
Subject: Background of Town of Niagara-on-the-Lake New Adopted Official Plan

Report to: Planning and Economic Development Committee

Report date: Wednesday, March 11, 2020

Recommendations

1. That Report PDS 11-2020 **BE RECEIVED** for information; and
2. That report PDS 11-2020 **BE CIRCULATED** to the Town of Niagara on the Lake, prescribed agencies and interested parties.

Key Facts

- The purpose of this report is to update Council on the status of the new Niagara on the Lake Official Plan, which was received for Regional review on January 30, 2020.
- Niagara Region is the approval authority for all local municipal Official Plans within the Region and typically must make a decision with respect to the approval or refusal of a plan within 120 days.
- The Town's Manager of Planning has provided the Region with a statement that indicates the Town's new Official Plan is not consistent with Provincial Policy and does not conform to the Regional Official Plan.
- The Planning Act provides an exception to the 120 day timeframe by allowing for a temporary pause when a local Official Plan does not conform to an upper tier (Regional) Official Plan.
- Appendix I is a Statement of Opinion of Non-conformity with the Regional Official Plan signed by Niagara Region's Commissioner of Planning and Development Services.
- The Region has met with Town staff and elected officials regarding a path forward to bring the plan into Regional conformity so that Regional Council can consider it for approval.

Financial Considerations

Costs associated with the review are accommodated within the Planning & Development Services 2020 Operating Budget.

Analysis

The Town of Niagara on the Lake (NOTL) began their Official Plan project in 2012 with the development of a Community Vision and draft policy direction. Regional staff were consulted throughout this process and provided substantive feedback related to Provincial and Regional conformity. However, since 2012 the Provincial policy planning framework has changed considerably.

The Changing Policy Framework:

- 2014 - release of the 2014 Provincial Policy Statement;
- 2015 – Royal Ascent of Bill 73: Smart Growth for our Communities Act (2015)
- 2015-2017 Coordinated Policy Review:
 - release of the 2017 Growth Plan for the Greater Golden Horseshoe;
 - release of the 2017 Greenbelt Plan; and
 - release of the 2017 Niagara Escarpment Plan;
- 2019 - Royal Ascent of Bill 108, More Homes, More Choice: Ontario's Housing Supply Action Plan;
- 2019 - release of the current 2019 Growth Plan as part of the Housing Supply Action Plan;
- 2019 - changes to the *Planning Act*, R.S.O. 1990, as amended;
- 2019 - changes to existing regulations issued under the *Planning Act*; and,
- 2019 – proposed changes to the Provincial Policy Statement.

Despite the rapid changes to the land use planning policy framework, the *Planning Act* (1990) continues to require local Official Plans and decisions related to planning matters to be consistent with Provincial policies and plans, be consistent with the Provincial Policy Statement, meet the requirements of the *Planning Act* (1990) and conform to the upper tier (Regional) Official Plan.

Throughout the changing planning policy framework, Regional and Town staff met on several occasions (see Appendix II) to discuss conformity matters between the Town's draft OP and the Regional Official Plan, the 2017 Provincial plans and 2019 Growth Plan. Regional staff also noted that the Region is currently preparing a new Regional Official Plan and encouraged the alignment of these OP programs to achieve improved and coordinated policy outcomes. Regional staff has developed a comprehensive OP program to ensure conformity with new Provincial planning directions released as part

of the suite of policy and legislative changes over the last several years. This OP program has been messaged to both Town staff and Council.

On October 22, 2019, NOTL Town Council adopted its new Official Plan through By-law 5180-19. This new Official Plan will replace the in effect Official Plan adopted on March 14, 1994 through By-law 2735-94, and any amendments made thereto, once approved by the Region.

The Region is the approval authority for all local Official Plans. Submission of a Record for the adopted NOTL Official Plan was hand delivered to Niagara Region on January 14, 2020, with an addendum item sent by e-mail on January 30, 2020.

On February 13, 2020, Regional Planning staff circulated a letter to the Town Clerk acknowledging that requirements under Section 7 of Ontario Regulation 543/06 (as amended) issued under the *Planning Act (1990)* with respect to submission of a complete record had been satisfied. The Region's review and approval process commenced as of this date.

As the approval authority for the Town's new adopted Official Plan, Niagara Region has 120 days after the day the Record is deemed complete to review the Official Plan for conformity and consistency and for Council to either give a decision to approve, modify and approve, or refuse the Official Plan. If Council fails to give a decision within 120 days, an appeal may be filed for non-decision with the Local Planning Appeal Tribunal.

As an exception, subsection 17(40.2) of the *Act* allows a temporary pause in processing timeframe of a local OP when in the opinion of the approval authority, the Plan does not conform to the upper-tier municipality's Official Plan. Provided the opinion is stated within the legislated 120 days after receiving the local Official Plan, no appeal of the approval authority's opinion of non-conformity is allowed. Additionally, no appeals for a non-decision can be filed until the non-conformity is resolved.

Subsection 17(40.2) was added to the *Act* through a suite of reforms under Bill 73, *Smart Growth for Our Communities Act*, (2015) in an effort to ensure better coordination between various levels of government.

As the upper-tier of government and approval authority, Niagara Region is responsible for reviewing and determining local Official Plan conformity and consistency. Regional Council is responsible for making decisions with respect to approval or refusal of local

Official Plans. Upon resolving matters of conformity and consistency with the NOTL new Official Plan, staff will prepare a report for consideration recommending a decision with respect to the Official Plan.

In addition to the Town's statement that the new adopted Official Plan is not consistent with Provincial Policy and does not conform to the Regional Official Plan, Regional staff have identified multiple areas where conformity with the Regional Official Plan has not been achieved. These include, but are not limited to:

- the identification of and permitted uses within the Natural Heritage System;
- the identification of and permitted uses within agricultural lands;
- growth management; and,
- proposed employment land conversions and permitted uses within the employment areas.

A statement of opinion of non-conformity with the Regional Official Plan has been attached as Appendix I. The statement is intended for circulation to all prescribed agencies and all persons who have requested to be circulated on matters related to the NOTL Official Plan.

In discussion with Town staff, the development of a work program has been prioritized as a means to ensure that non-conformity is resolved and the Official Plan continues through the approvals process. The 120-day processing period under subsection 17(40.4) will not begin until the issues related to non-conformity have been resolved.

Alternatives Reviewed

None.

Relationship to Council Strategic Priorities

This report advances Council's strategic priority of a sustainable and engaging government by ensuring delivery of high quality, efficient and coordinated core services (i.e. the review and approval of local Official Plans).

Other Pertinent Reports

N/A

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This report was prepared in consultation with Erik Acs, Manager of Community Planning, and reviewed by Doug Giles, Director of Long Range and Community Planning and Rino Mostacci, Commissioner of Planning and Development Services.

Appendices

Appendix I: Statement of Opinion of Non-Conformity with the Regional Official Plan

Appendix II: Niagara on-the-Lake Official Plan Background – Timelines and Regional Staff's Points of Engagement (2012 – 2020)