



**COMMUNITY PLANNING & DEVELOPMENT DEPARTMENT**

Monday, November 15, 2021

**Subject:** Recommendation Report for Application AM-05-2021, Saffron Meadows Phase 1 & 2 and River Estates Phase 2 Subdivisions Zoning By-law Amendment

**Recommendation:**

**BE IT RESOLVED THAT Council receive Report # 2021-0188 – Recommendation for Application AM-05-2021, Saffron Meadows Phase 1 & 2 and River Estates Phase 2 Subdivision Zoning By-Law Amendment;**

**AND THAT Council direct Planning staff to prepare the necessary By-law for approval of the Zoning By-law amendment for Council's consideration.**

**Background:**

The purpose of this report is to provide Council with a recommendation regarding a housekeeping zoning by-law amendment to amend Zoning By-law No. 1136 (1987) for lands within the Saffron Meadows Phase 1 & 2 and River Estates Phase 2 Subdivisions. The proposed Zoning By-law Amendment would rectify zoning interpretations and potential for non-compliance with the zoning by-law for the street townhouse blocks/units in these two subdivisions as it relates to lot frontage and a smaller Daylight Triangle.

**Location:**

The subject lands within the River Estates Phase 2 subdivision are located on the south side of Summersides Boulevard, lying west of Rice Road. Legally described as Blocks 39 and 40, Registered Plan 59M-471 and municipally known as 96, 98, 100 Summersides Boulevard and 161 Susan Drive, in the Town of Pelham.

The subject lands within the Saffron Meadows Phase 1 subdivision are located on the south side of Port Robinson Road, lying west of Rice Road. Legally described as Blocks 44, 45, 46 and 47, Registered Plan 59M-456 and municipally known as 120-130, 132, 134, 136, 138, 140 and 142 Lymburner Street, in the Town of Pelham.

The subject lands within the Saffron Meadows Phase 2 subdivision are located on the south side of Port Robinson Road, lying west of Rice Road. Legally described as Blocks 31, 32, 33, 34, 35 and 36, Registered Plan 59M-476 and municipally known as 1, 3, 5, 7, 11, 13, 15, 17, 33, 35, 37, 39, 43, 45, 47, 49, 53, 55, 57 and 59 Lymburner Street, in the Town of Pelham.

The lots are under construction for street townhouses or have recently completed construction for townhouse units.

*Figure 1: Key Map*



### **Project Description and Purpose:**

The Saffron Meadows Phase 1 & 2 Subdivisions were rezoned to a site-specific provision: Residential Multiple 1 - 268 (RM1-268) by Amending By-law 3810

(2016). RM1-268 allows for the use of street townhouses and contains detailed regulations on the required lot and building. Saffron Meadows Phase 1 Subdivision agreement was registered on June 2018, and Saffron Meadows Phase 2 Subdivision agreement was registered on May 2020.

The River Estates Phase 2 Subdivision was rezoned to a site-specific provision: Residential Multiple 1 - 287 (RM1-287) by Amending By-law 4041 (2018). RM1-287 would allow for the use of street townhouse and contains detailed regulations on the required lot and building. River Estates Phase 2 Subdivision was registered on July 2019. All of the subdivisions have received building permits and construction have proceeded.

During the review of building permits for the street townhouse units, there has been confusion with regards to the interpretation of the lot frontage and exterior side yard setbacks. While the block of townhouse units conform to the requirements of the by-law, at time of building permit stage as the property the townhouse unit is located on is one large block and not an individual townhouse lot. The individual lot is created at Part Lot Control stage after the townhouse dwelling units are constructed. This has led to some variation in the interpretation of the by-law with building staff, planning staff and the designer and builder of the townhouse units. The proposed zoning by-law amendment is meant to resolve these interpretation issues of some of the zone requirements and resolve potential issues that arise when the individual lot is created through part lot control, after the dwelling is constructed so as to not create unintentional non-complying situations after the dwelling is constructed and the lot is created.

## **Analysis:**

### Planning Act

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.

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

### Provincial Policy Statement (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.

The Provincial Policy Statement (PPS) designates the subject lands within the 'Settlement Area'. Policy 1.1.3.1 states that settlement areas will be the focus of growth and development and their vitality and regeneration shall be promoted.

The proposed zoning by-law amendment is of technical purpose to rectify any zoning interpretation issues and will facilitate an already approved development. Planning staff are of the opinion that the application is consistent with the Provincial Policy Statement.

#### Greenbelt Plan, 2017

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

#### Niagara Escarpment Plan, 2017

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

#### The Growth Plan for the Greater Golden Horseshoe, 2017

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.

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

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

#### 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 local Official Plan designates the subject lands as 'Secondary Plan Area' within the Fonthill Settlement Area. The East Fonthill Secondary Plan designates the subject lands in the River Estates Phase 2 Subdivision as 'EF – Medium Density Residential', and the subject lands in the Saffron Meadows Phase 1 and 2 Subdivision as 'EF – Low Density Residential'.

Zoning By-law 1136 (1987), as amended

The subject lands in the River Estates Phase 2 Subdivision are currently zoned 'Residential Multiple 1 - 287 (RM1-287)' by Amending By-law 4041 (2018). On June 30, 2020, the Committee of Adjustment approved minor variances A16/2020P and A17/2020P to permit the reductions to the front (Block 40) and exterior side yards (Block 39). Although the building locations were approved through the minor variances, the application did not address the corresponding requirement for a reduction to the Daylight Triangle provisions of the Zoning By-law. The summary of zoning deficiencies for the townhouse blocks within the subdivision is below:

<b>River Estates Phase 2 (Blocks 39 and 40, Registered Plan 59M-471)</b>			
<b>RM1-287</b>	<b>Zoning Regulation</b>	<b>Required</b>	<b>Existing</b>
Block 39: 96, 98, 100 Summersides Boulevard and 161 Susan Drive	6.27 Daylight Triangles – no structure shall be greater than 0.5 m (1.64 ft) in the established Daylight Triangle (9 m x 9 m)	No structure greater than 0.5 m	Same with Daylight Triangle (6m x 6m)
Block 40: 84, 86, 88 Summersides Boulevard and 160 Susan Drive	6.27 Daylight Triangles – no structure shall be greater than 0.5 m (1.64 ft) in the established Daylight Triangle (9 m x 9 m)	No structure greater than 0.5 m	Same with Daylight Triangle (6m x 6m)

The subject lands in the Saffron Meadows Phase 1 Subdivision are currently zoned 'Residential Multiple 1 - 268 (RM1-268)' by Amending By-law 3810 (2016). Below are the summary of zoning deficiencies of the townhouse blocks within the subdivision:

<b>Saffron Meadows Phase 1 (Blocks 44, 45, 46 and 47, Registered Plan 59M-456)</b>			
RM1-268	Zoning Regulation	Required	Existing
Block 44: 121, 123, 125, 127, 129 Lymburner Street	16.4 (b) Minimum Corner Lot Frontage (Site-Specific)	12 m	11.8 m
Block 45: 120, 122, 124, 126 Lymburner Street	16.3 (a) Minimum Lot Frontage for an interior lot containing a dwelling attached on one side only	9 m	7.7 m
Block 46: 128, 130, 132, 134 Lymburner Street	16.3 (a) Minimum Lot Frontage for an interior lot containing a dwelling attached on one side only	9 m	7.7 m
Block 47: 136, 138, 140, 142 Lymburner Street	16.3 (a) Minimum Lot Frontage for an interior lot containing a dwelling attached on one side only	9 m	7.57 m

The subject lands in the Saffron Meadows Phase 2 Subdivision are currently zoned 'Residential Multiple 1 - 268 (RM1-268)' by Amending By-law 3810 (2016). Below are the summary of zoning deficiencies of the townhouse blocks within the subdivision:

<b>Saffron Meadows Phase 2 (Blocks 31, 32, 33, 34, 35 and 36, Registered Plan 59M-476)</b>			
RM1-268	Zoning Regulation	Required	Existing
Block 31: 22, 24, 26, 28, 30 Lymburner St	16.3 (a) Minimum Lot Frontage for an interior lot containing a dwelling attached on one side only	9 m	8.3 m
Block 32: 11, 13, 15, 17 Lymburner St	16.3 (a) Minimum Lot Frontage for an interior lot containing a dwelling attached on one side only	9 m	8.75 m
Block 33: 33, 35, 37, 39 Lymburner St	16.3 (a) Minimum Lot Frontage for an interior lot containing a dwelling	9 m	7.5 m

<b>Saffron Meadows Phase 2 (Blocks 31, 32, 33, 34, 35 and 36, Registered Plan 59M-476)</b>			
RM1-268	Zoning Regulation	Required	Existing
	attached on one side only		
Block 34: 43, 45, 47, 49 Lymburner St	16.3 (a) Minimum Lot Frontage for an interior lot containing a dwelling attached on one side only	9 m	7.65 m
Block 35: 53, 55, 57, 59 Lymburner St	16.3 (a) Minimum Lot Frontage for an interior lot containing a dwelling attached on one side only	9 m	7.4 m
Block 36: 1, 3, 5, 7 Lymburner St	16.3 (a) Minimum Lot Frontage for an interior lot containing a dwelling attached on one side only	9 m	8.7 m

### **Financial Considerations:**

n/a

### **Alternatives Reviewed:**

Council could choose not to approve the application for amendment to the Zoning By-law.

### **Consultation:**

On Wednesday, the 15<sup>th</sup> day of September 2021, a Public Meeting Notice was posted on the Town of Pelham website. On Wednesday, the 22<sup>nd</sup> day of September 2021, a Public Meeting Notice was published in the local newspaper. No members of the public registered as delegations for the public meeting hosted on October 12, 2021 and one letter of support was received at the time of writing of this report.

Council raised some questions regarding how a building permit could be issued for townhouse units if they did not comply with the zoning by-law. It is important to note, that at the time of building permit application a block of townhouse units are sited within one whole block and the building permit plans submitted show that the townhouses comply with the zoning by-law. The individual lot lines between the townhouse units do not yet exist and can only be confirmed after the dividing wall

between each of the townhouse units is framed. It is only after the framing stage of construction can a surveyor confirm the centre line location of the dividing walls between the individual townhouse units and therefore the lot lines between the units. Often during construction, depending on the accuracy of the various trades, there can be a shifting of a couple of inches for each townhouse unit which can result in a number of inches over an entire block of 4 or 5 townhouses that results in the unintentional zoning non-compliances that are only discovered at the time the blocks are surveyed for part lot control.

### **Planning Staff Comments:**

Town departments and commenting agencies offered no objections to the application. The proposed Zoning By-law Amendment would rectify zoning interpretations and potential for non-compliance with the zoning by-law for the street townhouse blocks/units in these two subdivisions as it relates to lot frontage and the smaller Daylight Triangle.

In conclusion, Town staff have evaluated the rezoning application against the Provincial Policy Statement, applicable Provincial Plans, Region of Niagara Official Plan and Town Official Plan. The proposed rezoning is acceptable from a planning perspective, will address the unintentional zoning non-compliances and should be approved for the following reasons:

1. The proposed rezoning application is consistent with the Provincial Policy Statement (PPS), conforms with applicable provincial plans and policies;
2. The proposed zoning standards are in conformity with the Regional and Town Official Plan and are compatible with the existing adjacent uses of land.

### **Other Pertinent Reports/Attachments:**

Information Report 2021-0172

### **Prepared and Recommended by:**

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### **Prepared and Submitted by:**

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