

**Planning Justification Report**  
**Zoning By-law Amendment and**  
**Draft Plan of Vacant Land Condominium**

**8168 McLeod Road**

**Niagara Falls, ON**

**March 2024**

**(Revised August 2024)**

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## **PREFACE**

Upper Canada Consultants has been retained by Lotus Land Development Corp. to prepare a Planning Justification Report in conjunction with applications for Zoning By-law Amendment and Draft Plan of Vacant Land Condominium. These applications pertain to an existing urban lot known municipally as 8168 McLeod Road in the City of Niagara Falls.

The applications are being made concurrently to facilitate the development of the subject lands with three (3) groups of townhouse structures containing a total of eighteen (18) dwelling units with roadway access provided by a private internal roadway. Each proposed dwelling unit will also have an accessory dwelling unit provided within for a total of thirty-six (36) housing opportunities on the property.

The Zoning By-law Amendment proposes to change the zoning of the property from Light Industrial (LI) to site-specific Residential Low Density, Grouped Multiple Dwellings Zone (R4-X). The Draft Plan of Vacant Land Condominium will establish the individual ownership of the units as well as the common elements.

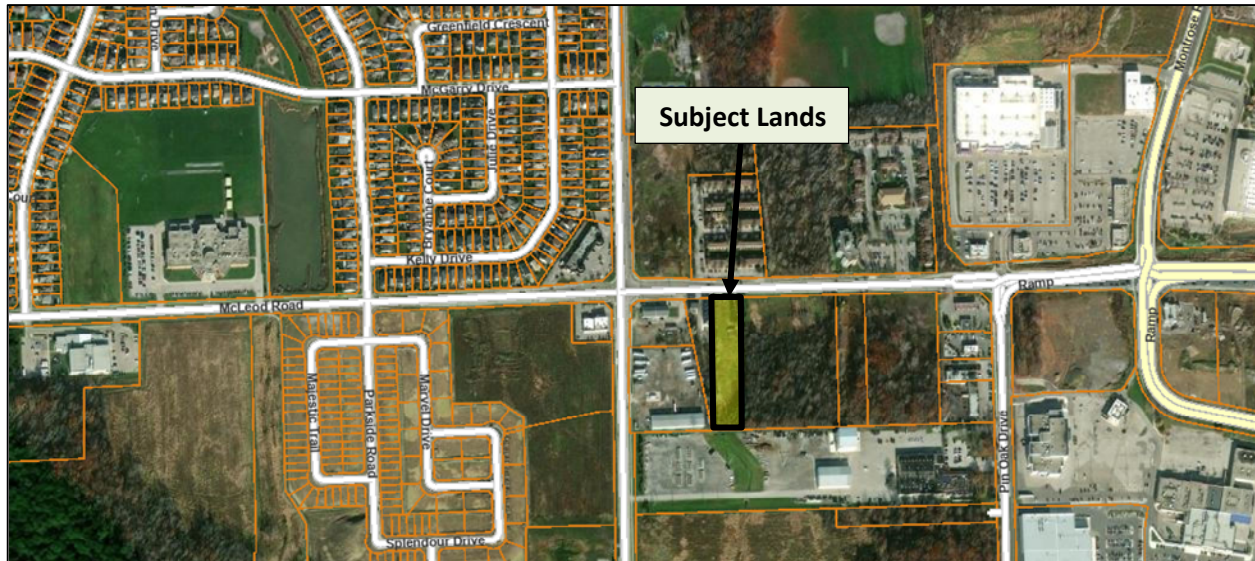
This Planning Justification Report provides an analysis of the manner in which the applications satisfy the requirements of the Planning Act, are consistent with the 2020 Provincial Policy Statement, and conform to the 2020 Growth Plan for the Greater Golden Horseshoe, 2014 and 2022 Niagara Official Plans and the City of Niagara Falls Official Plan (as amended).

This report should be read in conjunction with the following, additional materials and reports:

- Environmental Impact Study prepared By Terrastory Environmental Consulting Inc.;
- Functional Servicing Report prepared by Upper Canada Consultants ;
- Stage 1 and 2 Archeological Assessment prepared by Earthworks Archeological Services Inc.;
- Land Use Compatibility Study (D6 Guidelines) prepared by RWDI Air Inc.;
- Noise and Vibration Study prepared by RWDI Air Inc.; *and*
- Tree Inventory prepared by Terrastory Environmental Consulting Inc.

## **DESCRIPTION AND LOCATION OF THE SUBJECT LANDS**

The subject lands are municipally addressed as 8168 McLeod Road in the City of Niagara Falls, within the Regional Municipality of Niagara and are described legally Part of Township Lot 179, Geographic Township of Stamford. The subject lands are physically located on the south side of McLeod Road, west of Pin Oak Drive and east of Kalar Road. An aerial view of the subject lands and surrounding area is provided in **Figure 1**.



**Figure 1 - Subject Lands - 8168 McLeod Road, Niagara Falls**

The subject lands are generally rectangular in geometry and have been surveyed to measure 8,090 square metres in area. The subject lands have 41.72 meters of frontage along McLeod Road and a depth of 193.98 meters from north to south. The property currently contains a single detached dwelling and an accessory structure in the rear yard.

The subject lands are located adjacent to several multiple-unit residential developments to the north, northeast and west with existing industrial uses located to the south. To the immediate east is a vacant residential property (8100 McLeod Road) containing a Provincially Significant Wetland and wooded area.

Historical aerial imagery indicates that the subject lands and surrounding area were previously cleared and farmed in the year 1934. A structure consistent with the size and placement of the existing dwelling is visible on a 1954-1955 aerial photo, shown below as **Figure 2**.



Figure 2 - 1954/1955 Aerial Image of Subject Lands

### Growth Context

The subject property is located within the City of Niagara Falls Urban Area Boundary and within the Provincially delineated Built-up Area. The property is designated as “Residential” on Schedule A of the City of Niagara Falls Official Plan, and is located with the Garner South Secondary Plan (GSSP) Area. The lands are designated as “Residential High Density” and “Environmental Protection Area” on Schedule A3 of the GSSP.

The property is currently zoned as Light Industrial (LI) under Zoning By-law 79-200. This zoning does not conform with the residential land use designations within the Official Plan or Garner South Secondary Plan.

### Natural Heritage

The subject lands are partially designated as Environmental Protection Area on Schedule A3 of the GSSP. This land use designation pertains to the general location of the Warren Creek Floodplain. More detailed mapping available from the NPCA watershed viewer shows the lands as containing the floodplain and also being adjacent to mapped provincially significant wetlands that are located to the east.

The 2022 Niagara Region Official Plan shows the southeast portion of the subject lands as containing an “other woodland”. As this development application was scoped prior to the adoption of the new Niagara Official Plan, the natural heritage policies of the 2014 Regional Official Plan are eligible to be applied to this application.

### Transportation

The subject lands have frontage along McLeod Road which is classified as an Arterial Road on Schedule C of the Niagara Falls Official Plan. This segment of McLeod Road is owned and maintained by the City of Niagara Falls and has a planned width of 30 metres and currently is operating as a four-lane thoroughfare.

The subject lands are also serviced by Regional Transit on both sides of McLeod Road. Additional stops are located on Kalar Road to the west.

### Servicing

The subject lands have available urban services available to connect to within McLeod Road including local watermain, sanitary sewer and storm sewer.

Hydro, gas and telecommunications are also available along McLeod Road.

## **DEVELOPMENT PROPOSAL**

The owner is proposing to develop the subject lands as a Vacant Land Condominium containing Block Townhouse Dwellings.

The proposed development form will include three (3) structural blocks of six (6) block townhouses for a total of eighteen (18) primary units. Each unit is also proposed to be designed in a manner that facilitates the inclusion of an accessory dwelling unit. Combined, there will be up to thirty-six (36) new housing opportunities that are being created on the subject property.

The proposed townhouse dwelling units will be two-storeys in height and their primary entrances will face their entrances eastward along the proposed 6.3-metre-wide private driveway and a 1.5 metre curb-facing concrete sidewalk.

Each unit will contain a private garage and driveway for vehicle parking. As tandem parking spaces are not permitted by Zoning By-law 79-200, each unit will only have one (1) legal parking space. Each unit will have one (1) additional functional parking space provided within the garage.

On-site parking will be supplemented through an on-site surface parking lot for visitors and the accessory dwelling units. The parking area will include twenty-six (26) parking spaces and is inclusive of one barrier free space. A ratio of one (1) space per Accessory Dwelling Unit is also proposed.

In total forty-four (44) legal parking spaces are being provided, which exceeds the minimum requirement of 1.4 spaces per unit found in Zoning By-law 79-200. This total count is inclusive of the one (1) space per unit ratio proposed for the Accessory Dwelling Units, as well.

Portions of the subject lands are currently affected by a floodplain. This hazard feature is proposed to be physically adjusted through site engineering to create a consolidated development area at the northern portion of the site.

The southern portion of the property beyond the parking lot will be protected for the long term through the application of EPA Zoning as this area is in proximity to regulated and protected natural heritage and hazard features. Detailed mitigation measures are outlined within the Environmental Impact Study prepared by Terrastory Environmental Consulting, and are deemed to be sufficient to support development by the consulting biologist.

**Figure 3** and **Appendix I** show the proposed Site Plan for the property.

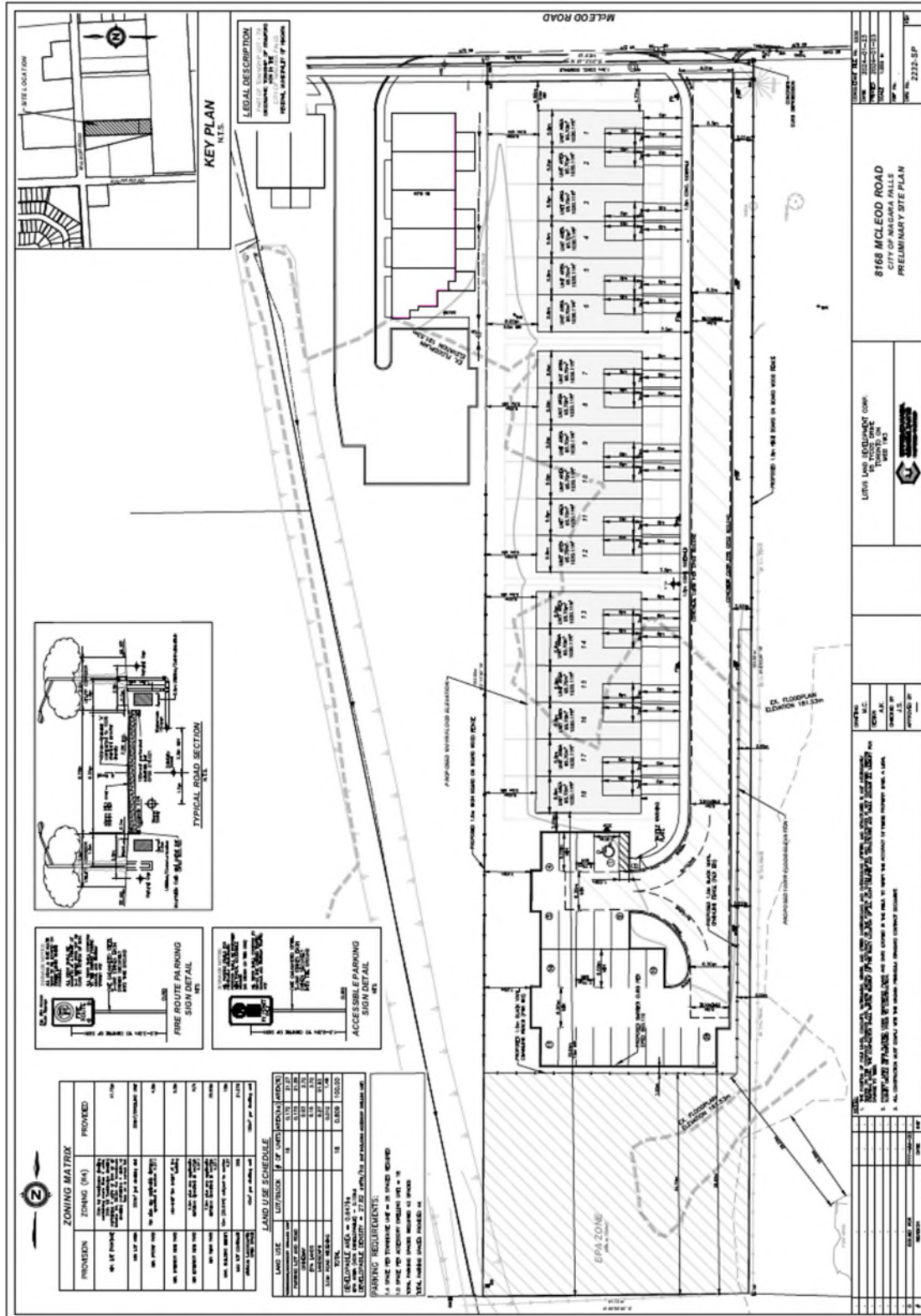


Figure 3 – Preliminary Site Plan - 8168 McLeod Road



## **REQUIRED APPLICATIONS**

An initial pre-consultation meeting pertaining to the submitted application was held on June 30, 2021. An update to the pre-consultation was most recently held on December 21, 2023 where City staff confirmed that a site-specific Zoning By-law Amendment and Draft Plan of Vacant Land Condominium Application are required to develop the property as proposed.

As outlined by the review agencies (City of Niagara Falls, NPCA, Niagara Region), complete application submission requirements include:

- Preliminary Site Plan and Plan of Condominium
- Planning Justification Report
- Archaeological Assessment (Stage 1 & 2)
- Environmental Impact Study
- Noise and Vibration Study
- D6 Land Use Compatibility Study
- Functional Servicing Report / Stormwater Management Plan
- Tree Inventory

### **Draft Plan of Vacant Land Condominium**

The Draft Plan of Vacant Land Condominium will enable the individual ownership of the dwelling units and some associated exclusive yard space. The proposed common elements include the private roadway, perimeter landscaping and drainage areas and the natural heritage area to the south.

The Draft Plan of Vacant Land Condominium is included as **Appendix II** to this report.

### **Zoning By-law Amendment**

A Zoning By-law Amendment is required to establish the appropriate use and built-from provisions to implement the proposed development.

The Zoning By-law Amendment proposes a change in zoning from Light Industrial (LI) to a site-specific Low Density Grouped Multiple Dwelling Zone (R4-X). The R4 Zone is the City's preferred Zone to be applied to Townhouse Condominium Sites.

One site-specific provision is proposed for a reduced front yard setback to create a consistent development condition along McLeod Road. Accessory Dwelling Unit (ADU) provisions, as well as parking requirements, are proposed to manage their inclusion and functionality within the development. The Draft Zoning By-law Amendment is included as **Appendix III** to this report.

## **RELATED STUDIES AND REPORTS**

Consistent with the submission requirements outlined during the pre-consultation meetings (see **Appendix IV**) and in addition to this Planning Justification Report, the studies and reports listed below have been provided with Zoning By-law Amendment and Draft Plan of Condominium application. A brief overview of the purpose, conclusions and recommendations of these reports is provided below.

It is noted that the need to submit a Preliminary Landscape Plan with the Draft Plan of Condominium submission has been waived by the Planning Department and will now be addressed at the time of detailed design and clearance of conditions.

### **Functional Servicing Report (Upper Canada Consultants)**

The submitted Preliminary Functional Servicing Report indicates that the proposed development can be serviced by existing municipal water, sanitary sewers and storm sewers.

The proposed development will be supported by a new 200 mm diameter watermain which will connect to an existing 300 mm municipal watermain within McLeod Road. The existing 50mm lateral connection to the existing dwelling on the property will be decommissioned. Fire protection will be provided from new private hydrants within the development.

Sanitary servicing will be provided by connecting a 200 mm service to the existing sanitary manhole located at the front property line. Each individual townhouse unit will have its own connection to the private sanitary main to be constructed under the private driveway.

Stormwater will be outlet to the Warren Creek, in keeping with the overall drainage concept for this area of the community. On-site storm sewers and catch basis will direct flows to the southwest of the property toward Warren Creek. Captured stormwater will be treated for quality using an oil/grit separator, however, quantity controls are not prescribed.

The report concludes that the development can be adequately serviced by existing municipal infrastructure.

### **Environmental Impact Study (Terrastory Environmental Consulting Inc.)**

As the subject lands are shown to contain mapped environmental protection area and are known to be in proximity to previously evaluated natural heritage features an environmental impact study was requested to be completed as part of the application submission.

The owner retained Terrastory Environmental Consulting Inc. to complete this work, which was completed between 2022 and 2024.

Table 4 of the EIS, shown below in **Figure 4**, outlines the natural features assessed on the subject lands and on adjacent lands.

<b>Table 4. Summary of the Assessment of Significant Natural Features on the Subject Property and Adjacent Lands.</b>		
<b>Significant Natural Feature</b>	<b>Status within the Subject Property</b>	<b>Status on Adjacent Lands (i.e., &lt; 120 m from the Subject Property)</b>
<b>PPS Significant Natural Features</b>		
Significant Wetlands	<b>Absent.</b> See Section 4.1.	<b>Confirmed.</b> See Section 4.1.
Significant Woodlands	<b>Absent.</b> See Section 4.2.	<b>Confirmed.</b> See Section 4.2.
Significant Valleylands	<b>Absent.</b>	<b>Absent.</b>
Significant Wildlife Habitat	<b>Candidate.</b> See Section 4.3.	<b>Candidate.</b> See Section 4.3.
Significant Areas of Natural and Scientific Interest	<b>Absent.</b>	<b>Absent.</b>
Habitat of Endangered and Threatened Species (per ESA)	<b>Candidate.</b> See Section 4.4.	<b>Confirmed.</b> See Section 4.4.
Fish Habitat (per <i>Fisheries Act</i> )	<b>Candidate.</b> See Section 4.5.	<b>Candidate.</b> See Section 4.5.
<b>Locally Significant Natural Features (i.e., apart from PPS requirements)</b>		
Environmental Corridors & Ecological Links	<b>Candidate.</b> See Section 4.6.	<b>Candidate.</b> See Section 4.6.
<b>Regionally Significant Natural Features (i.e., apart from PPS requirements)</b>		
Evaluated Wetlands	<b>Absent.</b> See Section 4.1.	<b>Absent.</b> See Section 4.1.
Regionally Significant ANSIs	<b>Absent.</b>	<b>Absent.</b>
Publicly-owned Conservation Lands	<b>Absent.</b>	<b>Absent.</b>
<b>Conservation Authority Regulated Features and Hazard Lands</b>		
Wetlands, watercourses, valleylands, meanderbelts, floodplains, steep slopes, and shorelines.	<b>Confirmed.</b> See Section 4.7.	<b>Confirmed.</b> See Section 4.7.

Figure 4 - Table 4 of Terrastory EIS

As outlined in the chart and explained within the relevant sections of the EIS, the subject lands are confirmed to contain a watercourse and floodplain, are a candidate for significant wildlife habitat, habitat of endangered and threatened species, fish habitat, and environmental corridors and linkages. The subject lands do not contain significant wetlands, significant woodlands, significant valley lands, ANSI's or public conservation lands.

Adjacent lands have been confirmed to contain Provincially Significant Wetlands, Significant Woodlands, Significant Wildlife Habitat, Habitat of Endangered and Threatened Species, Fish Habitat, Ecological Corridors and Linkages and a NPCA regulated floodplain.

The EIS concludes that the applications satisfy relevant natural heritage policies and that development can proceed without any significant negative impacts to natural heritage features subject to prescribed mitigation measures outlined in Section 5.2 of the EIS.

The EIS is discussed in greater detail within the planning framework in this report.

#### Archaeological Assessment (Earthworks Archaeological Consulting Inc.)

The subject lands were considered to have high archeological potential due to their proximity to a watercourse and two (2) registered archeological sites.

To determine if archeological resources were present on the subject lands a Stage 1-2 archeological assessment of the property was undertaken by Earthworks Archaeological Services Inc. in 2022. The completion of a detailed site review and test pits did not result in the identification of archeological resources.

The completed Stage 1-2 Archaeological Report report was forwarded to the Ministry of Citizenship and Multiculturalism for review and acceptance. The Ministry issued the relevant letter of concurrence on August 31, 2022.

#### Noise and Vibration Study (RWDI Air Inc.)

Due to the proximity of the subject lands to transportation and stationary sources of noise, a detailed evaluation of potential noise and vibration impacts was required to be prepared and submitted alongside the application. This work was commissioned from RWDI Air Inc., which is a qualified and experienced firm in this field.

As outlined in the Noise and Vibration Impact Study submitted alongside the applications, identified transportation noise sources included McLeod Road, Kalar Road and Pin Oak Drive. Station source impacts were evaluated for two (2) Class I facilities within 70 metres of the subject lands. No Class II or III uses were observed within the 300-metre area of influence.

Based on site evaluation, no sources of vibration impacts were observed and it has been recommended by RWDI that there is no need for a vibration study to be completed.

With regard to transportation noise, elevated levels of sound were identified through site review and analysis. The report recommends that these impacts be classified as a Class 2 acoustical environment, and mitigated through the provision of OBC compliant building materials in building construction, and a noise barrier and warning clause. Any windows proposed to be located on the northern façade of the building closest to McLeod Road will be required to be rated to STC 28. Air Conditioning will be required for all units to ensure windows

can remain closed to mitigate transportation noise. Standard warning clauses will also be required.

Stationary source noise impacts were evaluated from adjacent land uses that include Coach Canada (bus service) and Niagara Peninsula Energy (electricity provider). Through evaluation, it was discerned that existing noise impacts fall within the permitted Class I Industry sound level criteria. Accordingly, no physical mitigation methods are recommended for stationary sources of sound. The placement of a warning clause on title and within agreements will be required to notify future residents of potential impacts from these uses.

#### Land Use Compatibility Study (RWDI Air Inc.)

RWDI was retained by the owner to complete a Land Use Compatibility Study pertaining to the subject lands and adjacent industrial land uses.

Two (2) Class I industries, being Coach Canada and Niagara Peninsula Energy were identified through site review as existing land uses which may be impacted, or may impact the subject lands.

The report concludes that the applications will facilitate development that is “*compatible with surrounding employment uses...*” provided that mitigation measures are utilized.

To mitigate minor existing impacts generated by the existing Class 1 uses, the utilization of HVAC systems with particulate matter filters is recommended for all units. This mitigation method will assist in mitigating dust generated by the adjacent Class 1 uses. Impacts from noise were evaluated under the separate Noise and Vibration Study, which also provided physical mitigations for buildings to be considered concurrently with the HVAC recommendations.

## **PROVINCIAL LEGISLATION AND PLANS**

Development applications within the City of Niagara Falls are subject to the Ontario Planning Act (R.S.O. 1990), 2020 Provincial Policy Statement and the 2020 Growth Plan for the Greater Golden Horseshoe. An assessment of how the submitted applications for Zoning By-law Amendment and Draft Plan of Condominium satisfy applicable Provincial legislation and policies is provided below.

### **PLANNING ACT (R.S.O. 1990)**

#### **Section 2 – Matters of Provincial Interest**

The Planning Act (R.S.O. 1990) prescribes the regulations for land use planning in Ontario. Section 2 of the Planning Act outlines the matters of Provincial Interest which planning authorities must have regard for when considering planning applications. These matters include:

- a) *the protection of ecological systems, including natural areas, features and functions;*
- b) *the protection of the agricultural resources of the Province;*
- c) *the conservation and management of natural resources and the mineral resource base;*
- d) *the conservation of features of significant architectural, cultural, historical, archaeological or scientific interest;*
- e) *the supply, efficient use and conservation of energy and water;*
- f) *the adequate provision and efficient use of communication, transportation, sewage and water services and waste management systems;*
- g) *the minimization of waste;*
- h) *the orderly development of safe and healthy communities;*
  - 1. *the accessibility for persons with disabilities to all facilities, services and matters to which this Act applies;*
- i) *the adequate provision and distribution of educational, health, social, cultural and recreational facilities;*
- j) *the adequate provision of a full range of housing, including affordable housing;*
- k) *the adequate provision of employment opportunities;*
- l) *the protection of the financial and economic well-being of the Province and its municipalities;*
- m) *the co-ordination of planning activities of public bodies;*
- n) *the resolution of planning conflicts involving public and private interests;*
- o) *the protection of public health and safety;*
- p) *the appropriate location of growth and development;*

- q) the promotion of development that is designed to be sustainable, to support public transit and to be oriented to pedestrians;*
- r) the promotion of built form that,
  - (i) is well-designed,*
  - (ii) encourages a sense of place, and*
  - (iii) provides for public spaces that are of high quality, safe, accessible, attractive and vibrant;**
- s) the mitigation of greenhouse gas emissions and adaptation to a changing climate.*

With respect to the noted matters of Provincial Interest, the subject applications have regard for a), d), f) h), j), o), p) and q).

The applications protect natural heritage features and functions through the establishment of adequate buffers from the Warren Creek and a Provincially Significant Wetland containing woodlands. These prescribed setbacks are supplemented by mitigation measures recommended within the Environmental Impact Study prepared by Terrastory Environmental Consulting which include buffer enhancement, protective zoning and the provision of modified fencing to support corridor movements.

In the interest of the conservation and protection of archeological resources, the subject lands were reviewed and investigated for potential resources by Earthworks Environmental Consulting in 2022. Site investigation including test pits yielded no resources. The related Archaeological Report was completed and filed in 2022 and the related Ministry clearance was issued in August of 2022. Warning clauses will be placed on title to ensure that future development has regard and direction should resourced be encountered through construction activities. Such approaches are typical and shall ensure the long-term conservation and protection of any potential resources encountered on site.

The applications have regard or the adequate provisions of communication, transportation, servicing and waste management systems. The development will utilize and connect to existing telecommunications, natural gas, and municipal services on McLeod Road. The subject lands will also utilize existing lot frontage and access to a municipal roadway (McLeod Road). The site has been designed to support the provision of curbside waste collection through the provision of an on-site T-Turnaround that complies with municipal requirements.

The applications will support the orderly development of safe and healthy communities by utilizing available serviced, urban lands for additional residential development within an existing neighborhood. The overarching Official Plan designation for the lands is residential, however, the applicable zoning is industrial. The Zoning By-law Amendment will establish

conformity with the Official Plan and Secondary Plan and allow for the use of the lands for residential purposes, as intended.

The subject lands are able to be accessed through pedestrian, transit and roadway networks, and are within walking distance of municipal parkland (John N. Allen Park), medical clinics and essential commercial uses. Related Noise, Vibration and Land Use Compatibility studies have also been completed which conclude that the subject lands are appropriate for residential development, subject to typical mitigation measures.

An adequate provision of housing opportunities is achieved through the proposed unit typologies. The primary dwelling form will be Block Townhouses under condominium tenure. Each unit will also be designed to accommodate an optional accessory dwelling unit within, providing additional opportunities for housing, rental income generation or multi-generational living.

Public health and safety are protected through the engineered adjustment to the existing floodplain area. All residential dwellings will be located outside of this hazard area to ensure the long-term health and safety of future residents. Noise, Vibration and Land Use Compatibility studies have also been completed which have provided mitigation recommendations to ensure that the lands are fit and safe for residential use.

The subject lands are an appropriate location for residential growth and development as they are located within the urban area and built-up area of Niagara Falls. The City's Official Plan and Garner South Secondary Plan both designate the lands for residential development. The property is also located proximate to public transit, parkland, essential commercial uses, medical clinics and existing and planned schools which will support daily activities of future residents.

Overall, the applications have regard for the relevant portions of Section 2 of the Planning Act.

### **Section 34 – Zoning By-laws**

Section 34 of the Planning Act grants municipal councils the authority to pass Zoning By-laws to regulate the use of the land within a municipality. Amendments to such By-laws are permitted pursuant to Section 34 (10) of the Planning Act.

### **Section 53 – Plans of Subdivision**

Applications for the subdivision of land, including Vacant Land Condominium applications must satisfy the requirements of Section 53 of the Planning Act.



The proposal is therefore subject to the subsequent consideration of the matters as outlined in Section 51(24) of the Planning Act which state that, “in considering a draft plan of subdivision, regard shall be had, among other matters, to the health, safety, convenience, accessibility for persons with disabilities and welfare of the present and future inhabitants of the municipality,” and the following items:

a) *the effect of development of the proposed subdivision on matters of provincial interest as referred to in section 2;*

As noted, the proposed development has regard for matters a), d), f) h), j), o), p) and q) of Section 2 of the Planning Act.

b) *whether the proposed subdivision is premature or in the public interest;*

The proposed development is not premature as the subject lands are currently designated for residential development and have access to existing municipal services and infrastructure.

The applications are in the public interest as they will facilitate the provision of additional housing in a location that is proximate to key community elements such as schools, parkland, medical clinics and essential commercial uses. The subject lands are also served by municipal transit.

c) *whether the plan conforms to the official plan and adjacent plans of subdivision, if any;*

The applications conform to the City of Niagara Falls Official Plan and the Garner South Secondary Plan.

A detailed overview of conformity is provided with relevant Official Plan and Secondary Plan policies is provided further on within this report.

There are no adjacent plans of subdivision that the proposed development is required or able to have regard for in its design.

d) *the suitability of the land for the purposes for which it is to be subdivided;*

The subject property is designated for residential development and is serviceable with municipal infrastructure. The Functional Servicing Report included with the applications

confirms that there is adequate municipal infrastructure to support the proposed development.

*i) if any affordable housing units are being proposed, the suitability of the proposed units for affordable housing;*

Affordable Housing Units, as defined by Provincial Plans, are not proposed as part of this development.

*e) the number, width, location and proposed grades and elevations of highways, and the adequacy of them, and the highways linking the highways in the proposed subdivision with the established highway system in the vicinity and the adequacy of them;*

No new municipal roads are proposed through the applications.

The development will be accessed through the provision of a private roadway that will connect to McLeod Road. This access will provide convenient connectivity for private vehicles, transit and pedestrians throughout the surrounding area.

The Queen Elizabeth Way (QEW) Highway is located less than a kilometre to the east.

*f) the dimensions and shapes of the proposed lots;*

The existing property is rectangular in nature and narrow in its width. The development of the property will require a single-loaded approach to development with all units located on the west site of the property and private roadway.

The proposed Vacant Land Condominium ownership units will be rectangular in nature and generally occupy a minimum area of approximately 178.8 square metres of the overall lot. Unit widths range from 5.8 metres (interior unit) to 6.8 metres (exterior unit).

*g) the restrictions or proposed restrictions, if any, on the land proposed to be subdivided or the buildings and structures proposed to be erected on it and the restrictions, if any, on adjoining land;*

The subject lands are currently encumbered by an existing floodplain associated with the Warren Creek. This hazard will be engineered and modified to provide for a development envelope on the subject lands that will contain the proposed dwellings.

Within the vegetated area to the south, additional buffering from adjacent natural heritage features will be provided as well as the application of Environmental Protection Area zoning (EPA). These additional protection measures will not affect the proposed development.

*h) conservation of natural resources and flood control;*

The subject lands contain a floodplain which will be modified through grading design to accommodate the proposed development. All proposed residential development is located outside of the new floodplain in accordance with NPCA requirements.

*i) the adequacy of utilities and municipal services;*

A Functional Servicing Report has been prepared by Upper Canada Consultants that confirms that there is adequate water, sanitary and stormwater infrastructure.

A third-party modelling review of the development will be completed by the City as part of the review process.

*k) the area of land, if any, within the proposed subdivision that, exclusive of highways, is to be conveyed or dedicated for public purposes;*

Exclusive of the proposed 3.0 metre road widening along McLeod Road, no further land dedications to the municipality are proposed.

*l) the extent to which the plan's design optimizes the available supply, means of supplying, efficient use and conservation of energy; and*

Energy conservation methods will be investigated through detailed design. There are currently no detailed unit plans for the site.

*m) the interrelationship between the design of the proposed plan of subdivision and site plan control matters relating to any development on the land, if the land is also located within a site plan control area designated under subsection 41 (2) of this Act or subsection 114 (2) of*

*the City of Toronto Act, 2006. 1994, c. 23, s. 30; 2001, c. 32, s. 31 (2); 2006, c. 23, s. 22 (3, 4); 2016, c. 25, Sched. 4, s. 8 (2).*

Site plan control matters such as urban design, lighting and landscape shall be addressed through the Vacant Land Condominium process.

## **2020 PROVINCIAL POLICY STATEMENT**

The Provincial Policy Statement (PPS) (2020) provides policy direction on the matters of Provincial interest delineated under Section 2 of the Planning Act (R.S.O. 1990), and sets the policy framework for regulating the development and use of land. An overview of consistency to the applicable policies is provided below.

### **Managing and Directing Land Use to Achieve Efficient and Resilient Development and Land Use Patterns (PPS 1.1)**

The overarching purpose of the Provincial Policy Statement (2020) (PPS) is provide direction to planning authorities on how to best achieve the development of healthy, livable and safe communities.

To achieve these types of communities, the PPS promotes efficient development patterns, mixes of residential dwelling types and land uses, the integration of planning processes with growth management, public transit and infrastructure planning and the conservation of biodiversity. Development proposals should not include land use patterns that cause public health and safety concerns or propose inefficient expansions creating barriers for accessibility and mobility for vulnerable populations.

The subject lands are located within the Niagara Falls Urban Area, which is delineated in both the 2015 and 2022 Niagara Official Plan and City of Niagara Falls Official Plan. The Niagara Falls Urban Area is considered as a Settlement Area under the Provincial Policy Statement (2020). Policy 1.1.3.1 of the PPS directs that Settlement Areas are to be the focus of growth and development within Ontario communities. The applications are consistent with PPS policy as the subject lands are located within a Settlement Area boundary and will accommodate residential growth

As outlined in Policy 1.1.3.2 of the PPS, within Settlement Areas, development is to proceed in a manner that efficiently uses land and resources, is appropriate for the efficient use of existing or planned infrastructure and public service facilities, minimizes negative impacts on air quality and climate change, supports multi-modal transportation options including active transportation and transit and freight movement. Land use patterns are to be based on a range of uses and opportunities for intensification and redevelopment.

The application is consistent with this policy direction as it proposes the development of urban lands that are supported by public roadways and existing municipal servicing infrastructure.

The subject lands are located in close proximity to multiple public transit stops on McLeod Road and Kalar Road and key municipal roadways and the QEW. The subject lands are also within less than kilometre of a variety of parks and recreational uses, commercial land uses, medical clinics and employment opportunities. The compact nature of the development is desirable and efficiently uses land to facilitate growth that appropriately scaled and has regard for on-site and adjacent natural heritage features and nature hazards.

### **Coordination (PPS 1.2)**

Section 1.2.1 of the PPS directs that planning matters should be dealt with through a coordinated, integrated and comprehensive approach. This approach is recommended to ensure that consideration is given to all relevant matters including, but not limited to, natural environment, infrastructure, hazards, employment and housing.

Section 1.2.4 of the PPS requires that upper tier municipalities provide planning direction on allocations of population and employment, preferred growth areas, targets for intensification and transit supportive development. The Regional Municipality of Niagara is the upper tier government body that manages and monitors growth within the Region. In conformity with the Growth Plan, Regional level policy direction requires a minimum annual residential intensification rate of 60% to the year 2051. The applications are consistent with these requirements, as all residential units will be counted towards the annual intensification target for Niagara Falls.

Through the pre-consultation processes, the planning authority and other review agencies provided direction on required studies and information needed to process the application. This comprehensive approach was used to ensure that all matters of Provincial, Regional and local interest are identified. The requisite studies and materials have been provided with the submitted application.

### **Housing (PPS 1.4)**

Section 1.4 of the PPS requires that a full range and mix of housing types and densities shall be provided to meet the City's current and future housing needs. Specifically, Policy 1.4.3 requires that planning authorities permit and facilitate all housing options that meet social, health and economic needs of current and future residents.

The proposed development contributes to the provision of a full range of housing that reflects the range of housing need, preference and affordability required in the municipality. The applications facilitate the development of 18 primary block townhouse residential units and an

additional 18 accessory dwelling unit opportunities under condominium tenure in the City of Niagara Falls. This variation in housing form and tenure is desirable and provides for a range of housing opportunities on the property.

Section 1.4 of the PPS (2020) requires municipalities and planning authorities provide for an appropriate range and mix of housing options and densities required to meet projected requirements of current and future residents of the regional market area. This is to be achieved through establishing targets for affordable, to low and moderately priced homes, including all forms of residential intensification, and second units.

As the subject lands are generally bounded by existing townhouse and apartment dwellings and commercial land uses, the introduction of additional multiple dwellings and tenure forms will contribute to and uphold the range and mix of housing options prescribed by the PPS as well as the Regional and City Official Plans.

Overall, the application is consistent with Section 1.4 of the PPS and will assist in the provision of additional housing in the City.

#### **Public Spaces, Recreation, Parks, Trails and Open Space (PPS 1.5)**

The PPS directs planning authorities to promote healthy and active communities through the detailed planning of streets, spaces and facilities that are safe, foster social interaction and facilitate active transportation and community connectivity. To achieve this, Policy 1.5.1 of the PPS requires that a full range and equitable distribution of publicly accessible spaces for recreation be provided such as parks, trails, as well as access to shorelines for public enjoyment.

The subject lands are located within a 400 metre walk of the closest municipal park, being John N. Allen Park on Kalar Road. To supplement public parkland, the preliminary development plan has proposed the provision of exclusive yard space patios.

#### **Infrastructure and Public Service Facilities (PPS 1.6)**

A general tenant of the Policies within Section 1.6 of the PPS is that urban development must occur on urban services, and that existing infrastructure should be capitalized upon before undue expansions are considered.

### Water and Sanitary Services

As outlined in the Functional Servicing Report prepared by Upper Canada Consultants the proposed development will be supported by proposed new connections to an existing 300 mm watermain on McLeod Road and an existing sanitary manhole located near the property line.

The utilization of urban services within Settlement Areas is a requirement of the PPS and the preferred method for accommodating growth in communities to mitigate risks to public health and safety.

### Stormwater Management

Stormwater will be managed through on-site capture methods including storm sewers and swales. All flows will be directed towards the Warren Creek at the southwest end of the property. Stormwater quality control will be provided through the utilization of an oil/grit separator before release to the creek.

### Transportation

The Policies under Section 1.6.7 of the PPS directs that efficient use should be made of existing and planned transportation infrastructure, that connectivity amongst systems and modes be maintained and improved, and that land use patterns, density and mix of uses should be promoted that minimizes the length and number of vehicle trips, and supports public transit.

The subject lands are located along McLeod Road, which is identified as an Arterial Road on Schedule C the City of Niagara Falls Official Plan. McLeod Road is considered a multi-modal roadway as it contains four-travel lanes, public transit and sidewalks. These elements are desirable to have in proximity to medium and higher density developments to reduce the need for unnecessary vehicle trips and promote active and sustainable modes of transportation.

### **Long Term Economic Prosperity (PPS 1.7)**

Section 1.7.1 of the PPS outlines several ways in which economic prosperity can be supported in Ontario. Based on the criteria listed in Policy 1.7.1, Policies 1.7.1 b) and e) are relevant to the applications.

Policy 1.7.1 b) encourages residential uses to respond to dynamic market-based needs and provide necessary housing supply and range of housing options for a diverse workforce. With regard to this application, the applications will respond to housing needs by utilizing lands



within the urban area, along a transit route and in proximity to schools, parkland and commercial land uses.

The proposed housing form of Block Townhouses paired with opportunities for accessory dwelling units within is a unique and valuable approach to housing provision. The scale of this development will likely result in housing prices that can be more affordable than larger scale dwellings.

Policy 1.7.1 e) encourages developments to emulate a sense of place by promoting well designed built form. The proposed development scheme places emphasis on the relationship between the northern building and McLeod Road. The consideration of enhanced architectural treatments and high-quality landscape is encouraged to enhance the public realm along McLeod Street.

### **Natural Heritage (PPS 2.1)**

Policies contained under Section 2.1 of the PPS pertain to the protection of natural heritage features and their functions. Development and site alteration are generally not permitted within identified natural heritage features unless it can be demonstrated that there will be no negative impacts on the natural features or their ecological functions. To confirm the impacts of the proposed development on Natural Heritage features outlined within the PPS, and EIS was completed by Terrastory Environmental Consulting.

As outlined in Section 2.1 of the PPS, specific natural features and areas are to be protected for the long term. These features include significant wetlands, significant woodlands, significant valleylands, significant wildlife habitat, significant areas of natural and scientific interest and coastal wetlands. This protective policy framework is also applicable to natural heritage features on adjacent lands.

An Environmental Impact Study and a Tree Inventory Protection Plan pertaining to the subject lands were prepared by Terrastory Environmental Consulting Inc. between 2022 and 2024. As outlined in the EIS, the subject lands have been evaluated and are noted to be absent of the noted natural heritage features.

The EIS has confirmed that subject lands are adjacent to a Provincially Significant Wetland (east), a significant woodland (east) and Fish Habitat (west, within the Warren Creek) and has the potential to contain significant wildlife habitat related to bat maternity and the tufted titmouse.

### Provincially Significant Wetlands

Policy 2.1.4 of the PPS states that development and site alteration is prohibited with significant wetlands within Ecoregion's 5E, 6E and 7E. The subject lands are within Ecoregion 6E and 7E. The subject lands have been evaluated and it has been confirmed by the consultant that the subject lands do not contain Provincially Significant Wetlands.

Policy 2.1.8 of the PPS directs that development and site alteration shall not be permitted on adjacent lands to the natural features identified in Policy 2.1.4, until such time that the ecological functions have been evaluated and it has been determined that no negative impacts will occur. Accordingly, an evaluation of potential impacts on the wetland on adjacent lands was required to determine consistency with the PPS.

As outlined in the EIS, the consultant has acknowledged that development on 8100 McLeod Road is provisionally permitted within 15 metres of the wetland, whereas the closest proposed development element on subject lands, being the roadway, is 20 metres away.

The EIS notes that the wetland to the east is fed by surface flows and precipitation due to the aquitard nature of the soils in the area. Based on the grading of the cumulative area, the subject lands do not appear to contribute surface flows to the wetland feature, and instead drain towards the Warren Creek to the southwest. Accordingly, there are no anticipated water balance related impacts to the adjacent wetland feature.

In the interest of maintaining ecological connectivity between the wetland, internal woodland and Warren Creek, the rear portion of the property was recommended to be maintained in a natural state and subject to a buffer enhancement plan. These measures will ensure the long term protection of the feature and will ensure that the wetlands ecological functions are maintained, consistent with the PPS.

### Significant Woodlands

Under Policy 2.1.5 of the PPS, development and site alteration may only be permitted in a significant woodland if it can be demonstrated that there will be no negative impacts on the feature or its ecological functions. As outlined in Section 4.2 of the EIS, there are wooded areas to the east and west of the subject lands.

To the east, this wooded area is less than 1.0 hectares in area, and would otherwise not be considered significant under Regional policies. However, as the woodland is situated within a

Provincially Significant Wetland, it is elevated in status to a significant woodland and therefore is subject to the policies of the PPS. The consulting biologist has provided a joint assessment of the significant woodland and PSW together, to substantiate impacts and required mitigation measures. This wooded area will be protected by the recommended buffer, planting enhancements and protection of existing ecological connections with the Warren Creek.

#### Significant Wildlife Habitat

Although no species were confirmed on site through reconnaissance, the subject lands are deemed to be candidate for the presence of significant wildlife habitat that includes Bat Maternity Colonies and Special Concern and Rare Wildlife Species. In addition to these, the EIS also states that species of concern including the Tufted Titmouse American Bumble Bee, Monarch Butterfly (*Danaus plexippus*) Pink-legged Tiger Moth and Yellow-banded Bumblebee may occur on site.

The EIS notes that the proposed mitigation measures for the other noted features on site should serve as adequate to ensure no negative impact on any potential habitat for the long term, consistent with the direction of the PPS.

#### Fish Habitat

Policy 2.1.6 of the PPS states that “development and site alteration shall not be permitted in fish habitat except in accordance with provincial and federal requirements”.

The EIS confirms that the Warren Creek located on adjacent lands to the west contain Type 2 Fish habitat and must be protected. Under NPCA Policies, Type 2 Fish Habitat is to be protected with a minimum 10 metre setback from the top of bank of the watercourse. The EIS notes that physical development will occur greater than 17 metres from the feature. Accordingly, development and site alteration will not occur within the habitat or buffer area, which is consistent with Provincial policy direction.

#### Habitat of Endangered and Threatened Species

Policy 2.1.7 of the PPS states that “development and site alteration shall not be permitted in the habitat of endangered species, except in accordance with provincial and federal requirements”. As noted in Section 5.2.3 of the EIS, three (3) endangered or threatened species are considered to have the likelihood of occurrence on the property, or have been confirmed. These species include Little Brown Myotis, Northern Myotis and a Butternut Tree.

With regard to endangered bat habitat, the maintenance and protection of the existing treed area at the south of the subject lands is deemed to be beneficial and adequate to support potential bat roosting activity. Recommendations regarding the timing of vegetation removals and light spillage have also been provided to ensure no significant constriction related impacts to the bats.

Through site evaluation a 1-centimetre (DBH) Butternut Tree sapling was identified on the adjacent property to the west (8196 Mcleod Road). This species is endangered in the province of Ontario and its habitat is to be protected. The EIS has recommended that the following mitigation measures be undertaken to ensure the long term protection of the Butternut Tree:

- A formal Butternut Health Assessment be completed to determine if the Tree can be retained;
- If retainable, a restriction on grading and other site alteration activities within the root zone to the extent practical will be enforced; *and*
- If retainable, completion of activity registration for any works within proximity to the tree shall be filed with the Province.

Combined, these mitigation methods are considered to be adequate to ensure the long term protection of the Tree and consistent with Provincial policy.

The implementation of prescribed mitigation measures and application of EPA Zoning for a portion of the subject lands shall ensure that these Provincially significant features are protected for the long term, consistent with Section 2.1 of the PPS.

### **Cultural Heritage and Archaeology (PPS 2.6)**

Per Policy 2.6.2 of the PPS, development and site alteration is not permitted on lands containing archeological resources unless significant archeological resources have been conserved. The subject lands were considered to have high archeological potential due to their proximity to a watercourse and 2 registered archeological sites.

In accordance with this requirement, a Stage 1-2 archeological assessment of the property was undertaken by Earthworks Archaeological Services Inc. in 2022. Site review and test pitting conducted by the Archaeologist did not result in the identification of any archeological resources. The completed Stage 1-2 Archaeological Report was submitted to the Ministry of Citizenship and Multiculturalism for review and was subsequently entered into the Ontario Public Register of Archeological Reports on August 31, 2022.

### **Natural Hazards (PPS 3.1)**

Section 3.1 of the PPS directs development away from natural hazards to ensure public health and safety.

Policy 3.1.1. of the PPS requires that development be directed to areas outside of the lands along the shorelines of the Great Lake and St. Lawrence River Systems, hazard lands adjacent to river, stream or small inland lake systems and hazardous site. Policy 3.1.2 of the PPS outright prohibits development within the dynamic beach hazard and defined flooding areas.

Through topographic evaluation, the elevation limits of the Floodplain associated with the Warren has been confirmed. Portions of this existing floodplain extend into the proposed development area on the subject lands.

To facilitate the development, an engineered revision to the extent of the floodplain is proposed to ensure that natural functions continue and that residential development and subsequently human health and safety are not negatively impacted.

## **2020 GROWTH PLAN FOR THE GREATER GOLDEN HORSESHOE**

The Growth Plan for the Greater Golden Horseshoe informs decision-making regarding growth management and environmental protection in the Greater Golden Horseshoe through specific policies based on a 25-year planning horizon. The goal of the policies under the Growth Plan is to enable environmental, social and economic prosperity on a regional level.

### **Managing Growth (PTG 2.2.1)**

As stated in Section 2.2.1, the growth management policies of the growth plan are based on the projected growth in Schedule 3 to the Growth Plan. According to Schedule 3, the Region of Niagara is anticipated to have a population of 674,000 by the year 2051.

Policy 2.2.1.4 states that the Growth Plan's growth management policies seek to support the achievement of complete communities. Complete communities are defined under the Growth Plan as,

*“Places such as mixed-use neighbourhoods or other areas within cities, towns, and settlement areas that offer and support opportunities for people of all ages and abilities to conveniently access most of the necessities for daily living, including an appropriate mix of jobs, local stores, and services, a full range of housing, transportation options and public service facilities. Complete communities are age-friendly and may take different shapes and forms appropriate to their contexts.”*

The proposed development contributes to the accommodation of projected growth and supports the achievement of complete communities, as required in Section 2.2.1 of the Growth Plan. Specifically, the proposal represents the efficient and compact development on serviced that contributes to the provision of housing options.

### **Delineated Built-Up Area (PTG 2.2.2)**

By 2031, and each year afterwards, 50% of all growth within the Regional Municipality of Niagara is to occur in the Built-up Area as intensification. Consistent with Growth Plan Policies 2.2.2.1 & 2.2.2.3, the Regional Municipality of Niagara has an established annual residential intensification target of 50% for the City of Niagara Falls, as its contribution to growth.

The development of the subject lands with block townhouse dwelling units and internal accessory dwelling units will assist the City and Region in meeting prescribed minimum residential intensification targets, while limiting pressures for additional greenfield lands and urban boundary expansions.

### **Housing (PTG 2.2.6)**

To achieve complete communities and meet prescribed growth targets, an appropriate range and mix of housing types and densities are required to be provided.

The surrounding neighbourhood contains a mix of apartment, townhouse and single detached dwellings. The surrounding area also contains a mix of commercial, institutional and parkland uses which are desirable elements amongst residential development

The applications propose block townhouse under condominium tenure with an opportunity for internal accessory dwelling units. These dwellings are proposed to be scaled slightly smaller than typical townhouses which will provide will add variety to the housing stock in the neighbourhood and assist with housing affordability. The inclusion of an ADU option will also provide for a potential doubling of housing supply on the site. The proposed housing forms will assist in the achievement of Growth targets and the provision of a range and mix of housing types and densities, in conformity with the direction of the Growth Plan.

### **Transportation (PTG 3.2.2)**

Similar to infrastructure planning, transportation planning and investment must be coordinated with development. Within Urban environments, the primary goals of the Growth Plan are to provide connectivity amongst modes, provide balance in transportation choices, to be sustainable, to ensure multimodal access to housing, jobs and other community elements and to ensure safety.

The subject lands are accessible by multiple modes of transportation including public transit, walking, cycling, and private automobile. The subject lands will be provided with adequate on-site parking to meet City requirements.

The subject lands will also contain a new 1.5 metre sidewalk within the site that will connect to a proposed extension of the existing sidewalk on the south side of McLeod Road. These connections will assist in creating more convenient access to public transit service along McLeod Road.

### **Water and Wastewater Systems (PTG 3.2.6)**

Policy 3.2.6.2 of the Growth Plan requires that water and wastewater systems be planned and constructed to maximize functionality and efficient use so as to ensure that the municipality recovers the cost of providing water and wastewater infrastructure.

The proposed development will connect to existing municipal services, thus efficiently using infrastructure. The Functional Servicing Report prepared by Upper Canada Consultants confirms that the existing water and wastewater systems can adequately support the proposed development. Accordingly, the applications are considered to conform with policy 3.2.6 of the Growth Plan in this regard.

#### **Stormwater Management (PTG 3.2.7)**

Policy 3.2.7.2 requires that stormwater management strategies be developed prior to proposals for large-scale development. A preliminary Stormwater Management Plan has been prepared to ensure that the proposed development does not cause any negative impacts on stormwater management.

As outlined, the proposed development run-off will be directed to the Warren Creek, which is the required stormwater outlet in this area of the community. Quality controls will be provided to ensure no negative impacts on the natural environment.

#### **Cultural Heritage Resources (PTG 4.2.7)**

Policy 4.2.7.1 of the Growth Plan encourages municipalities to prepare Archaeological Master Plans to use in the consideration of development applications. The Regional Municipality of Niagara has an Archeological Screening Tool that defines areas of the municipality that exhibit potential for archaeological resources. Schedule K of the Niagara Official Plan shows the property being within an area of potential, therefore archeological assessments were required to be completed.

Between 2021 and 2022 the subject lands were assessed for archaeological resources by Earthworks Archeological Services Inc. Through their on-site investigation work, no archaeological resources were encountered.

The consultant has previously filed the completed Stage 1 and 2 archeological report with the Ontario Ministry of Citizenship and Multiculturalism. A Letter of Concurrence pertaining to the completed Archaeological Report was issued on August 31<sup>st</sup>, 2022.



## NIAGARA OFFICIAL PLAN (2014 & 2022)

The Niagara Official Plan (2022) outlines the long-term strategic policy planning framework for managing growth in the Region to a planning horizon ending in 2051. This plan was approved by the Minister of Municipal Affairs and Housing on November 4, 2022.

With the exception of Natural Heritage matters, the applications are subject to the policies of the 2022 Niagara Official Plan.

### 2022 NIAGARA OFFICIAL PLAN

The subject lands are located within the Niagara Falls Urban Area and Provincially delineated Built-up Area per Schedule B of the NOP. **Figure 5** shows the subject lands in relation to these designations.

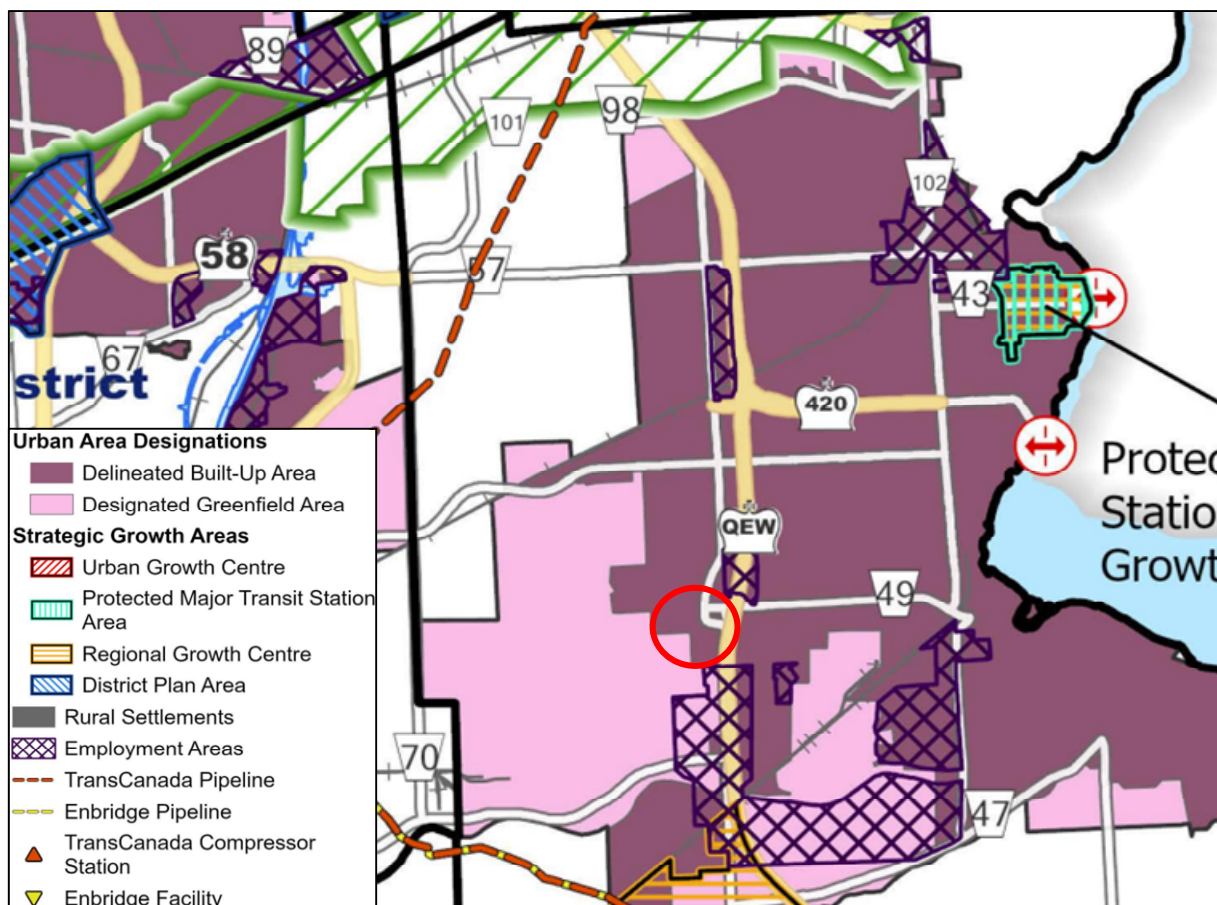


Figure 5 - Excerpt from Region of Niagara Official Plan Schedule B - Regional Structure

## **CHAPTER 2 – GROWING REGION**

Chapter 2 of the NOP contains the policy framework for the accommodation of the Region's projected population and employment growth.

### **Forecasted Growth (2.1)**

Per Section 2.1, the Region of Niagara is anticipated to have a population of 694,000 people and 272,000 jobs by the year 2051, representing an increase of over 200,000 people and 85,000 jobs from 2021. These population and employment forecasts are further broken down by municipality in Table 2-1, wherein the City of Niagara Falls has a projected population of 141,650 people and 58,110 jobs.

The proposed development is expected to yield a population of 39.4 persons (excluding ADU tenants) based on the value of 2.189 persons per unit for multiple dwellings set forth in 2022 Niagara Region Development Charges Study.

### **Regional Structure (2.2)**

Section 2.2 establishes the regional land use structure, based on Provincial directives which dictate how the projected growth is to be accommodated. A majority of growth is to occur within the Settlement Area, where water and wastewater systems exist or are planned, and where a range of transportation options can be accommodated. The Settlement Area is further broken down into the Delineated Built-up Area and the Designated Greenfield Area.

Schedule B of the Regional Plan indicates that the subject lands are the Delineated Built-up Area. The subject lands are also serviced with existing water and wastewater systems, have access to public transit, and are therefore an appropriate location to accommodate prescribed growth.

#### **Managing Urban Growth 2.2.1**

Per Policy 2.2.1.1 a), development in the Built-up Area is required to support the achievement of the Region's intensification target. The Region's intensification target is 60%, as stipulated in policy 2.2.2.5. Table 2-2 of the NOP further breaks down the intensification target by municipality.

The City of Niagara Falls is assigned an intensification target of 50% which requires that a minimum of 10,100 dwelling units are required to be accommodated within the existing Built-up Area by the year 2051. The proposed development contributes positively to the accommodation of prescribed residential growth in the City's Built-up Area.

Policy 2.2.1.1 b) states that development in urban areas should support a compact built-form and a mix of land uses to support the creation of complete communities. The proposed development accommodates residential development in a compact form.

Policy 2.2.1.1 c) states that development in urban areas should accommodate a diverse range and mix of housing types, unit sizes and densities to accommodate future and current market-based and affordable housing needs. The proposed development will provide block townhouse dwellings inclusive of accessory dwelling units which contribute to the range of housing options available in the municipality.

Policy 2.2.1.1 e) states that development in the urban area should support built-forms, land use patterns and street configurations that minimize land consumption, reduce the cost of municipal water and wastewater systems and services. The subject lands have access to existing water and wastewater services, and the proposed development represents a compact and efficient built-form that optimizes the use of land and infrastructure.

Policy 2.2.1.1 f) states that development in urban areas should support opportunities for transit supportive development. The proposed development will accommodate intensified residential development in proximity to existing public transit service.

Policy 2.2.1.1 g) states that development in urban areas should support opportunities for intensification including a mix of residential built-forms in appropriate locations to ensure compatibility with established residential areas. The proposed development provides intensified residential development that is reflective of and compatible with the established residential character of the surrounding area.

### **Housing (2.3)**

The objectives of the policy direction under Section 2.3 of the NOP are to provide a mix of housing options to address current and future needs, to provide more affordable and attainable housing options, and to plan to achieve affordable housing targets through land use and financial incentive tools.

The proposed dwelling forms include Block Townhouses with internal Accessory Dwelling Units. Together, these dwelling forms provide for a range housing opportunities that can be more affordable than individual freehold lots within Plans of subdivision. The provision of accessory dwelling units also facilitates opportunities for additional housing and/or rental income generation to supplement overall housing costs.

### Provide a Mix of Housing Options (2.3.1)

Policy 2.3.1.1 directs that a range and mix of densities, lot and unit sizes and housing types should be accommodated in the settlement area to meet housing needs at all stages of life.

The proposed block townhouses contribute to the range of housing options to meet various housing requirements within the municipality. The inclusion of Accessory Dwelling Units is desirable and further contributes to housing opportunity and variation within the surrounding neighbourhood.

### **2014 NIAGARA REGION OFFICIAL PLAN**

As the required EIS was scoped prior to the approval of the 2022 NOP, the applications are subject to transition policies and therefore are to be assessed against the Natural Environmental Policies of Section 7 of 2014 Regional Official Plan (ROP).

### **CHAPTER 7 – NATURAL ENVIRONMENT**

As outlined within the EIS, the subject lands are adjacent to a Provincially Significant Wetland (east), a significant woodland (east) and Fish Habitat (west, within the Warren Creek) and has the potential to contain significant wildlife habitat related to bat maternity and the tufted titmouse. Additionally, the subject lands have the potential to contain endangered bat roosting habitat, and adjacent lands to the west contain an endangered butternut tree sapling.

Per Policy 7.B.1.1 of the 2014 ROP, the Core Natural Heritage System consists of Core Natural Areas (EPA or ECA features), Potential Natural Heritage Corridors, Greenbelt Natural Heritage features and Water Resources Systems, and Fish Habitat. Policy subsets are provided within the ROP for each of these feature categories that must be evaluated to determine conformity with the ROP.

The Core Natural Area Features classified as Environmental Protection Area Features found on and adjacent to the subject lands include the provincially significant wetland, butternut and bat habitats. Environmental Conservation Area features found on site and on adjacent lands include the significant woodlands found within the wetland area, significant wildlife habitat

Based on the features identified and their classification per the 2014 ROP, the following policies outlined below pertain to the applications.

## SECTION 7.A - A HEALTHY LANDSCAPE

Section 7.A of the ROP contains the overarching policy direction to maintain a healthy landscape in Niagara. This section contains objectives and policies directed at maintaining, protecting and evaluating potential impacts to natural features.

Of specific relevance to the applications is Policy 7.A.2.1 of the 2014 ROP. This policy states that *“development and site alteration must not have negative impacts (including cross-jurisdictional and cross-watershed impacts) on the natural hydrologic characteristics of watercourses, the quantity/quality of surface and groundwater resources, and the functions that surface and groundwater resources provide to natural features and functions of the Core Natural Heritage System.”* The intent of this policy is to ensure that development does not affect the hydrologic functions of water based features such as wetlands, watercourses and groundwater.

As outlined in Section 5.2.1 of the EIS, the existing grade of the subject lands currently directs surface runoff to the southwest and the Warren Creek. Site runoff does not currently proceed towards to the adjacent wetlands on 8100 McLeod Road or support its ecological functions. As outlined within the Functional Servicing Report, it is proposed that stormwater runoff will be treated for quality control purposes only and will continue to be outlet overland flows to the Warren Creek to support natural heritage functions. As this flow will be maintained and that the consulting biologist is satisfied that development will not result in an negative impacts on hydrologic features, the applications are considered to conform with Policy 7.A.2.1 of the ROP.

Section 7.A.6 pertains to natural hazards, such as floodplains and slopes. There are no slope features on the subject lands, however the property is partially located within the Warren Creek Floodplain.

The on-site floodplain is proposed to be modified to provide for an adequate building envelope on the subject lands that can provide as much density as reasonably possible, in conformity with the higher density objectives of the Garner South Secondary Plan. This desire must be balanced with the need to ensure the protection of the natural environment, human life and property from negative impacts. Policy 7.A.6.8 of the ROP states that:

*“Where under this Plan development and site alteration may be permitted on portions of hazardous lands or sites the Conservation Authority must be satisfied that the effects and risk to public safety are minor and can be managed or mitigated so that:*

- a) Development and site alteration will be in accordance with provincial floodproofing standards, protection works standards and access standards;*

- b) *Vehicles and people have a way of safely entering and exiting the area during times of flooding, erosion and other emergencies;*
- c) *New on-site or off-site hazards will not be created or existing ones aggravated; and*
- d) *No adverse environmental impacts will result.”*

The applications conform with this policy direction by proposing development and floodplain alternation that will ensure development that proceeds is not affected by flooding through grading and drainage design. Similarly, the drainage flow from the subject lands, although to be modified, will be designed in a manner that supports ecological functions by maintaining flows to the Warren Creek and that no negative impacts on other natural heritage features will occur as a result of the grade modification.

#### SECTION 7.B – THE CORE NATURAL HERITAGE SYSTEM

The policies of Section 7.B of the 2014 ROP pertain to all previously noted components of the core natural heritage system.

With regard to EPA natural features, that in this case are limited to the provincially significant wetland and butternut tree on adjacent lands, the policy tests of the ROP seek to ensure no significant negative impacts to the feature occur.

As outlined throughout the EIS, and more specifically in Section 6.2, it is the opinion of the Biologist that subject to implementation of recommended mitigation measures, neither the wetland feature or butternut tree will be significantly impacted in a negative manner by the development. The provision of natural buffering, fencing and protective zoning as typical are reasonable methods to ensure conformity with this policy is maintained.

ECA features including the adjacent significant woodland and potential significant wildlife habitat are protected by Regional policy as well, however, the policy tests are not as stringent as they are for EPA features.

Policy 7.B.1.11 pertaining to ECA features permits development and site alteration to occur, subject to the completion of an Environmental Impact Study that demonstrates that *“over the long term, there will be no significant negative impact on the Core Natural Heritage System component or adjacent lands and the proposed development or site alteration is not prohibited by other Policies in this Plan.”*

Despite not containing significant natural heritage features, the property is identified by the consulting biologist a candidate for corridor movements between the wooded areas to the east and on site and the Warren Creek to the west.

Policy 7.B.1.13 requires that *“where development or site alteration is proposed in or near a Potential Natural Heritage Corridor, development should be located, designed, and constructed to maintain and, where possible, enhance the ecological functions of the Corridor in linking Core Natural Areas or an alternative corridor should be developed.”*

The EIS discusses that the wooded area at the southern end of the property serves as a linkage between the woodland/wetland area at 8100 McLeod Road and the Warren Creek. Such efforts will include the removal and reinstatement of fencing to allow the feature areas to function as a whole, integrating natural and self-sustaining vegetation and the removal of debris and structures.

Policy 7.B.1.18 of the ROP pertains to land stewardship for features identified through development review. The policy states that *“where development or site alteration is approved in or adjacent to the Core Natural Heritage System, new created lots shall not extend into either the area to be retained in a natural state as part of the Core Natural Heritage System or the buffer zone identified through an Environmental Impact Study prepared in accordance with Policies 7.B.2.1 to 7.B.2.5. The lands to be retained in a natural state and the adjacent buffer zone shall be maintained as a single block and zoned to protect their natural features and ecological functions.”*

Due the landlocked nature of the proposed EPA-zoned area and that there are no contiguous, publicly owned lands, it is not desirable to the owner (at this time) to dedicate the subject lands to the City, Region or NPCA. Should one of these agencies desire the lands, a dedication could be facilitated as a condition of condominium approval.

To maintenance of the ecological functions of the features for the long term will be ensured through the implementation of buffer restoration plans, fencing and protective zoning.

With regard to existing trees on the subject lands, Policy 7.B.1.19 requires that where development or site alteration is approved within the Core Natural Heritage System or adjacent lands, a Tree Saving Plan must be prepared to maintain or enhance the remaining natural features and ecological functions.

In accordance with Policy 7.B.1.19, a Tree Inventory was prepared by Terrastory. This Plan outlines on-site trees that are eligible for removal, trees along shared lot lines, and trees eligible for protection on and adjacent to the subject lands. This Plan will be used to inform detailed site a grading plans through the detailed design process.

Fish Habitat does not fall within the EPA or ECA categories in the ROP, but does have specific policy direction within Policy 7.B.1.15 that outlines the necessary processes required to consider development in, or adjacent to fish habitat areas.

The subject lands do not contain fish habitat, however, the Warren Creek on adjacent lands to the west does. The fish habitat classification is “Type 2”, or “Important” fish habitat. Policy 7.B.1.15 requires that a 15-metre fish habitat buffer from the top of bank be provided for Type 2 Fish Habitat features. As outlined in Section 5.2.4 of the EIS, the Creek is no closer than 17 metres from the proposed curbing at the southwest corner of the proposed parking lot on the subject lands. It is noted that this separation and the implementation of other mitigation measures will ensure that Fish Habitat is not significant or negatively impacted by development.

As demonstrated, the applications conform with the relevant natural heritage policies of the 2014 ROP.



# CITY OF NIAGARA FALLS OFFICIAL PLAN (as Amended)

Schedule A of the Niagara Falls Official Plan designates the subject lands as “Residential” and Environmental Protection Area, in part. (see **Figure 5**).

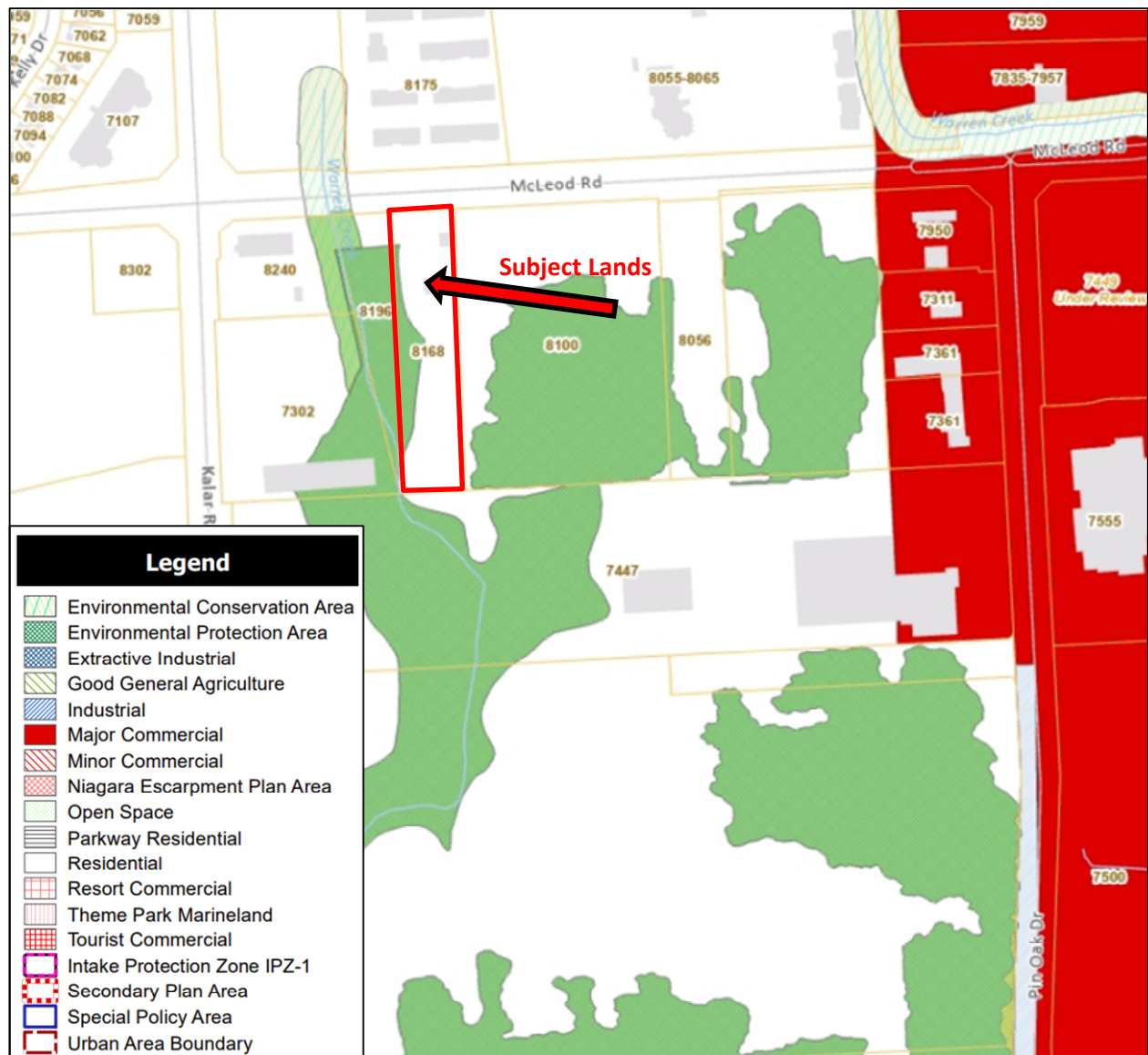


Figure 5 – Excerpt from City of Niagara Falls Official Plan Schedule A – Future Land Use Plan

## PART 1 – PLAN OVERVIEW AND STRATEGIC DIRECTION

Part 1 of the City of Niagara Falls Official Plan describes the purpose, legislative basis, format, and interpretation of boundaries of the Official Plan as well as the period during which the Plan is to apply. This Part of the Official Plan also outlines the Strategic Policy Direction of the City to accommodate future growth through land use planning and intensification.

## Part 1, Section 2 – Strategic Policy Direction

Part 1, Section 2 of the Niagara Falls Official Plan contains the growth objectives for the municipality that pertain to lands within the municipality both inside and outside the Urban Area. These objectives range in focus between development, employment, tourism and the environment.

### **Growth Objectives**

Contained under this heading are the City's Growth Objectives which guide the subsequent policy direction for the land uses identified on Schedule A. The following is an evaluation of the proposal's conformity to the Growth Objectives.

*1. To direct growth to the urban area and away from non-urban areas.*

The applications facilitate residential growth within the Niagara Falls Urban Area, central to the municipality and away from non-urban areas. The development will occur within the Provincially Delineated Built-up Area and Garner South Secondary Plan limits.

*2. To protect Natural Heritage Areas and their functions.*

The Official Plan shows a portion of the subject lands containing an Environmental Protection Area associated with the Warren Creek floodplain.

In support of the application, the developer retained Terrastory Environmental Consulting Inc, to complete an Environmental Impact Study. This study focuses on the subject property and adjacent lands.

As outlined within the report, the subject lands do not contain any natural heritage features but are adjacent to a provincially significant wetland, the Warren Creek and a Butternut Tree. The EIS provides recommendations to ensure the long term protection of these adjacent features and their functions. Accordingly, the natural heritage areas at the rear of the subject lands shall be protected through the application of revised EPA zoning.

*3. To support increased densities, where appropriate, and the efficient use of infrastructure within the Built-Up section of the urban area.*

Consistent with this objective, the proposal represents the efficient use of serviced residential land within the Urban Area and Built-up Area of Niagara Falls. The current Light Industrial (LI) zoning does not conform with applicable residential land use designations. The proposed zoning amendment will facilitate an appropriately dense development on the subject lands that efficiently uses available infrastructure within the built-up area of the urban Area.

- 5. To meet the targets as established by the Province through the Greater Golden Horseshoe Growth Plan and through the Region of Niagara Comprehensive Review.*

The Niagara Official Plan (2022) directs that the City of Niagara Falls is anticipated to have a population of 141,650 by the year 2051.

The submitted applications will facilitate appropriate residential development that will contribute to the achievement of growth targets in accordance with Provincial, Regional and growth management directives.

- 7. To achieve a minimum of 40% of all residential development occurring annually within the Built Up Area shown on Schedule A-2 by the year 2015.*

The 2022 Niagara Official Plan has increased the City of Niagara Falls' intensification target from 40% to 50%.

As the subject lands are located within the Built-up area, all housing starts will be contributed towards City's prescribed intensification target.

- 9. To encourage alternative forms of transportation such as walking, cycling and public transit*

The subject lands are located along Regional Public Transit Routes and are within walking proximity of commercial and institutional land uses and parkland. The development will benefit from proximity to these existing systems, and a planned extension of sidewalk along the frontage of the subject lands.

- 10. To plan for an urban land supply for 20 years and to maintain a minimum 10 year supply of land for residential growth through intensification or greenfield development.*

The proposed development represents intensification within the urban boundary. The efficient redevelopment and intensification of existing residential land limits the need to expand the urban boundary and allows for an adequate amount of greenfield and other large-scale tracts of residential land to be maintained to accommodate future growth.

- 11. To provide a supply of serviced land that is capable of providing three years of residential development through intensification and land in draft approved and registered plans of subdivision.*

Consistent with this objective, the subject lands are serviced residential lands and the proposed development would facilitate the intensification of that land.

## Growth Policies

Contained under this heading are the policies related to the Growth Objectives outlined in the previous section. The following is an evaluation of the proposal's conformity to these policies.

- 2.3 *The City shall provide sufficient lands within the Urban Area Boundary to meet the projected housing, population and employment targets of Table 1.*

According to Table 1, the City of Niagara Falls is anticipated to have a population of 106,800 and 42,740 households by 2031. The proposed development would increase the efficient use of existing residential lands to accommodate growth.

- 2.4 *The opportunity for increased densities within the Built Area Boundary shall be provided to make use of existing infrastructure, buildings and available transit through specific policies for the intensification nodes and corridors outlined in Part 1, Section 3.*

While the subject lands are not located within a delineated intensification node, the development leverages the benefits of intensification through the efficient use of land, infrastructure and public services.

- 2.8 *The City shall consider residential and employment growth in relation to Schedule "B" - Phasing of Development and the polices of Part 1, Section 3 of this Plan.*

Schedule B of the Official Plan indicates that the subject lands are within the Phase 1 Area. The proposed development does not require new municipal infrastructure.

- 2.11 *No new urban areas shall be created.*

The applications propose the efficient and intensified use of lands within an existing urban area.

## Part 1 Section 3 – Intensification

As required by the recently approved Niagara Official Plan (2022) intensification is required to represent a minimum of 50% of residential development annually in the City of Niagara Falls.

Consistent with Part 1, Section 3 of the Official Plan, intensification is to be accommodated within the Built-up Area and on lands designated Residential, however intensification on lands not currently designated as residential may be considered.

The subject lands are designated as 'Residential' on Schedule A of the Official Plan, and as High Density residential on Schedule A3 of the Garner South Secondary Plan. Accordingly, the subject lands are a desirable candidate for intensification.

The General Policies for Intensification in the City of Niagara Falls include:

- 3.1 *Unless otherwise permitted through the maps and policies of this Plan, residential intensification shall require an amendment to this Plan and proceed by way of site specific zoning by-law amendment whereby individual proposals can be publicly assessed. Proposals of sufficient land area shall be developed through plans of subdivision.*
- 3.2 *The development or redevelopment of lands currently designated Tourist Commercial in accordance with Part 2, Section 4.2.9 shall conform with the height and design policies of Part 2, Section 4 and meet the minimum density requirements for a high density development as permitted in Part 2, Section 1.15.5(iii).*
- 3.3 *The extent of the Intensification Nodes and Corridors as shown on Schedule A-2 and the limits of the height strategies of Schedules A-2(a), A-2(b), A-2(c) and A-2(d) are not intended to be scaled but a guide whereby building heights shall be considered on each individual basis with regards to the character of surrounding development.*
- 3.4 *The intensification through redevelopment of lands designated Residential in this Plan shall comply with the policies of Section 2, 1.15.5 of this Plan.*

The submitted Zoning By-law Amendment to establish residential development permissions provides the necessary opportunity for the City and Council to consider the appropriateness of the development proposal.

The subject lands are not located within an identified intensification Nodes or Corridor, however, the lands are an appropriate location for additional residential development within the existing neighbourhood due to their proximity of other existing and planned medium and high density residential uses, collector roads, public transit service and commercial, institutional and open space *lands uses*.

#### Part 1, Section 4 – Housing

The City of Niagara Falls Housing policies that were approved by City Council via OPA 149 have been prepared in response to the findings and directions of the City's Housing Directions Study (2020). The policies were prepared to direct the municipality (corporation) and guide private applications with regard to housing affordability and supply within the City.

The policy framework seeks to ensure that within the City of Niagara Falls that there is a safe, stable and appropriate range of housing choices and opportunities that meet residents physical and financial needs throughout a lifetime.

Within the surrounding area, there is a wide range and mix of housing types which include single detached dwellings, townhouse complexes and apartment buildings.

The goals that are used to implement this vision pertain to housing availability, diversification of supply, prices and tenure types, the removal of barriers for alternative housing forms, the commitment to monitoring of supply and to work with partners and agencies to advance actions set out in the housing strategy.

The submitted applications will allow for the subject lands to be developed for their intended residential purpose and to contain eighteen (18) block townhouse dwellings, and up to an additional eighteen (18) accessory dwelling units. This approach to housing provision on this small scale piece of urban land is desirable and will contribute to a wider range of housing opportunities in the community. The overt inclusion of accessory dwelling units removes unnecessary barriers to additional housing creation, as such uses are currently not permitted in block townhomes under City policy.

Policy 4.3 directs that opportunities for a choice in housing type, tenure, cost and location shall be provided within the City. To achieve this, the City will support:

- Multiple Unit Developments, smaller lot sizes and innovative housing forms.
- Development of vacant lands, and more efficient use of under-utilized parcels and existing housing stock.
- The full utilization and consolidation of properties to achieve larger scale and more comprehensive residential development.
- Development of housing in conjunction with commercial developments in order to create walkable neighbourhoods.
- Accessory Dwelling units within ground based dwelling forms (i.e. singles, semis, townhouses).

The applications conform with this policy direction by proposing eighteen (18) block townhouse dwelling units that will be designed to be inclusive of accessory dwelling units.

Policy 4.4 requires that applicants provide detailed information about new housing projects as part of applications for Official Plan Amendment, Zoning By-law Amendment and Draft Plans of Subdivision and Condominium. As the submitted applications are a Zoning By-law Amendment and Draft Plan of Vacant Land Condominium, the following relevant criteria must be addressed:

- a) The proposed housing mix by dwelling type and number of bedrooms, as applicable
- b) How the proposal contributes to achieving the City's annual housing targets as Outlined in Part 1, Section 4, Policy 4.8 a) and b).

- c) The estimated rents and/or sales prices of the development, indicating where they are either above or below the threshold for affordable as defined by the Niagara Region and the City;

The proposed housing mix on the property is being changed from one existing single detached dwelling to eighteen (18) block townhouse dwellings units with ADU's. A maximum total of thirty-six (36) housing opportunities will be created of varying costs.

The proposed primary units are intended to be two-bedroom units. The ADU's will have one-bedroom at minimum, however there may be opportunities for additional bedrooms to be provided as detailed floor plans are created.

Based on current market conditions and anticipated construction costs, the units may have a selling price range between \$699-\$750k, however, the owner is currently proposing to retain ownership of the units as rentals for the long term.

At this time, the owner is not proposing to develop purpose-built affordable housing. However, if sold individually, the townhouse units may be more attainably priced than ground-based dwellings found throughout the municipality, especially in the suburban subdivision areas to the west. The ability to develop an ADU within the unit may provide additional opportunities for cost effective housing arrangements or income generation that will supplement mortgage payments.

The submitted Applications are considered to conform with the intent and purpose of the housing policies by introducing additional smaller-scale housing opportunities into the market. Although the exact cost of these proposed housing opportunities is not known at this early stage in the approvals process, the proposed dwelling forms are expected to be more competitively priced and attainable than new and existing low-density housing forms within the City.

## **PART 2 – LAND USE POLICIES**

Part 2 of the City of Niagara Falls Official Plan contains policies for different land uses within the municipality. As noted, the subject lands are designated as "Residential" in the City's Official Plan and in addition to general policies, the development is specifically subject to Part 2, Section 1 of the Plan.

Although the subject lands are within the Garner South Secondary Plan (GSSP) boundary and are subject to detailed policies, a demonstration of conformity with the general residential policies of the City of Niagara Falls Official Plan is required.

## **Residential (Section 1)**

The Residential land use designation is the general category within the Official Plan that applies to existing and planned residential areas in the City of Niagara Falls. The Official Plan requires that the City's supply of residential lands be sufficient to accommodate anticipated population growth and various housing types and densities. Residential developments are to be compatible with surrounding uses and include various amenities that benefit the community as a whole and ensure a high quality of life.

Within the Residential designation, all types of dwellings are permitted, with an additional emphasis placed on the provision of affordable housing. To achieve the housing goals set out in the Official Plan, the City encourages multiple unit developments on smaller lots, innovative housing forms, the development of vacant and underutilized lands, and the full utilization and consolidation of properties to achieve more comprehensive, residential community.

The applications conform with the Residential policies of the Official Plan by proposing townhouse units inclusive of accessory dwelling units on urban lands. The Draft Plan of Condominium facilities a more intensive use of the lands that allows for greater unit per hectare density to be provided than is currently which in turn assists in providing additional housing supply.

The physical context of the subject lands and surrounding area is also consistent with the traits that are identified as desirable for the City when contemplating new residential developments, such as having frontage along an Arterial roadway, having municipal servicing connections available and being along public transit route.

### **General Policies**

The policies under this heading apply to all lands that are designated as Residential on Schedule A of the Official Plan. The following section of this report contains an evaluation of conformity with the applicable General Policies of the Residential section of the City of Niagara Falls Official Plan.

*1.1 The predominant use of land in areas designated Residential shall be for dwelling units of all types catering to a wide range of households. Predominant uses shall include single detached and semi-detached dwellings, duplexes, triplexes, quadraplexis, townhouses, apartments, group homes and other forms of residential accommodation.*

The applications propose the creation of 18 block townhouse dwellings to be offered under condominium tenureship. The proposed dwellings are a permitted residential built-form which contribute to the full range of housing choice. The dwelling units will



also be designed to accommodate an internal accessory dwelling unit, should the owner desire one. This feature will provide additional housing opportunity and variation in affordability.

- 1.2 *Opportunities for a choice of housing including type, tenure, cost and location shall be provided to meet the changing needs of households throughout the Built-up Area and Greenfield Area. In order to achieve this goal, the City shall support the following:*

The proposed Townhouse dwelling units will be developed within the Urban Area and Built-up Area and shall be counted as intensification.

The proposed development will offer choice in dwelling type, tenure (i.e. condominium, rental for ADU's).

The location of this site is advantageous to future residents as it is within a short distance of schools, parkland, commercial land uses and public transit service.

- 1.2.1 *Multiple unit developments, smaller lot sizes and innovative housing forms.*

The proposed built-form and tenureship model increase housing choice.

- 1.2.2 *Development of vacant land, and more efficient use of under-utilized parcels and existing housing stock.*

The applications will increase the efficient use and yield of an existing parcel.

- 1.2.3 *The full utilization and consolidation of properties to achieve larger scale and more comprehensive residential development.*

The use of a private road enables the full utilization of the subject property.

- 1.2.4 *Development of housing in conjunction with commercial developments in order to create walkable neighbourhoods.*

The subject lands are in proximity to existing commercial nodes at McLeod and Pin Oak Drive / Montrose Road, and McLeod and Kalar Road with many commercial opportunities in walking distance to the subject lands (400m).

- 1.5 *The development and redevelopment of residential lands in the City shall primarily be by plan of subdivision incorporating a mix and variety of dwellings and supporting uses to foster the development of a complete community. Consents to sever individual parcels of land shall only be permitted when it can be demonstrated that a plan of subdivision is not necessary to implement the policies of this Plan or applicable secondary plan.*

The proposed units will be established through a Draft Plan of Vacant Land Condominium. This land division method is appropriate in this circumstance and in the context of this policy as it allows for the more efficient use and development of constrained urban lands.

- 1.6 *Building heights referred to in this Plan through the text and schedules are intended as a general guide. Consideration may be given in specific situations to allow suitable, well designed developments that exceed these height guidelines through an implementing zoning bylaw amendment.*

The proposed block townhouse dwellings will be subject to the 10-meter height requirement of the R4 Zone. No deviations from this limit is proposed through the zoning amendment.

- 1.8 *All residential development shall require proper and adequate municipal services. The municipality shall promote phased development to maintain logical, outward growth in residential areas in accordance with the policies of Part 3, Section 1.*

The expansion of municipal infrastructure is not required to support the proposed development as the subject lands are already serviced.

A Functional Servicing Report prepared by Upper Canada Consultants has been provided with the applications and demonstrates that there is sufficient capacity to service the proposed development.

#### Built-up Area

Policies for lands identified as being in the Built-up Area on Schedule A-2 are found under Part 2, Section 1.15 of the Official Plan. The following is an evaluation of the proposal's conformity to the applicable Built-up Area policies.

- 1.15 *It is recognized that opportunities exist throughout the Built-Up Area as shown on Schedule A-2 to create new housing units. Intensification, while maximizing the density of a given land area, shall be designed to integrate into the surrounding neighbourhood. The following policies are to be considered in the design of residential development, intensification and infilling and read in conjunction with the policies of PART 1, Sections 2 and 3:*

- 1.15.1 *The character of the existing neighbourhoods within the Built-up Area shall be retained. Accordingly, residential development, intensification and infilling shall blend into the lot fabric, streetscape and built form of a neighbourhood.*

The proposed development consists of block townhouse dwellings which are consistent and compatible with surrounding residential forms. A site-specific front yard reduction is proposed to maintain a consistent setback with adjacent development at 8100 McLeod Road

*1.15.2 A gradation of building heights and densities will be encouraged together with sufficient horizontal separation distances between taller buildings and low rise dwellings in order to ensure a complementary arrangement of residential uses.*

The future dwellings will be subject to the 10-meter maximum height requirement under the implementing Zoning By-law. This is consistent with the maximum height permissions of adjacent parcels.

*1.15.3 Generally, development within the Built-up Area should be at a higher density than what currently exists in the neighbourhood. A harmonious mix of single and multiple accommodation will be encouraged through the Built-up Area so that at any one time a variety of housing types will be available suitable for different age groups, household sizes and incomes.*

The proposed development contributes to the mix of higher-density multi-unit forms along McLeod Road.

*1.15.5 Single detached housing is the dominant housing form in existing residential neighbourhoods. Increasing the amount of various types of multiple residential accommodations is encouraged in order to provide for an overall mix of housing within all communities. The inclusion of various housing forms through subdivisions, intensification and infilling shall not be mixed indiscriminately, but will be arranged in a gradation of building heights and densities according to the following policies:*

The bulk and massing of the proposed block townhouses will be consistent with that of adjacent development, based on proposed zoning provisions.

- i) Single and semi-detached dwellings, street townhouses, block townhouses and other compatible housing forms are to be developed to a maximum net density of 40 units per hectare with a minimum net density of 20 units per hectare and should generally be located on local or collector roads. New housing forms are to be of a height, massing and provide setbacks that are in character with the surrounding neighbourhood.*

The proposed development represents a density of 27.82 units per hectare which is below the minimum density threshold prescribed in this policy. Density in line with the

Official Plan Designation is not possible on this site due to property geometry and environmental constraints.

As noted, the height, bulk and massing of the proposed townhouses is consistent with surrounding development. A reduction in front yard setback is proposed in order to maintain a setback that is consistent with adjacent development.

## **SECTION 11 – ENVIRONMENTAL**

As shown on Official Plan Schedule A (see **Figure 5**), the subject lands contain an Environmental Protection Area designation. This designation is based on high level mapping review and does not reflect detailed site analysis that is typically achieved through study by a qualified professional such as a biologist or ecologist. The EPA feature reflected is the general location of the NPCA regulated Floodplain associated with the Warren Creek.

As previously noted within this report, an Environmental Impact Statement (EIS) and Tree Inventory Plan were prepared by Terrastory between 2022 and 2024 for this property. These efforts have resulted in a comprehensive review and inventory of the natural heritage components on and adjacent to the subject lands.

The purpose of the EIS study was to identify and evaluate natural heritage features and natural hazards on site, and to provide an opinion and recommendation on if the proposed applications would result in a significant impact on features. Recommendations pertaining to necessary mitigation measures and buffering were also required to inform provisional development design and zoning provision. The EIS was scoped by the Consultant and the requisite Terms of Reference was approved by the Regional Municipality of Niagara and NPCA.

As outlined in the EIS, the following natural heritage features exist on, or adjacent to the subject lands:

- Provincially Significant Wetlands
- Significant Woodlands
- Significant Habitat of Endangered and Threatened Species
- Significant Wildlife Habitat
- Fish Habitat (Warren Creek)

The physically evaluated extent of the above noted features are provided on Figures 2 and 3 of the EIS.

Policy 11.1.5 of the Official Plan states that “When considering development or site alteration within or adjacent to a natural heritage feature, the applicant shall design such development so

that there are no significant negative impacts on the feature or its function within the broader ecosystem. Actions will be undertaken to mitigate any unavoidable negative impacts.”

The applications conform with this policy requirement by providing professional analysis and justification to inform the extent of development, type and limit of natural heritage features and proposed mitigation measures to ensure no negative impacts occur.

In conformity with Policy 11.8.1, the proposed alteration of the EPA designated floodplain associated with Warren Creek will be subject to the review and approval of the Niagara Peninsula Conservation Authority.

The Official Plan also provides policy direction on the management of water resources. The policies are focused on the protection of surface and ground water and the mitigation of negative impacts such as flooding and erosion. The EIS contains analysis that concludes that based on the preliminary development plan there will be no negative impacts on identified wetland and fish habitat areas that rely on surface water flows.

Within Policies 11.1.23 to 11.1.26 Environmental Corridors and Linkages are cited as important elements of the natural heritage system in Niagara Falls, providing a connection and relationship between features and animals. Through the completion of the EIS, a potential corridor linkage between the wetland area at 8100 McLeod Road to the east, the wooded area on the southern end of the subject lands and the Warren Creek to the west was identified. The Zoning By-law Amendment has identified and will zone the rear portion of the subject lands as EPS for long-term protection to ensure the maintenance of this corridor. Mitigation measures proposed in the EIS including buffer planting and removal of obstructive fencing will ensure that this feature functions to its highest potential and that development and natural heritage preservation are balanced.

Woodland and forestry resources are also provided with policy direction in the City’s Official Plan. Policy 11.1.41 generally requires that through development processes that existing individual trees and groupings are appropriately identified and that efforts pertaining to the retention and protection of such trees is done to greatest extent possible. Terrastory has completed a Tree Inventory of the subject lands which has mapped the location of existing trees on site.

In conformity with the policy direction related to woodland resources, the rear portion of the subject lands will be protected from development and enhanced through native plantings. Some existing trees must invariably be removed to facilitate the development design, however, there are suitable opportunities to replace them with more suitable species through landscaping efforts.

Similar to the 2014 ROP, the City of Niagara Falls Official Plan contains two primary environmental land use designations which have been mapped in a general manner to properties within the municipality, and are subject to further study and refinement through development applications. The noted designations include Environmental Protection Areas (EPA's) and Environmental Conservation Areas (ECA's).

EPA's are comprised of features that require the highest level of protection with a focus on the prohibition of development and site alteration in features. Features included in this designation include Provincially Significant Wetlands, NPCA regulated wetlands greater than 2ha in size, Provincially Significant Life ANSIs, significant habitat of threatened and endangered species, floodways and erosion hazard areas and environmentally sensitive areas. Policy 11.2.3 directs that minor modifications to the limits of EPA features may be completed based on the results of a required study, such as an EIS, without amendment to the Official Plan.

As noted previously in this report, the subject lands do not contain any features that would be mapped as EPA, save for the existing floodplain associated with the Warren Creek. The current extent of the floodplain is not reflective of recent field surveys completed for adjacent developments. Due to the inaccuracy of the mapping, and that there are no features that are required to be mapped on the property, it is considered appropriate that the Zoning Amendment be utilized to ensure protection of the floodplain and other identified natural heritage elements, rather than the Official Plan.

The ECA designation is supported by protective policies, but allows for some limited development and site alteration, subject to study. Features included in this designation include significant woodlands, significant valleylands, significant wildlife habitat, fish habitat, significant Life and Earth Science ANSIs, sensitive ground water areas, and locally significant wetlands or NPCA wetlands less than 2ha in size. Similar to the EPA designation, no features that qualify as ECA have been identified on the subject lands.

The EIS has confirmed the presence of a provincially significant wetland inclusive of a significant woodland to the east on 8100 McLeod Road. To the west is the Warren Creek which is inclusive of fish habitat and an endangered butternut sapling on lands known as 81956 McLeod Road.

The EIS has recommended mitigation measures to protect these adjacent features and promote connectivity between them through the provision of a protected area at the rear of the subject lands, buffering and enhancement and protective zoning. These efforts will ensure that all noted features are protected for the long term and that ecological functions are maintained. Such efforts are deemed to conform with the general intent and purpose of the policies of Section 11 of the Niagara Falls Official Plan

## **PART 3 – ENVIRONMENTAL MANAGEMENT**

Part 3 of the City of Niagara Falls Official Plan contains policy direction on phasing, infrastructure, transportation and the public realm.

### **Part 3, Section 1.2 – Water and Sanitary Sewage**

Section 1.2 of Part 3 of the Official Plan requires that development within the Urban Area be provided with full municipal water and sanitary services. In conformity with this requirement, the proposed development is located within the Niagara Falls Urban Area will utilize existing municipal water and sanitary infrastructure connections available within McLeod Road.

### **Part 3, Section 1.3 – Storm Drainage**

Policy 1.3.1 of Part 3 of the Official Plan requires that “all new development or redevelopment within the City be connected to and serviced by a suitable storm drainage system.”

As outlined in the Functional Servicing Report prepared by Upper Canada Consultants, the stormwater management method for the subject lands will consists of storm sewers and swales. All flows captured from the parking areas will be treated using an oil/grit separator before being discharged into Warren Creek. Sheet runoff from yards will also be directed through swales and grading to the creek. This method is considered suitable by the consulting engineer and in alignment with the preferred stormwater management method for this area of the community.

### **Part 3, Section 1.5 – Transportation**

As shown on Schedule C of the City of Niagara Falls Official Plan (**Figure 6**), the subject lands have frontage on an Arterial Roadway (McLeod Road).

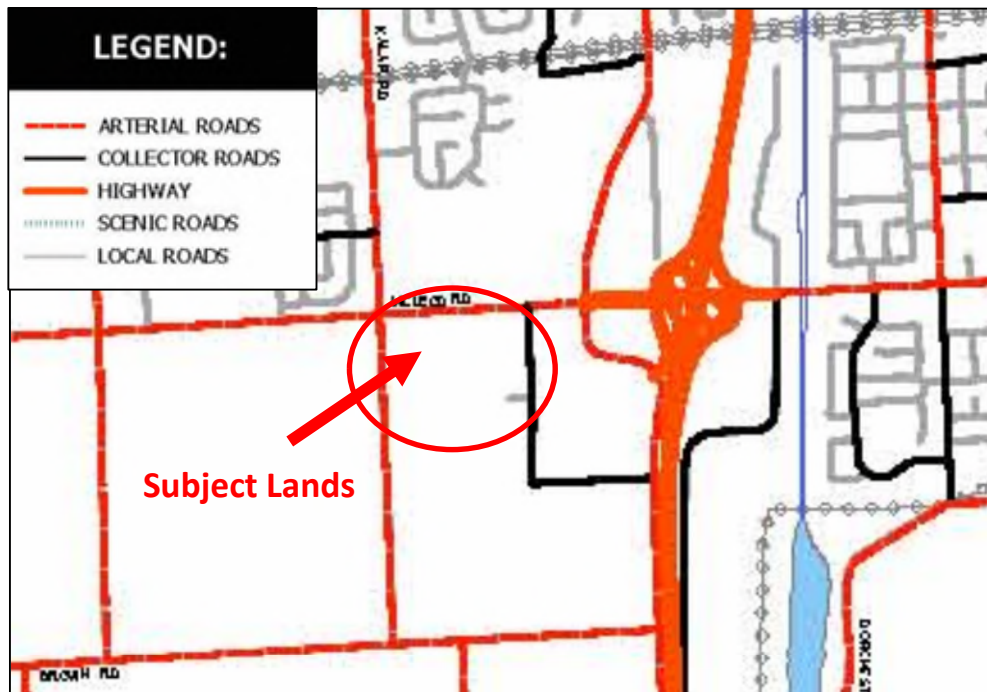


Figure 6 - Schedule C of the City of Niagara Falls Official Plan

Policy 1.5.18.4 states that Regional Arterial Roads are designed to accommodate the movement of large volumes of traffic and function as secondary highways and primary arterial roads. Further, the policy also states that the use of shared driveways to larger development projects will be encouraged in Urban Areas.

In conformity with Policy 1.5.18.4, the site will have one (1) access taken from McLeod Road. The provision of one access, as opposed to multiple individual driveways is preferable and supported by the Official Plan.

The applications conform with overarching transportation policies of the City of Niagara Falls Official Plan. Conformity is achieved by providing opportunities for the development to leverage existing road networks, transit service and active transportation/pedestrian routes.

### Part 3, Section 2 – Parkland Strategy

The City of Niagara Falls outlines its Parkland acquisition and development approach in the Official Plan. The overall intent of the approach is to ensure that public open space is provided in both Greenfield and Built-up Areas, and that it is provided at a scale which is appropriate for the area.

The hierarchy of parks with Niagara Falls is follows:

- Neighborhood Parks (1.4 hectares per 1000 persons)



- Community Parks (1 hectare per 1000 persons)
- City Wide Parks (2.5 hectares per 1000 persons).

Due to the small scale of the subject lands and that there is no reasonable or convenient location for a new public park on the property, parkland dedication will be provided in the form of cash-in-lieu at a value of 5% of the appraised value of the property, consistent with Section 42 of the Planning Act.

#### Part 3, Section 4 – Cultural Heritage Conservation

Due to the proximity of the subject lands to the Warren Creek and other registered Archeological sites, the property was considered to exhibit a high potential for the discovery of archeological resources.

In accordance with the policies of Part 3, Section 4 of the Official Plan, “No work shall be carried out on any property which has identified archaeological resources or has archaeological potential without first conducting archaeological fieldwork and submitting a report, both undertaken by a licensed archaeologist.”

To satisfy this policy direction and achieve conformity, Earthworks Archaeological Consulting Inc. was retained by the property owner to complete Stage 1 & 2 Archaeological Assessments in on the subject lands. Through field investigation completed in 2022, no archeological resources were discovered. No additional study was recommended by the Archaeologist.

Following the completion of the Assessment, the Archeologist’s report was submitted to the Ontario Ministry of Citizenship and Multiculturalism for review and acknowledgement. Ministry clearance was provided on August 31, 2022.

As these works have been completed, the applications are considered to be in conformity with the requirements of Part 3, Section 4 of the Niagara Falls Official Plan.

#### Part 3, Section 5 – Urban Design Strategy

The Urban Design Strategy set out in the Official Plan generally seeks to ensure that development is of a high architectural quality, evokes a sense of place, is compatible with surrounding development and contemplates and provides for appropriate opportunities for pedestrian scaled development and robust landscaping.

The development will include residential architecture of similar character to the adjacent condominium development to the west. Detailed dwelling elevations and floorplans have not yet been prepared by the developer.

The subject lands will have a limited interface with McLeod Road, as only the sidewall of Unit 1 will face the public street. This façade should be designed in a manner that contains enhanced architectural detail and subsequently matched with a high-quality landscape treatment.

The site has been designed to be easily accessible by all modes of travel, including pedestrians. An internal sidewalk will be provided that will connect to a planned extension of the existing sidewalk on the south side of McLeod Road to support walkability. Visitor parking has been proposed towards the rear of the site where it shall be screened from public view to improve the design of the development.

Detailed architectural, landscape, tree preservation and urban design plans will be developed alongside detailed grading and engineering plans and reviewed through the future Clearance of Conditions process.

#### **PART 4 – ADMINISTRATION AND IMPLEMENTATION**

Draft Plans of Condominium are considered under the same Planning Act framework as Plans of Subdivision. Policy 7.3 under Part 4 of the Official Plan requires that Plans of Subdivision be in conformity with nine items. An overview of conformity is provided below:

- 7.3.1 No development shall be permitted unless it complies with the policies of this Plan, the Regional Official Plan and the requirements of the Planning Act and any Provincial Plans. Prior to the registration of a subdivision plan or issuance of the Land Division Committee's certificate, the development must conform with the appropriate Zoning By-law.

*As outlined in this report, the applications are consistent with the 2020 Provincial Policy Statement and in conformity with the 2020 Growth Plan, Niagara Official Plan (2015 & 2022) and City of Niagara Falls Official Plan (as amended).*

*The Zoning By-law Amendment will establish an appropriate zoning category that conforms with the Official Plan and GSSP, as well as limited but desirable site –specific provisions to implement the proposed Plan of Vacant Land Condominium.*

- 7.3.2 Access to Provincial Highways, Regional roads and the Niagara River Parkway must conform with access requirements of the Provincial Ministry of Transportation, the Regional Municipality of Niagara and Niagara Parks Commission.

*The subject lands are accessible from McLeod Road, which is a City owned and maintained roadway. Residents of the future development can easily access McLeod*

*Road from the private driveway and internal sidewalks. McLeod Road also provides access to other important arterial and collector roads including Montrose Road, Kalar Road and the QEW.*

- 7.3.3 Any lot created shall have direct frontage on a public road of an acceptable standard of construction.

*The subject lands are an existing lot of record which has frontage on a public road (McLeod Road). The private road proposed internal to the property will be built to City standards for private driveways and will be accessible from one, centralized access from McLeod Road.*

- 7.3.4 Development shall not create a traffic hazard.

*The City of Niagara Falls did not request a transportation impact study to be provided in support of this development. The access location and proposed amount of parking are considered appropriate for the scale of development and no impacts on adjacent streets are expected.*

- 7.3.5 The applicant must prove to the appropriate authority that sufficient sewer and water services are available for the intended use of the land.

*A Functional Servicing Report prepared by Upper Canada Consultants has been submitted with the applications. This report provides a professional engineering position that the site can be serviced adequately.*

- 7.3.6 Development shall be prohibited in significant wetlands and habitat of endangered or threatened species and discouraged in woodlots; and other natural resource areas. Development within or adjacent to a natural heritage resource area or other natural area may be restricted and will be subject to the policies of Part 2, Section 11. The City shall seek the protection of wetlands adjacent to plans of subdivision/condominium through the dedication of the wetland area to the City, Niagara Peninsula Conservation Authority or other public agency or land trust.

*As outlined in the EIS prepared by Terrastory, Provincially Significant Wetlands, Habitat of Endangered and Threatened Species and woodlots have not been confirmed to exist on the subject lands. The wetland and woodland features are found on adjacent lands to the east (8100 McLeod Road), and an endangered butternut tree sapling was found*

*on the property to the west (8196 McLeod Road). The vegetated portion of the property to the rear was identified as a candidate area for endangered bat habitat.*

*The EIS has evaluated the noted features and concludes that subject to the mitigation measures outline in the report, there will be no significant negative impact on the noted features. The application of an EPA Zone to a portion of the property will also assist in ensuring the long term protection of potential habitat, the provision of environmental linkages and suitable buffering between the natural environment and development.*

*At this time, the EPA feature area is intended to remain with the Condominium for long term protection.*

- 7.3.7 Extensions to linear or ribbon development along roadways are to be discouraged except within the Parkway Residential Area.

*The development is not an extension of linear or ribbon development.*

- 7.3.8 Development will be discouraged where a division of land would interfere with land assembly for the purpose of planned development.

*The subject lands an existing lot of record that is fit for intensified development. No land division is proposed.*

- 7.3.9 Development will be discouraged when it does not comply with the staging policies of this Plan.

*There are no staging policies associated with the subject lands.*

Based on the analysis provided above, the Draft Plan of Vacant Land Condominium application is in conformity with the policies of Section 7.3 of Part 4 of the Official Plan.

## PART 5 – SECONDARY PLANS

### **SECTION 1 – GARNER SOUTH SECONDARY PLAN**

The Garner South Secondary Plan is located within the southwestern portion of the Niagara Falls Urban Area. The Plan area's physical limits are generally described as being McLeod Road to the north, Pin Oak Drive and the QEW to the East, Lands on the East Side of Garner Road to the West and Brown Road and Chippawa Creek Road to the South.

The subject lands are located within the northeast section of the Secondary Plan Area and are designated as High Density Residential and Environmental Protection Area on Schedule A3 of the Official Plan, as shown in **Figure 7**.

Unlike the majority of the Plan Area, the subject lands are located within the Built-up Area rather than Designated Greenfield Area and will contribute to the City's overall intensification target.

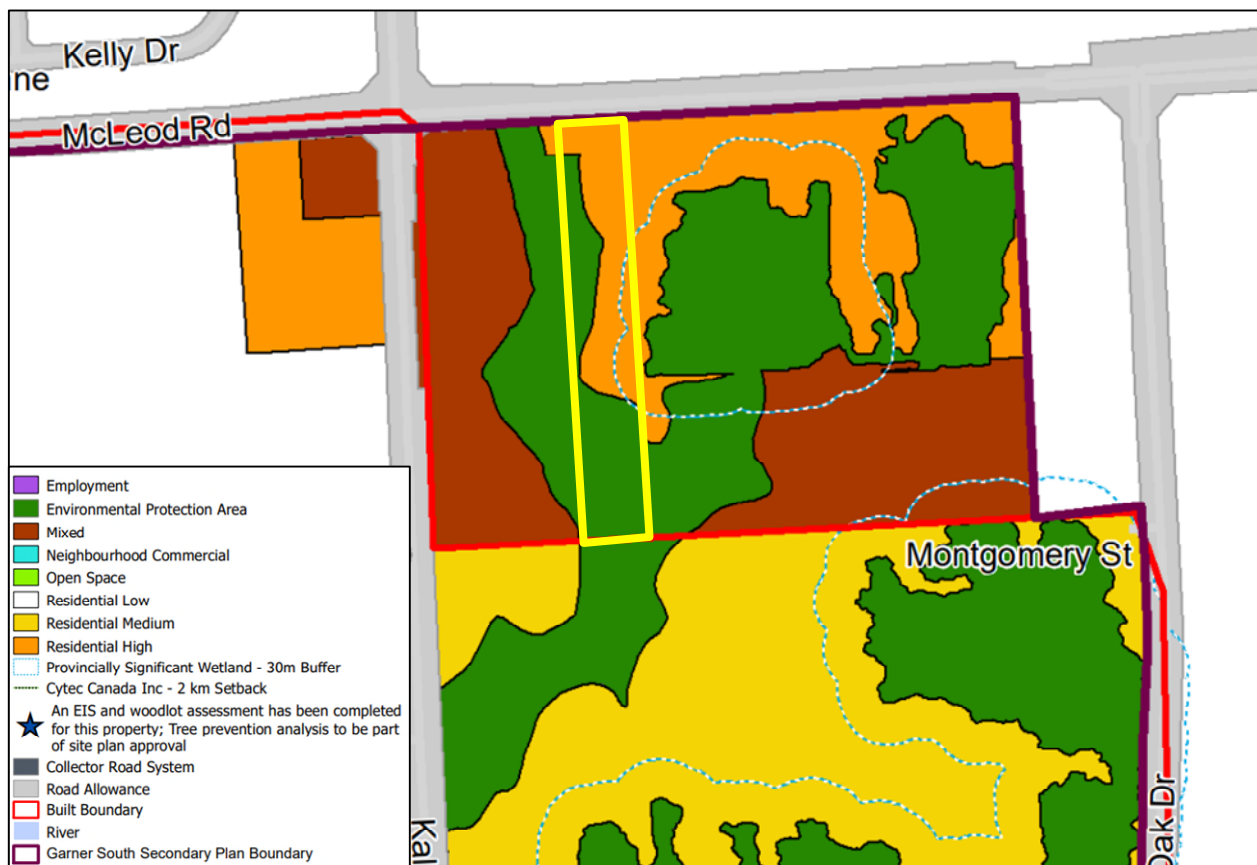


Figure 7 - Schedule A3 of the Garner South Secondary Plan (Subject Lands outlined in Yellow)

## General Policies

General policies are contained within Section 1 of the Garner South Secondary Plan. A demonstration of conformity with the relevant overall policies of the Plan is provided in the following sections.

- 1.1 *The basic pattern of future land use is illustrated on Schedule A-3 and the Concept Plan (Appendix VII-A) to the Official Plan. The Concept Plan provides a physical framework that implements the general principles and objectives. Development is to be consistent with the land use pattern and collector road system. The location of local roads, however, will be determined through individual plans of subdivision. The general phasing concept for the Secondary Plan Area is shown on the Phasing Concept Plan, Appendix VII-B. The Concept Plan (Appendix VII-A) and the Phasing Concept Plan (Appendix VII-B) do not constitute part of the Secondary Plan and are included as appendices as supporting documents.*

The subject lands are designated as High Density Residential and Environmental Protection Area on Schedule A-3 (see **Figure 7**). The subject lands do not have any provincial road designs or land use patterns proposed on them, as the properties are within the built-up area, are amongst existing built area and have frontage on an existing municipal roadway.

- 1.2 *The following land use policies and designations are established for the Secondary Plan Area only and are shown on Schedule A-3. Any changes in land use designation from that shown on Schedule A-3 shall require an amendment to this Plan, save and except for revisions to the boundaries of the limits of the EPA and ECA designations as set out in policy 2.9.2.3.*

The subject lands are designated as High Density Residential on Schedule A-3. A portion of the property is also impacted by the Warren Creek floodplain. The general limits of this hazard area are designated as Environmental Protection Area within the GSSP and encroach into the subject lands.

The proposed development includes a minor modification to the extent and location of this floodplain and the provision of updated EPA Zoning within the City's Zoning By-law. In accordance with Policy 1.2, an Official Plan Amendment is not required to effect this change.

- 1.6 *Lands may be developed at densities lower than the minimum prescribed in this Secondary Plan without amendment to this Secondary Plan. Such proposals shall be*

*accompanied by an analysis, based on approved land use, which demonstrates that the overall target density for the Secondary Plan will not be jeopardized.*

The proposed development density is below the minimum 75 unit per hectare density target prescribed in the Garner South Secondary Plan, being 27.82 units per hectare.

This deviation is not anticipated to have a significant impact on the achievement of the target density throughout the Secondary Plan Area, as the proposed development represents the highest density achievable on this site due to property geometry and environmental constraints, as contemplated in Policy 1.8.

Should development in the prescribed form not be supported, it is likely that the property would be developed at a lower density, or not at all. The density that can be accommodated contributes to the overall target in a positive manner and is preferable to no development at all.

*1.7 Accessory dwelling units shall be permitted by the Zoning By-law within residential areas. Zoning regulations shall be based on the following*

*1.7.1 Only one accessory dwelling unit per lot is to be permitted.*

*1.7.2 The lot size and configuration are sufficient to accommodate adequate parking, green space and amenity areas for both the principal dwelling and the accessory dwelling unit.*

*1.7.3 The accessory dwelling unit meets all applicable law.*

*1.7.4 The overall appearance and character of the principal dwelling shall be maintained.*

*1.7.5 Accessory structures that have an accessory dwelling unit shall not be severed from the principal dwelling.*

The City of Niagara Falls recently passed an amendment to Zoning By-law 79-200 through Amendment 2023-110 which has integrated the new Provincial directions for accessory dwelling units.

Within that amendment, however, permissions for ADU's within Block Townhouses were not included. Accordingly, additional provisions will be required to be established on a site-specific basis through the submitted Zoning By-law Amendment to permit these uses in accordance with the direction of policy 1.7.

As outlined within the Draft Zoning By-law Amendment, one (1) ADU would be permitted per each primary dwelling unit. These units may not occupy greater than 50% of the gross floor area (excluding the garage) and will require one legal parking spot each.

The overall appearance of these ADU's will be concealed within the design of the primary units, save for additional doors and windows, as required.

No accessory structures containing ADU's will be permitted on the subject lands, in accordance with the proposed zoning.

Overall, the applications conform with this Policy and assist in its implementation on a site-specific basis.

- 1.8 *The target maximum densities set forth in this Secondary Plan are based on ideal site conditions. Accordingly, if such conditions are not present, maximum densities may not be achievable.*

The net density of the subject lands (removing the proposed EPA Area), will be 27.82 units per hectare. This density reflects the highest reasonable density that is achievable on this site due to narrow property geometry and environmental constraints.

Each dwelling unit has the opportunity to include an accessory dwelling unit. Although not factored into density calculations, the ultimate intensity of development could be doubled to 55.64 units per hectare. This unique proposal ensures that as much density as possible is achieved on site, in conformity with Policy 1.8.

- 1.10 *Any application to amend these Official Plan Policies or related implementing Zoning By-law(s) and any other Planning Act application(s) including minor variance or consent application(s) within the Garner South Secondary Plan Area shall be subject to the public notification requirements of the Planning Act and shall include circulation of notice(s) to the registered owners of the heavy industrial lands south of Brown Road and west of Garner Road and north of Chippawa Creek Road within the municipal boundaries, which lands are as the date of adoption of this Official Plan Amendment owned by Cytec Canada Inc.*

The submitted applications are subject to the standard circulation and public consultation process under the Planning Act.



### Section 2.3 – Residential, High Density

Per Section 2.3.1 of the GSSP, lands that are designated as High Density residential shall provide for apartment dwellings and retirement and long-term care facilities. Additional housing forms are permitted, subject to Policy 2.3.3. provided that the can meet the minimum density range of 75-125 units per net hectare and where justified by market conditions and the overall density target for the Plan area is not jeopardized.

Building Heights for apartment uses are not to exceed eight-storeys and retirement and long-term care uses are not to exceed two storeys.

#### *2.3.1 Residential, high density areas shall provide for apartment buildings.*

The proposed development is comprised of block townhouse dwellings as an apartment cannot be feasibly accommodated on the property with appropriate setbacks and sufficient parking due to property geometry and environmental constraints. The proposed block townhouses represent a reasonable alternative as the units are similarly compact like apartment units and enable the maximization of the efficient use of the property.

In addition, each dwelling unit will be outfit to include an accessory dwelling unit which would represent an additional 18 housing opportunities on the site. This approach to increasing density is reasonable, provides additional forms of housing opportunities and can be accommodated within the planned design of the property.

#### *2.3.3 In order to meet the greenfield density target, Residential, high density areas shall be developed at a minimum density of 75 units per net hectare to a maximum of 125 units per net hectare. Despite Policy 2.3.1, lower density housing types may be permitted on a site specific basis:*

- a) within a development to provide for a mix of housing if the overall density for the development meets the minimum for this designation; or*
- b) where justified by market conditions and the overall density target for the Plan Area is not jeopardized.*

The subject lands are located within the Built-up Area and therefore any development would not be contributed towards the established greenfield density target.

The proposed development density of 27.82 units per hectare does not meet the minimum target density of 75 units per hectare. As noted, achieving a higher density is not feasible on this site due to the property geometry and environmental constraints.

In accordance with item b) above, the proposed development does not jeopardize the achievement of the target density for High Density Residential lands in the Garner South Secondary Plan Area as there are larger parcels which can be developed at higher and more efficient densities.

- 2.3.4 *Unless otherwise stated, building heights shall not exceed 8 storeys for apartment buildings and 2 storeys for long term care facilities in the Secondary Plan Area. Despite this, in order to capitalize on this area's proximity to the Niagara Square Retail District, lands east of Kalar Road are intended to develop as a high-rise node. As such, densities may exceed 125 units per net hectare and building heights up to 12 storeys may be considered without amendment to this Plan.*

The proposed Block Townhouse Dwelling Units will comply with a maximum height provision of 10 metres. This height is consistent, generally, with the adjacent townhouse condominium to the west, which will ensure consistent built form along McLeod Road.

- 2.3.6 *Buildings shall be designed facing the street in order to be pedestrian oriented. Apartment dwellings should be located such that front and exterior side yards are generously landscaped to complement the streetscape or with podiums set close to the street. Lower density housing forms may be utilized along street frontages in combination with higher density apartment dwellings located internally.*

The proposed dwellings are oriented to front onto the private roadway, with the exterior wall of Unit 1 flanking McLeod Road. A reduction in front yard setback from McLeod Road to Unit 1 is requested in order to create a consistent setback with the development to the west at 8196 McLeod Road.

- 2.3.7 *Parking areas should be located within rear yards or interior side yards. Landscape buffers along all property line shall be of sufficient depth and intensity so as to provide appropriate levels of screening. Where a rear or exterior lot line or the rear or side building facade abuts a public road, enhanced landscaping and building treatments should be employed to ensure that building facades and servicing areas are attractive and/or appropriately screened from view.*

Each unit will have a driveway and garage for parking. An additional parking area is located at the rear of the property for visitors and Accessory Dwelling Unit occupants. This parking lot will be located out of public view and screened by both the dwelling units and fencing along the northeastern portion of the site.

On-site landscaping areas have a minimum depth of 3.0 metres, which provides suitable room for sodding, trees and other landscape elements. These buffers, when paired with future buffers on the adjacent lands to the east (when eventually developed) will provide for a suitable buffer between land uses and parking areas.

#### Section 2.9 – Environmental Protection and Environmental Conservation Areas

The subject lands are shown with a portion of Environmental Protection Area land use designation on the western side of the subject lands. This feature mapping coincides with the previously mapped location of the Warren Creek Floodplain.

The in-place EPA feature mapping is not currently reflective of the actual location of the floodplain due to recent development on adjacent lands to the west. Therefore, any further modifications to the extent of the floodplain would be considered technical in nature. As the floodplain is being additionally modified in a minor manner to support this development, the need for an Official Plan Amendment is not required, per policy 2.9.2.3 of the Secondary Plan.

There are no additional EPA features identified through the EIS that are occurring on the subject lands that would require an amendment to the Secondary Plan mapping. The proposed zoning by-law amendment will provide suitable protections for the identified natural heritage features at the south end of the property, which include the floodplain, the environmental corridor and existing wooded area. No development or site alteration, other than prescribed mitigation measures will be permitted in this EPA Zoned area.



To facilitate the proposed townhouse condominium site, a Residential Low-Density Grouped Multiple Dwellings Zone (R4) is proposed. This zoning is similar and compatible with recent zoning amendments on properties to the west, east and north of the subject lands.

### **Low Density Grouped Multiple Dwelling Zone (R4)**

A Zoning By-law Amendment application has been submitted to Zone the subject lands as Residential Low-Density Grouped Multiple Dwellings (R4) Zone to permit the proposed development.

The proposed Zoning By-law Amendment would implement the intended residential development of the subject property.

The Zoning By-law Amendment will also zone the proposed floodplain area in the rear of the property as Environmental Protection Area (EPA) for long-term protection.

### **Requested Site Specific Relief**

#### Minimum Front Yard Depth (4.5 metres whereas 6.0 metres is required)

The requested reduction in front yard depth represents the setback between Unit 1 and the McLeod Road street line (back of 3.0 metre Road Widening).

The reduction is being requested to provide a setback that is similar to the existing setback of the adjacent development to the west in order to provide a consistent, pedestrian scaled street wall along McLeod Road. Similar zoning approval was provided by the City for the noted adjacent townhouse development through the R4-1090 Zone (8196 McLeod Road).

#### Permitted Uses – Accessory Dwelling Units

Although permitted outright by recent legislative changes to the Planning Act, the required Zoning By-law amendment provides an appropriate opportunity to specifically permit Accessory Dwelling Units and establish performance criteria for their inclusion within the proposed primary dwelling units.

Recently, the City of Niagara Falls amended Zoning By-law 79-200 through by-law 2023-100 to permit the inclusion of Accessory Dwelling Units within certain residential building types. Block Townhouses were not included as a permitted dwelling form for ADU inclusion. Accordingly, the Zoning By-law Amendment requests their inclusion as a permitted use within the development on a site-specific basis.

As requested through the Draft Zoning By-law Amendment, one (1) ADU will be permitted within a Block Townhouse Dwelling and shall have a floor area less than 50% of the primary

unit, excluding the garage. This approach will ensure that no new structures are erected on the property that could affect the Condominium and that any established ADU's are subordinate to the primary units in size and function.

A minimum parking requirement of one (1) space per ADU is also proposed, which can be accommodated in the surface parking lot on site. This provision provides flexibility for those unit owners which may not want to include an ADU within their home.

These provisions are considered to be in conformity with Provincial, Regional and Local planning policies and to specifically implement the direction of Policy 1.7 of the GSSP related to accessory dwelling units.

**Table 1** contains a Zoning Matrix that demonstrates compliance with the balance of the requested R4 Zone provisions, and where relief and/or additional provisions are requested.

The proposed Draft Zoning By-law Amendment is included as **Appendix III** to this report.

**TABLE 1 – ZONING COMPLIANCE TABLE**

Departures or new additions to the Provisions of the R4 Zone are shown in red text with highlight – **Sample**.

Section 7.9 Residential Low Density, Grouped Multiple Dwellings Zone (R4 Zone).	REQUIRED	PROPOSED
7.9.1 Permitted Uses	<p>PERMITTED USES: No person shall within any R4 Zone use any land or erect or use any building or structure for any purpose except one or more of the following uses:</p> <ul style="list-style-type: none"> <li>(a) A townhouse dwelling containing not more than 8 dwelling units</li> <li>(b) An apartment dwelling</li> <li>(c) Group dwellings, provided that no townhouse dwelling in the group dwellings contains more than 8 dwelling units</li> <li>(d) Accessory buildings and accessory structures, subject to the provisions of sections 4.13 and 4.14.</li> <li>(e) A Home Occupation in a detached dwelling, or a dwelling unit of a semidetached dwelling or a duplex dwelling, subject to the provisions of section 5.5.</li> </ul>	<p style="text-align: center;"><b>Add:</b> <b>One Accessory Dwelling Unit per Townhouse Dwelling Unit</b></p>
Section 7.9.2 Regulations	REQUIRED	PROPOSED
(a) Minimum Lot Area	<p style="text-align: center;">For a Townhouse Dwelling</p> <p style="text-align: center;">250 square metres for each dwelling unit</p>	<p style="text-align: center;">359 square metres per dwelling unit</p>

Section 7.9 Residential Low Density, Grouped Multiple Dwellings Zone (R4 Zone).	REQUIRED	PROPOSED
<b>(b) Minimum Lot Frontage</b>	(i) for a townhouse dwelling or an apartment dwelling containing more than four dwelling units  30 metres	41.72 metres (McLeod Road)
<b>(c) Minimum Front Yard Depth</b>	(i) for a townhouse dwelling  6 metres plus any applicable distance specified in Section 4.27.1	4.5 metres
<b>(d) Minimum Rear Yard Depth</b>	(i) for a townhouse dwelling  7.5 metres plus any applicable distance specific in Section 4.27.1	35.63 metres
<b>(e) Minimum Interior Side Yard Setback</b>	One Half the Height of the Building  (10.0 m maximum building height = 5.0 m minimum interior side yard)	8.0 metres



Section 7.9 Residential Low Density, Grouped Multiple Dwellings Zone (R4 Zone).	REQUIRED	PROPOSED
<b>(f) Minimum Exterior Side Yard Setback</b>	4.5 metres plus any applicable distance specified in Section 4.27.1	N/A  There is no Exterior Side Yard
<b>(g) Maximum Lot Coverage</b>	35 %	21.27%
<b>(h) Maximum Height of a Building of Structure</b>	10 metres, subject to Section 4.7	10 metres, subject to Section 4.7
<b>(i) Deleted by By-law No 2011.136</b>	-	-
<b>(j) Number of Dwellings on One Lot.</b>	Subject to compliance with Section 7.9.2, more than one dwellings is permitted on one lot.	Subject to compliance with Section 7.9.2, more than one dwellings is permitted on one lot.
<b>(k) Parking and Access Requirements</b>	In accordance with Section 4.19.1 of By-law No. 79-200  Dwelling containing 3 or more dwelling units save and except an on street townhouse dwelling.  1.4 Parking Spaces for Each Dwelling Unit	1.4 parking spaces for each dwelling unit
<b>(l) Accessory Buildings and Accessory Structures</b>	In Accordance with Section 4.13 and 4.14	Accessory Buildings are not proposed.
<b>(m) Minimum Landscaped Open Space</b>	45 square metres for each dwelling unit  (45 x 19 = 855 sq. m)	150 square metres for each dwelling unit.

Section 7.9 Residential Low Density, Grouped Multiple Dwellings Zone (R4 Zone).	REQUIRED	PROPOSED
(n) Minimum Privacy Yard Depth For Each Townhouse Dwelling Units, As Measured From The Exterior Rear Wall Of Every Dwelling Unit.	7.5 Metres	8.0 metres
Provisions for Accessory Dwelling Units	-	<p>a) Must be located within a Block Townhouse Dwelling Unit</p> <p>b) No more than 50% of the Gross Floor Area of the primary dwelling unit (excluding Garage)</p> <p>c) 1.0 parking space for each Accessory Dwelling Unit</p>

## **PLANNING POSITION**

The owner of the subject lands has proposed a redevelopment of the property known as 8168 McLeod Road in Niagara Falls for residential purposes. As determined through two previous pre-consultation meetings, the proposed development requires applications for Draft Plan of Vacant land Condominium and Zoning By-law Amendment to proceed.

The proposed development consists of eighteen (18) block townhouse dwellings provided in three (3) groupings of six-unit (6) buildings under Vacant Land Condominium tenure. Each townhouse dwelling will be designed to accommodate an accessory dwelling unit, as well. The development will be supported by a private driveway, surface parking lot and urban services under the private ownership of the Condominium corporation. Each unit will have private amenity area provided within the exclusive use areas contiguous to the dwelling units.

The subject property is designated for “Residential” land use within the City of Niagara Falls Official Plan and for “High Density Residential” Development within the Garner South Secondary Plan. A deviation from a High-Density development proposal is permitted the Secondary Plan, due to the significant geometric and natural heritage constraints on the property.

The intended residential use of these lands is not currently possible due to the current Light Industrial (LI) Zoning applicable to the property. A Zoning By-law Amendment application has been submitted to establish appropriate residential land use permissions for the lands and to protect on-site and adjacent natural heritage features for the long term.

Despite these challenging site characteristics, the development proposal balances the accommodation of prescribed growth with compatibility and environmental protection considerations. The proposed development aligns with Provincial and Regional land use directives in efficiently utilizing urban land and infrastructure and in providing diversity in the housing options on site, and within the surrounding area (i.e. Block Townhouses, Accessory Dwelling Units, Condominium tenure).

As required, professional studies have been provided in support of the required applications that include a Stage 1 and 2 Archaeological Assessment, Functional Servicing Report, Environmental Impact Study, Tree Inventory Plan, Land Use Compatibility Analysis and a Noise and Vibration report. Through these reports, the proposed development has been demonstrated to be able to proceed with no significant impact to public health and safety, cultural heritage resources, the natural environment or municipal infrastructure anticipated.

The proposed development plan is considered to implement a form and intensity of development that is appropriate for the lands and compatible with existing, adjacent developments. The

proposed plan utilizes lands efficiently and integrates additional housing opportunities into the site in the form of accessory dwelling units in an effort to achieve as much density as possible to align with Secondary Planning goals.

Based on the analysis contained within this report, it is my professional land use planning opinion that the submitted applications for Draft Plan of Vacant Land Condominium and Zoning By-law Amendment satisfy the applicable requirements of the Planning Act, are consistent with the 2020 Provincial Policy Statement and conform to the 2020 Growth Plan for the Greater Golden Horseshoe, 2014 and 2022 Niagara Official Plan and City of Niagara Falls Official Plan (as amended).

Respectfully Submitted,

A handwritten signature in black ink, appearing to read 'Nicholas Godfrey', written in a cursive style.

Nicholas Godfrey MA., RPP, MCIP  
Senior Planner  
Upper Canada Consultants