

November 26, 2020

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

**Re: Minor Variance Application A28/2020P  
1 Highway 20 West (Regional Road 20), Pelham  
Part of Lot 55 NP 717  
Roll No. 2732 020 002 00100**

The subject land is located on the northwest corner of Highway 20 West (Regional Road 20) and Pelham Street, known municipally as 1 Highway 20 West 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 is proposing to construct a 3 storey mixed use building with a residential apartment on the ground floor. Relief is requested from:

**Section 6.16 (d) (i) "Ingress and Egress – Minimum 2-way Drive Aisle Width"** – to permit a drive aisle of 6.25m for two-way traffic whereas the by-law requires 7.5m drive aisle for two-way traffic;

**Section 19.3 (a) "Maximum (Residential) Gross Floor Area"** – to permit not more than 80% of the gross floor area whereas the by-law allows for not more than 50% gross floor area and whereas the property received a minor variance approval to allow not more than 75%;

**Section 19.3 (b) and 20.1 (c) "Dwelling Unit to the Rear of Ground Floor Behind Commercial"** – to permit a dwelling unit behind a commercial use whereas the by-law requires a dwelling unit shall only be permitted above the ground floor of any commercial use;

**Section 20.2 (c) "Maximum Lot Coverage"** – to permit a maximum Lot Coverage of 48% whereas the by-law allows 40% and whereas the property received a minor variance approval to allow 42%.

For Committee's information, Minor Variance A1/2019 was approved by the Committee of Adjustment on February 7, 2019 to facilitate the construction of a 3-storey, mixed-use building consisting of 212m<sup>2</sup> of commercial space at-grade with 6 residential apartments above. Relief was granted for the following:

**Section 6.16 (a) "Minimum Parking"** to allow 7 parking stalls whereas 18 are required;

**Section 19.3 (a) "Maximum gross floor area (GFA) used for residential"** to allow 75% of the GFA whereas 50% is required;

**Section 19.3 (c) "Minimum Landscaped Amenity Area"** to allow 0m<sup>2</sup> whereas 55m<sup>2</sup> per dwelling unit is required;

**Section 20.2 (c) "Maximum Lot Coverage"** to allow 42% whereas 40% is required.

**Section 20.2 (f) (iii) “Minimum Side Yard abutting a street”** to allow 1.44m whereas 3m is required.

**Section 20.3 (c) “Minimum Front Yard”** to allow 1m whereas 3m is required.

**Section 20.3 (d) “Minimum Rear Yard”** to allow 3m whereas 4m is required.

The property owner received Site Plan Approval from Council in September 2019. The applicant is now proposing the addition of a ground floor residential unit as well as some minor changes to the building design and parking area layout which have resulted in the need for the additional variances. The proposed changes will result in improvements to the site’s function and the building design. The proposed changes to the building and site design are considered minor changes to the approved Site Plan Agreement and therefore no amendment is required.

### **Applicable Planning Policies**

#### *Provincial Policy Statement (PPS), 2020*

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 development.

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

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.

Regarding Policy 1.1.3.2 a) 1. (Efficient land use) – The proposed development is seeking to make more efficient use of the land by making changes to the parking area layout and allowing for an additional residential unit. Two commercial units (of reduced size) are still being provided on the ground floor in the front of the building. The proposed changes to the building and parking area and the addition of an apartment dwelling behind the commercial units will add to the available housing options in Downtown Fonthill while also addressing the need for an at-grade, commercial frontage filling in an empty void of the downtown streetscape. The proposed changes will make more efficient use of existing infrastructure and public services.

The proposed minor variance application has been submitted to seek relief from certain site-specific zoning

provisions in order to facilitate revisions to the parking area layout, the addition a residential unit on the ground floor and some changes to the building design, specifically the width of the parking area drive aisle, the gross floor area for residential use, the location of a residential unit on the ground floor and the lot coverage. Planning staff are of the opinion the requested zoning relief is consistent with the PPS and promotes appropriate development standards that help facilitate compact form while continuing to meet *intensification* policy objectives.

#### *Growth Plan for the Greater Golden Horseshoe (2019)*

This Plan 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.

The subject site is located Downtown and is within walking distance to schools, public / private amenities, institutional uses and shopping facilities. The proposed variances will support the achievement of a *complete community* by adding an additional residential dwelling unit and facilitate a more functional layout for the mixed use building on a high profile corner in Downtown Fonthill.

#### *Regional Official Plan (Consolidated August 2014)*

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

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

Policy 4.G.8.1 states *Built-Up Areas* will be the focus of residential intensification and redevelopment.

The requested variances to allow for the additional ground floor residential dwelling unit and change the parking area layout and building design will facilitate additional residential intensification and redevelopment. Further, Regional staff reviewed the site plan and the proposed changes in accordance with the requirements of the Regional Official Plan and offered no objections to the proposed changes. It is Planning staff’s opinion that the requested variances conform to the policies of the Regional Official Plan.

#### *Pelham Official Plan, 2014*

The local Official Plan designates the subject land as ‘Downtown’.

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 B1.2.4.5 provides the following design guidelines for Downtown parking areas:

- a) Wherever possible, parking for new development should be located below grade or to the rear of buildings with access by a rear lane;
  - ✓ Conforms.
- b) Rear lanes should be utilized wherever possible for access to parking areas and provision should be made for the acquisition of land or easements through development approvals to create rear lanes;
  - ✓ Laneway already exists and will be enhanced as part of the Site Plan Approval / Agreement.
- c) Business owners are encouraged to consolidate parking areas and access for contiguous lots;
  - ✓ The proposed parking area is not planned to be shared with neighbouring properties, however, the design is conducive to future shared parking arrangements if circumstances ever changed.
- d) Direct access to parking area from the main street will be discouraged for lots with less than 30m of frontage;
  - ✓ Conforms.
- e) Pedestrian routes from parking areas to buildings should be clearly identified, safe and accessible to all persons.
  - ✓ Conforms on the approved site plan agreement.

New commercial / residential development in Downtown Fonthill will promote live-work-play arrangements, which helping to create a *complete* community by encouraging people to not only shop and visit Downtown, but to also live and use modes of transportation. The subject land is adjacent to Marlene Stewart Streit Park and the Lathrop Nature Preserve which provide convenient recreational opportunity for an urban location.

It is Planning staff’s opinion that the requested variances conform to the policies of the Town’s Official Plan by allowing for additional housing opportunities as well as building and site design that conform to the design guidelines.

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

The subject lands are zoned ‘General Commercial’ (GC) according to the Zoning By-law. The GC zone permits a range of commercial uses as well as residential uses above the ground floor.

#### Section 6.16 (d) Ingress and Egress

- (i) Requires: 7.5 m width for two- way traffic                      Requests: 6.25m

#### Section 19.3 Regulations for Residential Uses

- (a) Gross Floor Area

Maximum: 50%    Requests: 75%

- (b) Location

Permitted: Above Ground Floor

Requests: Dwelling Unit on Ground Floor

Section 20.1 Permitted Uses in GC zone

(c) Dwelling Units Above Ground Floor

Requests: Dwelling Unit on Ground Floor

Section 20.2 Regulations for Permitted Uses (Commercial)

(d) Maximum Lot Coverage

Permitted: 40%

Requests: 48%

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
1. The variance is minor in nature.	<ul style="list-style-type: none"><li>Reducing the minimum drive aisle is minor as the parking area will still function well and allow for safe and practical movement of vehicles. Further the drive aisle is being reduced in only one location where the pavement is wider where the striping for the access to the accessible parking space is located.</li><li>Allowing the residential unit on the ground floor behind the commercial units will not affect the appearance of the building as commercial along the frontage and commercial uses are still being provided at grade.</li><li>Increasing the lot coverage will not negatively affect the function of the site adequate space for appropriate parking, pedestrian connections and amenity space for the new residential dwelling unit and storm water can be appropriately managed.</li></ul>
2. The variance is desirable for the development or use of the land.	<ul style="list-style-type: none"><li>Reducing the minimum drive aisle will allow for a more efficient use of the parking area while facilitating some outdoor amenity space for the ground floor residential unit.</li><li>Allowing the residential unit on the ground floor will facilitate an additional residential apartment dwelling in a desirable location and support existing and future commercial uses.</li><li>Increasing the lot coverage will allow for an improved building design and site function in a key location in Downtown Fonthill.</li></ul>
3. The variance maintains the general intent and purpose of the Official Plan.	<ul style="list-style-type: none"><li>Reducing the minimum drive aisle as the parking area will meet the requirements of Policy B1.2.4.5 relating to parking areas in the Downtown.</li><li>Allowing the residential unit on the ground floor will facilitate an additional residential apartment dwelling within the Downtown designation where residential intensification is encouraged and residents can work close to where they live and access services by active transportation.</li></ul>

	<ul style="list-style-type: none"> <li>Increasing the lot coverage will facilitate development of the mixed use building which is supported in the Downtown designation.</li> </ul>
4. The variance maintains the general intent and purpose of the Zoning By-law.	<ul style="list-style-type: none"> <li>Reducing the minimum drive aisle maintains the general intent and purpose of the Zoning By-law as the parking area will function appropriately and allow for the two-way movement of traffic through the parking area.</li> <li>Allowing the residential unit on the ground floor maintains the general intent and purpose of the Zoning By-law as residential uses are permitted in the GC zone and commercial uses will still occupy the majority of the ground floor with the appearance being commercial along the property frontage.</li> <li>Increasing the lot coverage will facilitate the development of the site for a mixed use building which is a permitted use in the GC zone.</li> </ul>

### Agency & Public Comments

On November 2, 2020, 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:

- Niagara Region (November 17, 2020)
  - No objection to this minor variance application from a Provincial or Regional perspective, subject to the satisfaction of any local requirements. Regional staff note that the requirement for the filing of a Record of Site Condition (RSC) should be addressed prior to issuance of a building permit
- Niagara Peninsula Conservation Authority (November 17, 2020)
  - No comments.
- Building Department (November 20, 2020)
  - Building permits are required.
- Public Works Department (November 19, 2020)
  - No comments.

No public comments were received at the time of this writing.

### Planning Staff Comments

A pre-consultation meeting was held with the owner, representatives and staff from the Town and Niagara Region Planning & Development Services on September 17, 2020 to discuss the changes to the development.

Planning staff are familiar with the property, the proposed development and understand the neighbourhood context which consists of traditional Downtown style, mixed-use commercial buildings common of their era. A Planning Justification Report was submitted in support of the application by Upper Canada Consultants dated October 2020 and staff generally agrees with the report's commentary.

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 add housing supply to Downtown Fonthill, enhance the streetscape, and increase the property's value and thus, tax productivity while making more efficient use of an existing lot on a fully serviced public street.

Planning Staff is of the opinion that the application meets the four minor variance tests laid out by the Planning Act. The subject application is consistent with Provincial policies, the Regional Official Plan, and complies with the general intent of the Pelham Official Plan and Zoning By-law.

The authorization of the minor variance is not expected to generate negative impacts on adjacent uses and is expected to make positive contributions to the community at large. Given this analysis, Planning staff recommend that minor variance file A28/2020P **be approved** subject to the following conditions:

**THAT** the applicant

- Provide revised drawings for the Site Plan Agreement to the satisfaction of the Direction of Community Planning and Development.
- At the time of building permit, the filing of a Record of Site Condition to the satisfaction of the Chief Building Official.

Prepared by,



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Approved by,



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Director of Community Planning & Development