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## **Council Meeting – June 21, 2022**

Subject: Official Plan and Zoning Amendment Applications -  
511 Nelson Street West.  
Report Number: CD 22-061  
Division: Community Development  
Department: Planning  
Purpose: For Decision

### **Recommendation(s):**

THAT application OPNPL2019315 affecting the lands described as Part Lot 9, Concession 1, and municipally known as 511 Nelson Street West, Port Dover, Norfolk County to amend the Norfolk County Official Plan from Urban Residential Designation to Urban Residential Designation with a site specific policy area, BE APPROVED, as recommended by staff and as shown in Attachment E to Report CD 22-061;

AND THAT application ZNPL2019316 affecting the lands described as Part Lot 9, Concession 1, and municipally known as 511 Nelson Street West, Port Dover, Norfolk County to amend the Norfolk County Zoning By-Law 1-Z-2014 from Urban Residential Type 1 (R1-A) to Urban Residential Type 1 with a special provision and a Holding, subject to site plan control, BE APPROVED, as recommended by staff and as shown in Attachments E and G to Report CD 22-061;

AND FURTHER THAT all public input received for this application was considered as part of the decision.

### **Executive Summary:**

The purpose of the original applications is to amend the Norfolk County Official Plan and Zoning By-law to recognize existing uses within the Hazard Land Designation and Zone as well as to permit an additional four dwelling units in the Urban Residential Designation and R1-A zoned portion of the property for a total of nine dwelling units on the subject lands at 511 Nelson Street West in the urban area of Port Dover.

Pursuant to the Planning Act, R.S.O. 1990, C. P. 13, a Public Hearing was held by the Council on June 1, 2021 to provide information and receive comments about the proposed development. The purpose of this report is to make recommendation in regards to the proposed development.

After a review of the planning considerations, staff cannot support the applications as originally submitted by the applicant. It is recommended by staff that the existing uses within the Hazard Land designation not be formally recognized as permitted uses since there are policies and direction to not have development within environmental/hazard land areas; however, the existing framework allows their continued use as well as to permit renovations and modest additions if they were once legally permitted.

Staff recognize that there is an opportunity to consider a tourism-based, overnight accommodation development consistent with the policies of the Lakeshore Special Policy Area Secondary Plan that will result in the minor intensification of an existing lot within an Urban Area. A modified Official Plan Amendment (OPA) that permits additional “tourist cabins” (instead of “dwellings”) in the Urban Residential designation that are “accessory” to the existing single detached dwelling on the property may be considered appropriate and supported if site plan control is applied. The applicant has indicated acceptance of the modified approach to the OPA.

Staff suggest that it may be appropriate to support a modified Zoning By-law Amendment (ZBA) that permits accessory tourist cabins on the subject lands provided there are special provisions limiting the number of tourist cabins, the maximum useable floor area for each as well as all accessory structures, yard setbacks, minimum separation distances between each tourist cabin, restricting the location of recreational vehicle parking and applying site plan control. The tourist cabins would be tied to the single detached dwelling as “accessory”. The applicant has indicated willingness to amend the application for much of the revised approach, but may not be to the full extent of accepting the entire modified approach to the ZBA as recommended by staff.

The Official Plan and Zoning Amendment By-laws as recommended by staff are included as Attachments E and F. The modified amendments are consistent with the Provincial Policy Statement and conform to the Official Plan.

### **Discussion:**

See Public Hearing Committee report CD-21-32 <https://www.norfolkcounty.ca/wp-content/uploads/2021/05/CD-21-32-OPNPL2019315-and-ZNPL2019316-Compiled-.pdf> for additional background information on the site, proposal and context.

### **Site Context:**

As shown in the figures below, the subject lands are located on the west side of Port Dover and front onto the south side of Nelson Street West. The property backs onto Lake Erie and contains a number of mature trees. The subject lands include one single detached dwelling, multiple accessory structures (including a newly constructed garage and multiple sheds), three trailers and four cottages. A raised vegetable garden, picnic tables and a patio area overlooking Lake Erie are also located on the property. The area of the subject lands is approximately 7,278 square metres, with approximately 59.5 metres of frontage on Nelson Street West. A new hedge row of cedars and other deciduous shrubs have been placed along the front property line.

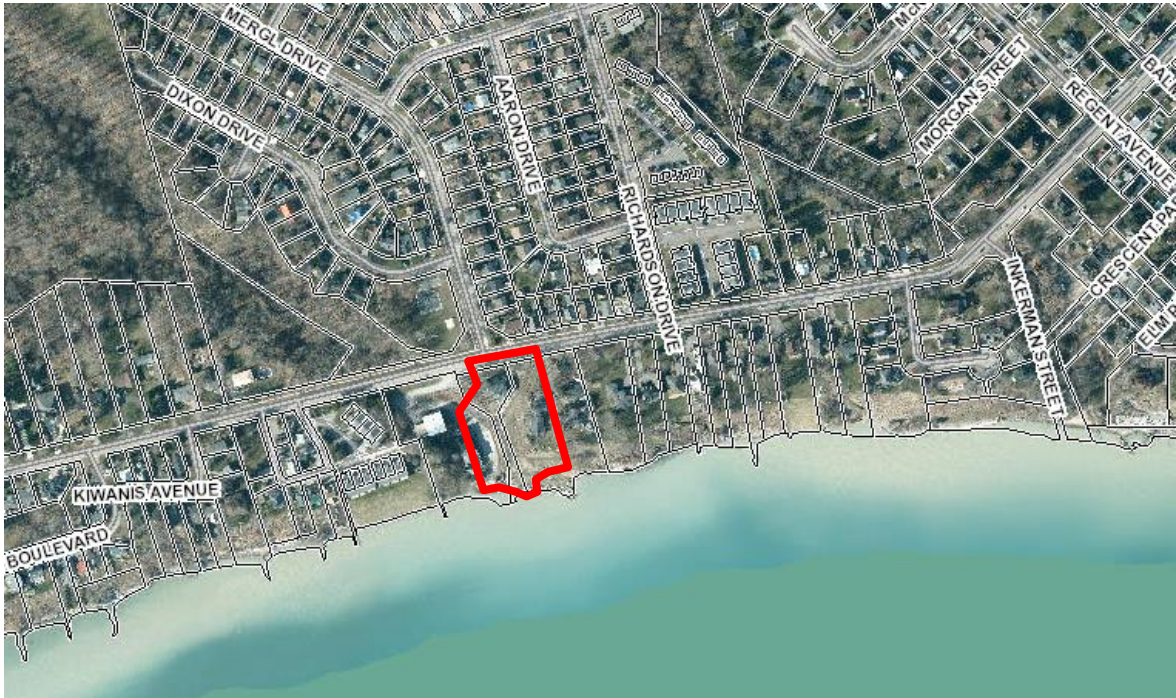


Figure 1. Surrounding context, 511 Nelson Street West outlined in red



Figure 2. Photo of the western side of the subject lands, from Nelson St W





Figure 3: Photo of the eastern side of the subject lands, from Nelson St W

### Proposal Summary:

#### *Original*

The applicant was originally proposing to add four (4) dwelling units in addition to the existing dwelling and 4 additional dwelling units on the site. In order to do so, the applicants were proposing to amend the Norfolk County Official Plan and Zoning By-law to allow a maximum of nine (9) dwelling units on the subject lands through a site-specific policy and provision. The applications include the proposed legalization of four of the dwellings within the Hazard Land Designation and Zoning on the property.

In support of the current application, the applicant has submitted the following:

- a Conceptual Site Plan;
- a Functional Servicing Report;
- a Vegetation Plan;
- Architectural Drawings; and
- a Planning Justification Report.

#### *Modified*

Through the processing and analysis of the applications, a number of modifications are being considered for the applications and recommendations, including:

- The existing single detached dwelling may have Legal Non-Conforming (LNC) status within the Hazard Land zoning and the two other existing

dwelling/cottages are questionable in terms of their status. Report PED 07-48 outlines some of the history. If they are LNC, they can continue to legally exist and can be renovated (or revised via the Committee of Adjustment). In either event, as outlined in the Planning Considerations below, staff would not be able to support the legalization within the Hazard Land zoning and to date the applicant is accepting of modifying the applications to not legalize; however, they would likely reserve the right to include consideration of this or should there be any appeal to the applications.

- Revising “dwelling units” to be considered “tourist cabins” as a more appropriate treatment and definition in the Zoning By-law for the cottages as outlined in the Planning Considerations below – except for the primary single detached dwelling. This would reflect the intent for temporary, rental accommodation.
- Considering “tourist cabins” to be “accessory” to the primary single detached dwelling so that they are tied to the principal use and occupation of the house and not all stand-alone separate uses.
- Additional zoning regulations about the size, location, numbers, details of the “tourist cabins” and application of site plan control.

In many instances, the applicant is willing to modify the amendments; however, there may be some provisions that staff are recommending as appropriate that may not fully align with the applicant’s desire. Specifically, staff are recommending a reduction in the number of new tourist cabins and some specific provisions which may not fully achieve the applicant’s original intent.

#### **Consultation(s):**

#### **Technical Comments / Analysis:**

The application was circulated to various internal departments and external agencies for review and comment. Available comments were provided in the public hearing committee report CD 21-32, Appendix A.

The technical circulation comments are included as Attachment B to this report. No comments of concern were received from the agencies. Development Engineering indicated that their requirements will be addressed through the site plan control application and LPRCA has noted that a permit is not required for the proposed development.

#### **Regard for Public Input and Statutory Public Hearing Committee Meeting:**

A Public Hearing was held on June 1, 2021 where staff and the applicant’s agent responded to questions from the Committee and members of the public. A community open house was hosted by the applicants on June 23, 2021. The meeting was an opportunity for the applicants to provide additional information to the community and to provide a forum to discuss the issues identified through the Public Hearing as well as to seek additional feedback, comments and input from members of the public. Staff and

the applicant's agent gave presentations to provide the policy context and detailed description of the proposal.

Additionally, staff received a petition in opposition to the proposed development containing 107 signatures. Nine letters in support were also received regarding the applications. Comments included the support for the increase in the number of overnight accommodations and a recognition that the tourist cabins would provide opportunities for short term housing for those in summer employment positions. Generally, some individuals noted that the additional units will support the local economy and tourism sector as a whole.

Below is a summary of the public feedback received to-date, including the public submissions received at the Public Meeting held June 1, 2021 and the additional public submissions received since this time. All original public comments, the petition and the applicant's response to public feedback are included as Attachment C.

	<b>Key Issues Identified</b>	<b>Staff Comments</b>
<b>1</b>	Commercial Use	<p>Concerns regarding the commercialization of a residential site were noted at the Public Hearing Committee. Staff note that the LSPA Secondary Plan prioritizes overnight accommodations and directs them to urban tourist nodes. The size and scale the proposed tourist cabins are limited to ensure they are compatible with the surrounding uses.</p> <p>In regards to the taxation of properties, MPAC assesses properties based on the uses, despite the zoning. If MPAC determines that this configuration of uses is commercial, they will provide that assessment.</p>
<b>2</b>	Built Form & Compatibility	<p>The size and scale of the buildings, landscaping by the water, and the use of trailers providing overnight accommodations on the site were identified as concerns.</p> <p>In regards to the landscaping along the waterfront, as noted by the applicants, LPRCA provided permits for the work.</p> <p>The LSPA Secondary Plan identifies providing overnight accommodations as priority and directs them to Urban Areas. The applicants have indicated that amenities in downtown Port Dover are within 15 minutes walking distance. Staff recognize the compact nature of Port Dover and</p>

	Key Issues Identified	Staff Comments
		<p>note that amenities are within close proximity to the subject lands.</p> <p>Staff have concerns regarding the location of the trailer parking on the subject lands. Staff will work with the applicants during the site plan control process to find a suitable location for the parking of trailers. During a site inspection, there was a recreational vehicle parked within the front yard. Staff do not support this location for trailers or recreational vehicles. Through the zoning amendment staff will be recommending that only one parking space be permitted in the existing driveway of the first cabin to reduce the opportunity for trailers to be parked along Nelson Street West.</p> <p>Given the site will be offering accommodations, staff have concerns that additional people may be staying in trailers on the property during the year. Staff will explore this element with the applicant while working out the details of the zoning by-law.</p>
3	Parking, Traffic and Safety Concerns	<p>As noted above, Nelson Street West has been identified as a Collector Road by the Official Plan. Collector roads are designed and intended to accommodate moderate volumes of local traffic traveling between local and arterial roads as well as providing access to abutting properties.</p> <p>Concerns regarding increased pedestrians walking along Nelson Street West where there is only a sidewalk on the north side of the street were noted.</p> <p>A portion of Nelson Street West is currently being reconstructed. Planning confirmed with Development Engineering that a sidewalk along the south side of Nelson Street West is not planned and further consideration will be given to include crosswalks at the intersection of Mergl Drive and Nelson Street West.</p> <p>Staff will work with the applicant regarding the appropriate location for parking on the site through site plan control. Speeding is enforced by the OPP and will continue to be monitored at their discretion.</p>

	<b>Key Issues Identified</b>	<b>Staff Comments</b>
<b>4</b>	Protecting Views to Lake Erie	<p>The LSPA Secondary Plan Community Design Guidelines (Appendix D) identifies potential locations for lookouts and significant or important views. Lookouts are intended to be locations where more formal viewing experiences can be established and provide public access where appropriate.</p> <p>Additionally, the plan recognizes the importance of preserving and enhancing the views that are experienced every day from streets perpendicular to the shoreline within Urban Areas. The two important view locations have identified are from Maple Boulevard to the west and Kandracs Crescent to the east.</p> <p>Staff recognize the importance of the views to Lake Erie from Nelson Street West as it has been identified as part of Ontario's South Coast Scenic Route by the LSPA. The development of tourist cabins will be small in scale, which is intended to minimize the impact to the view to Lake Erie.</p> <p>The applicant has noted that there are currently obstructions to the view. Staff note that there are mature trees along Nelson Street West, however, their height provides an excellent view to the lake from Nelson Street West. Through the site plan process staff will be encouraging a site layout that maximizes the views to Lake Ontario from Nelson Street West, as this will help achieve the policies of the LSPA Secondary Plan.</p>
<b>5</b>	Property Management & By-law Infractions	<p>Norfolk County has a number of by-laws that set expectations regarding items such as noise. It is the expectation of staff that the operators would work with their tenants to ensure the by-laws are adhered to, reducing the impact to the neighbourhood. Through the site plan process, staff will require an operational management plan be developed by the owners to provide strategies to ensure local by-laws are met.</p>
<b>6</b>	Increase the number of overnight accommodations and short term housing for summer positions	<p>Written correspondence was submitted supporting the proposal as it will contribute to the opportunities for tourists to stay within Port Dover. As noted above, overnight accommodations are</p>



	Key Issues Identified	Staff Comments
		identified as a priority within the LSPA and particularly in Urban Areas.
8	Supports the local economy and tourism sector	Residents have noted the positive contribution additional overnight accommodations will have for the local economy and tourism sector. The subject lands are within a 15 minute walk to the central business district and beach. Through the agency circulation, Economic Development noted that the economic impact over overnight tourism is estimated at \$180 - \$1,200 per person per night compared to range of \$7 - \$77 per person for day trips into the area. Figures are from a study coordinated by Norfolk County, Haldimand County, Elgin County and Southwest Ontario Tourism.

### Planning Considerations:

#### **Planning Act and Provincial Policy Statement**

It is the opinion of planning staff that the proposed application meets the intent of both the *Planning Act* and the PPS.

#### **Official Plan**

The subject lands are designated Hazard Land and Urban Residential as well as subject to the Lakeshore Special Policy Area (LSPA) Secondary Plan. In the event of a conflict between the two documents, the policies of the Lakeshore Special Policy Area Secondary Plan shall prevail.

As illustrated on Schedule F of the LSPA Secondary Plan, the subject lands are situated within an urban area and tourism node as well as located on Ontario's South Coast Scenic Route. Urban areas are anticipated to accommodate the majority of growth and development as well as a variety of uses. Tourism nodes are intended to provide a range of tourism related uses and activities, including accommodations. LSPA section 11.6.3, identifies overnight tourist accommodations as an economic development priority for Norfolk County. Roofed accommodations may include bed and breakfast establishments, small inns, hotels and motels, guest houses, resort-oriented condominiums or similar accommodations.

A portion of the subject lands are designated as Hazard Lands and it is the intent of the Official Plan to protect life and property within these areas. New development should only be permitted to take place in areas that are not susceptible to hazards. Currently, the single detached dwelling and two of the existing cottages are located within the Hazard Lands designation.

The Urban Residential designation is expected to accommodate a variety of residential forms and neighbourhood uses. Bed and breakfast establishments are permitted in single detached dwellings provided that parking can be provided on the same lot and the use conforms to the Zoning By-law provisions.

Based on the permitted uses of the Urban Residential designation, tourist accommodations may not be considered appropriate development, however, when the prevailing policies of the LSPA regarding tourism nodes and overnight tourist accommodations are considered, tourist cabins could be considered appropriate, subject to a review of the size and scale of all the accessory uses located on the subject lands in relation to the existing residential area. A corresponding Zoning By-law amendment would establish site specific provisions regarding items such as useable floor area, setbacks, maximum building height as well as the number and location of required parking spaces.

It is the professional opinion of staff that the applicant's proposed amendment to recognize the existing single detached dwelling and four cottages plus an additional four tourist cabins for a total of nine dwelling units does not meet the overall intent of the Official Plan. It is recommended by staff that the existing uses within the Hazard Land designation not be formally recognized as permitted uses since there are policies to support their continued use as well as to permit renovations and modest additions if they were once legally permitted.

In conclusion, a modified Official Plan Amendment that permits accessory tourist cabins to the existing single detached dwelling within the Urban Residential designation may be considered appropriate and supported if site plan control is applied. This would not recognize the existing single detached dwelling and two cottages that are located within the Hazard Lands designation. Staff recognize that there is an opportunity to permit a development consistent with the policies of the LSPA Secondary Plan that will result in the minor intensification of an existing lot within an Urban Area. Attachment E is the proposed Official Plan Amendment By-law.

### **Zoning By-Law**

The applicants are requesting a zoning amendment to recognize an existing single detached dwelling and four cottages within the HL and R1-A zones and to permit four additional tourist cabins within the portion zoned R1-A.

A tourist cabin is defined by the Zoning By-law as "a detached, furnished building providing temporary rental accommodation for one (1) or more individuals, in which cooking, eating, sleeping and sanitary facilities are provided, for use by the vacationing public." It is not considered a dwelling unit. Based on the definitions a tourist cabin is intended to provide temporary rental accommodations and are not required to have two or more rooms. A dwelling unit is specific in regards to requiring two or more rooms for one or more individuals who are living together.

Further to the zoning, the Business Licensing By-law (By-Law 2020-17) states that hotel “includes a motel and means any premises in which is provided four (4) or more rooms for overnight accommodation of the travelling public.” Providing eight rooms or tourist cabins may require a hotel license, however, the R1-A zoning does not permit a hotel.

The existing single detached dwelling and two cottages are located within the HL zone. Staff do not recommend permitting a tourist cabin within the Hazard Land Zone as it would be contrary to the PPS and Official Plan policies regarding development within this area.

Uses permitted in the “Urban Residential Type 1 (R1-A) Zone” as outlined Zoning By-law, include single detached dwelling, home occupation, and an accessory residential dwelling unit.

Section 3.2 provides provisions for accessory uses to residential uses and establishes a maximum building height of 5 metres, prohibits buildings and structures to occupy the front yard or any part of the exterior side yard and limits the combined total of useable floor area for all accessory buildings and structures to 10% of the lot area to a maximum of 55 square metres.

Staff suggest that the “tourist cabin” use could be considered to be permitted as an accessory use to the primary use of the single detached dwelling within the R1-A zone. An accessory use is one that is naturally and normally incidental to, subordinate to and exclusively devoted to a principal use and located on the same lot and they may be located in detached buildings or structures. The accessory use cannot exist without the primary use and there are size requirements to manage the scale of accessory uses. This would have the intent of being an owner-occupied site whereby the tourist cabins would be secondary to the principle use and is modeled after the bed and breakfast provisions that require the operator to reside within the dwelling unit.

Planning staff recommend the reduction of one tourist cabin to ensure that the size, scale and spacing of the tourist cabins is consistent with the neighbourhood. Also, one of the existing cottages has a driveway with a parking space within the required front yard. This is not consistent with the neighbourhood and limiting the number of cars within the front yard to one would meet the overall intent of the Zoning By-law.

In summary, staff suggest that it may be appropriate to support accessory tourist cabins as a permitted use on the subject lands provided there are special provisions regarding:

- a maximum number of tourist cabins and that one building can only contain one tourist cabin;
- the maximum useable floor area for all accessory structures on the site,
- the minimum required front and interior side yard setbacks,
- a minimum distance between each tourist cabin,
- a restriction to the number of trailers permitted on the property; and
- applying Site Plan Control.

In conclusion, staff are recommending that the Zoning By-law Amendment be approved, as recommended in Attachment F.

### **Financial Services Comments**

Revenue collected through planning application fees are accounted for in the approved operating budget. Development charges, as per current by-laws would be charged at the applicable rate for a bachelor and 1-bedroom apartment. Development Charges would apply to this development and would be collectable entirely at the time of building permit issuance, based on the rates in effect at that time. Additional assessment will offset enhanced services and future infrastructure replacement that will be required.

While it is almost certain that this improvement will drive an increased assessment value, and therefore additional taxation revenue for the County, the specific amount is not known at this time as it is dependent on the value assessed by MPAC.

### **Strategic Plan Linkage:**

This report aligns with the 2019-2022 Council Strategic Priority "Foster Vibrant, Creative Communities".

Explanation: Subject to confirmation of servicing capacity solutions, the proposed development supports the expansion of an existing tourism business in an Urban Tourism Node as identified by the Lakeshore Special Policy Area Secondary Plan.

### **Conclusion:**

In conclusion, staff are recommending that the Official Plan Amendment, as originally submitted by the applicants be modified as the request to recognize nine dwelling units on the subject lands is not considered appropriate given the Hazard Land designation, the amount of land available for development within the Urban Residential designation and the surrounding neighbourhood context (along with the definition of what dwelling unit would allow).

However, a modified Official Plan Amendment that permits accessory tourist cabins in the Urban Residential designation to the existing single detached dwelling may be considered appropriate and supported if site plan control is applied and special provisions are outlined by the Zoning By-law amendment. The Official Plan Amendment would not recognize the existing single detached dwelling and two cottages that are located within the Hazard Land designation.

Furthermore, staff recommend modifying the Zoning By-law Amendment as originally submitted by the applicant. Staff support the modified Zoning By-law Amendment as recommended in Attachment F for the reasons outlined in the report. The modified amendments are considered to be consistent with the PPS and meets the intent and purpose of the Official Plan, including the LSPA Secondary Plan.



Regarding the public/technical input along with the planning analysis, staff are recommending that site plan control should be applied to this property and development (Attachment G to this Report) as another tool for the built form, landscaping, lighting, driveway, parking, waste and other site functional issues can be addressed and an agreement registered on title.

## **Attachments:**

Attachment A – Site Photographs  
Attachment B – Technical Comments  
Attachment C – Public Comments  
Attachment D – Planning Considerations Review  
Attachment E – Recommended Official Plan Amendment  
Attachment F – Recommended Zoning By-law Amendment  
Attachment G – Recommended Site Plan Control By-law

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