




APPROVALS	
DIRECTOR	
CFO	
CAO	

## COUNCIL

### PLANNING AND DEVELOPMENT SERVICES

21-79

**REPORT P&B-2023-22**

**June 6, 2023**

**SUBJECT:** APPLICATION FOR OFFICIAL PLAN AMENDMENT (OPA NO. 33) AND ZONING BY-LAW AMENDMENT (2020-14) SUBMITTED BY JOSEPH TOMAINO ON BEHALF OF LUCAS LUCCHETTA AND LUCCHETTA HOME BUILDERS INC. FOR LANDS ON THE EAST SIDE OF AQUEDUCT STREET, NORTH SIDE OF GADSBY AVENUE, NORTH OF THOROLD ROAD, AND SOUTH OF HILDA STREET, MUNICIPALLY KNOWN AS 368 AQUEDUCT STREET AND 155 GADSBY AVENUE

**AUTHOR:** TAYLOR MEADOWS, BURPI  
PLANNING SUPERVISOR - DEVELOPMENT

**APPROVING DIRECTOR:** GRANT MUNDAY, B.A.A., MCIP, RPP  
DIRECTOR,  
PLANNING AND DEVELOPMENT SERVICES

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### RECOMMENDATION:

THAT THE COUNCIL OF THE CITY OF WELLAND approves application for Official Plan Amendment (OPA No. 33) to designate the lands on the east side of Aqueduct Street, north side of Gadsby Avenue, north of Thorold Road, and south of Hilda Street, more specifically described as Part of Lot 239, former Township of Thorold, shown as Part 2 on Plan 59R-7365, Part 2 on Plan 59R-13040, and Parts 1 and 2 on Plan 59R-16468, municipally known as 368 Aqueduct Street and 155 Gadsby Avenue from Low Density Residential and Parks, Open Space and Recreation to Medium Density Residential, Low Density Residential, Parks, Open Space and Recreation, and Core Natural Heritage; and further

THAT THE COUNCIL OF THE CITY OF WELLAND approves application for Zoning By-law Amendment (2020-14) to rezone the lands on the east side of Aqueduct Street, north side of Gadsby Avenue, north of Thorold Road, and south of Hilda Street, more specifically described as Part of Lot 239, former Township of Thorold, shown as Part 2 on Plan 59R-7365, Part 2 on Plan 59R-13040, and Parts 1 and 2 on Plan 59R-16468, municipally known as 368 Aqueduct Street and 155 Gadsby Avenue from Residential Low Density 1 – RL1 and Neighbourhood Open Space – O1 to Site Specific Residential Low Density 2 – RL2, Site Specific Residential Medium Density - RM, and Environmental Conservation Overlay - EC.

**ORIGIN AND BACKGROUND:**

Applications for Official Plan Amendment, Zoning By-law Amendment, and Draft Plan of Vacant Land Condominium were submitted by Joseph Tomaino on behalf of Lucchetta Buildings Inc. and Lucas Lucchetta on December 22, 2020 and was deemed complete on March 2, 2021. A public meeting regarding the proposed applications were held on May 4, 2021. As a result of comments from the public and outside agencies, the applicant has revised their application.

A revised application was submitted on July 21, 2022 which amended the application(s) to request redesignation of the portion of the property fronting onto Aqueduct Street to Medium Density Residential and Site Specific Residential Medium Density – RM Zoning to allow for the construction of a three-storey condominium building with 24 residential units and 27 parking spaces (two of which are barrier free spaces). The requested amendment to the Residential Medium – RM Zone is to recognize a reduced lot frontage of 16 metres, whereas 45 metres is required. One lot for a single detached residential dwelling will be created fronting onto Gadsby Avenue which will be redesignated to Low Density Residential and rezoned to Site Specific Residential Low Density 2 – RL2 to recognize a reduced rear yard setback of five (5) metres. An area of the property that is impacted by natural heritage features will be dedicated to the City for the long term preservation of the natural features. This natural heritage area will also be redesignated and rezoned to ensure no significant negative impact to the ecological or hydrological function of the area.

**The Site**

The lands are current vacant with the area fronting onto Aqueduct Street being manicured lawn and the lands to the rear being a wooded area with intermittent ponding.

**Surrounding Land Uses**

To the north lies Aqueduct Park, and further north are low density residential uses along Hilda Street and an identified “Intensification Area” in the City’s Official Plan. To the east and south are low density residential use fronting onto Gadsby Avenue. To the west are residential uses fronting onto Aqueduct Street, and further to the west are a mix of commercial uses fronting onto Niagara Street.

**Agency Comments**

City of Welland  
Infrastructure Services  
– Engineering Division  
(February 9, 2023)

- The results of the hydrant flow test are to be included within a future servicing report to confirm the existing system capacity. Any improvements required to provide the necessary fire flow for this site will be the responsibility of the owner.

- The results of the FUS Calculations are based off a floor area of 871.62 square metres. This total reflects one floor, whereas, the calculations require the additional floors to be considered based off the type of construction coefficient. Review and revise to include property fire flow in upcoming reports.
- An analysis will most likely be required to assess the impact that the development will have on the existing water system. At the consultants approval, the City will have our modelling consultant complete this analysis using the City's water model and the updated Functional Servicing Report (FSR) submitted by the applicant, the cost of this work is the responsibility of the applicant.
- The calculations for stormwater management should demonstrate that stormwater flows can be controlled to pre-development levels for a 5 year up to and including a 100 year storm event. Stormwater runoff is to be treated to an enhanced level of protection (80% TSS removal as per the Niagara Region's Stormwater Management Design Guidelines).

Region of Niagara  
Planning and  
Development Services  
(March 15, 2023)

- The subject lands are located within a 'Settlement Area' under the *Provincial Policy Statement, 2020* ("PPS"), designated 'Delineated Built-Up Area' within *A Place to Grow: Growth Plan for the Greater Golden Horseshoe, 2020 Consolidation* ("Growth Plan") and designated 'Urban (Built-Up) Area' in the *Regional Official Plan (ROP)*.
- Provincial and Regional plans direct development to take place in urban areas to support intensified development where appropriate servicing and infrastructure exists. These same plans place an emphasis on intensification and infill in order to support the development of complete communities that have a mix of diverse land uses and housing choices, improve social equity and quality of life, expand access to multiple forms of transportation, and provide spaces that are

vibrant and resilient in design. A full range of residential uses are permitted generally within the Urban Area designation, subject to the availability of adequate municipal services, infrastructure, and other policies relative to land use compatibility and environmental conservation.

- The annual intensification target contained in the ROP for the Delineated Built-Up Area in the City of Welland of 40% continues to apply. This proposal will contribute to meeting this intensification target.
- Staff acknowledges the proposal for a 3-storey 24-unit condominium building will be an intensification of the subject lands, which Provincial and Regional policy supports in principle. With that being said, local compatibility considerations and interface with neighbouring land uses is a local planning matter to be addressed by City planning staff and Council.
- Staff has reviewed the submitted *Planning Justification Report*, prepared by Joseph Tomaino, MCIP, RPP (dated July, 2022) and find it to be acceptable; however, staff notes Appendix 5: *Servicing Design Brief*, prepared by Rusit & Associates Ltd. (dated November 28, 2019) shows a different development concept than what is being proposed through these applications.
- There are currently no mapped natural heritage features on the subject property. However, based on aerial imagery available to the Region, there appeared to be a mature wooded area present on the subject property. As such, Regional environmental planning staff requested the completion of a constraints analysis to determine if the wooded area met Regional significant woodland designation criteria identified in Policy 7.B.1.5 of the ROP.
- Regional Environmental Planning staff has reviewed the supporting documents submitted in support of development applications on the subject lands located at 368 Aqueduct Street and



155 Gadsby Avenue, in the City of Welland. Specifically, the following reports were reviewed:

- *Scoped Environmental Impact Study*, prepared by 8 Trees Inc. (dated February 10, 2021);
  - *Environmental Impact Study Addendum*, prepared by 8 Trees Inc. (dated January 5, 2022);
  - *Woodland Management Plan*, prepared by 8 Trees Inc. (dated, July 16, 2022);
  - *Planning Justification Report*, prepared by Joseph Tomaino (dated July 20, 2022); and,
  - *EIS Technical Memo*, prepared by 8 Trees Inc. (dated January 26, 2023).
- In summary, based on the characterization of the subject lands contained within the various Reports, the wooded area has been confirmed to achieve Regional Significant Woodland designation criteria. As such, staff have reviewed the justification provided to ensure that the development will not result in a significant negative impact to the ecological or hydrological function of the woodland.
  - Upon review of the most recent *EIS Technical Memo*, prepared by 8 Trees Inc. (dated January 6, 2023), staff are satisfied that previous Regional comments and concerns have been adequately addressed. Specifically, the development concept has been revised to limit the amount of woodland loss to approximately 25% of the total woodland area within the subject lands. To mitigate the proposed woodland removal, numerous mitigation measures are proposed including but not limited to implementation of a Woodland Management Plan. The *Woodland Management Plan*, prepared by 8 Trees Inc. (dated July 16, 2022) and *EIS Technical Memo*, prepared by 8 Trees Inc. (dated January 26, 2023) are placed into an appropriately restrictive environmental designation and zone.

- Staff note that conditions of approval will be recommended when the future Draft Plan of Condominium and/or Site Plan is circulated for Regional review and approval.
- Regional staff note that site servicing will be under the jurisdiction of the City of Welland and will require the construction of new water and sanitary services for the proposed development. The Ministry of Environment, Conservation and Parks (“MECP”), Environmental Certificates Approvals (“ECA”) are required for any new or extended municipal sanitary and storm sewer services. The Region can review and approve the ECAs under the MECP Transfer of Review Program. Detailed engineering design drawings with calculations for the services must be submitted to this department for review and approval. ECAs could potentially also be obtained through the pending Consolidated Linear Infrastructure Environmental Compliance Approval process, at the discretion of the City of Welland.
- The applicant should be advised that there is an existing 600mm diameter Regional Trunk Watermain and 1500mm diameter Regional Trunk Sewer located along this section of Aqueduct Street. The Regional Watermain is not to be disturbed during construction activities and any proposed crossing or works within close proximity of the Regional Watermain require daylighting of the Regional Watermain as soon as possible to ensure location and adequate separation is maintained. Prior to daylighting of the watermain, Regional staff listed below need to be contacted 72 hours in advance to ensure staff are available during the daylighting.
- Regional staff also request that a note be added to the engineering drawings indicating that 72 hours in advance of construction near the Regional watermain, the contractor will contact Adrain Rittner, Area 2 Manager, Water Operations and/or Tim Peyton, Area 2 Manager, Water

Maintenance. They may be reached at the Welland Water Treatment Plant at the following number: 905-735-7420.

- Regional staff will require that detailed cross-sections of the proposed Regional watermain crossings be submitted for review and approval at the time of Draft Plan and/or Site Plan.
- Niagara Region provides curbside waste and recycling collection for developments that meet the requirements of Niagara Region's Waste Collection Policy. The subject property is eligible to receive Regional curbside waste and recycling collection provided that the owner bring the waste and recycling to the curbside on the designated pick up day, and that the following limits are not exceeded:
  - o Garbage: 2 bags/cans per unit to a max of 24 per building (collected bi-weekly);
  - o Recycling: Unlimited blue/grey boxes or carts (collected weekly);
  - o Organics: Unlimited green bins or carts (collected weekly).
  - o Curbside Collection Only.
- The submitted site plan depicts the use of Moloks for waste collection, which the Region does not currently collect. Therefore, waste collection will be the responsibility of the owner through a private contractor and not Niagara Region.
- Regional Planning and Development Services staff offers no objection to the proposed Official Plan Amendment and Zoning By-law Amendment applications, provided the Significant Woodland and the recommended setbacks identified in the EIS Addendum (prepared by 8 Trees Inc., dated January 5, 2022) and EIS Technical Memo (Prepared by 8 Trees Inc., dated January 26, 2023) are placed into an appropriately restrictive environmental designation and zone.
- Staff note that in accordance with policies 14.E.7 and 14.E.8 of the ROP, the Memorandum of Understanding, and By-law No. 2019-73, the

Official Plan Amendment as reviewed and incorporating the restrictive environmental designation is exempt from Regional Council Approval.

Welland Hydro Electric  
System Corporation  
(March 26, 2021)

- Welland Hydro Electric System Corporation – WHESC does not object to the proposed application(s).
- The applicant shall contact WHESC's Engineering Department to determine servicing details and requirements by emailing [Engineering@wellandhydro.com](mailto:Engineering@wellandhydro.com).
- If existing WHESC's infrastructure is required to be relocated or temporary Hydro service is required, all costs are the responsibility of the applicant.
- If easement(s) are required by WHESC to service this development or any future adjacent developments, the applicant will provide at their expense all necessary registered easements.
- The proposed development must meet the clearance requirements of Section 3.1.19.1 "Clearance to Buildings" of the Ontario Building Code.

### Public Comments

A Public Information Meeting was held on November 2, 2022 to gain public input regarding the revised application(s) for Official Plan Amendment and Zoning By-law Amendment. Twenty (20) members of the public participated in the Public Information Meeting, in addition to the applicant and their agent. The following comments and concerns were raised at the Public Information Meeting.

- Concerns related to the submitted Environmental Impact Study (EIS) and applicable addendums to date. Questions related to the processing and review of the environmental related submissions;
- Potential harm caused by the development to the existing environmental features;
- Discussion related to proposed uses and general zoning requirements;
- Comments regarding the application process and perceived lack of information provided;
- Concern related to potential drainage issues that will result due to the development;

- Comments and questions regarding the sale of the property and the process related to the sale of surplus City lands;
- Potential parking and traffic conflicts on Aqueduct Street.

At the time of writing this report, eight (8) letters from members of the public have been submitted. Additionally, a peer-review of the EIS has been submitted by members of the public. The concerns raised in the letters are similar to those raised at the Public Information Meeting, in addition to:

- Concerns related to the proposed building and its impact on the neighbourhood;
- Privacy concerns;
- Safety of the community;
- Garbage collection and its potential to attract vermin.

The Statutory Public Meeting under the Planning Act was held on December 6, 2022. Nine (9) members of the public spoke at the Statutory Public Hearing under the Planning Act and raised similar concerns. The concerns presented will be reviewed later in this report.

### **COMMENTS AND ANALYSIS:**

#### **Provincial Policy Statement**

The Provincial Policy Statement (PPS) provides policy direction for growth and development within the Province. All decisions must be consistent with the policies in the PPS. Settlement areas are to be the focus of growth and development. The land uses and patterns shall be based on densities and a mix of land uses which efficiently use land and resources and are appropriate for the infrastructure and public services that are planned or available, among other criteria. The PPS also encourages development which supports active transportation and support the use of transit. The lands are within an area with existing municipal services (water, sanitary, and storm) and there is capacity to accommodate the development. Preliminary comments from the City's Engineering Division has identified that there is capacity in the municipal system to accommodate the proposed development. Welland Transit Route 509 has stops along Niagara Street within walking distance to the west. Aqueduct Street park is directly to the north of the subject lands, Jennifer Park is within walking distance to the east, and the Canal Parkway Trail and Welland Recreational Canal are also within walking distance to the east to provide recreational opportunities for residents.

The property is within walking distance to a range of commercial and institutional uses. There are a range of commercial uses located to the west along Niagara Street, including restaurants, retail establishments, financial institutions, and a pharmacy. To the south are additional commercial uses at the intersection of Niagara Street and Thorold Road, including a Service Ontario outlet. To the south are two elementary schools and one high school, all of which are in walking distance to the subject lands.

The PPS also requires municipalities to provide an appropriate range and mix of housing options and densities to meet current and future residential needs, for both market-based and affordable housing needs. The policies encourage all types of residential intensification, including additional residential units and redevelopment. New housing development should be directed to areas where appropriate levels of infrastructure and public service facilities are available. The proposal will create a new form of housing in the area (apartment building) which will provide a range of one-bedroom and two-bedroom units in the building.

The PPS includes policies with respect to the protection of natural heritage. The policies encourage the protection of natural features for the long term, and that the diversity and connectivity of features should be enhanced. There is an area on the property that has been identified as having natural heritage features that require the long term protection. This block will be dedicated to the City for preservation and to be connected with Aqueduct Park. The original development proposal occupied a much larger area of the subject lands, and would have encroached into the buffers of the natural heritage area. The revised submission does increase the number of units on the property, but it decreases the amount of building footprint, thereby eliminating the encroachment of the development into the sensitive natural area. As such, the proposal meets the intent of these policies in the PPS.

The subject lands are within an area with existing municipal services, are within walking distance to Welland Transit line, and are within walking distance to municipal parks, and commercial businesses. The proposal will redevelop the property with a medium density housing form which is compatible with the neighbourhood, and makes more efficient use of urban, service lands. The proposal is consistent with the policies in the PPS.

*A Place to Grow Growth Plan for the Greater Golden Horseshoe*

The A Place to Grow Plan (P2G) encourages that the vast majority of growth will be directed to settlement areas which have: a delineated built boundary; have existing or planned municipal water and waste water systems; and, can support the achievement of complete communities. The P2G further encourages growth to be located within the identified built-up area, strategic growth areas, locations with existing or planned transit, and areas with existing or planned public service facilities (schools, libraries, parks, etc.). The PPS also requires that 40% of all new growth, which is to be increased to 75% at the time of the next municipal comprehensive review, occur within the delineated built-up area.

The subject lands are within the delineated built-up area within the City of Welland. It is within an area with a mix of uses and densities, with commercial and institutional uses (parklands) to the north, east, and west, low density residential uses to the north, south, and east. As previously identified, the lands are within an area that is serviced with municipal transit, walking distance to municipal parks, schools, and commercial uses. The lands have access to municipal services with capacity to accommodate the proposed development. The project will assist the

City in achieving the identified intensification target of 75%. The lands have not been identified as an intensification area, but as the lands are within the delineated built-up area, intensification and redevelopment is encouraged.

The development will provide a new form of housing in the area, which will provide housing for a greater range of residents and incomes. The proposal will assist in creating a complete community, which provides for a range of housing types, is transit supportive, and encourages active transportation. The proposed applications and proposed development is consistent with the requirements in the P2G.

#### Region of Niagara Official Plan

The lands are identified as being within the Built-Up area of the City of Welland. The policies in the Region's Official Plan are consistent with the policies found in the PPS and P2G. The Region's policies promote growth and development within urban areas that can access municipal services. The Region's policies promote the creation of livable and walkable communities that are in close proximity to services and community facilities.

The proposed Official Plan Amendment and Zoning By-law Amendment will facilitate the development of the property to accommodate a twenty-four (24) unit condominium building. The development will be within walking distance of transit stops, businesses and parks. The proposal will make use of existing municipal infrastructure in the area.

The proposed development meets the intent of the Region's Official Plan and is consistent with the policies associated with the document.

#### City of Welland Official Plan

The subject lands are designated as Low Density Residential in the City's Official Plan. The application has been made to redesignate the lands from Low Density Residential and Parks, Open Space and Recreation to Medium Density Residential, Low Density Residential, Parks, Open Space and Recreation, and Core Natural Heritage. The redesignation is anticipated to accommodate the development of the lands with a twenty-four (24) unit residential building and a single-detached dwelling.

The Medium Density Residential designation permits low-rise residential development such as triplex, four-plex, townhouse, stacked townhouse and low-rise apartment buildings. The built form of the Medium Density Residential designation is not considered to result in significant impact to the adjacent neighbourhood. The proposed development is considered to be well suited for this area and will maintain a maximum height of three storeys which is consistent for all residential designations in the City. The proposed development is consistent with the City's policies for residential development, as well as guidelines for residential infilling and intensification.

When reviewing applications for infilling and intensification, the City of Welland Official Plan identifies that the following criteria should be reviewed:

- Land use and neighbourhood character compatibility;
- The subject lands are located in a neighbourhood which includes High Density Residential uses to the north, Community Commercial Corridor uses to the west and a mix of Low/Medium Density Residential uses within the adjacent area.
- Lot pattern and configuration;
- The proposed development is considered to be compatible with the surrounding neighbourhood.
- Accessibility;
- The proposed development is to be located on existing lot(s) Site specific amendments have been requested to address the zone provisions.
- Parking requirements;
- The buildings are to be designed to meet Ontario Building Code requirements. Any other accessibility features incorporated into the individual dwellings will be at the discretion of the individual property owners.
- The City's minimum parking standards are one space per unit (or, 0.3 parking spaces for each unit 50 square metres or less). The required parking stalls based on the number of units, amounts to 24 for the proposed condominium building. The proposed



development will provide 27 parking spaces, as per the submitted plans with the application(s). This is more than the minimum.

- Potential for additional traffic and traffic maneuverability;
- Traffic will access the site from an entrance off of Aqueduct Street for the twenty-four (24) unit building and Gadsby Avenue for the single-detached dwelling.
- The potential for transit ridership;
- Several transit lines currently serve the area including Route 509 and 503. Additionally, the location of the property is considered to be within walking distance of the Downtown Transit Terminal.
- Natural (including natural hazards) and built heritage conservation/protection;
- The existing natural features on the property have been identified and managed via the appropriate designation and zoning to ensure that the development will not result in a significant negative impact to the ecological or hydrological function of the feature.
- The available capacity of municipal infrastructure;
- Capacity will be confirmed and designed to the satisfaction of the City's Engineering Division.
- Future application for Site Plan Control will result in a detailed review and comment of the proposal for servicing.
- Residential intensification targets identified in this plan.
- The proposed development will assist the City in achieving the target of 75% of all new

residential development being within the Built-Up Area.

City of Welland Zoning By-law 2017-117

The lands are currently zoned Residential Low Density 1 – RL1 and Neighbourhood Open Space – O1 in the City of Welland Zoning By-law 2017-117. The application for Zoning By-law Amendment has been made to amend the Zone(s) to Site Specific Residential Low Density 2 – RL2, Site Specific Residential Medium Density - RM, and Environmental Conservation Overlay – EC to allow for the construction of a twenty-four (24) unit condominium building and a single-detached dwelling.

The application proposes to:

- Permit a reduced lot frontage for the RM Zone of 16.27 metres; whereas, 45 metres is required;
- Restrict the height of the building for the RM Zone to 11 metres (3 storeys); whereas, 20 metres (6 storeys) is permitted; and,
- Permit a reduced rear setback for the RL2 Zone of 5 metres; whereas, 6 metres is required.

The proposed development is anticipated on an existing lot with a fixed frontage, the proposed relief will address the reduced frontage as per the RM Zone requirements. Additionally, the Site-Specific RM zoning will limit the height of the building to three storeys or 11 metres.

Prior to the development of the lands, the applicant will be subject to a Site Plan Control approval process with the City. All other provisions of Zoning By-law 2017-117 can be met and exceeded. The proposed Zoning By-law Amendment is considered to be supportable.

Public Comments

Several comments were received related to the application for Official Plan Amendment and Zoning By-law Amendment. The comments are addressed further, below:

**Environmental Concerns**

Throughout the application process the City has received correspondence and oral submissions related to the environmental features on the property. This communication has expressed concern related to the protection of the existing environmental features and its consideration as it relates to the proposed development. It is noted that throughout the application process the applicant has submitted several reports to address potential environmental features. These submissions include the following: Scoped Environmental Impact Study, prepared by 8 Trees Inc. (dated February 10, 2021), Environmental Impact Study Addendum, prepared by 8 Trees Inc. (dated January 5, 2022), Woodland

Management Plan, prepared by 8 Trees Inc. (dated July 16, 2022), Planning Justification Report, prepared by Joseph Tomaino (dated July 20, 2022, and, EIS Technical Memo, prepared by 8 Trees Inc. (dated January 26, 2023). Upon review of the aforementioned submission items, Niagara Region Environmental Planning staff have stated satisfaction with the current proposal subject to the various management plans and measures outlined in the prepared reports. Additionally, the lands are proposed to be designated and zoned to ensure that no significant negative impact to the ecological or hydrological function of the natural features will occur.

**Parkland Concerns**

The two parcels of land currently zoned O1 were previously owned by the City and were declared surplus by City Council on July 17, 2017. The Economic Development Division marketed the lands for sale and presented Council with an offer to purchase the lands. The lands on Gadsby Avenue were sold to Lucas Lucchetta and the lands known as Part Township Lot 239 Thorold, Being Part 1, Plan 59R-16468 were sold to Lucchetta Builders Inc. (the owner of 368 Agueduct Street). The date of sale for both transactions was September 6, 2019.

**FINANCIAL CONSIDERATION:**

All costs associated with the development of this property will be the responsibility of the owner.

**OTHER DEPARTMENT IMPLICATIONS:**

Other City Divisions have been circulated the application for review and comment. Any comments received, have been included in the Recommendation Report.

**SUMMARY AND CONCLUSION:**

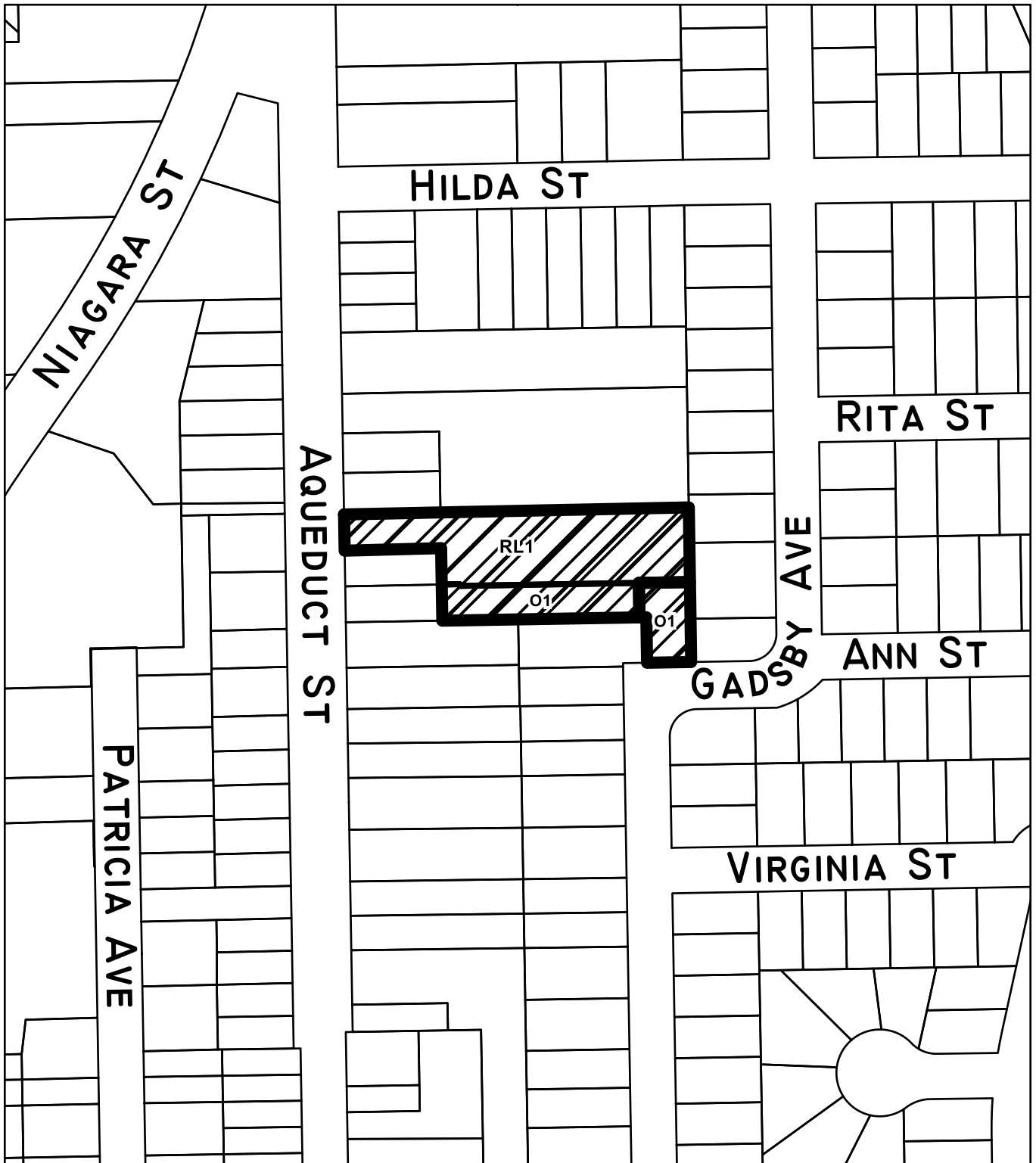
The proposed application for Official Plan Amendment and Zoning By-law Amendment to facilitate the construction of a twenty-four (24) unit condominium building and single detached dwelling is considered to represent good planning because:

1. It is consistent with provincial, regional and local policies which encourage infill and intensification within the identified Built-Up Area;
2. Uses existing municipal infrastructure and promotes a diverse range of housing opportunities;
3. Is transit supportive and encourages walkable communities; and,
4. Will assist the City in achieving the intensification target.

**ATTACHMENTS:**

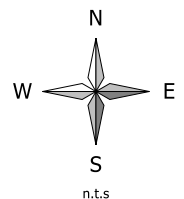
Appendix I - Key Map

- Appendix II - Aerial Photo of Subject Lands
- Appendix III - Preliminary Site Plan
- Appendix IV - Draft Official Plan Amendment (Amendment text only)
- Appendix V - Correspondence Received



# THE SUBJECT LANDS

2020-14 & OPA 33



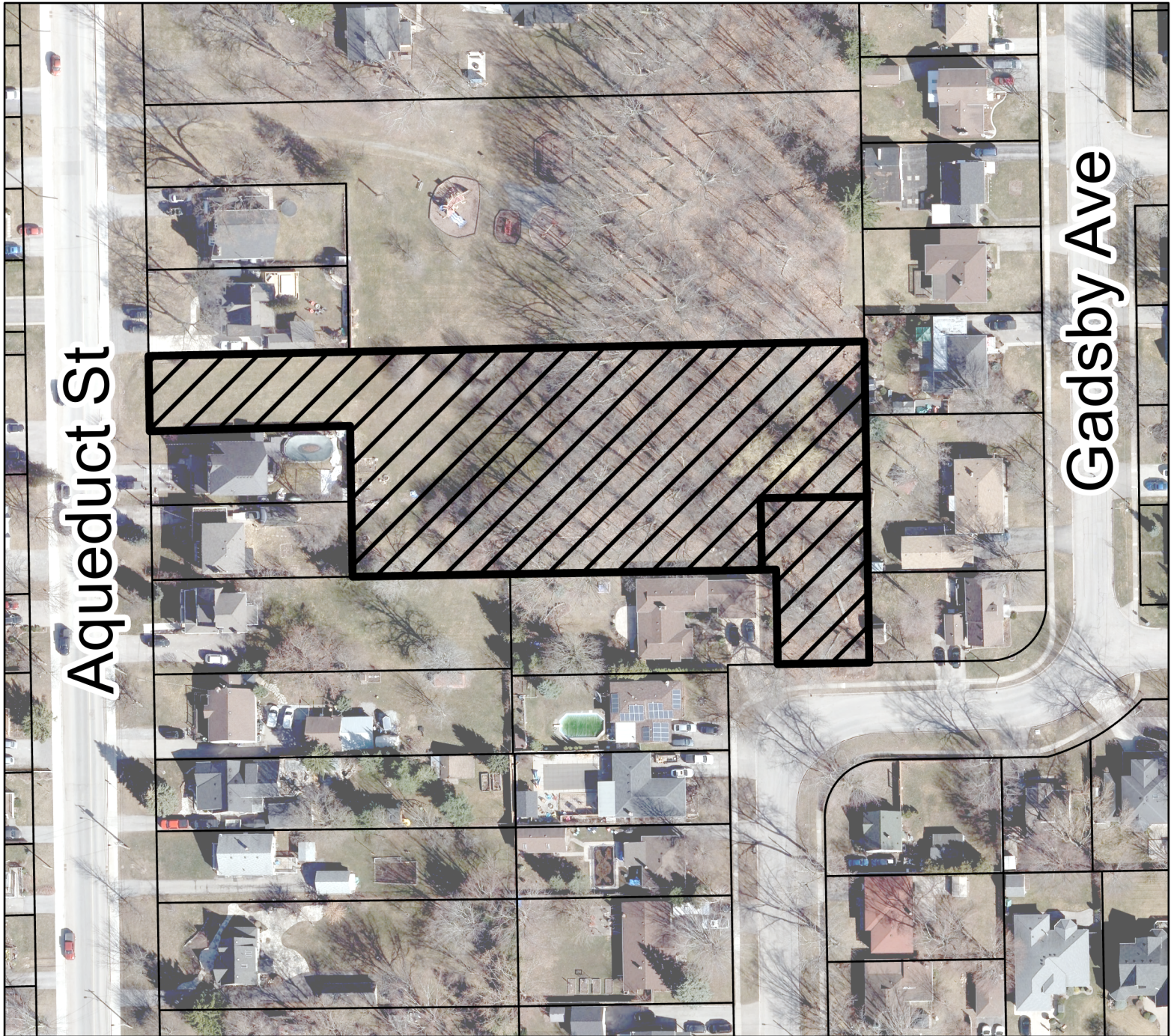
**SUBJECT LANDS**



*Infrastructure and  
Development Services  
Planning Division*



# ZBLA 2020-14 & OPA No.33



## ***Aerial Map of Subject Lands***



 SUBJECT LANDS



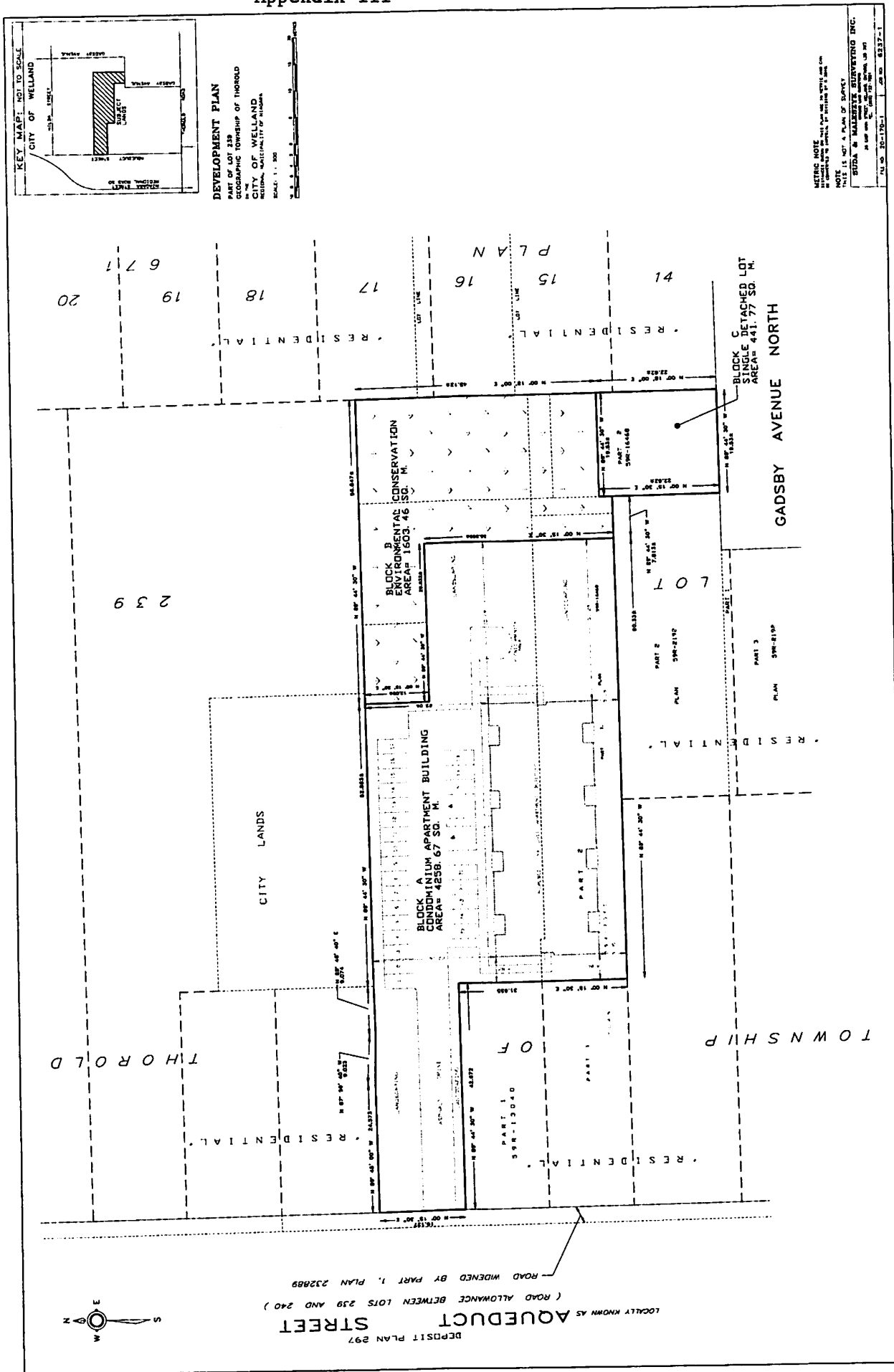
Planning & Development Services

 Planning Division

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Date Created: 2023-04-20

## Appendix III



**AMENDMENT NO. 33**  
**to the**  
**OFFICIAL PLAN**  
**of the**  
**CORPORATION OF THE CITY OF WELLAND**

**June 6, 2023**



**THE CORPORATION OF THE CITY OF WELLAND  
BY-LAW NUMBER 2023-XX**

**A BY-LAW TO AUTHORIZE THE ADOPTION  
OF OFFICIAL PLAN AMENDMENT NO. 33**

**WHEREAS** the Official Plan of the Corporation of the City of Welland was adopted by the City of Welland on May 4, 2010.

**AND WHEREAS** the Regional Municipality of Niagara gave partial approval to the Official Plan on October 21, 2011.

**AND WHEREAS** the Ontario Municipal Board gave partial approval to the Official Plan on June 24, 2014.

**AND WHEREAS** the Council of the Corporation of the City of Welland deems it expedient to amend the Official Plan.

**AND WHEREAS** the Regional Municipality of Niagara is the approval authority for Amendments to the Official Plan of the Corporation of the City of Welland.

**AND WHEREAS** the Regional Municipality of Niagara has exempted Official Plan Amendment No. 33 to the Official Plan of the Corporation of the City of Welland from approval in accordance with the Memorandum of Understanding between the Regional Municipality of Niagara and the Corporation of the City of Welland.

**NOW THEREFORE THE MUNICIPAL COUNCIL OF THE CORPORATION OF THE CITY OF WELLAND ENACTS AS FOLLOWS:**

1. That the Corporation of the City of Welland hereby adopts and approves Official Plan Amendment No. 33 for the Corporation of the City of Welland.
2. That Staff is hereby authorized and directed to give Notice of Council's adoption of Amendment No. 33 to the Official Plan of the Corporation of the City of Welland in accordance with Section 17(23) of the Planning Act.

**READ A FIRST, SECOND AND THIRD TIME AND PASSED BY COUNCIL THIS  
6<sup>th</sup> OF JUNE, 2023.**

\_\_\_\_\_  
MAYOR

\_\_\_\_\_  
CLERK

**Amendment No 33**  
**to the**  
**Official Plan**  
**of the**  
**Corporation of the City of Welland**

This Amendment to the Official Plan for the City of Welland, which was adopted by the Council of the Corporation of the City of Welland on DATE and to which no appeal was filed, came into effect on pursuant to Section 17 and 21 of the Planning Act, R.S.O. 1990, Chapter P.13, as amended.

Date: .....

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GRANT MUNDAY, B.A.A., MCIP, RPP  
DIRECTOR  
PLANNING AND DEVELOPMENT SERVICES  
THE CORPORATION OF THE CITY OF WELLAND

**AMENDMENT NO. 33 TO THE OFFICIAL PLAN OF THE  
CORPORATION OF THE CITY OF WELLAND**

PART A - THE PREAMBLE (This does not constitute part of the Amendment).....	1
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## **PART A - THE PREAMBLE (This does not constitute part of the Amendment)**

### **TITLE AND COMPONENTS**

This document, when approved in accordance with the Planning Act, shall be known as Amendment No. 33 to the Official Plan of the Corporation of the City of Welland.

Part "A", the Preamble, does not constitute part of this Amendment.

Part "B", the Amendment, consists of the map and text changes.

Part "C", the Appendices, which does not constitute part of this Amendment, contains the background data, planning considerations and public involvement associated with this Amendment.

### **PURPOSE OF THE AMENDMENT**

The purpose of Official Plan Amendment No. 33 is to redesignate the lands shown on the attached Schedule B to Low Density Residential, Medium Density Residential and Core Natural Heritage. The purpose of the Amendment is to allow the property to be developed with a 3 storey twenty-four (24) unit apartment condominium plan accessed from Aqueduct Street and to create one lot fronting onto Gadsby Avenue for residential purposes.

### **LOCATION**

The lands subject to this Amendment are located on the east side of Aqueduct Street, north side of Gadsby Avenue, south of Aqueduct Street Park, and north of Thorold Road. The lands are 0.63 hectares in size.

### **BASIS**

The subject lands are within the urban area boundary for the City of Welland and currently designated Low Density Residential and Parks, Open Space, and Recreation. The lands are currently vacant. A proposal has been put forth to redevelop the lands with a 3 storey 24 unit apartment building off of Aqueduct Street and one lot fronting onto Gadsby Avenue.

## **PART B - THE AMENDMENT**

All of the Amendment entitled PART B - THE AMENDMENT, consisting of the following Policies and the map referred to as Schedule "A" - Land Use Plan and Policies, constitutes Amendment No. 33 to the Official Plan of the Corporation of the City of Welland.

### **MAP CHANGES**

1. Schedule A, City Structure Map is hereby amended by identifying additional Environmental Conservation Areas on the property.
2. Schedule B, Land Use Map is hereby amended by identifying the lands as Residential and Core Natural Heritage.
3. Schedule B1, Residential Hierarchy Land Use Map is hereby amended by identifying the lands as Low Density Residential, Medium Residential and Core Natural Heritage.
4. Schedule C, Core Natural Heritage System Map is hereby amended by identifying the Environmental Conservation Areas on the property.
5. Schedule C1, Components of the Natural Heritage System Map is hereby amended by identifying the additional Environmental Conservation Areas on the property.

***SCHEDULE "A" LAND USE PLAN***

## **PART C - THE APPENDICES**

The following appendices do not constitute part of Amendment No.33 to the Official Plan of the Corporation of the City of Welland, but are included only as information supporting the amendment.

APPENDIX I	-	Affidavit
APPENDIX II	-	Notice of Adoption
APPENDIX III	-	Minutes of Public Meeting
APPENDIX IV	-	Staff Report
APPENDIX V	-	Council Resolution (Certified)

**APPENDIX I - AFFIDAVIT**

IN THE MATTER OF SECTION 7, ONTARIO  
REGULATION 543/06

AND

IN THE MATTER OF THE ADOPTION OF  
OFFICIAL PLAN AMENDMENT NO. 33 BY BY-  
LAW 2023-XX PASSED BY COUNCIL OF THE  
CORPORATION OF THE CITY OF WELLAND  
ON 6<sup>th</sup> OF JUNE, 2023

I, Grant Munday of the City of Welland in the Regional Municipality of Niagara, make oath and say as follows:

1. I am the Director, Development and Building Services of the Corporation of the City of Welland.
2. That in accordance with Section 17(15) of The Planning Act, as amended and Section 3 of Ontario Regulation 543/06, Notice of the Public Meeting was published in the Niagara This Week Newspaper on Thursday, October 6th, 2022. I hereby certify that the required Public Meeting was held on Tuesday, December 6th, 2022 by the Council of the Corporation of the City of Welland.
3. A list of all persons or public bodies which made oral submissions at the Public Meeting is attached as Schedule "A" to this Affidavit.
4. That in accordance with Section 17(23) of The Planning Act, as amended, and Ontario Regulation 543/06, the requirements for the giving of Notice of Adoption of the Amendment have been complied with.
5. That in accordance with Section 7(7) of Ontario Regulation 543/06, the decision of Council is consistent with the Policy Statements issued under sub-Section 3(1) of the Act and conforms to any applicable Provincial Plan or Plans.

Sworn before me at the City of Welland  
in the Regional Municipality of Niagara,  
this 6th day of JUNE, 2023.

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**SCHEDULE "A" TO APPENDIX 1 - AFFIDAVIT**

List of individuals who made oral submission at the Statutory Public Meeting conducted concerning Amendment No. 33 to the Official Plan of the Corporation of the City of Welland.

In Support

In Opposition

**APPENDIX II - NOTICE OF ADOPTION**



**CITY OF WELLAND  
NOTICE OF ADOPTION OF  
AMENDMENT NO. 33 TO THE  
OFFICIAL PLAN OF THE CORPORATION OF THE CITY OF WELLAND**

Take notice that the Council of the Corporation of the City of Welland passed By-law 2023-XX, being a By-law to adopt Amendment No. 33 to the Official Plan on the 6<sup>th</sup> of June, 2023 under Section 17(23) of The Planning Act, as amended.

The Purpose of Amendment No. 33 is to redesignate the property to Low Density Residential, Medium Density Residential and Core Natural Heritage.

The Effect of the redesignation is to permit the development of the property with a twenty-four (24) unit apartment condominium plan accessed from Aqueduct Street and a single lot fronting onto Gadsby Avenue.

Pursuant to Section 17(23.1)(a) of the Planning Act, as amended, City Council took into consideration all written and oral presentations made to it before rendering a decision.

Any person or agency may appeal, to the Local Planning Appeal Tribunal, in respect to the Amendment to the Official Plan by filing with the Clerk of the City of Welland, no later than DATE, a notice of appeal setting out the specific part of the proposed Amendment to the Official Plan to which the appeal applies, set out the reasons for the appeal and be accompanied by the fee prescribed under the Local Planning Appeal Tribunal Act in the amount of \$1,100.00 payable by certified cheque to the Minister of Finance, Province of Ontario.

The proposed Amendment to the Official Plan is exempt from approval by the Regional Municipality of Niagara and the Decision of Council is final if a notice of appeal is not received on or before the last day for filing a notice of appeal.

Only individuals, Corporations or public bodies may appeal a Decision of the municipality to the Local Planning Appeal Tribunal. A notice of appeal may not be filed by an unincorporated Association or Group. However, a notice of appeal may be filed in the name of an individual who is a member of the Association or the Group on its behalf.

No person or public body shall be added as a party to the hearing of the appeal unless, before the Plan was adopted, the person or public body made oral submissions at a Public Meeting or written submissions to the Council or, in the opinion of the Local Planning Appeal Tribunal, there are reasonable grounds to add the person or public body as a party.

The land to which this proposed Amendment to the Official Plan applies is also the subject of a Zoning By-law Amendment 2023-XX.

A copy of the Amendment and Staff Report are available for inspection by the public as of June 2, 2023 at by contacting the Planning Department at [devserv@welland.ca](mailto:devserv@welland.ca).

Dated at the City of Welland this DATE day of MONTH, YEAR.

GRANT MUNDAY, B.A.A., MCIP, RPP  
DIRECTOR  
PLANNING AND DEVELOPMENT SERVICES  
OF THE CORPORATION OF THE CITY OF WELLAND

***APPENDIX III***

-

***MINUTES OF PUBLIC MEETING -***

***APPENDIX IV       -       STAFF REPORT***

NOTE: Incorporate additional written comments received after date of report.

***APPENDIX V - COUNCIL RESOLUTION***



## MEMORANDUM

### Infrastructure Services Engineering Division

**TO:** Taylor Meadows,  
Development Planning Supervisor

**FROM:** Matteo Ramundo, C.Tech  
Development Technician

**CC:** Jim Harnum, P.Eng,  
Senior Project Manager - Development  
  
Livia McEachern, P.Eng.  
Manager of Engineering

**DATE:** February 9, 2023

**SUBJECT:** 368 Aqueduct Street and 155 Gadsby Avenue – Second Submission  
- Official Plan and Zoning By-Law Amendment

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A complete application for Official Plan and Zoning By-Law Amendment was submitted by Lucchetta Builder Inc. and circulated for review. Engineering have reviewed this application for any anticipated concerns related to proposed servicing and stormwater management.

The following documents were reviewed:

- Functional Servicing Report, prepared by Upper Canada Consultants, dated February 2023.

**After review, Engineering has the following comments for information:**

1. The results of the hydrant flow test are to be included within the servicing report to confirm the existing system capacity. Any improvements required to provide the necessary fire flow for this site will be the responsibility of the owner.
2. The results of the FUS calculations are based off a floor area of 871.62 square metres. This is the total area for only one floor, whereas the calculations require the additional floors to be considered based off the type of construction coefficient. Please review and revise to include the proper fire flow within the report.
3. An analysis will most likely be required to assess the impact the development will have on the existing water system. At the consultants



approval, the City will have our modelling consultant complete this analysis using the City's water model and the updated Functional Servicing Report submitted by the applicant, with the cost of this work the responsibility of the applicant.

4. The calculations for stormwater management should demonstrate that stormwater flows can be controlled to pre-development levels for a 5 year up to and including a 100 year storm event. Stormwater runoff is to be treated to an enhanced level of protection (80% TSS removal as per the Niagara Regions Stormwater Management Design Guidelines).

**Planning and Development Services**

1815 Sir Isaac Brock Way, Thorold, ON L2V 4T7  
905-980-6000 Toll-free: 1-800-263-7215

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**Via Email Only**

March 15, 2023

Region File: D.10.11.OPA-21-0002  
D.18.11.ZA-21-0003

Taylor Meadows  
Planning Supervisor - Development  
City of Welland  
60 East Main Street  
Welland, ON, L3B 3X4

Dear Mr. Meadows:

**Re: Regional and Provincial Comments  
Proposed Official Plan Amendment and Zoning By-law Amendment  
Applications  
City Files: OPA 33; Zoning File: 2020-14  
Applicant: Lucas Lucchetta and Lucchetta Builders Inc.  
Agent: Joseph Tomaino  
368 Aqueduct Street and 155 Gadsby Avenue  
City of Welland**

---

Regional Planning and Development Services staff has reviewed the above noted Official Plan Amendment ("OPA") and Zoning By-law Amendment ("ZBA") applications for lands municipally known as 368 Aqueduct Street and 155 Gadsby Avenue in the City of Welland. The OPA application proposes to redesignate the lands from 'Low Density Residential' and 'Parks, Open Space and Recreation' to 'Medium and Low Density Residential' and 'Core Natural Heritage' in the City of Welland Official Plan. The ZBA application proposes to rezone the lands from 'Residential Low Density 1-RL1' and 'Neighbourhood Open Space- 01' to 'Site Specific Residential Multiple- RM', Site Specific Residential Low Density 2- RL2' and 'Environmental Conservation Overlay' in the City of Welland Zoning By-law 2017-117.

The proposed development is for a 3-storey condominium building with a total of 24 residential units fronting onto Aqueduct Street and development of a single lot fronting onto Gadsby Avenue. The purpose of the Site Specific RL2 Zone is to allow for a rear yard setback of 5 m for the lot proposed at 155 Gadsby Avenue. The purpose of the site specific RM Zone is to permit a lot frontage of 16 m, whereas 45 m is required for the lot fronting onto Aqueduct Street.

A pre-consultation meeting was held on November 7, 2019 with the Applicant, City and Regional staff in attendance. Regional staff note that the new *Niagara Official Plan* (“NOP”) was approved with modifications by the Minister of Municipal Affairs and Housing, coming into effect on November 4, 2022 and replacing the *Regional Official Plan* (“ROP”). Given that this application was deemed complete by the City of Welland prior to the new plan taking effect, the policies of the ROP continue to apply for this application.

The following Provincial and Regional comments are provided to assist the City in their consideration of the application.

## **Provincial and Regional Policies**

The subject lands are located within a ‘Settlement Area’ under the *Provincial Policy Statement, 2020* (“PPS”), designated ‘Delineated Built-Up Area’ within *A Place to Grow: Growth Plan for the Greater Golden Horseshoe, 2020 Consolidation* (“Growth Plan”) and designated ‘Urban (Built-Up) Area’ in the ROP.

Provincial and Regional plans direct development to take place in urban areas to support intensified development where appropriate servicing and infrastructure exists. These same plans place an emphasis on intensification and infill in order to support the development of complete communities that have a mix of diverse land uses and housing choices, improve social equity and quality of life, expand access to multiple forms of transportation, and provide spaces that are vibrant and resilient in design. A full range of residential uses are permitted generally within the Urban Area designation, subject to the availability of adequate municipal services, infrastructure, and other policies relative to land use compatibility and environmental conservation.

The annual intensification target contained in the ROP for the Delineated Built-Up Area in the City of Welland of 40% continues to apply. This proposal will contribute to meeting this intensification target.

Staff acknowledges the proposal for a 3-storey 24 unit condominium building will be an intensification of the subject lands, which Provincial and Regional policy supports in principle. With that being said, local compatibility considerations and interface with neighbouring land uses is a local planning matter to be addressed by City planning staff and Council. Please see comments below with respect to ‘natural heritage’.

Staff has reviewed the submitted *Planning Justification Report*, prepared by Joseph Tomaino, MCIP, RPP (dated July 20, 2022) and find it to be acceptable; however, staff notes Appendix 5: *Servicing Design Brief*, prepared by Rusit & Associates Ltd. (dated November 28, 2019) shows a different development concept than what is being proposed through these applications.

## Natural Heritage

There are currently no mapped natural heritage features on the subject property. However, based on aerial imagery available to the Region, there appeared to be a mature wooded area present on the subject property. As such, Regional environmental planning staff requested the completion of a constraints analysis to determine if the wooded area met Regional significant woodland designation criteria identified in Policy 7.B.1.5 of the ROP.

Regional Environmental Planning staff has reviewed the supporting documents submitted in support of development applications on the subject lands located at 368 Aqueduct Street and 155 Gadsby Ave, in the City of Welland. Specifically, the following reports were reviewed:

- *Scoped Environmental Impact Study*, prepared by 8 Trees Inc. (dated February 10, 2021);
- *Environmental Impact Study Addendum*, prepared by 8 Trees Inc. (dated January 5, 2022);
- *Woodland Management Plan*, prepared by 8 Trees Inc. (dated July 16, 2022);
- *Planning Justification Report*, prepared by Joseph Tomaino (dated July 20, 2022); and,
- *EIS Technical Memo*, prepared by 8 Trees Inc. (dated January 26, 2023).

In summary, based on the characterization of the subject lands contained within the various Reports, the wooded area has been confirmed to achieve Regional Significant Woodland designation criteria. As such, staff have reviewed the justification provided to ensure that the development will not result in a significant negative impact to the ecological or hydrological function of the woodland.

Upon review of the most recent *EIS Technical Memo*, prepared by 8 Trees Inc. (dated January 6, 2023), staff are satisfied that previous Regional comments and concerns have been adequately addressed. Specifically, the development concept has been revised to limit the amount of woodland loss to approximately 25% of the total woodland area within the subject lands. To mitigate the proposed woodland removal, numerous mitigation measures are proposed including but not limited to implementation of a Woodland Management Plan. *The Woodland Management Plan*, prepared by 8 Trees Inc. (dated July 16, 2022) incorporates additional tree and shrub plantings within and adjacent to the woodland and identifies restoration opportunities for the understory (e.g., approx. 100 new trees, removal of invasive species, etc.) as well as various stewardship related activities.

As such, as it relates to the proposed OPA and ZBA applications, staff offer no objection provided the Significant Woodland and the recommended setbacks identified in the *EIS Addendum*, prepared by 8 Trees Inc. (dated January 5, 2022) and *EIS Technical Memo*, prepared by 8 Trees Inc. (dated January 26, 2023) are placed into an appropriately restrictive environmental designation and zone. Staff request that the proposed OPA and ZBA schedules be circulated prior to approval so that staff can confirm that environmental planning requirements have been adequately addressed.

Staff note that conditions of approval will be recommended when the future Draft Plan of Condominium and/or Site Plan is circulated for Regional review and approval.

## **Site Servicing**

Regional staff note that site servicing will be under the jurisdiction of the City of Welland and will require the construction of new water and sanitary services for the proposed development. The Ministry of Environment, Conservation and Parks (“MECP”), Environmental Certificates Approvals (“ECA”) are required for any new or extended municipal sanitary and storm sewer services. The Region can review and approve the ECA’s under the MECP Transfer of Review Program. Detailed engineering design drawings with calculations for the services must be submitted to this department for review and approval. ECA’s could potentially also be obtained through the pending Consolidated Linear Infrastructure Environmental Compliance Approval process, at the discretion of the City of Welland.

The applicant should be advised that there is an existing 600 mm diameter Regional Trunk Watermain and 1500 mm diameter Regional Trunk Sewer located along this section of Aqueduct Street. The Regional Watermain is not to be disturbed during construction activities and any proposed crossing or works within close proximity of the Regional Watermain require daylighting of the Regional Watermain as soon as possible to ensure location and adequate separation is maintained. Prior to daylighting of the watermain, Regional staff listed below need to be contacted 72 hours in advance to ensure staff are available during the daylighting.

Region staff also request that a note be added to the engineering drawings indicating that 72 hours in advance of construction near the Regional watermain, the contractor will contact Adrian Rittner, Area 2 Manager, Water Operations and/or Tim Peyton, Area 2 Manager, Water Maintenance. They may be reached at the Welland Water Treatment Plant at the following number: 905-735-7420.

This submission did not include an updated general servicing plan, therefore Regional staff will require that detailed cross-sections of the proposed Regional watermain crossings be submitted for review and approval at the time of Draft Plan and/or Site Plan.

## Waste Collection

Niagara Region provides curbside waste and recycling collection for developments that meet the requirements of Niagara Region's Waste Collection Policy. The subject property is eligible to receive Regional curbside waste and recycling collection provided that the owner bring the waste and recycling to the curbside on the designated pick up day, and that the following limits are not exceeded:

- Garbage: 2 bags/cans per unit to a max of 24 per building (collected bi-weekly);
- Recycling: Unlimited blue/grey boxes or carts (collected weekly);
- Organics: Unlimited green bins or carts (collected weekly).
- Curbside Collection Only

The submitted site plan depicts the use of Moloks for waste collection, which the Region does not currently collect. Therefore, waste collection will be the responsibility of the owner through a private contractor and not the Niagara Region.

## Conclusion

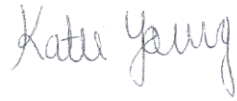
Regional Planning and Development Services staff offers no objection to the proposed Official Plan Amendment and Zoning By-law Amendment applications, provided the Significant Woodland and the recommended setbacks identified in the EIS Addendum (prepared by 8 Trees Inc., dated January 5, 2022) and EIS Technical Memo (prepared by 8 Trees Inc., dated January 26, 2023) are placed into an appropriately restrictive environmental designation and zone. Staff request that the proposed OPA and ZBA schedules be circulated prior to approval so that staff can confirm that environmental planning requirements have been adequately addressed.

Staff note that in accordance with policies 14.E.7 and 14.E.8 of the ROP, the Memorandum of Understanding, and By-law No. 2019-73, the Official Plan Amendment as reviewed and incorporating the restrictive environmental designation is exempt from Regional Council Approval.

Should you have any questions, please contact the undersigned at [Katie.Young@niagararegion.ca](mailto:Katie.Young@niagararegion.ca), or Pat Busnello, Manager of Development Planning at [Pat.Busnello@niagararegion.ca](mailto:Pat.Busnello@niagararegion.ca)

To discuss environmental planning comments specifically, please contact Adam Boudens, Senior Environmental Planner at [Adam.Boudens@niagararegion.ca](mailto:Adam.Boudens@niagararegion.ca), or Cara Lampman, Manager of Environmental Planning at [Cara.Lampman@niagararegion.ca](mailto:Cara.Lampman@niagararegion.ca).

Kind regards,

A handwritten signature in cursive script that reads "Katie Young".

Katie Young, MCIP, RPP  
Development Planner

cc: Pat Busnello, MCIP, RPP, Manager of Development Planning, Niagara Region  
Diana Morreale, MCIP, RPP, Director of Development Approvals, Niagara Region  
Adam Boudens, Senior Environmental Planner, Niagara Region  
Cara Lampman, Manager of Environmental Planning, Niagara Region  
Chris Pirkas, Development Approvals Technician, Niagara Region

## Taylor Meadows

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**From:** Amie Lynn Clapp-Vallee <>  
**Sent:** November 18, 2022 2:48 PM  
**To:** Taylor Meadows  
**Subject:** Thoughts on Aqueduct/Gadsby Development

**WARNING:** This email originated from an external sender. eMail from City of Welland email accounts will not begin with this warning! Please do not click links or open attachments unless you are sure they are safe!

Hi Taylor,

Could you please include my thoughts into the meeting regarding the Aqueduct/Gadsby Development?

I oppose the Zoning and Development plans for 368 Aqueduct Street and 155 Gadsby Avenue, City of Welland: Revised Application to Amend City of Welland Official Plan (OPA No. 33); Revised Application to Amend Zoning By-law 2017-117 (File No. 2020-14); Revised Application for Draft Plan of Standard Condominium (File No. 26CD-14-20009)

When we purchased our home, we knew there would one day be a neighboring property built next door to us. This was always a reality I knew would one day come. We chose a quiet location on a quiet street to raise our Children. Never would I imagine the possibility of a 24 Unit Condo going in next door!

I am fearful for the amount of people living so close to my backyard where my Children play every day! There could be anywhere from 48 to 72 or even 96 new people living right next door and using the Park! Another issue is due to the height of the building, there will potentially be 8 families with a clear view into my backyard where my children swim, play, and we entertain. This does not sit well with myself or my family.

The increased traffic also raises a concern for me. In addition to the extra vehicle traffic on the street, I will now be a corner lot that will have vehicles turning onto and exiting the driveway into the building at all hours of the day and night. My children play in my driveway Spring through Fall and enjoy using their basketball Net and play Ball Hockey. I am scared if someone were to have one too many drinks or be distracted, their vehicle could potentially enter my driveway and strike my children. Also, people turning in and out at nighttime will create headlights through my windows shining into my son's bedroom and my livingroom.

The overflow of parking is also an issue as only 27 spots are available. There is no way that all 24 unit will only have one car each. The extra vehicles will now be lined up and down Aqueduct Street disrupting everyone's views and making it hard to back out of



driveways with obstructed views. This will not leave much space for visitors or homeowners of existing houses to park on the street in front of their own homes.

Another point I would like to make is that I never wanted to basically back on to a parking lot where there would be noise of vehicles locking their doors with a horn beep or car alarms going off at all hours of the evening.

This is a quaint, peaceful area where all neighborhood children play. The amount of vehicle traffic is soo very dangerous near a children's park.

The thought of this actually happening makes me soo sad for anyone who currently lives nearby as we will ALL be affected by this development! This is not an area to squeeze potentially 96 people and 48 vehicles into!!!

Thank-you for letting me voice my concerns.

Amie

---

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## Taylor Meadows

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**From:** Grant Munday  
**Sent:** November 2, 2022 12:44 PM  
**To:** Taylor Meadows  
**Cc:** Tara Stephens  
**Subject:** FW: A gift to the City of Welland and the Citizens of Welland, Past, Present and Future?

Please add email below to the Aqueduct Gadby Planning Application Files



**Grant Munday, B.A.A., MCIP, RPP**

Director  
Planning and Development Services  
Corporation of the City of Welland  
60 East Main Street, Welland, Ontario L3B 3X4  
**Phone:** (905)735-1700 Ext. 2240 **Fax:** (905)735-8772  
**www.welland.ca**



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**From:** Tara Stephens <tara.stephens@welland.ca>  
**Sent:** November 2, 2022 12:17 PM  
**To:** CLT <CLT@welland.ca>  
**Cc:** Laura Bubanko <laura.bubanko@welland.ca>  
**Subject:** FW: A gift to the City of Welland and the Citizens of Welland, Past, Present and Future?

FYI – The email below has been sent to all members of council.



**Tara Stephens**

City Clerk  
Office of the Chief Administrative Officer  
Clerk's Division  
Corporation of the City of Welland  
60 East Main Street, Welland, Ontario L3B 3X4  
**Phone:** (905)735-1700 Ext. 2159 **Fax:** (905)732-1919  
**www.welland.ca**



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**From:** Anna kuhar

**Sent:** November 1, 2022 10:38 PM

**To:** council <[council@welland.ca](mailto:council@welland.ca)>

**Subject:** A gift to the City of Welland and the Citizens of Welland, Past, Present and Future?

**WARNING:** This email originated from an external sender. eMail from City of Welland email accounts will not begin with this warning! Please do not click links or open attachments unless you are sure they are safe!

Good Evening Your Worship Mayor Campion and Welland City Councillors:

I have included Mr Peter Bryan's letter as part of my own email. He has captured the essence of the concerns I have recently read about in the actions of my city's Mayor and City Council. It is inconceivable to me, perhaps extremely naive on my part, that a person's last wishes are now, not, being respected and honoured. Further It seems inconceivable to me that if this sale, for some reason, had to occur, that the offers of the descendants have not been honoured.

It appears by actions more so than words, that the previous administrations have shown the respect that I would have believed was simply the right thing to do.

It is my sincere hope that Your Worship and City Council will rethink the decisions you made in camera, and show the respect that has been shown up to this administration for the last wishes of the kind person who donated the land , the descendants who are fighting to honour those wishes and the citizens of Welland who support this natural habitat to remain for the present and future generations.

Respectfully,  
Anna Kuhar  
Ward 2

***"Good morning councillors,***

***I am writing to ask that you reconsider (and if necessary, reverse) the sale of the Baldwin property at 155 Gadsby Ave. My understanding is that the city was given this property on condition that it remained in its "natural" state. I also understand that the decision regarding the sale of the property was made in camera. Was this process carried out away from the eyes of the public because councillors knew they were making a morally questionable decision?"***

***Councillors, although you may have found a "legal" way to get around the conditions of the gift of this property, I would suggest that this decision is neither morally nor ethically acceptable. Nor does this decision show the council in a good light to the citizens of the city you represent. I further suggest that this decision may well deter citizens from making future land gifts to the City of Welland.***

***I would ask that the council reverse its decision and refund the purchase price to the developer, along with whatever additional costs seem appropriate for the developer's inconvenience.***

***Yours truly,  
Peter Bryan***

***Ward 3"***

---

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**SULLIVAN | MAHONEY** LLP  
LAWYERS

November 18, 2022

**Via Email to [mayor@welland.ca](mailto:mayor@welland.ca)**

Reply to St. Catharines Office  
**THOMAS A. RICHARDSON, C.S.**  
905.327.6062 - Cell  
[tarichardson@sullivanmahoney.com](mailto:tarichardson@sullivanmahoney.com)

*Certified Specialist (Municipal Law – Local  
Government/Land Use Planning and Development)*

Mayor Frank Campion and Members of Council  
City of Welland  
60 East Main Street  
Welland, ON L3B 3X4

Dear Mayor Campion and Members of Council:

**Re: 368 Aqueduct Street and 155 Gadsby Avenue, City of Welland:  
Revised Application to Amend City of Welland Official Plan (OPA No. 33);  
Revised Application to Amend Zoning By-law 2017-117 (File No. 2020-14);  
Revised Application for Draft Plan of Standard Condominium  
(File No. 26CD-14-20009)  
Our File No. 122715**

We act as solicitors for Robert Parent, the owner of property located at 153 Gadsby Avenue, immediately adjacent to the above-described property, with respect to the above-referenced revised applications.

A public meeting with respect to the above applications is to be held in front of the City Council at its meeting on Tuesday, December 6, 2022. We are registered to speak on behalf of our client as are other members of the Parent family, at that meeting.

In 2021, applications were made for approval of an Official Plan amendment, a Zoning By-law amendment and a draft plan of vacant land condominium to permit the development of eight townhouses and one single-family home on the same lands. Those applications came before a public meeting on May 4, 2021. At that time, I and other members of the Parent family and neighbours made submissions to the City Council. My submissions were based upon a peer review of the Scoped Environmental Impact Study submitted in support of the original applications, which

*Client Committed. Community Minded.*

40 Queen Street, P.O. Box 1360, St. Catharines, ON L2R 6Z2 **t: 905.688.6655 f: 905.688.5814**

4781 Portage Road, Niagara Falls, ON L2E 6B1 **t: 905.357.0500 f: 905.357.0501**

[sullivanmahoney.com](http://sullivanmahoney.com)

peer review was undertaken by LCA Environmental. To our knowledge, those applications have never come back before the City Council for consideration.

In October of this year, we received notice of the revised applications set out above. The development now proposed is not a series of eight townhouses plus a single-family lot, but rather, it is proposed to construct a three-storey condominium building with a total of 24 residential units, behind existing single-family dwellings fronting onto Aqueduct Street, together with a parking lot for 25 cars, and the development of a single-family lot fronting onto Gadsby Avenue. In support of these revised applications, the applicant has submitted the same Scoped EIS report dated February 10, 2021, an addendum report to the Scoped EIS report dated January 5, 2022, and a letter report dated July 18, 2022 from 8Trees Inc. Both the original Scoped EIS report dated February 10, 2021 and the addendum to the Scoped EIS report dated January 5, 2022 continue to address the original proposal of eight townhouses and one single family dwelling. (The planning justification report submitted with the revised applications contains a pre-consultation meeting form dated November 7, 2019. That pre-consultation meeting addressed a 12-unit plan of condominium fronting onto Aqueduct Street and a single lot fronting onto Gadsby Avenue. We have confirmed with staff that no further pre-consultation meeting has been held with respect to the new proposal.) It is only in the letter of July 18, 2022 that the author of the Scoped EIS report and of the addendum acknowledges that the development has changed from eight townhouses and a single-family lot to a three-storey apartment building with 24 units and a single-family lot.

As noted above, our client retained LCA Environmental to undertake a peer review of the Scoped Environmental Impact Study dated February 10, 2021. The peer review found that the Scoped Environmental Impact Study was seriously lacking in several ways. No response was made at the time to the concerns expressed in the LCA Environmental Peer Review. However, Regional environmental planning staff had reviewed the earlier development concept and the Environmental Impact Study for the subject lands and provided formal comments to the City of Welland. In those comments, the Region requested an update to the Environmental Impact Study (EIS) to address a number of concerns. The EIS Addendum that was requested will be required to confirm that the final development concept will have no significant negative impact on the core natural heritage features impacting the site according to information provided by Regional planning staff to our clients.

The addendum to the Scoped EIS report dated January 5, 2022 attempts to address some of the deficiencies found in the earlier peer review. Our client has retained Ecological & Environmental Solutions, a successor to LCA Environmental, to undertake a further peer review of the addendum to the Scoped EIS report and of the letter report dated July 18, 2022. That updated peer review of Scoped EIS Addendum, dated November 16, 2022, is enclosed herewith, together with a revised Policy Compliance Chart.

While we will make further submissions to the City Council at the public meeting to be held on December 6, 2022, we wish to make the following points now for your consideration.

1. The three documents provided by the consultant 8Trees Inc. does not screen for significant wildlife habitat as required by the Regional EIS Guidelines and as requested by Regional staff by correspondence dated April 6, 2020 and June 8, 2020.

2. No assessment of the woodland significance reflecting the presence of significant wildlife habitat has been undertaken.
3. An assessment of impacts from the revised development plan of a three-storey apartment building containing 24 apartment units together with a single-family lot has not been completed nor have any appropriate mitigation measures to address those impacts been provided.
4. In short, the EIS and the EIS addendum reports prepared by 8Trees Inc. do not satisfy the terms of reference set out by the Region and do not follow the steps of the Region of Niagara EIS Guidelines.

These deficiencies result in a proposed development which has been significantly increased in density and impacts which have not been properly assessed as required by the provisions of the Provincial Policy Statement 2020, and the Niagara Region Official Plan.

We will wish to make further submissions to the Council at the public meeting on December 6, 2022.

It will be our respectful request that Council not approve the application for City of Welland Official Plan Amendment No. 33, the application to amend Zoning By-law No. 2017-117 and the application for draft plan of standard condominium.

Yours very truly,

**SULLIVAN, MAHONEY LLP**

**Per:**



**Thomas A. Richardson, C.S.**  
Thomas Richardson Legal  
Professional Corporation

TAR:sm

Enclosures (2)

1. Ecological & Environmental Solutions Updated Peer Review of Scoped EIS Addendum dated November 16, 2022 and LCA Environmental EIS Peer Review dated April 28, 2021 (Appendix A)
2. Ecological & Environmental Solutions Revised Policy Compliance dated November 16, 2022

cc—Ms. Tara Stephens, City Clerk  
cc—Mr. Taylor Meadows, Development Planner  
cc—clients

## Taylor Meadows

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**From:** chrishon g <c>  
**Sent:** November 17, 2022 8:52 PM  
**To:** Taylor Meadows  
**Subject:** RE: Aqueduct Gadsby Development

**WARNING:** This email originated from an external sender. eMail from City of Welland email accounts will not begin with this warning! Please do not click links or open attachments unless you are sure they are safe!

To Council;

Regarding the three story 24 unit condominium off of Aqueduct Street in Welland, there are several reasons why I believe the area should not be rezoned to accommodate this structure.

The idea that a three-story condominium would be built behind existing houses is an infringement on the privacy of those living in the area. With the initial plan of 8 townhomes, privacy could be maintained because fences would act as sufficient barriers, not so with a structure that would go above that barrier.

Changing the zoning in one specific area that doesn't match the zoning in any other aspect of the neighbourhood just doesn't make sense and I believe it would have a negative impact of the valuation of the homes in that area. Homes that families have invested in for decades. Who wants a 24 unit apartment directly in their back yard?

This is not a common occurrence in the city.

I don't believe this is proper interpretation of 'Welland's vision of land-use' that the developer referred to in their proposal because of the impact it would have on the neighbourhood: environmentally, aesthetically, increased congestion and privacy/safety concerns, property valuation for surrounding houses.

I understand that developing housing in the region is an important thing to do, however, there are other lands available in the city that can be used to develop this type of structure that is both respectful to existing neighbours, would be a financial benefit to that neighbourhoods, will have less environmental impact and would be more practical overall.

Thank you for your time and I ask you to decline the rezoning application, as I believe it would set a precedent that would be detrimental to the citizens of this city and only benefit developers who do not have an actual stake in these neighbourhoods , especially since there are other available lands that would make more sense to the city's developmental vision.

Chrishon Gambarotto  
Aqueduct St resident

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## Taylor Meadows

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**From:** Elaine Anderson <>  
**Sent:** November 18, 2022 3:46 PM  
**To:** Taylor Meadows  
**Subject:** Aqueduct Park

**WARNING:** This email originated from an external sender. eMail from City of Welland email accounts will not begin with this warning! Please do not click links or open attachments unless you are sure they are safe!

Dear Sir,

I am still astounded that this development was allowed to get to the planning stage. I have a full list of the documentation outlining the history of the sale of this property to the city, to when it was declared surplus, and the subsequent sale to the developer.

I am opposed to the idea of any parkland being declared surplus. My understanding is that the item wasn't even pulled to be discussed back when it was brought to council. Obviously, no one realized the significance of this sale, not only to the neighbourhood but also to the people of Welland. This is an environmentally sensitive area and I am opposed to the build.

I would like to know why the land was declared surplus and sold off. What are the rights of Wellanders now that a builder owns it?

Sincerely,  
Elaine Anderson

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## Taylor Meadows

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**From:** Lori Pearson <>  
**Sent:** November 18, 2022 1:18 PM  
**To:** Taylor Meadows  
**Subject:** 155 Gadsby

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I grew up living at 149 Gadsby. 60 years ago this neighbourhood became home. I lived in that area for 20 years. My brothers and I and our friends learned so much living next to the pond and forest. The stories from those days are now the stuff of legend as I tell my grandchildren about the time my brother got sucked in to the marshy area near the pond (we thought it was quicksand) and the time we found a bone in a hollow tree and charged the other kids admission to our museum to see what we firmly believed to be a dinosaur bone. I saw my first rose breasted grosbeak in those woods and yes observing the development of frogs was a yearly fascination. Shame on whatever council declared this surplus land. This is essential land. Once gone or altered it can never be reclaimed. Environmentally there is no win but to protect it. Much of the land I roamed as a child has been built on but that little piece of sacred ground stands as a testimony to an arguably better time when people valued the land for what it was rather than to exploit it for profit.

This appears to be a deal that doesn't hold up to public scrutiny. For the land to have been sold significantly below market value in return for it to remain undeveloped in perpetuity and then sold to developers is a betrayal of the system we expect accountability from. To debate in camera robs property owners of the ability to protect the value of their property (significantly enhanced by the green space).

I urge council to do the right thing and keep this forest and pond intact.

Sincerely,  
Lori Pearson  
177 Sutherland Crescent  
Cobourg, ON. K9A 5L2

Om Mani Padme Hum

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**Marion Ladouceur**  
356 Aqueduct St., Welland, ON, L3C 1E1

To all whom this concerns:

My concerns with regards to Lucchetta's rezoning and development plans:

- Parking: parking spaces available is 1.1% of the number of units (with only 2 for handicap and zero for visitors), which means the possibility of an estimated 20 additional vehicles having to park on the access driveway and on Aqueduct St. That becomes a safety issue for children trying to cross the street (which is already an issue with speeding cars, despite the speed bumps), as well as trying to get in and out of our driveways.
- Garbage from 24 units, will most likely attract rodents and other animals, which, in close proximity to the park, will also be a safety issue for the children using the park. They will also spread to the surrounding area, to homes that have never had this issue previously.
- Privacy will no longer exist for this neighbourhood's single homes. My property will be especially affected with the entire building backing onto my yard. Family functions on my property will have zero privacy. My quiet backyard retreat will no longer exist with a 3 story building abutting my yard.
- The impact of just the construction vehicles up and down the street on the infrastructure as well as the protected wildlife in the woods. We have lost so much of our Carolinian forest and its inhabitants with the development of Hilda St. and the new construction on that street. The Carolinian forest was a protected green-space until the construction of the Hilda St. extension access which reduced the forest area to two sections, neither of which then were large enough to qualify for the designation and protection. We have lost much of the protected species of wildlife and trees already and now we are going to lose more, until they no longer exist. The construction will end but, the environmental damage to the Vernal Pool and the Carolinian woodlot will last forever
- When Hilda St. was being planned the neighbours suggested putting the back of the houses on Hilda St and put an entrance to the 'subdivision' off Aqueduct. It wouldn't have affected traffic in and out of the existing Gadsby Ave. neighbourhood and there would be no parking issues. The city said we couldn't do it because there had to be two entrance/exits for fire, ambulance, police etc.  
Going back to when the Fox Estates was built, our Carolinian "forest" (at the time) went from the S bend on Gadsby to the cemetery on Woodlawn. Again, the city said there had to be two entrance/exits and our "protected forest" was cut through to create the second entrance/exit as an extension to Hilda St. If this proposal hasn't been revised from the March 16, 2021 drawing distributed October 6, 2022, this building appears to have only one entrance/exit

Thank you for your consideration of my concerns.

**Marion Ladouceur**

## Taylor Meadows

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**From:** Melissa <>  
**Sent:** November 18, 2022 11:40 PM Taylor  
**To:** Meadows  
**Subject:** Aqueduct/gadsby development

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Hello Taylor

Could you please include my thoughts into the meeting regarding the Aqueduct/Gadsby Development?

I oppose the Zoning and Development plans for 368 Aqueduct Street and 155 Gadsby Avenue, City of Welland: Revised Application to Amend City of Welland Official Plan (OPA No. 33); Revised Application to Amend Zoning By-law 2017-117 (File No. 2020-14); Revised Application for Draft Plan of Standard Condominium (File No. 26CD-14-20009)

When we purchased our home 15 years ago we knew eventually there would likely be a single family home built across the street from us on the open lot. Never did we imagine an apartment with a minimum of 27 vehicles coming in and out directly across from our home. This raises both safety and privacy issues for us and our neighbours.

Firstly our personal privacy. Two of our bedrooms and our living room are at the front of our house. The living room we spend our quality family time in will now be subject to vehicle lights shining in and strangers being able to see directly into our home. Not to mention the safety of our children playing in the front yard. I can't help but worry about someone not turning correctly or sliding during winter and ending up on my front lawn possibly hitting our kids or home.

Next is street safety. It is unsafe on such an already busy street to have vehicles park in front of our homes. Us, as well as many of our neighbours already struggle to exit our driveways safely when we park on the street occasionally. The view of oncoming traffic becomes completely diminished once the overflow parking from the apartment lines our street.

Our elderly deserve safety and need it in order to stay in their homes long term. This development will make it unsafe and unrecognizable for some as they age. They depend on living in and walking around a familiar neighborhood.

A huge safety factor is there being a building (almost hidden) behind other homes and sandwiched between trees and other peoples back yards. These types of hidden areas are more likely to encourage criminal behaviour. It is too secluded and not visible enough from the road to be seen and keep people safe.

I could continue by mentioning the amount of eyes that will be able to look into the park where our children now play safely or the privacy it will take away from the backyards and homes of surrounding residents who chose this area and these homes without ever thinking they would have to worry about a development like this happening here. It just doesn't fit. It just doesn't make sense for this space and this street. It just isn't safe. A single family dwelling makes sense for this space and preserves the safety of the park. Thank you for listening. I really appreciate it.

Sent from my iPhone

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April 28, 2021

Gabrielle Parent-Doliner  
153 Gadsby Avenue  
Welland, ON L3C 1B1

Dear Ms. Parent-Doliner,

**Re: *Peer Review of the Scoped Environmental Impact Study (EIS)*  
*368 Aqueduct Street and 155 Gadsby Avenue, City of Welland***

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## **1.0 Introduction**

LCA Environmental was retained by the landowners at 153 Gadsby Avenue in the City of Welland to complete a peer review of the Scoped Environmental Impact Study for 368 Aqueduct Street and 155 Gadsby Avenue, prepared by 8Trees Inc. (February 10, 2021). The peer review focused on the protocols used for field studies, the completeness of the EIS report, and compliance of the proposed development with Provincial, Regional, and Municipal policies and legislation. In order to obtain adequate background information for the study area, the following reports were reviewed:

- Parks, Recreation and Culture Plan – September 2006, *City of Welland*.
- Planning Justification Report for 368 Aqueduct Street & 155 Gadsby Ave – December 2020, *Joseph M. Tomaino, MCIP, RPP*.
- Scoped Environmental Impact Study for 368 Aqueduct St. x 155 Gadsby Ave – February 10, 2021, *8Trees Inc.*

In addition to the above-mentioned studies prepared for the Aqueduct Park development, LCA also reviewed The Niagara Region EIS Guidelines (2018), Regional and Municipal Official Plan documents, The Provincial Policy Statement (2020), and the Endangered Species Act (2007).

This report has been organized to follow the steps of the Region of Niagara EIS Guidelines (January 2018) to allow a fulsome assessment of the Scoped EIS Report (8Trees Inc.) in terms of completion and satisfaction of the requirements laid out by the Region. Any deficiencies in the report will be identified, as well as any inconsistencies between the findings of the field studies and recommendations identified in the report.

## **Step 1: Determining EIS Requirements**

### **1.2 Pre-consultation and Scoping**

According to the Pre-consultation Meeting, completed on November 7, 2019 with City of Welland, Region of Niagara, and NPCA planning staff, and Environmental Impact study was not identified in the checklist of required studies. However, the additional notes section identified that the Region of Niagara would require an Environmental Constraints report. Constraints reports are to be completed prior to development of a detailed draft plan and are guided by field studies and existing

policies in order to best inform the type or form of suitable development relative to the existing natural heritage features and applicable policies.

An initial Environmental Constraints assessment was completed by 8Trees Inc. through desktop review and was submitted on January 13, 2020 to the Region of Niagara and NPCA. The Region reviewed the Constraints report and provided comment that it was insufficient due to a lack of field studies.

The final Scoped EIS report states that the preliminary constraints analysis and a site visit with the Region in January 2020 provided the framework for the scoped EIS. It is noted that the preliminary constraints report was not included in the Final Scoped EIS and it is unknown what the findings and recommendation of that report were.

Scoping of the EIS was completed by the Region of Niagara on January 22, 2020, following a site visit and provided the basis for a Terms of Reference (Step 2, below)

## **Step 2: Terms of Reference**

A site visit was completed with the landowner, 8Trees Inc. and Niagara Regional staff on January 22, 2020 to identify the existing natural features on the subject property and identify the requirements for the completion of an EIS. The Region identified the potential for the woodland on and adjacent to the study area to be designated as Significant Woodlands and to contain significant habitat of Threatened or Endangered species, species of Special Concern and/or bat maternity habitat.

Field studies identified as a requirement included Ecological Land Classification, single season vegetation survey, breeding bird survey, bat surveys and a Tree Saving plan, as applicable. The Terms of Reference provided by the Region also included completion of a Species at Risk screening and assessment of Significant Wildlife Habitat, a map illustrating natural heritage features and associated constraints on the property, an impact analysis and mitigation measures.

As identified in Regional correspondence, the EIS Checklist provided by the Region satisfied the requirements for Step 2 of the EIS Guidelines and directed the consultant to follow Steps 3 – 5 for completion of the EIS report as detailed below.

## **Step 3: Constraints Analysis**

### **3.1 Policy and Legislative Framework**

Discussion of the policy and legislative framework was included in study Appendix D, but there was minimal discussion of their application or the implications these policies may have on development potential within the body of the EIS report.

Discussion of the Regional Policies were limited to Policies 7.B.1.3, 7.B.1.4, and 7.B.1.5 which define the natural heritage system but do not discuss how the natural heritage features limit development. Policy 7.B.1.3 defines those features which are designated as Environmental Protection Areas (EPA), but Policy 7.B.1.6 prohibits development within features which have been

## ***LCA Environmental Consultants***

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designated as EPA. Similarly, policy 7.B.1.4 describes natural features which are to be designated as Environmental Constraints Areas (ECAs) including Significant Woodlands which are further defined in 7.B.1.5. However, the report does not discuss the impacts of policy 7.B.1.11 which states that unless an EIS demonstrates no negative impacts on the Core Natural Heritage system, development and site alteration are not permitted within ECAs.

Appendix D (Policies and Regulations) does not provide any Municipal planning policy context. Section 6.1.2.1 of the City of Welland Official Plan (2011) provides definitions of Core Natural Heritage features which are consistent with Regional policies 7.B.1.3 and 7.B.1.4. Welland policy 6.1.2.2 provides clarification of the application of the natural heritage policies by stating that if a previously unmapped core natural feature is identified during a study, the appropriate natural heritage policies do apply, including the presence of SAR habitat being subject to EPA policies. Policy 6.1.2.3.C prohibits development in EPA lands and restricts development in ECA lands unless no negative impacts are demonstrated.

Sufficient summary of the Provincial Policy Statement (2020) and the Endangered Species Act (ESA, 2007) were provided in Appendix D.

### **3.2 Literature Review**

This section should provide a collection and discussion of existing information including previous studies completed for the area. The report provided an extensive list of studies and online resources which were reviewed to acquire historical and baseline information for the scoped EIS. The list included background reports such as the Niagara Areas Inventory (NPCA, 2009). However, resources which had been prepared by the City of Welland, including the Parks, Recreation and Culture plan, which provide information and strategic objectives for Aqueduct Park, were not reviewed.

Further, there was no summary of the information obtained through the review of literature, such as previously identified enhancement opportunities.. If no information was gained through the literature review, the EIS report should note that previous studies have not provided extensive evaluations of the study area.

### **3.2 Baseline Data Assessment**

The purpose of reviewing existing natural heritage information is to identify any gaps in data that need to be assessed through field work. The baseline assessment typically includes review of existing natural heritage mapping to determine significance and online species databases to identify potential SAR which may be present in the vicinity of the property.

The review of natural heritage features identified the presence of a non-significant woodland and noted that, while it did not satisfy 2ha criteria to be considered Significant Woodlands based on size, there was potential for rare species or Species at Risk (SAR) which could result in designation as an ECA Significant Woodland.

SAR or rare birds present in the woodland would satisfy the criteria for significance. Although a review of historical bird data for the site was completed, the source used was not a complete or



verified source. The consultant referred to the records found on the e-bird database, which can be useful but cannot be considered a complete source of birds present in the area as citizen-science resources are often not verified and do not require the use of standardized protocols. The Ontario Breeding Bird Atlas should be reviewed as a credible source for birds present within the area.

### **3.5 Existing Conditions**

This section will be divided into the four sections to discuss the methodology and results of the studies completed as part of the Scoped EIS, including Ecological Land Classification, Vegetation Survey, Bird Surveys, and Bat Maternity Roost surveys.

#### 3.5.1 Ecological Land Classification

The Scoped EIS report describes using Ecological Land Classification (ELC) protocols for Southern Ontario to assess the vegetation communities present on the subject property. According to Appendix B, these surveys were completed in December 2019 and May 2020. Although the ELC manual does not specify a timeframe for completion of studies, they are typically done during summer leaf on conditions so that all vegetation species present can be observed and properly identified.

Field notes in Appendix C for December 2019 describe completing tree surveys, while notes for May 22, 2020 describe completing soil cores, but neither mention the use of ELC evaluations protocols. In addition, ELC field sheets have not been provided or summarized in the Appendix and it is not clear how the vegetation communities were defined.

The report identifies three polygons, including an FODM2-4 forest in Aqueduct park, an FODM9-2 forest within the boundary of the subject property and an SWDM1-3 polygon along the east side of the property. However, according to ELC protocols, as noted in email communication from Anne Yagi to the NPCA dated January 13<sup>th</sup>, the minimum size for definition of a unique polygon is 0.5 hectares. The size of the FODM9-2 forest polygon mapped on the subject property was only 0.1742 hectares, while the FODM2-4 polygon in Aqueduct park was 0.4064 hectares. Based on the ELC protocol, the forest would appropriately be defined as one forested polygon with swamp inclusion (SWDM1-3, 0.2316 h).

The report uses the two soil cores as justification for the delineation of a second forested ecosite (FODM9-2) because the water table was higher at the location of soil core #2. However, the field notes describe selection of the soil core locations, noting soil core #1 was taken in the driest Oak forest, while core #2 was in a Pin Oak forest. Based on our interpretation of the current aerial imagery, as well as the presence of a Pin Oak Swamp (SWDM1-3) located adjacent to the upland forest, it is our assumption that soil core #2 was located in a low area which may have been part of the SWDM1-3 inclusion, and not represented of the remainder of the upland forest on the subject property. An additional soil core should have been taken to verify soil conditions.

### 3.5.2 Single Season Vegetation Survey

The report states that tree and shrub surveys were completed in December 2019 and May 2020. The May survey fits the appropriate timing windows for a single season vegetation surveys which was required by the Region in the Terms of Reference.

The Region also requested that screening for White Wood Aster, which is a fall-blooming species, be completed for the property. The report states that additional White Wood Aster surveys were completed in accordance with Regional Terms of Reference, but it is unclear when and how the surveys were completed. The table in Appendix B indicates that vegetation surveys were completed in June, July, and August of 2020, but the report text (*Additional Field Note*) indicates that several site visits were completed in September.

Conclusions of this section of the report indicated that White Wood Aster is likely present within the subject lands but may not have bloomed due to dry weather conditions through the summer. Further studies were recommended in 2021 to confirm presence or absence of White wood Aster. It is important to identify the location of White Wood Aster in the study area because according to the Recovery Strategy, a 50-80m radius of habitat is protected by the Endangered Species Act (2007).

### 3.5.3 Breeding Bird Surveys

While the breeding bird surveys completed for the subject property were completed within the appropriate timing windows (May – July), the methodology used for the study was not consistent with the standard accepted protocols from Bird Studies Canada (BSC). The report describes completing surveys in the “evening and/or morning”, indicating that the surveys were not consistent. The BSC protocol specifies that surveys for breeding birds should be completed within the first five hours following dawn. While some protocols require evening surveys, such as the protocol for crepuscular breeding birds, these protocols are mutually exclusive from the breeding bird protocols.

In addition, the methods describe making audio recordings of bird activity on the site and sending them to the avian specialist for verification of species not identified in the field. This method does not follow the point count protocol accepted for breeding bird surveys as audio recordings are not reliable to identify all species present, especially in a highly urbanized area. Surveys should be completed on site by the avian specialist so that no calls are missed and that visual confirmation can be made as necessary.

The specific dates of the bird surveys were not identified in the report; however, Table B8 in Appendix B indicates that the first survey was completed on May 22, 2020 and the second survey was completed on June 17, 2020. Upon review of the field notes from those dates, the first breeding bird survey (May 22) was conducted in the morning by taking 10 minute recordings at each survey station. Notes from the second survey date (June 17) indicate that the survey was completed in the evening concurrently with the bat surveys. The surveyors made note that they “... *heard incessant car noise all night*” and that they were informed that local bikers had been

revving their engines nearby. Such conditions would not be conducive to obtaining high quality recordings for thorough identification of bird species in the area.

### 3.5.4 Bat Maternity Roost Surveys

The report provides a very thorough criticism of the existing MNRF bat survey protocols for treed habitats and goes into extensive detail on the development of a new protocol which was presented to MNRF for approval. The MNRF indicated that they would require pieces of literature to support the adapted protocol and cautioned that they may not be able to accept the protocols used and substantiate results if no SAR bats were identified. However, the methodology used resulted in 8Trees Inc. confirming the presence of Little Brown Bat, as SAR with endangered designation.

The confirmation of the presence of Little Brown Bat was based on a small sample size and a probability of only 40%. Using the currently approved MNRF protocol obtains a larger sample size which provides more data and increases the accuracy of the probability calculations. As detailed in the report, many species of bats have call frequencies which can overlap, resulting in a false positive. However, audio files recorded from the surveys completed by 8Trees were sent to the MNRF, who confirmed that they were *likely* SAR bats.

In the discussion of the bat survey results, the report states that identifying bat habitat based on snag density criteria skews the identification of significant habitat in small woodlands and that quality habitat should be based on proximity to water, mature oak trees and other suitable habitat. Based on these criteria, the report identifies the vernal pool and the FODM2-9 polygon north of the subject property as significant habitat, but not the FODM9-2 polygon on the property.

The exclusion of the FODM9-2 as significant habitat for SAR bats is contradictory to the criteria defined by the report, as it contains 16 large oaks (Table 4 of the report) and is located adjacent to the large vernal pool. Additionally, in the background information for the bat maternity section, the report states that SAR bats are more susceptible to the loss of maternity habitat because of the impacts of White Nose Syndrome causing declines in SAR populations and site fidelity, emphasizing the importance of "...remnant habitat such as mature forest communities".

### **3.6 Assessment of Features and Functions**

This section of the report should provide a summary of field results and characterization of any natural heritage features present on the subject property as well as an assessment of the size, quality, significance and sensitivity of natural heritage features.

There is, however, no discussion of the significance of results from the study area. According to the results of the studies completed, as well as provincial documentation of the Threatened White wood Aster on the adjacent public land, the presence of Species at Risk (SAR) within the woodland satisfies Regional criteria for designation of the woodland as an Environmental Conservation Area (ECA) Significant Woodland. Since the entire woodland is one feature, the full extent of the existing woodland receives ECA designation and should be delineated in the field through dripline surveys. The woodland is therefore subject to Regional policy 7.B.1.11 and Municipal policy 6.1.2.3.C. Additionally, it will be subject to the Regional Woodland Conservation By-law No.

2020-79. The presence of amphibian breeding within the vernal pool identified on Gadsby lot confirms that the woodland area meets the criteria as seasonal breeding habitat which, in turn, defines this area as significant woodland. There were no amphibian studies completed for this report and no documentation of incidental sightings or auditory verification.

Further, the presence of Endangered and Threatened species on and adjacent to the subject property is subject to Regional policy 7.B.1.3 and policy 6.1.2.2 of the City of Welland Official plan and shall receive designation of Environmental Protection Area (EPA). Verification of the location of White Wood Aster and justification of the Little Brown Bat habitat must be completed to accurately map these areas prior to approval of any zoning amendments, as the species and their habitats are protected by the Endangered Species Act (2007).

In addition to not adequately identifying the habitat of the SAR present on the subject property, there is no discussion of Significant Wildlife Habitat (SWH) within or adjacent to the study area. The Terms of Reference provided by the Region of Niagara requested that an assessment of Significant Wildlife Habitat potential on the subject land and included in the final report (email communication from Jennifer Whittard, dated June 8, 2020). The screening does not appear to have been completed and there is no discussion of SWH as part of the assessment of significance.

One of the categories of SWH includes the presence of rare vegetation communities. The Pin Oak Swamp (SWDM1-3) identified on the subject property is provincially identified as a rare community, with a status ranking of S2S3. While this community is common within the Region of Niagara, the limited northern range of Pin Oak makes the community less common throughout the province. It is important to provide this context, as the community meets the Provincial criteria for SWH, but does not necessarily represent SWH in a Regional context.

This section of the Scoped EIS report appears to follow the steps of a Tree Preservation Plan and identifies that tree protection is recommended for all “important” trees. However, there is no clear definition of what qualifies as an important tree. It goes on to state that the trees worthy of protection include trees on adjacent private and public lands, large Oak and Maple trees, and those within the SWD habitat. However, it appears that the desired development plan is guiding the identification of important trees as all of the mitigation scenarios presented result in removal of at least half a dozen large Oak trees. In the opening paragraph the author also states “*Since the woodland communities comprises about 60% of the Subject Lands, protecting every tree would significantly affect the viability of the development project (Table 1).*”

This section of the report does not adequately identify the natural heritage features present or provide an assessment of their functions. Instead the report focuses on an inventory of trees and development scenarios which may minimize, but not exclude removal of important trees.

### **3.7 Constraints Map**

In accordance with the Niagara Region EIS Guidelines and the Terms of Reference, a constraints map should identify all natural heritage features, corridors and linkages, any established minimum buffer requirements or regulated areas.

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A constraints map has not been provided which identifies clear limits to development based on the natural heritage features.

### **3.8 Constraints Analysis and Recommendations**

The constraints analysis should be presented prior to any proposed development plans, as they are meant to guide the development of a draft plan which will preserve the ecological integrity of the natural heritage features. However, the development plan was presented in the introduction of the report.

The recommendations presented include protection of important trees, the seasonal pool and the associated flora. The extent of the seasonal pool and fauna were not described or mapped and the trees which were identified as important were also not mapped as part of constraints map. The constraints analysis is also supposed to include any established buffers, including those which are regulated by policy and those which have been established based on the findings and scientific analysis. The three scenarios for protection of important trees were all mapped, but none of the options presented protected all important trees and do not identify the required buffer to protect root zones of the trees.

Identification of a single scenario (constraint) for development must be established based on protection of the ecological integrity of the woodland and must include identification of a minimum buffer to ensure those features which are identified as important are protected in the long term, in accordance with Regional and Municipal policies.

## **Step 4: Ecological Impact Assessment**

### **4.1 Description of Proposed Development**

The proposed development for the subject property was presented in the introduction, on Page 2 of the report. While changes were made to the draft plan based on the recommendations of the report, the final draft plan was presented at the end of the report and showed only a reduction in the number of lots from 14 to 9, reducing the footprint within the woodland.

However, the plan, as it was presented, does not satisfy the requirements of section 4.1 of the Niagara Region EIS Guidelines, because it does not provide the level of detail necessary to identify all of the expected impacts from development. According to the Guidelines, the description of the development should include the exact location of the proposed lot boundaries, locations of the buildings and any amenity areas, roads and parking, servicing, and stormwater management plans. Site grading plans also provide important information on the degree of disturbance that can be expected to the root zones of adjacent trees.

The detailed drawing, as described above, should also be overlaid on a map of the constraints to determine where the impacts are expected to occur in relation to the natural heritage features identified.

## **4.2 Impact Assessment**

The assessment of impacts does not address the impacts of the final development plan, but rather the plan presented at the beginning of the report, and prior to modification based on results of constraints analysis. Impacts are described at a very general level, focusing on the number of trees which would need to be removed to accommodate the development and some of the general impacts which can be expected from development within a woodland.

There is some consideration in the assessment of impacts given to the habitat of SAR which have been identified on and adjacent to the study area. It is noted that the initial proposed development would result in 100% loss of trees within the site and the vernal pool habitat, impacting SAR trees. However, it is suggested that the application of the habitat protections zone would reduce these impacts. While some impacts may be reduced, there would still be impacts to consider with the habitat protection zone scenario.

When portions of a woodland are removed and replaced with housing, there can be longer term impacts expected on significant species and their habitat. Impacts of increased occupancy can further degrade the woodland and changes in hydrology resulting from stormwater management may still result in loss of the vernal pool, having significant impacts on SAR bats. The impacts associated with the final design layout are important to characterize.

## **4.3 Design Changes and Mitigation Measures**

Three options are again presented for design change and mitigation. However, this section of the report provides an overview of the change in development space with the different scenarios applied. All designs result in a decrease in development area, but none of the options will eliminate or further mitigate impacts which can be expected from development and the removal of a portion of the woodland or loss of the vernal pool and bat habitat identified on the single lot on Gadsby.

## **4.4 Ecological Restoration or Enhancement Opportunities**

Ecological Restoration or enhancement opportunities that were identified include providing a brochure to adjacent landowners which provides guidance on stewardship, protection and enhancement of the park. We agree that education of the general public on the importance of the woodland and its features may help reduce negative impacts of use by the general public. Signs and development of a trail may help protect the significant species present.

## **4.5 Residual Environmental Impacts**

No summary of residual impacts has been provided. Impacts from the initial proposed development were described and some mitigation measures were presented, however the EIS must identify what impacts can still be expected after the mitigation measures have been applied.

## **4.6 Monitoring**

The report states that both sites (368 Aqueduct Street and 155 Gadsby Ave) should be monitoring during and after construction. However, a description of what features or functions should be monitored is not provided. A description of the goals of the monitoring, the traits being monitored, and length of a monitoring program post-construction should be provided.

## **Step 5: Recommendations and Conclusion**

The recommendations and conclusion of the report identifies the recommended designations of EPA in the north, publicly owned portion of the woodland, and an ECA designation for the remainder of the woodland on the subject property. These designations should have been identified in assessment of features so that the correct policies could be applied to the proposed development.

It was stated in the Recommendations (Page 41) that the subject lands receive “...*an environmental conservation designation which will permit some development while protecting the seasonal pool functions and associated large trees to maintain habitat for the Little Brown Bat*”. However, designation of ECA lands in the southern portion of the woodland is not consistent with the findings of the study which states that the seasonal pool on the subject property provides important habitat for SAR bats. In accordance with Regional and Municipal policies, the area identified as seasonal pool should also receive EPA designation as SAR habitat.

The recommendations and conclusion of the Scoped EIS Report do not provide any discussion on whether the proposal is in compliance with the applicable policies and legislations. This is essential to provide rationale for a final recommendation as to whether the proposal can proceed as planned, or whether it should be subject to conditions. The policy table (attached) details all the relevant policies that should have been addressed as part of the EIS.

### **Summary**

LCA Environmental has reviewed the Scoped EIS Study for 368 Aqueduct Street and 155 Gadsby Avenue in the City of Welland and have identified several deficiencies in the field studies completed, the assessment of significance, and the assessment of impacts. Specifically, field several field studies did not follow the accepted standard protocols, and the assessment of significance and impacts do not integrate the applicable policies or legislation. Additionally, the report did not satisfy all the requirements of the EIS guidelines including the provision of a detailed constraints map, an assessment of impacts expected from the final development plan, or a summary of policy compliance.

The lack of impact assessments and statements confirms that the report does not meet the test of no net negative impacts to the natural feature form and function. The descriptions detailed in the executive summary are contradictory to the report conclusions which state that the proposed development meets most of the EIS recommendations with no mention of the loss of significant habitat or non-compliance with local, regional, provincial (PPS) and federal policies (ESA).

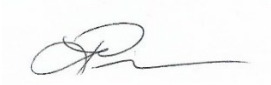
A table detailing the applicable policies at the municipal, regional, provincial and federal levels has been attached to this report for your convenience.

## ***LCA Environmental Consultants***

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We trust that the information provided in this report meets your needs. If you have any questions regarding the above information or require additional information, please contact us.

Sincerely,



Lisa Price, M.Sc.  
Project Manager



Anne McDonald, BSc, EPt  
Project Coordinator



## Aqueduct and Gadsby EIS Peer Review – Policy Compliance Requirements

Policy Document	Policy Section	Policy Summary	Compliance
Provincial Policy Statement, 2020	2.1 Natural Heritage	<b>2.1.2</b> Diversity, connectivity, and function of natural systems should be maintained, restored, or improved.	No assessment provided in the EIS
		<b>2.1.5</b> Unless no negative impacts have been demonstrated, development and site alteration are not permitted in significant wetlands, woodlands, valleylands, wildlife habitat, or areas of natural and scientific interest.	<u>Woodlands qualify as significant based on presence of two documented Species at Risk (SAR).</u>
		<b>2.1.6</b> Development and site alteration shall not be permitted in fish habitat except in accordance with provincial and federal requirements.	Not applicable
		<b>2.1.7</b> Development and site alteration shall not be permitted in habitat of endangered and threatened species, except in accordance with provincial and federal requirements	<u>Development proposal and EIS report recommendations do not comply.</u>  Habitat is defined as any area directly or indirectly depended on for life processes. <u>Based on documentation of SAR bats, proposed development does not comply. Insufficient justification on why portion of woodland on property proposed for removal is not considered habitat.</u>  Actual limits of defined habitat for WWA and SAR bats has been left to the discretion of MECP (?)
		<b>2.1.8</b> Unless no negative impacts have been demonstrated, development and site alteration are not permitted on lands adjacent to natural heritage features and those in 2.1.5.	<u>No impacts have been assessed on final proposed development, so EIS has not demonstrated no negative impacts to natural features.</u>
Endangered Species Act, 2007	Purpose	<b>Section 1.2</b> identify SAR, protect them and their habitats, and promote recovery of SAR	SAR bat and White wood aster identified on property.
	Definitions	<b>Section 2</b> habitat is any area species depend, directly or indirectly on to carry out life processes, including	Habitat for bats would include entire woodlot based on presence of snags throughout.

## Aqueduct and Gadsby EIS Peer Review – Policy Compliance Requirements

		reproduction, rearing, hibernation, migration or feeding.	Habitat for White Wood Aster defined in Federal Recovery strategy as an 80m radial distance from existing population; or minimum 50m where suitable habitat doesn't extend 80m.
	Classification of Species	<b>Section 3</b> Committee on the Status of species at Risk Ontario (COSSARO) uses scientific-based assessments to determine SAR classification in Ontario and designated species as: extirpated, endangered, threatened, or special concern.	
	Protection and Recovery of Species	<b>Section 9(1)</b> Prohibits interference or trafficking of species listed as SARO with the designation of endangered, threatened or extirpated.	Would apply to any potential removal or impact to the White Wood Aster as the actual area is not defined.  Reference in the report to MECP input as to the area of protection required.
		<b>Section 10(1)</b> Prohibits damage or destruction to the habitat of any species listed as SARO with the designation of endangered, threatened or extirpated.	<u>The radial distance of 50 – 80m is protected as critical habitat for the White Wood Aster according to federal recovery strategy adopted by Ontario.</u>
Migratory Bird Convention Act, 1994	Prohibitions	<b>5</b> Prohibits the unlawful possession or trafficking of a migratory bird or nest.	Not applicable if work done outside of breeding season
		<b>5.1.1</b> Prohibits all persons and vessels from depositing of harmful substances in water or areas frequented by migratory birds (exception: 5.1.3)	Not applicable if work done outside of breeding season
		<b>5.1.2</b> Prohibits all persons and vessels from depositing of harmful substances in any place where the substance could potentially enter water or areas frequented by migratory birds (exception: 5.1.3)	Not applicable if work done outside of breeding season
Niagara Region Official Plan, 2014	7.B The Core Natural Heritage System	<b>7.B.1.1</b> Core Natural Heritage consists of: a) Core Natural Area, classified as either EPA or ECA; b) Potential Natural Heritage Corridors connecting the core Natural Areas;	Report recommended forest be designated as ECA, which would make it core natural heritage and impacts to the feature should be assessed as such. <u>It is not clear on how the EPA area and ECA area limits were determined other than state that an EPA designation would limit development potential</u>

## Aqueduct and Gadsby EIS Peer Review – Policy Compliance Requirements

		<ul style="list-style-type: none"> <li>c) Greenbelt Natural Heritage and Water Resources System; and</li> <li>d) Fish Habitat</li> </ul>	
		<p><b>7.B.1.3</b> EPAs include PSWs, ANSIs, and significant habitat of threatened and endangered species</p>	<p>Woodland contains habitat for SAR including WWA and SAR bat and the areas identified as habitat should be considered EPA which includes area described in federal recovery strategy as WWA critical habitat (50 – 80m radius).</p>
		<p><b>7.B.1.4</b> ECAs include significant woodlands, significant wildlife habitat, significant habitat of species of concern, regionally significant Life Science ANSIs, other evaluated wetlands, significant valleylands, savannahs or tallgrass prairies, and alvars</p>	<p>Whole woodland meets criteria for Significant. <u>May meet further designation if vernal pool is utilized by amphibians for breeding and meets Significant Wildlife habitat criteria for amphibia breeding (woodland).</u></p>
		<p><b>7.B.1.5</b> significant woodlands must meet one or more of the following:</p> <ul style="list-style-type: none"> <li>a) Contain threatened or endangered species or species of concern</li> <li>b) In size, be equal to or greater than: <ul style="list-style-type: none"> <li>i) 2ha within or overlapping Urban Area Boundaries;</li> <li>ii) 4ha outside Urban Areas and north of the Niagara Escarpment;</li> <li>iii) 10ha outside Urban Areas and south of the Escarpment;</li> </ul> </li> <li>c) Contain interior woodland habitat at least 100m in from woodland boundaries,</li> <li>d) Contain older growth forest and be 2ha or greater in area</li> <li>e) Overlap or contain one or more other EPA or</li> <li>f) Abut or be crossed by a watercourse or water body and be 2 or more hectares in area.</li> </ul>	<p>The woodlands on the property (and adjacent) contain threatened or endangered species and therefore meet criteria for significance. <u>The woodland is significant as an entire unit, not the individual parts as described in the report.</u></p> <p><u>The recommendation in the report for vernal pool was to identify it as EPA. This satisfies criteria 7.B.1.5 e). Report fails to acknowledge this and the building lot on Gadsby would directly remove a portion of the identified feature.</u></p>

## Aqueduct and Gadsby EIS Peer Review – Policy Compliance Requirements

		<b>7.B.1.6</b> prohibits development within natural heritage features which have been designated as Environmental Protection Areas	Report recommend EP designation north of property; no development has been proposed within EP as designated in report. However, <u>EP designations may extend onto property based on definitions of SAR habitat described above.</u>
		<b>7.B.1.11</b> unless no negative impact on the Core Natural Heritage System component or adjacent land has been demonstrated, development and site alteration are not permitted within ECAs.	<u>Report has not demonstrated no negative impact, as no assessment of impacts has been made for final proposed development.</u>
		<b>7.B.1.13</b> development applications in or near Potential Natural Heritage Corridors, should be designed and constructed to maintain and, where possible, enhance ecological functions of the Corridor.	No discussion in report on whether the woodland provides any corridor function or not.
NPCA Land Use Policy Document, 2018	8.2.3 Development in Areas of Interference	<b>8.2.3.1</b> No development and site alteration permitted within 30m of a wetland (exception: 8.2.3.2)	No wetland identified on subject property. As described in report, vernal pool and swamp habitat does not meet size criteria for designation and evaluation under OWES protocol.
	9.2.5 Watercourse Buffer Composition	<b>9.2.5.1</b> development and site alteration adjacent to a watercourse requires a natural buffer of 10-15m based on: a) 15m natural buffer for watercourses containing permanent flow, cool water, or coldwater systems or specialized aquatic or riparian habitat (not limited to fish spawning areas, habitat of SAR or species of concern, forested riparian areas or Type 1 Critical Fish Habitat); b) 10m natural buffer for watercourse containing intermittent flow, warmwater systems or general/impacts aquatic or riparian habitat, or Type 2 Important Fish Habitat or Type 3 Marginal Fish Habitat; other considerations which may impact pollution or the conservation of land	No watercourse identified in report. Policy not applicable.

## Aqueduct and Gadsby EIS Peer Review – Policy Compliance Requirements

City of Welland Official Plan, 2011	6.1.2.1 Core Natural Heritage System	<b>6.1.2.1.E</b> Environmental Protection Areas include: provincially significant wetlands; provincially significant Life Science ANSIs; and significant habitat of threatened and endangered species.	<u>Woodland include habitat for 2 SAR species</u> as described in Regional policies above.
		<b>6.1.2.1.F</b> Environmental Conservation Areas include significant woodlands; significant wildlife habitat; significant habitat of species of concern; regionally significant Life Science ANSIs; other evaluated wetlands; significant valleylands; savannahs and tall grass prairies; alvars; and publicly owned conservation lands.	Woodland considered significant and therefore should be designated as ECA, as described in report and in accordance with Regional and Municipal policies,
	6.1.2.2 Delineation of the Core Natural Heritage System	<b>6.1.2.2.C</b> Where SAR habitat is identified, development is subject to EPA policies.	<u>WWA habitat and SAR bat habitat subject to EPA policies.</u>
		<b>6.1.2.2.D</b> If a previously unidentified Core Natural Heritage feature is identified on lands involved in an ongoing planning Application, the appropriate Core Natural Heritage System Policies apply.	Identified as EP and ECA; therefore, the appropriate policies apply.
		<b>6.1.2.2.E</b> Significant woodlands have one or more of the following criteria: <ul style="list-style-type: none"> <li>i. Contain threatened or endangered species or species of concern;</li> <li>ii. In size, be <math>\geq 2</math> ha, if located within the UAB;</li> <li>iii. Contain interior woodland habitat;</li> <li>iv. Contain older growth forest and be <math>\geq 2</math> ha;</li> <li>v. Overlap or contain one or more of the other significant natural heritage features; or,</li> <li>vi. Abut or be crossed by a watercourse or water body</li> </ul>	Contain threatened and endangered species and whole woodland is, therefore, significant.

## Aqueduct and Gadsby EIS Peer Review – Policy Compliance Requirements

	6.1.2.3 Design, Development and Site Alteration	<b>6.1.2.3.A</b> New development should maintain, enhance or restore ecosystem health and integrity. No negative impacts should be prioritized however, if it can't be avoided, then mitigation measures shall be required.	<u>Development and EIS do not comply.</u> Negative impacts can be avoided by reducing development footprint.
		<b>6.1.2.3.C</b> development prohibited in EPA. Development may be permitted without an amendment to this Plan in ECAs, Natural Heritage Corridors, and on all adjacent lands if no negative impacts demonstrated.	<u>No impact assessment completed and therefore the test of no negative impact has not been demonstrated.</u> Unclear if mitigation of tree removal could offset negative impacts to the woodland, which contains old growth trees.
Niagara Region EIS Guidelines (Jan 2018)	Step 3: Constraints Analysis	Constraints analyses should be prepared prior to identifying development layout.	Development layout presented at the beginning of report in the introduction. Regional correspondence in the Appendix indicated that the initial Constraints report completed for this site did not include field evaluations and was insufficient. The Region of Niagara required that the scoped EIS and TOR be developed for the EIS.
	3.1 Policy and Legislative Framework	Shall include discussion of applicable policies and regulations and their implications	No discussion of any specific PPS policies; EIS does not include all applicable Regional policies (missing 7.B.1.6, 7.B.1.11, 7.B.1.13); No discussion of municipal policies; No summary of Endangered Species Act.
	3.7 Constraints Map; 3.8 Constraints analysis and Recommendations	Constraints mapping should identify all natural heritage features, all hydrologic features, corridors, and establish minimum buffer requirements	<u>No constraints map or analysis provided.</u> Did not provide a clear buffer requirement; provided 3 options to accommodate development, but no clear direction given.
	4.1 Description of proposed development	Should provide description of the nature, scale and purpose of proposed development. Should describe location of boundaries and proposed lots, buildings and other structures, amenity areas, parking,	No detailed description of development included. Limited to two photos (Figure 22 and Figure 23) which provide little detail, with no grading or servicing requirements.

## Aqueduct and Gadsby EIS Peer Review – Policy Compliance Requirements

		servicing, stormwater management. Must include any tree removal requirements.	<p><u>Stated that 31 mature oak would be removed but no discussion of rationale or impacts and no discussion on the impacts of the surrounding mature trees.</u></p> <p>Recommend tree buffers set at a standard distance despite the requirements detailed in the report.</p>
	4.2 Impact Assessment	Identify all potential impacts of proposed development to natural heritage or hydrologic features. Must integrate grading, servicing, and stormwater engineering and must describe impacts expected during, construction, and following construction over the short term and long term.	<p><u>No impact analysis of final proposed development.</u> Some impacts listed for initial plan presented, but they describe loss of 100% of the trees on the site and function of the vernal pool. No other, during or post-construction, impacts described.</p> <p>Options for mitigation of impacts included application of buffers, or a land swap with city. Neither of these options were adhered to entirely with final proposed development but EIS report described final plan as “good general adoption of EIS recommendations”</p>
	4.5 Residual Environmental Impacts	EIS shall identify and provide a detailed scientific analysis and assessment of all residual environmental impacts reasonably expected to remain and provide conclusions as to magnitude and significance of these residual impacts.	<u>No summary of residual impacts provided.</u>
	Step 5: Recommendations and Conclusion	<p>EIS to review residual impacts of proposed development and indicate if it complies with plans, policies, and regulations. Inconsistences should be identified.</p> <p>Should conclude with recommendations whether proposal should proceed as planned, or whether it should be subject to conditions.</p>	<p>No summary or discussion of compliance with applicable policies.</p> <p>No clear conclusion on whether the EIS supports the proposed plan, or whether it should be subject to conditions.</p>

## Aqueduct and Gadsby EIS Peer Review – Policy Compliance Requirements

**Notes:** much of communication with MECP was done through phone conversations not documented in the appendix. Not clear what MECP has “approved” as far as ESA requirements being fulfilled.

The definition of White Wood Aster critical habitat (*White Wood Aster Recovery Strategy*, 2019) has not been applied. Defined as 80m radius where suitable habitat exists, or 50m radius where suitable habitat does not extend.

- Also from provincial strategy:
  - o *“In cases where little or no mapping and/or documentation of plant locations or habitat features exists, but the approximate local population has been verified, the areas are identified as the ecological or landscape feature (i.e., the extent of continuous deciduous forest) where a White Wood Aster local population or subpopulation is known to occur. This case currently applies to all Ontario local populations”*

Not clear on why two distinct FOD polygons were defined. ELC sheets not provided and descriptions of soils limited to two samples. Soil sample 2 appears to be right on the edge of the SWD habitat based on air photo which would result in identification of a wetter soil than the forest north of the subject property (municipal land).

Pre-con meeting pre-dates the transition in agency review (Region to review natural heritage features). This meant in the pre-con Region did not initially identify a requirement for an EIS and there were no features to trigger NPCA review.

Planning Report dated July 20, 2004 (Report PDS-2004-30) recommends surplus designation but describes the woodland and significant and indicates that it should be maintained as a park/woodland feature. There was no reference to this study (completed by municipal parks and rec staff) in the EIS.



# *Ecological & Environmental Solutions*

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November 16, 2022

Gabrielle Parent-Doliner  
153 Gadsby Avenue  
Welland, ON L3C 1B1

Dear Ms. Parent-Doliner,

**Re: Updated Peer Review of Scoped EIS Addendum**  
***368 Aqueduct Street and 155 Gadsby Avenue, City of Welland***

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LCA Environmental previously provided a peer review of the Scoped Environmental Impact Study for 368 Aqueduct Street and 155 Gadsby Avenue, prepared by 8Trees Inc. (February 10, 2021). The purpose of the peer review was to assess the completeness of the EIS with respect to Terms of Reference, and compliance with existing Provincial, Regional and Municipal policies. The peer review is attached to this updated peer review as Appendix A.

An EIS addendum dated January 5, 2022 has been prepared by 8Trees Inc. to address the comments provided as part of that peer review, as well as the comments provided by Regional environmental planning staff following their review of the Scoped EIS. Ecological & Environmental Solutions (formerly associated with LCA Environmental) has been retained to review the EIS addendum to determine whether comments from the peer review have been adequately addressed. The report has again been organized to follow the steps of the Region of Niagara EIS Guidelines for ease of review.

## **Step 1: Determining EIS Requirements**

### **1.2 Pre-consultation and Scoping**

In our initial review, there were no concerns with regard to the scoping of the EIS report. This was completed in consultation with the Region of Niagara following an initial site visit as is standard practice.

## **Step 2: Terms of Reference**

As discussed in the peer review dated April 28, 2021, Regional correspondence (dated April 6, 2020) confirmed that a Terms of Reference was not required to be submitted given the review of a preliminary scoped EIS prepared by 8Trees Inc. and a site visit completed by Regional staff on January 22, 2020. However, Regional staff confirmed the requirements for the Scoped EIS included the following:

- Methodology and results for field surveys, to include vegetation surveys, Ecological Land Classification, breeding bird surveys, bat surveys, and a Tree Saving Plan,
- Screening for Species at Risk and Significant Wildlife Habitat,
- Detailed analysis of Regional Policy 7.B.1.5 to determine significance of the woodland,



- A map showing the extent of all constraints and the proposed development plans,
- Impact analysis and recommended mitigation measures; and
- All agency correspondence.

Following discussions between 8Trees and the Region with regard to survey requirements, the Region provided further clarification via email on June 8, 2020. In addition to ELC and botanical surveys, the Region clarified that the survey protocol recommended to adequately assess use of the property by birds was the Ontario Breeding Bird Atlas- Guide for Participants (2001) survey protocol. Further detail on breeding bird survey requirements is also included in the EIS Scoping Checklist, completed January 22, 2020. It was noted in the April 28, 2022 peer review that the protocols used for the assessment of birds on the property did not follow the standardized protocols which were recommended by the Region. This is further discussed in Section 3.5, below.

Finally, in correspondence dated June 8, 2020, the Region re-iterated that screening for Significant Wildlife Habitat should be completed and included in the final EIS. While screening for SAR was completed and included in Appendix B of the EIS, screening for Significant Wildlife Habitat (SWH) was not included. Screening for SWH is separate from SAR Screening and typically assess the subject property against the criteria provided in the Significant Wildlife Habitat Criteria Schedules for EcoRegion 7E (MNR, 2015). This information has not been included with the EIS Addendum (January 5, 2022).

Although the requested field studies have been completed, the use of alternative methodology and the absence of a SWH screening does not fully satisfy the Terms outlined by the Region in their correspondence regarding the scope of the EIS.

### **Step 3: Constraints Analysis**

#### **3.1 Policy and Legislative Framework**

The EIS addendum has provided additional planning context for the City of Welland with respect to zoning and existing natural heritage mapping. Based on our review of the EIS and the EIS addendum, there is limited discussion on how the policies apply to the subject lands, including how confirmation of significant woodlands would impact the constraints to development. In the initial peer review, LCA referred to specific policies, such as Regional policy 7.B.1.11, and Municipal policies 6.1.2.2 and 6.1.2.3.

The revised EIS does not include discussion of the natural heritage policies referred to in the peer review completed by LCA, or their implications for development. Policy discussion in both the EIS (February 2021) and the EIS addendum (January 5, 2022) remains limited to Regional Policy 7.B.1.5. Discussion of Policy 7.B.1.11 is important because it requires that an EIS demonstrate no negative impact for any proposed development within or adjacent to a Significant Woodland or other natural heritage features.



The EIS and EIS addendum have not provided a complete summary of all applicable policies at the Provincial, Regional or Municipal level, as is required by Section 3.1 of the EIS Guidelines (January 2018).

### **3.2 Literature Review**

EES is satisfied that the EIS addendum report provides sufficient information regarding previous studies. We understand that for adjacent developments an EIS had not been required, and that efforts have been made to acquire access to additional reports completed by the City.

### **3.3 Baseline Data Assessment**

As noted in the letter prepared on April 28, 2021 by LCA Environmental, a review of existing natural heritage information and identify gaps in the existing data to inform field work and the potential for Species at Risk or Significant Wildlife Habitat on the subject lands.

As stated above, EES is satisfied that the SAR screening for the property was fulsome and accurate. However, a SWH screening does not appear to have been completed. This is an important step to determine the significance of a feature by identifying whether the existing conditions support candidate SWH, and whether specific field studies should be carried out to confirm presence/absence of SWH.

In accordance with Regional Policy 7.B.1.3 and 7.B.1.5, presence of SWH within a woodland would satisfy criteria for a woodland to be considered significant. In the case of the subject property, screening for SWH would likely have identified the vernal pool as candidate amphibian breeding habitat and would require completion of additional surveys to confirm significance.

### **3.5 Existing Conditions**

As was done in the April 28, 2021 peer review, this section will be divided into four sections to discuss the methodology and results of the studies completed as part of the Scoped EIS and EIS Addendum.

#### 3.5.1 Ecological Land Classification

EES is satisfied that the additional soil sample taken within the woodland confirms there is a transition from generally drier, sandy conditions north of the property, to moist silty clay soils on the subject property.

It is noted, however, that there has been a significant change in the size and orientation of the SWD1-3 inclusion shown in Figure 5 of the EIS addendum (January 5, 2022) and that which was mapped in Figure 5 of the EIS, dated February 10, 2021. It is understood that additional elevation surveys were completed in an attempt to define the limits of the vernal pool. However, given that the ELC is primarily based on vegetation and informed by soils, it is



unexpected that the delineation would change so drastically. Further information regarding the changes may provide clarification on the delineation.

### 3.5.2 Single Season Vegetation Survey

EES is satisfied with the search effort for White Wood Aster (Threatened) and understand that several specialists have been consulted with. Though White Wood Aster was suspected by one specialist who reviewed digital photos only, it was not confirmed on the subject property or adjacent Aqueduct Park within the last two years of surveys. The report does state that Schreber's Aster was confirmed within the woodland on the adjacent Aqueduct Park property and that the species has a provincial ranking of S2 – imperiled.

Confirmation of Schreber's Aster within the woodland is an important finding for assessing the significance of a woodland feature. With a status ranking of S2, the habitat of Schreber's Aster is considered Significant Wildlife Habitat (SWH) by the Province and satisfies the fifth criterion listed under Regional policy 7.B.1.5. A woodland is significant if it *“overlap[s] or contain[s] one or more of the other natural heritage features listed in Policies 7.B.1.3 or 7.B.1.4”*.

The presence of SWH for Schreber's Aster is discussed further in Section 3.6, below.

### 3.5.3 Breeding Bird Surveys

Concerns have previously been raised regarding the methodology used to conduct the breeding bird surveys. Specifically, the surveys described in the Scoped EIS (February 10, 2021) included evening surveys as well as relying on the use of a recording device to be interpreted offsite by a birding expert. The methodology used is not consistent with the standardized protocols identified by the Region in the EIS Scoping, which requires two surveys at least 10 days apart between May 24 and July 10. The surveys should be completed within 5 hours after dawn and reliance on recording devices is typically not recommended.

In their EIS Addendum report, 8Trees Inc. refers to the introduction of a “recorded point count” or “digital point count” in the third atlas, for which data collection began in January 2021, and will continue for 5 years. While digital point counts do involve use of a handheld or autonomous recording unit, the units must meet required specifications to ensure quality and consistency across recordings. It is also EES' understanding that the use of autonomous recording units to document breeding bird activity is typically reserved for remote locations where access is limited.

The Ontario Breeding Bird Atlas Instructions for Point Counts (June 2021) do describe the two methods, as discussed above, however it also states that *“[f]or all methods, point counts for the atlas should be done during the peak breeding season and in the early morning hours when most birds are singing or calling most actively”*.



### 3.5.4 Bat Maternity Roost Surveys

Based on the information provided in EIS addendum and communication with the Ministry of Environment Conservation and Parks (January 29, 2021), EES is satisfied that bat surveys have adequately assessed and defined the existing bat habitat.

### **3.6 Assessment of Features and Functions**

EES is of the opinion that the significance of the features on and adjacent to the subject property have not been adequately assessed. Previous concerns surrounding the presence of SAR such as White Wood Aster and bats and their associated habitat had been discussed. The EIS addendum has addressed the SAR and associated habitat and EES is satisfied with the assessment provided with regard to SAR.

However, the Scoped EIS and the EIS addendum lack an assessment of Significant Wildlife Habitat within the woodland. The EIS addendum confirms that Schreber's Aster (S2) has been confirmed within the woodland on the adjacent public park lands and that in the past it was possibly misidentified as White Wood Aster. The Significant Wildlife Habitat Criteria Schedules for EcoRegion 7E provide definitions of SWH under four broad categories: Seasonal Concentration Areas, Rare Vegetation Communities or Specialized Habitat for Wildlife, Habitat for Species of Conservation Concern, and Animal Movement Corridors.

Under habitat for Species of Conservation Concern, SWH for Special Concern and Rare Wildlife Species is defined by the presence of any Special Concern or Provincially rare (S1-S3) plant or animal species. Schreber's Aster confirms the presence of this SWH in the ELC polygon within which it was identified. As stated above, Regional Policy 7.B.1.5 states that woodlands which overlap or contain one or more of the significant natural features listed in Policies 7.B.1.3 or 7.B.1.4 are identified as Significant Woodlands. In accordance with Regional Policy 7.B.1.4, Environmental Conservation Areas include SWH.

Although the SWH would not extend onto the subject property, the woodland is one contiguous feature. The presence of two ELC polygons does not delineate two distinct woodlands, but rather some variation in habitat within the overall woodland feature. Therefore, the confirmation of SWH on the adjacent public property means that the entire woodland, including the portion on the subject property, meets the criteria for Significance.

In addition to the presence of SWH described above, the presence of the vernal pool within the woodland should likely have been identified as candidate SWH Amphibian Breeding Habitat. Studies to confirm the significance would include a combination of observational and call count surveys (Marsh Monitoring Protocol). The EIS addendum states that the seasonal pool on the subject property dries in mid/late July to October. Vernal pools which contain water until mid July are more likely to be used as breeding habitat (MNRF, 2015).

With the confirmation of Significant Woodland habitat, Policy 7.B.1.11 must be applied to the proposed development. The EIS must demonstrate that there will be no negative impact to the feature and its functions, and EES does not believe that the proposed development has met the test of no negative impact.

### **3.7 Constraints Map**

The EIS Addendum report (January 5, 2022) provides a map of constraints as identified within the report (Figure 23). EES suggests that the constraints map may need to be revisited given the findings confirm the woodland meets the definition of Significant Woodland.

Based on comments above regarding the changes to size and orientation of the SWD1-3 inclusion, and mapping in the EIS report (February 10, 2021) showing the seasonal pool extending down to Gadsby Road, clarification is required. Although it is understood that a relative elevation survey was completed, the discrepancy between the two reports makes it unclear what the full extent of the vernal pool is during the spring and early summer when water levels are at their highest.

The mapping in the EIS dated February 10, 2021 suggests that the seasonal pool extends south to Gadsby Road. Further, Figures 15 and 21 in the EIS (February 10, 2021) suggest that the seasonal pool, as it was initially mapped, plus a 10m buffer were identified as a constraint to development. It is noted that the constraints associated with the initial seasonal pool mapping within the EIS would not support development of a proposed single-family lot on Gadsby Road.

Photo documentation (April 2021) provided by adjacent landowners shows evidence that the vernal pool continues to extend south towards Gadsby Road. EES recommends that the boundaries of the vernal pool be delineated by water levels in the spring, rather than elevation as vernal pools often extend beyond physical boundaries when water levels are at their peak.

### **3.8 Constraints Analysis and Recommendations**

It is understood that additional constraint areas were added behind the proposed Gadsby Road lot to accommodate regrading of the edge of the seasonal pool. The purpose of regrading the pool is not clear and it seems that regrading the edge would serve to maintain the water in a smaller, contained area and will cut off potential sources of stormwater runoff from adjacent properties which currently (and historically) maintain the hydroperiod of the existing vernal pool.

Rationale for the regrading should be provided and it should be demonstrated that the grade changes will not impact the existing hydroperiod of the vernal pool or the habitat which it is currently providing.





### **Step 4: Ecological Impact Assessment**

#### **4.1 Description of Proposed Development**

The EIS addendum report (January 5, 2022) provides a description of a development plan which had been brought forward as part of the initial development application. The proposal included eight townhomes within the open space and a portion of the woodland, as well as a single-family lot proposed along Gadsby Road. The April 28<sup>th</sup> peer review noted that important details regarding stormwater management, and site grading were not provided. These details are important in determining the extent of both direct and indirect impacts on the adjacent natural heritage features.

It is noted that an updated development plan has been submitted as part of a revised application package. A letter from 8Trees Inc. dated July 28, 2022 confirms they have reviewed the revised plan. There is no description of the revised plan, which now includes a 3-story, 24-unit building, rather than the previously proposed eight townhomes. The revised development plans do not indicate whether there is still a single lot proposed for the portion fronting on Gadsby Road. It also does not provide any detail which would be needed for an updated EIS to provide a description and thorough assessment of impacts.

#### **4.2 Impact Assessment**

The EIS addendum report provided some assessment of impact in terms of spatial changes to the existing ELC polygons and quantity of trees impacted. However, discussion surrounding longer term impacts on flora and fauna and habitat have still not been addressed.

As discussed in the April 28, 2021 peer review letter, impacts of occupancy, such as light and noise pollution and foot traffic should be explored and mitigation recommendations provided. Changes in the catchment for the vernal pool may occur as a result of stormwater management for the site. Impacts to the vernal pool could impact species which rely on it for various life stages such as birds and bats, or amphibians.

Though some impact assessment was completed within the EIS addendum, the most recent plan provided in the revised development application package is significantly different from what has previously been proposed, and the letter dated July 28, 2022 from 8Trees Inc. does not provide any discussion of impacts from the new proposal except to estimate that 10-22 edge trees will require removal.

According to the Niagara Region EIS Guidelines, impact assessment should take into consideration the physical boundaries of the development while also integrating stormwater management, grading plans, and other studies to describe and evaluate all reasonably expected environmental impacts both during and after the construction stage.

### **4.3 Design Changes and Mitigation Measures**

The development design has been revised to limit the footprint of the building within the woodland boundary. However, plans for amenity space remain unclear and could result in further impacts to the woodland.

Although some mitigation measures were provided within the EIS addendum and a woodland management plan has been prepared to enhance the conditions of the remaining woodland, further recommendations may be appropriate following impact assessment of the revised development plan. Mitigation measures may consider management of surface runoff, lighting considerations to ensure no negative impacts to wildlife.

### **4.4 Ecological Restoration or Enhancement Opportunities**

A Woodland Management Plan (July 16, 2022) has been prepared with the goal of improving the overall quality of the woodland. The plan identifies areas suitable for re-vegetation, which may help offset some of the trees impacted by the proposed development.

### **4.5 Residual Environmental Impacts**

No summary of residual impacts has been provided. Impacts from the initial proposed development were described and some mitigation measures were presented, however an updated EIS, which should provide impacts of the revised development plan and recommendations to mitigate those impacts, must identify what impacts can still be expected after the mitigation measures have been applied.

### **4.6 Monitoring**

The EIS addendum report (January 5, 2022) has recommended monitoring the vernal pool and trees for a period of three years post-construction. The proposed monitoring of trees (both those protected and those newly planted) will provide detailed assessment of the status of remaining trees going forward and EES is generally supportive of the three-year monitoring period.

For the vernal pool monitoring, physical qualities of the vernal pool may be useful to monitor to ensure there are no significant changes to water inputs and outputs, biological monitoring can provide valuable information on impacts to the function of the pond. Amphibians are more sensitive to changes in their environment and monitoring their use of the pool can provide important feedback on impacts associated with development, beyond changes in volume of water. A pre-construction baseline would need to be determined.

## **Step 5: Recommendations and Conclusion**

The recommendations and conclusions within an EIS should summarize the impacts and mitigation to determine whether there are any residual impacts anticipated from the proposed development. It should be identified whether the plan is in compliance with applicable plans and policies, and any discrepancies should be addressed.



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It should also be clearly stated whether the EIS indicates that the plan should move forward as proposed, or whether it should be subject to conditions (Niagara Region, 2018). The EIS addendum did not provide a summary of policy compliance or a concluding statement on the suitability of the proposed development.

The letter dated July 18, 2022 does make the statement that 8Trees Inc. fully supports the proposed changes to the development plan presented, stating that the revised development makes “*good use of non-sensitive lands for housing and helps meet the City’s goals for urban intensification while still maintaining natural amenities into the future*”. However, the statement is not supported by an assessment of impacts to the Significant Woodland or its functions. There is also no evaluation of compliance with applicable policies or summary of residual impacts.

It is EES’ assessment that the EIS and EIS addendum reports prepared by 8Trees Inc. do not satisfy the Terms of Reference set out by the Region, and do not follow the steps of the Region of Niagara EIS Guidelines.

In order to satisfy the EIS guidelines, screening for Significant Wildlife Habitat should be provided as requested by Regional staff via email correspondence (April 6, 2020 and June 8, 2020) and assessment for woodland significance should reflect the presence of SWH. An assessment of impacts and policy compliance for the revised development plan should be completed and appropriate mitigation measures to address those impacts should be provided.

If you have any questions regarding the above information or require additional information, please contact me.

Sincerely,



Anne McDonald, B.Sc., EP  
Principal  
Ecological & Environmental Solutions



**APPENDIX A**

**LCA Peer Review of the Scoped Environmental Impact Study (February 10, 2021)**



Policy Document	Policy Section	Policy Summary	Addressed in Addendum?	Compliance
Provincial Policy Statement, 2020	2.1 Natural Heritage	2.1.2 Diversity, connectivity, and function of natural systems should be maintained, restored, or improved	Connectivity addressed in EIS addendum	Function of natural system not adequately assessed. Presence of SWH not discussed.
		2.1.5 Unless no negative impacts have been demonstrated, development and site alteration are not permitted in significant wetlands, woodlands, valleylands, wildlife habitat, or areas of natural and scientific interest	No, woodlands not identified as Significant in report.	<b>No.</b> Woodlands qualify as significant based on presence of Schreber's Aster habitat. SWH for species of conservation concern.
		2.1.6 Development and site alteration shall not be permitted in fish habitat except in accordance with provincial and federal requirements.	Not applicable	Not applicable
		2.1.7 Development and site alteration shall not be permitted in habitat of endangered and threatened species, except in accordance with provincial and federal requirements	EIS addendum provides further discussion around the White Wood Aster surveys and bat habitat. Communication with MECP regarding bat habitat.	<b>Yes.</b> No SAR habitat for White Wood Aster. MECP did not identify any requirement for further protection of bat habitat.
		2.1.8 Unless no negative impacts have been demonstrated, development and site alteration are not permitted on lands adjacent to natural heritage features and those in 2.1.5.	The EIS addendum has not identified impacts of the final proposed development on natural heritage feature.	<b>No.</b> No negative impact has not been demonstrated. Impacts must be identified and mitigation proposed.
Endangered Species Act, 2007	Definitions	2 habitat is any area species depend, directly or indirectly on to carry out life processes, including reproduction, rearing, hibernation, migration or feeding.	Habitat has been defined. However, impacts to habitat have not been discussed.	<b>Yes.</b>
	Protection and Recovery of Species	9.1 Prohibits interference or trafficking of species listed as SARO with the designation of endangered, threatened or extirpated	No direct interference with SAR.	<b>Yes.</b>
		10.1 Prohibits damage or destruction to the habitat of any species listed as SARO with the designation of endangered, threatened or extirpated	Yes – extensive discussion surrounding bat habitat and White Wood Aster surveys.	<b>Yes.</b> Satisfied given discussions with MECP.
Niagara Region Official Plan, 2014	7.B The Core Natural Heritage System	7.B.1.1 Core Natural Heritage consists of: a) Core Natural Area, classified as either EPA or ECA; b) Potential Natural Heritage Corridors connecting the core Natural Areas;	Not assessed as a Core Natural Heritage feature	Addendum confirms woodland satisfies criteria for significance and should be designated as ECA Significant Woodland.

		c) Greenbelt Natural Heritage and Water Resources System; and d) Fish Habitat		
		7.B.1.3 EPAs include PSWs, ANSIs, and significant habitat of threatened and endangered species	EIS addendum confirmed no White Wood Aster habitat.	<b>Yes</b> – no EPA confirmed on or adjacent to subject lands.
		7.B.1.4 ECAs include significant woodlands, significant wildlife habitat, significant habitat of species of concern, regionally significant Life Science ANSIs, other evaluated wetlands, significant valleylands, savannahs or tallgrass prairies, and alvars	No - EIS addendum does not provide assessment of Significant Wildlife Habitat. EES does not agree with the assessment that amphibian study exceeds TOR. SWH screening was part of the TORs but was not included. Screening would have identified the vernal pool as candidate SWH, requiring surveys for confirmation.	<b>No</b> - addendum report has not identified the woodlands as ECA Significant Woodland.
		7.B.1.5 significant woodlands must meet one or more of the following: a) Contain threatened or endangered species or species of concern b) In size, be equal to or greater than: i) 2ha within or overlapping Urban Area Boundaries; ii) 4ha outside Urban Areas and north of the Niagara Escarpment; iii) 10ha outside Urban Areas and south of the Escarpment; c) Contain interior woodland habitat at least 100m in from woodland boundaries, d) Contain older growth forest and be 2ha or greater in area e) Overlap or contain one or more other EPA or ECA; f) Abut or be crossed by a watercourse or water body and be 2 or more hectares in area.	EIS addendum argues that habitat for threatened and endangered species is not present.	The woodlands on the property (and adjacent) contain significant wildlife habitat and therefore meet criteria for significance. The woodland is significant as an entire unit, not the individual parts as described in the report.

Niagara Region Official Plan	7.B.1.6 prohibits development within natural heritage features which have been designated as Environmental Protection Areas	Yes.	<b>Yes.</b> No development proposed within any recommended EP designations
	7.B.1.11 unless no negative impact on the Core Natural Heritage System component or adjacent land has been demonstrated, development and site alteration are not permitted within ECAs.	No.	<b>No.</b> Report has not demonstrated no negative impact, as no assessment of impacts has been made for final proposed development.  The revised development plan will have direct and indirect impacts on the woodland and its functions, which have not been identified.
	7.B.1.13 development applications in or near Potential Natural Heritage Corridors, should be designed and constructed to maintain and, where possible, enhance ecological functions of the Corridor.	Yes – discussion on municipal corridors	<b>Yes</b> – no corridor present.

March 26, 2021

Grant Munday, B.A.A, MCIP, RPP  
Interim Director, Development and Building Services  
City of Welland  
60 East Main Street  
Welland, ON L3B 3X4

Dear Mr. Munday,

**RE:           Application to Amend Zoning By-law 2017-117 (File No. 2020-14)  
Application to Amend City of Welland Official Plan (OPA No.33)  
Application for Draft Plan of Vacant Land Condominium Approval  
(File No.26CD-14-20009)**

Welland Hydro Electric System Corp. (WHESC) does not object to the proposed applications(s).

The applicant shall contact WHESC's Engineering Department to determine servicing details and requirements by emailing [Engineering@wellandhydro.com](mailto:Engineering@wellandhydro.com).

If existing WHESC's infrastructure is required to be relocated or temporary Hydro service is required, all costs are the responsibility of the applicant.

If easement(s) are required by WHESC to service this development or any future adjacent developments, the applicant will provide at their expense all necessary registered easements.

The proposed development must meet the clearance requirements of section 3.1.19.1 "Clearance to Buildings" of the Ontario Building Code.

WHESC reserves the right to amend or remove development conditions.

If you require further information, please contact our Engineering Department.

Sincerely,



Kevin Carver, P. Eng., ME  
Chief Operating Officer  
**WELLAND HYDRO-ELECTRIC SYSTEM CORP.**