**Planning Analysis**

**113 Byron Street – Zoning By-law Amendment**

An application for a Zoning By-law Amendment has been made for the lands municipally addressed as 113 Byron Street to permit the severance of two (2) additional lots on the property. The proposed uses are permitted in the Zoning By-law; however, the applicant will require the following changes from the existing Old Town Community Zoning District - Established Residential (ER3) Zone:

* Minimum lot frontage for the corner lot: 16 metres
* Minimum lot frontage for other lots: 13 metres
* Minimum depth: 37 metres
* Minimum front yard setback: 3.3 metres
* Maximum lot coverage: 40%
* Minimum exterior side yard setback: 2.5 metres
* Minimum rear and side yard setback for accessory buildings: 1.22 metres
* Required setback for a driveway from an interior property line: 0.6 metres

It is recommended that the following provision be attached to the Zoning By-law Amendment as well in order to ensure consistency with the Dock Area Secondary Plan:

* Front yard setback for attached or detached garage: 19 metres

**PLANNING FRAMEWORK**

Provincial and Regional Plans

The subject application was reviewed with regard to the Provincial Policy Statement, the Growth Plan and the Regional Official Plan. These policy documents promote opportunities for intensification and redevelopment.

The subject application is consistent with relevant Provincial and Regional policy documents.

Niagara-on-the-Lake Official Plan

The Official Plan designates this property as Medium Density Residential. The Dock Area Secondary Plan provides further detail and permits a range of uses, including single-detached residential dwellings. The Plan also provides that the maximum density of new residential development shall not exceed 25 units per acre (62 units per hectare). The density on the site for the proposed development will be 18 units per hectare, which is below the maximum density permitted in the Dock Area Secondary Plan.

Zoning By-law 4316-09

The property is currently zoned Established Residential (ER3) under Zoning By-law 4316-09. The Zoning By-law states that

"Lots located within the Established Residential (ER3) Zone shall have a lot frontage and lot depth based on the average of the lot frontages and lot depths of existing lots in the same Block Face that the lot is located."

The proposed lots will be the only ones fronting onto Wellington Street on the block face. The proposed Zoning By-law Amendment is required to establish the minimum requirements for lot frontage and depth. The proposed amendments to setback and coverage requirements are necessary to site dwellings on smaller lots.

**COMMENTS**

Public Information Meeting

A Public Information Meeting was held on September 8, 2014. No members from the public attended the meeting. Written comments were received from nearby landowners that considered three lots on the subject property to be too many.

Circulation

The application was circulated to other Town departments and external agencies for review and comments. Internal departments support the application. The Region of Niagara also supports the application, subject to the acceptance of an archaeological assessment of the property by the Ministry of Tourism, Culture and Sport or the inclusion of a Holding (H) provision in the amending Zoning By-law requiring such acceptance, and the satisfaction of any local requirements. An archaeological assessment has been completed to the satisfaction of the Ministry of Tourism, Culture and Sport (see Appendix C4 –Archaeological Clearance).

**Planning Analysis**

The existing lot is in the Built-Up Area of Old Town, and serviced by both water and sewage. The Provincial Policy Statement encourages both intensification and redevelopment within settlement areas on existing municipal sewage services and municipal water services, wherever feasible. The additional units will also help the Town to achieve intensification targets (currently 15%) for new development within the Built-up Area as indicated in the Growth Plan and Regional policies.

The proposal has been considered in regard to the policies of the Dock Area Secondary Plan and found to be consistent. The property for which the Zoning By-law Amendment is proposed is designated by the Dock Area Secondary Plan as a "Medium Density Living Area", and as part of the "Wellington District". The Medium Density Living Area permits a range of uses including low density residential uses such as single-detached, semi-detached and duplex dwellings. The Secondary Plan provides further specificity, and permits a maximum density on the site of 62 units per hectare. The proposed development will have a density of 18 units per hectare, which is below the maximum density that is permitted in the Medium Density Living Area designation of the Dock Area Secondary Plan.

The Wellington District of the Dock Area Secondary Plan recognizes that the single-detached housing unit properties, most of which are on larger lots, will be under pressure to be severed over the long term. The plan provides further policies regarding new development in the District. These policies state:

* That new buildings shall address and have main entrances on Wellington Street, with parking provided either internally to the lot and/or through structured and underground parking facilities
* That front yard garages shall not be permitted for any single-detached, semi-detached or duplex units fronting a public street, and that these units shall be developed with a 3.0 metre side driveway access to a detached rear garage or rear laneway detached garage.

The proposed Zoning By-law Amendment will allow the houses to be sited near the front property line, allowing for parking and garages to be at the rear of the property. The proposed accesses shown on the site plan are less than 3 metres, but are still large enough to accommodate residential vehicles.

Heritage Impacts

There are a number of heritage resources in the vicinity. Across the street, at the southeast corner of Wellington Street and Byron Street is the Campbell Scott House, designated under Part IV of the Ontario Heritage Act. At the southwest corner of the intersection, is the edge of the Queen-Picton Heritage Conservation District, designated under Part V of the Ontario Heritage Act. West of the subject property, on Byron Street, is the St. Marks Church, which although not designated, is a significant heritage resource, and on the Town’s Heritage Resources Register. Section 2.6.3. of the Provincial Policy Statement states the following: *“Planning authorities shall not permit development and site alteration on adjacent lands to protected heritage property except where the proposed development and site alteration has been evaluated and it has been demonstrated that the heritage attributes of the protected heritage property will be conserved.”* The Provincial Policy Statement defines adjacent for the purposes of section 2.6.3 as “*those lands contiguous to a protected heritage property or as otherwise defined in the municipal official plan.”* Requiring a Heritage Impact Assessment as part of the application was considered but it was determined not to be necessary because the subject property is not adjacent to any identified heritage resources, and is significantly set back from nearby identified heritage resources.

Visual Impact

The subject property is at the intersection of Byron and Wellington Street. At the intersection, there are a variety of land-uses and building forms. At the southeast corner is the Niagara-on-the-Lake Hospital. At the southwest corner is the St. Vincent De Paul Church Cemetery. At the northwest corner is the Campbell Scott House, designated under Part IV of the Ontario Heritage Act.

Creating three lots where there had previously been one lot will have a visual impact on the streetscape. The proposed lots will have setbacks that are closer to Wellington Street than any of the other developments in the vicinity, including the residential properties along the west side of Wellington Street between Ricardo and Byron Street; Chateau Gardens Niagara; and the Niagara-on-the-Lake Hospital. Although the proposed development will be closer to the front property line than the buildings on the neighbouring properties, it is important to note that this is not out of character with the broader Dock Area, where houses have a variety of front yard setbacks.

The three lots that will be facilitated as a result of the proposed Zoning By-law Amendment will not have a significant impact on neighbouring development. The subject property is significantly setback from the neighbouring residential development along Wellington Street, as well as the Chateau Gardens Niagara building. This large setback will ensure that there will not be any impact on access to light and privacy.

It is also important to note that intensification was both anticipated and planned for as part of the Dock Area Secondary Plan. The proposed Zoning By-law Amendment will accommodate a design that is consistent with the policies and intent of the Dock Area Secondary Plan. In particular, the proposed Zoning By-law Amendment will ensure that the garage is located in the rear yard. The proposed lotting pattern is also consistent with the Secondary Plan, which states that new buildings shall have main entrances on Wellington and Melville Street.

Archaeological Assessment

The property is in the Zone of Archaeological Potential. An archaeological assessment has been completed to the satisfaction of the Ministry of Tourism, Culture and Sport (see Appendix C4 – Archaeological Clearance).

Servicing

The property is subject to the "Allocation of Waste Water Servicing Interim Policy", which details which developments are entitled to sewer allocation, depending on where in the approval processes they are. This policy pertains to all development within Virgil and Old Town, until a new waste water treatment plant is completed (projected for early 2017).

The interim policy does allow for up to 5% of available capacity to be reserved for infill development, to be approved by Council. This results in approximately 5-6 units per year. There have been no units that have been allocated capacity for the year 2015; therefore there is available allocation for the two proposed lots. It is recommended that sewer allocation not be granted, until an application has been approved for conditional severance of the lots, so as to not preclude the approval of other proposals for intensification.

**CONCLUSION**

The proposed Zoning By-law Amendment is considered to be appropriate, in particular because it is within the built boundary and consistent with the policies of the Official Plan with respect to densities. Therefore it is recommended that the Zoning By-law amendment is approved. It is also recommended that sewer allocation not be granted, until an application has been approved for conditional severance of the lots, so as to not preclude the approval of other proposals for intensification.

A draft Zoning By-law Amendment has been prepared for Council's consideration and is attached as Appendix A to the CDS Report.

**Written by, Respectfully submitted,**

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**& Development Services**