

October 7, 2022

Via Online Submission and E-mail to: Alejandra.Perdomo@ontario.ca

Alejandra Perdomo
Municipal Services Office - Central Ontario
777 Bay Street, 16th floor
Toronto, ON M7A 2J3

Dear Madam:

Re: Region of Niagara New Official Plan- Urban Settlement Area Expansions and Natural Heritage Mapping and Natural Heritage Policies related to Significant Woodlands

We are writing to provide comments on behalf of Upper Canada Consultants (“Upper Canada”) related to the new Region of Niagara Official Plan (“Niagara OP”). Upper Canada is one of Niagara Region’s largest and most respected planning and engineering firms who represent clients with various development interests within Niagara. Please accept these submissions as part of the Province’s review of the adopted Niagara OP.

Urban Settlement Area Expansions

Upper Canada supports Urban Settlement Area expansions included in the adopted Niagara OP.

Within the Niagara Region, there is a serious need for urban boundary expansions to accommodate the anticipated growth for the region. This need has been exacerbated by the pandemic, resulting from a trend for some within the Toronto and Greater Toronto Area wanting more affordable housing.

In particular, the Province is mandating minimum targets that require an increased need for intensification within Niagara to accommodate the projected growth in population and employment in Niagara. The reality is that if the Region does not expand its urban boundaries, the intensification and additional development pressure will have to come exclusively from within the existing urban boundaries, resulting in significant pressure for higher densities in established neighbourhoods. In our experience, this creates much conflict with residents who would oppose higher densities in those areas. Supporting the urban boundary expansion will provide greater land supply and will relieve some of that development pressure.

Moreover, over the last several months Regional Planning staff have carefully reviewed the options for urban boundary expansion within Niagara based on a variety of important planning related factors. Upper Canada supports the proposed urban settlement area expansions as adopted by the Niagara Region.

Natural Heritage Mapping

There are a number of properties that have been subject to Environmental Impact Studies or other natural heritage assessment that have been incorrectly characterized by the Regions Natural Environmental System mapping. Many of our clients have undertaken these studies in consultation with the Region and Niagara Peninsula Conservation Authority and haven't taken significant time and incurred great expense to do so. UCC and our clients have significant concern with the inaccuracies in the Region's mapping and the damage it could cause to our clients. The following is a list of properties that UCC is currently working on and that UCC believes the Region has inaccurately mapped Natural Environmental Features:

1. Sherkston Shores Campground – south of Meadow Lane, Port Colborne
2. SW corner of Ridge Road North and Farr Avenue, Fort Erie
3. South side of Parker Avenue, west of Wells Avenue (South Ridge Meadows Subdivision, Fort Erie),
4. Lands east of North Ridge Meadows, Fort Erie
5. Lands between Bernard Avenue and Centralia Avenue North, South of Nigh Road, Fort Erie
6. Lands at the northern terminus of Hospitality Drive, Fort Erie
7. Land south of Garrison Road, between Crescent Road and Kraft Road, Fort Erie (former Crescent Acres Subdivision)
8. Lands east of eastern terminus of Dexter Drive, Fort Erie
9. 848 Garrison Road, Fort Erie
10. SS Louisa Street (Peace Bridge Village, Phase 4 Subdivision), Fort Erie
11. Lands east of eastern terminus of Viking Street, Fort Erie
12. North Bridgeburg Secondary Plan Area
13. Fort Erie Hills Plan of Subdivision (Draft Approved).
14. Northland Estates Subdivision, Port Colborne
15. Rosedale Subdivision / Rosewood Subdivision, Port Colborne
16. Canal Trail Subdivision, Welland
17. 420 Murdock Road, Welland (Murdoch Phase 2 Subdivision)
18. Kunda Park Phase 4 Subdivision, Pelham
19. Lands within the East Fenwick Secondary Plan Area
20. NW corner of Stanley Avenue and Lyons Creek Road
21. NE Corner of Kalar Road and McLeod Road, Niagara Falls
22. SE Corner of McLeod Road and Garner Road, Niagara Falls
23. 5259 Dorchester Road, Niagara Falls
24. N Thorold Stone Road, Niagara Falls (Roll # 272510000306403)
25. 9304 McLeod Road, Niagara Falls
26. WS Thompson Road, Fort Erie (Roll # 270302002008200)
27. WS Albert Street, Fort Erie (Roll # 270302000608200)
28. Black Creek Signature Subdivision (Phase 2), Fort Erie
29. 452-458 Kraft Road, Fort Erie
30. Hershey Estates Subdivision, Fort Erie
31. 175 Canboro Road, Pelham
32. 2908 Cataract Road, Thorold
33. 105 Merritt Street, St. Catharines
34. 981 Pelham Street, Pelham



35. 450 Rice Road, Welland
36. 469 Rice Road, Welland
37. 509 Rice Road, Welland
38. 436 Quaker Road, Welland
39. 836 Edgemere Road, Fort Erie
40. 210 Quaker Road, Welland
41. 276 Quaker Road, Welland
42. 256 Quaker Road, Welland
43. Lands to the North of 256 & 276 Quaker Road, Welland (Roll # 271901000109201)
44. 294 Quaker Road, Welland
45. 744 First Avenue, Welland
46. 136 Tanbark Road, Niagara-on-the-Lake
47. 201 Canboro Road, Welland
48. 749 Metler Road, Pelham
49. 653 Metler Road, Pelham
50. 2649 Stevensville Road, Fort Erie
51. West of Pirson Street, Fort Erie (Roll # 270302003010700)
52. Weaver Road & Firelane 1, Port Colborne (Roll # 271104000313100)
53. North of Tanner Drive, Pelham (Roll # 273203001906205)
54. 19 Melody Trail, St. Catharines
55. West side of Prospect Point Road North, Fort Erie (Roll # 270302001404300)
56. North Side of Sumbler Road, Welland (Roll # 271901000812704)
57. South side of Merritt Road West of Cataract Road (273100003118800)
58. 527 Glendale Road, St. Catharines
59. 7230 Lundys Lane & Lands to the South fronting Lundy's Lane (Roll # 272509000722510)
60. 448 Line 2 Road, Niagara-on-the-Lake
61. East side of Niagara Stone Road (Roll # 262702001425950)
62. Lands on the North side of Louisa Street, Fort Erie (Roll # 270302001901000)
63. 3650 Glen Road, Lincoln
64. 2626 Winger Road, Fort Erie
65. West side of Bartlett Road, Beamsville (Roll # 262201000205500)
66. 3285 Thunder Bay Road, Fort Erie
67. South Side of Biggar Road, Thorold (Roll # 273100003239900)
68. 625 Welland Road, Pelham
69. 678 Canboro Road, Pelham
70. Lands on North side of Welland Road, Pelham (Roll # 273201001416811)
71. 1134 Cream Street, Pelham
72. Lands East of Alliston Avenue, Fort Erie (Roll # 270302002008715)
73. NS Chippewa Parkway, Niagara Falls
74. ES Bailey Avenue, Niagara Falls
75. 330 Rice Road, Welland
76. ES Rice Road, opposite Rosewood Crescent, Welland/Thorold

In our view, approval of the Natural Heritage Mapping should be deferred until such time as our concerns regarding the accuracy of it have been addressed.

Natural Heritage Policies related to Significant Woodlands

We have reviewed the Natural Heritage Policies contained within the Niagara OP and wish to comment on certain policies related to land designated as Significant Woodlands.

In our review, we have reviewed policy that suggests that lands designated as a Significant Woodland as of the date of approval of the Niagara OP, will remain designated as such despite the possibility that those same lands may subsequently no longer meet the definition of a Significant Woodland. In particular, the policy reads as follows:

3.1.18.1. Where a feature was identified as a significant woodland as of the date of approval of this Plan and no longer meets the definition of significant woodland (due to either a natural or anthropogenic disturbance), the feature shall retain its status as a significant woodland and the policies of this plan protecting significant woodlands will continue to apply.

A Significant Woodland means “woodlands that are ecologically important in terms of features such as species composition, age of trees and stand history; functionally important due to its contribution to the broader landscape because of its location, size or due to the amount of forest cover in the planning area; or economically important due to site quality, species composition, or past management history (PPS, 2020).”

It is the position of Upper Canada that this provision should be removed from the Niagara OP. Upper Canada has three issues with retaining this policy.

Firstly, the policy would act to maintain land in an environmental land use designation when it is no longer objectively warranted. It would prevent such lands from being used for productive land uses. Additionally, the policy appears to be punitive in nature, which is not appropriate for a policy document. Finally, the policy appears to be inconsistent with other policy within the Niagara OP that may be more balanced. We wish to expand on these below.

Related to the first issue, on the basis of Policy 3.1.18.1, there could be circumstances where an area that was properly designated as a Significant Woodland could no longer meet the definition noted above (i.e. no longer being ecologically important and no longer containing the requisite species composition, older trees etc.). The reason for the change could have resulted from various natural reasons, such as a disease, fire, wind, but also legitimate human intervention.

While it is certainly positive to retain Significant Woodlands, if the very reason why they are designated such way no longer exists, we fail to see a planning justification to retain that designation. Unless there is a legitimate steward to such lands, this policy would serve to stagnate lands and prevent them from being used in a productive manner, including for needed residential or commercial uses. In our view, the restrictive nature of this policy should be subordinate to the policies supporting the provision of more housing in the Province. Simply put, if a parcel of land doesn't meet the definition of a Significant Woodlot, then it shouldn't be classified as such, and policies should not be applied in such a restrictive manner.

In relation to the second issue, the policy could be read to be punitive in nature if human intervention was the cause. In our view, an Official Plan is a policy document and not intended to be punitive in



nature. The punitive aspect of human behaviour is addressed through other regulation, such as the Region's Forestry By-law. As an example, if trees within a Significant Woodland were removed without approval, the person could be charged with an offence under the by-law, and upon conviction, would likely be ordered to restore such lands to the satisfaction of the Region.

Moreover, there are situations where a landowner undertakes permitted works to a wooded area which is permitted under the Region's Forestry By-law (ie removal of dead trees). However, the effect of this policy is that once that work is undertaken, such area might no longer meet the definition of a Significant Woodland. Despite the approval of the works by the Region, the lands would still be designated as a Significant Woodland. The only way to remedy this inconsistency is to seek removal of this provision.

Finally, despite Policy 3.18.1 noted above, the Niagara OP appears to allow a Significant Woodland to be downgraded to a "cultural and regenerating woodland".

According to proposed Policy 3.1.19.1, it is noted that the ecological functions of some significant woodlands or other woodlands in settlement areas may be substantially compromised as a result of prior land use activity and as a result would be difficult to restore and/or manage as a native woodland in an urban setting. In these circumstances, consideration can be given to reclassifying all or a portion of such a significant woodland or other woodland as a cultural and regenerating woodland.

Policy 3.1.19.2 goes on to state that if it has been determined, through the completion of an environmental impact study, that a woodland has met all of the criteria to be considered as a cultural and regenerating woodland to the satisfaction of the Region, the removal of the treed area, or a portion thereof, may be permitted subject to preparing a woodland enhancement plan that demonstrates an enhancement in woodland area is achieved, either on the same property or in the immediate area.

Considering these policies, there appears to be some inconsistency with the policy. In our view, Policy 3.1.19.1 and 3.1.19.2 are more reasonable and allow for a more objective assessment on whether lands should no longer be considered a Significant Woodland. In our view, these policies should remain, while Policy 3.18.1 is removed in its entirety.

We thank you for the opportunity to comment on the Niagara OP.

Yours very truly,

Matt Kernahan, MCIP, RPP
Planning Manager
Upper Canada Consultants

CC: Michelle Sergi, RMON
Martin Heikoop, UCC