



Department of Community
& Development Services
Telephone (905) 468-3266
Facsimile (905) 468-0301

The Town of Niagara-On-The-Lake

1593 Four Mile Creek Road
P.O. Box 100
Virgil, Ontario
L0S 1T0

Report:	CDS-20-014	Committee Date:	June 08, 2020
----------------	-------------------	------------------------	----------------------

Due in Council:	June 22, 2020
------------------------	---------------

Report To:	Community & Development Advisory Committee
Subject:	File ICBL-EX-03-2020 - 455 William Street Exemption to Old Town Interim Control By-law 5105-18 (as amended)

1. RECOMMENDATION

It is respectfully recommended that:

- 1.1 The request for an exemption (File ICBL-EX-03-2020) to the Old Town Interim Control By-law 5105-18 (as amended), for the property described as 455 William Street and shown on **Appendix A**, be approved; and
- 1.2 Staff advise the owner of Council's decision.

2. PURPOSE / PROPOSAL

This report provides a recommendation to Council respecting a request for an exemption to Interim Control By-law 5105-18 (as amended by By-law 5105A-19) that applies to Old Town. The review of the request is based on the Council-approved Exemption Criteria for the "Implementation of Site-Specific Zoning By-law Approval" and "Heritage Resource Screening".

3. BACKGROUND

Interim Control By-law 5105-18 was passed by Council on December 5, 2018 and extended for another year on November 11, 2019 through By-law 5105A-19. Unless repealed by Council at an earlier date, the Interim Control By-law (ICBL) will be in effect beyond the further one-year period (November 11, 2020) in accordance with Provincial legislation respecting the COVID-19 emergency and *Planning Act* timelines.

The Interim Control By-law temporarily prohibits the subdivision of land within the Old Town urban area. The ICBL prohibits applications for Subdivision, Condominium, Consent and Part Lot Control Exemption. Applications are also prohibited for Official Plan Amendments, Zoning By-law Amendments and Minor Variances that could permit or facilitate the subdivision of land or construction of townhouses or apartment residential units. The ICBL permits exemptions for certain condominium conversions, Minor Variance applications for additions to existing dwellings and also complete applications filed prior to the By-law enactment.

At the April 27, 2020 Special Meeting of Council, the recommendations of Report CDS-20-010 were approved to establish Exemption Criteria and a Procedure for Council to consider exemption requests to Interim Control By-law 5105-18 (as amended).

4. DISCUSSION / ANALYSIS

Council Criteria for Exemption

A request to exempt a property from the Interim Control By-law must satisfy one of the criteria - not necessarily both. An ICBL exemption permits the submission and processing of a *Planning Act* application. There is no implied approval of a development proposal through the exemption process since applications require a full review, public consultation and a decision by Council or the Committee of Adjustment.

Criterion 1 - Implementation of Site-Specific Zoning By-law Approval

A property with existing site-specific Zoning By-law approval may proceed with required subsequent planning applications for lot creation to implement the prior Council approval. Such applications could include Consent, Part Lot Control Exemption, Removal of a Holding (H) Symbol, Draft Plan of Subdivision and Draft Plan of Vacant Land Condominium. Applications for an Official Plan Amendment, new Zoning By-law Amendment and/or Minor Variance to site-specific zoning are not permitted.

Criterion 2 - Heritage Resource Screening

The property must be located outside of areas containing defined heritage resources (Built Heritage Resources, Cultural Heritage Landscapes and Cultural Heritage Resources). The Town's proposed Official Plan (adopted October 22, 2019) includes Schedules D2, D3 & D4 - Heritage Resources & Areas of Heritage Significance. These schedules reference designated properties and districts under Part IV and Part V of the *Ontario Heritage Act* as well as Character Areas of heritage significance based on a recent consultant study. Properties within these heritage resource areas are not eligible for an ICBL exemption.

Evaluation of ICBL Exemption Request

The subject property (455 William Street) is shown on the Location Map (**Appendix A**). The submitted written request for exemption (dated April 7, 2020) is contained in **Appendix B**. The following Staff review comments and information is provided:

- The letter requesting an exemption was previously submitted to Council through the Information Package dated April 9, 2020
- The property has site-specific residential zoning (By-law 4316DM-19 that contains a Holding (H) provision requiring a future Subdivision application for the front portion of the land) approved by Council on April 8, 2019
- The required Preconsultation meeting (update) for the proposed development of the property was conducted on October 17, 2019
- The owner requires a Subdivision application for new lot creation (five single-detached dwellings)

- The subject land has existing site-specific zoning that satisfies Criterion 1 (Implementation) and also is located outside of any defined heritage resource area to satisfy Criterion 2 (Heritage Screening)

5. STRATEGIC PLAN

The request for an ICBL exemption is not directly applicable to Council's Strategic Plan.

6. OPTIONS

There are several options available to Council respecting the requested exemption to the Interim Control By-law, including:

- approve or refuse the exemption request
- select alternate or additional evaluation criteria
- repeal the Interim Control By-law

7. FINANCIAL IMPLICATIONS

There are no direct costs associated with granting an exemption to the Interim Control by-law for Old Town. The owner of an exempted property would be able to submit planning applications and review fees to the Town.

8. COMMUNICATIONS

A copy of this report has been provided to the property owner or their representative. Staff will advise the owner of Council's decision on the ICBL exemption request.

9. CONCLUSION

Community and Development Services Staff recommend approval of the request to exempt the property from Interim Control By-law 5105-18 (as amended). The request satisfies Criterion 1 (Implementation of Site-Specific Zoning By-law Approval) and Criterion 2 (Heritage Resource Screening) established by Council. Approval of the exemption request will allow the owner to submit certain *Planning Act* applications for standard processing and review for the proposed development of the subject land.

Respectfully submitted,

A handwritten signature in blue ink, appearing to read "Rick Wilson".

Rick Wilson, MCIP, RPP
Manager of Planning



Craig Larmour, MCIP, RPP
Director, Community and
Development Services



Sheldon Randall
Interim Chief Administrative Officer

ATTACHMENTS



Appendix A - 455 William Street - Location Map.pdf



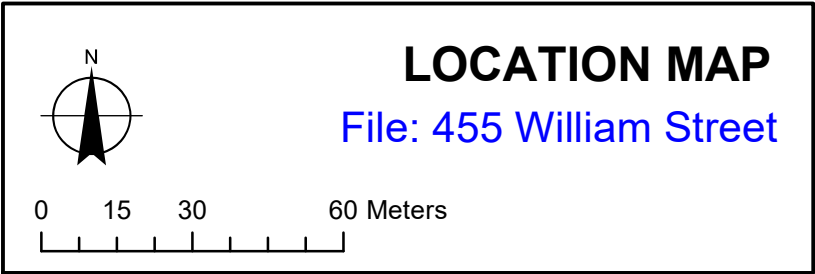
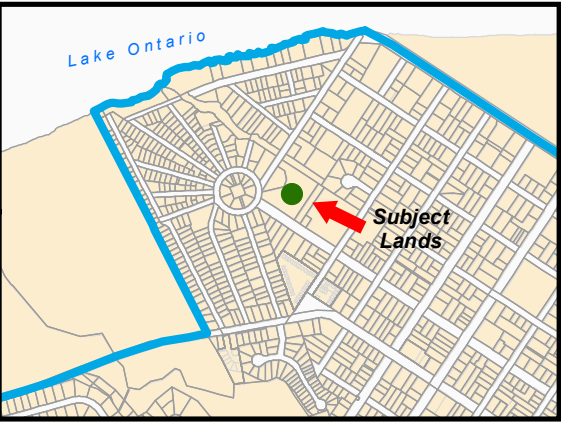
Appendix B - 455 William Street - Exemption Request.pdf

WEB ATTACHMENTS

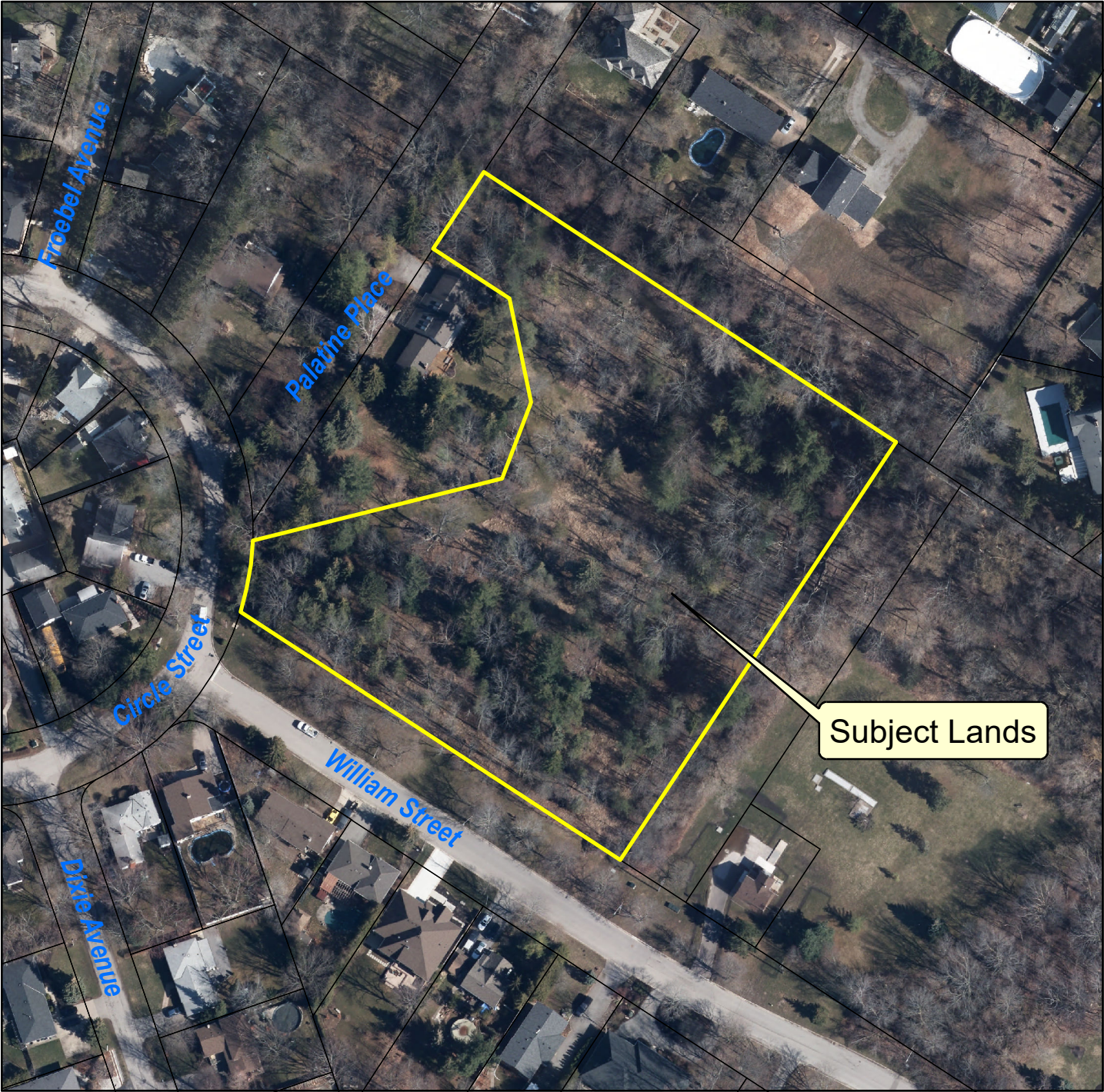
ATTACHMENTS FOR LINK

First Capital of Upper Canada - 1792

Key Map



1:1,500





April 7, 2020

Delivered by Email

Lord Mayor & Members of Council
Town of Niagara on the Lake
1593 Four Mile Creek Road, PO Box 100
Virgil, ON L0S 1T0

**Re: Proposed 5 lot Plan of Subdivision
455 William St., Old Town
Extended Interim Control Bylaw 5105-18**

Dear Lord Mayor Disero,

I have been asked to write to you on behalf to the owners of 455 William St. to request that Council correct an obvious oversight in the approval of the Extension of the Interim Control Bylaw 5105A-19. We ask that 455 William St. in the Old Town be exempted from this bylaw and that proposed Draft Plan of Subdivision be processed by staff and considered for approval by Council.

Background

The subject property was rezoned for development when Bylaw 4316 DM-19 was approved by Council on April 8, 2019. (After the original Interim Control Bylaw 5105-18 was passed December 5, 2018).

Bylaw 4316 DM-19 provided for the development of the this property for 6 single detached dwellings, 5 fronting on William St. on lots similar in size to those already existing on William St. and a 6th lot which is much larger, also fronting on William St. but incorporating lands of the One Mile Creek. The owners are presently constructing their home on the large lot.

Bylaw 4316-DM-19 includes a requirement that the 5 proposed lots on William St. be developed through a Draft Plan of Subdivision process. The approval by Council of the rezoning of 455 William St. was based on a very detailed evaluation of the proposal by the Town and Region staff, Council and the neighbourhood residents. A series of technical reports were prepared and submitted in support of the rezoning application.



These reports included:

- A Planning Justification Report,
- An Archaeological Study and Provincial Approval,
- An Environmental Assessment,
- A Tree Savings Plan and
- An Urban Design Review.

Of particular importance was the integration of the evaluation of the impact on the environmental issues and trees and the relationship of the future proposed lots with the existing lots and dwellings on the opposite side of William St.

The rezoning was approved by Council on the basis that the 5 lots fronting on William St will be compatible with the neighbourhood and would be developed, consistent with the EIS and Tree Savings Plan recommendations and through a Draft Plan of Subdivision process.

Since the approval of the Zoning Bylaw Amendment we have been working on the information required to submit the Draft Plan of Subdivision application. We attended a Pre Consultation meeting with staff on October 17, 2019. At that time we received the detailed list of studies that would be required as part of the Draft Plan application.

These included:

- A review and refinement of the EIS and Tree Savings Plan,
- An Odour and Noise study related to the Regional Pumping Station,
- A Landscape Plan,
- An Engineering Servicing Study.

These studies are standard for plans of subdivision and in this case only refine the work done to support the rezoning.

The Interim Control Bylaw was extended only a few days later.

Extended Interim Control Bylaw 5105A-19

In reviewing the Extended Interim Control Bylaw, like the original Interim Control Bylaw 5105-18, Council continued to be concerned that the Town was not in a position to recognize the policies relating to conserving “Cultural Heritage Resources” and “Cultural Heritage Landscapes” consistent with the PPS 2014 and the Growth Plan 2017 and as a result passed the Interim Control Bylaw covering the whole Old Town without



recognizing the potential that there were approvals in place where Council had in fact, done the appropriate evaluations, Bylaw 4316DM-19 being one.

The recommendation report CDS-19-008, where the proposed zoning bylaw amendment was being recommended by staff, which is attached, indicates that the studies submitted and evaluated during the review and approval of the rezoning illustrated that the proposed development and rezoning were consistent with the PPS and the Growth Plan. As a result the concerns of staff and Council as set out in the Interim Control Bylaw with respect to policies relating to conserving “Cultural Heritage Resources” and “Cultural Heritage Landscapes” have been met with respect to this proposed development.

In summary, we would ask that Council amend, at your earliest opportunity, the Extended Interim Control Bylaw, to the extent that it would permit the processing by staff and consideration by Council of a Draft Plan of Subdivision on 455 William St.

Please let me know if you need anything further.

Yours truly,

A handwritten signature in dark ink that reads "Stephen Bedford". The signature is written in a cursive, flowing style.

Stephen Bedford, MCIP RPP
Development Manager
Cel 905 933 5439 Office 905 688 2610

CC: Mr. Peter Todd, Town Clerk
Mr. Sheldon Randall, Interim CAO
Mr. Crag Larmour, Director of Community and Development Services
Mr. Richard Wilson, Manager of Planning
Mr. Robert and Mrs. Jan MacInnes

Attachment: CDS-19-008 Subject File No. ZBA-08-2018 – NS William Street –
Application for Zoning Bylaw Amendment