



## Town of Niagara-on-the-Lake

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**REPORT #:** CDS-24-084 **COMMITTEE DATE:** 2024-06-11  
**REPORT TO:** COTW-Planning **DUE IN COUNCIL:** 2024-06-25  
**SUBJECT:** 489 Regent Street  
Zoning By-law Amendment ZBA-06-2024

### 1. RECOMMENDATION

It is respectfully recommended that:

- 1.1 The Application for Zoning By-law Amendment (File No. ZBA-06-2024) for lands known municipally as 489 Regent Street be approved as detailed in this report and 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 Committee and Council regarding an application for Zoning By-law Amendment (the “Application”) for 489 Regent Street.
- The Application requests to rezone the subject lands from “Old Town Community Zoning District – Established Residential (ER) Zone” to “Old Town Community Zoning District – Established Residential (ER) Site-Specific Zone” to facilitate the creation of a total of two residential lots on the property.
- Since the current ER zone recognizes lot frontage and lot depth to be “as existing” on the date of the passing of Zoning By-law 4316-09, the Zoning By-law Amendment Application is required to facilitate a future Consent application to create a total of two residential lots for single-detached dwellings.
- Both lots would contain site-specific provisions for required lot frontage. The retained lot, containing the existing dwelling, would include provisions to recognize an existing air conditioning unit within the side yard and permit a reduced interior side yard setback for an existing chimney. The severed lot would incorporate provisions for garage setback and garage door width for the future 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 policies.

### 3. PURPOSE

This report provides a recommendation to Committee and Council respecting an application under the *Planning Act* seeking approval of a Zoning By-law Amendment to rezone the subject lands known as 489 Regent Street.

The Amendment proposes to rezone the subject lands from “Old Town Community Zoning District – Established Residential (ER) Zone” to “Old Town Community Zoning District – Established Residential (ER) Site-Specific Zone” to recognize site-specific provisions for required lot frontage, and site-specific requirements for the existing dwelling, in order to facilitate the future creation of one new residential lot for a total of two residential lots.

Part 1 is proposed to have a lot frontage of 15.50 metres on Regent Street, with an area of 737 square metres, and contains an existing concrete platform in the northwest corner of the property.

Part 2 is proposed to have a lot frontage of 19.33 metres on Regent Street, with an area 927 square metres, and contains an existing single-detached dwelling that is connected to municipal water and sanitary services.

A severance sketch showing the proposed Parts and existing dwelling footprint on the retained lot (Part 2) is attached as **Appendix I** to this report.

#### **4. BACKGROUND**

The subject lands are known municipally as 489 Regent Street, located on the west side of Regent Street, between Mary Street and John Street West, within the urban area of Old Town. The location of the subject lands is shown on **Map 1** of **Appendix II** to this report.

The subject lands have a total lot area of approximately 1,664 square metres with 34.83 metres of frontage on Regent Street, and contain a single-detached dwelling and concrete platform.

The surrounding lands include residential and hospitality/commercial uses.

The Application was deemed complete on April 10, 2024.

#### **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*

Section 2 of the *Planning Act* identifies matters of Provincial interest that Council shall have regard for in carrying out its responsibilities under the *Planning Act*. Subsection 3(5) of the *Planning Act* requires that decisions of Council shall be consistent with provincial policy statements and shall conform with provincial plans that are in effect.

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 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 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 Official Plan, 2022 (the “NOP”), designates the subject lands as being within the “Delineated Built-Up 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 in relation to the surrounding area and achieving the goals of the applicable legislative documents.

The Application facilitates a more efficient use of municipally serviced lands within the built-up area by accommodating appropriate residential infill through the severance of a large residential parcel. The existing dwelling on the subject lands would remain on Part 2, and the proposed severed lot (Part 1) would allow for the construction of a single-detached dwelling. The Application achieves the goals of complete communities by providing additional housing options where this is convenient access to services, employment, parks and other public facilities. The proposal also promotes active transportation in Old Town by allowing for easy access to a variety of services and shops that are within walking or cycling distance.

The NOP outlines a minimum population of 28,900 people and 17,610 jobs in Niagara-on-the-Lake by the year 2051. Furthermore, an intensification target of 1,150 units (or a rate of 25%) to the Built-up Area is designated for the Town. The Application would retain the existing dwelling and facilitate the construction of one new single-detached dwelling, for a total of two dwellings, and contributes to the forecasted growth and intensification targets.

A Stage 1-2 Archaeological Assessment Report, prepared by AMICK Consultants Limited, dated January 23, 2024, was completed for the subject lands and has cleared the site of further archaeological concern. An acknowledgment letter from the Ministry of Citizenship and Multiculturalism was submitted, concluding that the archaeological work was completed in accordance with Provincial standards.

Staff consider the Application to be consistent with the PPS and conform with the Growth Plan and Niagara Official Plan.

### 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 12 units per hectare (4.86 units per acre). The Town OP policies for intensification indicate that the minimum density is 14 units per hectare and the maximum density is 30 units per hectare. While the proposed density of the Application falls short of the minimum density outlined, the creation of one new lot will more efficiently utilize an oversized

residential parcel and existing municipal services. The Application supports additional growth and contributes to the Town's current intensification target within the Built-up Area. Therefore, Staff are of the opinion that the Application results in a density that is consistent with the surrounding neighbourhood and supports appropriate growth within the urban area.

A Planning Justification Report ("PJR") was prepared by NPG Planning Solutions Inc., dated March 2024, and submitted in support of the proposed Application. The PJR provides analysis relating to applicable provincial, regional and town policies, as well as findings from supporting studies and discusses any potential impacts to the surrounding area as a result of the proposal. A Streetscape Analysis was included in the PJR and addressed compatibility with the surrounding area, analysing the block face of Regent Street between John Street West and Mary Street. In total, eight (8) properties were evaluated, including the subject lands with the proposed severance being considered. The lot sizes and configurations vary along both sides of Regent Street, with no consistent standard for lot frontages, depths, or areas. The frontages along the west side of Regent Street vary between 16 metres and 30 metres. Two residential properties directly north of the subject lands provide similar frontages as the proposed 15.5 metre frontage on the severed lot, allowing for an appropriate transition between differing lot frontages. The frontages of the proposed lots are also consistent with other lots in the surrounding area along the south side of Mary Street and west of Regent Street. The proposed lot configurations are rectangular in nature, remaining consistent with the surrounding parcel fabric.

Through the future application for consent to sever the lands, the applicant proposes to create two lots with configurations that are comparable and consistent with the surrounding neighbourhood. The new lot would accommodate a future single-detached dwelling, which is the prominent use in the immediate area and would maintain standard height, coverage and setback provisions for the Established Residential (ER) Zone under the Town Zoning By-law 4316-09 (as amended). It is anticipated that a condition of approval will be recommended for the Consent application to require Urban Design Committee review of the proposed dwelling prior to its construction. Staff are of the opinion that the two proposed lots are consistent and appropriate with the surrounding area.

The policies of Official Plan Amendment #78 (OPA #78) apply to the review of this application. The proposed lot configurations are in keeping with the surrounding lands, standard setbacks of the existing zoning in the established neighbourhood continue to apply, provisions for garages have been incorporated in the proposed amendment for the future new dwelling, and municipal services would be used more efficiently. Overall, the Application is consistent with the policy intent of OPA #78.

The Town OP directs that existing trees must not be unnecessarily removed and that wherever possible, existing trees should be preserved and protected. The Town OP further states that within urban areas, where it is unavoidable that trees be removed, the proponent must plant trees of a similar or comparable species on the site or elsewhere in the Town, to the Town's satisfaction.

A Tree Inventory and Preservation Plan Report, prepared by Jackson Arboriculture Inc., dated January 24, 2024, was submitted to evaluate the trees on or in proximity to the subject lands. The report considered all trees on and adjacent to the subject lands and further concluded that out of the 15 trees on-site, four (4) are identified for removal on the severed lot to accommodate the proposed dwelling. The remaining trees on the retained and severed lots will be preserved and protected. For future construction on the severed lot, the Tree Preservation Plan has identified tree protection zones in the form of fencing to ensure the retained trees are not impacted by development. Some of the trees proposed for removal could be defined as boundary trees, possibly shared with 481 Regent Street. The removal of boundary trees may require the submission of a “Declaration of Adjacent Property Owner” form where the adjacent owner is to consent to the tree to be removed under the provisions of By-law 5139-19, which regulates the destruction or injuring of trees on private property within the urban areas. The Town will require an application to facilitate any tree removals and will implement replanting conditions and fees at that time. Conditions relating to the recommendations of the tree preservation report will be imposed during the future Consent application.

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’s 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 relating to intensification, efficient use of land and infrastructure and land use compatibility criteria.

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

The subject lands are zoned “Old Town Community Zoning District – Established Residential (ER) Zone” in 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 ER zone recognizes the lot frontage to be “as existing” for lots as of the date of passing Zoning By-law 4316-09. In order to facilitate a future Consent application to sever the lands into two lots, the Application is proposing to rezone both severed and retained parcels to site-specific ER zones to address proposed lot frontages. Provisions to limit the dominance of garages are also recommended on the severed lot for the future dwelling.

Through the review of the application, it was determined that additional provisions were required to address existing conditions on the retained lot. Staff confirmed via a site visit that the severance sketch on **Appendix I** does not show the recently constructed front porch, rear deck and existing air conditioning unit. Site-specific provisions for the retained dwelling have been incorporated to recognize the location of the existing air conditioning unit, and the reduced side yard setback to the existing chimney bump out.

The following site-specific ER zone provisions are recommended by Staff for the subject lands:

<b>Part 1 (Site-Specific ER Zone) – new vacant lot</b>		
<b>Zone Requirement</b>	<b>ER Zone</b>	<b>Site-Specific ER Zone</b>
Minimum lot frontage	As existing	15 metres
A detached or attached garage shall be setback a minimum of 1 metre behind the main façade of the dwelling on the ground floor		
The door(s) of an attached garage shall not occupy more than 50% of the width of the dwelling façade		

<b>Part 2 (Site-Specific ER Zone) – lot with existing dwelling</b>		
<b>Zone Requirement</b>	<b>ER Zone</b>	<b>Site-Specific ER Zone</b>
Minimum lot frontage	As existing	19 metres
Interior side yard setback to existing chimney with foundation	1.22 metres	1 metre
The existing operating apparatus (air conditioning unit) is permitted in the northeastern interior side yard		Zoning By-law standard does permit operating apparatus in an interior side yard

The proposed side yard setback provision for the existing chimney is not anticipated pose adverse impacts to the adjacent lands, as sufficient separation between the building and lot line is provided. The existing air conditioning unit was identified through site visits and is further recognized in the by-law as being within the interior side yard. The standard general provisions of Zoning By-law 4316-09 (as amended) only permit operating apparatus (i.e. air conditioning units) in the front yard, exterior side yard and rear yards. The air conditioning unit is existing and any further changes to it would be subject to the standard provisions of the Zoning By-law.

The applicant is not proposing to amend provisions for general setbacks, coverage and height on the severed lot (Part 1). The proposed site-specific ER zone is an appropriate category to accommodate the proposed residential lots and a future dwelling. All remaining provisions of the ER zone and Zoning By-law 4316-09 (as amended) are to be maintained on the subject lands. Staff are supportive of the draft Zoning By-law Amendment, attached as **Appendix IV** to this report.

### **5.3 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*. Comments submitted by the public and agencies are included in **Appendix V** to this report, and summarized as follows:

#### 5.3.1 Town Departments

**Building** – The applicant will be required to submit an accurate site plan drawing as a part of the building permit application review to reflect the existing dwelling. A demolition permit will be

required as a condition of the future Consent application for the shed that was removed on the severed lot (concrete platform shown on Part 1).

Finance – No objection.

Fire and Emergency Services – No objection.

Heritage – No objection.

Operations – No objection. Technical requirements will be addressed at the future Consent application with respect to driveway access and servicing.

Urban Forestry – No objection. The landowner is required to submit an application to facilitate the proposed tree removals, and replanting conditions and fees will be indicated at that time. Conditions of the future Consent application are anticipated with respect to tree removals and replanting.

### 5.3.2 External Agencies

Enbridge – No objection.

Niagara Region – No objection.

### 5.3.3 Public

An electronic Open House was held on April 22, 2024 and no members of the public attended. The statutory Public Meeting was held on May 7, 2024 and two (2) members of the public provided comments in objection to the proposed Application. One (1) formal letter was received outlining issues with the proposal (included in **Appendix V**). The following concerns have been raised:

- Potential massing and scale of future dwelling
- Loss of privacy
- Implications of lot grading
- Tree preservation and previous tree removal

The applicant is not requesting site-specific reductions to standard zoning provisions for the severed lot, and the future dwelling is expected to fit into the context of the surrounding area. Urban Design Committee review may be required as a condition of Consent prior to any building permit for a new dwelling on the severed lot. As standard setbacks are being maintained, Staff believe that a new dwelling would not result in any privacy concerns to the neighbouring properties. A lot grading plan is required to be submitted as part of a future building permit for a new dwelling to ensure that no grading for the new property meets the Town's requirements for drainage and water runoff.

The Application included a Tree Inventory and Preservation Plan of the trees on the subject lands. Any future tree removal and replanting required as part of the proposal is subject to approval by the Town's Urban Forestry Officer and must be in compliance with the Town's tree

by-laws. Requirements relating to the tree preservation report will be implemented through recommended conditions of approval for the future Consent application.

## **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 requested Zoning By-law Amendment.

## **8. FINANCIAL IMPLICATIONS**

Not applicable.

## **9. ENVIRONMENTAL IMPLICATIONS**

The Application included a Tree Inventory and Preservation Plan of the trees on the lands. Any future tree removal and replanting required as part of the proposal is subject to approval by the Town's Urban Forestry Officer and must be in compliance with the Town's tree by-laws. Conditions relating to the recommendations of the tree preservation report may be imposed during the future Consent application.

## **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-06-2024 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-24-073** – Public Meeting – 489 Regent Street (ZBA-06-2024) (May 7, 2024)

## **13. APPENDICES**

- Appendix I – Severance Sketch
- Appendix II – Maps
- Appendix III – Planning Legislation and Policies
- Appendix IV – Draft Zoning By-law Amendment



- Appendix V – Agency and Public Comments

Respectfully submitted:

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