



Town of Niagara-on-the-Lake

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REPORT #: CDS-25-060 **COMMITTEE DATE:** 2025-05-06
REPORT TO: COTW-Planning **DUE IN COUNCIL:** 2025-05-27
SUBJECT: 209 & 217 Simcoe Street
Applications for Deeming By-laws – Recommendation Report

1. RECOMMENDATION

It is respectfully recommended that:

- 1.1 That the Deeming By-law Application for lands known municipally as 217 Simcoe Street, attached as **Appendix IV** to this report and prepared pursuant to Section 50(4) of the *Planning Act* to deem Lot 6 on Plan 30M-344 not to be in a registered plan of subdivision, be **APPROVED** and forwarded to Council for adoption; and
- 1.2 That the Deeming By-law Application for lands known municipally as 209 Simcoe Street, attached as **Appendix V** to this report and prepared pursuant to Section 50(4) of the *Planning Act* to deem Lot 7 on Plan 30M-344 not to be in a registered plan of subdivision, be **APPROVED** and forwarded to Council for adoption.

2. EXECUTIVE SUMMARY

- This report provides a Staff recommendation to the Committee and Council regarding applications for Deeming By-laws (the “Applications”) for lands known municipally as 209 Simcoe Street and 217 Simcoe Street.
- Council approved Zoning By-law Amendment and Official Plan Amendment applications (ZBA-15-2023 and OPA-06-2023) for lands municipally known as 228 Queen Street, including 209 and 217 Simcoe Street. The ZBA Application rezoned 228 Queen Street to a “General Commercial (GC-H-31a) Site-Specific Holding Zone” and 209 and 217 Simcoe Street to a “General Commercial (GC-H-31b) Site-Specific Holding Zone” by way of Zoning By-law 4316FK-24.
- The Holding Provision requires the lands at 228 Queen Street, 209 Simcoe Street, and 217 Simcoe Street to be merged in title.
- Section 50(4) of the *Planning Act* permits Councils of municipalities to pass a by-law to deem all or part of a plan of subdivision that has been registered for eight (8) or more years to no longer be a registered plan of subdivision.
- 209 Simcoe Street and 217 Simcoe Street are part of a plan of subdivision, Plan 30M-344 (Peace Acres Subdivision), being Lots 6 and 7 within the subdivision plan. The Deeming By-law Applications would effectively remove these lots from the subdivision plan and allow them to merge in title with each other and the abutting lands at 228 Queen Street to be developed as a single entity.
- Staff recommends approval of the Applications, as detailed in this report, as the Applications are in accordance with Section 50(4) of the *Planning Act* and would allow for the merger of the lands pursuant to the previous Planning approvals.

3. PURPOSE

This report provides a recommendation to the Committee and Council with respect to Applications made under Section 50(4) of the *Planning Act* seeking approval of Deeming By-laws to deem lots to no longer be part of a plan of subdivision. The subject lands are part of a registered plan of subdivision 30M-344, more specifically Lots 6 and 7, and also known as Peace Acres subdivision.

The Applications are required to remove the subject lands from the plan of subdivision in order to merge in title with each other and the abutting property at 228 Queen Street. The merger of these lands is required to address the Holding (H) provision on the subject lands, as approved by Town Council in May of 2024.

The registered plan of subdivision (30M-344) is attached as **Appendix I** to this report.

4. BACKGROUND

The subject lands are known municipally as 209 Simcoe Street and 217 Simcoe Street, located on the southwest corner of Queen Street and Simcoe Street, in the urban area of Old Town. The location of the subject lands is shown on **Map 1 of Appendix II**.

Subdivision Plan 30M-344 was registered in the Land Registry Office on May 24, 2005. The plan provides a total of seven (7) residential lots with frontages spanning along Johnson Street and Simcoe Street.

217 Simcoe Street (Lot 6) is approximately 1,170 square metres in area with a frontage of 24 metres along Simcoe Street. The lands are currently vacant and municipally serviced.

209 Simcoe Street (Lot 7) is approximately 1,483 square metres in area, having a frontage of 30.4 metres on Simcoe Street and a flankage of 48.5 metres on Queen Street. The lands are currently vacant and municipally serviced.

Once merged with 228 Queen Street, the overall property would result in approximately 8,804 square metres (2.17 acres) of lot area, with a combined frontage of 54.4 metres along Simcoe Street, a combined flankage of 127.3 metres along Queen Street, and an existing flankage of 78.4 metres along Mississagua Street.

The surrounding lands are characterized by commercial, open space, and residential uses.

The Applications were deemed complete by Town Staff on March 13, 2025.

5. DISCUSSION / ANALYSIS

The lands at 209 and 217 Simcoe Street were subject to previous approvals under the *Planning Act* for an Official Plan Amendment (OPA-06-2023) and a Zoning By-law Amendment (ZBA-15-2023), associated with a development proposal to facilitate the construction of a hotel on 228 Queen Street and 209 and 217 Simcoe Street. Town Council approved the Official Plan and Zoning By-law Amendments on May 28, 2024.

Town Official Plan Amendment 94 (through By-law 2024-40) amended the existing “EX-COM-2” designation to permit an 81-room hotel with a maximum height of 13.5 metres, including a restaurant, meeting room, and spa facilities. The Town Official Plan designation of the subject lands is shown on **Map 2 of Appendix II**.

Zoning By-law Amendment 4316FK-24 amended the existing “General Commercial (GC-31) Site-Specific Zone” (as set out in Zoning By-law 4316X-12) on the subject lands to “General Commercial (GC-H-31a) Site-Specific Holding Zone” on 228 Queen Street and “General Commercial (GC-H-31b) Site-Specific Holding Zone” on 209 and 217 Simcoe Street. The applicable zoning of the subject lands is shown on **Map 3 of Appendix II**. A copy of the site-specific zoning is attached as **Appendix III** to this report.

As part of the site-specific zoning, the subject lands are required to merge in title with the abutting lands at 228 Queen Street to satisfy the requirements of removing the Holding symbol on the lands. As 209 and 217 Simcoe Street were created as two separate lots within a registered plan of subdivision, they do not merge when put in the same ownership. To facilitate the merger, Deeming By-laws are required.

Section 50(4) of the *Planning Act* allows municipalities to pass by-laws to deem parts of a registered plan of subdivision to not be within such plan, provided that the subdivision plan has been registered for at least eight (8) years. The purpose of this mechanism is to allow parts within a plan of subdivision to merge with abutting lands.

The owner of the subject lands has made Applications under Section 50(4) of the *Planning Act* to deem Lots 6 and 7 of subdivision plan 30M-344 to not be in the plan of subdivision. The plan of subdivision was registered in 2005, twenty (20) years ago. The Deeming By-laws would have the effect of allowing Lots 6 and 7 to merge single entity parcels, which would allow them to merge with each other and abutting lands. If passed, the Deeming By-laws would allow all three (3) parcels to merge into one overall property (228 Queen Street, 209 Simcoe Street, and 217 Simcoe Street), and further facilitate the future construction of a hotel and underground parking facilities on the subject lands.

Draft Deeming By-laws have been prepared and are attached as **Appendix IV** (217 Simcoe Street) and **Appendix V** (209 Simcoe Street) to this report. Staff recommend approval of the attached Deeming By-laws, as the Applications would facilitate the merger of the lands with the abutting property at 228 Queen Street, pursuant to previous Planning approvals and in accordance with Section 50(4) of the *Planning Act*.

5.1 Consultation

The Applications were circulated to Town Departments for review and comment. No public notice of the Applications is required by the *Planning Act*. Town comments are summarized below:

Building – No objections.

Finance – No objections.

Fire and Emergency Services – No objections.

Heritage – The abutting property at 228 Queen Street is a Part IV designated property under the *Ontario Heritage Act (OHA)*, through designation by-law 3983-05. Once the properties at 209 and 217 Simcoe Street are merged with 228 Queen Street, the legal description of 228 Queen Street would change and trigger the process to amend the designation by-law under Section 30.1 of the *OHA*.

Operations – The existing sanitary and water services for both lots (209 and 217 Simcoe Street) will need to be decommissioned by capping each service at the respective mains.

Planning Staff note that subsequent *Planning Act* applications (i.e. Site Plan Approval) are necessary to facilitate the overall development. The requirements outlined by Town Heritage and Operations staff are not required to be addressed at the Deeming By-law Application stage. Staff will ensure that the comments from Heritage and Operations staff are addressed as part of future *Planning Act* applications and processes.

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 or refuse the proposed Deeming By-laws.

8. FINANCIAL IMPLICATIONS

The owner will be responsible for all costs associated with the proposal, including the registration of legal documents.

9. ENVIRONMENTAL IMPLICATIONS

There are no environmental implications.

10. COMMUNICATIONS

Once the Deeming By-laws have been approved by Council, they will be registered on title. No public notice is required.

11. CONCLUSION

Community and Development Services Staff recommend approval of the Deeming By-law Applications for lands municipally known as 209 and 217 Simcoe Street, which will have the effect of merging the parcels with the abutting lands at 228 Queen Street, pursuant to previous *Planning Act* approvals and in accordance with Section 50(4) of the *Planning Act*.

12. PREVIOUS REPORTS

- **CDS-23-203** – 228 Queen Street, 209 & 217 Simcoe Street – Information Report – Official Plan Amendment Application OPA-06-2023 & Zoning By-law Amendment Application ZBA-15-2023 (October 3, 2023)
- **CDS-24-059** – 228 Queen Street, 209 & 217 Simcoe Street – Recommendation Report – Official Plan Amendment Application OPA-06-2023 & Zoning By-law Amendment Application ZBA-15-2023 (April 9, 2024)

13. APPENDICES

- **Appendix I** – 30M Plan (30M-344 – Peace Acres Subdivision)
- **Appendix II** – Maps
- **Appendix III** – Zoning By-law 4316FK-24
- **Appendix IV** – Draft Deeming By-law (217 Simcoe Street)
- **Appendix V** – Draft Deeming By-law (209 Simcoe Street)

Respectfully submitted:

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