

# Stikeman Elliott

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October 5, 2023  
File No.: 119513.1051

By E-mail  
clerk@niagararegion.ca

Planning and Economic Development Committee  
Regional Municipality of Niagara  
1815 Sir Isaac Brock Way  
Thorold, ON L2V 4T7

Attention: Office of the Regional Clerk

Dear Sirs/Mesdames:

**Re: Proposed Upper's Quarry  
File No. ROPA-21-0003  
Letter of Concern – Parkbridge Lifestyle Communities Inc. and 1000352619  
Ontario Inc.**

We are counsel to Parkbridge Lifestyle Communities Inc. and 1000352619 Ontario Inc. ("**Parkbridge**") the owner of approximately 55 hectares of land (the "**Parkbridge Lands**"), located north of Upper's Lane and west of Thorold Townline Road in the City of Thorold. The southwest portion of the Parkbridge Lands, comprising approximately 15 hectares, received Draft Plan of Subdivision approval for 328 residential units in March 2021, and since that time, our client has been preparing development applications for the balance of the Parkbridge Lands for a large residential community.

## BACKGROUND

We are writing to express our client's serious concerns with respect to the proposed Upper's Quarry, which is being advanced by Walker Aggregates Inc. ("**Walker**"). The proposed quarry operation is located in the neighbouring City of Niagara Falls, approximately 270 metres to the east of the Parkbridge Lands. In support of its proposal, Walker has submitted applications for a Regional Official Plan Amendment (the "**ROPA**") and local Official Plan and Zoning By-law Amendments, as well as a licence application under the *Aggregate Resources Act*.

The applications advanced by Walker fail to consider how the use and operation of the proposed quarry will adversely affect planned and proposed residential development on the Parkbridge Lands and the surrounding area. Most notably, the proposal does not acknowledge any of Walker's obligations with respect to matters of land use compatibility and the incorporation of mitigation measures. Instead, we understand Walker has taken the position that neighbouring development must bear the sole onus of demonstrating compatibility and incorporating all mitigation necessitated by Walker's proposal. This one-sided approach is inconsistent with and fails to conform with the planning policy framework established at the provincial, regional, and local levels.

In addition, the Walker applications fail to acknowledge fully that the Parkbridge Lands presently enjoy permissions for sensitive land uses (e.g., bed and breakfast, short-term accommodation rental, etc.). While the Air Quality Assessment submitted in support of Walker's applications identifies the Parkbridge Lands as a sensitive receptor, the Acoustic Assessment Report fails to do so. Until the Walker applications are revised to satisfactorily address our client's concerns, including appropriate recognition of

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the Parkbridge Lands and analysis with respect to sensitive land uses, impact, and mitigation, the proposed ROPA to re-designate the Walker lands from Agricultural to “Licensed Pits and Quarries” is premature and should be refused.

## REQUESTED RESOLUTIONS

By this letter, we ask that:

1. the Committee direct Planning staff to require that Walker revise all materials in support of its applications to reflect the Parkbridge Lands as a sensitive land use, to be done prior to this Committee’s further consideration of the proposed ROPA; and
2. in conjunction with Planning staff’s review of the materials to be revised as per paragraph 1 above, the Committee direct Planning staff to revise proposed Policy 13.D.1 of the draft ROPA as follows (collectively, the **“Proposed Modifications”**):

“Policy 13.D.1\_\_ “Notwithstanding any other policy to the contrary in this Plan, a mineral aggregate operation (quarry) and ancillary uses and facilities are permitted in accordance with approval under the Aggregate Resource Act on lands described as Part Lots 119, 120, 136 and 137, including Upper’s Lane between Thorold Townline Road and Beechwood Road, and Part of Road Allowance between Lots 120 and 136 between Thorold Townline Road and Beechwood Road, in the former Township of Stamford, now in the City of Niagara Falls, in the Regional Municipality of Niagara **(the “Quarry Lands”), subject to securing, at the expense of the applicant for the Quarry Lands, appropriate mitigation measures to ensure land use compatibility with existing and planned uses on lands within 500 metres of the Quarry Lands.**

**Potential mitigation measures may include, but are not limited to, establishing operational setbacks to lands planned for residential development, adopting alternative and more sensitive blasting and extraction methods (e.g., modifications to blasting design parameters, such as reducing the amount of explosive per delay), coordinating the phasing of quarry operations, establishing appropriate haul routes and site access that minimize adverse transportation impacts and divert truck traffic away from planned residential neighbourhoods, and implementing berms, noise walls, and other acoustic barriers and baffles, as well as other measures to mitigate noise, vibration, and air quality impacts on surrounding lands.”**

The Proposed Modifications will bring the draft ROPA into consistency with key provincial policies, including those requiring extraction to be undertaken in a manner that minimizes social, economic, and environmental impacts, as well as requiring major facilities (including resource extraction activities) and sensitive uses to be planned and developed to avoid or minimize and mitigate potential adverse effects from odour, noise, and other contaminants, minimize risk to public health and safety, and to ensure the long-term operational and economic viability of major facilities in accordance with provincial guidelines, standards, and procedures.<sup>1</sup>

The Proposed Modifications will also bring the draft ROPA into conformity with the overarching objectives of the Niagara Region Official Plan (2014), including the objective of ensuring the “suitable location, operation and rehabilitation of mineral extraction activities in order to minimize conflicts with both the natural and human environment of the Region”, together with the policy direction to establish compatibility

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<sup>1</sup> See e.g., Provincial Policy Statement, 2020, Policies 1.2.6.1 and 2.5.2.2.

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with surrounding land uses and to have consideration for the proposed manner of operation of the quarry.<sup>2</sup>

The current legislative and planning context recognizes the housing affordability crisis in Ontario, with statutory initiatives and strong policy direction to increase the supply of housing as a primary objective. Planning decisions are to be made in a manner that appropriately balance a range of objectives, including residential growth and development.

The Proposed Modifications to the ROPA carry forward this provincial direction by establishing a policy framework to guide consideration of the Upper's Quarry proposal. Through the Proposed Modifications, the revised draft ROPA will provide direction for the applicable approval authorities to consider measures that may be introduced to ensure land use compatibility, protecting both the overarching objective of residential growth and development and the directive for prudent and sustainable resource extraction. Far from precluding or hindering the proposed aggregate extraction, the potential mitigation measures outlined in the Proposed Modifications will help to minimize adverse impacts from the proposed quarry upon neighbouring lands and achieve greater land use compatibility, consistent with the requirements of provincial planning policy.

For the above reasons and any others that we reserve the right to bring forward, Parkbridge urges the Committee to refuse or defer consideration of the Walker application until the requested resolutions outlined in page 2 of this letter have been implemented.

Please provide us with notice of all upcoming meetings of Council and Committees of Council at which this matter will be considered, and we ask to be provided with notice of this Committee's and Council's decision with respect to this and any related item.

We appreciate your attention to this matter.

Yours truly,



For: Calvin Lantz

CL/jsc

cc. Jonathan S. Cheng, *Stikeman Elliott LLP*  
Emma West, David Milano, and Celina Hevesi, *Bousfields Inc.*  
Andrew Bryce & Alexa Cooper, *City of Niagara Falls*  
Britney Fricke & Sean Norman, *Regional Municipality of Niagara*  
Client

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<sup>2</sup> Niagara Region Official Plan (2014), Objective 6.B.2; Policy 6.C.5