



Town of Niagara-on-the-Lake

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REPORT #: CDS-23-256 **COMMITTEE DATE:** 2022-12-05
REPORT TO: COTW-Planning **DUE IN COUNCIL:** 2022-12-12
SUBJECT: 451 Line 1 Road Zoning By-law Amendment Application ZBA-21-2023

1. RECOMMENDATION

It is respectfully recommended that:

- 1.1 The application for Zoning By-law Amendment (File ZBA-21-2023) for lands municipally known as 451 Line 1 Road be approved as detailed in this report; and
- 1.2 The draft Zoning By-law Amendment, attached as **Appendix IV** 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 a Zoning By-law Amendment (the “Application”) for 451 Line 1 Road.
- The Application proposes to rezone the subject lands from “Virgil Community Zoning District - Residential Development (RD) Zone” to “Virgil Community Zoning District - Residential (R2) Site-Specific Zone”. The requested site-specific provisions are for maximum lot coverage, minimum front yard setbacks, maximum projection of attached uncovered and/or covered and unenclosed porches, decks and patios into a required rear yard and required front yard.
- The Amendment is required as a condition of Consent to facilitate severances (Consent applications File B-28/23 and File B-29/23) to create a total of three lots for new single-detached dwellings. The Committee of Adjustment granted provisional approval to these related applications on October 19, 2023.
- Staff recommend 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 policies.

3. PURPOSE

This report provides a recommendation to the Committee respecting an Application under the *Planning Act* seeking approval of a Zoning By-law Amendment for the subject lands known as 451 Line 1 Road.

The application has been received for a Zoning By-law Amendment to rezone the subject lands from “Virgil Community Zoning District - Residential Development (RD) Zone” to “Virgil Community Zoning District - Residential (R2) Site-Specific Zone”. The requested site-specific provisions are for maximum lot coverage, minimum front yard setbacks, maximum projection of

attached uncovered and/or covered and unenclosed porches, decks and patios into a required rear yard and required front yard.

The Amendment would satisfy a condition of Consent applications (File B-28/23 and File B-29/23) that were granted provisional approval by the Town's Committee of Adjustment on October 19, 2023, to facilitate a severance to create a total of three lots (Parts 1, 2 and 3) for new single-detached dwellings.

The submitted Application drawing showing the proposed lots and dwelling concepts are attached as **Appendix I**.

4. BACKGROUND

4.1 Site Description and Surrounding Lands

The subject lands are known municipally as 451 Line 1 Road, located on the southwest corner of Line 1 Road and Oakley Drive, within the settlement area of Virgil. The location of the subject lands is shown on **Map 1** of **Appendix II** of this report.

The subject lands form a rectangular parcel that is approximately 1,767 square metres in area with 22.69 metres of frontage on Line 1 Road and flankage of 77.8 metres on Oakley Drive. The land previously contained a single-detached dwelling with an attached garage fronting Line 1 Road; however, these structures have been demolished, and the land is now vacant.

Surrounding lands are characterized by residential and agricultural uses. Directly south of the property is the stormwater management pond for the Konik Estates (Phase One) Subdivision.

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 III** 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 upper-tier and lower-tier Official Plans, as demonstrated in the analysis provided in the following sections of this report.

5.1.2 Provincial Policy Statement, 2020

The subject lands are designated as being within a "settlement area" according to the Provincial Policy Statement (the "PPS").

The PPS indicates growth and development are intended to be directed primarily to settlement areas. The Town is encouraged to develop healthy, livable, and safe communities by:

- accommodating an appropriate range and mix of uses;
- efficiently using land and public infrastructure;
- promoting the integration of land use planning, growth management, intensification,

- and infrastructure planning to achieve cost-effective development patterns;
- supporting active transportation; and
- preparing for climate change.

The proposed application will increase the density of urban lands, by proposing to add single-detached dwellings to underutilized lands with access to existing municipal services and infrastructure.

Staff consider the Application to be consistent with the relevant policies of the PPS.

5.1.3 A Place to Grow: Growth Plan for the Greater Golden Horseshoe, 2020

The subject lands are within a “Designated Greenfield Area” with respect to the policies of the Growth Plan for the Greater Golden Horseshoe (the “Growth Plan”). The Growth Plan sets out policies and direction for managing growth in a designated greenfield area.

The Growth Plan states that municipalities should be supporting the achievement of complete communities that:

- feature a diverse mix of land uses, including residential and employment uses, and convenient access to local stores, services, and public service facilities;
- improve social equity and quality of life;
- provide convenient access to transportation options, public services, open spaces/parks, and food options;
- provide for a compact built form and vibrant public realm; and
- mitigate climate change.

The Growth Plan also states that new development taking place in designated greenfield areas will be planned, designated, zoned and designed in a manner that supports the achievement of complete communities, supports active transportation, and encourages the integration and sustained viability of transit services.

The proposed application would support the Town in the achievement of complete communities by increasing the density of the subject lands, providing for a more compact built form, and increasing the Town’s housing supply to help accommodate forecasted growth.

Staff consider the Application to be consistent with the relevant policies of the Growth Plan.

5.1.4 Niagara Official Plan, 2022

The new Niagara Official Plan (the “NOP”) was approved by the Minister of Municipal Affairs and Housing on November 4, 2022, and applies to the proposal. The subject lands are identified as being within the “Designated Greenfield Area” in the NOP.

The NOP contains policies which encourage the development of Designated Greenfield Areas into complete communities that achieve a minimum density target of 50 residents and jobs combined per hectare.

The NOP also states that designated greenfield areas will be planned as complete communities by ensuring that development is sequential, orderly and contiguous with existing built-up area, ensuring infrastructure capacity is available, and supporting active transportation and encouraging the integration and sustained viability of public transit service.

To meet the objective of providing a mix of housing options, the NOP states that the development of a range and mix of densities, lot and unit sizes, and housing types, including affordable and attainable housing, will be planned throughout settlement areas to meet housing needs at all stages of life.

In accordance with Regional policies, the proposed application will increase the residential density of the subject lands from formerly one single-detached dwelling to three single-detached dwellings. The densification of the lands with access to municipal services minimizes land consumption and reduces the cost of municipal water and wastewater systems/services. Town staff is of the opinion that the proposed application fits the character of the neighbourhood by proposing a minor density increase and proposing parcels similar in shape and size of surrounding lands.

According to the Planning Justification Report (prepared by Upper Canada Consulting and dated August 2023) submitted with the applications, the proposed severances will yield a density of approximately 52.81 people and jobs per hectare, exceeding the minimum greenfield density target set by the Region.

Regional Staff provided comments to indicate the proposed application meets the intent of Regional and Provincial policies.

Both Town Staff and Regional Staff are of the opinion that the Zoning By-law Amendment Application conforms to the relevant policies of the NOP.

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

The subject lands are designated “Low Density Residential” on Schedule C and “Greenfield Areas” on Schedule I-2 in the Town’s Official Plan (the “Town OP”) – see **Map 2** in **Appendix II** to this report.

The Town’s greenfield development strategy objectives are:

- Promote compact, mixed use and transit supportive development on Greenfield lands;
- Promote appropriate densities with a mix of housing types on Greenfield lands;
- Improve connections between Greenfield areas and the Built-up Area; and
- Niagara-on-the-Lake's Greenfield Areas will be planned to support the achievement of the target of 50 residents and jobs combined per gross hectare in Greenfield areas.

The Town OP states that development should be permitted in locations where demands on public services will be minimized, urban areas, or where it can most effectively utilize existing services. Single-detached dwellings are a permitted use for areas designated “Low Density Residential” and “Greenfield Areas” in the Town OP.

The proposed application proposes development on lands with existing water, sanitary and stormwater services. Water, sanitary, and storm services were installed along Oakley Drive as part of the Konik Estates (Phase One) development. Existing water and sanitary services also exist along Line 1 Road. Cost of connecting the proposed development to existing services would be borne by the developer.

The Town OP requires that archaeological assessments be carried out to determine whether archaeological resources exist on a subject property. Accordingly, a Stage 1 & 2 Archaeological Assessment was conducted on the subject lands by Detritus Consulting Ltd (dated October 2022). The archeological assessment of the study area did not identify any archaeological resources; therefore, no additional archaeological assessment of the study area is recommended. Town staff have no further heritage concerns.

The Town OP also states that generally, trees are not to be removed unless necessary, and wherever possible, existing trees should be preserved and protected. In urban areas, where trees are to be removed, the proponent shall plant trees of a similar or comparable species on the site with a minimum caliper acceptable to the Town. No trees are anticipated to be removed to accommodate the development of the proposed lots.

Staff consider the Application to conform to the applicable policies of the Town OP.

5.1.6 Town of Niagara-on-the-Lake Official Plan Amendment #78

Town Council approved Official Plan Amendment 78 (OPA 78) to the existing Official Plan in November 2019. It was subsequently appealed to the Ontario Land Tribunal. OPA 78 provides additional complementary policies for residential infill and intensification in Old Town and Virgil. OPA 78 came into effect on September 30, 2022, following notice from the Ontario Land Tribunal that the appeal to the amendment was withdrawn.

OPA 78 outlines development criteria for infill development to respect and reflect the existing pattern and character of adjacent development, where frontages, lot areas, heights, setbacks and designs are to be complimentary the surrounding neighbourhood.

Staff are of the opinion that the proposed lots are generally consistent with the overall size and configuration of the existing lots in the area. The proposed application would facilitate the development of residential dwellings that would be of a height, mass, and scale generally consistent with nearby properties. The subject lands do not contain significant public views and vistas that help define a residential neighbourhood. Therefore, the orientation of the lots would have no adverse impacts on public views.

Staff consider the Application to conform to the applicable policies of OPA 78.

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

Council adopted a proposed new Official Plan in November 2019. The adopted Official Plan has not been approved and is therefore not in effect but represents Council's intent. The subject lands are designated "Residential" on Schedule B3 of the adopted Official Plan.

Section 4.10 of the proposed Official Plan provides relevant background, objectives and policies for lands designated Residential, including permissions for single-detached dwellings.

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

The subject lands are zoned “Residential Development (RD) Zone” according to Zoning By-law 4316-09 (as amended) – see **Map 3** in **Appendix II**. The RD Zone is a development zone for future residential purposes. Permitted uses of this zone are limited to “existing uses” and the zoning provisions are limited to “as existing”.

A Zoning By-law Amendment application is required to zone the lands appropriately for future proposed development. The applicant is requesting to rezone the property to a Residential (R2) Zone. Single-detached dwellings are a permitted use.

Staff has evaluated the requested site-specific Zone provisions. The following chart provides information on the recommended provisions in comparison to the R2 standards:

Zone Requirement	R2 Zone	Site Specific R2 Zone
Maximum Lot Coverage	40%	45% + 5% for attached covered, and unenclosed porches, decks, and patios
Minimum Front Yard Setback	6 metres	Building Face: 4.5 metres Garage Face: 6.0 metres
Minimum Exterior Side Yard Setback to Front Face of a Garage	no provision	6.0 metres
Maximum Projection of Attached Uncovered and Covered (1-storey) and Unenclosed Porches, Decks and Patios into a Required Rear Yard	1.5 metres (uncovered)	3.7 metres
Maximum Projection of Attached Uncovered and Covered (1-storey) and Unenclosed Porches, Decks and Patios into a Required Front Yard	1.5 metres (uncovered)	1.5 metres
Maximum garage door width	no provision	50% of the width of the dwelling facade

The proposed lots satisfy the minimum lot frontage and minimum lot area requirements of the R2 Zone. The remaining standard provisions of the R2 Zone and Zoning By-law 4316-09, as amended, such as maximum height (10 metres), minimum landscaped open space (25%) and side yard setbacks (interior - 1.2 metres; exterior - 4.5 metres) would continue to apply.

The intent of the maximum lot coverage provision is to ensure that adequate open space on a lot is provided for privacy, landscaping, access, and drainage. The applicant is requesting a lot coverage of 45% + 5% for attached covered, and unenclosed porches, decks, and patios, whereas the Zoning By-law limits the lot coverage to a maximum of 40%. Town Operation Staff have provided comments stating no objections related to any potential drainage issues in particular. The additional lot coverage for covered porches would also permit some usable sheltered amenity space. Staff are of the opinion that the requested amendment to give a

minor increase in lot coverage is in keeping with the intent of the Zoning By-law, and still provides for privacy, spacing between dwellings and appropriate drainage of the lands.

The intent of the front yard setback is to ensure there is adequate separation between private property and the public realm, maintain the overall streetscape and provide adequate front yard area for landscaping and privacy. The requested amendment proposes a minimum front yard setback of 4.5 metres to the dwelling and 6.0 metres to the garage. According to the Planning Justification Report dated August 2023, the applicant is requesting a 4.5-metre minimum front yard setback to the dwelling face to provide a consistent built form to an adjacent development to the south and east (Konik Estates). The Konik Estates subdivision to the south and east of the subject lands are zoned R2-37, which consists of the same minimum front yard setbacks to the dwelling and garage as those proposed for the subject lands. The reduced minimum front yard setback also allows the main dwelling façade to be closer to the street line in accordance with urban design principles.

The 6-metre setback to the garage portion of a house provides adequate space for parking in the driveway and ensures the garage is subordinate (further from the street) to the main portion of the dwelling. In addition, a limitation on the width of garage doors in relation to the width of the dwelling façade to a maximum of 50% is also recommended by Staff and consistent with previous approvals for recent new development. This provision would assist in creating a more desirable streetscape on Oakley Drive and Line 1 Road.

The intent of the maximum projection requirements is to provide an adequate buffer between structures on abutting lands and provide sufficient space for access, maintenance, landscaping, amenity and drainage. The Zoning By-law allows uncovered and unenclosed porches, decks and patios to project 1.5 metres into the minimum front yard and minimum rear yard setbacks. The requested amendment would permit covered and unenclosed porches, decks and patios to project 1.5 metres into the front yard setback, and a maximum projection of 3.7 metres into the rear yard setback.

The proposed covered front porches would create a more pedestrian-scaled front façade of the dwelling promoting neighbourhood interaction and would provide additional architectural character and weather protection at the main entrance. The proposed projection of the covered rear yard porches/patios/decks allows for a sheltered private amenity space. The size of the covered area is to be controlled by the lot coverage provision and should maintain adequate open space in the rear yard and separation to abutting properties. Staff has included a recommendation to limit the height of any covered porch, deck and patio to 1-storey to address compatibility.

Staff believe that the proposed amendment is appropriate for the site. The proposed lotting and future single-detached dwellings align with the Town's Official Plan guidance for urban design, including the bulk, mass and scale of new development, the garage being setback from the front face of the dwelling, and having front yard porches and entry features. The draft Zoning By-law Amendment is attached as **Appendix IV** to this report.

5.3 Consultation

This Application was circulated to Town departments and external Agencies. Notice of the application was provided as required by the *Planning Act*. Comments received are attached as **Appendix V** to this report with overall comments summarized below.

Town Comments

Accessibility – No objection.

Finance – No objection.

Fire – No objection. Driveways to be coordinated with fire hydrant locations.

Heritage – No objection.

Operations – No objection.

Agency Comments

Enbridge Gas – No objection.

Niagara Peninsula Conservation Authority - No objection.

Niagara Region – No objection.

Public Comments

An electronic Open House was held on October 23, 2023. One resident attended the Open House and provided the following comments:

- Wants the trees on/near the property line to stay.
- Concerned about the proposed decks being too close to the property line.

The statutory Public Meeting was held on November 7, 2023, and there were no attendees.

Staff has received written comments from a resident and a local developer as follows:

- Concerned about the reduced front yard setbacks.
- Concerned about the increase in street parking and traffic congestion near the existing Canada Post super mailboxes.
- Support for the proposed new dwellings at the entrance to the subdivision development in the area.

Staff have addressed comments received throughout this report.

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

Action

1.1 b) Planning for Progress Initiatives

7. OPTIONS

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

8. FINANCIAL IMPLICATIONS

Not applicable.

9. ENVIRONMENTAL IMPLICATIONS

No trees are anticipated to be removed to accommodate the development of the proposed lots.

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-21-2023 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

- **CDS-23-227** – Committee of Adjustment – 451 Line 1 Road, Staff Recommendation Report (October 19, 2023)
- **CDS-23-225** - Public Meeting – 451 Line 1 Road, Information Report (November 7, 2023)

13. APPENDICES

- **Appendix I** – Application Drawing
- **Appendix II** – Maps
- **Appendix III** – Planning Legislation and Policies
- **Appendix IV** – Draft Zoning By-law Amendment
- **Appendix V** – Agency and Public Comments

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