

January 28, 2020

Mrs. Nancy J. Bozzato, Secretary Treasurer
Committee of Adjustment
Town of Pelham
Fonthill, ON L0S 1E0

Re: Minor Variance Application A4/2020P
795 Canboro Road
Plan 703, Part of Lot 1
Roll No. 2732 010 015 03500

The subject land is located on the northeast corner of Canboro Road and Maple Street, known locally as 795 Canboro Road and legally described above, in the Town of Pelham.

The subject land is zoned 'General Commercial' (GC) in accordance with Pelham Zoning By-law 1136 (1987), as amended. The applicant requests relief from:

- **Section 6.16 (a) "Minimum Parking"** to allow 0 parking stalls, whereas the By-law requires 3 stalls for 8 hotel suites;
- **Section 20.2 (c) "Maximum Lot Coverage"** to allow 57%, whereas 40% is required.
- **Section 20.2 (d) "Maximum Gross Floor Area"** to allow a GFA of 191%, whereas 50% is required.
- **Section 20.2 (e) "Minimum Front Yard"** to allow a front yard of 1.83 m, whereas 6 m is required.
- **Section 20.2 (f) (iii) "Minimum Side Yard abutting a street"** to allow 0.06 m for the corner entrance and 1.83 m for the west wall, whereas 3 m is required.

Relief is sought to redevelop an existing 1-storey commercial building into a 3-storey, mixed-use building consisting of ± 206 m² of commercial space at-grade with 8 new hotel suites above via a 2-storey building addition. Two small ground floor additions are proposed, one (40 m²) to the northwest accommodating an elevator, and another (4 m²) at the southwest corner for an entry feature. These (two) horizontal additions will expand the footprint of the building to approximately 280 m², however, with the basement and ground floor proposing reconfigured floorplans, less space is allocated for commercial use (bakery) overall than previously existed with the former bank. The balance of the existing space is proposed to be used in support of the eight (8) hotel units for storage and a lobby.



Figure 1: Subject Lands

Applicable Planning Policies

Provincial Policy Statement (PPS) (2014)

The Provincial Policy Statement (PPS) provides policy direction on matters of provincial interest related to land use planning and development, and sets the policy foundation for regulating the development and use of land. The PPS provides for appropriate development while protecting resources of provincial interest, public health and safety, and the quality of the natural and built environment.

Section 3 of the *Planning Act* requires that decisions affecting planning matters “shall be consistent with” policy statements issued under the *Act*. The PPS recognizes the diversity of Ontario and that local context is important. Policies are outcome-oriented, and some policies provide flexibility provided that provincial interests are upheld. PPS policies represent minimum standards.

The subject land is located in a ‘Settlement Area’ according to the PPS. Policy 1.1.3.1 states that settlement areas shall be the focus of growth and their vitality and regeneration shall be promoted.

Policy 1.1.3.2 Land use patterns within *settlement areas* shall be based on (among others):

- a) Densities and a mix of land uses which:
 - 1. Efficiently use land and resources;
 - 2. Are appropriate for, and efficiently use, the *infrastructure* and *public service facilities* which are planned or available, and avoid the need for their unjustified and/or uneconomical expansion.
 - 4. Support active transportation.

Regarding Policy 1.1.3.2 a) – The proposed development is seeking to make more efficient use of the land by building a vertical addition and utilize the existing public parking areas surrounding the subject land. Confirmation of adequate servicing capacity is required prior to Site Plan Approval. The development is situated in Downtown Fenwick and is within walking distance to local businesses, restaurants, Maple Acre Library, Centennial Park and is well connected to the rest of the Niagara Region road network recognizing the proposed hotel use which would likely welcome tourists.

Policy 1.1.3.3 states municipalities shall identify appropriate locations and promote opportunities for redevelopment where this can be accommodated taking into account existing building stock and the availability of suitable existing infrastructure and public service facilities.

Policy 1.1.3.4 states appropriate development standards should be promoted which facilitate compact form, while avoiding or mitigating risks to public health and safety.

Policy 1.7 states long-term economic prosperity should be supported by:

- a. Promoting opportunities for economic development and community investment-readiness;
- b. Optimizing the long-term availability and use of land, resources and infrastructure;
 - ✓ Redevelopment of existing land is widely considered the most optimal use of land, resources and infrastructure as it reduces pressure on the urban periphery with less infrastructure and more of a demand on transportation networks.
- c. Maintaining and, where possible, enhancing the vitality and viability of downtowns;
 - ✓ The proposed redevelopment represents an investment and commitment to Downtown Fenwick.
- d. Encouraging a sense of place, by promoting well-designed built form and cultural planning, and by conserving features that help define character, including *built heritage resources*;
 - ✓ The existing 1-storey orange brick building is not a Part IV designated heritage building. However, the Town of Pelham and particularly the Village of Fenwick has a long history of orange, brown and red brick clad building styles, albeit the existing structure does lack

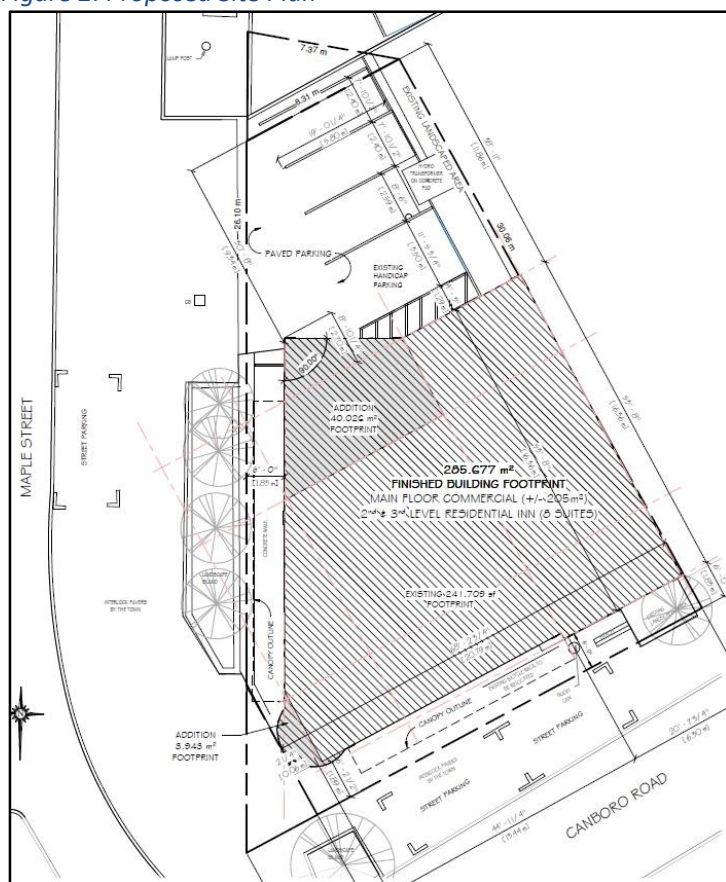
certain traditional architectural details that are often noteworthy such as cornices and brick details. The existing building appears in good exterior condition and has the potential to be further enhanced.

- g. Providing opportunities for sustainable tourism development;
 - ✓ The proposal consists of a Downtown redevelopment that would provide new hotel suites, likely for tourists or the visiting public.
- h. Providing opportunities to support local food, and promoting the sustainability of agri-food and agri-product business by protecting agricultural resources, and minimizing land use conflicts.
 - ✓ The proposed bakery on the ground floor and additional hotel suites is situated in Fenwick with full municipal services which is also nestled amongst a very productive agricultural region. There exists a proximate geographic advantage for promoting the agricultural industry whilst avoiding land use conflicts due to the urban-rural separation.

Policy 2.6.2 states that development and site alteration shall not be permitted on lands containing archaeological resources or archaeological potential unless the resources have been conserved. Archaeological resources have been discovered within 300m of the subject lands and further, the Town's Heritage Master Plan identifies this area as having high archaeological resource potential. However, considering how disturbed the site is and the overall extent of the proposed horizontal building addition, both the Region and Town staff waived the requirement for an Archaeological Assessment.

The proposed development seeks to redevelop the existing 1-storey commercial building by reconfiguring the ground floor / basement for a bakery, as well as adding 8 new hotel suites on the 2nd and 3rd floor addition. Planning staff are of the opinion the requested zoning relief is consistent with the PPS as it promotes appropriate development standards in a downtown neighbourhood, supports economic development, the tourism industry, potentially the agri-food network and also enhances the cultural heritage of the community.

Figure 2: Proposed Site Plan



Growth Plan for the Greater Golden Horseshoe (2019)

This Plan informs decision-making regarding growth management and environmental protection in the Greater Golden Horseshoe (GGH). All decisions made after May 16, 2019 that affect a planning matter will conform with this Growth Plan, subject to any legislative or regulatory provisions providing otherwise. The policies of this Plan take precedence over the PPS to the extent of any conflict.

The subject parcel is located within a 'Settlement Area' according to the Growth Plan. Guiding principles regarding how land is developed:

- Support the achievement of *complete communities* to meet people's needs through an entire lifetime.
- Provide flexibility to capitalize on new economic and employment opportunities as they emerge.
- Provide for different approaches to manage growth that recognize the diversity of communities in the GGH.
- Support and enhance the long-term viability and productivity of agriculture by protecting *prime agricultural areas* and the *agri-food network*.
- Integrate climate change considerations into planning and managing growth.

Policy 2.2.1 Managing Growth – 2. Forecasted growth to the horizon of this Plan will be allocated based on the following:

- a) the vast majority of growth will be directed to *settlement areas* that:
 - i. have a *delineated built boundary*;
 - ii. have existing municipal water / wastewater systems; and
 - iii. can support the achievement of complete communities.

Complete Communities are defined as mixed-use neighbourhoods or other areas within a Town that offer and support opportunities for people of all ages and abilities to conveniently access most of the necessities for daily living, including an appropriate mix of jobs, local stores, and services, a full range of housing, transportation options and *public service facilities*. *Complete communities* may take different shapes and forms appropriate for their contexts.

Policy 2.2.5 Employment – states that economic development and competitiveness in the GGH will be promoted by integrating and aligning land use planning and economic development goals and strategies to retain and attract investment and employment.

The proposed hotel suites and bakery are all permitted uses under the Zoning By-law and are considered desirable from a planning perspective in a downtown neighbourhood setting such as Fenwick.

The subject lands are located at the main intersection of Downtown Fenwick and is surrounded by a parking lot to the north, restaurants, offices, a library and mechanics garage on all other sides. Although the Village of Fenwick lacks some critical features of a *complete community* (i.e. grocery store, pharmacy, banks etc.), it contains other essential daily amenities for the Village such as public elementary schools, a convenience store, service garages, veterinary clinic etc., the subject lands is situated in the most walkable location possible given the context.

The proposed variances will help facilitate the construction of 8 new hotel suites for the travelling public and a reconfigured ground floor and basement for a proposed bakery. The proposal will also help contribute towards the municipal property tax base which helps towards maintaining existing infrastructure and *public service facilities*. Existing stormwater facilities, water and sanitary sewer mains extend along the lot's frontages. Evidence of adequate municipal servicing capacity will be required at the Site Plan Control stage, and prior to building permit.

Regional Official Plan (Consolidated August 2014)

The Regional Official Plan designates the subject land as 'Built-Up Area' within the Urban Area Boundary.

Policy 2.A.1.2 states the Region supports and encourages the continued expansion and development, within *settlement areas*, of tourism opportunities.

Policy 4.G.6.2 indicates 'Urban Areas' will be the focus for accommodating the Region's growth and development.

Policy 4.J.4 states the Region encourages private realm site design that addresses public safety, active transportation, landscaping, and human scale in buildings facing public space.

The proposed site design positively reinforces the Canboro Road and Maple Street streetscape using compact, front-facing built form with principle entrances and active glazing at the sidewalk providing *eyes-on-the-street*. The active front façades enhance the pedestrian experience and comfort levels along both public streets. Therefore, Town Planning staff is of the opinion the development conforms to Regional policy.

Regional staff did not object to the proposal at the Pre-Consultation, nor request to be circulated the proposed minor variance application.

Pelham Official Plan (2014)

The Town of Pelham Official Plan is the primary planning document that will direct the actions of the Town and shape growth that will support and emphasize Pelham's unique character, diversity, cultural heritage and protect our natural heritage features. The community vision (Policy A1) of the Official Plan assumes the quality of life now enjoyed by residents of Pelham can be maintained and enhanced if the Town's distinct urban and rural character is maintained and enhanced. However, change is inevitable and it must be managed in an efficient and orderly manner to maximize the benefits of new development and minimize any impacts.

The local Official Plan designates the subject land as 'Downtown'. Policy B1.2.3 states the intent of the 'Downtown' designation is to accommodate a diverse mix of commercial, residential, cultural and social uses. In Downtown Fonthill specifically, this Plan envisions more housing opportunities.

Policy A2.1.2 Natural Environment – states the natural environment objectives of this Plan are to make planning decisions that consider the health and integrity of the broader landscape as well as the long term and cumulative impacts on the ecosystem.

No *key natural heritage features* (i.e. *Significant Woodlands, Provincially Significant Wetlands or valleylands* etc.) are located near the subject lands. It should also be noted that the addition of new short-term rental / hotel accommodations may help reduce the demand currently being expressed elsewhere in the Town by landowners. Some of which have landholdings in the rural area and although rural hospitality accommodations are attractive to some of the travelling public, an abundance of them can pose problems particularly with respect to limitations on private septic system servicing capacity, potable water, impacts on the rural street network which are not always capable of the same service level of arterial or collector roads and / or unwanted encroachment upon sensitive *key natural heritage features* (i.e. expanded amenity areas into *significant woodlands* or *Provincially significant wetlands*).

Policy A2.2.2 Growth & Settlement – states that it is a goal of this Plan to reinforce the function of the Downtowns as the primary business, entertainment and commercial focal point of the community and to encourage redevelopment within the Urban Area specifically in the Downtowns.

The subject lands are situated at the main Downtown Fenwick intersection and is closely situated near several

businesses, institutional uses and parks.

Policy A2.3.2 Urban Character – stated objectives of this Plan include (among others):

- To enhance the *urban areas* as diverse, livable, safe, accessible and attractive communities.
- To respect the character of existing development and ensure that all applications for development are physically compatible with the character of the surrounding neighbourhood.
- To foster a sense of civic identity through a high standard of urban design in private development.

The proposed development is principally a vertical addition with a small horizontal expansion to provide an elevator and lobby. The proposed building Elevation Plans appear to architecturally define the prominent corner with noteworthy features such as new ground-floor glazing, a prominent corner turret entrance and a steel mansard inspired roof (Figure 1).

Policy A2.4 Economy – stated objectives of this Plan include (among others):

- To contribute to maintenance of a competitive and positive business climate in the Niagara Region.
- To facilitate the provision of a range of services to the public within Pelham.
- To promote active transportation and the use of open space to encourage tourism.
- To encourage the development of additional employment and service commercial uses in the Downtowns.

The proposed redevelopment conforms with Policy A2.4 as it will help contribute towards the business community with an alternative commercial use together with hotel accommodations for the travelling public tending to visitors.

Policy A2.5.2 Infrastructure – stated objectives of this Plan include maintaining existing infrastructure in a manner that is cost effective and contributes to the quality of life of citizens.

Policy A2.7.2 Cultural Heritage – states it is the Plan's objective to ensure that the nature and location of cultural heritage and archaeological resources are known and considered before land use decisions are made.

The existing character of Downtown Fenwick's commercial area can be described by many older 1, 2 & 3-storey brick and vinyl sided mixed-use buildings. It is probable that many of the older, neighbouring sided buildings may have covered up an original brick exterior, which was a common practice, and still continues to be (Figure 1). The nearby branching streets, share a rich cultural built-form filled with mostly older single detached residential dwellings, the old Baxter Lane school and Fenwick United Church have complementing architecture (Figure 2). Unfortunately, some of the more recent infill residential dwellings do not emulate these character traits as they deploy larger front yard setbacks and have garage dominated front façades.

Based on the supplied building Elevation Plans, the proposed redevelopment seeks to enhance the urban aesthetic and public realm of Downtown Fenwick by using a combination of stone and brick exterior cladding materials while maintaining most of the original orange brick. New window openings are proposed along the west ground floor wall which will help animate the Maple Street frontage. A mansard inspired steel roof with a corner turret at Canboro Road helps define the prominent Fenwick intersection.

The subject lands are not a Part IV designated heritage property and the requirement for an archaeological assessment was waived by Regional and Town staff because of the limited extent of the proposed horizontal addition and the existing site which is considered heavily disturbed.

Policy A2.8 Community Improvement – stated objectives of this Plan are to encourage improvement and rehabilitation of older areas of the community and to improve the property tax base in commercial areas by stimulating private investment.

No CIP (Community Improvement Plan) applications have been submitted.

Policy B1.2.4.1 Mixed Use Intensification (Downtown) states that in considering mixed-use *intensification* proposals, developments are encouraged to incorporate high quality urban design, landscaping treatments and accessibility. The Town may enforce urban design guidelines through Site Plan Control.

The redevelopment proposed incorporation of an elevator for barrier free access. Extensive landscaping in downtown contexts is often not possible, practical, or necessarily even desired given how constrained some sites are and the historic urban built form. Urban design is discussed in more detail below and under the Downtown Master Plan section.

Policy B1.2.4.3 Downtown Development & Urban Design Policies – states the following policies (among others) are intended to guide redevelopment proposals along the *intensification corridors* in the Downtown designation:

- a) The maximum height of buildings fronting Canboro Road in Fenwick is 3-storeys;
- b) New buildings should be located at, or near the front lot line;
- c) Parking should not be permitted at the front of buildings, but instead accommodate either on-site at the rear, on the streets or in a communal parking area;
- d) The maximum retail floor area for a single building in Fenwick shouldn't exceed 500 m²;
- f) Buildings should be oriented to the street, consistent with adjacent buildings and provide clearly defined and accessible entry points from the sidewalk;
- g) Pedestrian weather protection is encouraged by using awnings or canopies;
- h) Building frontages are encouraged to be highly transparent with at least 50% glazing;
- j) Preferred building materials include brick, wood, stone, glass, in-situ concrete and pre-cast concrete. Vinyl siding, plastic, concrete block, metal siding and tinted/mirrored glass is discouraged.

Policy B1.2.4.5 provides the design guidelines for Downtown parking areas, however, the development proposes utilizing the existing parking areas to its rear (north) and existing on-street supply. It also states that where a new use cannot accommodate the Town's (off-street) parking requirement, the Town may accept cash-in-lieu where it's demonstrated that the parking can be accommodated in an alternate location.

In the absence of a *cash-in-lieu of parking by-law*, (and long-term Downtown parking strategy), Town staff cannot mobilize on this specific policy. Town staff also consulted with external legal counsel and confirmed requiring the payment of cash-in-lieu of parking cannot be imposed as a condition of minor variance, as the cash-in-lieu framework serves as an alternative to zoning relief, not in conjunction with a minor variance.

Policy E1.5 Minor Variances – states that in determining whether a variance is minor, the Committee of Adjustment will have more regard for the degree of impact which could result from the relief and less regard to the magnitude of numeric or absolute relief sought by the applicant. In addition, applicant should demonstrate a need for the relief on the basis that the subject zoning provision isn't warranted in a particular circumstance, causes undue hardship, or is otherwise impossible to comply with.

The *Planning Justification Report* submitted with the minor variance application describes how the Zoning By-law requires relief from parking despite the subject lands having a net surplus of *legal non-complying* parking stalls under the current situation which is greater than what is currently proposed.

Downtown Master Plan (2014)

This Plan provides a framework for shaping the physical form, relationships and character of the Downtown areas. Fenwick should promote its "village character" by maintaining its residential built form and promote local specialized businesses to attract local residents and visitors.

Section 3.13 Public Parking – notes that on-street parking areas are mostly asphalt and are not clearly

demarcated from the travelled roadway. A 2009 review of the parking supply in Downtown Fenwick comprised of approximately 95 off-street parking stalls, 23 on-street stalls along Canboro Road, and 20 stalls at the Fire Hall. An additional 25 on-street stalls could be accommodated along Welland Road.

Town Planning staff note that the 20 stalls cited above for the old Fenwick Fire Hall are now under private ownership. The new Fenwick Fire Hall (Station 2) was built 200 metres east of its predecessor, providing approximately 59 parking stalls on the south side of Welland Road. Though this municipal parking lot is public, it is not advertised and is slightly out of the way for the subject lands being located 300 metres away. Though this is just a 3-minute distance to walk, it's not quite direct or intuitive for visitors.

It should also be noted that on-street parking is permitted along both sides of Maple Street. These spaces are anticipated to handle some of the spillover parking demand during peak periods, given its proximity and availability. Town staff are aware local residents (in any neighbourhood) find it aggravating to find other vehicles parking in front of their property. However, on-street parking is a public good and is meant to serve the entire community. On-street parking also helps calm the speed of thru traffic by narrowing the carriageway, causing *edge friction* for drivers similar to street trees or other vertical obstructions along the periphery. On-street parked cars also help buffer the sidewalk and enhance the comfort of people walking.

Section 4.4 Village Built Form – states this *village built form* accounts for most of the Downtown. New proposed development should be subject to the following guidelines:

- Minimum of 2-storeys and maximum of 3-storeys
- New buildings should be setback more generously from the street between 1-5 metres, allowing room for landscaped areas and / or patios
- All required parking should be handled through on-street parking or in consolidated rear parking lots

The proposed redevelopment principally is a vertical addition which actually maintains the existing *legal non-complying* building setbacks, save for the corner and west wall extensions. Only the proposed corner extension would technically contravene the suggested minimum setback of 1 m outlined above, however, as detailed throughout this Master Plan, prominent visual sites should be afforded special consideration for increased building height and architectural provisions. The application also proposes to utilize the existing on-street parking supply, together with the consolidated municipal parking lot to the north. Accommodating any more parking on the subject lands is virtually impossible given the existing lot geometry and building situate.

Section 4.10 Retail frontage – states the ultimate goal is to make Downtown Fenwick (and Fonthill) a successful pedestrian environment and vibrant shopping destination by enhancing the continuous rhythm of small-scale shops and restaurants. The Built Form Framework Plan identifies required retail frontages along properties that flank onto certain streets, including portions of Maple Street and Canboro Road in Fenwick. At-grade retail uses that address the sidewalk should be required along these frontages to encourage an active streetscape.

The proposed redevelopment would activate the west wall by providing new glazing which will enhance the Maple Street streetscape.

Section 4.12 Prominent Visual Sites – states that highly visible building sites at key corners are identified for special architectural treatments to enhance the quality of the public realm, strengthening the Downtown's distinct identity and serve as orienting devices to people. These sites should permit distinct building massing in addition to using high quality exterior cladding / building materials.

The proposed minor variance application was accompanied by conceptual building Elevation Plans which illustrate a pronounced corner entrance in the form of a raised 'turret' integrated with a steel mansard style roof. The Committee should be aware that the building Elevation Plans would likely be further refined during the Site Plan Control process, prior to Council's consideration of the Site Plan Agreement.

Pelham Zoning By-law No. 1136 (1987), as amended

The subject lands are zoned 'General Commercial' (GC) according to the Zoning By-law No. 1136 (1987), as amended. The minor variance application requests relief from:

Section 6.16 Parking Area Regulations

a) Minimum Parking Requirements (Hotel)

Minimum:	3 stalls (1 per 3 suites)	Request:	0 stalls
----------	------------------------------	----------	----------

Section 20.2 Regulations for 'General Commercial' uses

c) Maximum Lot Coverage

Maximum:	40%	Request:	57%
----------	-----	----------	-----

d) Maximum Gross Floor Area (% of lot area)

Maximum:	50%	Request:	191%
----------	-----	----------	------

e) Minimum Front Yard

Minimum:	6 m	Request:	1.83 m
----------	-----	----------	--------

f) Minimum Side Yard (abutting a street)

Minimum:	3 m	Request:	0.06 m (For corner entrance)
Minimum:	3 m	Request:	1.83 m (For west wall)

With respect to the requested zoning relief for minimum parking requirements detailed above, Section 6.16 (g) does grant permission to *legal non-complying* uses that existed at the date of the (Zoning) By-law's passing to survive. However, it continues, so long as the floor area of the building is not increased and the building is used for a purpose which does not require more parking spaces, according to paragraph (a) of Section 6.16, no additional parking stalls are required. If an addition or change of use is made to a building as it existed at the date of the Zoning By-law's passing, then additional parking spaces shall be provided to the number required for such addition or change in use.


Therefore, because the proposed hotel suites (x8) are a different commercial use as defined in Section 5 of the Zoning By-law, and they are in addition to the existing *legal non-complying* main floor + basement commercial use, the additional parking requirement for zoning relief of Section 6.16 (a) was identified. Town Planning staff and the consultant planner have had differing interpretations of subsection 6.16 (g), and how it relates to *legal non-complying* situations in this case.

Principally worth noting, is that the existing commercial bank (Fenwick RBC) at 352 m² in GFA required 12 parking stalls, assuming a zoning provision rate of 1 stall / 30 m² of GFA, thus yielded a legal deficiency of 8 parking stalls. Under the proposed development scenario, the minimum overall parking space requirement is actually less (10 stalls) than what existed under the former bank's operation and use of gross floor area. This item is discussed more thoroughly throughout the *Report* and under the *four tests*.

With respect to the balance of the requested zoning provisions, (max lot coverage, max GFA, minimum setbacks), it is worth noting that the current Zoning By-law in effect was last consolidated in 1987. It is also worth noting that the current (GC zone) provisions affecting this development actually date back to at least 1978. The 1978 Zoning By-law enforced special regulations for the Downtown Fenwick commercial buildings, similar to the *Central Business District* (GC) zoning provisions we currently have in Downtown Fonthill. These provisions recognize historic downtown type built form by legalizing 0 metre front & side yard setbacks. However, for some reason the 1987 Zoning By-law removed these permissions for historic Downtown Fenwick thus requiring the land owner to apply for relief of the proposed redevelopment, regardless of the horizontal expansion, the vertical addition still warrants the zoning relief in this By-law.

The Committee of Adjustment, in Section 45 (1) of the *Planning Act*, may authorize a minor variance from the provisions of the by-law, subject to the following considerations:

Minor Variance Test	Explanation
<p>1. The variance is minor in nature.</p>	<p>Reducing the minimum parking requirement is minor overall considering the existing <i>legal non-complying</i> situation of the former occupant being the bank which required 12 parking stalls. The proposed redevelopment requires 10 parking stalls, effectively netting a lower parking requirement. The submitted <i>Parking Impact Study</i> indicated that the adjacent municipal parking lot only approaches capacity around Saturday evening for a couple hours. Adequate on-street parking is also available on both sides of Maple Street together (Figure 3) with the demarcated stalls along Canboro Road. Providing additional off-street parking stalls on the subject lands is not physically possible given the triangular shaped parcel and existing structure which is planned to be retained.</p> <p><i>Figure 3: Maple Street looking north from the subject lands</i></p>  <p>Increasing the maximum GFA from 50% to 191% appears dramatic but is, in Planning staff's opinion actually quite typical of downtown style buildings and compact mixed-use neighbourhoods. Lots are often quite small and support multi-storey buildings. The subject lands can comfortably support this type of building given the local context and the proposed GFA can be inferred minor overall.</p> <p>Increasing the maximum lot coverage from 40% to 57% is minor overall because little additional storm water runoff will be induced as the majority of the subject lands were hard surfaced originally. The proposed lot coverage is also a response to the more compact, urban-village character of the historic Downtown Fenwick built-form.</p> <p>Reducing the side yard setback to Maple Street is minor in nature given the downtown village context which consists of other compact, multi-storey buildings located close to public streets. No adverse impacts are anticipated, including safety related concerns such as from obstructed sight lines.</p> <p>Reducing the front yard setback does not pose any safety concerns because the horizontal encroachment is marginal at only several inches while the real addition is vertical in nature.</p> <p>Promoting the tourism industry by providing accommodations for the visiting public will help to ensure the long term vitality of local</p>

	businesses, parks and institutions, as well as helping to diversify Downtown land uses.
2. The variance is desirable for the development or use of the land.	<p>The requested variances, including reduced parking, yard setbacks, increased lot coverage, and gross floor area (GFA) articulate a normal response to downtown style development and Fenwick Village architecture (Figure 3). The proposed setbacks are marginal in nature because the majority of the building footprint will remain as is, with essentially the bulk of expansion being vertical in nature. The default lot coverage and max GFA regulations are characteristic of mid-20th century suburban planning which doesn't positively reflect the historic cultural heritage of Downtown Fenwick. The intersection of Maple Street and Canboro Road serves as the identifiable focal point of the Village of Fenwick and have helped define its unique character of compact mixed-use buildings situated on smaller lots along Canboro Road, notwithstanding the traditionally larger lot residential neighbourhoods surrounding the downtown commercial area.</p> <p><i>Figure 3: Proposed Rendering</i></p>  <p>Together, the requested variances are considered desirable for the subject lands and the larger community as they help maintain local business, residential conveniences, municipal tax base, infrastructure and cultural charm.</p>
3. The variance maintains the general intent and purpose of the Official Plan.	<p>The variance to reduce the hotel parking requirement maintains the general intent of the Official Plan as the applicant has demonstrated adequate parking is available with surrounding on-street parking supply, the adjacent municipal parking lot and the four (4) off-street parking stalls that currently exist. Consolidated parking arrangements are also encouraged in the Downtown Master Plan and Official Plan, specifically under Policy B1.2.4.5. Shared parking lots help make more efficient use of finite urban land, reduce overburdened costs associated with supplying, maintaining and dedicating land for (often 'free') parking. It is not uncommon for restrictive parking regulations to thwart an otherwise ideal redevelopment opportunity because the feasibility of providing a certain number of parking stalls is extremely expensive (i.e. structured / underground), physically difficult or near impossible to engineer.</p>

	<p>The relief requested for the balance of the zoning provisions maintain the general intent of the Official Plan because they collectively recognize a <i>legal non-complying</i> situation, enable the progressive expansion and redevelopment of the single use commercial building into a more productive 3-storey, mixed-use building which positively activates the streetscape with new door entries / windows, and improves the built character of Downtown Fenwick.</p> <p>Planning staff are of the opinion the proposed redevelopment articulates a positive response to the Town's Official Plan policies which call for investment in the business, tourism and hospitality industries to grow the Village of Fenwick as a walkable, diverse and desirable Regional destination and community for local residents.</p>
4. The variance maintains the general intent and purpose of the Zoning By-law.	<p>The requested reduction in parking stalls for the proposed hotel suites maintains the overall intent of the Zoning By-law because Section 6.16 (g) is intended to both recognize and protect <i>legal non-conforming uses</i> and <i>legal non-complying</i> situations. A strict interpretation of this subsection by Town staff warrants the trigger to request zoning relief for the proposed hotel's parking stall requirement. However, the effective net result on 795 Canboro Road's parking requirement is actually less than what previously was required for the former banks operation.</p> <p>Considering it's physically impossible for the subject lands to accommodate any more off-street parking without demolishing the existing building on its constrained, triangular shape, together with the reason outlined above, Planning staff are of the opinion the variance maintains the general purpose and intent of the Zoning By-law.</p> <p>It can reasonably be argued that the current max lot coverage, max GFA and minimum front / side yard setback regulations enforce a suburban built form typology not in keeping with the historic character of Downtown Fenwick's commercial area. Specifically, almost all of the established multi-storey, mixed-use buildings along Canboro Road employ a 0-2 metre front yard setback with similar side yard setbacks.</p> <p>The variances do not compromise the ability to comply with the <i>Ontario Building Code</i>, manage stormwater runoff and support essential services. The proposed uses are also permitted under the GC zone.</p>

Agency & Public Comments

On December 17, 2019 a notice of public hearing was circulated by the Secretary Treasurer of the Committee of Adjustment to applicable agencies, Town departments, and to all assessed property owners within 60 metres of the property's boundaries.

To date, the following comments have been received:

- Building Department (Jan 14, 2020)
 - A building permit will be required.
- Public Works Department (Jan 20, 2020)
 - At the Site Plan Control stage the following is required:
 - Stormwater Management Brief outlining the proposed stormwater management strategy using runoff calculations based on *pre-to-post*.
 - Functional Servicing Report, confirming adequate capacity in both the water and sanitary mains to accommodate post-development discharge rates.
 - Site Servicing Plan also showing existing topographic elevations on the Survey Plan.
- Niagara Catholic District School Board (NCDSB) (Jan 29, 2020)
 - Objects to the reduced front yard setback and side yard setback because it will narrow the sidewalks forcing students closer to traffic and parked cars, creating a safety concern.
 - ✓ Town Planning staff connected with Niagara Student Transportation Services (NSTS), whom commented on behalf of NCDSB, after they had provided comments clarifying this misinterpretation of the Site Plan and requested zoning setbacks.
 - ✓ The reduced front yard setback (Canboro Road frontage) is actually maintaining the existing front yard setback at the sidewalk by growing vertically, not horizontally (Figure 1).
 - ✓ The reduced side yard setbacks are not impacting or encroaching upon the public sidewalk because:
 - 1) The travelled sidewalk is on public property and the proposed wall extensions are exclusively on private property.
 - 2) The corner extension will be occupying what is currently a concrete wheelchair ramp including its railing.
 - 3) The west wall extension will be occupying what is currently private lawn and asphalt parking. This wall extension is \pm 4 metres (13') from the Maple Street sidewalk.

Three (3) public comments were received at the time of this writing and are summarized as follows:

- Concerns with lack of parking:
 - Visitors regularly park in my parking lot (at Clarence Service Centre) which is open Mon-Fri 8:00am-5:00pm.
 - Unfortunately, this is an existing situation. Perhaps, the installation of additional or alternative 'No parking / Towing' type signage may improve the situation.
 - The proposed redevelopment may be required to install signage directing customers / visitors to specific public parking areas. However, these details would be addressed as part of the Site Plan Control application.
 - Concern that an increase of vehicles parking in my private lot will be dangerous.
 - Unauthorized vehicles parking on private property unlawfully is trespassing.
 - Dangerous driving habits within parking lots can be reduced or eliminated through design measures such as directional pavement markings, physical obstructions and / or signage etc.
 - The municipal parking lot is full on most occasions and vehicles park on the street.
 - The Parking Impact Survey supplied by Associated Engineering found that this lot was only near capacity for a couple hours on Saturday evening in the summer.
 - On-street parking is permitted on both sides of Maple Street and this helps handle the overflow during peak periods. Vehicles parked on-street also help to calm the speed of passing traffic and improve the pedestrian sidewalk experience as parked vehicles provide an additional buffer between the sidewalk and moving traffic.
- Is there a need for 8 hotel rooms in Fenwick? Fenwick does not need short-term rentals.

- Policy B1.2.4.1 of the Official Plan states that the financial feasibility of, or market potential for mixed-use redevelopment proposals will not form the basis of any decision.
- Hotels & motels are permitted uses in the 'GC' (General Commercial) zone.
- The proposed hotel use would serve Fenwick and the surrounding area. The applicant is satisfied that there is a viable business case in this regard.
- Three (3) stories is a monstrosity size of building, how does it 'fit' the small Town feel.
 - The building height complies with the Zoning By-law.
 - The Downtown Master Plan actually calls for building heights of a minimum 2-storeys and a maximum of 3-storeys.
- The prescribed 60 metre radius for Public Notice circulations is inadequate and it should have based on the Town owned parking lot.
 - These are prescribed requirements under the *Planning Act*. Though the 60m radius is a minimum, *cherry-picking* which development applications should receive additional public notice requirements may be considered discriminatory to an applicant. Without some type of *good faith* policy or by-law adopted by Town Council to direct staff, this is an unreasonable practice. Two *Public Notice* signs were also posted on the subject lands providing supplementary notice, one for each street.
- Why the rush for the Public Hearing?
 - Because the *Planning Act* requires municipalities to hold a hearing for minor variance applications within 30 days of receiving the application.
- Has a traffic evaluation been done?
 - A Parking Impact Study prepared by Associated Engineering was submitted with the application. A Traffic Impact Study was not requested by either Town or Regional staff as the impact on the transportation network resulting from the proposed development is marginal overall.
- Reducing the yard setbacks is a safety concern for drivers.
 - The requested front yard setback is principally associated with the vertical addition. The proposed changes on the ground floor relevant to this safety concern are for the proposed corner entrance which expands westward towards Maple Street by 1.2 m (4'). The only sight line concern would be for southbound vehicles turning off of Maple Street. The line of sight for a driver positioned at the Maple Street 'STOP' bar looking for westbound Canboro Road vehicles is not impacted as the building wall is approximately 15 metres northeast of this 'STOP' bar, and the front yard building wall in question is already existing. The corner expansion is actually behind the driver's line of sight.

Planning Staff Comments

The subject lands are located on the northeast corner of Canboro Road and Maple Street. The lands are surrounded by a municipal parking lot to the north and mixed-use commercial buildings on all other sides.

It is noted that a Site Plan Control application will be required to facilitate the proposed development, this will warrant Council approval. A pre-consult was held with the applicant(s) of the property and staff from the Town with comments from Niagara Region Planning & Development Services on April 18, 2019 to discuss various development applications.

Planning staff are familiar with the quiet Downtown Fenwick neighbourhood, the proposed redevelopment and understand the local context which consists of traditional, compact downtown style mixed-use buildings ranging in height from 1 to 3-storeys, common of their era, (Figure 4). A *Planning Justification Report* was submitted in support of the application by Craig Larmour, MCIP, RPP dated 2019-12-16 and staff generally agree with its commentary.

Figure 4: Surrounding Fenwick neighbourhood



Planning staff wish to note that the ability for the subject parcel to provide any additional off-street parking is essentially impossible given the triangular shape, limited size, and local constraints present. Even if the existing building were not to exist, or the horizontal expansions weren't proposed, the provision of extra surface parking stalls would be so marginal and uneconomical that it wouldn't be feasible. Surface parking stalls require a significant amount of land to be exclusively dedicated to them, including drive aisles. Planning staff are also of the opinion it is hardly fair to prohibit an existing, legal lot of record from exploring redevelopment opportunities for what would otherwise comply with the historic scale, permitted uses and building mass typical of small town Ontario villages. The redevelopment provides an economic, social and cultural enhancement for Downtown Fenwick.

Planning staff also reviewed the submitted *Parking Impact Study* prepared by Associated Engineering, dated 2019-07-4 in support of reducing the parking stalls on the subject land after redevelopment. Though we understand its conclusions, and recommendation that in order for the redevelopment not to exceed the adjacent municipal parking lot's carrying capacity, the future bakery should not operate during the peak parking demand time. Though this is plausible, it is not enforceable under the Site Plan Control process nor is it within the Town's authority. Only the business owner and landlord would have jurisdiction to that effect.

It is for this reason, (together with the balance of this *Recommendation Report's* analyses that Town Planning staff are of the opinion the variance to reduce the parking requirement to zero (0) parking stalls is not considered to pose any adverse impacts to the community or users of the Town owned parking lot.

As described earlier in this Report, the variances associated with the minimum front and side yard setbacks are connected to both of the horizontal expansions. However, zoning relief for these two provisions would actually still be required even if the existing building footprint were maintained based purely on the vertical addition.

There is no remote prospect for any adverse impact associated with these setback reductions as minimally setback downtown buildings define the character of this neighbourhood and are widely considered desirable from an urban design perspective in downtown neighbourhoods.

Planning staff understand the proposal to be an ideal application of current planning and development goals outlined by upper levels of government and local Town policies dealing with appropriate *intensification*, redevelopment and land use diversification. The proposal will enhance the Canboro Road and Maple Street streetscape, help support other local businesses, public service facilities and share nearby amenities, increase the property's value and thus, tax productivity while making more efficient use of an existing lot on a fully serviced public street.

There are currently sanitary sewer capacity issues downstream towards the Fenwick pumping station. There are several capital works projects that will be carried out by both the Region and Town in the near future. In the meantime, the Site Plan Control application is required to be accompanied with a Functional Servicing Report, prepared by a *Professional Engineer* addressing the servicing matters and capacity issues associated with the redevelopment.

Town of Pelham Council approval will still be required prior to building permit for the Site Plan Control application to affect the legally binding Site Plan Agreement.

Planning staff are of the opinion that the proposal applies current planning and development principles dealing with appropriate *redevelopment* and *intensification* Downtown, making more efficient use of the designated urban area lands, where suitable to do so. The proposed minor variance should not negatively impact the surrounding neighbourhood with regards to land use incompatibility, traffic, parking, safety and storm water runoff.

In Planning staff's opinion, the application is considered an innovative form of compact, walkable, urban redevelopment, is consistent with the PPS and conforms to Provincial, Regional, and local plans.

Planning staff recommend that minor variance file A4/2020P **be approved**.

Prepared by,

A handwritten signature in black ink, appearing to read "Curtis Thompson".

Curtis Thompson, B.URPI
Planner

Approved by,

A handwritten signature in blue ink, appearing to read "Barbara Wiens".

Barb Wiens, MCIP, RPP
Director of Community Planning & Development