

## **Recommendation Report for Parts 1, 8-11 and 16-19, Plan 59R-16208 (File No. AM-06-19)**

### **Executive Summary:**

The purpose of this report is to provide Council with a recommendation regarding an application to amend the Town's Zoning By-law by amending the provisions of the EF-MU2 zone by reducing the gross leasable floor area for retail commercial uses to 100m<sup>2</sup>, permitting a maximum of two drive-through facilities and increasing the build-within zone to 9.69 to 16.57 metres for two buildings and reducing the landscape buffer to 1.5 metres next to the storm water management pond.

### **Location:**

The property is located on the south side of Highway 20, east of Wellspring Way and west of the stormwater management pond that abuts Rice Road. The property is legally described as Parts 1, 8-11 and 16-19, Plan 59R-16208, Geographic Township of Thorold, Town of Pelham, Regional Municipality of Niagara (refer to Figure 1).

*Figure 1: Location of the Property*





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The uses permitted under the current East Fonthill Mixed Use – 2 (EF-MU2) Zone include commercial, professional, medical and/or government offices; retail commercial uses including retail stores, restaurants and personal services; hotels and tourist accommodations; conference and convention centres; cultural and entertainment uses; private and public institutional uses; townhouses and apartment buildings; housing for seniors and/or special needs housing; child care facilities; parks and urban squares; public uses and utilities; public art installations; and active transportation and transit facilities.

**Policy Review:**

***Planning Act***

Section 3 of the Planning Act requires that, in exercising any authority that affects a planning matter, planning authorities “shall be consistent with the policy statements” issued under the Act and “shall conform with the provincial plans that are in effect on that date, or shall not conflict with them, as the case may be”.

Section 34 of the Act allows for consideration of amendments to the zoning by-law.

***Provincial Policy Statement, 2014***

The subject parcel is designated as being within a Settlement Area according to the Provincial Policy Statement, 2014 (PPS, 2014).

PPS, 2014, provides policy direction on matters of provincial interest related to land use planning and development in Ontario.

It is recognized that the province’s long-term prosperity, environmental health, and social well-being depends on wisely managing change. Efficient land use and development patterns will achieve healthy, livable, and resilient communities that will protect the environment and public health and safety, and will facilitate economic growth.

Policy 1.1.1 outlines how healthy, livable and safe communities are sustained.

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Settlement Areas shall be the focus of growth, and new development, in designated growth areas, should have a compact form and a mix of uses and densities that allow for the efficient use of land, infrastructure, and public service facilities (Policies 1.1.3.1, 1.1.3.2 (a), and 1.1.3.6). Development should provide for an appropriate range and mix of housing types, employment (including industrial and commercial), institutional (including places of worship, cemeteries and long-term care homes), recreation, park and open space, and other uses to meet long-term needs and densities to minimize the cost of housing, and facilitate compact form, while maintaining appropriate levels of public health and safety (Policies 1.1.1(b), 1.4.3). Healthy, active communities meet the needs of pedestrians by fostering and facilitating active transportation and ensuring community connectivity (Policy 1.5.1). In addition, development shall efficiently use and optimize existing municipal sewage and water services; and stormwater management shall promote best practices and low impact development (Policies 1.6.6.1 and 1.6.6.7).

The proposed zoning change will facilitate a mix of commercial and employment uses while making use of existing infrastructure. Pedestrian, active transportation and stormwater management considerations will be further reviewed as part of a future Site Plan Approval Application. Based on this information, the proposed zoning change is consistent with the Provincial Policy Statement.

***Greenbelt Plan, 2017***

The subject parcel is located in an identified settlement area that is outside of the Greenbelt Plan Area; therefore, the policies of the Greenbelt Plan do not apply.

***Niagara Escarpment Plan, 2017***

The subject parcel is not located in the Niagara Escarpment Plan Area; therefore, the Niagara Escarpment Plan policies do not apply.

***Growth Plan for the Greater Golden Horseshoe, 2019***

The Growth Plan for the Greater Golden Horseshoe, 2019 took effect on May 16, 2019.

The subject parcel is identified as being within a Designated Greenfield Area according to the Growth Plan for the Greater Golden Horseshoe.

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The Growth Plan policies aim to build stronger, prosperous communities by directing growth to built-up areas, promoting transit-supportive densities and a healthy mix of residential and employment land uses, preserving employment areas, planning for community infrastructure, and supporting the conservation and protection of natural systems, prime agricultural areas, and cultural heritage.

Policy 2.2.7.1 requires new development in designated greenfield areas to be planned, designated and zoned to support complete communities, support active transportation and encourage the integration and sustainability of transit services.

Policy 2.2.7.2 requires a minimum density target of 50 residents and jobs per hectare.

Policy 2.2.1.4 supports the achievement of complete communities that feature a diverse mix of land uses, including residential and employment uses and convenient access to local stores, services and public service facilities; improve social equity and overall quality of life for people of all ages, abilities and incomes; provide a diverse range and mix of housing options, including second units and affordable housing; expand convenient access to a range of transportation options including active transportation, public service facilities, co-located and integrated in community hubs, an appropriate supply of safe, publicly accessible open spaces, parks, trails and other recreational facilities and healthy, local and affordable food options including urban agriculture; ensure the development of high quality compact built form, an attractive and vibrant public realm through site design and urban design standards; mitigate and adapt to climate change impacts, build resilience, reduce greenhouse gas emissions and contribute toward the achievement of low carbon communities and integrate green infrastructure and low impact development.

The proposed zoning change will permit some modifications to the existing permitted uses (addition of drive-throughs) and changes to specific regulations (gross leasable floor area, planting strip, setbacks). The zoning permits a range of commercial uses which will provide services to nearby residents as well as the travelling public. Site design, active transportation and transit considerations will be reviewed as part of a future Site Plan application. The applicant will also be required to provide a Planning Justification Report with a future Site Plan application which addresses the minimum density requirement in Policy 2.2.7.2. The proposed zoning change is consistent with the Growth Plan for the Greater Golden Horseshoe.

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***Regional Official Plan, consolidated August 2015***

The subject land is located within the Urban Area Boundary of the Town of Pelham and is designated as Greenfield Area in the Regional Official Plan.

Designated Greenfield Areas will: accommodate a range of land uses; make a significant contribution to the growth of the respective urban area as a complete community; provide opportunities for integrated, mixed land uses; create street patterns that are fine grain and in grid pattern; support transit and active transportation within the area and to adjacent areas; ensure that greenfield development is sequential, orderly, and contiguous with existing built-up areas; and, ensure that the provision of municipal servicing is in accordance with the water and wastewater servicing master plans (Policy 4.C.5.1).

The Region will require a minimum combined gross density target of 50 people and jobs per hectare across all designated greenfield areas.

The proposed zoning change diversifies the mix of commercial uses permitted in the EF-MU2 zone, adding to a complete community. The East Fonthill Secondary Plan area has been designed with a fine grain grid pattern, is contiguous with existing built-up areas and serviced in accordance with the servicing master plan. As discussed above, a future Site Plan Application will have to address transit and active transportation as well as the density target. Based on this analysis, the proposed zoning change conforms to the Region's Official Plan.

***Town of Pelham Official Plan, 2014***

The portion of the property that the application pertains to is located within the East Fonthill Secondary Plan Area with a Greenfield Overlay and is designated EF – Mixed Use in the Town's Official Plan, 2014.

Permitted uses in the EF- Mixed Use designation are commercial, professional and/or government offices; research and data processing facilities; retail commercial uses including retail stores, restaurants and personal services, with Gross Leasable Floor Areas greater than 150 square metres. Retail commercial uses with a Gross Leasable Floor Area of between 100 and 150 square metres may be considered by the Town, subject to an analysis that indicates that the proposed use will not have a detrimental impact on any existing uses within the historic commercial core of Fonthill, to the satisfaction of Council (B1.7.8.3.1(b)(iii)); space extensive retail uses such as automotive related



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products, large and bulky goods such as furniture and appliances, home improvement materials, supermarkets, hardware and nursery or garden supply products; hotels and tourist attractions; conference centres; cultural, recreational and entertainment uses; public and private institutional uses; live-work units; townhouses and apartment buildings; accessory apartments and/or secondary suites; housing for seniors and/or special needs housing; child care facilities; parking facilities at-grade and/or in structure; cycling facilities; parks and parkettes; and public uses and public and private utilities.

In an effort to address Policy B1.7.8.3.1(b)(iii), Planning staff undertook a review of the historic commercial core of Fonthill (Community Improvement Project Area) to determine how many commercial spaces were available for sale and lease on June 25, 2019. Planning staff walked the area looking for signs indicating that properties were for sale and/or lease as well as searched the Niagara Association of Realtors listings online. No signs nor listings were present for available properties within this area. Planning staff note that there are some commercial buildings along Highway 20, near the intersection with Pelham Street that appear to be vacant (AE Honey Jeweller, Frontier Gun & Sport, former Chambers Insurance). Assuming the commercial units in these buildings were available for rent, assessment records indicate that only two units fall between the 100–150 square metres in floor area at this time. It is likely that property owners would undertake renovations to the existing buildings prior to leasing them which would reduce or enlarge the commercial floor areas and is therefore, difficult to predict. Based on the lack of available commercial units for lease, the limited number of units between 100-150 square metres and the likelihood that units will be reconfigured to different floor areas outside of the 100-150 square metre floor area range in the future to accommodate specific tenants, Planning staff conclude that adding some additional leasable units between 100-150 square metres in leasable floor area would not have a detrimental impact on the historic Downtown.

Policy B1.7.8.3.1(a) encourages buildings within the EF-Mixed Use designation to accommodate an array of uses with high activity uses that animate the streetscape and encourage foot traffic, such as retail uses at-grade and/or along Arterial and Collector Road frontage, with uses such as offices, recreational, cultural and residential uses on second floors and/or behind the street related façade. Planning staff note that this Policy have expressed the desire for development as outlined in the policy to the potential purchaser. Details development plans have not been provided at this time and will be reviewed further at the time of Site Plan approval. Planning staff note that this policy “encourages” these uses but does not mandate them.

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Policy B1.7.8.1(b) outlines intentions for the EF-Mixed Use area including ensuring a vibrant, inviting and appealing atmosphere that will attract residents and new businesses, encourage walking and cycling and resonate with visitors a positive image of Fonthill; facilitate the development of a major new shopping destination; ensure development is comprehensively planned to ensure that the impacts of servicing, access, loading and parking can be adequately addressed; ensure the required minimum density of 50 persons and jobs combined per gross hectare is achieved within the Commercial/Employment Centre; and ensure that leading-edge telecommunication services are in place through discussions with telecommunications providers to attract knowledge-based industries and support the technological advancement and growth of existing businesses.

Planning staff will evaluate the future Site Plan Application with respect to items outlined in B1.7.8.1(b). The proposed zoning change relating to minimum leasable floor areas, setbacks and the planting strip do not hamper the ability to address urban design, servicing, parking and densities.

Policy B1.7.8.2(a) requires that a Site Master Plan be prepared within the Commercial/Employment Centre which identifies road, block and land use plans, streetscape and open space plans, urban design and architectural control guidelines, servicing and environmental impacts where required by the Official Plan. Planning staff advise that a Site Master Plan was prepared by the Planning Partnership on behalf of the Town in January 2015 for the Mixed use Centre that the lands are part of. This Site Master Plan was approved by Council.

Policies B1.7.8.2(c) indicates that prior to considering an application for Zoning By-law Amendment and/or Site Plan approval, Council shall be satisfied that adequate parking for automobiles and bicycles and loading facilities are provided on site; buildings located at entrance points to the Fonthill Urban Area or at the intersection of any Collector Main Street and Highway 20 are designed to provide or maintain a desirable gateway to the community; new or redeveloping uses incorporate landscaping to enhance the site and surrounding areas; outdoor storage areas, where permitted are substantially screened from view from passing traffic; and all options respecting shared access from the road are reviewed and implemented where feasible.

In response to this Policy, Planning staff advise that adequate parking is able to be accommodated to serve future uses on this site. Parking deficiencies at the Meridian Community Centre are being reviewed by the Town separately and can be resolved without involving this site. Town and Regional



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staff will be carefully reviewing urban design, landscaping and access considerations as part of a future Site Plan approval. The current zoning change does not impede the ability of the Town to review the items contained in this policy as part of the future Site Plan approval.

Policy B1.7.8.2(d) indicates that parking can be reduced and shared parking considered due to the mixed use nature of the area and sets minimum and maximum parking standards. Planning staff note that no changes are proposed to the minimum or maximum parking standards as a result of the proposed zoning change. Future development of the property will be required to comply with the current standards.

Policy B1.7.8.3.2(a) requires that lands in the EF-Mixed Use are required to achieve a minimum density of 50 persons and jobs per hectare. A planning justification report which analyzes the proposed development with respect to the density requirements is necessary as part of a future Site Plan approval application. The proposed zoning change does not affect the requirement for the development to meet the density target.

Policy B1.7.8.3.2(b) requires that residential development be developed at densities ranging from a minimum of 35 units per net hectare up to 160 units per net hectare. Planning staff note that the EF-Mixed Use designation applies to a large portion of land of which different portions are subject to purchase and sales agreements for different proposed uses. Future residential uses in the EF-Mixed Use designation will be subject to this policy and required to demonstrate conformity. The proposed zoning change does not affect the ability to meet this policy for future residential development.

Policy B1.7.8.3.2(c) requires a minimum building height of 2 storeys or 6.0 metres in the EF-Mixed Use designation and a maximum of the lesser of 10 storeys or 35 metres.

The proposed zoning change does not request to change the minimum building height and therefore future development must comply with Policy B1.7.8.3.2(c).

The property is also designated Highly Vulnerable Aquifer on Schedule B1. Policy C5.3 indicates to minimize risks posed by land uses on vulnerable groundwater areas, the following uses are prohibited on lands identified as Vulnerable Groundwater Area/Highly Vulnerable Aquifers:

- Generation and storage of hazardous waste or liquid industrial waste;
- New waste disposal sites and facilities, organic soil conditioning sites, and snow storage and disposal facilities;

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- Underground and above-ground storage tanks that are not equipped with an approved secondary containment device; and,
- Storage of a contaminant listed in Schedule 3 (Severely Toxic Contaminants) to Ontario Regulation 347 of the Revised Regulations of Ontario, 1990, or its successor.

For Committee's information, none of the prohibited uses, outlined in Policy C5.3, are proposed for the subject parcel.

Based on this analysis, it is Planning staff's opinion that the proposed zoning change conforms to the Town's Official Plan.

***Zoning By-law 1136 (1987), as amended***

The portion of the property subject to the zoning by-law amendment is zoned EF-MU2 which permits a multi-use recreational facility, including cultural, recreational and entertainment uses; commercial, professional, medical and/or government offices; retail commercial uses including retail stores, restaurants and personal services with gross leasable floor areas greater than 150m<sup>2</sup> and less than 1000 m<sup>2</sup> per business; hotels and tourist accommodations; conference and convention centres; public and private institutional uses; townhouses and apartment buildings; housing for seniors and/or special needs housing; child care facilities; parks and urban squares; public uses and public and private utilities; public art installations; and public roads, active transportation facilities and transit facilities.

The zoning by-law amendment application seeks approval to amend the EF-MU2 zone by reducing the gross leasable floor area for retail commercial uses to 100 m<sup>2</sup>, permitting a maximum of two drive-through facilities and increasing the build-within zone to 9.69 to 16.57 metres for two buildings and reducing the landscape buffer to 1.5 metres next to the storm water management pond.

*Table 1: Requested Zoning By-law Amendment*

	Current EF-MU2 Zone	Proposed EF-MU2 Zone
1.0(a) Permitted Uses		
(ii)	Retail commercial uses including retail stores, restaurants and personal	Retail commercial uses including retail stores, restaurants and personal

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	Current EF-MU2 Zone	Proposed EF-MU2 Zone
	services with Gross Leasable Floor Areas greater than 150 m <sup>2</sup> (1,614.6ft <sup>2</sup> ) and less than 1000m <sup>2</sup> (10,763.9 ft <sup>2</sup> )	services with Gross Leasable Floor Areas greater than 100 m <sup>2</sup> (1,614.6ft <sup>2</sup> ) and less than 1000m <sup>2</sup> (10,763.9 ft <sup>2</sup> )
<b>2.0 Development Regulations</b>		
(a)	No drive-through facilities of any kind are permitted in the EF-MU2 zone.	A maximum of 2 drive-through facilities of any kind are permitted in the EF-MU2 zone.
(d)(ii)	Where a building abuts or is adjacent to Street C or Rice Road (Regional Road 54), the front façade and main front wall of the building shall be developed within the 0.0 to 3.0 m (0.0 to 9.8 ft) Build-Within Zone.	Where a building abuts or is adjacent to Street C or Rice Road (Regional Road 54), the front façade and main front wall of the building shall be developed within the 0.0 to 3.0 m (0.0 9.8 ft) Build-Within Zone. Buildings which abut the storm sewer easement may have a Build-Within Zone of 9.69 to 16.57 m (31.8 to 54.4 ft)
(d)(iii)	Where a building abuts, or is adjacent to an EF-SWM Zone, it shall be set back from the boundary of the EF-SWM Zone a minimum of 3.0 m (9.8 ft). A landscape buffer shall be included within the requirement development setback.	Where a building abuts, or is adjacent to an EF-SWM Zone, it shall be set back from the boundary of the EF-SWM Zone a minimum of 1.5 m (4.9 ft). A landscape buffer shall be included within the required development setback.

The purpose of the change to increase the build-within zones for two structures along Highway 20 is due to the presence of an existing storm sewer easement on which no structures are permitted.

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The proposed zoning change will conform to the policies of the Official Plan. The zone standards will allow for efficient development while permitting detailed design matters to be addressed through the future Site Plan Agreement.

**Agency Comments:**

On May 17, 2019 a public meeting notice was circulated to external agencies and internal departments regarding the proposed applications. The following comments have been received as of the date of writing of this report (Appendix A):

<b>Enbridge</b>	No objection
<b>Building</b>	No comment
<b>Canada Post</b>	No comments or conditions
<b>Region of Niagara</b>	Not opposed provided that a Stage 4 archaeological assessment for Location 2 (AgGt-198) is completed.

**Public Comments:**

On May 17, 2019 a public meeting notice was circulated to all property owners within 120 metres of the property's boundaries. In addition, public notice signs were posted facing Highway 20, Rice Road, Meridian Way and Wellspring Way. A public meeting was held on June 10, 2019 and the minutes are included as part of Council's agenda. The following comments have been received at the time of writing of this report:

<b>Craig Larmour</b>	References a number of Official Plan policies and requests clarification (full version in Appendix B).
<b>Kim Duffin</b>	Enquired as to why the Town is the applicant for the proposed zoning change.

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**Bernie Law**

Concerns about traffic turning left onto Highway 20 from the proposed driveway.

**Staff Comments:**

In response to Regional comments which indicated that further archaeological assessment was required on the site, Planning staff advise that the archaeological work was completed and cleared by the Ministry of Tourism, Culture and Sport (MTCS) in 2014. Copies of the report and Ministry clearance letter have been provided to the Region for their information.

Planning staff have addressed comments raised by Craig Larmour relating to specific Official Plan policies under the Town of Pelham Official Plan section above. Mr. Larmour also enquired as to why drive-through facilities are currently prohibited in the EF-MU2 zone and now being proposed. When the Secondary Plan was initially approved, the intention was for drive-through uses to be limited to the EF-MU1 zone. Two drive-throughs were constructed in this area (existing commercial plaza). The addition of permission for two drive-throughs being proposed in the EF-MU2 zone as part of the zoning by-law amendment is a condition of a purchase and sales agreement with the Town. The business model of the potential purchaser is such that the ability to construct two drive-throughs is necessary.

Responses were provided at the public meeting to Kim Duffin and Bernie Law. It was clarified that the Town is the applicant of the proposed zoning by-law amendment due to it being a condition of a purchase and sale agreement and that the proposed driveway will only permit traffic to turn right and that left turns will be prohibited by a median on Highway 20 (Regional Road 20).

As noted, a separate application for site plan approval will be made for the proposed commercial development and accordingly a separate report will be presented to Council for its consideration on the site plan at a later date, once the application is received and the review completed.

Based on the policy analysis and discussion in this report, it is Planning staff's opinion that the application for zoning by-law amendment is consistent with the Provincial Policy Statement, conforms to Provincial and Regional plans, will conform to the Town's Official Plan, and East Fonthill Secondary Plan and applies good planning principles. Further, no changes are proposed that would affect the ability to review matters related to urban design, densities, parking, active transportation, etc. through a future

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Site Plan approval application. Therefore, staff recommend that Council approve the proposed zoning by-law amendment.

Prepared by: Shannon Larocque, MCIP, RPP, Senior Planner

Reviewed by: Barbara Wiens, MCIP, RPP, Director of Community Planning and Development

**Attachments**

Appendix A      Agency Comments  
Appendix B      Public Comments  
Appendix C      Zoning By-law Amendment

**Alternatives:**

Council could choose not to approve the zoning change, however if Council chose to do this, the sale of the lands would not be realized as the proposed zoning by-law amendment was a condition of the purchase and sale agreement.

**Recommendation:**

**THAT**, Council receives this Department of Community Planning and Development report for information as it pertains to File No. AM-06-19 relating to Parts 1, 8-11 and 16-19, Plan 59R-16208;

**AND THAT**, Council approve the By-law, attached hereto as Appendix C, amending provision of the East Fonthill Mixed Use 2 (EF-MU2) zone.