



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

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Virgil, Ontario
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Report:	CDS-20-017	Committee Date:	June 08, 2020
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Due in Council:	June 22, 2020
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Report To:	Community & Development Advisory Committee
Subject:	File ICBL-EX-06-2020 - 551 Butler Street & Bay Berry Lane (Block 23) 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-06-2020) to the Old Town Interim Control By-law 5105-18 (as amended), for the property described as 551 Butler Street and Block 23, 30M-302 (Bay Berry Lane) 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 Unless repealed by Council at an earlier date, the Interim Control By-law (ICBL) will be in effect beyond the further one-year period (November 11, 2020) in accordance with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 (551 Butler Street and Bay Berry Lane - Block 23, 30M-302) is shown on the Location Map (**Appendix A**). The submitted written request for exemption (dated May 13, 2020) is contained in **Appendix B**. The following Staff review comments and information is provided:

- In addition to the recent formal written request, the owners had several discussions with Town Staff and delegations at Committee of the Whole and Public Meetings over the past 17 months requesting an exemption
- The required Preconsultation meetings for the proposed development were conducted on May 5, 2016, May 17, 2018 and December 20, 2018
- The owners require a site-specific Zoning By-law Amendment and Consent application for new lot creation (one single-detached dwelling)

- 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

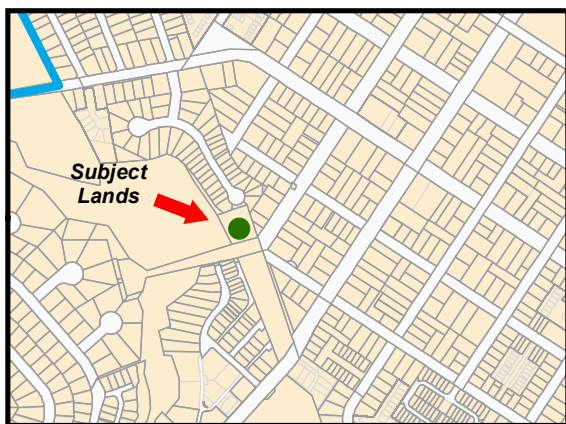


Craig Larmour, MCIP, RPP
Director, Community and
Development Services

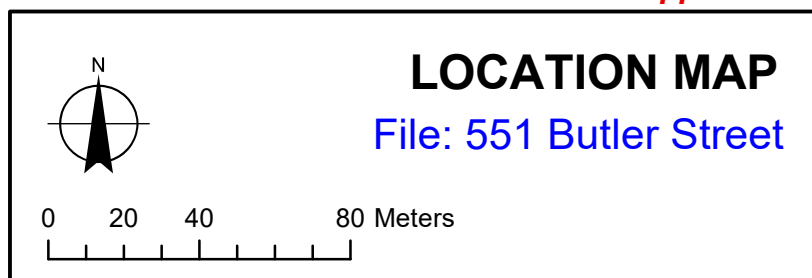


Sheldon Randall
Interim Chief Administrative Officer

Key Map



Appendix A





May 13th, 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: 551 BUTLER STREET, OLD TOWN, NIAGARA-ON-THE-LAKE
REQUEST FOR EXEMPTION FROM THE INTERIM CONTROL BY-LAW**

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 Christel and Kenneth Baker for their property located at 551 Butler Street. This letter is written in response to the Staff Recommendation Report CDS-20-010 addressed to Council dated April 27th, 2020. Our previous request for exemption was acknowledged in this Staff Report, although Council did not provide on a decision on our previous request. We are providing this letter to ensure the proposed development is brought to the next Council Meeting for consideration of exemption from the ICBL.

As you know, the Bakers are proposing to create one new lot on the Subject Lands to construct one additional single detached dwelling fronting onto Bay Berry Lane. The existing dwelling fronting onto Butler Street will remain as existing. Niagara Planning Group (NPG) Inc. attended Pre-Consultation for the proposed development on November 20th, 2018, before the ICBL came into effect. A complete submission package, containing all the required reports and studies have been prepared for submission.

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.

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.

An Environmental Impact Study was completed by Colville Consulting, and it was concluded the proposed development would not have an impact on the natural heritage features located to the west.

A Slope Stability Study was completed by Soil-Mat Engineers & Consultants. Their report concluded the proposed dwelling can be constructed uphill of the top of stable slope and will not have a negative impact the stability of the slope.

We are requesting for 551 Butler Street to be exempt from the ICBL. Upon approval, a complete planning application for the Subject Lands will be submitted to Town planning staff for review. If there are any questions or concerns, please do not hesitate to contact the undersigned.

Sincerely,



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