



## Planning and Development Services

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**Prepared for: Council-in-Committee**

**Report: PDS-26-2024**

**Meeting Date: May 13, 2024**

**File: 350303-0045**

### 1. Title

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Proposed Draft Plan of Standard Condominium Recommendation Report for 255 Emerick Avenue

### 2. Recommendations

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**That:** Council approves the Draft Plan of Standard Condominium dated November 13, 2023, for the lands known as 255 Emerick Avenue, showing an existing apartment with 35 dwelling units as illustrated in **Appendix 2** of Staff Report PDS-26-2024, in accordance with the provisions of the *Planning Act, R.S.O. 1990 c. P. 13* and the regulations thereunder, subject to the conditions contained in **Appendix 3** of Staff Report PDS-26-2024, and further

**That:** Council directs staff to circulate the Conditions of Draft Plan Approval in **Appendix 3** of Staff Report PDS-26-2024 to the applicable agencies in accordance with the requirements of the *Planning Act*.

### 3. Relation to Council's Corporate Strategic Plan

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Priority: Sustainable and managed growth

Initiative: Comprehensive Housing Options

### 4. List of Stakeholders

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Shaharyar Sindhu – Owner

Niagara Peninsula Housing Corp. (Michael Poon) – Agent

External agencies (E.g., Niagara Region, NPCA, Public Utilities, etc.)

Residents and Property Owners in the Town of Fort Erie

### 5. Purpose of Report

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The purpose of this report is to provide recommendations to Council regarding a Draft Plan of Standard Condominium application on lands municipally known as 255 Emerick Avenue. The proposed Draft Plan of Standard Condominium seeks to convert 35 existing rental units by

creating a standard condominium corporation that establishes individual ownership tenure for residential units and common elements (parking, landscaping and amenity areas) on the site. This current application serves as the legal mechanism to establish the Condominium Corporation and enable the transfer of ownership of individual condominium units from the developer to the purchasers. Council's approval is required to establish ownership within a registered description under the Condominium Act, 1998, as per the *Planning Act*.

The application was submitted by Michael Poon of Niagara Peninsula Housing Corp. on behalf of the owner, Shaharyar Sindhu. A location map showing the subject lands is attached as **Appendix 1**.

The decisions regarding the appropriateness of the land use have already been addressed through previous Official Plan and Zoning By-law Amendments approved by Council in 2014. The physical development of the site is subject to the terms of the Site Plan Agreement that the owner entered into with the Town and was registered on July 18, 2022.

## **6. Analysis**

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### **6.1. Site Context**

The subject lands are located on the south side of Emerick Avenue within the Bridgeburg neighbourhood in the Town of Fort Erie. The subject lands have a frontage of 112.42 m and a lot area of 8,500 sq m.

The site contains an existing building that was originally designed and constructed as a school. The school ceased operations in August 2013 and was subsequently sold by the District School Board of Niagara (DSBN). The current owner purchased the vacant school and rented the property to an international school with dormitories on the second floor. Following the Covid-19 pandemic, the international school did not renew their contact. Therefore, the owner converted the existing school building to contain 35 residential rental units with 62 parking spaces. The building is still under construction and has never been used for residential purposes.

The subject lands are located 900 m west of Donald Pidgeon Park located on Niagara Boulevard and 1.4 km north of Sugarbowl Park located at the intersection of Gilmore Road and Central Avenue.

The neighborhood predominantly consists of detached dwellings with limited access to commercial uses. The subject lands are surrounded by the following uses:

- North: Single detached dwellings;
- East: Single detached dwellings;
- South: Single detached dwellings;
- West: Single detached dwellings.

### **6.2. Planning Context**

### **6.2.1 Planning Act, R.S.O. 1990, c. P.13**

The *Planning Act* provides a land use planning system led by provincial policy that integrates provincial interests with municipal decision-making. It promotes sustainable economic development in a healthy natural environment and encourages coordination among various interests. *The Planning Act* identifies matters of provincial interest that Council must consider in carrying out their responsibilities under the Act. Council's decisions must also be consistent with provincial policy statements and conform with provincial plans and municipal official plans that are in effect.

*The Planning Act* provides criteria for draft plans of subdivision and condominium, including a regard for the welfare of the present and future inhabitants of the municipality, access to utilities and municipal services, whether the draft plan conforms to the official plan, and site plan control matters.

This proposal conforms with the *Planning Act*, subject to the following analysis.

### **6.2.2 Provincial Policy Statement, 2020**

The Provincial Policy Statement, 2020 (PPS) provides policy direction on provincial interests related to land use planning and development, setting the foundation for regulating development and land use in Ontario. It guides appropriate development while protecting resources of provincial interest, public health and safety, and the quality of the natural and built environment.

The subject lands are located in a "Settlement Area" according to the PPS, which shall be the focus of growth and development. The PPS states that land use patterns within settlement areas shall be based on densities and a mix of land uses that efficiently use land and infrastructure, and support active transportation. The PPS also encourages municipalities to provide an appropriate range and mix of housing options and densities to meet projected requirements of current and future residents.

The proposal aims to establish ownership tenure for the existing residential units with full access to municipal infrastructure. The Draft Plan of Condominium would still contribute to broadening housing options in the Bridgeburg neighborhood. By creating a condominium corporation, the existing units could be sold to various individual owners, providing more individuals with an opportunity to enter the housing market or downgrade. Some individual owners may still rent their units. Therefore, the proposal conforms with the PPS.

### **6.2.3 Growth Plan for the Greater Golden Horseshoe, 2020**

The subject lands are located within the Delineated Built-up Area according to the Growth Plan for the Greater Golden Horseshoe, 2020 (Growth Plan). This plan informs decision-making regarding growth management and environmental protection in the Greater Golden Horseshoe area. The Growth Plan supports the achievement of complete communities that provide a mix of land uses with a compact built form, improve social equity, and support access to housing and

transportation by more sustainable means.

The proposal complies with the policies outlined in the Growth Plan. The conversion of the current rental apartment to a condominium would continue to contribute to the diversification of housing options in the Bridgeburg neighborhood, which predominantly consists of single detached dwellings.

#### **6.2.4 Niagara Official Plan, 2022**

The Niagara Official Plan, 2022 (NOP) identifies the subject lands as being located within the Built-up Area of the Town. Built-up Areas are planned to accommodate a compact built form, a mix of land uses, and public service facilities to support the creation of complete communities. Municipalities are directed to encourage built forms and land use patterns that minimize land consumption and reduce the costs of municipal services to support the overall well-being of the Region and the Town.

The proposal complies with the policies outlined in the NOP. The current apartment, previously utilized as a school, has been repurposed for residential purposes, presently accommodating 35 residential units. The proposal contributes to a mixed range of housing options in an established residential neighborhood, represents a compact form of housing and is already connected to municipal services.

#### **6.2.5 Town of Fort Erie Official Plan 2021 Consolidation, as amended, and**

The subject lands are currently designated Site Specific Policy Area 17 in the Town's Official Plan. Site Specific Policy Area 17 was approved by Council in 2014 to recognize and permit the Institutional use (former school), notwithstanding the policies of the Urban Residential designation. This designation permits multi-unit buildings, such as apartments.

According to Policy 4.7.1 XII of the Official Plan, consideration may be given to the conversion of rental accommodation to condominium ownership only where the proposal will not adversely affect the supply of affordable rental housing. A vacancy rate of at least 3% is considered desirable.

As part of the ongoing Official Plan review, Parcel Economics prepared a Housing Needs Assessment on behalf of the Town that indicated that there was a total of 458 rental units in Fort Erie in 2023. According to the Housing Needs Assessment, the Town's rental vacancy rate in 2023 was 3.5% based on information obtained from the Canada Mortgage and Housing Corporation (CMHC). Staff note that the units in the subject building are still under construction and have never been available for rental purposes. Consequently, the rental vacancy rate in the Town is expected to remain above the 3% threshold specified in the Town's Official Plan. Therefore, the proposal is consistent with the Town's Official Plan.

#### **6.2.6 Comprehensive Zoning By-law No. 129-1990**

The subject lands are currently zoned site-specific Residential Multiple 1 (RM1-501) Zone, in accordance with the Town’s Comprehensive Zoning By-law No. 129-90, as amended. The subject lands were rezoned to RM1-501 in 2014 (through By-law No. 2014-028) to permit multi-unit residential development. The RM1-501 Zone permits a variety of residential uses, including apartment dwellings, and institutional uses.

There is no physical development being proposed as part of this application. The Draft Plan of Standard Condominium application is being utilized to legally create individual condominium units, enabling their transfer of ownership to the individual purchasers. A comprehensive zoning review was completed as part of Site Plan Approval in 2022.

Staff have completed their review of the application and recommend approval of the proposed Draft Plan of Standard Condominium, subject to the conditions outlined in **Appendix 3**.

**6.3. Studies**

On May 31, 2023, a Pre-Consultation Meeting was held between the developer, Town staff, and external agencies to review the proposed development. The requirements of the site have been already satisfied through the previous Site Plan application and no further studies were requested at the Pre-Consultation Meeting.

**7. Financial, Staffing and Accessibility (AODA) Implications**

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All costs associated with processing the application and the development of the subject lands are the responsibility of the Owner, and no staffing implications are expected.

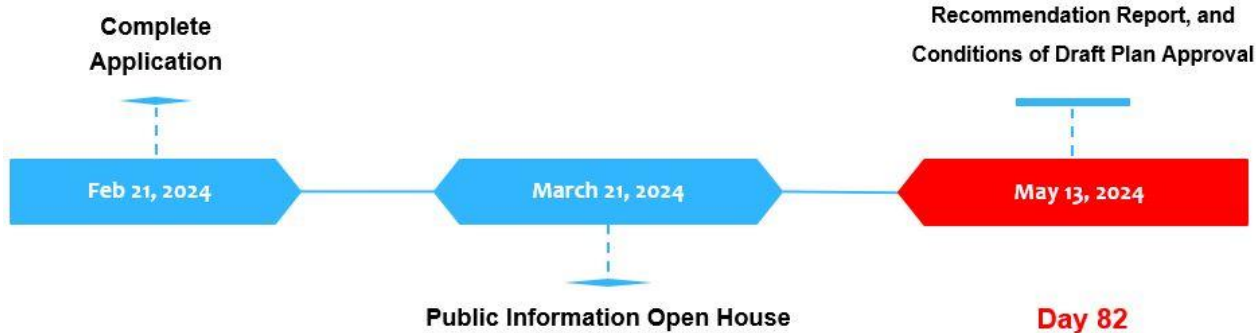
Development charges were collected when the building permits were issued to convert the building for residential use. Cash-in-lieu of parkland dedication will be required as a condition of this application. Other financial obligations of the Developer, as it relates to the construction of the development, have also been addressed through the Site Plan Agreement.

No impediments to the AODA legislation are expected to be developed through the proposed amendment.

**8. Policies Affecting Proposal**

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In accordance with Bill 109, the proposed Draft Plan of Condominium application is subject to a 180-day processing and review timeline. This application is currently on day 82 of the 180-day timeline as illustrated below:



Land use policies affecting the subject lands are contained in the Planning Act, PPS, Growth Plan, NOP, and Town Official Plan and Town Zoning By-law.

## **9. Comments from Departments, Community and Corporate Partners**

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A request for comments regarding this Draft Plan of Condominium application was circulated to relevant Departments and Community and Corporate partners. Comments received to date are summarized below and are attached as **Appendix 4**.

### **9.1. Agency Comments**

#### **Ministry of Transportation, Canadian Niagara Power, and Hydro One**

No objections.

#### **Bell Canada**

No objections. Bell Canada has reviewed the application and has provided conditions of draft plan approval regarding the required easements and their maintenance.

#### **Enbridge Gas**

No objections. Enbridge Gas has advised that the required easements for condominium developments shall be provided by the applicant at no cost.

#### **Canada Post**

No objections. Canada Post has commented that the development falls within their centralized mail policy and, as a condition of draft plan approval, Canada Post requires the owner/developer to provide the centralized mail facility at their expense.

#### **Niagara Region**

No objections. Regional staff has confirmed that all Regional and Provincial interests are addressed through the registered Site Plan Agreement. If the development does not comply with Niagara Region's Corporate Policy for Waste Collection, the garbage collection will be the responsibility of the owner through a private contractor and not the Niagara Region.

### **9.2. Town Staff Comments**

#### **Building Department and Fire Department**

No objections.

#### **Development Engineering**

The Development Engineering Staff have reviewed the application and requested conditions for roads, sidewalks, curbs, watermains, sanitary sewers, storm sewers, lot grading, stormwater management, erosion and sediment control, construction impact mitigation, fees and securities, digital records for asset management, geotechnical compaction inspections, and street lighting, all of which are included in **Appendix 3**. These conditions are provided in the existing site plan agreement.

### **9.3 Public Comments**

A public Open House was held in the Atrium of Town Hall on March 21, 2024. All property owners

within 120 metres of the subject lands were notified of the meeting via a notice mailed by Staff on March 05, 2024. Town planning staff and the Owner and Agent were in attendance, and two members of the public attended the Open House for inquiries regarding the marketing of the apartment units including the pricing, occupancy timing, and the total number of units. With respect to the planning applications, there were no objections.

## **10. Alternatives**

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Council may elect to deny the proposed Draft Plan of Condominium application. Planning staff recommends that the proposed Draft Plan of Condominium be approved, as it conforms to the PPS, Growth Plan, NOP and the Town's Official Plan, and represents good land use planning.

## **11. Communicating Results**

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Notice of Council's decision will be circulated as required in the *Planning Act*. The application is subject to a 20-day appeal period. If no appeals are received during the appeal period, Council's decision is final.

## **12. Conclusion**

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Planning Staff supports the Proposed Draft Plan of Condominium to establish 35 individual apartment units with 62 parking spaces. The proposal aligns with Town, Regional, and Provincial planning policies.

## **13. Report Approval**

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Prepared by:  
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Reviewed by:  
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Submitted by:  
Anamika Dilwaria, M.PL., MCIP, RPP  
Director, Planning and Development Services

Approved by:  
Chris McQueen, MBA  
Chief Administrative Officer

## **14. Attachments**

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Appendix 1 – Location Map  
Appendix 2 – Draft Plan of Condominium  
Appendix 3 – Conditions of Draft Plan Approval  
Appendix 4 – Agency and Town Comments