



Town of Niagara-on-the-Lake

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REPORT #: CDS-24-117 **COMMITTEE DATE:** 2024-07-18
REPORT TO: Committee of Adjustment **DUE IN COUNCIL:** N/A
SUBJECT: Consent Application B-06/24 – 15608 Niagara River Parkway

1. RECOMMENDATION

It is respectfully recommended that:

- 1.1 Consent Application B-06/24 for 15608 Niagara River Parkway be approved, subject to the recommended conditions:
 - 1.1.1 That the owner/applicant provides a legal description of Part 1, acceptable to the Registrar, together with one (1) digital copy to-scale of the deposited reference plan, if applicable, or a copy of all instruments and plans referred to in the legal description, to the satisfaction of the Town, for use in the issuance of the Certificate of Consent;
 - 1.1.2 That pursuant to *Planning Act* Section 50 (12), it is hereby stipulated that Section 50 (3) or 50 (5) shall apply to any subsequent conveyance of, or other transaction involving the identical subject parcel of land (Part 1); that Part 1 is merged in title with Part 3 and they become one parcel of land; and that the owner/applicant provides a lawyer's undertaking, to the satisfaction of the Town, that Part 1 shall be conveyed to the owner of Part 3 and to prepare and register application to consolidate the lands and forward a copy of receipted application within two years of issuance of the consent certificate;
 - 1.1.3 That the owner/applicant provides a lawyer's undertaking, to the satisfaction of the Town, to forward a copy of documentation confirming the transaction, i.e. transfer of Part 1, has been carried out, the documentation to be provided within two years of issuance of the consent certificate;
 - 1.1.4 That the owner/applicant obtains final approval for Zoning By-law Amendment Application ZBA-07-2024 to rezone Part 1 to an existing "Rural Residential (RR) Site-Specific Zone" which applies to Part 3 (Zoning By-law No. 500XC-18), and to address a setback deficiency to an existing building located on Part 2, to the satisfaction of the Director of Community and Development Services; and,
 - 1.1.5 That the owner/applicant obtains final approval for Site Plan Approval

Application SP-05-2024 to amend the existing Site Plan Agreement (SPA-141-23) which applies to Part 2, to reflect the new boundary lot lines, to the satisfaction of the Director of Community and Development Services.

2. EXECUTIVE SUMMARY

Staff have received a Consent Application submitted under Section 53(12) of the *Planning Act*, proposing a minor boundary adjustment by conveying a portion of 15608 Niagara River Parkway (1,341.8 square meters/0.33 acres) identified as Part 1, to 15618 Niagara River Parkway (Part 3). Town Staff have reviewed the application and consider the application to meet applicable planning legislation and policies, subject to the recommended conditions.

3. PURPOSE

Consent Application B-06/24 proposes a minor boundary adjustment by severing Part 1 from Part 2 (15608 Niagara River Parkway) and merging Part 1 with Part 3 (15618 Niagara River Parkway). Part 2 would be retained for continued agricultural purposes being the estate winery (Reif Estate Winery), and Part 1 would provide additional outdoor amenity space to support the existing residential use on Part 3. The boundary adjustment is being requested to change ownership of the agricultural lands.

The application drawing is attached as **Appendix I** to this report.

4. BACKGROUND

4.1 Site Description and Surrounding Land Uses

The subject lands are comprised of two separate parcels that are located to the south of Line 2 Road, east of Concession 1 Road and west of the Niagara River Parkway within the agricultural area. The lands are municipally known as 15608 Niagara River Parkway and 15618 Niagara River Parkway. The location of the subject lands is shown in **Appendix II**.

Part 1 is a vacant irregularly shaped parcel that has an area of 1,341.8 square metres with no street frontage. There are no active agricultural uses on Part 1.

Part 2 (15608 Niagara River Parkway) has an area of 323,667 square metres, a frontage of 101.83 metres on Niagara River Parkway, and contains an estate winery (Reif Estate Winery) with several associated buildings to support the operations at the winery, as well as a parking lot and grape vines. Part 2 is serviced by municipal water and a private septic system.

Part 3 (15618 Niagara River Parkway) has an area of 6,124.9 square metres, a frontage of 83.8 metres on Niagara River Parkway and contains a two-storey single-detached dwelling and a tennis court. The dwelling is serviced by municipal water and a private septic system.

The surrounding lands include agricultural and rural residential uses.

4.2 Concurrent Applications

Zoning By-law Amendment Application ZBA-07-2024 is made to rezone Part 1 to an existing "Rural Residential (RR) Site-Specific Zone," enacted through By-law No. 500XC-18, which applies to Part 3. The application also addresses a setback deficiency to an existing building

located on 15608 Niagara River Parkway as a result of the boundary adjustment, given that a 15 metre setback is required and only a 12 metre setback would be provided.

Site Plan Approval Application SP-05-2024 is made to amend the existing Site Plan Agreement (SPA-141-23) which applies to Part 2, to reflect the new boundary lot lines.

5. DISCUSSION / ANALYSIS

Section 3(5) of the *Planning Act, R.S.O. 1990, c. P.13* states that a decision of Council, in respect to any planning matter, shall be consistent with the Provincial Policy Statement and conform with the Provincial Plans.

Section 53(12) of the *Planning Act* states that Council, in determining whether a provisional consent is to be given, shall have regard to the matters under Section 51(24), and that conditions of consent may be imposed as set out in Sections 51(25), 51(26) and 51.1.

The Provincial Policy Statement (PPS) (2020) designates the subject lands as being within a "Prime Agricultural Area." The Greenbelt Plan (2017) designates the subject lands within "Protected Countryside," and more specifically, a "Specialty Crop Area (Niagara Peninsula Tender Fruit and Grape Area)".

The subject lands are designated "Specialty Crop Area" in the Niagara Official Plan (2022), and "Agricultural" in the Town's Official Plan (2017 consolidation, as amended).

The PPS permits minor boundary adjustments that do not result in the creation of a new lot. The Greenbelt Plan and Niagara Official Plan (NOP) also permit minor boundary adjustments provided that a separate lot for a residential dwelling is not created and there is no increased fragmentation of a key natural heritage feature or key hydrologic feature.

The Town Official Plan permits minor boundary adjustments where the boundary adjustment is minor or land is being added to adjoining lands that contain an existing farm operation and the retained land is large enough to support a potentially viable farm operation, and where a separate lot is not being created for a residential dwelling.

Town Official Plan policies in Section 21.2 (Consent Policies) require that proposed new lot lines, wherever possible, shall avoid creating irregular boundaries for the parcel in question or that remaining. Where lands are located within the Agricultural designation, every attempt shall be made to avoid creating a lot pattern which would make it difficult to farm.

The Consent application will not result in the creation of a new lot. Part 1 would be severed from Part 2 and would merge with Part 3. The newly created lots would continue to be used for rural residential and agricultural purposes. No fragmentation of any key natural heritage or key hydrologic features will occur as a result of the boundary adjustment.

The boundary adjustments can be considered minor in terms of area and impact, and they comply with the consent policies and agricultural objectives as set out in the Official Plan. The proposed boundary adjustments will not affect the ability to farm the subject lands, now or in

the future. Part 1 is not currently being farmed or used by the estate winery. As such, no farmland will be taken out of production. The boundary adjustment will have the effect of correcting irregular lot lines that currently exist for Part 2.

Town Staff have reviewed the application and consider the application to meet applicable planning legislation and policies, subject to the recommended conditions.

5.1 Town, Agency and Public Comments

The application was circulated to all appropriate Town Departments and external agencies, and public notice of the application was provided as required by the *Planning Act*. The following responses were received:

5.1.1 Town Departments

Building – No objection.

Finance – No objection.

Fire & Emergency Services – No objection.

Heritage – No objection.

Operations – No objection.

5.1.2 Agencies

Enbridge Gas – No objection.

Niagara Region – No objection.

5.1.3 Public

No public comments were received at the time this report was prepared.

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 Consents and/or conditions.

8. FINANCIAL IMPLICATIONS

Not applicable.

9. ENVIRONMENTAL IMPLICATIONS

Not applicable.

10. COMMUNICATIONS

Once the Committee of Adjustment makes a decision on the applications, notice of the

decision will be given as set out in the *Planning Act*. The decision of the Committee of Adjustment is subject to a 20-day appeal period following the notice of the Committee's decision. If no appeals are received during the appeal period, the decision is final.

Changes to provincial legislation have been made by way of Bill 23 and third-party appeals from private property owners are no longer permitted.

11. CONCLUSION

Community and Development Services Staff recommend approval of Consent Application B-06/24 for 15608 Niagara River Parkway, subject to the recommended conditions, as the application meets *Planning Act* requirements, is consistent with the Provincial Policy Statement, and conforms with the Greenbelt Plan, Niagara Official Plan and the Town Official Plan.

12. PREVIOUS REPORTS

Not applicable.

13. APPENDICES

- **Appendix I** – Application Drawing
- **Appendix II** – Location Map

Respectfully submitted:

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Recommended by:



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