



Subject: Recommendation Report for Proposed Draft Plan of Condominium and ZBA at 690-700 Elm Street, File No. D07-01-22 & D14-13-21

To: Council

From: Development and Legislative Services Department

Report Number: 2022-235

Meeting Date: November 8, 2022

Recommendation:

That Development and Legislative Services Department – Planning Division Report 2022-235 be received; and

That the By-law and Draft Plan Conditions in Appendix A of Development and Legislative Services Report 2022-235, granting approval of a Draft Plan of Vacant Land Condominium be approved; 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 B of Development and Legislative Services Report 2022-235, rezoning the subject lands from R4-CH and R2 to R4-70 be approved; and

That the Mayor and Clerk be authorized to sign the final Plans of Vacant Land Condominium and associated agreements, as applicable, following the clearance of all conditions outlined in the Draft Approval as provided in Appendix A.

Purpose:

The purpose of this report is to provide Council with a recommendation regarding applications submitted by Curtis Thompson of Better Neighbourhoods Inc. on behalf of the owner Topwide Property Development Inc. for a proposed Draft Plan of Vacant Land Condominium and Zoning By-law Amendment at 690-700 Elm Street.

Background:

Applications

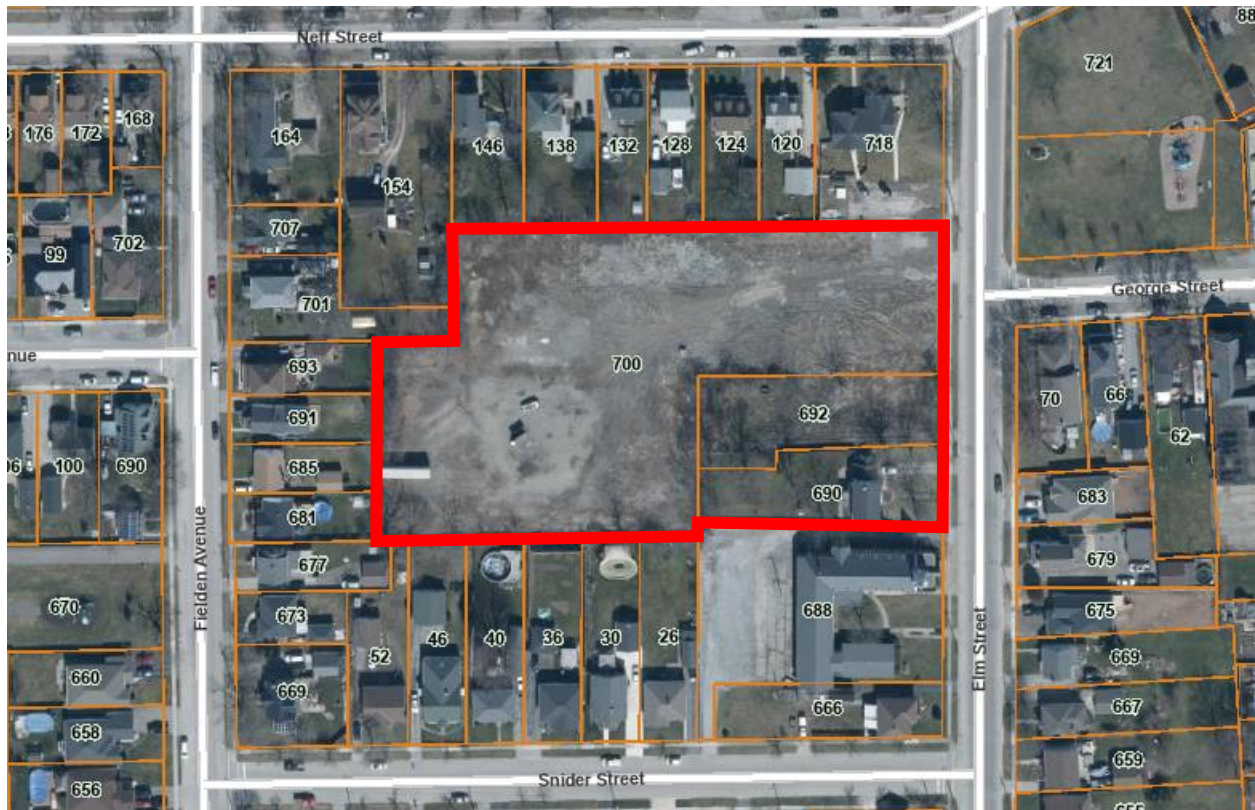
Applications for Draft Plan of Vacant Land Condominium and a Zoning By-law Amendment were submitted by Better Neighbourhoods Inc. in May 2022. The application was deemed complete on July 6, 2022, following the erection of the public notice sign. The following reports/plans have been submitted to help facilitate the development of the land: Planning Justification Report, Functional Servicing Report, Site Plan, Servicing and Grading Plans, Geotechnical Report, proposed elevations and conceptual renderings, Topographic Survey, and a Storm Drainage Plan. These materials can be found on the City's website under "Current Applications".

The Zoning By-law Amendment proposes to amend Zoning By-law 6575/30/18 to rezone the subject lands from R4-CH (Fourth Density with Conversion Holding) and R2 (Second Density Residential) to a site-specific R4 zone that will permit a development of 71 dwelling units (five single-detached, 10 semi-detached, 15 block townhouses, and 41 apartment dwelling units).

The Draft Plan of Vacant Land Condominium will implement the proposed Zoning By-law Amendment and legally allow each unit to be held in independent ownership and establish common elements such as the internal condominium road.

Location and Surrounding Land Use

The subject lands are located on the west side of Elm Street. Land uses in the vicinity include institutional (church) and residential uses to the south, residential uses to the north and west, and residential and park uses to the east.



Planning Legislation

Planning Act

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.

Section 51 of the Act allows for the consideration of Draft Plans of Subdivision and Draft Plans of Vacant Land Condominium.

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 Draft Plan of Vacant Land Condominium and Zoning By-law Amendment applications are consistent with the PPS. The applications propose to make use of existing infrastructure and help contribute to providing a 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 Draft Plan of Vacant Land Condominium and Zoning By-law Amendment applications conform to the Growth Plan. The proposed application supports the priorities of the Growth Plan through 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 Draft Plan of Vacant Land Condominium and Zoning By-law Amendment applications conform 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 in accordance with Policy 2.4.3 (Intensification and Infill). The City currently has an intensification target of 15%, in which new

developments should be accommodated in the existing Built-up Area. This proposal helps achieve this target.

Section 3.2 of the Official Plan states that the predominant uses found in the Urban Residential designation shall include residential uses and neighbourhood commercial uses, among others.

Further, Section 3.2.1 provides for a density range of 12-20 units per hectare for low density residential (single detached and semi-detached), 35-70 units per hectare for medium density residential (townhouses), and 70-100 units per hectare for high density residential (apartment buildings). Overall, the site has a density of 58 units per hectare. As the site is a mixture of low, medium and high density residential, staff find that the proposal meets the intent of the Official Plan policies surrounding density.

With respect to the apartment building, additional policies are referenced under section 3.2.1 c):

High Density Residential will:

- i) Be developed as apartment buildings ranging in density from 70 to 100 units per net hectare;*

As mentioned previously, the site meets the appropriate density provisions.

- ii) Have frontage on an arterial or collector road;*

The proposed apartment building has frontage on Elm Street, which is considered an arterial road as per Schedule D: Transportation, of the Official Plan.

- iii) Have commercial or ground-oriented residential uses on the main floor;*

The apartment building proposes to include ground-oriented commercial uses in accordance with Policy 3.2.1.d). Further analysis is provided following this section.

- iv) Be oriented on the site to minimize shadows on adjacent low and medium density residential development;*

The building is oriented to minimize shadows on existing residential uses in the area. The height of the building is in line with the existing R4 zoning requirements.

- v) Be encouraged to be developed in proximity to public transit and active transportation routes; and*

The Region's newly established Niagara Regional Transit OnDemand will assist with transportation in the area.

- vi) Be subject to Site Plan Control.*

This proposal will be subject to Site Plan Control prior to construction, which will further address mitigation measures through fencing, buffering, landscaping, lighting, etc.

Policy 3.2.1 d) (Neighbourhood Commercial) states that new residential development proposals shall consider the provisions of neighbourhood commercial within a lot, block or building having frontage on a collector or arterial road. While the requirement for neighbourhood commercial allocation is not required until 100 housing units or more are proposed, staff are supportive of this proposal's inclusion of neighbourhood commercial uses due to the site's location.

Overall, staff find that this proposal meets the applicable policies and conforms to the City's Official Plan.

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

The subject property currently has two zones assigned to it. The larger portion of the property is zoned R4-CH (Fourth Density Residential with a Conversion Holding) and the remaining is zoned R2 (Second Density Residential). The Conversion Holding (CH) requires the filing of a Record of Site Condition (RSC) prior to lifting the holding from the property. The applicant has successfully filed an RSC with the Ministry of the Environment, Conservation, and Parks. A site-specific R4 zone with the CH removed is proposed for the entirety of the lands through this application. Key changes proposed within the Zoning By-law are summarized below, the full Zoning By-law Amendment can be found within Appendix B:

- Revisions to the accessory dwelling unit provisions to set a maximum unit size and building height
- Revisions to the home-based business provisions
- Deletion of Section 2.12 – Buildings on One Lot provision
- Revisions to the permitted encroachment provisions
- Revisions to the ingress and egress provisions to reduce the minimum two-way traffic driveway width
- Revisions to the R4 zoning requirements to reflect the proposed condominium configuration and additional Neighbourhood Commercial type uses

Overall, staff find the proposed Zoning By-law Amendment to be appropriate for the site. A comment/concern was raised by Councillor Wells at the September 20th Public Meeting with respect to the home-based business provisions and commercial uses in the apartment building. Staff have reviewed applicable policies of the Official Plan, specifically policy 3.2.1 d) (Neighbourhood Commercial) and find that the relaxing of the home-based business provisions for the townhouses fronting on Elm Street would be an appropriate change to provide a live-work typology. Staff note that the relaxing of the provisions does not guarantee that these will all be built as a live-work unit, as the market will dictate if that is viable. With respect to the ground-floor commercial uses in the apartment building, staff are supportive of the additional permissions to allow Neighbourhood Commercial type uses. The proposed by-law has been revised to include these additional uses.

Draft Plan of Vacant Land Condominium

The proposed Draft Plan has been reviewed in conjunction with the proposed Zoning By-law Amendment. Based on the comments received to date, no concerns with the granting of Draft Plan approval were raised. Applicable agencies and departments have provided appropriate Draft Plan Conditions to be included in the approval (Appendix A). Staff recommend approval of the Draft Plan of Vacant Land Condominium.

Internal Consultations:

The applications and supporting materials were circulated internally to applicable departments and agencies in July 2022. As of the date of preparing this report, the following comments have been received by applicable departments and agencies:

Port Colborne Fire Department

“Fire has no concerns at this time”

Drainage Superintendent

“There are no concerns regarding municipal drains for this parcel”

By-law Enforcement Division

“By-law Services have no adverse comments at this time”

Engineering Comments

City Engineering staff have reviewed and provided comments on the submission materials. It is noted that comments are technical in nature and will be addressed through the future site plan control process.

Niagara Region

(full comment attached as Appendix C)

Regional Planning and Development Services staff does not object to the Zoning By-law Amendment and Draft Plan of Condominium Applications, in principle, as the proposed redevelopment is consistent with the PPS and conforms to Provincial and Regional growth management policies, subject to the conditions of the attached Appendix [of the comment letter] being fulfilled. City staff should be satisfied that the proposed development is compatible with the surrounding urban fabric and that all local requirements are met.

Enbridge

- Enbridge does not object to the application.

Hydro One

- No comments or concerns at this time.

District School Board of Niagara (DSBN)

- No objections to the proposed application. Future students from this area would attend McKay PS (Gr. JK-8) and Port Colborne High School (Gr. 9-12).

Financial Implications:

There are no current financial implications. Development has the potential to increase property tax assessment and water and wastewater users.

Public Engagement:

The Notice of Public Meeting is required to be sent to property owners within a 120m radius of the subject property, as per Sections 34 (13) and 51 (20.1) of the *Planning Act*. Notice was circulated on August 31, 2022, and the following comments from the public have been received as of the date of preparing this report:

Member of the Public	Question/Comment	Staff Response
Jennifer Winfrey – 62 George Street – Comment 1	In support of the development as a whole as it is a good use of vacant land to increase housing.	Noted.
Jennifer Winfrey – 62 George Street – Comment 2	Concerns surrounding parking and overflow on the side streets. Would like to request that 2-3 hour parking be implemented at the park and that there be no parking within 10m of the intersection.	The development provides sufficient parking in exceedance of the requirements. Should parking on side streets be a concern, City Council is able to implement measures to prevent long term parking.
Brian Canter – 30 Snider Street – Comment 1 (oral at Public Meeting)	Previous apartment building was only three storeys, now the proposal is for six, would like to see	The height limit in the R4 zone is 20m. No increase in height has been requested at this time. The

	a compromise with a three-storey apartment. Six storey building is not in keeping with the neighbourhood.	City's Official Plan directs and encourages higher densities to be located on arterial roads, of which Elm Street is one.
Brian Canter - 30 Snider Street – Comment 2 (oral at Public Meeting)	Can the wastewater infrastructure handle the increase in density? Concerns with sewer backup.	The Functional Servicing Report submitted by the applicant and reviewed by the City's Public Works staff did not raise any concerns with respect to this.
Brian Canter - 30 Snider Street – Comment 3 (oral at Public Meeting)	What measures will be put in place to ensure any damage to neighbouring homes through construction is handled?	Any damage to homes would be dealt with civilly between the developer and the homeowner. The applicant has noted that they would be open to completing a pre-construction survey of the existing homes in the area.
Brian Canter - 30 Snider Street – Comment 4 (oral at Public Meeting)	What is the timeframe for construction?	It is up to the discretion of the applicant.
Brian Canter - 30 Snider Street – Comment 5 (oral at Public Meeting)	How will snow be dealt with?	Snow will be handled by the property owner and not the City of Port Colborne as this is a condominium development that will remain in private ownership.
Mike Horsley – 30 Snider Street – Comment 1 (oral at Public Meeting)	Is site plan control delegated to staff?	Yes.
Mike Horsley – 30 Snider Street – Comment 2 (oral at Public Meeting)	Does the city have fencing requirements?	Not specific requirements. However, staff will be assessing the need for fencing through the site plan control application.

Mike Horsley – 30 Snider Street – Comment 3 (oral at Public Meeting)	Will there be a landscaping plan?	Yes – through the site plan control application.
Mike Horsley – 30 Snider Street – Comment 4 (oral at Public Meeting)	Will there be a photometric plan and a request that lighting be directed away from neighbouring properties?	Yes – through the site plan control application.
Mike Horsley – 30 Snider Street – Comment 5 (oral at Public Meeting)	Have loading and garbage areas been considered?	Yes – garbage has been reviewed by the Niagara Region.
Mike Horsley – 30 Snider Street – Comment 6 (oral at Public Meeting)	Is there a phasing plan?	The applicant may wish to phase the development. A plan has not been submitted to demonstrate this.
Mike Horsley – 30 Snider Street – Comment 7 (oral at Public Meeting)	Does not feel the apartment is in character with the area.	The height limit in the R4 zone is 20m. No increase in height has been requested at this time. The City's Official Plan directs and encourages higher densities to be located on arterial roads, of which Elm Street is one.

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 with the Growth Plan, Regional Official Plan, and City Official Plan, and represents good planning. Staff recommend that the Draft Plan of Vacant Land Condominium attached as Appendix A and the Zoning By-law Amendment attached as Appendix B, be approved.

Appendices:

- a. Draft Plan of Condominium Approval/Conditions
- b. Zoning By-law Amendment
- c. Niagara Region Comment
- d. Draft Plan of Vacant Land Condominium

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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.