
Subject: Recommendation Report: Niagara Official Plan Amendment, Stone Eagle Winery, Niagara-on-the-Lake

Report to: Planning and Economic Development Committee

Report date: Wednesday, January 11, 2023

Recommendations

1. That Niagara Official Plan Amendment – Stone Eagle Winery, Niagara-on-the-Lake, **BE APPROVED** (attached as Appendix 2 to Report PDS 1-2023);
2. That all parties **BE NOTIFIED** of Regional Council's decision in accordance with Planning Act requirements; and,
3. That Report PDS 1- 2023 **BE CIRCULATED** to the Town of Niagara-on-the-Lake

Key Facts

The purpose of this report is to provide Council with an analysis and recommendation related to Niagara Official Plan (NOP) amendment application for lands located at the north-west corner of Niven Road and Niagara Stone Road, Regional Road 55, Niagara-on-the-Lake and to seek Council's decision on the matter. Staff are recommending approval of the request to permit the connection of a proposed winery (Agricultural Related Use) to the local sanitary sewer.

- Stone Eagle Property Corporation (SEPC) submitted an application for a site specific amendment to the NOP for the subject lands in Niagara-on-the-Lake.
- The purpose of the request is to permit the connection of an Agricultural Related Use (winery) to a local sanitary sewer. Relief is being requested from (2014) Regional Official Plan policy 5.C.5, which does not permit developments outside of an urban area to connect to a sanitary sewer.
- Regional staff deemed the application complete on Jan. 21, 2022 and circulated to prescribed agencies on Feb. 4, 2022. On March 17, 2022, the Region advertised the Statutory Public Meeting in accordance with the *Planning Act* requirements. No comments were received from the public. This application must be considered under the 2014 Regional Official Plan.

- A Statutory Public Meeting for the proposed amendment was held on April 6, 2022 in accordance with *Planning Act*, 1990 requirements. All comments received on this matter have been reviewed and considered in staff's recommendation of this amendment.
- In addition to the amendment, the applicant has submitted a concurrent planning application to the Town of Niagara-on-the-Lake for a Zoning By-law Amendment to permit the development of an Estate Winery.
- Given the Minister's approval of the NOP in November of 2022, the proposed amendment would amend the NOP, however, given the date the application was deemed complete, the application is being evaluated under the policies of the previous Regional Official Plan.

Financial Considerations

There are no direct financial implications arising from this report.

In accordance with the Region's fee schedule, a NOP application fee was collected to offset the cost of reviewing and processing this application.

In the event that Council's decision is appealed to the Ontario Land Tribunal, additional resources may be needed. If necessary, a future report on financial implications will be provided.

Analysis

Background

The new Niagara Official Plan (NOP) was approved, with modifications, by the Minister of Municipal Affairs and Housing and came into effect on November 4, 2022.

Policy 7.12.2.5 of the NOP states that development applications deemed complete prior to the date of the NOP approval shall be permitted to be processed and a decision made under the 2014 Regional Official Plan (ROP) policies. The policies of the NOP related to servicing (Policy 5.2.3.2 and 5.2.3.3 of the NOP) and agricultural related uses are similar to 2014 ROP, this review has taken both plans into consideration.

The ROP is a long-term, strategic policy planning framework for managing growth. It sets out policies and objectives and describes the location for new housing, industry,

parks, community services and other land uses as. Additionally, the ROP includes policies for the protection and promotion of agricultural lands and farm operations by ensuring an economically sustainable agricultural industry that is supported by a wide range of farm diversification uses.

When a proposed development does not conform to the ROP, a proponent may apply for a site-specific amendment for Regional Council's consideration in accordance with the *Planning Act* and the ROP.

An application to amend the ROP was received on Jan. 21, 2022 and circulated to prescribed agencies on Feb. 4, 2022 on behalf of SEPC. The application requests an amendment to the ROP to allow a new sanitary sewer connection to the proposed Stone Eagle Estate Winery which is located outside the Niagara-on-the-Lake urban boundary.

An amendment to the ROP is required because the subject site is located outside the urban area boundary and uses outside the boundary are required to be serviced by a private on-site sewage system and private water supply as stated in policy 5.C.5 of the ROP. Outside the urban boundary area, new mains and connections to the municipal sewer system are only permitted to correct an existing health issue. The site currently has a water connection.

SEPC is proposing to build a winery on existing agricultural lands at the northwest corner of Niagara Stone Road (Regional Road 55) and Niven Road in Niagara-on-the-Lake as shown on Appendix 1. The site is surrounded to the north and south by agricultural lands, to the east is the Village Community, and to the west an existing institutional use (place of worship).

Currently, the site contains a planted orchard, vineyards and contains an existing home that fronts onto Hunter Road.

The application was deemed complete on January 21, 2022. A concurrent Zoning By-law Amendment was submitted to the Town of Niagara-on-the-Lake to facilitate the development of the proposed estate winery (Stone Eagle Winery) and secondary uses. In addition to the existing vineyard, the proposed winery would include a wine production facility, wine retail area, indoor and outdoor hospitality areas, restaurant/function room, and kitchen and dry food services. The following documents and reports were submitted in support of the amendment:

- Planning Justification Report, Farm Business Plan and Additional Policy Review

- Functional Servicing and Stormwater Management Report
- Stage 1 and 2 Archaeological Assessments
- Niagara Stone Road Winery Access Review

Copies of the [supporting documents](https://www.notl.org/content/public-notice-under-planning-act-1) (<https://www.notl.org/content/public-notice-under-planning-act-1>) are available via the Town's website under "Public Notices under the Planning Act".

If approved, the amendment would allow a new private sanitary connection to serve the proposed Stone Eagle Winery by connecting a private sanitary lateral to an existing Town sanitary gravity main within the Perez Road allowance on the east side of Niven Road.

Provincial Policy Statement and Greenbelt Plan

The Provincial Policy Statement (PPS) under policy 1.1.4 acknowledges the importance of rural areas to the economic success of the Province and quality of life. Prime agricultural areas are an important component of the rural areas system of lands. Policy 1.1.4.1 encourages that healthy, integrated and viable rural areas be supported by providing opportunities for economic activities in prime agricultural areas.

The PPS designates the subject lands as within a prime agricultural area and more specifically as a specialty crop area. PPS policy 2.3.3.1 permits agriculture, agriculture-related and on-farm diversified uses in the speciality crop area and requires that agriculture-related and on-farm diversified uses are compatible with surrounding agricultural operations.

Similarly, the Greenbelt Plan designates the lands as within the Specialty Crop area – Niagara Peninsula Tender Fruit and Grape Area – of the Protected Countryside and also permits agricultural, agriculture-related and on-farm diversified uses based on provincial guidelines. Infrastructure is recognized as important to the viability of the agri-food sector.

An important aspect of the Greenbelt Plan is the viability and protection of agricultural lands. Policy 1.2.2.1 a) promotes the protection of the speciality crop land while allowing for agriculture-supportive infrastructure and value-added uses necessary for sustainable agricultural uses and activities.

The Greenbelt plan recognizes specialty crop area as vital fruit and vegetable growing region. In particular policy 1.2.2.1 b) i) sees the Niagara Peninsula specialty crop area as a destination and centre for the agri-food sector and agri-tourism related to grape and tender fruit production.

Additionally, policy 1.2.2.1 d) recognizes that appropriate flexibility is needed for agriculture related and on-farm diversified uses and recognizes an evolving agricultural and rural economy.

Policy 3.1.2 promotes a full range agricultural uses, agricultural-related uses and on-farm diversified uses that are compatible and do not hinder surrounding agricultural operations.

Policy 4.2.2.2, limits the extension of municipal sewage or water services outside of a settlement area boundary and provides exemptions for health issues or to service existing uses and the expansion thereof adjacent to the settlement area. The amendment, is for a private lateral connection to the local sanitary sewer on Perez Road and, as such, Policy 4.2.2.2 is not applicable.

The proposed winery development is consistent with the PPS and does not conflict with Greenbelt Plan policies.

Regional Official Plan

The ROP recognizes on-farm diversification, including agricultural-related value added and secondary uses such as wineries, as a significant contributor to economically sustainable agriculture in Niagara. Agricultural-related uses provide additional access to local food and VQA wines as well as add to the preservation of the agricultural land base and the scenic quality of the agricultural landscape. The ROP requires these uses complement the agricultural uses on the property and the surrounding area and contribute to the sustainability and viability of the farming operation.

In policy 5.B.20, the ROP sets out guidance for local area municipalities through their planning documents to define, categorize and accommodate farm diversification uses. Additionally policy 5.B.20 recommends that larger scale agriculture related uses may require a site specific zoning amendment where their impact is evaluated and determined to be compatible with the principal agricultural operation and surrounding agricultural lands. The Town through the concurrent Zoning By-law Amendment to permit the Estate Winery and associated Site Plan Agreement will consider the

appropriateness of the design and scale of the proposed development. The compatibility of the proposal is to be further evaluated and revised through the local zoning amendment process. Similar policies are found in the NOP (4.1.7.7).

Servicing Capacity

A Functional Servicing & Stormwater Management Report (“FSR”; The Odan/Detech Group Inc., January 2022) prepared for the proposed amendment assessed the capacity of Regional and Town sanitary infrastructure. The report indicated that there is currently available capacity at the Region’s Garrison Road Sewage Pumping Station (SPS) based on flow calculations utilized for the proposed winery.

An updated FSR (September 2022) concluded that the flows from the proposed winery, as well as the future development of the Village Centre (as currently proposed) will not exceed the full capacity of the existing sanitary system. The anticipated build-out of this sewershed will potentially result in peak design sanitary flows above 80% SPS capacity; therefore, ongoing flow monitoring to determine actual flows as well as inflow and infiltration (I&I) removal and monitoring will be required.

The Town has noted that based on a capacity review completed on behalf of the Village Centre Development, the Town’s downstream sanitary pipe capacity would be above 90%, and up to 100% when their proposed development flows are included. As this is Town infrastructure, the Town will ultimately determine if the Village Centre will be responsible for any upsizing contribution to those sections to accommodate the additional flows.

Additionally, the Town provided their recent flow monitoring data (July 2022) for this area to the applicant for their servicing analysis to better understand the existing I&I flows. The Town has indicated that they will determine if a contribution, toward the upsizing of Town infrastructure, to accommodate additional external flows from the proposed winery would be required at the site plan agreement stage.

SEPC has identified that they will have pre-treatment on-site so that there will not be high strength winery wastewater directly discharged into the sanitary system. They anticipate the sanitary discharge from the proposed winery will be within the requirements of the Region’s Sewer-Use By-law quality criteria and therefore, should not result in negative treatment and/or odour impacts. There will be a sewer sampling manhole at the property line where the Regional Wastewater staff will conduct future sampling and analysis to ensure compliance with the Region’s Sewer-Use By-law.

Agency and Public Comments

The Ministry of Municipal Affairs and Housing (MMAH) advised that they would not be providing comments on the application. MMAH, however, noted that the proposal must conform to the Greenbelt Plan including Policy 4.2.2 with respect to servicing. Policy 4.2.2.2, in part, limits the extension of municipal sewage or water services outside of a settlement area boundary. The Amendment, however, is for a private lateral connection to the local sanitary sewer on Perez Road and, as such, Policy 4.2.2 is not applicable.

The Town of Niagara-on-the-Lake requested further analysis of the entire sanitary branch leading to the Garrison pumping station. Town Operations/Service staff noted that the proposed Village Centre development (northeast corner of Niagara Stone Road and Niven Road), including its proposed sanitary output to the Perez Road sewer, was not accounted for in the Functional Servicing Report (FSR) and, therefore, required that the report be updated to include the impacts of the proposed Village Centre development. The additional analysis of the revised FSR is discussed in the above section on Servicing Capacity.

The Niagara Peninsula Conservation Authority offered no objection to the proposed amendment and noted that information/materials will be required to support future development and/or site alteration on the subject lands.

No written submissions were received from members of the public. Also, no oral comments were provided by any residents at a public Open House meeting held on March 2, 2022 or at the statutory Public Meeting held at the Planning Economic Development Committee meeting on April 6, 2022.

Public notice of the Amendment was provided as required by the *Planning Act*.

Staff Recommendation and Rationale

As policy 5.C.5 of the (2014) Regional Official Plan does not permit developments outside of an urban area to connect to a sanitary sewer, relief from this policy is being requested by SEPC. Regional staff has given careful consideration to the merits of the requested connection.

Based on the Provincial and Regional policy framework and staff's analysis of the applicant's submission, including the FSR, as well as comments from the Town on local servicing matters, staff recommend that Regional Council approve the proposed

amendment. The following rationale is provided in support of a decision to approve this application:

- The FSR concluded that there is available capacity within the sanitary system to service the proposed winery as well as future development of the Village Centre. In addition, pre-treatment on-site will be provided so that there will not be high strength winery wastewater directly discharged into the sanitary system. As such, the proposed connection will not impact the ability to service the growth and development that is planned for within the urban area.
- Further, the Town will determine if a contribution toward the upsizing Town infrastructure to accommodate additional external flows from the proposed winery would be required at the site plan agreement stage.

Based on the policy analysis review and information submitted the application is recommended for approval as the subject land is immediately adjacent to the serviced Urban Area, there is capacity in the current system, commitment to upgrade of local urban infrastructure as required, and there is no extension of municipal services into the rural area.

Alternatives Reviewed

Council could choose to refuse the Niagara Official Plan amendment. If Council decides to refuse the amendment, there are several scenarios that could occur:

- The applicant could build the proposed winery with partial services i.e. a septic system and municipal water.
- The applicant could abandon the proposed winery development.
- Council's decision could be appealed to the Ontario Land Tribunal (OLT), resulting in the potential requirement of additional financial resources.

As per the Ministry of Environment and Energy's (MOE) document titled "D-5-4 Individual On-Site Sewage Systems: Water Quality Impact Risk Assessment" the proposed winery and associated uses (processing, etc) would require an MOE approved septic system. Staff concur with the Applicant's suggestion that a septic system of this nature could consume 1ha (2.2 acres) of vineyard.

With a focus on preserving the maximum amount of land in agricultural production, the alternative of refusing the proposed amendment is not recommended.

Relationship to Council Strategic Priorities

This report is not linked to strategic priorities. The review of this application, and recommendations toward a decision of Regional Council are guided by a legislative process under the *Planning Act* (1990).

Other Pertinent Reports

PDS 5-2022: Stone Eagle Winery Regional Official Plan Amendment 23 Initiation Report

PDS 8-2022: Statutory Public Meeting for Regional Official Plan Amendment Application

Prepared by:

Pat Busnello , MCIP, RPP
Manager
Development Planning

Recommended by:

Michelle Sergi, MCIP, RPP
Commissioner
Planning and Development Services

Submitted by:

Ron Tripp, P.Eng.
Chief Administrative Officer

This report was prepared in consultation with Erik Acs, MCIP, RPP, Manager of Community Planning and Diana Morreale, MCIP, RPP, Director of Development Approvals,

Appendices

Appendix 1 Location Map

Appendix 2 Niagara Official Plan Amendment No. XX