



## Town of Niagara-on-the-Lake

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**REPORT #:** CDS-23-108 **COMMITTEE DATE:** 2023-06-13  
**REPORT TO:** COTW-Planning **DUE IN COUNCIL:** 2023-06-27  
**SUBJECT:** 507 Butler Street  
Zoning By-law Amendment Application ZBA-21-2022

### 1. RECOMMENDATION

It is respectfully recommended that:

- 1.1 The Application for Zoning By-law Amendment (File No. ZBA-21-2022) for lands known municipally as 507 Butler Street be approved as detailed in this report; and
- 1.2 The draft Zoning By-law Amendment, attached as **Appendix V** to this report, be forwarded to Council for adoption.

### 2. EXECUTIVE SUMMARY

- This report provides a Staff recommendation to the Committee and Council regarding an application for Zoning By-law Amendment (the "Application") for 507 Butler Street.
- The Application requests to rezone the subject lands from "Old Town Community Zoning District - Institutional (I-34) Site-Specific Zone" to "Old Town Community Zoning District - Residential (R1) Site-Specific Zone" to facilitate the creation of one new residential lot.
- The proposed new lot for a future dwelling would contain site-specific provisions for lot frontage, lot area, front yard setback, west interior side yard setback and height. The site-specific provisions for the balance of the property with the heritage dwelling (William Stewart Homestead) would recognize the proposed lot frontage and the existing location and size of the structures on the subject lands.
- The Application is required to permit a future consent application to create a new residential lot for a single-detached dwelling.
- Staff recommends approval of the Application, as detailed in this report, as the proposal conforms to *Planning Act* requirements, is consistent with the Provincial Policy Statement and conforms to Provincial, Regional and Town planning legislation.

### 3. PURPOSE

This report provides recommendations to the Committee respecting an application under the *Planning Act* seeking approval of a Zoning By-law Amendment to rezone the subject lands to a "Residential (R1) Site-Specific Zone" to facilitate the creation of a new residential lot. A sketch showing the proposed Parts and building footprints on the subject lands is attached as **Appendix I** to this report.

The following documents were submitted and considered during the review of this application:

- Application Form – Zoning Amendment, September 6, 2022
- Survey Sketch, July 25, 2013
- Concept Plan, July 8, 2022
- Planning Justification Report, September 2022
- Cultural Heritage Impact Assessment, July 4, 2022

#### **4. BACKGROUND**

##### **4.1 Site Description and Surrounding Land Uses**

The subject lands are located on the southwest corner of Butler Street and John Street West, within the urban area of Old Town. Part 1 (new lot) is proposed to have a lot area of 428 square metres and a frontage of 16.76 metres on John Street West and is currently vacant. Part 2 is proposed to have a lot area of 367 square metres, a frontage of 27.85 metres on Butler Street and a flankage of 19.86 on John Street West (the existing lot lines are irregular) and contains a 1-storey, single-detached dwelling and an accessory building (frame shed) that would be retained. The dwelling known municipally as 507 Butler Street will continue to be serviced through municipal water and sewage system connections. A new dwelling on the severed lot would be able to connect to municipal water and sewage services. The subject lands are shown on **Map 1 of Appendix II** of this report. The surrounding lands are characterized by residential uses.

The existing dwelling on the subject lands is designated under Part IV of the *Ontario Heritage Act* and known as the William Stewart Homestead. The designating by-law is attached as **Appendix III** and more information on the heritage matters respecting the subject lands is provided in the analysis below.

#### **5. DISCUSSION / ANALYSIS**

##### **5.1 Policy and Legislative Framework**

The Application has been evaluated for consistency and conformity with the relevant Provincial, Regional, and local planning policies and legislation, as discussed in the following report sections. Applicable planning legislation and policies are provided in **Appendix IV** to this report.

###### 5.1.1 Planning Act, R.S.O. 1990, c. P.13

The Application supports the matters of provincial interest, is consistent with policy statements and conforms to provincial plans and Official Plans, as demonstrated in the analysis provided in the following sections of this report.

###### 5.1.2 Provincial and Regional Planning Documents

The subject lands are designated as being with a "Settlement Area" according to the Provincial Policy Statement, 2020 (the "PPS") and are within a "Settlement Area" and "Delineated Built-Up Area" according to A Place to Grow: Growth Plan for the Greater Golden Horseshoe, 2020 (the "Growth Plan").

The Niagara Regional Official Plan, 2014 (the "ROP"), designates the subject lands as being a "Built-Up Area" within an "Urban Area". Policies in these plans support residential intensification within urban and built-up areas subject to criteria, such as demonstrating that

the proposal is appropriate by analysing the impacts of the proposed development in relation to the surrounding area and achieving the goals of the applicable legislative documents. This includes an evaluation that surrounding heritage attributes are being protected and conserved.

The Application facilitates a better use of municipally serviced land by efficiently using the vacant portion of a parcel within the built-up area for residential infill. The existing heritage dwelling and accessory shed are situated on the east side of the lot and the lands have a large greenspace area west of the existing buildings where a new dwelling could be accommodated.

The overall goal of complete communities is being achieved by providing additional housing options where there is convenient access to services, employment, parks and other public facilities. The Application promotes active transportation in the urban area of Old Town by allowing for residents to easily access a variety of services within walking distance or cycling distance.

A Stage 1-2 Archaeological Assessment was completed on the subject lands which required a further Stage 3 assessment. The Stage 3 Archaeological Assessment, prepared by Horizon Archaeology Inc, dated October 30, 2020, was completed, and has cleared the lands of archaeological concern. An acknowledgement letter dated May 10, 2021 from the Ministry of Heritage, Sport, Tourism and Culture Industries was received indicating the archaeological work was completed in accordance with Provincial requirements. The measures provided in the HIA require an additional assessment to be conducted if deeply buried resources are uncovered during the development of the lands.

The ROP identifies the Town of Niagara-on-the-Lake to have a residential intensification target of 15% of total annual development. The proposed Application would provide housing options and contribute to the forecasted growth and intensification targets of the Region by facilitating residential infill in an urban area to make more efficient use of land, services and infrastructure.

Staff consider the Application to be consistent with the PPS and conform with the Growth Plan, and the ROP.

#### 5.1.3 Town of Niagara-on-the-Lake Official Plan, 2017 Consolidation, as amended

The subject lands are designated "Established Residential" and "Built-up Area" in the Town of Niagara-on-the-Lake Official Plan, 2017 Consolidation, as amended (the "Town OP"). The Town OP designation on the subject lands is shown on **Map 2** of **Appendix II** to this report.

The Application would allow for the creation of one new residential lot (for a total of two lots) and results in a net density of 25.2 units per hectare (10.2 units per acre). This is consistent with the Town OP policies for intensification, where it is indicated the minimum density is 14 units per hectare and the maximum density is 30 units per hectare. The proposal would support additional growth and contribute to the Town's intensification target of 15% within the Built-up Area. The Application would facilitate a more efficient use of land and services, further contributing to the goals of the Residential designation as set out in the Town OP.

A Planning Justification Report ("PJR"), prepared by NPG Planning Solutions, was submitted in support of the proposal. The report provides analysis in relation to applicable Town policies

and outlines any potential impacts the development may pose to the surrounding area. A Streetscape Study was conducted by the applicant where six surrounding block faces, for a total of 20 lots, were analyzed in relation to land use compatibility. The proposed lot configuration of the severed and retained lots at 507 Butler Street can be considered in keeping with the surrounding neighbourhood, as the frontages and depths are within the range of similar lots in the area. While the two lots are smaller in area than the surrounding lots, Staff are of the opinion that existing and new development can be appropriately accommodated on the proposed lots, subject to specific Zoning By-law regulations and heritage mitigation measures.

Staff consider the Application, as recommended in this report, to conform to the relevant policies of the Town OP.

#### 5.1.4 Town of Niagara-on-the-Lake Proposed Official Plan, 2019

Council adopted a proposed new Official Plan in November 2019. The proposed Official Plan has not been approved and is therefore not in effect but represents Council intent. The subject lands are designated "Established Residential" in the proposed Town of Niagara-on-the-Lake Official Plan (the "proposed Town OP"). The proposed Town OP has similar and complementary policies as contained in the existing Town OP relating to intensification, efficient use of land and infrastructure and land use compatibility criteria.

### **5.2 Municipal Heritage Committee Review**

The subject land at 507 Butler Street (William Stewart Homestead) is designated under Part IV of the *Ontario Heritage Act*. As previously noted, the designating by-law with background details is attached as **Appendix III** to this report.

A Cultural Heritage Impact Assessment (the "HIA") prepared by Leah Wallace, dated July 4, 2022, was submitted with the Application to outline potential impacts to the heritage value of the property and propose mitigation and conservation measures. The Town's Municipal Heritage Committee (MHC) considered the HIA and a Staff report on May 3, 2023. The Committee was satisfied that the proposed development could be compatible with the heritage dwelling and the MHC recommendations are summarized as follows:

- That the site-specific zoning for the proposed new lot provide a maximum building height of 7 metres to create a gentle visual transition from the heritage resource to the new development and that a scaled streetscape plan be provided by the applicant showing the transition in height between the William Stewart House, the new dwelling and 320 John Street West.
- That the Part IV designation be retained on the property until the new dwelling has been substantially constructed.
- That the owner enter into a Development Agreement with the Town agreeing that:
  - Any proposed house design for the new lot on John Street West will be reviewed by the Municipal Heritage Committee and the final design will be to the satisfaction of the Director of Community and Development Services;
  - Any Purchase and Sale Agreement for the new lot will make the purchaser aware of the need for review by the MHC for a final house design, and suitable exterior cladding materials;

- Suitable exterior cladding materials for a new dwelling shall include not more than two of the following materials: clapboard, board and batten, stucco or stone; and
- A landscape buffer be provided on the new lot between the William Stewart House and any new dwelling on the new lot with a landscape plan to be reviewed by the Municipal Heritage Committee.
- The owner of 507 Butler Street agrees to pay for the amendment of the legal description for the designating by-law for 507 Butler Street.

The requirement for a Development Agreement registered on title to the subject lands would be implemented as a condition of the Consent Application.

### **5.3 Niagara-on-the-Lake Zoning By-law 4316-09, as amended**

The subject lands are zoned "Old Town Community Zoning District - Institutional (I-34) Site-Specific Zone" through Zoning By-law 500SV-06, an amendment to Zoning By-law 500A-74. This site-specific zoning has been incorporated into the Town's zoning by-law for the urban area (Zoning By-law 4316-09, as amended). The applicable zoning of the subject lands is shown on **Map 3** of **Appendix II** to this report.

The existing zoning of the lands permits a museum, research facility and a single-detached dwelling. The proposed Zoning By-law Amendment would rezone the subject lands to an "Old Town Community Zoning District - Residential (R1) Site-Specific Zone" to allow for the creation of one new lot for a future single-detached dwelling and recognize the setbacks and size of the existing structures on the property. The amendment would remove the permissions of a museum and a research facility on the lands. The following site-specific R1 Zone provisions are recommended by Staff:

#### **Part 1 (new lot - future dwelling)**

Minimum lot frontage - 16.7 metres (R1 standard - 18 metres)  
 Minimum lot area - 425 square metres (R1 standard - 668 square metres)  
 Minimum front yard setback - 3.0 metres (R1 standard - 7.5 metres)  
 Minimum west interior side yard - 4.5 metres (R1 standard - 1.5 metres)  
 Maximum building height - 7.0 metres (R1 standard - 10 metres)

#### **Part 2 (retained lot - existing heritage designated dwelling)**

Minimum lot area - 365 square metres (R1 standard - 668 square metres)  
 Minimum front yard setback - as existing  
 Minimum interior side yard setback - as existing  
 Minimum exterior side yard setback - as existing  
 Minimum rear yard setback - as existing  
 Minimum dwelling floor area - as existing  
 Maximum building height - as existing  
 Minimum accessory building exterior side yard setback - as existing

There are no changes proposed to the existing house and accessory building on Part 2 and the provisions relate to the historic location of the structures. The only new provision is for lot area based on the proposed lot line for the future severance.

The proposed frontages and areas of Part 1 and Part 2 are similar to the abutting lots to the west on John Street West. The requested 3 metre front yard setback to a future dwelling on Part 1 is the same as the requirement for the homes directly to the west - the setback would provide a consistent streetscape. These abutting lots and their zone regulations were approved in 2001 through Consent and Minor Variance applications. The reduction in maximum building height for a new dwelling is in accordance with the MHC recommendation. The applicant has agreed to an increased setback for the west side yard which addresses concerns raised by the neighbour and would allow space for vehicle parking in the side yard rather than in front of the dwelling.

The proposed R1 zoning for the severed and retained lands is an appropriate zone category to accommodate the existing dwelling on Part 2 and future residential development on Part 1. All remaining provisions of the R1 zone are to be maintained on the subject lands. A draft Zoning By-law Amendment is attached as **Appendix V** to this report.

#### **5.4 Consultation**

The Application was circulated to Town departments and external agencies for review and comment. Public notice of the Application was provided as required by the *Planning Act*. An electronic Open House was held on January 30, 2023. A statutory Public Meeting was held on February 14, 2023. Written comments submitted by the public and agencies are included in **Appendix VI** to this report, and summarized as follows:

##### 5.4.1 Town Departments

Building – No objections.

Fire – No objections.

Finance – No objections.

Heritage – The submitted HIA was considered and reviewed by MHC on May 3, 2023.

Heritage comments have been outlined throughout the analysis of the report above.

Operations – No objections.

##### 5.4.2 External Agencies

Canada Post – No objections.

Niagara Region – No objections.

##### 5.4.3 Public

Two residents attended the virtual Open House and the Public Meeting. Three public comments were received in objection to the proposed application. Public comments are summarized below:

- Additional dwelling would result in a crowded streetscape and contrast with the surrounding neighbourhood
- Proposal is a violation of greenspace and heritage character
- The heritage building and its property need to be maintained and not be altered
- The provincial housing crisis should not have any bearing on the development of a designated heritage property

Comments on the proposal as it relates to the neighbourhood character and heritage designation of the property are provided throughout this report.

## **6. STRATEGIC PLAN**

The content of this report supports the following Strategic Plan initiatives:

### **Pillar(s)**

1. Protect Distinctive Community Assets

### **Objective(s)**

1.1 Preserve unique community elements

### **Tactic(s)**

1.1 b) Support residences and businesses in protecting their valuable heritage assets

### **Pillar(s)**

2. Deliver Smart Balanced Growth

### **Objective(s)**

2.2 Develop smart, balanced growth

## **7. OPTIONS**

The Committee may approve, refuse, or modify the proposed Zoning By-law Amendment.

## **8. FINANCIAL IMPLICATIONS**

Not applicable.

## **9. ENVIRONMENTAL IMPLICATIONS**

Trees are located along the southern and western boundaries and are intended to remain. No trees are anticipated to be impacted based on the proposed building envelope.

## **10. COMMUNICATIONS**

Once Council has made a decision on the Application, notice of the decision will be given as required in the Planning Act. The decision of Council is subject to a 20-day appeal period. If no appeals are received during the appeal period, the decision of Council is final.

## **11. CONCLUSION**

Community and Development Services Staff recommend approval of Zoning By-law Amendment Application ZBA-21-2022 as detailed in this report since the Application meets *Planning Act* requirements, is consistent with the Provincial Policy Statement and conforms with the Growth Plan, Niagara Official Plan and Town Official Plan.

## **12. PREVIOUS REPORTS**

- A-56/00 Minor Variance Application & Encroachment Agreement By-law No. 3430-00
- Part IV Heritage Designation (By-law No. 3723-03)
- B-21/08 Consent Application – Refused
- MHC-08-053 – Ontario Heritage Permit Application – Severance Proposal
- MHC-13-049 – Ontario Heritage Permit Application – Sever lot from existing Part IV

- designated property at 507 Butler Street
- MHC-14-068 – Ontario Heritage Permit Application – Replace Cedar Roof (Accessory Building)
- CDS-23-013 (February 14, 2023) Information Report – Public Meeting – 507 Butler Street (ZBA-21-2022)
- CDS-23-104 (May 3, 2023) Municipal Heritage Committee – 507 Butler Street – Review of Heritage Impact Assessment

### 13. APPENDICES

- **Appendix I** – Concept Sketch
- **Appendix II** – Maps
- **Appendix III** – Designating By-law No. 3723-03 (507 Butler Street)
- **Appendix IV** – Planning Legislation and Policies
- **Appendix V** – Draft Zoning By-law Amendment
- **Appendix VI** – Agency and Public Comments

Respectfully submitted:

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