

October 27, 2021

Ms. Holly Willford, Secretary Treasurer
Committee of Adjustment
Town of Pelham
Fonthill, ON L0S 1E0

Re: Minor Variance Application A37/2021P

105 Highway 20 East, Pelham

Part of Block B, Plan 717, Being Part 1 on 59R-15848, Save and Except Niagara South
Vacant Land Condominium Plan 152

Roll No. 2732 020 003 12601

The subject land is located on the north side of Highway 20 East lying east of Station Street, legally described above, and known locally as 105 Highway 20 East in the Town of Pelham.

The subject land is zoned a site-specific General Commercial (GC-275) by Zoning Amending By-Law 3867(2017) in accordance with Pelham Zoning By-law 1136(1987), as amended. Application is made for relief, to increase the residential density of the mixed-use apartment building, from:

- i. **By-Law 3867(2017) 275. GC-275 - Section 20.2(f) "Maximum Density for Apartments"** – to permit a maximum density of 155 units per hectare whereas the by-law allows 120 units per hectare.

The proposal seeks to acquire zoning approval to facilitate a subsequent site plan amendment application to amend the original site plan agreement between the Town and the applicant. The applicant is proposing to reduce the amount of commercial floor area in the mixed use building and increase the amount of residential units. In addition, the amount of area excavated for below grade parking will be reduced. The architectural style of the building will be maintained along with the strong urban design elements associated with the streetscape and public realm.

Applicable Planning Policies

Planning Act (Consolidated July 2016)

Section 45 (1) states that the Committee of Adjustment may authorize minor variance provisions of the (Zoning) by-law, in respect of the land, as in its opinion is (1) minor in nature, (2) objectively desirable for the appropriate development or use of the land, and the general intent and purpose of the (3) Zoning By-law and (4) Official Plan are maintained.

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 1.1.3.2 states that land use patterns within settlement areas shall be based on densities and mix of land uses that efficiently use land and resources, are appropriate for and efficiently use infrastructure and public service facilities, minimize negative impacts to air quality and climate change and promote energy efficiency, prepare for the impacts of a changing climate, support active transportation and are transit and freight supportive.

Policy 1.1.3.3 states that municipalities shall identify appropriate locations and provide for the promotion of intensification and redevelopment accommodating a significant supply and range of housing options where it can be accommodated taking into account the building stock, availability of existing and planned infrastructure and public service facilities required to accommodate the needs of the development.

The Niagara Region Official Plan prescribes an annual residential intensification rate of at least 15% for all lands within Pelham’s *Urban Settlement Areas*, this policy target is also reflected in the Pelham Official Plan.

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

The proposed amendment is seeking to make more efficient use of the land by permitting a higher density through several site and building reconfiguration. The proposed density of the development is appropriate given site and neighbourhood context, while the additional smaller units will be potentially more affordable and add to the available housing options in the

Downtown Fonthill neighbourhood, and would make more efficient use of existing infrastructure and public services which in turn minimizes land consumption and costs of servicing for the Town.

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. The proposed development should not cause adverse impacts on the use of the lands or neighbourhood.

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 (among others) 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 2.2.1.2 states that 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 2.2.6.2 states that notwithstanding policy 1.4.1 of the PPS (2014), in implementing policy 2.2.6.1, municipalities will support the achievement of *complete communities* by:

- a) planning to accommodate forecasted growth to this Plan's horizon;
- b) planning to achieve the minimum intensification and density targets in this Plan;

- c) considering the range and mix of housing options and densities of the existing housing stock; and
- d) planning to diversify their overall housing stock across the municipality.

The subject site is located within the built boundary with access to existing infrastructure and is within walking distance to schools, public / private amenities, institutional uses and shopping facilities. The proposed variance will support the achievement of a *complete community* by adding additional dwelling units in an area that is appropriate to do so while contributing in providing diversified housing options in the neighbourhood.

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 that 'Urban Areas' will be the focus for accommodating the Region's growth and development.

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

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

Regional staff have reviewed the minor variance application, and have no objections to the proposed increase in maximum density for apartments. Region will continue to review future site plan amendment application for this property from a technical (road widening), urban design, and land use compatibility (noise) perspective. The requested variances to allow for additional apartment dwelling units will facilitate additional residential intensification and redevelopment in an area that is appropriate to do so. It is Planning staff's opinion that the requested variances conform to the policies of the Regional Official Plan.

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.

Policy B1.3.6.1 of the local Official Plan designates the subject land as a site-specific 'Downtown Transitional Area'. The purpose of these lands is to reinforce Downtown Fonthill by providing complementary areas for transitional mixed-use commercial and higher density residential uses.

Policy A5.5 indicates that Highway 20 and Station Street are considered intensification corridors which are areas with the potential to provide a focus for higher-density mixed use development.

Policy B1.1.1 recognizes the existing urban area of Fonthill and the role the Town will need to accommodate various forms of residential intensifications, where appropriate.

Policy B.1.13 requires the Town to accommodate at least 15% of projected housing growth within the existing building boundaries of Fonthill and Fenwick.

Planning staff are of the opinion that the proposal is in conformity with the Town of Pelham Official Plan by allowing for additional housing opportunities in an area that is appropriate to do so, accompanied with building and site design that displays character compatibility with the surrounding neighbourhood. The proposed development should not conflict with any policies subject to demonstration of appropriate urban design and fulfillment of requested condition of approval.

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

The subject land is zoned General Commercial – 275 (GC-275) in accordance with Pelham Zoning By-law 1136(1987), as amended. Under the applicable regulations of the Zoning By-law, the minor variance application requests relief from:

- i. **By-Law 3867(2017) 275. GC-275 - Section 20.2(f) "Maximum Density for Apartments"** – to permit a maximum density of 155 units per hectare whereas the by-law allows 120 units per hectare.

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.	The proposed increase in maximum density allowed is minor in nature as no adverse impacts are anticipated. The exterior of the building and the built form remain relatively unchanged from the original design, while the proposed increase in density is appropriate from a land use compatibility, housing type and density perspective. Adequate parking spaces to accommodate for the

	additional units are also provided in the altered site and building layout without adversely affecting site circulation and disrupting pedestrian street view.
2. The variance is desirable for the development or use of the land.	The proposed variance is considered desirable as it will help facilitate additional units which can potentially improve the affordability of this mixed-use development project, thus allowing housing opportunity to people of diverse social groups. It will also allow for further residential intensification and provides opportunities for residents to live close to the core centre of the Town and be able to access services in proximity. It is noted that the amount of commercial floor area is being reduced which provides the opportunity for additional residential units.
3. The variance maintains the general intent and purpose of the Zoning By-law.	The variances maintain the general intent of the Zoning By-law as the requested variance will allow for the logical, and appropriate use of the land in providing additional apartment dwelling units in a mixed-use building located in Downtown Fonthill. The additional density will not compromise additional land area for parking spaces, outdoor amenity and open spaces. It would not result in additional building height and the amount of commercial floor area, despite being reduced from original plan, will be maintained in the front façade of the building fronting onto Highway 20 East, thereby maintaining the general intent and purpose of the Zoning By-law and the mixed use nature of the building.
4. The variance maintains the general intent and purpose of the Official Plan.	The variance maintains the general purpose and intent of the Official Plan as it implements the vision for reasonable residential intensification in the downtown core area and the development would not compromise the neighbourhood's ability to be adequately serviced, maintain land use compatibility, while providing additional residential dwelling units thus increasing variety in the available housing stock of which are potentially more affordable to prospective buyers.

Agency & Public Comments

On October 8, 2021, 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 Division (October 20, 2021)
 - A building permit is required for proposed works.
- Public Works Department (October 13, 2021)
 - No comments or concerns.
- Niagara Region Planning and Development Services (October 13, 2021)
 - Regional staff have reviewed the minor variance application, and have no objections to the proposed increase in maximum density for apartments. Staff note for information that we continue to have Regional interest in the future site plan amendment application for this property from a technical (road widening), urban design, and land use compatibility (noise) perspective.

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

Planning Staff Comments

A pre-consultation meeting was held with the applicant(s) of the property and staff from the Town and Niagara Region Planning & Development Services on August 5, 2021 to discuss a proposed site plan amendment. In addition to plan materials, which include architectural drawing sets and a preliminary site plan, a Planning Justification Brief prepared by IBI Group dated October 5, 2021 was also submitted in support of the proposed development. Planning staff have reviewed the submitted materials, as well as all agency and public correspondence submitted to date.

The subject lands are located on the northeast corner of Highway 20 East (Regional Road 20) and Station Street. The land is formally known as the Fonthill Lumber Yard site. The surrounding land uses include:

- North – Single detached residential
- East – Strip plaza commercial, Single detached residential
- South – Elementary school, grocery store, other commercial
- West – RBC, single detached residential

With the analysis given in the above sections, Planning staff are of the opinion that the proposal applies current planning and development principles and provide design flexibility where suitable to do so. The proposal makes efficient use of the land, will not result in overbuilding of the

property, will not alter the view, sightlines or personal enjoyment of the subject property or any neighbouring properties, and should not negatively impact the surrounding neighbourhood with regards to land use compatibility, traffic and privacy.

Subsequent Site Plan Amendment application must further address the proposed alterations to the site layout and the building itself with regards to elements such as site circulation, pedestrian accessibility, architectural/landscape treatment and particularly the loss of at-grade commercial and residential spaces which are converted to operational and parking usage. All of which must be discussed with in-depth details in the required submission.

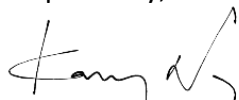
In Planning staff's opinion, the application is consistent with the PPS and conforms to Provincial, Regional, and local plans. The requested variance is minor in nature, conforms to the general policies and intent of both the Official Plan and Zoning By-law and is appropriate for the development and use of the land.

Given this analysis, Planning staff recommend that minor variance file A37/2021P **be approved** subject to the following conditions:

THAT the applicant

- Address the following to the satisfaction of the Director of Community Planning and Development at the time of Site Plan Amendment application:
 - Submission and approval of a Landscape Plan detailing landscape treatments and features, plant materials and landscape specification, landscaped buffer area, tree planting list and elevation, and any other additional information necessary for clarity.
 - Submission and approval of a Site Plan providing locations for bike storage which avoid conflicts with pedestrian movement and site circulation. Adequate landscape buffer which can screen parking elements from public view, sidewalk and adjacent properties without obstructing pedestrian view.

Prepared by,



Kenny Ng, B.ES
Planner

Approved by,



Barbara Wiens, MCIP, RPP
Director of Community Planning and
Development