



Town of Niagara-on-the-Lake

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REPORT #: CDS-23-191

COMMITTEE DATE: 2023-10-03

DUE IN COUNCIL: 2023-10-25

REPORT TO: COTW-Planning

SUBJECT: 61 Melville Street
Official Plan Amendment Application OPA-02-2023
Zoning By-law Amendment ZBA-04-2023

1. RECOMMENDATION

It is respectfully recommended that:

- 1.1 The application for Official Plan Amendment (File No. OPA-02-2023) for lands municipally known as 61 Melville Street, be approved as detailed in this report;
- 1.2 The application for Zoning By-law Amendment (File No. ZBA-03-2023) for lands municipally known as 61 Melville Street, be approved as detailed in this report;
- 1.3 The draft Official Plan Amendment, attached as **Appendix IV** to this report, be forwarded to Council for adoption; and
- 1.4 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 Committee and Council regarding applications for an Official Plan Amendment and Zoning By-law Amendment (the “Applications”) for 61 Melville Street.
- The Applications are required to facilitate the development of a three-storey (12-metre high), 12-unit residential apartment with 24 parking spaces.
- The Applications request to redesignate the subject lands from “Marine Commercial” to “Medium Density Residential,” and rezone the subject lands from “Old Town Community Zoning District – Marine Commercial (MC) Zone” to “Old Town Community Zoning District – Residential Multiple (RM1) – Site Specific Zone.”
- The Zoning By-law Amendment proposes site-specific provisions to address lot coverage, landscaped open space, front yard setback, interior and exterior side yard setbacks, children’s play area, outdoor parking area setback, and covered porches and entrance steps.
- Staff recommend approval of the Applications, 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 policies.

3. PURPOSE

This report provides a recommendation to the Committee respecting Applications under the *Planning Act* seeking approval of an Official Plan Amendment and Zoning By-law Amendment for the subject lands known as 61 Melville Street.

The Applications request that the subject lands be redesignated from “Marine Commercial” to “Medium Density Residential,” and be rezoned from “Marine Commercial (MC)” to “Residential Multiple (RM1) – Site Specific” to facilitate the development of a three-storey (12-metre high), 12-unit residential apartment with 24 parking spaces. The site-specific zoning provisions are related to lot coverage, landscaped open space, front yard setback, interior and exterior side yard setbacks, children’s play area, outdoor parking area setback and covered porches and entrance steps.

A site plan showing the proposed development on the subject lands, as well as elevation drawings, are attached as **Appendix I**.

A future Site Plan Application will be submitted to the Town to permit the development of the residential apartment building. Site plan approval is subject to approval by the Director of Community and Development Services.

4. BACKGROUND

4.1 Site Description and Surrounding Lands

The subject lands are located on the west side of Melville Street, south side of Lockhart Street and north side of Delater Street, within the Urban Area in Old Town. The location of the subject lands is shown on **Map 1** of **Appendix II** to this report.

The subject lands currently contain a two-storey building (King George III Inn) and associated asphalt parking lot and have an area of 1,746 square metres (0.43 acres) with frontages of 36.5 metres along Delater Street, 26.56 metres along Lockhart Street, and 54.89 metres along Melville Street.

The surrounding lands contain residential, hotel and marine-related uses.

5. DISCUSSION / ANALYSIS

5.1 Policy and Legislative Framework

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

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

The Applications support the matters of provincial interest, are consistent with policy statements and conform to provincial plans and upper-tier and lower-tier 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 within a “settlement area” according to the Provincial Policy Statement, 2020 (the “PPS”), and within the “Delineated Built-up Area” according to A Place to Grow: Growth Plan for the Greater Golden Horseshoe, 2020 (the “Growth Plan”). The Niagara Official Plan, 2022 (the “NOP”), designates the subject lands as “Delineated Built-up Area.”

Policies in these plans encourage the achievement of complete communities through providing a range and mix of housing options and encourage residential intensification that more efficiently uses existing municipal infrastructure. The Applications would assist in achieving the Regional residential intensification target for development within the Delineated Built-up Area. The Applications also facilitate a better use of municipally serviced land by efficiently using the parcel within the Delineated Built-up Area for residential infill.

Provincial and Regional policies aim to protect and conserve archaeological resources, through prohibiting development on lands that are deemed to have archaeological potential unless archaeological resources have been evaluated and conserved. A Stage 1-2 Archaeological Assessment was submitted with the Applications, which concluded that further investigation of the lands is warranted through at least a Stage 3 Archaeological Assessment. Submission of the Stage 3 Archaeological Assessment, and any additional Assessments as required, as well as the Ministry of Citizenship and Multiculturalism acceptance letters for all completed Archaeological Assessments is required prior to any site alteration occurring on the subject lands. To ensure that the aforementioned documents are provided prior to development on the site, a Holding (H) provision has been included in the amending Zoning By-law, to be removed upon receipt of the required documents.

Provincial and Regional policies also aim to ensure the conservation of heritage attributes of protected heritage properties through new development. In this regard, a Heritage Impact Assessment (“HIA”) was submitted with the Applications and considered by the Town’s Municipal Heritage Committee during the July 12, 2023 meeting. The HIA was prepared as the subject property has been identified as having potential cultural heritage value or interest and is located adjacent to a listed heritage property (115 Delater Street) on the Municipal Heritage Register. The Town’s Municipal Heritage Committee provided the following recommendations:

1. The installation of a plaque on the proposed building, or within the landscaped gardens, to acknowledge the history of the building that is proposed for demolition and its relation to the larger historic Dock Area;
2. Juliet-type balconies are added to the north elevation (facing the waterfront) to enhance the historic relationship to the waterfront;
3. Window treatment be included on the rear (west) elevation of the proposed building to encourage a relationship with the residential area of the Dock Area neighbourhood;
4. That natural stone skirting be utilized with split face natural rubble; and
5. Waste management plan be considered.

The proposal has been refined to include the provision of natural stone on the building, in alignment with recommendation #4 above. The inclusion of this recommendation has resulted in a minor reduction to the proposed exterior side yard and proposed interior side yard setbacks of the building representing the thickness of the stone. The requested front yard setback has not been altered. The remaining recommendations of the Town's Municipal Heritage Committee will be addressed through the future Site Plan Application process.

Provincial and Regional policies address potential environmental contamination issues in accordance with O. Reg. 153/04, as amended. Since the subject lands have been utilized for commercial purposes and are proposed to be converted to a residential use, the applicant is required to file a Record of Site Condition ("RSC") on the Ministry of the Environment, Conservation and Parks Brownfields Environmental Site Registry prior to a change in land use to a more sensitive use (i.e., commercial to residential). The applicant has submitted Phase One and Phase Two Environmental Site Assessments with the Applications, indicating that a remediation strategy will be required related to concentrations of lead and mercury found on the property, as a result of past fill material added to the lands. A Holding (H) provision has been included in the amending Zoning By-law to ensure that the Record of Site Condition is filed prior to any site alteration on the subject lands and confirm that the lands are suitable for the proposed residential use.

Staff consider the Applications to be consistent with the PPS and conform with the Growth Plan and NOP.

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

The subject lands are designated "Marine Commercial" on Schedule B and "Built-up Area" on Schedule I-1 of the Town's Official Plan (the "Town OP"). The Town OP designation on the subject lands is shown on **Map 2** of **Appendix II** to this report.

The subject lands are located within the "Deferred Area" (Schedule B8) of the Dock Area Secondary Plan and, as such, the policies of the Dock Area Secondary Plan are not in force or effect for these lands.

The proposed redesignation of the subject lands to "Medium Density Residential" should not negatively impact the supply of "Marine Commercial" land available in the area. A large tract of "Marine Commercial" land exists on the south side of Ricardo Street (east of Queen's Landing). Changing the designation to residential will support compact built form in proximity to the existing commercial lands.

Similar to the policies of the PPS, Growth Plan and NOP, the Town OP supports the development of compact, vibrant, sustainable, integrated and complete communities. The Applications would allow for the development of a three-storey apartment building containing 12 residential units, which results in a net density of 27.9 units per acre (68.73 units per hectare). The Town OP policies for intensification require that medium density residential developments not exceed a maximum density of 12 units per acre (30 units per hectare), unless accompanied by a detailed site and area analysis demonstrating that there will be minimal impact on surrounding neighbourhoods and development.

Surrounding development includes a three-storey townhouse building along Melville Street, Lockhart Street and River Beach Drive (located to the north of the subject lands), a three-storey hotel (Harbour House Hotel) located at 85 Melville Street (located to the south of the subject lands), the Marina to the east and low density residential uses to the west. Staff is satisfied that the proposed apartment building should be compatible with the surrounding development. The proposal would provide additional housing options and contribute to the Town's intensification target within the Built-up Area. The Applications would also 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 Upper Canada Consultants, 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 contextual analysis and streetscape review forms part of the PJR, where over 70 lots were analysed in relation to the subject lands for land use compatibility purposes. The proposed three-storey apartment building can be considered in keeping with the lands immediately to the north and south of the subject property, and compatible with the surrounding neighbourhood as the front and side yard setbacks are similar to lots in the surrounding area. Lot coverage and landscaping vary in the surrounding area; however, due to the proposed building siting and landscaping proposed surrounding the building and site, Staff consider the proposal to be compatible with adjacent uses and the development should enhance the streetscape.

The proposal was considered by the Town's Urban Design Committee during the June 28, 2023 meeting. The Town's Urban Design Committee provided the following recommendation, as modified by Town Council on July 25, 2023:

1. Reconsider the tree choice and consider appropriate trees in the landscaping.

Landscaping details will be determined through the Site Plan Application stage. The above recommendation will be addressed during the future Site Plan application. The proposed trees on the subject lands will be required to align with the Town's Private Tree By-law No. 5139-19 for preferred trees.

Staff consider the Applications to conform to the applicable policies of the Town OP, and do not anticipate any land use compatibility concerns as a result of the proposed Amendment. A draft Official Plan Amendment is attached as **Appendix IV** to this report.

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's intent. The subject lands are designated "Commercial" on Schedule B2, and "Built Up Area" on Schedule B7, in the proposed Town of Niagara-on-the-Lake Official Plan (the "proposed Town OP").

Section 4.3 and 4.5 of the proposed Official Plan provide relevant background, objectives and policies for lands designated Built-up Area. Section 4.11 of the proposed Town OP provides relevant background, objectives and policies for lands designated Commercial. If the policies of the proposed Town OP were in force and effect, the proposal for a three-storey residential apartment building would warrant the submission of an Official Plan Amendment application.

5.2 Town of Niagara-on-the-Lake Zoning By-law 4316-09, as amended

The subject lands are zoned “Old Town Community Zoning District – Marine Commercial (MC) Zone” in the Town of Niagara-on-the-Lake Zoning By-law 4316-09, as amended. The existing Zoning on the lands is shown in **Map 3** of **Appendix II** to this report.

The Zoning By-law Amendment application proposes to rezone the subject lands to “Residential Multiple (RM1) Zone” with site-specific provisions to facilitate the development of the residential apartment building. Relief from the following provisions is requested: lot coverage, landscaped open space, front yard setback, interior side yard setback, exterior side yard setback, children’s play area, uncovered parking setback, covered porches, and entrance steps and uncovered porches.

Staff consider the proposed increase in lot coverage, and reduction in landscaped open space, front yard setback, interior side yard setback and exterior side yard setback to be appropriate and not impact the use of or compatibility with surrounding lands. The building placement close to the street is in keeping with urban design principles and similar to the existing structure on the lands. The proposed apartment provides on-site amenity space (patios, balconies, outdoor terrace, exercise room and a landscaped area) and there is nearby public open space (including the Ball’s Beach waterfront park). The applicant does not feel an equipped children’s play area is needed based on their intended market. The Staff recommendation for an exterior side yard setback for the outdoor parking area maintains sufficient space for screening. The requested setback of the front entry porch and steps similarly encourages engagement with the public realm. Staff do not anticipate any land use compatibility concerns as a result of the proposed Amendment.

The following charts illustrate the standard RM1 Zone provisions and the site-specific zoning provisions recommended by Staff:

Zone Requirement	RM1 Zone - Apartment	Site-Specific RM1 Zone
Maximum Lot Coverage	50%	67%
Minimum Landscaped Open Space	25%	20%
Minimum Front Yard (Melville Street) Setback	7.5 metres	2.0 metres to the main building face 0.6 metres to a covered porch
Minimum Interior Side Yard (northwest lot line) Setback	5.0 metres	3.5 metres to the main building 2.6 metres to a balcony 1.45 metres to the one-storey storage room portion of the building
Minimum Exterior Side Yard Setback	7.5 metres	0.95 metres

General Provision	Standard Requirement	Site-Specific RM1 Zone
Minimum Amenity Area	equipped children's play area (rate of 2.5 m ² per residential unit) with minimum size of 46 m ² and maximum size of 140 m ²	not required
Parking Space Requirements, Additional Provisions	uncovered surface parking areas shall be located no closer than 2 metres to any front or exterior lot line, and no closer than 1 metre to any rear or interior side lot line	uncovered outdoor parking area may be a minimum of 1 metre from an exterior lot line (Delater Street).
Permitted Yard Projections and Encroachments	unenclosed and uncovered porches and steps permitted to encroach 1.5 metres into required front or rear yard and 0.6 metres into required side yard	entrance steps and uncovered and unenclosed porches may be 0 metres from the front lot line (Melville Street)

The remaining standard RM1 Zone requirements will apply to the proposal. Staff recommend the inclusion of a Holding (H) provision in the amending By-law to ensure the submission of required documents related to archaeological resources and the change to a more sensitive land use. A draft Zoning By-law Amendment is attached as **Appendix V** to this report.

5.3 Consultation

The Applications were circulated to Town departments and external Agencies. Notice of the Applications were provided as required by the *Planning Act*. Comments received from external Agencies are attached as **Appendix VI** to this report with overall comments summarized below.

Town Comments

Building – No objection.

Finance – No objection.

Fire and Emergency Services – No objection.

Heritage – The proposal was reviewed by the Town's Municipal Heritage Committee at the meeting on July 12, 2023. The Committee provided five (5) recommendations, including the installation of a plaque, the introduction of balconies on the north elevation, window treatment on the rear elevation, the use of natural stone, and the consideration of a waste management plan. The proposal has been refined to include natural stone on the building. The remaining four (4) recommendations will be addressed through the future Site Plan Approval process.

Operations – No objection. Detailed servicing and design components to be implemented through the future Site Plan Approval process.

Urban Design – The proposal was reviewed by the Town’s Urban Design Committee at the meeting on June 28, 2023. The Committee recommended that the selection of trees to be provided on site be reconsidered, and to consider appropriate trees in the landscaping. These recommendations will be implemented through the future Site Plan Approval process.

Agency Comments

Enbridge Gas – No objection.

Hydro One – No objection.

Niagara Region – No objection, subject to the submission of additional Archaeological Assessment(s) and the filing of a Record of Site Condition. A Holding (H) provision has been included in the Amending By-law requiring the submission of these documents.

Public Comments

An electronic Open House was held on May 17, 2023. The comments and questions identified by the public have been summarized below:

- Will there be any traffic hazards as a result of the reduced setbacks to the streets?
- Will there be exterior illumination/lighting?
- How will snow removal be addressed?
- Can different construction materials (i.e., permeable pavers) be used for the exterior parking lot area?
- Concerns with short term rental use.

In response to the above, it is advised that the existing building abuts the street frontage along Lockhart Street and Melville Street, and there is an existing hedge and vegetation along the Delater Street frontage. The proposed building will be located further from the street frontage along Lockhart Street and Melville Street than the existing building, and the proposed building maintains similar setbacks to the townhouse development to the north and existing hotel to the south. With regard to lighting, snow removal and construction materials, these can be further discussed and addressed at the future Site Plan Application stage. The RM1 Zone does not permit a short term rental use.

Two (2) written comments were received, which noted concerns with height, the creation of a “canyon effect,” lack of exterior greenspace, and lack of setback to Delater Street to ease visual interruption.

The Zoning By-law Amendment requests to rezone the lands to “Residential Multiple (RM1) Zone” with site-specific provisions; the Amendment is not seeking to alter the permitted height of the RM1 zone (12.0 metres). Based on the current zoning applicable to the surrounding lands, new buildings within the area would be permitted to range in height from 8.5 metres to 10.5 metres; the height of the proposed building from existing grade is 10.5 metres to the parapet and 12.0 metres to the decorative roof features. Given that the height to the parapets is compatible with surrounding permitted uses, and the decorative roof features are proposed to be 1.5 metres higher, Staff do not anticipate that the minor increase in height permitted in

the RM1 Zone would result in incompatibility of the proposed use. The Zoning By-law Amendment requests to reduce the minimum landscaped open space requirement from 25% (approximately 436.5 square metres) to 20% (349.2 square metres), which is a difference of 87.3 square metres. Staff consider this requested reduction to be minor and acknowledge that the landscape plan submitted proposes suitable areas for landscaping to buffer the building from the adjacent land uses and streets. As provided with the Height Massing Schematic, the height of the proposal is not anticipated to impact views to the waterfront given existing surrounding development.

The statutory Public Meeting was held on June 13, 2023; five (5) residents provided comments which offered support for the design of the building and also concerns summarized as follows:

- Reduce parking allocation per unit to provide more landscaping.
- Concerns with snow removal.
- Elevations facing Lockhart Street and Delater Street should be increased.
- Lighting and mechanical equipment should not have an impact on surrounding dwellings.
- Eliminate ability to have short term rentals in the units.
- General concerns regarding requests to change the provisions of the Zoning By-law.
- How will stormwater run-off be managed?
- Want the waterfront to be accessible.
- Concerns with shadows.

Items including snow removal, landscaping, lighting, mechanical equipment, and stormwater run-off will be addressed as part of the future Site Plan Application process. With regard to parking allocation, the applicant maintains the request to provide for two (2) parking spaces per unit (the Town Zoning By-law requirement is 1 parking space per unit) . The height of the proposed building is similar to the maximum height permitted under the existing MC zoning on the subject lands.

Staff has advised residents that spoke at the Public Meeting or submitted written comments of the Committee's consideration of the Applications this evening.

6. STRATEGIC PLAN

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

Pillar

1. Vibrant & Complete Community

Priority

1.1 Planning for Progress

7. OPTIONS

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

8. FINANCIAL IMPLICATIONS

Not applicable.

9. ENVIRONMENTAL IMPLICATIONS

Not applicable.

10. COMMUNICATIONS

Once Council has made a decision on the Applications, 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 Official Plan Amendment Application OPA-02-2023 and Zoning By-law Amendment Application ZBA-04-2023 as detailed in this report, since the Applications meet *Planning Act* requirements, are consistent with the Provincial Policy Statement, and conform with the Growth Plan, Niagara Official Plan and Town Official Plan.

12. PREVIOUS REPORTS

- **CDS-23-111** – Public Meeting – 61 Melville Street, Information Report – June 13, 2023

13. APPENDICES

- **Appendix I** – Site Plan and Elevations
- **Appendix II** – Maps
- **Appendix III** – Planning Legislation and Policies
- **Appendix IV** – Draft Official Plan Amendment
- **Appendix V** – Draft Zoning By-law Amendment
- **Appendix VI** – Agency Comments

Respectfully submitted:

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