



**Community Planning & Development Department
Planning Application Report**

August 22, 2022

**Subject: Recommendation for Official Plan & Zoning By-law Amendments
– 15 Highway 20 East**

Recommendation:

**BE IT RESOLVED THAT Council receive Report #2022-0181 –
Recommendation for Official Plan and Zoning By-law Amendments –
15 Highway 20 East for information as it pertains to File Nos. OP-AM-
01-2022 and AM-03-2021;**

**AND THAT Council direct Planning staff to prepare the official plan
and zoning by-law amendments for consideration.**

Executive Summary:

The purpose of this report is to provide Council with a recommendation regarding the applications to amend the Official Plan and Zoning By-law for 15 Highway 20 East.

Location:

The property is located on the north side of Highway 20 east of Pelham Street and south of Kinsman Court (Figure 1). It is municipally known as 15 Highway 20 East and legally known as Part of Lots 3, 4, 5 and 6, Plan 716, Parts 3, 4, 5 and 6, in the Town of Pelham, Regional Municipality of Niagara.

Figure 1: Property Location

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The property is approximately 0.142 hectares in size with frontage on both Highway 20 and Kinsman Court. The neighbouring land uses include street townhouses to the north, commercial to the east (Storm Hair Group), commercial uses to the south (Commercial Plazas, restaurant and offices) and commercial to the west (professional office).

Project Description and Purpose:

The proposed use of the property was initially for a 4-storey apartment dwelling consisting of 24 units along with associated parking, walkways and landscape areas (Figures 2). Following comments at the public meeting with respect to density and parking, the applicant has reduced the number of units to 22 thereby increasing the parking to 1.27 spaces per unit (refer to Appendix A).

The proposed Official Plan Amendment would amend Policy B1.3.4.3(b) by increasing the maximum building height in the Downtown Transitional Area from 2 storeys to 4 storeys (14.5 metres) without a step back to permit the development of the property for a 4 storey residential apartment building containing 22 units.

The proposed Zoning By-law Amendment would rezone the lands from the GC (General Commercial) zone to a site-specific RM2 (Residential Multiple 2) zone. The zoning change would permit the apartment building use as shown on the proposed site plan. In light of the reduced unit count, site specific regulations are requested including a minimum lot area of 64.5 m² per dwelling unit, a maximum density of



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155 units per hectare, a maximum lot coverage of 48%, a minimum interior side yard of 0.9 metres (west lot line) and 4.2 metres (east lot line), a minimum landscaped area of 20%, a maximum building height of 14.5 metres, a minimum landscaped amenity area of 1.67 m² per unit, a minimum parking requirement of 1.27 spaces per dwelling unit, a 7.0 metre width for ingress and egress, a drive aisle width of 6.2 metres, the parking area to be located 0 metres from the south and west lot lines and 1.4 metres from the north lot line, a 2.6 metre wide parking space where abutting a column and a 1.4 metre planting strip.

Figure 2: Site Plan

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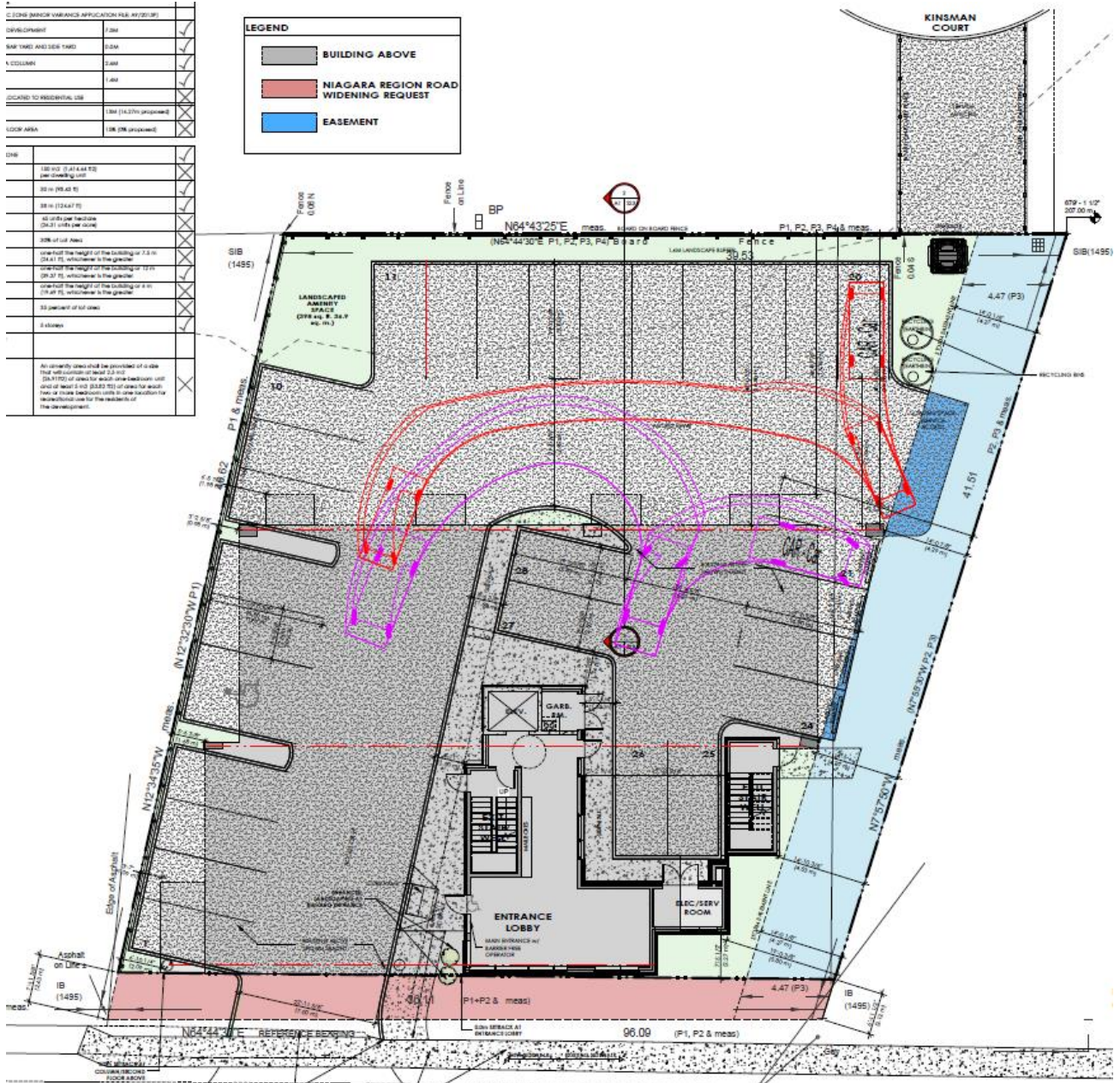


Figure 3: Proposed Current Building Elevations

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For background information, in 2013, the Committee of Adjustment approved minor variance A9/2013P to permit a three-storey (maximum height 13 metres) mixed-use building consisting of 3 commercial units and 14 residential units (Figure 2). The minor variance also allowed a 6.4 metre (underground) and 7.0 metre (at grade) ingress and egress for two-way traffic, a 0 metre setback for the parking area from the rear and side lot lines, a 2.6 metre wide parking stall where abutting a column or wall, a 1.4 metre wide planting strip with a height of 1.5 metres, 85% of the gross floor area to be used for dwelling units, 200 square metres of landscaped amenity space and a front yard setback of 0 metres.

Figure 4: 2013 Approved Development Proposal

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The applicant wishes to eliminate the commercial use from the site and is now proposing only residential use with a lobby, electrical room, storage, etc. located on the ground floor. Floors 2 through 4 will contain units ranging in size from 563 square feet to 980 square feet. 16 units are proposed to be one bedroom units and 6 units are proposed to be 2 bedroom units. The majority of units will have balconies. The proposed new building is 1.5m higher than what was approved in 2013.

Policy Review:

Planning Act

Section 3 of the Planning Act requires that, in exercising any authority that affects a planning matter, the decision of planning authorities "shall be consistent with the policy statements" issued under the Act and "shall conform with the provincial plans that are in effect on that date, or shall not conflict with them, as the case may be". Sections 22 and 34 of the Act allows for consideration of amendments to the Official Plan and Zoning By-law.

Provincial Policy Statement, 2020



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The Provincial Policy Statement (PPS), 2020 supports the efficient use of lands and development patterns that support sustainability by promoting livable, healthy and resilient communities, protecting the environment, public health and safety and facilitating economic growth. The subject lands are considered to be within a Settlement Area. Settlement areas are to be the focus for growth and development and their vitality and regeneration shall be promoted.

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 provides 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 requested official plan and zoning by-law amendments will allow for intensification and the addition of apartment dwellings to the range of housing options in the Town. The development can be accommodated by existing and planned infrastructure and public service facilities. The proposed development density will efficiently use land and infrastructure, be constructed in accordance with the energy efficiency requirements in the Ontario Building Code and encourage active transportation due to its location in the Downtown within walking distance to commercial, employment and community uses as well as sidewalks, the Steve Bauer Trail and bike paths.

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



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

Growth Plan for the Greater Golden Horseshoe, 2019

The subject parcel is identified as being within a Delineated Built-up Area according to the Growth Plan for the Greater Golden Horseshoe, 2019. The Growth Plan policies aim to build stronger, prosperous communities by directing growth to built-up areas, promoting transit-supportive densities and a healthy mix of residential and employment land uses, preserving employment areas, planning for community infrastructure, and supporting the conservation and protection of natural systems, prime agricultural areas, and cultural heritage.

Policy 2.2.2.1(a) requires a minimum of 50 percent of all new residential development to occur within the delineated built-up area.

Policy 2.2.2.3(b) encourages intensification generally throughout the built-up area and investment in services that will support intensification.

The requested official plan and zoning by-law amendments will contribute toward the minimum 50 percent target for new residential development and result in intensification and a transit-supportive density in the delineated built-up area.

Regional Official Plan, consolidated August 2015

The Region of Niagara identifies this property as Built-up Area. It is an objective of the Regional Official Plan that intensification be directed to built-up areas and the Plan establishes a minimum intensification target of 15% for the total annual development in Pelham. The Region also supports the inclusion of urban design analysis and guidelines for various types of plans and development projects.

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.

Policy 11.A.2 states the Region encourages the development of attractive, well designed residential development that: provides for active transportation;



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deemphasizes garages; emphasizes the entrance and point of access to neighbourhoods; is accessible to all persons; incorporates the principles of sustainability in building design; provides functional design solutions for waste collection and recycling; provides an attractive, interconnected and active transportation friendly streetscape; contributes to a sense of safety within the public realm; balances the need for private and public space; creates or enhances an aesthetically pleasing and functional neighbourhood; and, encourages a variety of connections between land uses based on diverse transportation modes, allowing people to move freely between the places where they live, work and play.

The proposed development will contribute to achieving the 15% minimum intensification target for the Town of Pelham. The apartment dwellings will provide additional housing types that can serve people throughout their lifecycle. The proposed development will allow for active transportation, be designed to meet accessibility with some accessible units and energy efficiency requirements as well as to allow for waste collection and recycling. The building is proposed to be located close to Highway 20 with parking area beside and behind the building for an aesthetically pleasing and functional design. The proposed development tries to balance the need for public and private space with balconies and landscaped areas on the property. The existing sidewalk on Highway 20 East provides direct connections to bicycle and trail infrastructure allowing for use of diverse transportation modes.

Region of Niagara Official Plan Adopted June 23, 2022

The Region of Niagara adopted a new Official Plan on June 23, 2022 and it has been forwarded to the Province for review and approval, and approval is pending. Nevertheless, the new Region of Niagara Official Plan provides the policy guidance for future development across the Region.

The lands continue to be designated as Built-Up Area in the new Official Plan, however the intensification rates have changed from and the policy 2.2.2.5 now requires that across the Region 60% of all residential units occurring annually are to be in the Built-Up Areas and in Pelham, this translates into an annual intensification rate of 25% of new residential units are to be within the Built-Up Area. The principle

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objective is to increase housing choice and housing affordability across the Region to meet future housing needs.

Policy 2.2.1.1 states that development in urban areas will integrate land use planning and infrastructure planning to responsibly manage forecasted growth and to support:

- a) the intensification targets in Table 2-2 and density targets outlined in this Plan (Note Pelham's intensification target is 25%);
- b) a compact built form, a vibrant public realm, and a mix of land uses, including residential uses, employment uses, recreational uses, and public service facilities, to support the creation of complete communities;
- c) a diverse range and mix of housing types, unit sizes, and densities to accommodate current and future market-based and affordable housing needs.

Policy Section 2.3.1 provides the policy direction with regards to a mix a housing options and specifically policy 2.3.1.1 states that the development of a range and mix of densities, lot and unit sizes, and housing types, including affordable and attainable housing, will be planned for throughout settlement areas to meet housing needs at all stages of life. Policy 2.3.2.3 sets that target that 20% of all new rental housing is to be affordable and 10% of all new ownership housing is to be affordable.

Policy 2.3.1.4 also provides that new residential development and residential intensification are encouraged to be planned and designed to mitigate and adapt to the impacts of climate change by:

- a) facilitating compact built form; and
- b) incorporating sustainable housing construction materials or practices, green infrastructure, energy conservation standards, water efficient technologies, and low impact development.

The new Region of Niagara Official Plan also emphasis urban design and provides that areas identified for intensification, including along local corridors, shall be designed to be pedestrian oriented with vibrant mixed-uses incorporating, where feasible, public gathering areas and public art. Policy 6.2.1.4 also provides that revitalization and redevelopment within downtowns and community cores shall be promoted to enhance their existing character.



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The property is designated Downtown Transitional Area in the Town's Official Plan. Permitted uses in the Downtown Transitional Area designation include residential uses; professional offices and clinics providing health services; inns and bed and breakfasts; studios and home occupations; and, small-scale restaurants, retail uses and personal service shops.

New street-level residential uses, including single detached and semi-detached units, townhouses and apartments as well as small-scale inns and bed and breakfast establishments are permitted in the Downtown Transitional Area designation both as a primary use and as an accessory use to a commercial business (B1.3.4.2).

The proposed apartment dwelling use is permitted in the Downtown Transitional designation.

Policy B1.3.4.3 Development Criteria requires that the maximum building height should be limited to 2 storeys; buildings are encouraged to be built within 1 metres of the front lot line, but may be setback up to 5 metres, provided amenities and landscaping are incorporated in the front yard; the maximum floor area dedicated to retail uses should not exceed 100 m²; design features such as pitched roof lines, awning and front porches are encouraged; and, interior side yard setbacks should be maintained but may be reduced to accommodate redevelopment provided the reduction is appropriate for the location and maintains or instils good urban design.

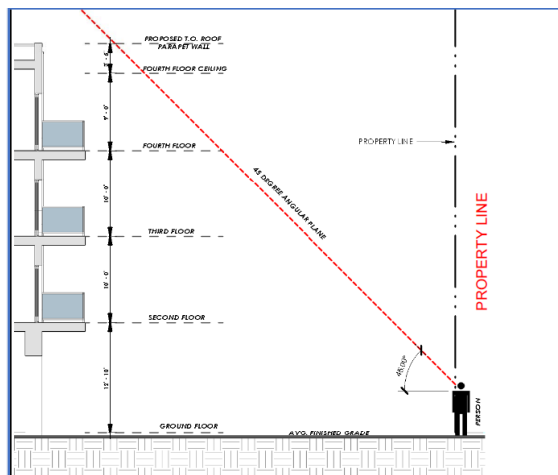
The requested Official Plan Amendment would amend Policy B1.3.4.3(b) by increasing the maximum building height in the Downtown Transitional Area from 2 storeys to 4 storeys (14.5 metres) without a step back. The property is located at the base of the hill making the increased building height less perceptible as shorter buildings will appear the same height or taller than the requested 4 storey building due to their higher elevation. The proposed building will also have a flat roof due to its modern design resulting in less overall height. The building ground floor consists of a partly open ground floor plan framed by columns which will reduce the perception of the overall building massing. It is also worth noting that the proposed building will be only 1.5 metres higher than the current site plan approval permission for the property.

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The proposed building location at the front lot line ensures that the potential for overlook and shadowing impacts is minimized for the residents on Kinsman Court. The developer also reduced the size of the balconies on the north side of the building to ensure that overlook potential will be further limited. The balconies will allow for one or two chairs for residents to sit and have coffee or read, but not provide sufficient space for gathering or social functions. The applicant has provided a Shadow Impact Analysis, which demonstrates that shadowing impacts will be within an acceptable range. The applicant has also provided an urban plane analysis in the Addendum to the Planning Justification Report, which indicates that a 45 degree angular plane will be maintained (Figure 5). This is the generally accepted standard where new development abuts sensitive uses in an effort to transition down and mitigate the impacts relating to potential overlook, privacy, and shadowing.

Figure 5: Urban Plane Analysis from North Lot Line



The proposed building is located near the front lot line, contains no retail uses and includes reduced interior side yard setbacks. The reduced interior side yard setbacks are considered appropriate given the irregular lot dimensions (angled side lot lines), required Regional road widening (reduced lot size) and location in the Downtown Transitional area where minimal setbacks are conventional. Commercial uses exist on both sides of the property and no negative impacts are anticipated to those uses



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as a result of the reduced interior side yard setbacks. Further, appropriate landscaping and fencing will be required as part of a site plan approval application.

Policy B1.3.4.3 states that redevelopment and intensification proposals may be subject to a Zoning By-law Amendment and shall be subject to Site Plan Control. Prior to approving application for new development, Council should be satisfied that:

- a) The scale and appearance of the use is complementary to and does not detract from the residential character of the area;
- b) The building and/or the general appearance of the site will be improved through quality urban design;
- c) Adequate on-site or off-site parking is provided;
- d) The Site Plan and Site Plan Agreement will address appropriate urban design matters including accessibility provision, exterior design features, massing and relationship to adjacent buildings as well as sustainable design elements located on municipal road allowances and land; and,
- e) The sign identifying the use is limited in size in accordance with the municipal Sign By-law.

The scale of the proposed building can be considered appropriate for the site location. The property is located in the Downtown Transitional Area among commercial uses and fronting a Regional Road. The building has been located as far away from the residential uses to the north as possible. Fencing and landscaping will be provided for additional privacy for the residents on Kinsman Court. The building design, placement and site plan approval requirements will ensure that the scale and appearance of the use is complementary and does not detract from the residential uses to the north. Further, the technical analysis (Shadow Impact Analysis, Urban Plan Analysis) indicates no negative impacts.

The building design, while modern, does include symmetrical openings and high quality building materials meeting good urban design principles and complements the existing contemporary architecture of the commercial uses opposite it. The scale and massing of the building fits the context within which it is located. The building placement at the front lot line with parking to the side and rear is also considered good urban design. Landscaping and street trees along Highway 20 will be required as part of a site plan approval application further contributing to a high quality public realm.



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The applicant has provided a Parking Analysis which concludes that the parking on site will accommodate the development. The Parking Analysis was prepared based on 24 units and the applicant has since reduced the unit count by two increasing the parking ratio to 1.27 spaces per unit. Planning staff note that this surpasses the recommendation from the recent Parking Study that was completed by the Town's consultant, which recommended 1.25 spaces per unit for apartment dwellings and would meet the recommended parking requirements in the new comprehensive Zoning By-law. The property is located in an area close to commercial and institutional uses and is easily accessible through active transportation means.

Urban design and other considerations will be addressed through a Site Plan Agreement.

No signage is proposed at this time, however all signage will be required to comply with Regional (location on Regional road) and Town requirements.

Policy B1.2.4.3 Development and Urban Design Policies was derived from the Town's Urban Design Guidelines for Downtown Fenwick and Fonthill and is intended to guide proposals for new development or redevelopment along the Intensification Corridors in the Downtown designations:

- a) In order to maintain a consistent façade along Pelham Street/Highway 20 in Fonthill and Canboro Road in Fenwick, the maximum height of new buildings fronting on these streets shall be 3 storeys. Building heights greater than 3 storeys may be permitted subject to a Zoning By-law Amendment provided the upper storey are appropriately stepped back or recessed from the front building wall;
- b) New buildings should be built at or near the front lot line;
- c) Parking should not be permitted at the front of the building. Parking should be accommodated on-site at the rear of a lot, on the street or in a communal parking area;
- f) Buildings should be oriented to the street, consistent with adjacent building and provide clearly defined and accessible entry points from the sidewalk;
- g) Pedestrian weather protection is encouraged through the use of awning or canopies;
- h) Building frontages are encouraged to be highly transparent with at least 50% glazing or window treatments;



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- i) Utilities and mechanical installations should be shrouded from main street viewsapes and/or be integrated in architectural treatments; and,
- j) Preferred building materials include brick, wood, stone, glass, in-situ concrete and precast concrete. Building materials discouraged include vinyl siding, plastic, plywood, concrete block, metal siding and tinted or mirrored glass.

The intention of the requirement to recess storeys above the third floor of a building is to ensure that neighbouring land uses and the pedestrian experience are not negatively impacted. As discussed above, the 45 degree angular plane from the residential uses to the north will be achieved and this is the generally accepted standard to avoid negative impact. In terms of the experience from the public realm, the partially open ground floor building design helps to break up the massing of the building and makes it appear not as tall. The building is proposed to be located at the front lot line. Parking will not be located in front, but to the side (under the building) and rear of the building. The building will be oriented to the street and have a clearly defined entryway from the sidewalk. The building design does provide some pedestrian weather protection and is highly transparent with roughly 50% glazing. Utilities and mechanical equipment are not proposed to be visible from Highway 20. The building materials include stone, glass, faux wood and stucco.

Policy B1.2.4.1 requires at least 50% of the dwellings to be constructed in the Downtowns should be affordable to low and moderate income households; Intensification proposals will be encouraged to incorporate high quality urban design, landscaping treatments and accessibility. To support the integration of quality urban design and accessibility, the Town may prepare and adopt urban design guidelines and may enforce these standards through Site Plan Control; Residential intensification projects proposed within the Downtown or Downtown Transition designation will be encouraged to incorporate street level space for mixed use retail, service commercial uses and/or professional offices.

The proposed apartment dwellings will create more housing options in Fonthill which are affordable to different income levels. A number of the units will be one-bedroom units of modest size that are more affordable by nature. The building incorporates high quality urban design features and the site will include landscaping treatments and accessibility considerations. While no commercial uses are proposed at grade, the property is abutted by commercial uses on either side fronting Highway 20.

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Further, the ground floor of the building has been designed with the lobby in front and a number of windows to animate the street.

Based on the discussion above, it is Planning staff’s opinion that the requested amendment to the Official Plan is appropriate and can be supported. Further, the requested Zoning By-law amendment application conforms to the policies of the Town of Pelham Official Plan.

Zoning By-law 1136 (1987)

The property is zoned GC (General Commercial) which permits a wide range of commercial uses as well as residential uses above the ground floor.

The requested Zoning By-law Amendment would rezone the lands from the GC (General Commercial) zone to a site-specific RM2 (Residential Multiple 2) zone. The zoning change would permit the proposed 22 unit apartment building use as shown on the preliminary site plan.

The requested site-specific zoning regulations are provided in Table 1.

Table 1: Requested Site Specific Zoning Requirements

17.2 Zone Requirement	Standard RM2 Requirement	Requested RM2 Requirement
(a) Minimum Lot Area	150 m ² per dwelling unit	64.5m ² per dwelling unit
(b) Minimum Lot Frontage	30 m	No change
(c) Minimum Lot Depth	38 m	No change
(d) Maximum Density	65 units per hectare	155 units per hectare
(e) Maximum Lot Coverage	30 percent	48 percent
(f) Minimum Front Yard	one-half the height of the building or 7.5 m, whichever is the greater	0 metres
(g) Minimum Rear Yard	one-half the height of the building or 12 m, whichever is the greater	No change

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17.2 Zone Requirement	Standard RM2 Requirement	Requested RM2 Requirement
(h) Minimum Interior Side Yard	one-half the height of the building or 6 m, whichever is the greater	0.9 west 4.2 east
(i) Minimum Exterior Side Yard	one-half the height of the building or 7 m, whichever is the greater	Not applicable
(j) Minimum Landscaped Area	35 percent	20 percent
(k) Maximum Building Height	5 storeys	4 storeys (14.5 metres)
(l) Minimum Floor Area per Dwelling Unit:	(i) Bachelor 42 m ² (ii) One bedroom 56 m ² plus 9 m ² for each additional bedroom	No change
(m) Amenity Area	2.5 m ² of area for each one-bedroom unit and at least 5 m ² of area for each two or more bedroom units in one location for recreational use for the residents of the development.	1.67 m ² per dwelling unit
6.0 General Provisions	Standard Requirement	Requested Requirement
6.16(a) Parking Requirements	1.5 spaces per unit	1.27 spaces per unit
6.16(d) Ingress and Egress	7.5 metre width for ingress and egress (two-way traffic)	7.0 metre width for ingress and egress (two-way traffic)
6.16(i) Parking Area Location	7.5 m to street line; 3.0 m to side or rear lot line	0 metres from the south property line 0 metres from the west property line 1.4 metres from the north property line
6.16(j) Dimensions of Parking Spaces	7.9 m drive aisle	6.2 m drive aisle



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17.2 Zone Requirement	Standard RM2 Requirement	Requested RM2 Requirement
	3 m where abutting a column	2.6 metres where abutting a column
6.16(k) Planting Strips	No requirement for this property/development	1.4 metre planting strip provided along the north lot line

Submitted Reports:

Planning Justification Report prepared NPG Planning Solutions Inc. dated May 26, 2021

Addendum to Planning Justification Report with Angular Plane Analysis prepared by NPG Planning Solutions Inc. dated April 7, 2022

The report concludes that the applications should be supported because they are consistent with the Provincial Planning Policy Statement (2020) and in conformity with the Growth Plan, Niagara Region Official Plan, and the Town of Pelham Official Plan. The proposed development will provide an opportunity for residential intensification in an area identified by the Town for future growth and development and will make efficient use of the existing municipal services and facilities. The property is close to community facilities such as grocery stores, schools, parks and local public transit stops. The proposed building and units will contribute to a diversified housing mix for the Downtown Fonthill area. The development is appropriately distanced from the low-density residences to the north and is adequately buffered through landscaping features. The site design provides public-realm improvements and enhances the streetscape along Highway 20 East. The proposal is supported by reports prepared by qualified professionals, subject to relevant recommendations, that confirm no significant noise concerns, municipal servicing issues or any archaeological findings identified on the property.

Shadow Study prepared by ACK Architects dated September 2018 revised to March 30, 2022

The Study (Figure 6) demonstrates that shadow impacts on adjacent properties from the proposed building are anticipated to be within an acceptable range.

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Figure 6: Shadow Study





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Parking Analysis prepared by Paradigm Transportation Solutions Limited dated October 29, 2021

The analysis indicates that the Town of Pelham Zoning By-Law 1136 (1987) requires a total of 36 parking spaces, including 24 resident and 12 visitor spaces for 24 units (now 22 units). As 28 total parking spaces are proposed, this represents a potential deficiency of eight (8) parking spaces; The Institute of Transportation Engineers Parking Generation Manual recommends a total of 23 parking spaces to serve the site (resident and visitor supply). As 28 total parking spaces are proposed, this represents a potential surplus of five (5) parking spaces; Transportation Tomorrow Survey data indicates 11% of apartment households in Pelham do not own a vehicle. Given the expected changes in automobile ownership brought about by the changes in mobility-related technologies, it is likely that if parking policy is not revised, new residential developments will be left with an oversupply of parking. It is also recommended that the applicant unbundles parking from the cost of a unit.

Functional Servicing Design Brief prepared by Hallex Engineering Ltd. dated August 28, 2020

The brief makes recommendations for storm, sanitary and water servicing for the development. Town Public Works staff have reviewed the report and accompanying drawings and offered no concerns or objections.

Stage 1-2 Archaeological Assessment prepared by Detritus Consulting Ltd. dated July 9, 2020

The Assessment did not result in the identification of any archaeological resources and further archaeological assessment was not recommended by the licensed archaeologist. Acknowledgement from the Ministry of Heritage, Sport, Tourism and Culture Industries confirming that all archaeological resource concerns on the subject property have met licensing and resource conservation requirements has not been received. Should the applications be approved, receipt of Ministry clearance will still be required as a condition of site plan approval.



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*Record of Site Condition under Part XV.1 of the Environmental Protection Act
submitted May 17, 2016*

The property was previously used for commercial purposes. In accordance with O. Reg. 153/04, a Record of Site Condition (RSC) must be filed on the MECP Brownfields Environmental Site Registry prior to any change in land use to a more sensitive use (i.e. commercial to residential). The RSC has been filed with the MECP meeting the requirement of O. Reg. 153/04 and no further work is required with regards to this matter.

*Environmental Noise Feasibility Assessment prepared by RJ Burnside and Associates
Limited dated July 2020*

The assessment finds that the primary source of noise impacting the site is road traffic from Regional Road 20 and predicts that indoor and outdoor sound levels for the future dwelling units will comply with the MECP NPC-300 guidelines, provided certain mitigation measures are implemented. These include the mandatory provision of central air conditioning in all units to allow windows to remain closed and the inclusion of standard warning clauses in all property and tenancy agreements and offers of purchase and sale regarding potential adverse noise impacts. The study also recommends that a 2.0 metre acoustic barrier be provided for common outdoor living areas, however it is noted in the study that this is not required as sound levels in these locations will not exceed the MECP NPC-300 limits. Should the applications be approved, implementation of the recommendations of the study will be included in the site plan agreement.

Agency Comments:

The application was circulated to commenting agencies and Town Departments. The following comments have been received:

Niagara Region Planning and Development Services

Regional Planning and Development Services staff is satisfied that the proposed local Official Plan Amendment and Zoning By-law Amendment applications are consistent with the PPS and conform to the Growth Plan and ROP, subject to any local compatibility concerns and requirements. A road widening along Regional Road 20 frontage to be dedicated to the Region will be required.



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Public Works Provided no objection to the applications for Official Plan and Zoning By-law amendment and technical comments for site plan approval application.

Enbridge Gas Inc. No objection. Request standard conditions.

Hydro One No comments or concerns.

Public Comments:

On May 20, 2022 a public meeting notice was circulated to all property owners within 120 metres of the property's boundaries. In addition, public notice signs were posted facing Kinsman Court and Highway 20 on May 24, 2022. A public meeting was held on June 13, 2022. 5 members of the public provided verbal comments at the meeting. The following public comments have been received at the time of writing of this report:

Alan Morgan Concerned about traffic on Highway 20/ queuing at the intersection affecting the ability to safely enter and exit the property. Feels the building height and setback from the road are not appropriate for the Town and that the development will contribute to traffic congestion.

Bernie & Susan Law Concerned about drainage impacts resulting from the development, loss of trees from Kinsman Court road allowance, which protect from views and road noise, scale of building and loss of snow piling area on Kinsman Court. Wants waste collection to occur from Highway 20. Feels that the apartment building should be scaled down in size.

Ron & Mary Ann Blakely Opposed to the applications, concerned about impact on property values, loss of sunlight and privacy, lack of fit with community and traffic impacts. Also concerned about disruption due to waste collection from Kinsman Court. This area is curved, contains a hydrant and is used for snow piling and the service access will result in the removal of trees from the road allowance.



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Bill McInernery on behalf of Kinsman Court Residents

Supports applications subject to restrictions to 4 storeys, maintain privacy fencing, restriction of visitor parking on Kinsman Court, restriction of construction vehicles accessing Kinsman Court, fencing or gate at end of driveway access for garbage pick-up, work with arbourist to limit tree removal and impact on trees at end of Kinsman Court, the Town to develop a plan to remove snow from end of Kinsman Court, and minimize impact to driveway access for 24 and 26 Kinsman Court. Feels that parking is insufficient and concerns that Kinsman Court will be used for construction access and parking of construction vehicles.

Mike & Donna Zimmer

Support the applications. Feels that building location close to Highway 20, removal of rooftop patio and walkway from Kinsman Court are improvements over the previously approved development for the site. Concerned about impacts from commercial uses that would otherwise be permitted.

Michael De Prophetis

Supports the applications. Feels the development is appropriate for the location and within walking distance of amenities. Feels residential use is better for the Town and would cause less congestion than potential commercial use.

Amber Smith

Supports the development and feels it will be an improvement. Would like the Town to establish standards for building facades.

Staff Comments:

With respect to resident concerns regarding the queuing of traffic on Highway 20, in front of the property, and additional traffic impacts resulting from the proposed development, Town staff advise that all resident and visitor access to the site will be via Highway 20. Highway 20 is a Regional road. Regional staff attended the pre-



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consultation meeting in April 2020 and did not identify the need for a Traffic Impact Study based on current conditions and the scale of the development. Further, Regional staff have reviewed the applications and offered no concerns in terms of safe ingress/egress to the development nor resulting traffic impacts. While some queuing of traffic does occur in peak periods on Regional Road 20, traffic is still able to move and the proposed increase in traffic from the development is not to such an extent that it would adversely impact on traffic flow.

A resident and a member of Council expressed concern about the building being located at the front lot line. As discussed above, this is in conformity with the Policy B1.3.4.3 of the Town's Official Plan. It is also a best practice from an urban design perspective that within Downtowns buildings close to the street provide a positive impact on the public realm by framing and enclosing the public street and aid in animating the street and improving the pedestrian experience. It further allows for parking to be hidden from view behind the building. With respect to this specific development, it has the added benefit of increasing the setback from the residents on Kinsman Court and mitigating potential impacts to the residential properties to the north.

Some residents and members of Council expressed concerns about the proposed building height and loss of sunlight and privacy. This issue has been analyzed above with respect to the requested Official Plan amendment to increase the permitted building height and there is minimal impact on the surrounding residential properties with respect to shadowing impacts, loss of light or privacy. The proposed building is appropriately setback and stepped back from the residential properties to the north which results in no adverse impact to these uses in terms of loss of sunlight and privacy.

A resident expressed concern regarding drainage impacts. The applicant is required to prepare a lot grading and drainage plan and to convey stormwater to the storm sewer to avoid negative impacts to neighbouring properties, this is not a matter to be addressed through the Official Plan or Zoning By-law amendment applications, but rather is a matter to be addressed through site plan approval. Regional and Public Works staff have reviewed the preliminary plans and functional servicing studies submitted with the applications and have expressed no major concerns. Storm flows from this site will be directed towards the existing storm system that has capacity to accommodate such flows. Should the applications be approved, approval of final



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stormwater management design plans by Town and Regional staff will be required as part of a Site Plan Agreement.

Removal of some trees from the Kinsman Court road allowance will be required in order to install the service access for waste collection. The trees will be identified and replacement of trees required in accordance with the Town's Tree Policy as part of a Site Plan approval application. The developer will also be required to install privacy fencing and landscaping along the rear lot line to act as a buffer from noise and views as part of Site Plan approval.

A number of residents expressed concerns about the loss of the snow piling area at the end of Kinsman Court resulting from the new service access for waste collection. Snow clearing is the responsibility of the Town's Public Works Department. The applications were circulated to the Town's Public Works Department and no concerns were raised with respect to the loss of the snow piling area. The proposed service access is roughly 6.5 metres wide, which still leaves space to the east for continued piling of snow and the centre of the turning circle could also be utilized. Typically, the Town removes the snow from the end of Kinsman Court with a front-end loader on an as needed basis. The addition of the proposed service access may increase the frequency of snow removal by the Town which Public Works staff have advised can be accommodated. Public Works staff do not have a concern with the proposed access off of Kinsman Court.

Access from Kinsman Court for waste collection was of concern to both residents on Kinsman Court and members of Council. The building design does not allow for waste collection vehicles to pass underneath the building to access the site. Scaling the building up is not desired due to increased overall height and the potential negative impact to the public realm through loss of the pedestrian scale. The site has legal frontage on both Highway 20 and Kinsman Court. Kinsman Court is an open public road allowance from which a number of properties derive access. Access from an open public road allowance is a reasonable expectation for abutting properties and there is no 1-foot reserve at the end of Kinsman Court to prevent access. The developer has opted to maintain the primary vehicular access to the site on Highway 20 to lessen impacts on Kinsman Court residents. Waste collection is planned bi-weekly through a private contractor which would result in minimal disruption for a very short period of time.



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Residents were further concerned about the use of Kinsman Court for construction access and parking of construction vehicles. Use of a public road allowance for access is also a reasonable expectation. The construction process is temporary and will result in some temporary disruption and inconvenience to residents, however the use of Highway 20 for parking during construction is not possible. The developer will be required to prepare a construction management plan for review and approval by the Town to minimize disruption to Kinsman Court as part of the site plan approval process. Temporary disturbance and inconvenience during construction is not a valid reason to not support the applications.

The requested parking permission of 1.27 spaces per unit is consistent with the recommendation from the Town's parking consultant for apartment dwellings and is further supported by the Parking Analysis which was prepared by the applicant's Traffic Engineer (when 1.1 spaces per unit were proposed). The development will contain mainly one bedroom units where residents may have one or no vehicle. The property is within walking distance to commercial, employment and community uses, accessible by transit and well served by sidewalks and bicycle infrastructure making it possible that a future resident may not require a car.

With respect to concerns that visitors may park on Kinsman Court, it is important to note that on-street parking is permitted on the Town's road allowances unless signed otherwise or during a snow event. With respect to this specific property, if the on-site visitor parking spaces (6) are occupied, there are a number of commercial uses adjacent to and across from the property where visitors may be more likely to park to access the property for a short period of time. Visitor parking on Kinsman Court will be further inconvenienced as there is no pedestrian connection from Kinsman Court to the subject lands as the rear of the lands will be fenced and a gate is proposed to be installed across the service access for waste collection. The fencing requirements will be addressed as part of the site plan approval process.

A resident had concerns about potential negative impacts on property values. Generally, redevelopment in a community/neighbourhood indicates it is a desirable place to invest and live and does not have a negative impact on property values. The subject property is currently vacant containing a gravel parking area. Redevelopment of the property would include a new building, landscaping, fencing and asphalt parking area, which could be considered an improvement over the current site condition. Further, a residential use is compatible with the existing residential uses



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on Kinsman Court and will not result in adverse impacts. It is unlikely that the proposed development will negatively impact property values. Rather, redevelopment of the subject property for the residential use as proposed is more likely to result in an increase to adjacent property values as opposed to if the property was developed for a commercial use as is currently permitted.

Some members of the public and Council were critical of the modern building design and felt it did not fit with the community. This section of Highway 20 includes a mix of building styles including a contemporary "strip mall" style commercial development as was common in the 1980's and 1990's immediately opposite the subject lands, as well as century homes that have been repurposed and modernized with contemporary design elements for commercial uses before transitioning into the historic Downtown area. There is no consistent architectural look to the buildings on Highway 20 or in the Downtown, rather there is an eclectic mix of architectural styles and influences representing various eras of development. Redevelopment that has taken place in the historic Downtown in recent years has also included a mix of traditional and modern architecture. As a result, the modern building design is not out of character with other recent redevelopments nearby and is complementary both in design, but also in scale and massing with adjacent development. As a result, the proposed building is compatible with character and context within which it is located.

The Town has urban design criteria that were derived through the Downtown Master Plan for Fonthill and Fenwick and then adopted into the Official Plan in Policy B1.2.4.3. The urban design criteria primarily relate to location close to the front lot line, location of parking to the rear, building orientation to the street, providing pedestrian weather protection, amount of glazing/windows, hiding utilities and preferred building materials. The proposed building design meets these criteria. The only item that is not met is the 4 storey building height (maximum of 3 storeys permitted), however the Policy acknowledges that higher buildings may be permitted subject to a Zoning By-law amendment and recessing above the third floor. The developer has applied for an Official Plan amendment with respect to this requirement and therefore, the analysis becomes whether the proposed building is appropriate for the site based on the information and technical studies/analysis provided. Planning staff have conducted this analysis above and concluded that the additional height is appropriate when all plans and studies are considered. It is important to note that the Town's urban design criteria do not require a traditional building design in the Downtown



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Transitional Area. Without policy to direct a specific design to this area, modern versus traditional design becomes subjective and a matter of personal preference.

15 Highway 20 East is currently zoned General Commercial (GC) and is currently designated Downtown Transitional Area in the Town Official Plan. The current zoning permits a variety of commercial uses including restaurants, bakeries, banks, car washes, automobile service stations, clinics, hotels, business offices, nurseries, custom workshops, service shops, etc., with a maximum building height of 10.5m or 3 stories. While the proposed Official Plan amendment will provide the policy basis to allow the building height to be increased to 4 stores with a step back and the proposed zoning by-law amendment will remove all the commercial use permissions and allow only a 22-unit apartment building on the subject property subject to specific requirements, the proposed Official Plan and Zoning By-law amendment will allow for development that is more compatible with the adjacent residential uses than many of the current permitted commercial uses would provide. This is considered to be an overall benefit to the residents of Kinsman Court and provide the residents with greater certainty of what the future use of these lands will be and means the developer forgoes the ability to develop the lands for commercial purposes.

Based on the analysis in this report, Planning staff recommend that Council approve the applications for Official Plan and Zoning By-law amendment. The applications conform to Provincial, Regional and local policies and employ the use of good planning principles. The proposed apartment dwelling, though different in style and housing type from the residences on Kinsman Court, will be located and designed such that it can exist compatibly. The ability to mitigate impact and exist compatibly has been demonstrated through both technical reports and the planning analysis.

Alternatives:

Council could choose not to approve the requested official plan and zoning by-law amendments.

Council choose to approve the official plan and zoning by-law amendments with modifications.

Attachments:

Appendix A Addendum to Planning Justification Report dated July 29, 2022



**Community Planning & Development Department
Planning Application Report**

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