipally as 1839 Four Mile Creek Road, **BE APPROVED**, for reasons outlined in this report, and that the draft Zoning By-law Amendment, attached as **Appendix VI**, be forwarded to Council for adoption.

### 2. EXECUTIVE SUMMARY

- This report provides a Staff recommendation to the Committee and Council regarding applications for an Official Plan Amendment (the “OPA Application”) and Zoning By-law Amendment (the “ZBA Application”) for lands known municipally as 1839 Four Mile Creek Road.
- The Applications propose to facilitate the construction of a 3-storey apartment building with a total of 29 residential units, with the majority of parking proposed in a partially underground structure.
- The OPA Application proposes to redesignate the lands to a site-specific Medium Density Residential designation to facilitate an increased residential net density of 95 units per hectare, to recognize the proposed medium density use on a local street, and to permit parking within the front yard.
- The ZBA Application proposes to rezone the lands to a site-specific “Residential Multiple (RM2) Zone” with provisions related to lot area, lot coverage, landscaped open space, setbacks, building height, parking standards, permitted encroachments, and fencing requirements.
- Staff recommends 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 to local planning policies.

### 3. PURPOSE

This report provides a recommendation to Committee and Council regarding Applications enacted under the *Planning Act* seeking approval of an Official Plan Amendment and Zoning By-law Amendment to redesignate and rezone the subject lands known as 1839 Four Mile Creek Road.

The OPA Application proposes to redesignate the lands from “Low Density Residential” to a site-specific “Medium Density Residential” designation to accommodate an increased residential net density of 95 units per hectare, as well as recognize the proposed use on a local road, and allow for parking to be located within the front yard.

The ZBA Application proposes to rezone the lands from “Residential (R1) Zone” to a site-specific “Residential Multiple (RM2) Zone” with provisions relating to lot area size, lot coverage, landscaped open space, setbacks, building height, parking, encroachments, and fencing.

The application drawings (site plan, underground parking layout, elevations, and renderings) are attached as **Appendix I** to this report.

### 4. BACKGROUND

#### 4.1 Site Description and Surrounding Lands

The subject lands are known municipally as 1839 Four Mile Creek Road, located on the east side of Four Mile Creek Road, south of East and West Line, in the urban area of Virgil. The location of the subject lands is shown on **Map 1** of **Appendix II** to this report.

The subject lands have an overall lot area of approximately 3,194 square metres (inclusive of a road widening) and a lot frontage of 38.1 metres along Four Mile Creek Road. The subject lands were previously severed into two residential lots by way of Consent Application B-03/23, and are required to remerge to facilitate the proposal.

The subject lands are currently vacant and contain a number of mature trees. Municipal water and sanitary connections are available along Four Mile Creek Road. The surrounding lands are characterized predominantly by low-density residential uses, such as single-detached dwellings, to the north, south, and west, and are directly adjacent to agricultural lands to the east.

Should the proposed OPA and ZBA Applications be approved by Council, Site Plan Approval will be required to implement the proposal.

#### 4.2 Public Notice

The Applications were deemed complete by Town Staff on April 17, 2025. The Applications' materials can be found at the following link: <https://www.notl.com/business-development/public-planning-notices/1839-four-mile-creek-road-opa-03-2025-zba-03-2025>

Public Notice of the Applications was provided in accordance with *Planning Act* requirements. Yellow public notice signs were posted on each lot, and notice was provided by mail to all

property owners within 120 metres of the subject lands. A map of the circulation radius is attached as **Appendix III** to this report.

### **4.3 Proposal Revisions**

In an effort to address comments provided by Staff and the public, changes were made from the first iteration of the Applications. A summary of the changes is provided below:

- Maximum building height reduced from 11.28 metres to 11 metres by shifting the parking structure and overall building deeper into the ground.
- Building was shifted to the north and east to allow for greater separation to Four Mile Creek Road and the neighbouring residential property to the south.
- Stepping back the third-storey of the front façade of the building.
- Maintaining the minimum required 3-metre buffer from the playground / outdoor amenity area directly adjacent to agricultural lands, whereas the first iteration proposed reduced buffers of 1.9 metres and 1.4 metres, respectively.
- Implementation of additional landscaping, including more mature plantings adjacent to neighbouring residential properties and Four Mile Creek Road.
- Prohibiting two-way vehicular along the front of the building.
- Integration of interlocking stamped concrete on the pedestrian connection from Four Mile Creek Road and on the driveway leading to the visitor parking spaces.
- The addition of a secondary pedestrian entrance/exit to the parking structure, as per Ontario Building Code requirements.

### **4.4 Future Site Plan Approval Requirements**

As discussed throughout the report, the proposal is subject to Site Plan Approval. Through this process, additional requirements are to be addressed, including but not limited to:

- Detailed Landscape Plan and Planting Plan
- Detailed Engineering Drawings, Plans, and Reports
- Playground amenity area details
- Fencing details
- Final building and site design (building materials, colours, detailed landscaping works)
- Sidewalks and waste management
- Implementation of standard clauses for future residents to be made aware of the abutting agricultural uses and normal farm practices that may occur
- The merging of the subject lands

## **5. DISCUSSION / ANALYSIS**

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

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

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

Section 2 of the *Planning Act* identifies matters of Provincial interest that Council shall have regard for in carrying out its responsibilities under the *Planning Act*. Subsection 3(5) of the *Planning Act* requires that decisions of Council shall be consistent with provincial policy

statements and shall conform with provincial plans that are in effect. Section 22 allows for councils to pass privately-initiated requests to amend an Official Plan of a local municipality. Section 34 of the *Planning Act* permits councils of local municipalities to pass and/or amend zoning by-laws.

The Applications support the matters of provincial interest, are consistent with policy statements and conform to provincial plans and the intent of the Niagara Official Plan and Town Official Plan, as demonstrated in the analysis provided in the following sections of this report.

### **5.1.2 Provincial and Local Planning Documents**

The subject lands are designated as being within a “Settlement Area” under the Provincial Planning Statement, 2024 (the “PPS”). The lands are also designated as being within a “Delineated Built-Up Area” on Schedule B in the Niagara Official Plan, 2022 (the “NOP”), and are designated “Low Density Residential” on Schedule C and “Built Up Area” on Schedule I-2 of the Town of Niagara-on-the-Lake Official Plan (the “Town OP”). The Town OP designation on the subject lands is shown on **Map 2 of Appendix II** to this report.

#### **5.1.2.1 Proposed Official Plan Amendment**

The OPA proposes to redesignate the subject lands from “Low Density Residential” to a site-specific “Medium Density Residential” designation to permit a residential net density of 95 units per hectare across the entirety of the subject lands, to permit the three (3) storey apartment building (limited to a maximum height of 11 metres through the implementing zoning by-law amendment), to allow for a limited number of parking spaces to be located within the front yard, and to recognize that the proposal fronts onto a local road. The proposed front yard parking would be limited to visitor parking, rather than required parking for the residential units. Medium-density residential uses, such as an apartment building, are permitted in the low-density residential designation, provided that they meet the relevant residential policies of the Town OP and implement a site-specific zoning by-law amendment.

For reasons outlined and discussed throughout this report, Staff are supportive of the draft Official Plan Amendment, attached as **Appendix V** to this report.

#### **5.1.2.2 Intensification and Infill**

Policies within provincial and local documents direct growth to Settlement Areas in order to optimize the use of existing infrastructure and services. The policies within the NOP focus on promoting intensification within the “Delineated Built-Up Area” to support complete communities by facilitating compact land use patterns, efficient use of existing facilities, and providing for a greater mix of diverse land uses and housing options. The NOP requires a minimum of 25% of annual residential development within the Town to be directed to the Delineated Built-Up Area.

Similarly, the Town OP provides objectives and policies for growth management in order to support anticipated growth within urban areas. The Town OP allocates a minimum of 15% of residential development to be directed to Built-Up Areas. As previously mentioned, medium-density residential developments are permitted within the “Low Density Residential” designation, subject to meeting the policies and criteria of the residential policies, including matters related to design, compatibility, and location.

The proposed Applications support the Town in achieving its minimum identified intensification target by directing growth to the Built-Up Area, as well as optimizing and making efficient use of existing infrastructure. Since the subject lands are currently vacant, the proposal would make efficient use of an underutilized urban residential parcel by developing it for additional housing, including facilitating differing housing types and styles, which encourage a diverse mix of housing options for the growing community.

The Applications align with direction to create compact, vibrant, and complete communities, given the subject lands' proximity to Niagara Stone Road, a prominent commercial corridor in Virgil. The subject lands are approximately 1 kilometre away from Niagara Stone Road via public roadways. Niagara Stone Road contains a variety of uses and services that accommodate the needs of residents, tourists, and the surrounding agricultural community. Four Mile Creek Road is also part of the Region's strategic cycling network, as per Schedule J2 of the NOP.

The subject lands are within walking and cycling distance to a number of vital services, contributing to the notion of complete communities and promoting active transportation. The Town's Centennial Sports Park is also located in proximity to the lands, being a short driving or cycling distance from the proposed development.

The proposed development is considered to conform to the applicable policies regarding intensification within the Built-Up Areas.

### **5.1.2.3 Housing and Density**

Applicable planning legislation and documents encourage the development of efficient patterns that provide for a variety of housing options and efficiently utilize lands, services, and resources. This policy direction supports the development of compact, vibrant, sustainable, and complete communities. The Town OP General Residential Policies specify that density is a function of service capacity and typography, and further directs that medium density residential developments will not exceed 30 units per hectare unless accompanied by a detailed site and area analysis demonstrating minimal impact on surrounding lands. The Applications propose the construction of a three-storey apartment building with partially underground parking and 29 residential units, yielding a total residential net density of 95 units per hectare.

The existing housing stock in Virgil is primarily made up of low-density residential uses such as single-detached dwellings. Single-detached dwellings are the main form of housing type directly surrounding the subject lands. While the proposed apartment building and its density do not reflect the same densities and built form of the existing neighbourhood, the proposed 29-unit apartment building will assist the Town in providing a diverse housing stock to address current and future housing needs and affordability. The proposal can accommodate residents of different age groups, incomes, lifestyles, and household sizes.

Through the submission of the Applications, a Planning Justification Report (prepared by NPG Planning Solutions, dated March 2025) (the "PJR") was provided in support of the proposal, and provides further rationale and justification. The PJR generally states that the proposal would support aging in place, more accessible living accommodations, and would provide for a greater mix of housing options for all residents, including with the proposed range of unit sizes varying from approximately 56 square metres to 112 square metres.

Staff are of the opinion that the proposed housing typology and density are appropriate for the lands and surrounding area, as the proposal contributes to the establishment of a complete community.

#### **5.1.2.4 Land Use Compatibility & Urban Design**

The Town OP directs that the bulk, massing, and scale of new development shall fit into the context of where it is located. Other urban design criteria in the Town OP directs development to match the average pre-established building setbacks of adjacent buildings within the block face, that parking should be located at the rear of the buildings, that the development should provide connections to pedestrian and bicycle networks, and that the development should be consistent with the land use compatibility criteria of the Town OP.

The Town OP acknowledges that neighbourhoods are stable but not static, and that there is a degree of change that occurs in neighbourhoods over time. The policies in the Town OP provide direction for these changes to ensure that proposed development is appropriate and compatible within the existing neighbourhood. The Town OP specifies the importance of having a range and mix of built form within a neighbourhood to provide a range of housing options, subject to compatibility and the appropriateness of the development. Land use compatibility criteria include consistency with the surrounding neighbourhood, demonstrating an effective transition in built form, and compatibility with respect to street and block patterns, parcel sizes, building setbacks, privacy and overview, drainage, parking, and servicing.

As part of the review of the Applications, Town Staff considered potential shadow impacts on adjacent properties resulting from the proposed apartment building. While the Town OP contains policies regarding compatibility, which reference shadowing, it does not contain specific policies regarding the evaluation of shadow impacts. The Town currently does not have specific local guidelines to evaluate shadow impacts. Staff has utilized the Shadow Study Terms of Reference (the "TOR") prepared by Niagara Region to evaluate the shadow impacts of this proposal. Staff note that the Region's TOR requires the submission of a Shadow Study for buildings that are greater than six (6) storeys in height. Buildings lower than six (6) storeys may require the submission of such Study where a site-specific basis is identified. Regardless, the requirement for a Shadow Study must conform with local Official Plan policies and relevant local guidelines. While the proposed building is three (3) storeys in height, the Regional TOR provides guidance to consider the shadowing resulting from the proposed building on adjacent properties and amenity areas. To minimize the impact of shadow on existing adjacent properties from new development, the TOR advises that adjacent residential amenity areas should receive a minimum of 6 hours of sunlight between 10:00 a.m. and 6:00 p.m. from April 21 to September 21.

The applicant's submitted Shadow Study (prepared by ACK Architects, dated July 26, 2024) demonstrates that adjacent residential properties will not be impacted by shadowing from the apartment building between the months of April and September. Minor shadowing impacts on the adjacent agricultural lot (1849 Four Mile Creek Road) are anticipated between the allotted months; however, are generally limited to 2-3 hours in the late afternoons of the days. Given the proposed building's east-to-west orientation, as well as its location being central to the property, adverse shadowing impacts are not anticipated to adjacent properties or their amenity areas. The portion of the agricultural lands that would experience some shadowing in the later times of the day will continue to receive sunlight for approximately 6 hours throughout the day between April and September. Town Staff are of the opinion that the shadowing

impacts anticipated from the proposal are acceptable, as per the TOR, and that the height and massing of the proposal are appropriate with respect to shadowing.

The applicant provided an Urban Design Brief & Streetscape Analysis (prepared by NPG Planning Solutions, dated March 2025, and August 2025, respectively) (the “Urban Design Brief”) to assess the design of the proposal in relation to compatibility with adjacent land uses, compliance with relevant urban design guidelines, and overall impacts to the public realm. The Urban Design Brief reviewed the proposal against the Niagara Region’s Model Urban Design Guidelines, dated April 2005 (“MUDG”), and the Town OP’s guidelines under Section 6A(4.4) and Official Plan Amendment No. 78 (“OPA 78”). Further discussion on OPA 78 is provided under Section 5.1.2.6 of this report. The applicable policies of the MUDG include residential design standards for the private realm, including but not limited to: building setbacks, heights, driveways, apartment built-form, parking areas, and landscaping.

Town Staff engaged with a Regional Urban Design Specialist to review urban design matters with respect to the proposal. It was recommended that the building height be reduced, that a step back on the upper storeys be further considered, that additional landscaping be implemented around the front yard parking and the site, and that decorative paving be considered along the internal drive aisle.

In response to the Urban Design comments, the following design changes were implemented and are documented in the applicant’s Urban Design Brief:

- Building height reduced to 11 metres
- Building setback further from Four Mile Creek Road
- Stepping back the front of the third storey
- Increased landscaping within the front yard, primarily around the visitor parking spaces, and around the site
- Interlocking stamped concrete to the visitor parking area and drive aisle
- Reducing drive aisle from double-lane to single-lane for pedestrian and vehicular safety
- Increasing buffer to the playground area

By reducing the overall building height, setting the building further back from the front yard, and incorporating a step back at the third storey, the proposed revisions contribute to greater compatibility with the public realm and adjacent low-density residential uses. The building further proposes recessed balconies within the side yards to further achieve land use compatibility with the adjacent residential lands, as to not result in adverse impacts to privacy and overview. The building redesign ensures appropriate separation to Four Mile Creek Road and surrounding properties, implements a pedestrian-scaled building façade, and further reduces the visual bulk of the building from the public realm.

Staff note that the proposed front yard setback of the building aligns with surrounding front yard setbacks (ranging between 3 metres and 40 metres), and that the proposed building location, as a result of the proposal revisions, reflects better consistency with the streetscape along this side of Four Mile Creek Road.

The proposed enhanced landscaping treatments throughout the property, primarily at the front of the building, will allow for the planting of additional trees and shrubs to contribute to a more pedestrian-friendly environment. The implementation of interlocking stamped concrete for the

proposed internal pedestrian walkway, portions of the internal drive aisle, and all visitor parking spaces further strengthens the connection to the street, softens the appearance of hardscaping within the front yard, and contributes to a positive street presence. The single-lane reduction from a double-lane of the proposed drive aisle contributes to safer vehicular and pedestrian circulation.

Through the redesign of the site, the landscape buffer between the playground area and adjacent agricultural lands has been increased from 1.4 metres and 1.9 metres, respectively, to 3 metres. The increased buffer width better achieves compatibility between the outdoor amenity space and the normal farm practices on the adjacent lot. Fences at the rear of the property and around the perimeter of the playground area are also proposed, which will further assist with land use compatibility by providing a physical barrier and accommodating appropriate distance separation between the uses.

Given the redesign of the proposal, Town Staff are of the opinion that the proposal will maintain high-quality design, sufficient landscaping enhancements, and appropriate compatibility with its surroundings. More detailed design elements, such as materials and colours, will be reviewed as part of the future Site Plan Approval process.

As the proposal is considered to be a medium-density residential use, it is subject to several criteria specified under section 9.3.2(3) of the Town OP. The criteria and accompanying analysis are provided below:

- 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.

Staff are of the opinion that the proposal will achieve a harmonious design and integrate with the surrounding area. Staff note that the surrounding lower-density residential uses are permitted as-of-right to build up to 10 metres in height, as per the applicable zoning of the lands. With the larger front yard setback and reduced building height of the proposed development, the proposed built form will better align and integrate with the abutting uses. As discussed earlier in this section of the report, no major shadowing impacts are anticipated to abutting lands. The proposed increased density is also mitigated by building placement and orientation on the subject lands, including the implementation of additional landscaped areas, recessed balconies, and the building's upper storeys step backs.

- 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 Zoning By-law Amendment does not propose to reduce the minimum 30% landscaped open space provision of the standard RM2 zone. Rather, it requests to increase the landscaped open space up to a minimum of 35% for the whole site. Additional landscaping, including more mature plantings, have been proposed through the revisions of the Applications, primarily adjacent to the abutting residential properties. The southern side yard setback has since been increased as part of the height reduction of the proposal, and has allowed for greater separation between the apartment building and southern residential property. The northern side yard setback maintains sufficient separation between the parking structure (where there are above-ground terraces) and the northern residential property.

While there are above-ground terraces and balconies proposed along the northern and southern sides of the building (facing lower density properties), the implementation of mature plantings and adequate separation distances will assist in mitigating any adverse impacts that could arise from overlook. As a result of the revisions, Staff do not anticipate adverse impacts to adjacent lower density uses, including impacts related to privacy.

- 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 29 parking spaces within the partially-underground parking structure, which meets the minimum number of parking spaces based on Zoning By-law requirements. The Applications propose a ramp on the north side of the lands to access the parking structure. Vehicles leaving the parking structure will be facing the abutting residential property to the north; however, a wall of approximately 1.3 metres in height is proposed along the northern side of the parking ramp to mitigate any lighting impacts to the neighbouring property.

The development proposes the implementation of three (3) visitor parking spaces along the front of the proposed building. With the additional visitor parking spaces, the proposal exceeds the overall minimum number of parking spaces for the use. While the visitor spaces are within the front yard, their visibility from Four Mile Creek Road will be limited by additional landscaping across the frontage of the property and along the front façade of the proposed building. There are no anticipated adverse impacts to adjacent properties or Four Mile Creek Road as a result of the proposed parking arrangement. Landscape details will be addressed and implemented during the future Site Plan Approval stage.

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

This provision is addressed and discussed in further detail under Section 5.1.2.9 of this report.

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

Vehicular access to the site is proposed through two separate entryways on the north and south sides of the subject lands. The proposed entryways meet the requirements for driveway width and setbacks. The proposal includes an internal pedestrian walkway connecting the existing sidewalk along Four Mile Creek Road to the area of the visitor parking and main entrance of the building.

All dwelling units, except for one (1), provide private outdoor amenity spaces via a terrace or balcony. The development also proposes a common space community room for residents, accessed through the inside of the building. To the rear of the building, above the parking structure, is a common terrace amenity area, which also leads to the at-grade playground amenity area proposed on the southeast corner of the subject lands. The proposed playground amenity area aligns with the Zoning By-law's requirement to have an equipped children's play area for an apartment building with ten (10) or more units. The proposed playground area supports providing immediate additional outdoor amenity area for the future residents of the

apartment; whereas the nearest public park (Centennial Sports Park) is located 1.7 kilometres from the subject lands. While the Zoning By-law does not provide minimum amenity areas solely for apartment buildings, Staff are of the opinion that the proposed development provides sufficient private and common amenity areas to accommodate all future residents.

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

This provision is addressed and discussed in further detail under Section 5.1.2.5 of this report.

- 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.

While the proposed development is located on a local street (Four Mile Creek Road) as per the current Town OP, it is anticipated that traffic will be directed to nearby collector and arterial roads, being Line 1 Road and Niagara Stone Road. Line 1 Road is approximately 600 metres away from the subject lands, while Niagara Stone Road is approximately 1 kilometre away. It is not anticipated that the proposed development would result in significant traffic to these streets, as discussed in more detail under Section 5.1.2.5 of this report. The Town's proposed new OP also designates this section of Four Mile Creek Road to be a collector road; however, this Plan is not yet in force and effect. Additional discussion on traffic and road capacity is provided under Section 5.1.2.5 of this report.

- 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 draft Zoning By-law Amendment places the lands within an appropriate zoning category to accommodate the proposed use. The appropriateness of the zoning category and site-specific provisions are discussed in detail under Section 5.2 of this report.

Town Staff are of the opinion that the proposal's scale, massing, and design, achieves land use compatibility with adjacent lands and the street.

#### **5.1.2.5 Servicing and Transportation**

In support of the proposal, the applicant submitted a Functional Servicing Report (prepared by Upper Canada Consultants, dated March 2025, revised June 2025 and August 2025) (the "FSR"). Through the review of the Applications, a Geotechnical Study was requested to evaluate subsurface soil and groundwater conditions as a result of the proposed excavation. The Geotechnical Study (prepared by Niagara Testing and Inspection Ltd., dated August 27, 2025) was submitted to the Town for review.

The FSR identified that the existing water service, which supplied the previous dwelling on the property, is to be decommissioned and removed, as a 150mm diameter service is proposed to connect to the existing municipal watermain located on Four Mile Creek Road to service the proposed building by providing domestic water supply and fire protection. The FSR identifies that an internal sprinkler system is expected to be required due to the size of the building.

The development is proposed to be serviced by municipal sanitary connections through a 200mm diameter sanitary service connecting to the sewer line on Four Mile Creek Road. The

sanitary line on Four Mile Creek Road ultimately discharges to the Regional sanitary sewer at the intersection of East and West Line. Based on the calculations provided in the FSR, the total peak flow will occupy a maximum of 0.5% of the capacity of the existing sanitary sewer. Town Public Works & Infrastructure Staff have advised that this is anticipated to be an acceptable addition to the current capacity.

The proposed stormwater management approach evaluates the control of stormwater flows to allowable levels up to and including the 100-year design storm event. The FSR notes that stormwater runoff will be captured and treated to a normal standard prior to discharge from the site, via catch basin shield, oil/grit separator, or other verified device to capture solids prior to discharge into the stormwater system on Four Mile Creek Road. The FSR provided quantity and quality analyses, including an analysis on an enhanced level of protection, as per the Town's recently implemented quality control standards. Public Works & Infrastructure Staff accept the findings of the FSR with respect to stormwater management.

Through review of the various revisions to the FSR, the Town's Public Works & Infrastructure Department has confirmed that their comments, with respect to assessing the 100-year design storm event and requiring a Geotechnical Study, have been adequately addressed for the purposes of the OPA and ZBA Applications. Detailed design of the servicing approaches will be addressed as part of the future Site Plan Approval process, when final and detailed designs are determined. The Town's Public Works & Infrastructure Department will review the detailed designs at the time of the Site Plan Approval process to ensure they align with the submitted plans/reports, as well as with Town standards and requirements.

The submitted Geotechnical Study was provided to Terra-Dynamics Inc. for a third-party peer review of the findings in the investigation. The Geotechnical Study assessed groundwater levels and reviewed seasonal groundwater fluctuations for both during- and post-construction conditions. The investigation included the digging of five (5) boreholes and the construction of four (4) water table monitoring wells to further evaluate the conditions. Terra-Dynamics Inc. found the conclusions of the Geotechnical Study to be adequate, stating that no groundwater impediments have been identified. As such, no concerns have been noted for the proposed excavation in relation to groundwater and drainage.

With respect to the municipal right-of-way, a road widening had been previously conveyed to the Town through the Consent application from 2023. The Town's Public Works & Infrastructure Department requires that the existing sidewalks throughout the limits of the proposed accesses to the property will have to be upgraded to a 150mm thickness. Public Works & Infrastructure Staff has also noted that driveway aprons cannot encroach within the frontage of neighbouring properties, and that the proposed entrances are to have a 1-metre setback from interior lot lines and 8-metres of separation between both entrances. The proposal demonstrates compliance with the necessary setbacks and separation distances noted by Public Works & Infrastructure Staff. As such, Public Works & Infrastructure Staff has noted no further concerns with respect to the municipal right-of-way.

Four Mile Creek Road is part of the Region's strategic cycling network. No alterations or changes to the cycling network in this area are anticipated as a result of the proposed development. In addition, the proposal continues to maintain the bike lane, required sidewalk and pedestrian connectivity in the public realm.

The Town OP designates this section of Four Mile Creek Road as a local road and is not in the jurisdiction of the Niagara Region. Rather, jurisdiction of this portion of Four Mile Creek Road rests with the Town. The subject lands, while being on a local road, are in close proximity to a collector road, being Line 1 Road, and a Regional Road (also considered an arterial road), being Niagara Stone Road, all identified on Schedule G of the Town OP. Due to the site's proximity to these roads, traffic is anticipated to be directed to collector and arterial roads.

As part of the public consultation for these Applications, concerns were raised with respect to traffic safety and road capacity. The proposed entrances to the site achieve the Town's requirements for maximum driveway width and minimum distance between driveways and lot lines, to ensure that safety is adequately addressed for the development and the travelling public along Four Mile Creek Road. Of note, the proposal was revised to reduce the drive aisle in front of the building to a single lane in an effort to calm traffic going into the site and further improve pedestrian safety. As a result, Staff do not anticipate adverse impacts to the safety of pedestrians, cyclists, or vehicles. Further, Staff do not anticipate that the proposal will compromise the function of the road as a result of the increased density. This stretch of Four Mile Creek Road has a speed limit of 50km/h and drivers are required to adhere to this speed. In November 2025, Council approved the speed reduction from 50km/h to 40km/h on all municipal local roads. This area of Four Mile Creek Road is classified as a collector road and such reduction would not apply to this road.

#### **5.1.2.6 Residential Infill and Intensification Policies (OPA 78)**

The Town implemented residential and intensification policies for Old Town and Virgil through the approval of Official Plan Amendment No. 78, which primarily focuses on compatibility between new development and existing lands designated for residential use. The applicant's Urban Design Brief provided commentary on the applicable criteria in relation to the proposed development. The following development criteria and accompanying Staff analysis are applicable:

- a) The lot frontage(s) and lot area(s) of the proposed new lot(s) shall be consistent with the sizes of existing lots on both sides of the street on which the property is located.

As the subject lands are currently comprised of two parcels severed through a previous Consent application, the lands will be required to remerge in title in order to facilitate the proposed development. The subject lands, as merged, will align with the frontage of the lands directly to the north. The majority of residential properties in this area have lesser frontages (ranging from 15 metres to 30 metres) and lesser lot areas (ranging from 650 square metres to 1,400 square metres); however, these lots accommodate single-detached dwellings and their configurations are appropriate for this use. The proposed lot frontage and area of the subject lands are appropriately sized to accommodate the proposed apartment building.

- b) The proposed new building(s) shall have heights, massing and scale appropriate for the site and generally consistent with that permitted by the zoning for adjacent properties and properties on the same street.

The proposed massing and scale of the development is further discussed in Section 5.1.2.4 of this report, with respect to compatibility, design, and shadowing. Staff note that the surrounding residential properties are zoned to allow for maximum heights of 10 metres for single-detached dwellings. The abutting agricultural property is permitted as-of-right to

construct farm buildings up to 10.67 metres in height. Further south of the subject lands is the Radiant Care Pleasant Manor retirement community, with height approvals up to 17.2 metres. As such, Staff are of the opinion that the proposed 11-metre-tall apartment building is generally consistent with other height permissions in the immediate area.

- c) Front and rear yard setbacks for the new building(s) shall be consistent with the front and rear yards that exist on the same side of the street.

The front yard setback of the proposal exceeds the Zoning By-law's minimum requirement of 7.5 metres, and aligns with the front yard setbacks of dwellings to the south of the subject lands. With the exception of the lands immediately to the north (1845 Four Mile Creek Road), the proposed front yard setback similarly aligns with the front yard setbacks of the properties to the north. The proposed rear yard setback has been reduced to ensure that the front yard setback of the development can be increased to provide consistency with the established streetscape of the area. In addition to ensuring appropriate separation between uses and shared lot lines, rear yard setbacks are intended to ensure there is sufficient outdoor amenity space to accommodate the uses on-site. Even with the reduced rear yard setback, a sufficient amenity area would be provided through common and private outdoor amenity spaces.

- d) The setback between new building(s) and the interior side lot line shall increase as the lot frontage increases.

Interior side yard setbacks for this form of development are tied to overall building height. With the proposed building height of 11 metres, the minimum required side yard setbacks would be 11 metres. The development achieves this required side yard setback on the north side of the lands, primarily to the residential portion of the building. The southern side yard setback has been reduced, but this reduction is mitigated with building step-backs and landscaping. The proposed setbacks on the subject lands allow for adequate separation between the apartment building and adjacent single-detached dwelling properties. The 38-metre frontage of the subject lands ensures that the building can be situated more central to the property as to not result in adverse impacts to neighbours.

- e) The new buildings shall have a complimentary relationship with existing buildings while accommodating a diversity of building styles, materials and colours.

The proposed design and building style are addressed and discussed in detail in Section 5.1.2.4 of this report.

- f) Existing trees and vegetation shall be retained and enhanced through a new street tree planting and additional on-site landscaping.

Discussion on tree retention and on-site landscaping enhancement is addressed and provided under Section 5.1.2.7 of this report.

- g) The width of the garage(s) and driveway(s) at the front of new building(s) shall be limited to ensure that the streetscape is not dominated by garages and driveways.

While the Applications propose two driveways/entrances to the site, their visual impact to the streetscape is mitigated through the planting of mature trees and vegetation. The proposed

parking garage will be accessed to the side of the building, rather than the front, so as to not portray a garage-dominating building façade.

- h) New driveways and service connections shall be sited to minimize tree loss.

Out of the 29 trees assessed on or adjacent to the subject lands, the removal of 17 individual trees and one (1) unit containing six (6) cedar trees is warranted to accommodate the development as proposed. There is one (1) existing tree at the frontage of the subject lands, which is proposed to be removed to accommodate the development, primarily the driveways and service connections. As discussed under Section 5.1.2.7 of this report, this tree is identified as a weed species and has large pruning wounds. It is recommended by the applicant's submission that this tree be removed and replaced with a species more suitable for the conditions of the area. Through the development, the applicant proposes to replant trees at the frontage of the subject lands to contribute to the character of the area and mitigate any adverse impacts to the streetscape that may result from the massing and scale of the development. The removal of trees resulting from the proposed accesses and service connections would be offset through the implementation of additional plantings.

- i) Impacts on adjacent properties shall be minimized in relation to grading, drainage, access and circulation, privacy, and microclimatic conditions such as shadowing.

Matters relating to the above-mentioned topics are discussed and addressed in detail under Sections 5.1.2.4 and 5.1.2.5 of this report.

- j) The orientation and sizing of new lots shall not have a negative impact on significant public views and vistas that help define a residential neighborhood.

Since there are no current protected views and the subject lands are reemerging as to the original configuration pre-severance, Staff do not anticipate the consolidated lots to have negative impacts on public views and vistas.

- k) Proposals to extend the public street network should be designed to improve neighborhood connectivity, improve local traffic circulation, and enhance conditions for pedestrians and cyclists.

The current Applications do not propose to extend the public street network.

- l) Road and/or municipal infrastructure shall be adequate to provide water and wastewater service, waste management services, and fire protection.

Matters relating to the above-mentioned topics are discussed and addressed in detail under Sections 5.1.2.5, 5.1.2.9, and 5.3.1 of this report.

Town Staff consider the proposed development to be compatible with the surrounding community, pursuant to the policies of OPA 78.

#### **5.1.2.7 Tree Protection and Preservation**

The Town OP directs that existing trees must not be unnecessarily removed and that, wherever possible, existing trees should be preserved and protected. Within the urban areas, where it

may be unavoidable that trees be removed, the proponent of the development shall plant trees of a similar or comparable species.

The applicant's Arborist Report and Tree Inventory and Preservation Plan (prepared by Jackson Arboriculture Inc., dated January 6, 2024), identified a total of 22 individual/standalone trees and two (2) tree units, containing a total of seven (7) cedars, on and adjacent to the subject lands, for a grant total of 29 trees. The proposed development warrants the removal of 17 individual trees and one (1) unit containing six (6) cedar trees, for a total removal of 23 trees. The development does not propose to retain any existing trees on-site. The remaining six (6) trees are proposed to be preserved and protected, as they are on the neighbouring lands to the north of the subject property. Staff note that three (3) trees and one (1) of the units containing the six (6) cedars, proposed for removal, are in close proximity to the shared property lines. As such, consent from the adjacent land owners is required in order to remove any potential boundary trees.

As part of the submitted Arborist Report, it is stated that three (3) of the proposed tree removals include weed species and are unregulated by the Town's private tree by-law. The tree directly abutting the Town boulevard may be preserved as part of the development; however, this tree is identified as a weed species (therefore, it is exempt under the private tree by-law) and has large pruning wounds. As such, it is anticipated that this tree be removed so that it is replaced with a tree species more suitable for the conditions of the urban area.

The applicant's Conceptual Landscape Plan (prepared by Landscape Florida, dated January 15, 2025) demonstrates the planting of approximately 13 deciduous trees and a number of smaller ornamental and coniferous trees, as well as a variety of shrubs and perennials.

Town Urban Forestry Staff have reviewed the submitted Arborist Report and Landscape Plan, and offer no objection. As part of the future Site Plan Approval process, a more detailed and finalized landscaping plan will be provided and reviewed, in which Staff will comment on species and sizes of the proposed plantings. Landscaping requirements and details will be implemented through the future Site Plan Approval process.

#### **5.1.2.8 Archaeology**

Provincial and local 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 such resources have been conserved to the standards of the Ministry.

The subject lands are not mapped as having archaeological potential according to the archaeological mapping in the NOP and Town OP. As such, an archaeological assessment was not required for the proposal; however, a standard warning clause regarding the possible discovery of deeply buried resources will be included in the future Site Plan Agreement.

#### **5.1.2.9 Waste Collection**

Town OP policy 9.3.2(3)(d) requires service areas for garbage collection/storage on the site of a medium residential density development. Through the submitted materials, the applicant has demonstrated that there will be a garbage room on the south side of the building, adjacent to

the loading area. Residents will be able to dispose of their waste in a refuse room with chutes that lead to the main garbage room.

The Region has advised that, based on the size and nature of the proposed development, Regional waste collection requirements are unable to be satisfied. As such, the owner of the subject lands will be responsible for waste collection through a private contractor, and not the Region. As part of the future Site Plan Approval application, waste collection eligibility will be reassessed by the Region to confirm whether waste collection from the development can be accommodated by the Region.

#### **5.1.2.10 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 adopted and is therefore not in effect but represents Council intent. The subject lands are designated “Residential” in the proposed Official Plan. Medium-rise structures such as multi-floor apartment buildings are permitted, subject to design and location considerations and a zoning by-law amendment. For the Virgil area, building height restrictions limit buildings heights to up to four (4) storeys or 14 metres, whichever is less, on sites designated for medium density development. The proposed new Official Plan also designates this section of Four Mile Creek Road to be a collector road.

#### **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 (R1) Zone” in Zoning By-law 4316-09, as amended. The applicable zoning of the subject lands is shown on **Map 3 of Appendix II** to this report. Single-detached dwellings and accessory buildings are permitted uses within this zone.

A site-specific “Residential Multiple (RM2) Zone” is requested to facilitate the proposed apartment development. The following chart summarizes the site-specific zoning provisions required to facilitate the build-out of the subject lands, as proposed:

<b>Zoning Provision</b>	<b>Standard RM2 Zone</b>	<b>Proposed/Recommended Site-Specific RM2 Zone Provisions</b>
Minimum Lot Area Per Unit	135 m <sup>2</sup>	Not applicable
Maximum Lot Coverage	35%	43%
Minimum Landscaped Open Space	30%	35%
Minimum Front Yard Setback	7.5 m	From the front lot line to the canopy – 11.25 m  From the front lot line to the 1-2 storeys of the building, including the partially underground parking structure – 14 m  From the front lot line to the 3 <sup>rd</sup> storey of the building – 16 m

Zoning Provision	Standard RM2 Zone	Proposed/Recommended Site-Specific RM2 Zone Provisions
Minimum Interior Side Yard Setback	<p>Minimum interior side yard setback of 6.0 m except that where the interior lot line is adjacent to a Residential 1 (R1) Zone... a minimum interior side yard equal to the building height is required, whichever is greater.</p> <p>The proposed parking structure is 1.55 m in height, and the proposed apartment building is 11 m in height to the top of the flat roof (excluding parapets or other ornamental structures).</p>	<p>From the north lot line:</p> <ul style="list-style-type: none"> <li>To parking ramp barrier/wall – 0.9 m</li> <li>To partially underground parking structure – 9.2 m</li> <li>To storeys above partially underground parking structure – 11 m</li> </ul> <p>From the south lot line:</p> <ul style="list-style-type: none"> <li>To partially underground parking structure and 1<sup>st</sup> storey – 7.3 m</li> <li>To 1st storey residential units – 9.2 m for residential units</li> <li>To 2<sup>nd</sup> and 3<sup>rd</sup> storey residential units - 9.2 m, except that one residential unit per storey may be setback 7.3 m</li> </ul>
Minimum Rear Yard Setback	7.5 m	<p>To a partially underground parking structure – 5 m</p> <p>To residential building – 8.5 m</p>
Maximum Building Height	10.5 m	11 m
Minimum Lot Area	No provision	3,075 m <sup>2</sup>

In addition to the above-mentioned provisions, the following chart similarly demonstrates site-specific provisions from Section 6 – General Provisions of the applicable zoning by-law:

General Provisions	Standard Requirements	Site-Specific RM2 Zone
Section 6.39 – Parking Space Requirements	Apartment Building – 1 space per unit	<p>1 space per unit for the apartment use</p> <p>0.1 spaces per unit for visitor parking</p>
Section 6.40 – Parking Space Requirements, Additional Provisions	(i) ... The 2 m (6.56 ft) front yard setback for a parking space shall not be required for residential use, except an apartment building.	A maximum of three (3) parking spaces may be located within the front yard setback, at a minimum setback of 9 metres to the front lot line.

General Provisions	Standard Requirements	Site-Specific RM2 Zone
<p>Section 6.44 – Permitted Yard Projections and Encroachments</p>	<p>Unenclosed and uncovered porch, deck, balcony, patio or steps</p> <p>Front or Rear Yard – 1.5 m</p> <p>Side Yard – 0.6 m</p> <p>A balcony shall not be permitted in any required side yard that is adjacent to any residential zone</p>	<p>Uncovered steps may project 1.2 m into a required side and rear yard</p> <p>Covered/uncovered and unenclosed balconies may project a maximum of:</p> <ul style="list-style-type: none"> <li>• 0.3 m beyond the residential unit face into a required side yard</li> <li>• 1.6 m beyond the residential unit face into a required rear yard</li> <li>• 2.2 m beyond the residential unit face into a required front yard</li> </ul> <p>A balcony shall be permitted in a required side yard that is adjacent to a residential zone, subject to the maximum projection noted above</p>
<p>Section 6.46 – Residential / Agricultural Interface</p>	<p>Where a residential zoned lot abuts an agricultural zone, a 3 m wide buffer strip constructed and maintained along the residential property line, with a board on board wood fence, constructed by the residential developer, is required. The board on board fence shall have no openings and be a minimum height of 1.8 m.</p>	<p>An aluminium fence with a minimum height of 1.5 m is permitted</p>

Pursuant to the analysis below, the proposed zoning category and site-specific provisions are appropriate to accommodate the development. Staff are supportive of the draft Zoning By-law Amendment, attached as **Appendix VI** to this report.

### 5.2.1 Lot Area Per Unit

The intent of this provision is to address matters relating to density and amenity area for developments. The proposed density will be regulated through the associated OPA and the ZBA will control unit sizes, lot coverages, and outdoor amenity areas. Staff believe there are sufficient controls through the ZBA and OPA to control the sizing of the units and provide associated amenity space for the use of the property.

Staff have added a provision to note the minimum lot area of the subject lands. This is not a standard provision in the RM2 zone; however, this provision, in addition to the provisions for lot

coverage and required outdoor amenity space, have been included to further regulate the development on the lands.

### **5.2.2 Lot Coverage vs. Landscaped Open Space**

The proposed development will result in a greater building coverage than the standard provision in the RM2 zone. The increased coverage takes into account the partially underground parking structure, which has a larger footprint than the actual residential building itself. The increased lot coverage is supported by ensuring the majority of parking is accommodated underground, as opposed to surface parking, which can compromise the streetscape. The parking structure accommodates terraces above the structure to provide additional outdoor amenity space to tenants.

The provision for maximum lot coverage intends to prohibit the overdevelopment of a parcel, in which could pose adverse drainage impacts to the property and surrounding lots. Through the engineering submissions provided in support of the proposal, it was confirmed that the proposal would not result in significant or adverse drainage impacts on-site or to adjacent lands.

Through the review of the proposal, Staff recommended to increase the minimum landscaped open space provision to offset the increase in maximum lot coverage. The increased landscaped coverage will ensure that there is sufficient greenery and space for new plantings to buffer the proposed use from abutting neighbours, as well as contribute to a more pedestrian-scaled frontage and visually mitigate the massing of the proposed building.

### **5.2.3 Setbacks**

The proposed front yard setbacks to the canopy, building façade, and upper storey step-back, exceed the minimum requirement of 7.5 metres in the Zoning By-law. Staff are of the opinion that the increased front yard setback will result in better compatibility with the existing streetscape and presence of Four Mile Creek Road, and will assist in mitigating the massing and scale of the proposed development.

The requirement for interior side yard setbacks to apartment buildings on lands adjacent to lower density residential zones, such as a Residential (R1) zone, is either to be a minimum of 6 metres or tied to building heights, whichever setback is greater. Since the proposed building is 11 metres in height, the minimum required side yard setbacks would also be 11 metres to the residential building.

In order to accommodate the ramp leading to the underground parking, a barrier/wall is proposed to screen the ramp from neighbouring lands. The ramp barrier is proposed at a 0.9-metre setback to the northern interior lot line, while the ramp/driveway itself maintains the minimum required 1-metre setback from this lot line. Staff do not anticipate adverse impacts as a result of this proposed setback, as the barrier will act as a screen to shield abutting lands from headlights and noise generated from vehicles entering and existing the parking garage.

Above ground, the parking structure would accommodate raised terraces for the usage of future tenants. While the parking structure side yard setbacks are within the 11-metre setback requirement, the proposed setbacks of 9.2 metres on the northern side and 7.3 metres on the southern side provide for appropriate separation between the structure and adjacent lands. These distances are adequate to accommodate additional landscaping to buffer the structure

from neighbouring properties. The interior side yard setbacks similarly provide sufficient distance for drainage purposes, as to not adversely impact drainage on adjacent lands and the Town boulevard. In addition to this, and given the siting of the building on the lot, the reduced interior side yard setbacks can be considered appropriate with no demonstrated adverse shadowing impacts, as discussed in detail under Section 5.1.2.4 of this report.

The residential building itself maintains the minimum required 11-metre interior side yard setback to the north; however, is within the required 11 metres on the south side. The building has been located closer to the south side of the lands to mitigate shadowing impacts to the northerly residential property. Since there are step backs proposed as part of the building design, the massing, scale, and visual appearance of the development from the southern property are anticipated to be appropriately mitigated, in addition to the proposed mature trees and plantings further buffering the use from the neighbour. The southern interior side yard setback to the residential units is 9.2 metres; however, the southwestern units proposed on the 2<sup>nd</sup> and 3<sup>rd</sup> storeys of the building would align with the southern interior side yard setback to the underground parking structure, being 7.3 metres from the interior lot line.

The reduction in rear yard setback primarily relates to the parking structure. The residential units would maintain the minimum required rear yard setback, with a larger setback proposed at 8.5 metres rather than 7.5 metres. The reduced rear yard setback of 5 metres is considered sufficient, given that this above-ground area will be maintained as common outdoor amenity space, and is further buffered from the abutting agricultural lands via landscaping and fencing.

Staff do not anticipate that the reduced setbacks to the interior side yards and rear yard will result in adverse impacts, as they maintain sufficient distance between the building, the units, and adjacent lands, to mitigate land use compatibility concerns.

#### **5.2.4 Building Height**

The proposed building height, being 11 metres, exceeds the maximum standard for an apartment building of 10.5 metres in the RM2 zone. However, this increase in height is supported by the submission of a Shadow Study and other supporting materials to justify that the proposed height will not result in adverse impacts. Since the initial submission of the Applications, the maximum height of the building was decreased from 11.28 metres to 11 metres by shifting the parking structure further underground. The submitted Shadow Study demonstrates that no adverse shadowing impacts will occur to abutting lands within the allotted time period referenced in the Region's Shadow Study TOR. With the increased front yard setbacks, additional step backs proposed to the upper storeys, and the various landscaping proposed around the site, the massing and scale of the increased height is anticipated to be mitigated appropriately.

The surrounding R1 zoned residential properties have as-of-right permissions for maximum heights of 10 metres for single-detached dwellings. The adjacent farmland has permissions to construct farm buildings up to 10.67 metres in height. The Radiant Care Pleasant Manor retirement community, south of the subject lands, has height approvals of up to 17.2 metres. Staff are of the opinion that the proposed 11-metre-tall apartment building will be compatible with its surroundings.

More detailed discussion pertaining to the findings of the Shadow Study and overall compatibility of the proposed building height can be found under Sections 5.1.2.4 and 5.1.2.6 of this report.

### **5.2.5 Parking**

Section 6.39 requires one (1) parking space per unit for an apartment building; there are no provisions to require visitor parking spaces. The development proposes 29 residential units in total to be accommodated within the underground parking structure. To accommodate any guests/visitors, three (3) additional parking spaces have been allocated to the front of the building for easier access. The applicant proposes a parking rate of 1 space per unit for the apartment use and 0.1 spaces per unit for visitor parking to ensure that a total of 32 spaces (29 for the residential units and three [3] for visitor parking) can be accommodated on-site.

A provision has been implemented to allow for a maximum of three (3) parking spaces (the visitor parking spaces) to be located within the front yard setback. The minimum front yard setbacks for parking of an apartment building is required at 2 metres. While the proposed parking configuration exceeds this setback at 9 metres, Staff have included this provision to ensure that a limited amount of parking is provided in front of the building in order to maintain a consistent and attractive streetscape. Such parking will be visually screened with landscaping.

Section 6.42 requires two (2) accessible parking spaces. The two (2) accessible parking spaces are proposed within the underground parking garage, with unobstructed access to the entrance to the building from inside. The proposed accessible spaces meet the minimum size requirements as noted in the Zoning By-law, and the Joint Accessibility Committee has provided no objections to the proposed accessible spaces.

The underground parking structure proposes a total of eleven (11) bicycle spaces. There are no minimum bicycle parking requirements for residential apartments in the Zoning By-law; however, the implementation of such spaces will be of benefit to the tenants and allow them to have appropriate bicycle storage, given that Four Mile Creek Road and surrounding roads are designated as a Strategic Cycling Network in Schedule J2 of the NOP.

As a result, the proposal exceeds the parking requirements of the Zoning By-law.

### **5.2.6 Encroachments**

A secondary entrance to the parking structure is provided at the rear of the proposed building, including uncovered steps. Uncovered steps may project a maximum of 1.5 metres into a required rear yard. In addition, uncovered steps are proposed along the southern interior side yard for access to the playground amenity space. As a result of these steps, a maximum projection of 1.2 metres is proposed to capture their encroachments into the required yards. Of the two required yards, steps are permitted to encroach into a required side yard by 0.6 metres. Staff do not anticipate adverse impacts as a result of the additional encroachment of the steps, being 1.2 metres into the required side yard.

The proposed balconies are proposed to encroach into required side yard setbacks by 0.3 metres, specifically beyond the residential unit faces. These balconies are further recessed into the residential units to achieve better land use compatibility with adjacent lands. While the Zoning By-law does not permit balconies within the side yard setback adjacent to residential properties, the balconies would be inset from the edge of the parking structure. Specifying their

projection past the residential unit faces will limit them from projecting past the differing setbacks to the various parts of the building on the south side. Staff are of the opinion that, while the balconies would project minimally into a side yard adjacent to residential lands, their location (being inset from the units) and allowable projections will limit their prominence to neighbouring lands to achieve appropriate land use compatibility.

Balconies within the rear yard are proposed to project approximately 1.6 metres. The projections would continue to maintain appropriate separation between the edge of the balconies and rear yard, as the balconies would remain inset to the edge of the parking structure and raised terraces. Similarly, balconies within the front yard may project up to 2.2 metres. Given the increased front yard setback of the building, including the 3<sup>rd</sup> storey step back, the proposed maximum projection can be considered appropriate. The inclusion of balconies and other private amenity spaces in the front yard, visible from the street, provide for a more pedestrian-scaled façade that encourages public and private interactions in residential areas.

As a result, Staff do not anticipate any adverse impacts resulting from any of the increased projections into the required yards.

### **5.2.7 Agricultural / Residential Interface**

It should also be noted that, as part of the first iteration of the proposal, a reduced buffer from the outdoor amenity area to the agricultural lands was proposed. However, the applicant now proposes to maintain the minimum required buffer of 3 metres as per Section 6.46 of Zoning By-law 4316-09 (as amended). The applicant has requested to construct a 1.5-metre-tall aluminium fence, in place of a 1.8-metre-tall board on board wood fence. Through the applicant's submissions, they have noted that the intent of the reduced fence height is to enable greater visibility towards the agricultural lot, thereby amplifying the rear yard amenity area. The playground area itself will be enclosed by an additional 1.2-metre-tall aluminium fence, and the rear yard terrace amenity areas are further enclosed by railings at the perimeters of the terraces, above the parking structure. As a result of the increased separation and fencing, Staff do not anticipate adverse impacts to the playground and rear yard amenity areas as a result of normal farm practices occurring on the adjacent agricultural lot. Staff will incorporate a clause in the future Site Plan Agreement to ensure that future tenants are advised of their proximity to agricultural uses.

## **5.3 Consultation**

The Applications were circulated to Town departments and external agencies for review and comment. Public notice of the Applications was provided as required under the *Planning Act*. Comments submitted by Town departments and external agencies are included in **Appendix VII** to this report.

### **5.3.1 Town Departments**

**Building** – No objections. Building Staff's previous comment with respect to a secondary entrance/exit in the parking structure has been addressed through the resubmission of materials. A full Building Code Matrix will be provided as part of the Site Plan Approval process.

**Finance** – No objections.

**Fire and Emergency Services** – No objections to the proposed OPA and ZBA applications. Detailed comments with respect to the future Site Plan Approval process include matters such as fire hydrant flows and location confirmations, as well as fire access requirements.

**Heritage** – No objections. The lands are not mapped as having archaeological potential, and are not located in proximity to any cultural heritage resources.

**Public Works & Infrastructure** – No objections. More detailed matters regarding servicing, stormwater, and the municipal right-of-way are to be addressed as part of the future Site Plan Approval process.

**Urban Forestry** – No objections to the submitted Arborist Report and Tree Preservation Plan. A more detailed landscape plan will be provided at the Site Plan Approval stage, where Staff will review this plan and the proposed plantings further. Staff note that the removal of boundary trees is subject to consent from the abutting landowner.

**Urban Design** – Town Staff engaged with a Regional Urban Design Specialist to review urban design conditions with respect to the proposal. General comments included, but are not limited to: overview and height of the building, streetscape, vehicular and pedestrian circulation, and overall building design associated with locational context of the surrounding neighbourhood. A more detailed breakdown of the Urban Design considerations and responses by the applicant are provided under Section 5.1.2.4 of this report.

### **5.3.2 External Agencies**

**Conseil Scolaire Catholique MonAvenir (French Catholic School Board)** – No objections.

**District School Board of Niagara (DSBN)** – No objections.

**Enbridge Gas** – No objections.

**Joint Accessibility Advisory Committee** – No objections. As part of the future Site Plan Approval process, one accessible parking space must be signed as van-sized.

**Niagara Catholic District School Board (NCDSB)** – No objections.

**Niagara Peninsula Conservation Authority (NPCA)** – No objections.

**Niagara Region** – No objections. Regional Staff note that waste collection will be the responsibility of the owner through a private contractor. As part of the future Site Plan Approval process, waste collection eligibility will be reassessed to determine whether or not the Region may accommodate waste collection for the development.

### **5.3.3 Public**

An electronic Open House was held on May 14, 2025, where three (3) members of the public were in attendance to provide comments and ask questions. A statutory Public Meeting was held on June 3, 2025, where five (5) members of the public spoke in opposition to the proposal. In addition to the verbal comments received during the Public Meeting, Staff received

six (6) letters in opposition to the proposal. The concerns raised through the public forums and written correspondences are summarized and addressed in the table below:

<b>Public Comment</b>	<b>Response</b>
Concerns related to groundwater, flooding, and drainage issues.	Review by the Town’s Public Works & Infrastructure Department and a third-party peer reviewer have confirmed that there are no anticipated adverse impacts resulting from the proposed stormwater management approach. Construction works for the development will not impact groundwater or cause flooding. These matters are discussed in more detail under Section 5.1.2.5 of this report.
Concerns related to traffic, primarily with respect to increased vehicular speeds along this stretch of Four Mile Creek Road, increased traffic in general, and overall pedestrian safety.	Staff do not anticipate adverse impacts to the safety of pedestrians, cyclists, and drivers. Adverse impacts to the road’s functionality and capacity as a result of the proposed development are not anticipated either. This has been discussed in Section 5.1.2.5 of this report.
Concerns that the proposal is not compatible with the surrounding area with respect to its increased density and built-form.	Staff are of the opinion that the development is compatible. This is discussed in further detail under Section 5.1.2.4 of this report.
Concerns with incompatibility between the proposed playground and adjacent agricultural uses.	Staff do not anticipate adverse incompatibility between the proposed playground area and adjacent agricultural uses, as discussed under Section 5.2.7 of this report. As part of the future Site Plan Approval process, a condition within the Site Plan Agreement will be implemented which notifies future occupants of their proximity to agricultural lands and normal farm practices.
Concerns with potential overflow of parking, that not enough parking is being provided to support the future residents and its visitors.	The proposal exceeds the minimum parking requirement as set out in the Town’s Zoning By-law, as discussed in Section 5.2 of this report.
Concerns with respect to lighting shining onto neighbouring properties.	As part of the future Site Plan Approval process, lighting will be reviewed to ensure that no light trespass results from the proposed development.
Noise concerns with respect to the future construction of the development and ongoing noise generated from the increased density.	The Town has standards for controlling noise and dust caused by developments, and similarly has controls for noise generated from private properties. The future development must adhere to the Town’s applicable policies and by-laws to ensure no adverse impacts arise from construction. Noise on private properties is further controlled through By-law Enforcement.

Public Comment	Response
History of previous approvals on the property conflict with the current proposal.	At the time of the severance, the previous owner intended to develop the lands to accommodate single-detached dwellings. Town Staff and external agencies have now reviewed the current proposal against applicable policy requirements and supporting information provided with the request.

## 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 and Zoning By-law Amendments.

## 8. FINANCIAL IMPLICATIONS

The owner will be responsible for all costs associated with the proposal, including the financial costs associated with the future Site Plan Approval and addressing conditions in the agreement. The Town will collect applicable Development Charges at the time of building permit issuance. Securities and deposits will be collected and released in accordance with the terms of the future Site Plan Agreement.

## 9. ENVIRONMENTAL IMPLICATIONS

Servicing matters, including stormwater management and drainage, are discussed in detail under Section 5.1.2.5 of this report. Tree removals are discussed in detail under Section 5.1.2.7 of this report. Land use compatibility between the residential use and existing agricultural use adjacent to the subject lands is discussed in detail under Section 5.2 of this report. As a result of the analysis provided in the above-mentioned report sections, there are no significant environmental implications anticipated.

## 10. COMMUNICATIONS

Once Council has made a decision on the Application, 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 Council's decision 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 Official Plan Amendment Application OPA-03-2025 and Zoning By-law Amendment Application ZBA-03-2025, as the Applications meet *Planning Act* requirements, are consistent with the Provincial Planning Statement, and conforms with local planning policies.

## 12. PREVIOUS REPORTS

- **CDS-23-071** – Consent Application B-08/23 – 1839 Four Mile Creek Road (April 20, 2023)
- **CDS-25-074** – Public Meeting – 1839 Four Mile Creek Road (OPA-03-2025 & ZBA-03-2025) (June 3, 2025)

## 13. APPENDICES

- **Appendix I** – Architectural Drawings
- **Appendix II** – Maps
- **Appendix III** – Notice Circulation Radius
- **Appendix IV** – Planning Legislation and Policies
- **Appendix V** – Draft Official Plan Amendment
- **Appendix VI** – Draft Zoning By-law Amendment
- **Appendix VII** – Town and Agency Comments
- **Appendix VIII** – Public Comments

Respectfully submitted:

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