

COMMITTEE REPORT
COMMUNITY PLANNING & DEVELOPMENT DEPARTMENT
Tuesday, October 13, 2020

Subject: Information Report - Draft Plan of Subdivision and Zoning By-law Amendment Applications (26T19-020-02 & AM-03-2020)

Recommendation:

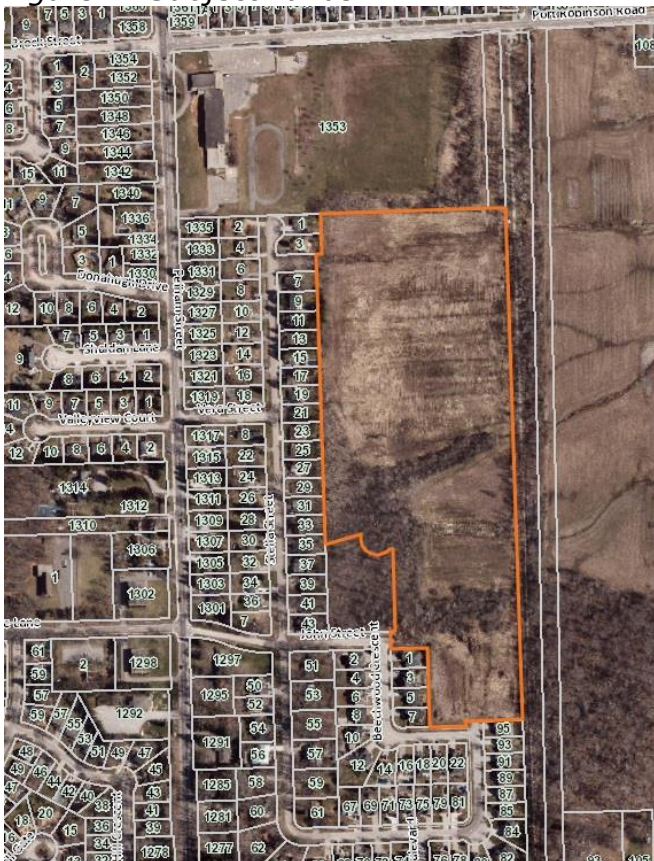
THAT Committee receive Report #2020-0132 for information and recommend to Council:

THAT Planning staff be directed to prepare the Recommendation Report for consideration of approving the subdivision draft plan and adopting the Zoning By-law Amendment.

Background:

The purpose of this Report is to provide Committee and the public with information regarding an application for Draft Plan of Subdivision and Zoning By-law Amendment under Sections 51 and 34 (respectively), of the *Planning Act* for the lands described legally as Part of Thorold Township Lot 173 and Part of Part 1 on RP 59R-1905 and known as Kunda Park Phase 4 (see Figure 1).

Figure 1: Subject Lands



The proposed subdivision would create 84 single detached residential lots, an environmental protection block (for a Provincially Significant Wetland) and associated public streets. The proposed Zoning By-law Amendment would rezone the lands from R1 (Residential 1) to site-specific R2 (Residential 2) and EP (Environmental Protection) zones.

The Kunda Park Phase 4 draft plan of subdivision application was originally submitted by Fonthill Downs Ltd. in 2002, and comprised of 95 single detached residential lots. The Phase 4 extension forms the last phase of the various developments within Lot 173 dating back to the early 1950s. A parkland block was approved and dedicated to the Town in 1990 as a condition of draft plan approval for the Kunda Park Extension 3 subdivision. At that time, the primary ecological concern was the existence of a Type 2 Fish Habitat consisting of an on-site tributary outletting to the Singers Drain.

Initial comments from various departments and agencies prompted a revised Draft Plan of Subdivision and Zoning By-law Amendment application. Further comments from the stakeholders indicated that the revised draft plan failed to adequately address concerns with environmental impacts, stormwater management and sanitary servicing. The NPCA (Niagara Peninsula Conservation Authority) in particular, had advised that they would be unable to support the development unless appropriate mitigation measures were implemented and an EIS (Environmental Impact Study) were produced prior to final approval.

In response to these concerns, a modified draft plan was submitted, and an EIA (Environmental Impact Assessment) was prepared on July 31, 2007 after consultation with the MNR (Ministry of Natural Resources) and the NPCA. At that time, it was discovered that recent MNR mapping had evaluated the woodlot on-site as part of the Niagara Street – Cataract Road Woodlot Provincially Significant Wetland (PSW) complex. The NPCA had responded to the EIA with various comments and revisions, indicating that the modified draft plan of subdivision would again need to be revised in order to address concerns and provide appropriate setbacks to the PSW in accordance with Provincial policy. The owner and environmental consultant continued discussions with the MNR, intending to appeal the PSW boundaries. Meanwhile, a notice was sent to departments and agencies of a revised Draft Plan of Subdivision and Zoning By-law Amendment application. As the plan had yet to address the local PSW, NPCA reiterated their position on the application which was supported by Niagara Region Planning staff.

On August 21, 2009, LCA Environmental Consultants conducted a scoped EIS based on a revised draft plan which addressed the PSW. The NPCA were supportive of its conclusions which provided a 30 m buffer to the PSW and an 18 m wide channel block to realign the Signer's Drain tributary. A Pre-Consultation meeting was held on October 20, 2010 where it was determined that the NPCA would not support the servicing infrastructure proposed for the subject lands (which would traverse the PSW) because viable alternatives could be achieved.

The property was sold to Sterling Realty (Niagara) Inc. in 2012. Activity on the subdivision application resumed when the Town indicated its intent to develop the (Phase 3) parkland block for a municipal park in 2013. Although discussions were had between the environmental consultant and the MNR about Pelham's request to remove this block from the PSW mapping, the MNR indicated that no changes would be considered to the PSW boundaries. Intending to move forward with the original application, Sterling Realty commissioned a PJR (Planning Justification Report) prepared by GSP Group Inc. in 2014, and an EIS prepared by Beacon Environmental Ltd. These studies were circulated to relevant departments and agencies for technical review. The following chronology of events was largely summarized by the 2014 PJR by GSP Group with supplemental information from municipal files and condensed by Town Planning staff for simplicity.

2002 – 2003
<ul style="list-style-type: none"> Original subdivision application circulated by Town to departments and agencies for comments. Town brings forward Technical Information Report.
<ul style="list-style-type: none"> NPCA meets with environmental consultant and MNR staff to review fish habitat issues. Advised that fish habitat requires 15 m buffer on both sides of watercourse.
<ul style="list-style-type: none"> Revised draft plan application submitted to resolve MNR / NPCA fish habitat issues and drainage issues. Revised draft plan illustrates removal of Block 96 (lands east of Glynn A. Green Elementary School) among other changes.
<ul style="list-style-type: none"> NPCA objects to revised proposal and requests EIS to justify the appropriateness of the reduced fish habitat buffer. Niagara Region supports the NPCA's position and cites concerns with existing stormwater management facility.
2004 – 2006
<ul style="list-style-type: none"> Ongoing discussions between environmental + engineering consultants and Town. Town supports the proposed relocation of watercourse through parkland block subject to the provision of lands for drainage conveyance purposes at the rear of some proposed lots. NPCA reiterates its requirements for a 15 m vegetated buffer and that any encroachment into the buffer will require an EIS.
2007 – 2008
<ul style="list-style-type: none"> Draft plan modified to address drainage and fish habitat issues.
<ul style="list-style-type: none"> MNR provides Savanta Inc. with key information for the scoped EIS (July 23, 2007), but does not identify any PSW on the subject lands.
<ul style="list-style-type: none"> EIS prepared by Savanta Inc. No wetlands identified by the MNR on Extension 3 or 4 lands.
<ul style="list-style-type: none"> MNR designates the existing wetland features as being part of a PSW (Provincially Significant Wetland complex).
<ul style="list-style-type: none"> NPCA responds to EIS requesting numerous revisions. NPCA will not support draft plan of subdivision until the PSW issue has been resolved with MNR.
<ul style="list-style-type: none"> Ongoing discussions between consultants, Town and MNR. Quartek Group (agent) advises MNR of their intention to appeal the PSW limits.
<ul style="list-style-type: none"> MNR re-evaluates the PSW and updates their mapping to now include a 1.6 ha wetland area. This decision had major repercussions on the Town's ability to develop this public park dedicated as part of Kunda Park Extension 3, effectively removing that possibility.
<ul style="list-style-type: none"> Notice of revised draft plan is circulated to departments and agencies in September 2008. NPCA reiterates former position respecting the PSW and informs Town that they would be unable to support the application unless the submission is modified. Niagara Region provides comments (October 2008) recommending increased mix of housing types and lot sizes to provide more opportunities for affordable housing and higher density.
2009 – 2010
<ul style="list-style-type: none"> LCA Environmental Consultants prepared a scoped EIS based on a revised draft plan with 20 fewer residential lots. NPCA agrees with new EIS conclusions about an 18 m wide channel block and a 30 m buffer for the PSW.
<ul style="list-style-type: none"> Another Pre-Consultation meeting was held with NPCA not supporting the servicing of subject lands via the PSW. NPCA states the preferred alternative of rerouting services eastward along the Steve Bauer Trail / unopened road allowance to bypass the undisturbed PSW.
2011 – 2012
<ul style="list-style-type: none"> Ed Kunda, owner of Fonthill Downs Ltd., passes away in 2011. Property is then purchased by Sterling Realty who begins dialogue with Town.
2013 – 2014
<ul style="list-style-type: none"> Town confirms its intent to develop municipal park on previously dedicated land (from Phase 3).

<ul style="list-style-type: none"> • MNR confirms no changes to PSW wetland mapping on Town owned block. Further dialogue between stakeholders ensues.
<ul style="list-style-type: none"> • NPCA advises Town that a scoped EIS would be required to develop the parkland block in any capacity, including as a passive park. • Town's solicitor advises the NPCA and MNR of its legal authority to develop the park block in accordance with the statutory provisions in effect at the time (1990). • The status of the parkland block do not implicate the processing of Kunda Park Phase 4 under the <i>Planning Act</i> as it was dedicated under the 3rd phase of Kunda Park.
<ul style="list-style-type: none"> • Additional studies, reports and plans prepared by the developer's consultant team analyzing servicing and design solutions circulated for agency review.
2016 – Present
<ul style="list-style-type: none"> • Another Pre-Consultation (January 2016) was held to discuss a modified draft plan, Zoning By-law Amendment, and status updates on the bat / five-lined Skink Study. <ul style="list-style-type: none"> ◦ Sterling Realty undertook a Municipal Class (B) Environmental Assessment to study the feasibility of extending a public street over a PSW. A PIC (Public Information Centre) was held on January 17, 2018 by Upper Canada Consultants on behalf of that process. • On February 1, 2019, Sterling Realty applied for a resubmission of the draft plan of subdivision, which proposed the inclusion of the aforementioned PSW street crossing. Town staff then circulated the resubmission to commenting agencies to solicit feedback. <ul style="list-style-type: none"> ◦ Town Planning staff provided negative feedback on the revised draft plan citing major policy issues, namely a lack of housing variety and disconnected transportation network among other things. ◦ Niagara Region and NPCA also provided negative feedback with respect to a lack of information in the EIS, particularly surrounding the watercourse. • Another Pre-Consultation (November 2019) was held to discuss a modified draft plan, Zoning By-law Amendment and updates to supporting prescribed information (PJR, EIS, Functional Servicing Report etc.). • On May 1, 2020, Sterling Realty applied for a resubmission of the (still original 2002) draft plan of subdivision and applied for a new (2020) Zoning By-law Amendment (file: AM-02-2020) to rezone the lands to address Town staff and agency concerns. Town staff then circulated the resubmission and rezoning application to solicit agency and department feedback. <ul style="list-style-type: none"> ◦ Town staff have consolidated current agency and department feedback (outlined in this Report) based on the current Draft Plan and scheduled the statutory Public Meeting.

Analysis:

Planning Act

Section 2 of the Act addresses matters of Provincial interest and requires municipal Councils to have regard to, among other matters:

- a) The protection of ecological systems, including natural areas, features and functions;
- b) The protection of the agricultural resources of the Province;
- d) The conservation of significant cultural, archaeological or scientific interest;
- e) The efficient use and conservation of energy and water;
- f) The adequate provision and efficient use of transportation, sewage & water services and waste management systems;
- g) The minimization of waste;
- h) The orderly development of safe and healthy communities;
- j) The adequate provision of a full range of housing, including affordable housing;
- l) The protection of the financial and economic well-being of the Province and its municipalities;
- o) The protection of public health and safety;
- p) The appropriate location of growth and development;
- q) The promotion of development that is designed to be sustainable, support public transit and to be oriented to pedestrians;

- r) The promotion of built form that is well designed, encourages a sense of place, and provides for public spaces that are of high quality, safe, accessible, attractive and vibrant;
- s) The mitigation of greenhouse gas emissions and adaption to a changing climate.

Section 3 of the Act requires that, in exercising any authority that affects a planning matter, municipalities “shall be consistent with the policy statements” and “shall conform to 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 and section 51 of the Act allows for consideration of a plan of subdivision.

Section 51 (24) of the Act states that in considering a draft plan of subdivision, regard shall be had, among other matters, to the health, safety, convenience, accessibility for persons with disabilities and welfare of the present and future inhabitants of the municipality and to:

- a) The effect of development of the proposed subdivision on matters of provincial interest as referred to in section 2;
- b) Whether the proposed subdivision is premature or in the public interest;
- c) Whether the plan conforms to the official plan and adjacent plans of subdivision, if any;
- d) The suitability of the land for the purposes for which it is to be subdivided;
- e) The number, width, location and proposed grades and elevations of streets, and the adequacy of them, and the streets linking the streets in the proposed subdivision with the established road system in the vicinity and the adequacy of them;
- f) The dimensions and shapes of the proposed lots;
- g) The restrictions or proposed restrictions, if any, on the land proposed to be subdivided or the buildings and structures proposed to be erected on it and the restrictions, if any, on adjoining land;
- h) Conservation of natural resources and flood control;
- i) The adequacy of utilities and municipal services;
- j) The adequacy of school sites;
- k) The area of land, if any, within the proposed subdivision that, exclusive of streets, is to be conveyed or dedicated for public purposes;
- l) The extent to which the plan’s design optimizes the available supply, means of supplying, efficient use and conservation of energy; and,
- m) The interrelationship between the design of the proposed plan of subdivision and site plan control matters relating to any development on the land, if the land is also located within a site plan control area designated under subsection 41 (2) of this Act.

Provincial Policy Statement (2020)

Despite the original draft plan of subdivision application being made in 2002, there are no transition provisions in respect of the application of the Provincial Policy Statement (PPS). Part II Legislative Authority – states Section 3 of the *Planning Act* requires that decisions affecting planning matters “shall be consistent with” policy statements issued under the *Act*. The 2020 PPS applies to all decisions rendered after May 1, 2020 (subs. 4(1)), and these policies represent minimum standards which shall be implemented in a consistent manner with the Ontario *Human Rights Code* (subs. 4(4.4)).

The subject lands are located in a ‘Settlement Area’ according to the PPS. The 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.

Policy 1.1.1 states healthy, liveable and safe communities are sustained by:

- a) Promoting efficient development and land use patterns which sustain the financial well-being of the Province and Town over the long term;
- b) Accommodating an appropriate affordable and market-based range and mix of residential types (including second units, multi-unit housing, affordable housing and housing for older persons), and other uses to meet long-term needs;
- c) Avoiding development and land use patterns which may cause environmental or public health and safety concerns;
- d) Avoiding development and land use patterns that would prevent the efficient expansion of *settlement areas*;
- e) Promoting cost-effective development patterns and standards to minimize land consumption and servicing costs;
- f) Improving accessibility for persons with disabilities and older persons by identifying, preventing and removing land use barriers which restrict their full participation in society;
- g) Ensuring that necessary *infrastructure* and *public service facilities* are or will be available to meet current and projected needs; and
- h) Promoting development and land use patterns that conserve biodiversity; and
- i) Preparing for the regional and local impacts of a changing climate.

Policy 1.1.3 states that it is in the interest of all communities to use land and resources wisely, to promote efficient development patterns, protect resources, promote green spaces, ensure effective use of infrastructure and public service facilities and minimum unnecessary public expenditures.

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 states land use patterns within *settlement areas* shall be based on densities and a mix of land uses which (among others):

- a) Efficiently use land and resources;
- b) 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;
- c) Minimize negative impacts to air quality and climate change, and promote energy efficiency;
- d) Prepare for the *impacts of a changing climate*;
- e) Support *active transportation*

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.

Development should provide for an appropriate range and mix of housing types and densities to minimize the cost of housing, and facilitate compact form, while maintaining appropriate levels of public health and safety (Policy 1.4.3). Healthy, active communities meet the needs of pedestrians by fostering and facilitating active transportation, social interaction 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).

Greenbelt Plan (2017)

The subject land is located outside of the Greenbelt Plan Area; and therefore, is not bound by policies of this Plan.

Growth Plan for the Greater Golden Horseshoe (2019)

Under the *Places to Grow Act*, 2005, Ontario Regulation 311/06, subsection 3(4) states that a matter (application) commenced before June 16, 2006 shall be continued and disposed of as if the (Growth) Plan had not come into effect.

Subsection 2(h) states that draft plan of subdivision applications under section 51 of the *Planning Act* is deemed to have commenced on that day the application is made.

Therefore, because the original draft plan of subdivision application (file 26T19-020-02) was made in 2002, and has remained active ever since, the 2006, 2017 and 2019 Growth Plan are not applicable in consideration of the subdivision application.

However, the Zoning By-law Amendment application (file AM-03-2020) was submitted in 2020 and therefore is bound by the policies of the current Growth Plan.

The updated Growth Plan took effect on May 16th 2019 and requires that all planning decisions made on or after May 16th 2019 shall conform to policies of this plan. The document informs decision-making regarding growth management and environmental protection in the GGH. 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.
- Prioritize *intensification* and higher densities to make efficient use of land and *infrastructure*.
- Support a range and mix of housing options, including second units and *affordable* housing, to serve all sizes, incomes, and ages of households.
- Provide for different approaches to manage growth that recognize the diversity of communities in the GGH.
- 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.

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. Including expanding 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.

Niagara Region Policy Plan (2001)

The draft plan of subdivision application file (26T19-020-02) remains active from its original application date of May 2002; therefore, the former Regional Policy Plan of 2001 applies to this application. The Regional Policy Plan designated the subject lands as within the Fonthill Urban Area Boundary.

Objective 5.11 seeks to contribute to the overall goal of providing a sufficient supply of housing that is affordable, accessible, adequate and suited to the needs of a full range of types of households and income groups.

Niagara Region Official Plan (Consolidated, August 2014)

The Zoning By-law Amendment application file (AM-03-2020) was submitted earlier this year and is bound by the current Regional Official Plan policies in effect (consolidated 2014).

The Regional Official Plan designates the subject land as a 'Designated Greenfield Area' within the Urban Area Boundary.

Policy 4.C.6.1 states the Region will require a minimum combined gross density target of 50 people and jobs per hectare across all *Designated Greenfield Areas*, excluding Environmental Protection and Conservation Areas.

Policy 4.G Urban Growth – states Niagara will build more sustainable, complete communities by:

- Encouraging mixed and integrated land uses;
- Making efficient use of land, resources and infrastructure;
- Promoting compact, transit support development friendly to active transportation;
- Building better *Greenfield* neighbourhoods;
- Fostering *development* that conserves natural resources and maintains or enhances natural systems.

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.

Policy 11.A.1 states the Region encourages the provision of a variety of housing types within urban communities and neighbourhoods to serve a variety of people as they age through the life cycle.

Policy 11.A.2 states the Region encourages the development of attractive, well designed residential construction that:

- a) Provides for *active transportation* within neighbourhoods with connections to adjacent residential and commercial areas, parks and schools.
- b) De-emphasizes garages, especially in the front yard.
- c) Emphasizes the entrance and points of access to neighbourhoods.
- d) Is accessible to all persons.
- g) Provides an attractive, interconnected and *active transportation* friendly streetscape.
- h) Contributes to a sense of safety within the public realm.
- i) Balances the needs for private and public space.
- j) Creates or enhances an aesthetically pleasing and functional neighbourhood.
- k) Encourages a variety of connections based on transportation mode between land uses based on diverse transportation modes, allowing people to move freely between the places where they live, work and play.

Policy 11.A.3 states the Region will encourage the local municipalities to adopt policies and zoning by-laws facilitating the creation of secondary suites throughout the urban area.

Pelham Official Plan (1974)

The draft plan of subdivision file (26T19-020-02) remains active from its original application date of May 2002; therefore, the former Town Official Plan (1974) applies to this application. The 1974 Official Plan designated the subject lands as 'Urban Residential'.

Policy 1.20.A.3 states that the Town, in the review of development applications and the provision of various housing types, shall ensure that lot sizes and dwelling types, sizes and tenure will be based not only on historic household growth for the Town but also the unmet housing needs as identified in the municipal housing statement.

Policy 1.20.A.4 states Council shall endeavor, even though a limited area is available for development, to achieve the following housing mix:

- Low density (up to 15 units / hectare) → 70% single & semi-detached
- Medium density (15 – 25 units / hectare) → 20% multiple attached & low rise apartments
- High density (35 – 65 units / hectare) → 10% high rise apartments

Policy 1.20.A.5 states the Town will require that sufficient sites are available to ensure a minimum 25% of all potential new housing units are affordable, as defined in the Provincial Housing Statement on Land Use Planning for Housing. Sites for affordable housing will include housing with direct ground access as well as apartments of varied styles and densities.

Policy 1.20.A.8 states in the provision of a housing mix, varying lot sizes and tenure, the Town will consider applications for undersized single detached lots and semi-detached units provided the building designs and densities of proposals consider the character and identity of surrounding residential lands.

Policy 1.20.A.14 states Council, in the approval of plans of subdivisions, shall ensure when feasible, that the affordable housing component be serviced as an integral part of the overall development.

Pelham Official Plan (2014)

The Zoning By-law Amendment application file (AM-03-2020), submitted earlier this year, is bound by the current Town Official Plan policies in effect (2014). The local Official Plan designates the subject land as 'Urban Living Area / Built Boundary' with a 'Greenfield Overlay'.

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.

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.

Policy A2.2.2 Growth & Settlement – states that it is a goal of this Plan to encourage intensification and redevelopment within the *Urban Area* specifically in proximity to the Downtown.

Policy A2.3.2 Urban Character – stated objectives of this Plan include:

- 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 encourage the intensification and use of the lands within the Fonthill Downtown core and to make every effort to improve its economic health by encouraging redevelopment and broadest mix of compatible uses.
- To maintain and enhance the character and stability of existing and well-established residential neighbourhoods by ensuring that redevelopment is compatible with the scale and density of existing development.
- To encourage the development of neighbourhoods which are compact, pedestrian-friendly and provide a mix of housing types.

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.

Policy B1.8.3 Greenfield Overlay (Lot 173) – states it is a Provincial and Regional requirement that *Greenfield* designated lands be developed so as to attain a minimum population / employment density of 50 people and jobs per hectare. It is realized that not every site will be able to achieve this target. The Town will have flexibility on a site-by-site basis however; the overall density target will still need to be achieved.

For the subject lands (Lot 173), any application for development shall demonstrate that these sites can achieve the required population and employment density (50 people & jobs / hectare). Concurrent draft plan of subdivision (file 26T19-01-2020) and rezoning (file AM-02-2020) applications have been submitted for other lands owned by the developer contiguous to the east, known as ‘Forest Park’ which are situated within the East Fonthill Secondary Plan limits. The reason these applications were submitted concurrently was in an effort to demonstrate how current planning policies will be achieved despite maintaining an aging draft plan of subdivision application which must continue to be qualified against a ‘mishmash’ of current and outdated policy sets.

Pelham Zoning By-law No. 1136 (1987)

The subject lands are zoned ‘Residential 1’ (R1) according to Schedule ‘A5’ of the Zoning By-law. In an effort to satisfy the 1974 local Official Plan requirements and other applicable planning policies, the developer has applied for a site-specific Zoning By-law Amendment to rezone the subject lands to ‘Residential 2’ (R2) and ‘Environmental Protection’ (EP).

The proposed site-specific R2 zone seeks permissions for second dwelling unit provisions should a subsequent builder or home purchaser decide to include a small accessory apartment (aka; in-law suite, granny flat).

The proposed ‘EP’ zone would apply to lands that support the *Provincially Significant Wetland* complex and woodland.

Financial Considerations:

The applicant is responsible for all costs associated with development.

Alternatives Reviewed:

There are currently no alternatives as Council is statutorily obligated to make a decision on these *Planning Act* applications.

Strategic Plan Relationship: Build Strong Communities and Cultural Assets

The proposed completion of the Kunda Park Phase 4 subdivision contributes to building a strong community through the completion of the Kunda Park neighbourhood and the preservation of the lands associated with the provincially significant wetlands. The integration of Kunda Park Phase 4 with the earlier Kunda Park subdivision completes a vision for the neighbourhood that was set many years ago and will provide for an integrated and connected community, not only with the Kunda Park neighbourhood, but also with the lands east in the East Fonthill neighbourhood, an important consideration for building a strong and resilient community.

Consultation:

See appendices for comprehensive agency / staff comments. The most recent comments to date are summarized below:

- Public Works (August 28, 2020)
 - No comments.
- Niagara Region Planning & Development Services (September 28, 2020)
 - No objection, subject to Regional conditions of Draft Plan Approval.
- Niagara Peninsula Conservation Authority (August 12, 2020)
 - No objection, subject to NPCA conditions of Draft Plan Approval.
- Bell Canada (March 13, 2019)
 - No objection, subject to standard Subdivision Agreement clauses.
- Canada Post (June 3, 2020)
 - No objection, subject to standard Subdivision Agreement clauses.
- Enbridge Gas (June 25, 2020)
 - No objection, subject to standard Subdivision Agreement clauses.
- District School Board of Niagara (July 16, 2020)
 - Requesting a fence to be installed along the south lot line of Glynn A. Green Elementary School.

Public Comments

On Friday, the 4th day of September 2020, a Public Meeting Notice was circulated to all property owners within 120 metres of the subject land's boundaries. In addition, Public Notice signs were posted at each of the three (3) public street frontages. The following comments (Appendix D) have been received at the time of writing of this report, which are summarized below:

- Agree with the proposed development.
- Has the *Pelham Active Transportation Committee* reviewed the proposed draft plan?
 - Yes, the *PATC* has been consulted. Town Planning staff presented at one of their scheduled meetings, answered their questions, as well as completed a site visit of the Steve Bauer Trail with them.
- Opposes rezoning from 'R1' to 'R2'.
- The R1 and R2 zone both permit single detached dwellings while the R2 zone permits dwellings on somewhat smaller lots. Why was the rezoning from 'R1' to 'R2' not discussed in 2018?

- The Zoning By-law Amendment application was received in 2020 and is based on the revised application.
- Why is this draft plan so different from the plan shown by Upper Canada Consultants in 2018?
 - A previous version of the draft plan proposed a street connection over the *Provincially Significant Wetland*. New infrastructure over PSWs must undergo a municipal *class Environmental Assessment*. The owner has since abandoned that plan.
- Higher density will have greater impact on environmentally sensitive lands, increase traffic.
 - Only low density residential is proposed in the revised plan of subdivision.
- Only one access point to subdivision is inadequate.
 - The subject lands north of the *Provincially Significant Wetland (PSW)* actually have three (3) proposed street connections.
- Suggest alternative street connection from Port Robinson to northeast corner of subject lands between Glynn A. Green Elementary School and Steve Bauer Trail.
 - These lands are excluded from the draft plan of subdivision limits and will preserve significant archaeological resources.
- Increased traffic is a safety concern.
 - The proposed low residential development is not anticipated to create increased traffic that would be considered to cause safety issues. The subdivision will be designed to mitigate safety issues through appropriate traffic control measures. .
- What routes will construction vehicles use?
 - This will be determined through detailed engineering design.
- How will dust be controlled?
 - Standard sediment and dust control measures during construction will be a condition of draft plan of subdivision approval.
- How will construction activities impact existing houses (i.e. foundation cracks)?
 - The construction activities are not anticipated to created impacts on adjacent homes, however the contractor carries liability insurance in the event that there may be such an issue. Typically prior to construction commencing, the insurance company will conduct visual surveys of foundations, etc.
- Will grades change?
 - The overall grading plan for the subdivision will be a condition of draft plan of subdivision and will be developed during detail engineering design phase.
- How have pedestrian and traffic issues been addressed? Has a Traffic Study been done?
 - Niagara Region and Town Engineering staff determined that a Traffic Impact Study was not warranted. These lands have been a designated *Greenfield* for considerable time which means they're expected to be developed in accordance with specific Provincial policy.
- Will the drainage ditch along the Steve Bauer Trail be upgraded?
 - The stormwater management design proposes an open channel, vegetated water course parallel to the trail on the east side of the woodland, and within the Station Street unopened road allowance.
- Will this subdivision be timed to start after the construction of the Station Street extension?
 - The Kunda Park Phase 4 (lands north of the *PSW*) are integrally serviced from the east which will require the Station Street extension to be constructed in order for the balance of the Kunda Park Phase 4 development to proceed.
- What is the difference between the R1 and site-specific R2 zoning? How many additional units will be permitted?
 - The R2 zone is generally permits somewhat smaller lots than the R1 zone. Answering how many additional units would be facilitated by the rezoning is not

such a simple, straight forward answer. The draft plan has changed several times over the years, and at times contained more units (with no change of zoning), and less units at other times. The main purpose of the rezoning application is to allow permissions for second dwelling units to be included in future houses should homeowners want one. This is a response to demonstrating conformity with various planning policies and meeting evolving housing needs.

Staff Comments

The purpose of this report is to provide Council and the public with information regarding the proposed development applications (Kunda Park Phase 4), applicable policies and comments received to date. Council may also provide recommendations for proposed changes to the draft plan of subdivision or zoning by-law amendment request based on the public, agency or staff input and consistency with approved plans.

The latest pre-consultation meeting was held with the applicant on Thursday, November 21st 2019 to identify planning issues associated with the proposal, joint submissions with the adjacent Forest Park subdivision proposal and to discuss submission requirements.

The next steps are for the applicant to finalize their submissions in response to the comments received and then for staff to prepare a Recommendation Report for Council's consideration.

Other Pertinent Reports/Attachments:

- Appendix A:
 - Draft Plan of Subdivision
- Appendix B:
 - Agency Comments
- Appendix C:
 - Public Comments

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