



Department of Community  
& Development Services  
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# The Town of Niagara-On-The-Lake

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P.O. Box 100  
Virgil, Ontario  
L0S 1T0

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<b>Report:</b>	<b>CDS-20-016</b>	<b>Committee Date:</b>	<b>June 08, 2020</b>
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<b>Due in Council:</b>	June 22, 2020
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<b>Report To:</b>	<b>Community &amp; Development Advisory Committee</b>
<b>Subject:</b>	<b>File ICBL-EX-05-2020 - 513 Gate Street Exemption to Old Town Interim Control By-law 5105-18 (as amended)</b>

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## 1. RECOMMENDATION

It is respectfully recommended that:

- 1.1 The request for an exemption (File ICBL-EX-05-2020) to the Old Town Interim Control By-law 5105-18 (as amended), for the property described as 513 Gate 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 Unless repealed by Council at an earlier date, the Interim Control By-law (ICBL) will be in effect beyond the further one-year period (November 11, 2020) in accordance with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 (513 Gate Street) is shown on the Location Map (**Appendix A**). The submitted written request for exemption (dated May 11, 2020) is contained in **Appendix B**. The following Staff review comments and information is provided:

- The required Preconsultation meeting for the proposed development of the property was conducted on November 7, 2019
- The owner requires a site-specific Zoning By-law Amendment and Consent applications for new lot creation (two single-detached dwellings)
- The subject land is located outside of any defined heritage resource area and satisfies 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 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,



**Rick Wilson, MCIP, RPP**  
**Manager of Planning**



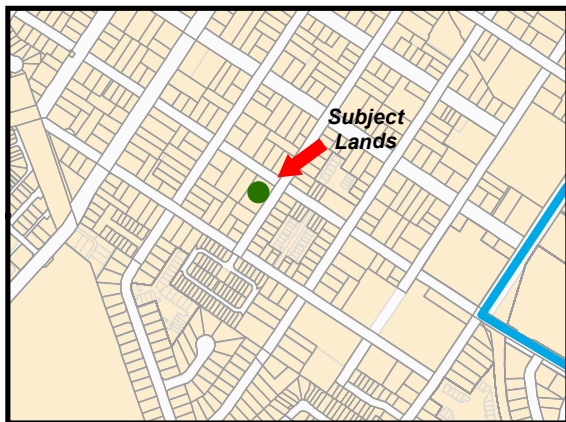
**Craig Larmour, MCIP, RPP**  
**Director, Community and**  
**Development Services**



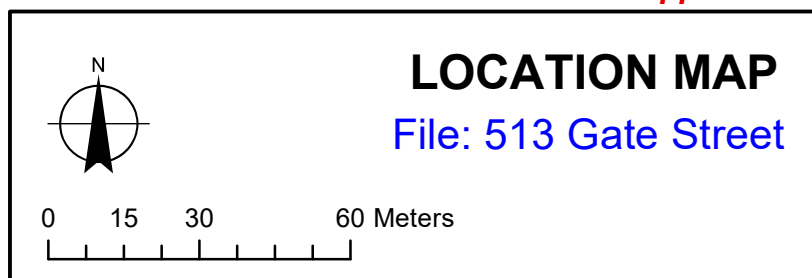
**Sheldon Randall**  
**Interim Chief Administrative Officer**

ATTACHMENTS

## Key Map

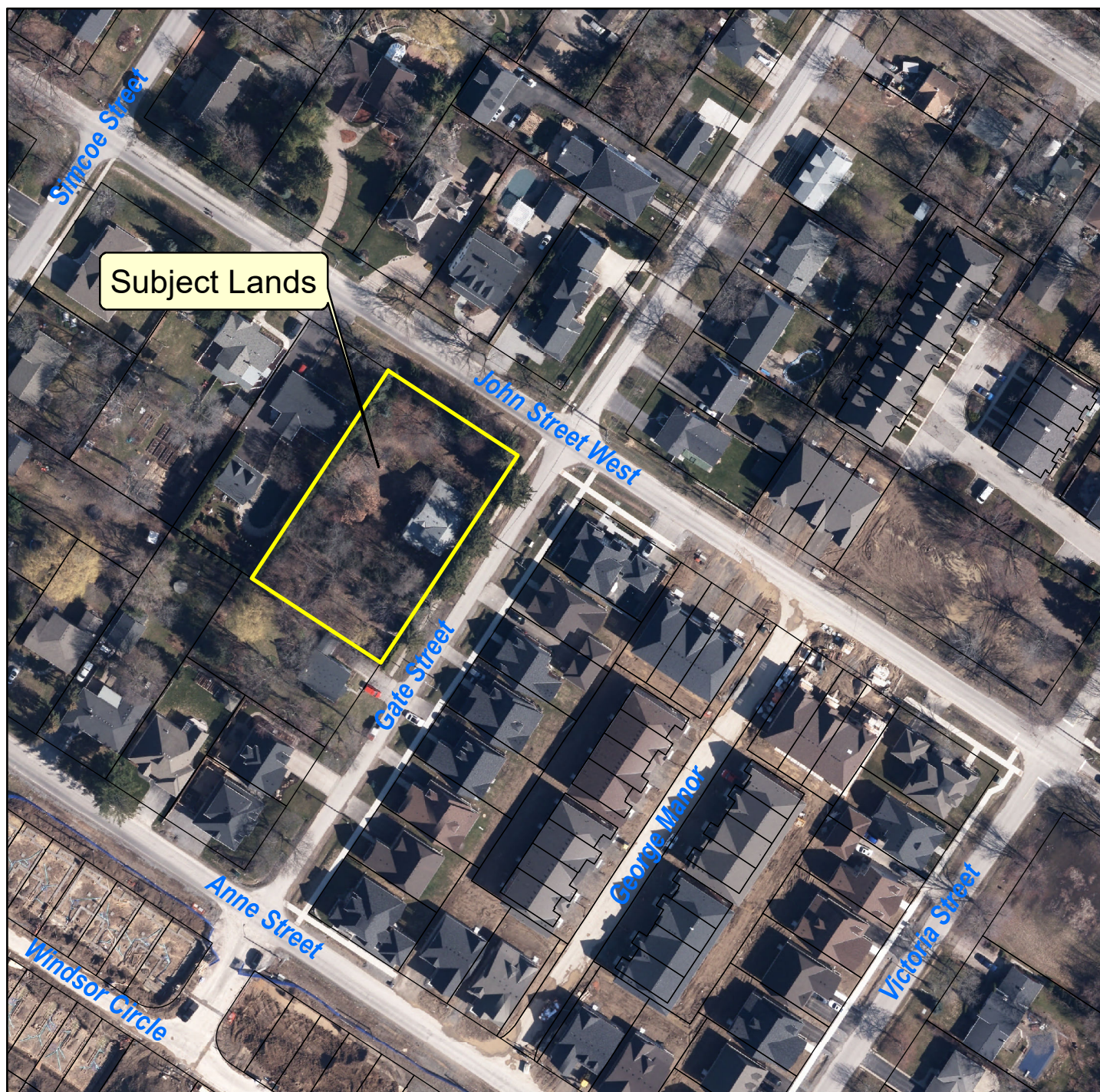


## Appendix A



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NiagaraLake  
-on-the-  
EST. 1781





May 11<sup>th</sup>, 2020

Richard Wilson, MCIP, RPP  
Manager of Planning  
Town of Niagara-on-the-Lake  
1593 Four Mile Creek  
P.O. Box 100, Virgil, ON  
L0S 1J0

Dear Mr. Wilson,

**RE: 513 GATE STREET, OLD TOWN, NIAGARA-ON-THE-LAKE  
REQUEST FOR EXEMPTION FROM THE INTERIM CONTROL BY-LAW**

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We are providing this letter in request of Exemption from the Interim Control By-law (ICBL) 5105-18 (as amended) in the Community of Old Town on behalf of our clients Keith and Kelly Turner, for the property located at 513 Gate Street. This letter is written in response to the Staff Recommendation Report CDS-20-010 addressed to Council dated April 27<sup>th</sup>, 2020.

The Turners are proposing to create two new lots on the Subject Lands to construct two additional single detached dwellings. The existing dwelling on the Subject Lands will remain. Niagara Planning Group (NPG) Inc. attended Pre-Consultation for the proposed development on November 7<sup>th</sup>, 2019. We are in the process of preparing a completion submission package for the proposed development, containing all the required reports and studies identified at Pre-Consultation. It is anticipated we will submit our application within the following weeks.

The proposed development corresponds to Provincial, Regional and Town Policy, providing appropriate residential intensification in the Built-Up Urban Area. The proposed development is compatible with the existing lot fabric in the surrounding neighbourhood, representing sensitive infill development.

It is also important to note, Detritus Consulting Ltd. conducted an Archaeological study on the Subject Lands and did not identify any archaeological resources. Detritus concluded no further archaeological assessment is required.

We have considered the criteria for exemption in Staff Report CDS-20-010 and it is our professional planning opinion the criteria identified for consideration of exemption of the ICBL is not adequate due to reliance on the 2019 Official Plan Schedules that are not currently in force. The Report addressed to Council is also not clear in regard to the planning applications that will be accepted as part of the exemption process. Due to the reasons identified above, we strongly encourage for 513 Gate Street to be exempt from the ICBL. If there are any questions or concerns, please do not hesitate to contact the undersigned.

Sincerely,



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Mary Lou Tanner, FCIP, RPP  
Principal Planner  
Niagara Planning Group (NPG) Inc.