



PORT COLBORNE

**Subject: Recommendation Report for Zoning By-law Amendment at
360 Killaly Street East, File No. D14-01-22**

To: Council

From: Development and Legislative Services Department

Report Number: 2022-207

Meeting Date: September 13, 2022

Recommendation:

That Development and Legislative Services – Planning Division Report 2022-207 be received; and

That Council require no further public notice in accordance with Section 34 (17) of the Planning Act; and

That the Zoning By-law Amendment, attached as Appendix A be approved, as revised, rezoning the property at 360 Killaly Street East from Institutional (I) to R4-69.

Purpose:

The purpose of this report is to provide Council with a recommendation regarding a Zoning By-law Amendment application submitted by Joseph M. Tomaino on behalf of the owner 2466602 Ontario Inc. for the lands known as Part of Lot 25 on Concession 2, on the north side of Killaly Street East, formerly in the Township of Humberstone, now in the City of Port Colborne, Regional Municipality of Niagara, municipally known as 360 Killaly Street East.

The application for Zoning By-law Amendment proposes to change the zoning of the property from Institutional (I) to R4-69, being a special provision of the Fourth Density Residential (R4) zone. The Zoning By-law Amendment is being sought to permit the construction of a 3.5 storey, 16-unit residential apartment building on the property.

Background:

Location

The subject lands are located on the north side of Killaly Street East, west of Elizabeth Street.



Figure 1: Location of subject lands highlighted in red, from Niagara Navigator 2020.

Surrounding and Existing Land Uses

The subject lands are currently an underutilized parcel consisting of a former community use (hall) and associated parking area. The lands surrounding the subject property are mixed, with predominantly single-detached residential to the west and east, institutional use (school) to the north, and a mix of residential and commercial (auto repair shop) to the south.

Discussion:

Planning Legislation

Planning staff reviewed this application with consideration of several planning documents including the *Planning Act*, R.S.O, 1990, as amended, the *Provincial Policy Statement (2020)*, *A Place to Grow: Growth Plan for the Greater Golden Horseshoe (2019)*, the *Regional Official Plan*, the *City of Port Colborne Official Plan* and the *City of Port Colborne Comprehensive Zoning By-law 6575/30/18*. For an application to be supported by Staff, it must conform to or be consistent with the aforementioned plans.

Planning Act

Section 2 of the *Planning Act* outlines matters of provincial interest.

Section 3 of the Act requires that, in exercising any authority that affects a planning matter, 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”.

Section 34 of the Act allows for the consideration of a zoning by-law amendment.

Planning staff have reviewed the applications in light of the provincial interests identified in Section 2 of the Planning Act, as well as the aforementioned planning documents, which are examined in greater detail below.

Provincial Policy Statement (2020)

The *Provincial Policy Statement (PPS)* provides policy direction on matters of provincial interest related to land use planning and development. The subject lands are within a “settlement area” according to the PPS. Settlement areas are to be the focus of growth and development and land use patterns shall be based on densities and a mix of land uses and should efficiently use land and resources.

Staff are satisfied that the proposed Zoning By-law Amendment is consistent with the PPS. The application proposes to make use of existing infrastructure and helps contribute to suitable mix of densities.

Growth Plan for the Greater Golden Horseshoe (2019)

Much like the PPS, the Growth Plan also directs and encourages development in settlement areas. The subject lands are located in the “Delineated Built-up Area” where intensification is generally encouraged. The Growth Plan policies support the achievement of complete communities that are designed to support healthy and active living and meeting people’s needs for daily living throughout their lifetime.

Staff are satisfied that the proposed Zoning By-law Amendment conforms to the Growth Plan. The proposed application supports the priorities of the Growth Plan through gentle intensification.

Regional Official Plan

The subject property is located within the Built-up Area, according to the Regional Official Plan (ROP). Objective 4.A.1.2 states that a significant portion of Niagara's future growth should be directed to the Built-up Area through intensification. Intensification includes all forms of development that occur within the Built-up Area and is generally encouraged. Staff are satisfied that the proposed Zoning By-law Amendment conforms to the ROP.

City of Port Colborne Official Plan

The subject property is located within the Built-up Area and Urban Residential designation according to the City's Official Plan (OP). The Official Plan supports intensification that is accommodated within the Urban Area and where development is compatible with surrounding uses. Section 2.4.3.2 states that:

Infill and intensification sites should match the pre-established building character of adjacent buildings; and where no existing or consistent character is established, infill and intensification development should be consistent with the applicable Design Guideline Policies of the [Official] Plan.

Staff notes that the area is predominantly low-density residential, however there is a mix of land uses in the immediate area, such as the institutional uses, one being to the north and the other being a few properties to the west. Additionally, the area has commercial uses to the south and further east that break up the building typologies of the neighbourhood. Just to the east on the corner of Elizabeth Street and Killaly Street East, an eight-unit townhouse development is proposed. Section 3.2.3 of the Official Plan sets out the design guidelines as reference above. While the guidelines mainly touch on new residential communities (subdivisions etc.), policy 3.2.3.1 c) also provides direction for development in existing neighbourhoods as follows:

New residential communities and new development in existing neighbourhoods should be visually interesting such that:

- i) A variety of residential building types, sizes and setbacks should be provided on any given street to encourage a diverse, non-repetitive community fabric.*

Staff are of the opinion that this proposed development achieves the direction of the above design guideline as the building will contribute to a variation in building type and size.

With that said, staff understand the compatibility concerns with the height of the building. In order to mitigate these compatibility concerns and keep the building consistent with the adjacent built forms, staff are recommending that Council cap the permitted height of the building at 11 metres, which is the limit for the properties in the vicinity. In order to ensure consistency with the established built form, staff are recommending some additional special provisions in the recommended by-law to allow the building to be placed at the front of the property, rather than the rear.

In addition to the above, the Official Plan sets out further, more specific policies for the siting of apartment buildings. Residential uses are permitted within the Urban Residential designation with proposed developments being evaluated based on policies within Section 3.2.1. Section 3.2.1 sets out the density and design aspects of all dwelling types within the City's urban residential areas. Section 3.2.1 c) states that:

High Density Residential will:

- i) Be developed as apartment buildings ranging in density from 70 to 100 units per net hectare;*
- ii) Have frontage on an arterial or collector road;*
- iii) Have commercial or ground-oriented residential uses on the main floor;*
- iv) Be oriented on the site to minimize shadows on adjacent low and medium density residential development;*
- v) Be encouraged to be developed in proximity to public transit and active transportation routes; and*
- vi) Be subject to Site Plan Control.*

Staff have conducted a calculation of the density of the proposed development. Given the size of the lot of 0.19 hectares, the proposed 16-unit building provides a total density of 84 units per hectare (uph), which is within the provided range of 70-100uph. The development will have frontage on Killaly Street East, which is identified as an arterial road as per Schedule D: Transportation, of the Official Plan. The building does not have any ground-oriented commercial uses, however staff note that mixed-use building types are more commonly found in the City's downtown areas. The building is currently proposed to be capped at 11 metres in height which will significantly mitigate any shadow concerns on neighbouring low and medium density residential. The Region's newly established Niagara Regional Transit OnDemand will assist with transportation in the area. Finally, should Council approve of the Zoning By-law Amendment, the property would be subject to Site Plan Control, which will further address mitigation measures through fencing, buffering, landscaping, lighting, etc. Staff are of the opinion that the proposal meets the goals and intent of the Official Plan.

City of Port Colborne Zoning By-law 6575/30/18

The subject property is currently zoned as Institutional (I) according to Zoning By-law 6575/30/18. The "I" zone permits a number of uses such as assembly uses, banquet

halls, places of worship, day cares etc. However, it is noted that currently the “I” zone also permits “Apartment Building, Public”, which is an apartment building owned/maintained by a public agency or non-profit charitable organization. The only difference between “Apartment Building, Public” and the proposed “Apartment Building” is the tenureship/ownership of the building. The proposed zoning of R4-69 will permit an “Apartment Building” with the following special provisions:

- a) Maximum Height 11 metres
- b) Minimum Interior Side Yard 1.5 metres
- c) Minimum Parking Spaces 1 per unit
- d) Minimum Landscaped Area 20 percent
- e) That the minimum landscape buffer provisions do not apply to the driveway, and that a 0.94m landscape buffer apply elsewhere on the site.
- f) That outdoor storage of refuse be permitted to be located in the front yard.
- g) That a minimum driveway width of 3 metres be permitted for two-way traffic.

Staff are of the opinion that the above special provisions are necessary to facilitate the development of this property. The 11-metre cap on the height will help keep the building consistent with height permissions currently provided in the area. The 1.5 metre side yard setback will allow the building to be shifted to incorporate a layby lane to accommodate a vehicle should two vehicles travel down the driveway at the same time. With respect to parking, staff note that there has been a shift in parking rates province-wide, in an effort to provide much-needed housing. Given the local context of the area, staff are supportive of the reduction in parking, as it will help achieve additional residential units. It is noted that Killaly Street East and nearby side streets provide for on-street parking. Staff will work with the developer at the time of a future Site Plan Control application to explore opportunities to increase parking on the site, if possible. Based on the width of the property, staff find the revised landscape buffer and driveway width provisions to be appropriate, as the 0m landscape buffer will only be required in a limited area. A future landscape plan to be submitted with a future site plan application will provide adequate landscaping on site. Currently, refuse is proposed to be stored in a Molok system which is significantly sightlier than a traditional waste receptacle. Staff will ensure this is maintained through the future site plan control application.

Planning staff is of the opinion that the proposed application is appropriate and compatible with the surrounding area. The proposal adds to a mixture of housing types and makes efficient use of an underutilized property and existing services.

Planning Justification Report prepared by Joseph M. Tomaino, MCIP, RPP

At the request of Planning staff through the pre-consultation process, a Planning Justification Report (PJR) has been prepared and submitted to help facilitate the application. The report, prepared by an independent Planning Consultant, Joseph M. Tomaino, MCIP, RPP, analyzes the policies set forth in the Provincial, Regional and City plans referenced above. The report concludes that the proposed development is

consistent with the objectives of the Provincial Policy Statement (PPS 2020), Places to Grow, for the Greater Golden Horseshoe (Growth Plan 2019), Regional Official Plan (ROP) and the City of Port Colborne Official Plan. The development is contributing to residential intensification and making use of existing infrastructure. Given the findings of the report, the author concludes that the Zoning By-law Amendment represents good planning. The full PJR can be found attached as Appendix D.

Internal Consultations:

Notice of Public Meeting was circulated to internal departments and agencies and the following comments have been received as of the date this report was prepared:

Port Colborne Fire Department

“Port Colborne Fire has no objection to the application. Fire safety items will be dealt with at the site plan and building permit stage.”

Drainage Superintendent

“There are no comments from Water/Wastewater regarding municipal drains as they do not apply for this parcel.”

Niagara Region

(Full comments attached as Appendix B)

The Region has provided a revised comment letter to reflect the submission of the Phase Two Environmental Site Assessment (ESA) requested. The revised letter states that the Phase Two ESA confirms that the existing soil and groundwater concentrations do not exceed the applicable Table 7 Ministry Site Condition Standards and no further groundwater or soil investigation is required. Staff note that a Letter of Reliance and Record of Site Condition will still be required, however these items can be addressed through the future Site Plan Control application.

The Region concludes with the following:

In conclusion, Regional Planning and Development Services staff does not object to the proposal, as it is consistent with the PPS and conforms to Provincial and Regional plans. Staff note that the requested Letter of Reliance and mandatory filing of a Record of Site Condition can be managed through the future Site Plan application.

Public Engagement:

Notice of Public Meeting was circulated via regular mail to property owners within 120m in accordance with the *Planning Act* and Ontario Regulation 545/06 on April 27, 2022, and also provided on the City's website under "Current Applications".

The Public Meeting was held on May 17, 2022 and was attended by two in-person delegates and one virtual delegate. Four written delegations were also received and have been summarized below (full comments with staff responses can be found in Appendix C):

Steve Czinege – 343 Killaly Street East

- Concerns with reducing parking requirements as many residents own more than one vehicle.
- Concerns with the site not having space for snow storage and snowplows blocking in vehicles potentially parked on the street during the winter.
- Question regarding the infrastructure and whether it is suitable to support a 16-unit apartment building and if not, will taxes increase for residents to accommodate the upgrades?

Lisa and Rick Doddridge – 376 Killaly Street East

- Concerns regarding parking and the impact that forcing overflow parking onto the street will have.
- Concerns with winter snow removal and the piling up of snow on site. Snow piles have the potential to create visibility issues.
- Concerns that the current infrastructure is not designed to handle the increase in volume from these units.
- Concerns with traffic increasing on an already busy street and intersection. Question regarding whether a traffic study has been completed to gauge the impact.
- Privacy concerns with respect to surrounding backyards and the increase in building height.

Lori Sturman – 370 Killaly Street East

- Concerns with the proposed building not being symmetrical with the rest of the neighbourhood.
- Concerns with the building not having any additional parking spaces for visitors.
- Privacy concerns with respect to surrounding backyards and the increase in building height.
- Concerns about blasting to get through bedrock.
- Questions the capability of the existing services for a development of this nature.
- Not enough greenspace on the property.

- Construction will disrupt their sleep schedule.
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Financial Implications:

There are no financial implications.

Strategic Plan Alignment:

The initiative contained within this report supports the following pillar(s) of the strategic plan:

- Service and Simplicity - Quality and Innovative Delivery of Customer Services
 - People: Supporting and Investing in Human Capital
 - Governance: Communications, Engagement, and Decision-Making
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Conclusion:

Based on the review of the application and applicable Provincial, Regional, and City planning policies, Planning staff is of the opinion that the proposal is consistent with the Provincial Policy Statement and conforms to the Growth Plan, Regional Official Plan and City Official Plan, and represents good planning. Staff recommends that the Zoning By-law Amendment attached as Appendix A be approved as recommended by staff, specifically with the addition of an 11-metre height limit, and additional provisions that will allow the building to be built in line with the existing built form.

Appendices:

- a. Zoning By-law Amendment
- b. Regional Planning Comment
- c. Public Comments with Staff Responses
- d. Proposed Site Plan

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Report Approval:

All reports reviewed and approved by the Department Director and also the City Treasurer when relevant. Final review and approval by the Chief Administrative Officer.