

December 19, 2023

Via email at Julie Hannah at jhannah@niagarafalls.ca

City of Niagara Falls
Planning & Development
4310 Queen Street
Niagara Falls, ON L2E 6X5

ATTN: Julie Hannah, MCIP RPP
Senior Manager of Current Planning

RE: 9234 Sodom Road, City of Niagara Falls
Zoning By-law Amendment

Dear Ms. Hannah,

Larry Kotseff and Associates Inc. are the planning consultants to Polocorp Inc., the owners of lands municipally addressed as 9234 Sodom Road (the "Subject Property") in the City of Niagara Falls. The Owners received approval on the Draft Plan of Subdivision Application (City File #: 26T-11-2019-002), together with the related Zoning By-law Amendment Application (City File #: AM-2019-007) in August 2022, permitting the development of the Subject Property of approximately 100 residential dwelling units. Polocorp appealed the decision on the Plan of Subdivision Application to the Ontario Land Tribunal (OLT-22-004465) as one condition of Draft Plan approval (Condition 7) was determined to be unreasonably onerous to the Owners.

The appeal was ultimately settled in 2023, following changes to the Draft Plan of Subdivision, including the reconfiguration of on-street townhouse lots, multi-blocks 25 and 26, as well as the internal road pattern. As a result of the revisions made to the Draft Plan through the OLT settlement process, the approved zoning does not align with the approved Draft Plan of Subdivision. Additionally, it is our understanding that since the Zoning By-law Amendment was approved, a housekeeping amendment has been completed to the parent By-law (79-200), which amended the as-of-right permissions for various zones. As such, a Zoning By-law Amendment application is required to align the site-specific provisions with the parent by-law and to facilitate development of the Subject Property as per the approved Plan of Subdivision. This letter identifies the changes

proposed to the Zoning By-law (as amended). For context, the chronology of events associated with the Zoning By-law and Draft Plan of Subdivision applications is provided below:

August 9, 2022	Draft Approval obtained for Plan of Subdivision (within Condition# 7)
August 29, 2022	Polocorp appealed Condition# 7 of Draft Plan Approval to the OLT
August 30, 2022	Zoning By-law Amendment Approved (By-law 2022-098 passed)
August 2022 – May 2023	Housekeeping Amendment to parent Zoning By-law (79-200)
May 23, 2023	OLT Settlement

Proposed Changes to By-law 2022-098

a. Residential 1F Density Zone (R1F)

The zone boundary has been revised to include additional lands to the west of ‘Street B’ (Refer to Appendix 1). No changes are proposed to the applicable regulations.

b. Residential Mixed Zone (R3-1181)

The zone boundary has been revised to include additional lands to the west of ‘Street B’ and exclude a portion of lands to the south of ‘Street A’, to reflect the new configuration of Blocks 24 and 25.

No material changes are proposed to the applicable regulations in R3-1181. However, as a result of housekeeping amendment to the parent by-law (79-200), some as-of-right permissions for R3 zone are less restrictive than the approved site-specific regulations through By-law 2022-098 (R3-1181). The below noted amendments are proposed to ensure that the site-specific regulations align with the permissions in the parent By-law (By-law 79-200) for R3 Zone:

Regulation	Parent By-law (79-200)	Site Specific By-law (2022-098)	Proposed
Minimum lot area For an on-street townhouse dwelling	160 sq m	195 sq m	160 sq m
Minimum lot frontage	6.0 m	6.1 m	6.0 m

For an on-street townhouse dwelling			
Minimum Interior Side Yard width	1.2 m	1.5 m	1.2 m

As such, we request that the regulations noted in the table above be removed from the site-specific By-law altogether, in which case the applicable regulations will default to the parent by-law. In the alternative, the site-specific By-law may be amended to reflect the 'proposed' column of Table above.

c. Residential Low Density, Grouped Multiple Dwellings Zone (R4 – 1182)

The zone boundary has been revised to reflect the updated multi residential Block 26. This block forms Phase 2 of the Subdivision, and the unit typology in this block is determined as per Condition 9(a) of the OLT approved conditions of Draft Plan approval:

9. *The roadways and sidewalks be designed and constructed in accordance with City standards which, in part, include the following:*

a) *Dedication of all new road allowances (Street A and Street B) to the City as public highways and Block 27 to the City as future road allowance as part of Phase 1 of the development and all roadways and sidewalks to be constructed to municipal requirements. Notwithstanding the foregoing or any other provision of these conditions, if within eight (8) years of the date of this Order Block 27 has not been approved as part of a future municipal right-of-way extension, then the City shall reconvey Block 27 to Polocorp (the developer) at no cost on the condition that it be utilized as part of the development of the abutting lands*

As per the OLT approved Draft Plan, Block 27 constitutes a future road allowance (refer to Appendix 1) to the municipal right-of-way extension to connect 'Street A' and 'Street 5' (herein referred to as the 'Street A extension'). Street A extension lands currently form a part of the adjacent property, municipally addressed as 9200 Sodom Road. The owners of these lands have the option to convey Street A extension, with municipal approval, to the municipality within 8 years of the OLT decision. If the above series of actions are completed, Block 26 will be developed as per Scenario 1 described below. In case the 8-year time period lapses without the municipal approval of Street A extension, Block 27 will be conveyed back to Polocorp by the City, and Blocks 26 and 27 will be developed as per Scenario 2 described below:

Scenario 1

Scenario 1 applies if Street A extension gets approved by the municipality over the next 8 years. In this case, the northern portion of Block 26 is proposed to be developed as 3 single detached residential lots fronting on 'Street A extension' towards the west, while the southern portion will be developed as 4 on-street townhouse dwelling units, fronting on 'Street A'. Block 27 will be conveyed to the City as municipal road allowance.

Scenario 2

Scenario 2 applies if Street A extension is not approved by the municipality over the next 8 years, and 'Street A' terminates in a cul-de-sac. In this case, Block 26 is proposed to be developed for townhouse dwelling units fronting on a private street, as illustrated in Appendix 2. Block 27 will be conveyed back to Polocorp, and constitute a part of the rear yards of the proposed townhomes on this block.

The below noted site specific regulations are needed to facilitate both development options:

Site specific provisions for Option 1	Site specific provisions for Option 2
<p><u>Permitted uses:</u></p> <p>Permit single detached dwellings and on-street townhouse dwelling units.</p>	<p><u>Front Yard depth:</u></p> <p>Permit a minimum front yard depth of 4.1 metres, while 6 metres is required by the Zoning By-law (79-200).</p> <p>In case of Option 2, 'Street A' will terminate in a cul-de-sac, and the lot line fronting on 'Street A' will form the front lot line for Block 25. The geometry of the cul-de-sac road results in the front yard setback of 4.1 metres at its closest point from the townhouse building, gradually increasing to more than 10 metres towards the east. As such, a site-specific provision is required to facilitate the development of this block with an efficient layout that accommodates 8 dwelling units.</p>

<p><u>Regulations</u></p> <p>Consistent with the above noted unit typology in the rest of the subdivision, zone regulations for R1F zone shall apply to single detached dwellings, and R3-1181 shall apply to on-street townhouse dwellings.</p>	<p><u>Zoning Interpretation</u></p> <p>The setbacks for Block 26 are currently interpreted for the Block as a whole. As such, to avoid interpretation issues at a future stage when townhouse lots are created, the below provision is proposed to be added to the by-law:</p> <p>Condominium approved development, pursuant to The Planning Act, shall deemed to be Group Dwellings as per Section 2 of the By-law. Internal lot lines created by:</p> <ol style="list-style-type: none"> a. A phased registration of a plan of condominium; or b. A plan or plans of condominium registered on a portion of a lot which is part of a comprehensively planned development subject to a Development Agreement pursuant to Section 41, shall not construed to be lot lines for the purpose of zoning regulations provided that all applicable regulations of this By-law relative to the whole lot and its external lot lines existing prior to any condominium plan registration are strictly observed.
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d. Residential Low Density, Grouped Multiple Dwellings Zone (R4 – 1183)

The zone boundary has been revised to reflect the updated multi residential Block 25.

It is our understanding that prior to the housekeeping amendment to By-law 79-200, the stacked townhouse building proposed on Block 25 was defined as an ‘Apartment Dwelling’ per the Zoning By-law definitions applicable at the time. The housekeeping amendment introduced the definition for ‘Stacked Townhouse Dwelling’, as indicated below:

“STACKED TOWNHOUSE DWELLING” means a building containing four or more dwelling units divided horizontally and vertically, with each dwelling unit having a private entrance to the grade level. (2022-095)”

The revised development concept for Block 25 includes a stacked back-to-back townhouse building which is defined as “Stacked Townhouse Dwellings”, per the definition above. As such, the site-specific exceptions approved through By-law 2022-098 need to be amended to address the proposed stacked townhouse unit typology as outlined below:

Regulation	Parent By-law (79-200)	Site Specific By-law (2022-098)	Proposed
Minimum lot area for an apartment/ stacked townhouse dwelling	200 sq m	160 sq m; relief provided for apartment dwelling	160 sq m; relief requested for both, apartment and stacked townhouse dwelling.
Minimum rear yard depth for an apartment/ stacked townhouse dwelling	7.5 m	6 m; relief provided for apartment dwelling	6 m; relief requested for both, apartment and stacked townhouse dwelling.
In addition to the above, the proposed development concept requires the below noted site specific provisions to implement the revisions to the development concept emanating from the OLT decision:			
<i>Minimum interior side yard setback</i>	½ of building height; i.e. 6 m if maximum permitted building height of 12 m is achieved.	N/A	5.25 m; relief required to accommodate grading for Block 25.
<i>Privacy yard depth for each townhouse dwelling unit</i>	7.5 m	N/A	0 m for back-to-back stacked townhouse dwellings; relief required as back-to-back stacked

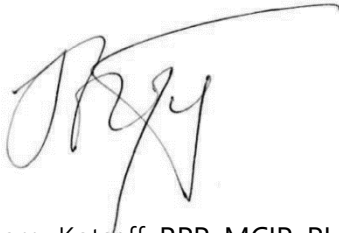
		townhome typology cannot accommodate a setback from the rear wall of every dwelling unit.
<i>Proposed Zoning Interpretation</i>	<p>The setbacks for Block 25 are currently interpreted for the Block as a whole. As such, to avoid interpretation issues at a future stage when townhouse lots are created, the below provision is proposed to be added to the by-law:</p> <p>Condominium approved development, pursuant to The Planning Act, shall deemed to be Group Dwellings as per Section 2 of the By-law. Internal lot lines created by:</p> <ul style="list-style-type: none"> a. A phased registration of a plan of condominium; or b. A plan or plans of condominium registered on a portion of a lot which is part of a comprehensively planned development subject to a Development Agreement pursuant to Section 41, <p>shall not construed to be lot lines for the purpose of zoning regulations provided that all applicable regulations of this By-law relative to the whole lot and its external lot lines existing prior to any condominium plan registration are strictly observed.</p>	

Conclusion

Based on the discussions in this brief, the required relief through the Zoning By-law Amendment Application is largely to align with the revisions made to By-law 79-200 since the previous Zoning By-law Amendment application was approved. Amendments are required to some additional regulations resulting from the reconfiguration of Blocks 25, 26 and 'Street A'. Given that the Draft Plan of Subdivision has been approved through the OLT settlement process, we trust that this brief justification letter, together with the Zoning By-law Amendment Application form and fees shall be sufficient for Staff's review of the proposed minor amendments. The proposed redlined by-law is attached (refer to Appendix 4 and 5) for your ease of reference.

We look forward to Staff's review of this letter and confirmation of submission requirements. Should you require any additional information, or wish to discuss this submission further, please feel free to contact the undersigned.

Sincerely,

A handwritten signature in black ink, appearing to read 'Larry Kotseff', with a long horizontal flourish extending to the right.

Larry Kotseff, RPP, MCIP, PLE

Email: lkotseff@rogers.com

Ph: (519)501-3655

List of Appendices

Appendix 1: Draft Plan of Subdivision

Appendix 2: Conceptual Plan for Block 26

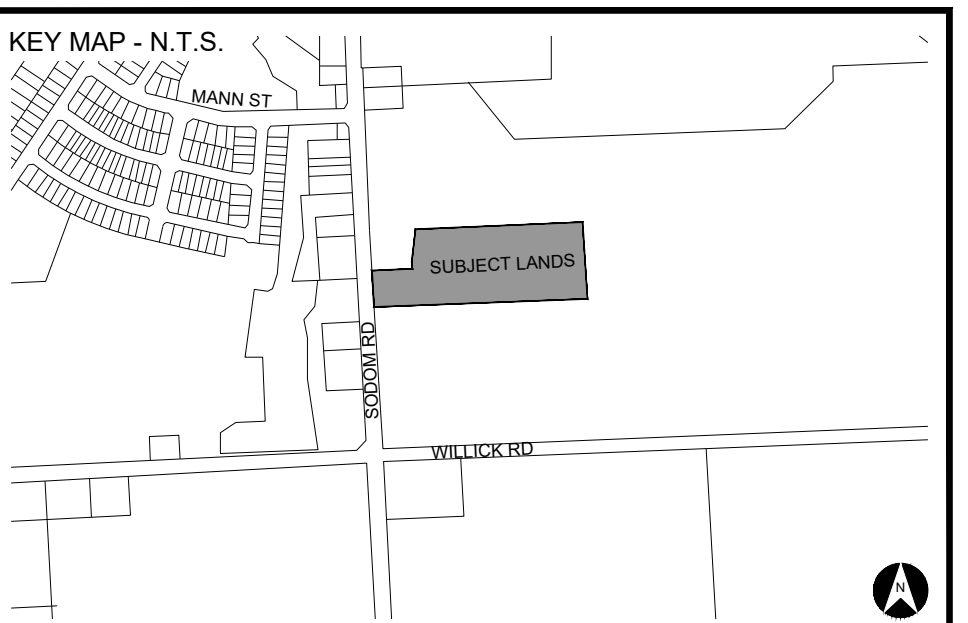
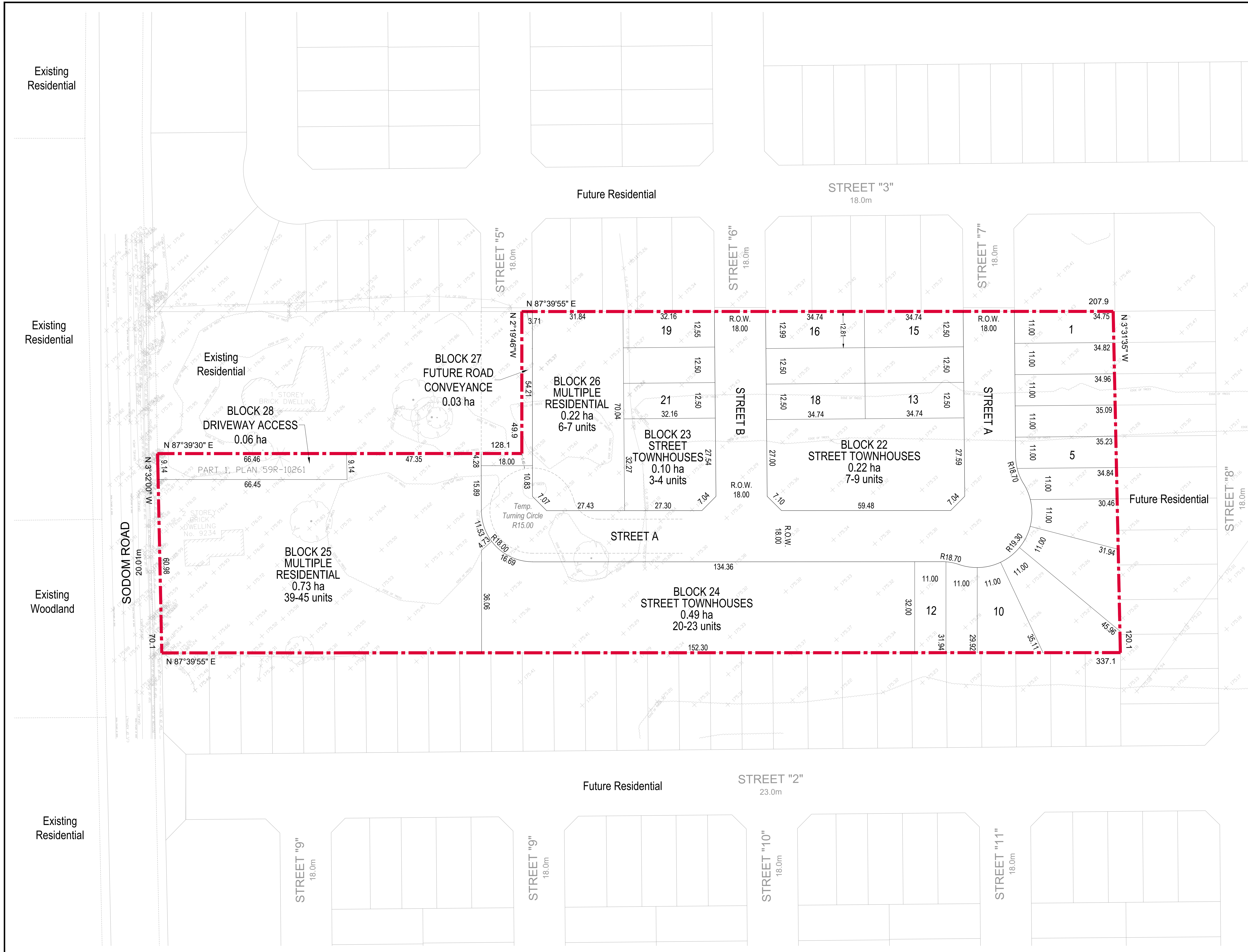
Appendix 3: Draft Lotting Plan

Appendix 4: Redlined By-law

Appendix 5: Zoning Schedule

APPENDIX 1

DRAFT PLAN OF SUBDIVISION



DRAFT PLAN OF SUBDIVISION

9234 SODOM ROAD
 PART OF LOT 19, CONCESSION 2
 GEOGRAPHIC TOWNSHIP OF WILLOUGHBY
 NOW IN THE CITY OF NIAGARA FALLS
 REGIONAL MUNICIPALITY OF NIAGARA

LAND USE SCHEDULE

DESCRIPTION	LOTS/BLKS.	UNITS	AREA(ha.)
Residential (Single Detached)	1-21	21	0.91
Street Townhouses	22-24	30-36	0.82
Multiple Residential	25, 26	45-52	0.96
Future Road Conveyance	27	-	0.03
Driveway Access	28	-	0.06
Roads	-	-	0.63
TOTAL		96-109	3.40

INFORMATION REQUIRED
 UNDER SECTION 51 (17) OF THE PLANNING ACT, R.S.O. 1990, c.P.13 AS AMENDED
 INFORMATION REQUIRED BY CLAUSES a,b,c,d,f,g,j AND I ARE AS SHOWN ON THE DRAFT PLAN.
 (h) Municipal Water Supply
 (i) Sandy Loam
 (k) Municipal Sanitary and Storm Sewers

SURVEYOR'S CERTIFICATE
 I HEREBY CERTIFY THAT THE BOUNDARIES OF THE LANDS TO BE SUBDIVIDED ON THIS PLAN AND THEIR RELATIONSHIP TO THE ADJACENT LANDS ARE ACCURATELY AND CORRECTLY SHOWN.

Dasha Page
 Dasha Page, O.L.S.
 J.D. Barnes Limited

March 15, 2022
 DATE

OWNER'S CERTIFICATE
 I HEREBY CONSENT TO THE FILING OF THIS PLAN BY POLOCORP INC., IN DRAFT FORM.

Michael Puopolo
 Michael Puopolo, Co-CEO
 Polocorp Inc.

March 16, 2022
 DATE

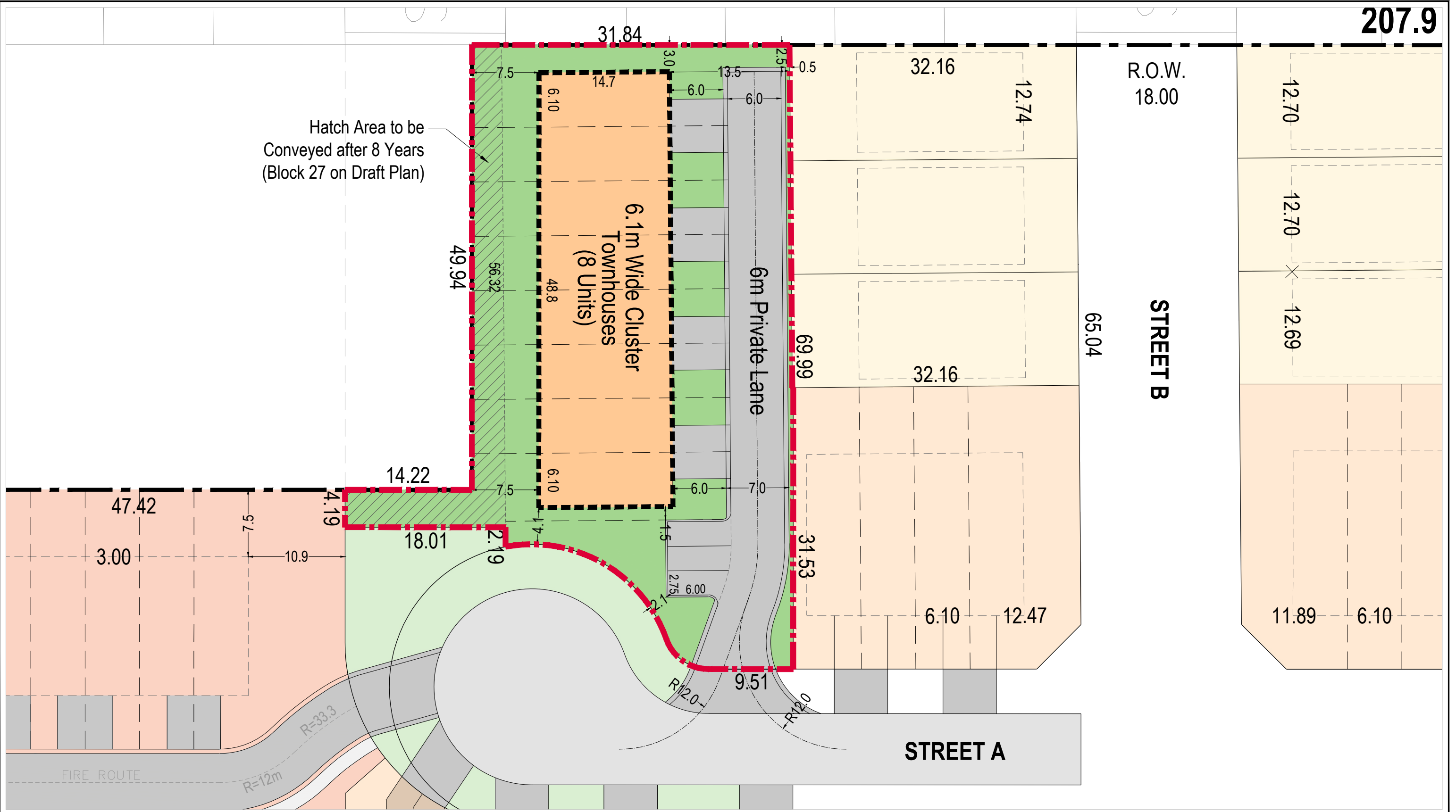
REVISIONS		
DATE	BY	DESCRIPTION

POLOCORP
 379 Queen Street South, Kitchener | N2T 1W6 | 519-745-3249 | polocorpinc.com

DATE: February 1, 2023 SCALE 1:600 (metric)
 PROJECT: 1008 (SODOM) DRAWN BY: DS/RT
 DWG. FILE NAME: dps1008_2023.02.01.dwg

APPENDIX 2
CONCEPTUAL PLAN FOR BLOCK 26

207.9



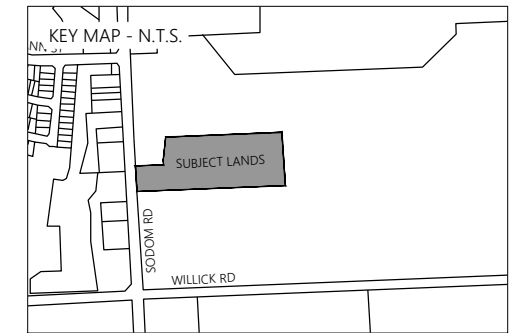
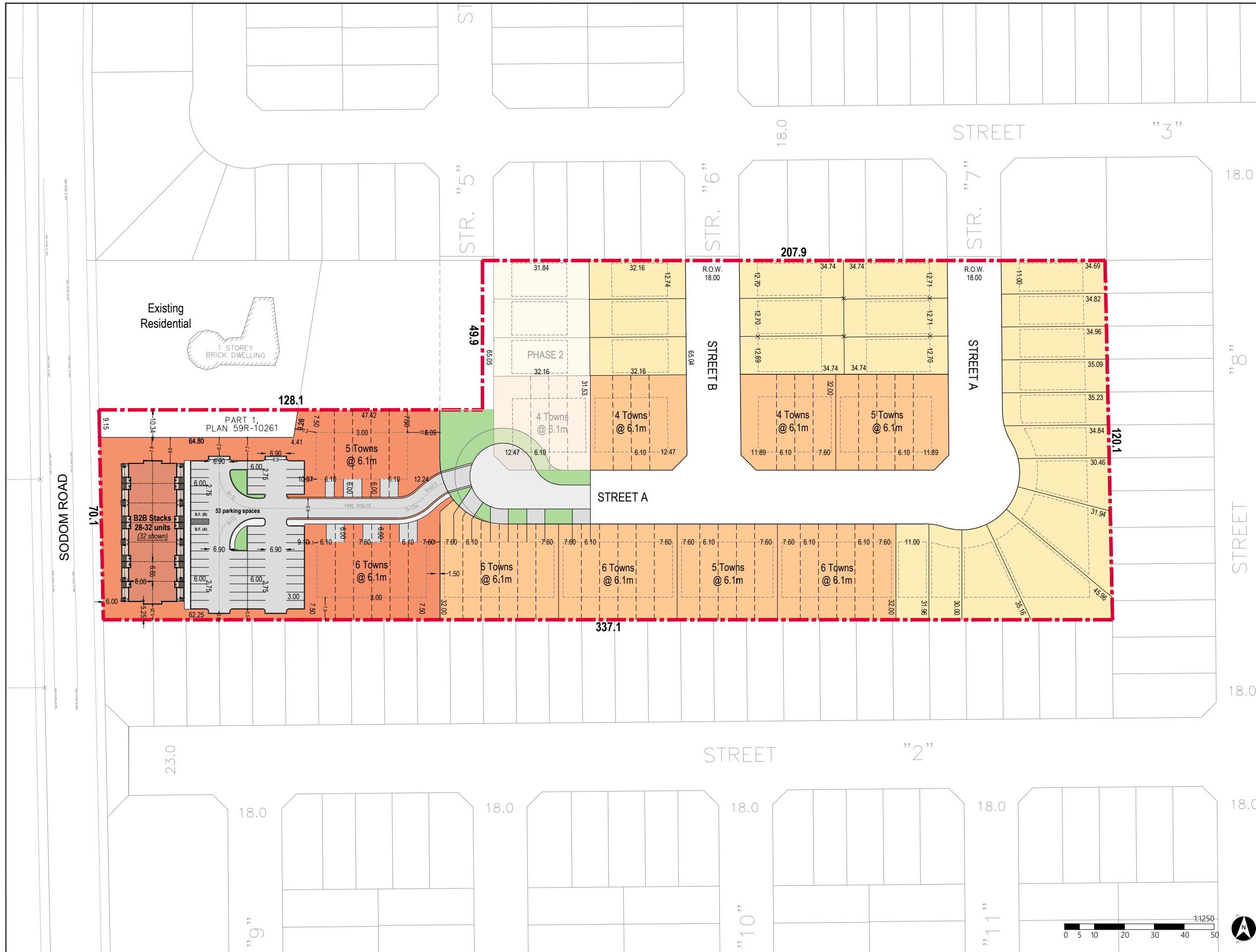
Block 26
DEVELOPMENT CONCEPT
 9234 Sodom Road, Niagara Falls

NOTE: This concept should be considered as a preliminary demonstration model that illustrates an 'order of magnitude' development scenario for the site. The number of units, floor area and parking supply are approximate and subject to more detailed design as well as municipal planning approvals.

POLOCORP
 379 Queen Street South, Kitchener | N2T 1W6 | 519-745-3249 | polocorpinc.com

DATE: December 5, 2023	SCALE 1:400
PROJECT: 1008 (Sodom)	DRAWN BY: GFE

APPENDIX 3
DRAFT LOTTING PLAN



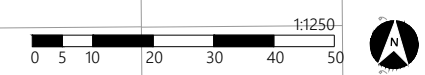
PRELIMINARY SITE PLAN

9234 Sodom Road,
Niagara Falls

Lot Area	3.40ha
No. of Units	100
Single Detached	21
Street Townhouse	36
Cluster Townhouse	11
Stacked Townhouse	32
Density	29.4 uph
Multiple Block Parking Required (1.4/unit)	(43 units) 61
Multiple Block Parking Provided (1.49/unit)	64
Possible Phase 2 Street Townhouse	4
Possible Phase 2 Single Detached	3

NOTE: This concept should be considered as a preliminary demonstration model that illustrates an 'order of magnitude' development scenario for the site. The number of units, floor area and parking supply are approximate and subject to more detailed design as well as municipal planning approvals.

Project #1008 | August 9, 2023 | Drawn By DS/RT/GFE



APPENDIX 4
REDLINED BY-LAW

CITY OF NIAGARA FALLS

By-law No. xxx

A by-law to amend By-law Nos. 395, 1966, 2022-098 and 79-200 to regulate the plan of subdivision located on Part of Lot 19, Concession 2 Willoughby on the lands (AM-2019-007).

THE COUNCIL OF THE CORPORATION OF THE CITY OF NIAGARA FALLS ENACTS AS FOLLOWS:

1. The Lands that are the subject of and affected by the provisions of this by-law are described in Schedule 1 of this by-law and shall be referred to in this by-law as the "Lands". Schedule 1 is a part of this by-law.
2. None of the provisions of By-law No. 395, 1966 and 2022-098 shall apply to prevent the Lands from being added to and placed under the control of By-law No. 79-200.
3. The Lands shall be identified as ~~four~~ **five** parcels, known as Parcels R1F, R3-1181, R4- 1182 ~~and, R4-1183, and DH.~~
4. The purpose of this by-law is to amend the provisions of By-law Nos. 79-200, to permit the use of the Lands in a manner that would otherwise be prohibited by this by-law. In the case of any conflict between a specific provision of this by-law and any existing provision of By-law No. 79-200, the provisions of this by-law are to prevail.
5. Notwithstanding any provision of By-law Nos. ~~2022-098 and~~ 79-200 to the contrary, the following uses and regulations shall be the permitted uses and regulations governing the permitted uses on and of the Lands.
6. The permitted uses shall be:
 - (a) For Parcel R1F, the uses permitted in the R1F zone.
 - (b) For Parcel R3-1181, the uses permitted in the R3 zone.
 - ~~(c) For Parcel R4-1182, the uses permitted in the R4 zone, single detached dwellings in accordance with Section 7.5A of By-law 79-200 and on-street townhouse dwellings in accordance with Section 7 of this By-law.~~
 - ~~(c) and on-street townhouse dwellings and back-to-back townhouse dwellings in accordance with the regulations contained in Section 7.9.2 for a townhouse dwelling;~~
 - (d) For Parcel R4-1183, the uses permitted in the R4 zone; and,
 - ~~(e) For Parcel DH, the uses permitted in the DH zone.~~

7. The regulations governing the permitted uses on Parcel R3-1181:

- | | | |
|-----|--|--|
| (a) | Minimum lot area for an on-street townhouse dwelling | 1 60 ⁹⁵ square metres for each dwelling unit |
| (b) | Minimum lot frontage for an on-street townhouse dwelling | 6. 0 ⁴ metres for each dwelling unit |
| (c) | Minimum interior side yard width for an on-street townhouse dwelling | 1. 25 metres |
| (d) | Maximum height of a building or structure | 12 metres, subject to Section 4.7 of By-law No. 79-200 |
| (e) | The balance of regulations specified for a R3 use. | |

8. The regulations governing the permitted uses on Parcel R4-1182:

- | | | |
|--------------------|---|---|
| (a) | Minimum lot area for a townhouse dwelling | 230 square metres for each dwelling unit |
| (b) | Minimum rear yard depth for a townhouse dwelling | 3 metres |
| (c) | Maximum height of a building or structure | 12 metres, subject to Section 4.7 of By-law No. 79-200 |
| (d) | Location of parking for an on-street townhouse dwelling unit | May locate in a front or exterior side yard, subject to the requirements of clause (a) of Section 4.19.3 of By-law No. 79-200 |
| (e) | Minimum privacy yard for each back- t4 ^o -back townhouse dwelling | 0 metres |
| (e) (f) | <u>Front Yard for a townhouse dwelling</u> | <u>4.1 m</u> |

(g) Condominium Approved development, pursuant to The Planning Act, shall be deemed to be a Group Dwellings as per Section 2 By-law. Internal lot lines created by:

A phased registration of a plan of condominium; or

A plan or plans of condominium registered on a portion of a lot which is part of a comprehensively planned development subject to a Development Agreement pursuant to Section 41.

shall not be construed to be lot lines for the purpose of zoning regulations provided that all applicable regulations of this By-law relative to the whole lot and its external lot lines existing prior to any condominium plan registration are strictly

observed.

~~(f)~~(h) The balance of regulations specified for a R4 use.

9. The regulations governing the permitted uses on Parcel R4-1183:

- | | | |
|-----|---|--|
| (a) | Minimum lot area for an apartment/ <u>stacked townhouse</u> dwelling | 160 square metres for each dwelling unit |
| (b) | Minimum rear yard depth for an apartment/ <u>stacked townhouse</u> dwelling | 6 metres |
| (c) | Maximum height of a building or structure | 12 metres, subject to Section 4.7 of By-law No. 79-200 |

(d) For the purposes of Parcel R4-1183 Street "A" shall be deemed to be the front lot line

(e) Interior Side Yard (minimum): 5.2 m

(f) Minimum privacy yard for each back- to-back stacked townhouse dwelling 0 m

(g) Condominium Approved development, pursuant to The Planning Act, shall be deemed to be a Group Dwellings as per Section 2 By-law. Internal lot lines created by:

A phased registration of a plan of condominium; or

A plan or plans of condominium registered on a portion of a lot which is part of a comprehensively planned development subject to a Development Agreement pursuant to Section 41.

shall not be construed to be lot lines for the purpose of zoning regulations provided that all applicable regulations of this By-law relative to the whole lot and its external lot lines existing prior to any condominium plan registration are strictly observed.

(h) The balance of regulations specified for a R4 use.

~~(d)~~

~~(d) The balance of regulations specified for a R4 use_~~

10. The regulations governing the permitted uses on Parcel R1F shall be the regulations specified for a R1F use_

~~11 The regulations governing the permitted uses on Parcel DH shall be the regulations specified for a DH use_~~

12_ For the purposes of this by-law:

"Back-to-back townhouse dwelling" means a building containing four or more dwelling units divided by vertical common walls above grade, including a common rear wall_

13_ All other applicable regulations set out in By-law No_ 79-200 shall continue to apply to govern the permitted uses on the Lands, with all necessary changes in detail.

14_ No person shall use the Lands for a use that is not a permitted use.

15_ No person shall use the Lands in a manner that is contrary to the regulations_

16_ The provisions of this by-law shall be shown on Sheets D7 and E7 of Schedule "A" of By-law No_ 79-200 by designating the Lands R1F, in part, R3 and numbered 1181, in part, R4 and numbered 1182, in part, R4 and numbered 1183, in part, ~~and DH, in part_~~

APPENDIX 5
ZONING SCHEDULE

R3-1162
(Chippawa East)

Rural

R4-1182

R1F

R4-1183

R3-1181

DH

Rural

R3-1162
(Chippawa East)

