



**The Corporation of the City of St. Catharines
CITY COUNCIL AGENDA
Regular, Monday, May 16, 2016
Council Chambers, City Hall, 6:30 PM**

His Worship Mayor Walter Sendzik takes the Chair and opens the meeting

Page

1. Presentations

- 1.1 Karen Natho, Managing Director, Brock Niagara Penguins - 10 Year Anniversary
- 1.2 **Staff Presentation**
Jeffery Silcox-Childs, Acting Director, Parks, Recreation and Culture Services, Re: Enhancements to Lakeside Park - Pavilion
(See [General Committee Agenda, May 16, 2016, Item 3.2](#))

2. Public Meetings Pursuant to Planning Act

- 2.1 Planning and Building Services, Planning Services
Proposed Amendment to the Official Plan (Garden City) and Zoning By-law 2013-283, to permit stand-alone commercial, 98 Welland Avenue, Owner: Keith and Linda Attoe, Agent: Sullivan Mahoney LLP Lawyers

3. Mayor's Report

4. Adoption of the Agendas

5. Declarations of Interest

6. Adoption of the Minutes (Council and General Committee)

- 6.1 [Regular Meeting of Council, May 2, 2016](#)
- 6.2 [General Committee Minutes, May 2, 2016](#)

7. Delegations

- 7.1 Matt Brunette, Tikvah Mindorff, Niagara Sustainability Initiative Re: Climate Change - Participating in the Compact of Mayors Program
(See [General Committee Agenda, May 16, 2016, Item 3.1](#))

3 - 16

8. Call for Notices of Motion

8.1 Canada 150th Anniversary Task Force

(At the meeting of May 30, 2016, Councillor Sorrento will put the following motion on the floor for discussion)

Whereas in 2017 Canada will mark the 150th anniversary of Confederation;

Whereas several organizations and community groups may be requesting an appearance before Council for funding to host a special event;

Therefore be it resolved that Council direct all these organizations to The Canada 150 Anniversary Task Force for their review; and

That the Committee prepare a final report including all funding recommendations to Council. FORTHWITH

9. Motions

10. Resolve into General Committee

11. Motion Arising from In-Camera Session

12. Motion to Ratify Forthwith Recommendations

13. By-laws

13.1 Reading of the By-laws

14. Agencies, Boards, Committee Reports

14.1 Minutes to Receive:

- St. Catharines Heritage Advisory Committee, [April 14, 2016](#)
- 101 South Drive Property Task Force, [April 21, 2016](#)

15. Adjournment



CITY OF
ST. CATHARINES

Corporate Report

Report from Planning and Building Services, Planning Services

Date of Report: April 21, 2016

Date of Meeting: May 16, 2016

Report Number: PBS-123-2016

File: 60.35.1013, 60.30.327

Subject: Proposed Amendment to the Official Plan (Garden City) and Zoning By-law 2013-283, to permit stand-alone commercial, 98 Welland Avenue, Owner: Keith and Linda Attoe, Agent: Sullivan Mahoney LLP Lawyers

Recommendation

A. Official Plan Amendment (File 60.30.327)

That Council approve an amendment to the Garden City Plan for the lands described as Part Lot 551 CP 2, City of St. Catharines, municipally known as 98 Welland Avenue, as follows:

- a) That Part E, Section 15.6.1 be amended by adding the following special policy:
 - (e) Notwithstanding Part D, Section 11.3 a), for the lands located at 98 Welland Avenue, that small scale commercial be permitted with or without residential uses on the same lot.

B. Zoning By-law Amendment (File 60.35.1013)

That Council not approve the application as proposed to amend Zoning By-law 2013-283 for the lands described as Part Lot 551 CP 2, City of St. Catharines, municipally known as 98 Welland Avenue, but rather be modified as per staff's recommendation, as follows:

- a) That Section 13.1 'List of Special Provisions' be amended by adding an additional special provision, as follows:

Special Provision	Zone	Schedule			Location	By-law
		A	B	C		
135	R3	A1			98 Welland Avenue	2016-_____
Additional permitted uses:						
1) Animal Care Establishment						
2) Cultural Facility						

- | |
|---|
| <ul style="list-style-type: none"> 3) Day Care 4) Office 5) Recreational Facility, Indoor 6) Restaurant 7) Retail Store 8) Service Commercial 9) Social Service Facility |
|---|

That the City Solicitor be directed to prepare the necessary by-laws; and

That the Mayor and City Clerk be authorized to execute the necessary By-law to give effect to Council's decision; and

That the Notice of Decision required by the Planning Act, R.S.O. 1990, c.P. 13, as amended, be processed by staff; and

That upon expiration of the appeal period, staff be directed to forward any appeals to the Ontario Municipal Board for consideration and final decision; and

Further, that the Clerk be directed to make all necessary notifications. FORTHWITH

C. Fee Refund

That Council waive the application fee for an official plan amendment application for the lands described as Part Lot 551 CP 2, City of St. Catharines, municipally known as 98 Welland Avenue; and

That Council not approve the applicant's request to waive the application fee for a zoning by-law amendment application for the lands described as Part Lot 551 CP 2, City of St. Catharines, municipally known as 98 Welland Avenue.

Summary

The above noted applications propose to allow stand-alone commercial uses on the subject lands in addition to stand-alone residential uses already permitted, or both residential and commercial uses together, as well as a parking requirement exemption for commercial uses. The property was rezoned from commercial to residential as part of the new zoning by-law. The applicant is not proposing any development at this time, but would like to reinstate the previous commercial permissions. The applicant has requested that the lands be rezoned from Medium Density Residential (R3) to Local Convenience Commercial (C1) while retaining residential permissions and to allow for a commercial parking exemption.

Staff recommend that the subject lands retain their R3 zoning, and that appropriate commercial uses be added through a special provision. Staff do not recommend a commercial parking exemption.

Background

The subject lands were previously zoned Business Commercial in the former zoning by-law which permitted a wide range of commercial and residential uses. The owner purchased the lands with the intention of using the dwelling unit as an office. Soon after the owner purchased the property the City rezoned the lands to Medium Density Residential (R3-93) as part of the comprehensive zoning by-law and in conformity with the Official Plan. The R3-93 zone does not permit stand-alone commercial uses. The owner is using the building as an office.

Report Proposal

The owner has requested that the lands be rezoned from Medium Density Residential (R3) to Local Convenience Commercial (C1). They have also requested that all of the permissions of the R3 zone remain and that staff allow for a zero parking requirement for the subject lands.

Location and Site Description

The site is located in the Downtown District of the City, on the south side of Welland Avenue, west of Clark Street. A location map is attached as Appendix 1.

The subject lands are occupied by a small one storey detached dwelling (69.9 m²), being used as an office. The property has an area of 0.023 hectares, with a frontage of 8.7 metres on Welland Avenue and a depth of 26.1 metres.

Surrounding land uses include:

North:	Residential (north side of Welland Avenue)
South:	Commercial and Residential
East:	Commercial
West:	Commercial and Residential

Circulation Comments

The applications for an official plan and zoning by-law amendment were circulated to all appropriate departments and agencies for comments and requirements. There were no objections received, however the following comments were submitted:

- **Planning and Building Services**

The owner is required to apply for a building permit to recognize the change of use from residential to commercial to recognize the existing office use.

- **Parks, Recreation, and Culture Services**

If the parking is to be removed from the rear yard then the area should be converted to amenity space or landscaped open space.

- **Traffic Services**

Traffic staff are of the opinion that if the parking exemption is to be granted as the applicant has requested, that the applicant should be required to reinstate the back yard to landscaping/amenity space.

Region of Niagara

The subject lands are located within the St. Catharines Urban Area, as defined by the Regional Official Plan (ROP). The St. Catharines Urban Area is considered as a Settlement Area by the 2014 Provincial Policy Statement (PPS).

The ROP, 2014 PPS and 2006 Growth Plan for the Greater Golden Horseshoe (Growth Plan) together direct development to take place in urban areas and support intensified development where appropriate servicing and infrastructure exists. Both Regional and Provincial policy place an emphasis on intensification and infill as the preferred forms of development to help foster the development of complete communities that have a mix of land uses, employment opportunities and reduce the need for urban boundary expansion.

Specifically, the subject lands are located within the St. Catharines Urban Growth Centre (UGC), as defined by the Growth Plan and ROP. The UGC is to be a focal area of commercial, cultural, recreational and institutional investment, be transit and active transportation supportive, and have dense population and employment growth (150+ people and jobs per hectare). The proposal seeks to amend the official plan and zoning by-law to recognize the existing office use of the property.

The Region indicated a preference for the retention of the existing Medium Density Residential land use designation in the GCP and the existing Medium Density Residential zoning (R3-93), but include a range of commercial uses that are appropriate to the site, as additional permitted uses. This approach would more clearly indicate the preferred types of commercial uses that could occur on the property, while still permitting the building to be used for residential purposes, as sought by the applicants.

Regional staff note that there is no on-street parking provided along Welland Avenue (Regional Road 77).

The City's intended approach is in keeping with Provincial and Regional policy objectives and would contribute to the achievement of density and land use planning goals in the St. Catharines UGC.

From an implementation perspective, however, Regional staff prefers and supports City staff's recommended approach of maintaining the Medium Density Residential (R3) Zone with site specific permissions for similar commercial uses defined.

Planning Analysis

Provincial Policy Statement (2014)

The subject property is within a settlement area under the 2014 Provincial Policy Statement (PPS) and the built-up area as identified in the Places to Grow Growth Plan for the Greater Golden Horseshoe (Growth Plan). The PPS encourages an appropriate range and mix of residential and employment uses. The approval of this application would conform to Provincial land use policy. The subject lands are located within the Urban Growth Centre, which is to be the centre of commercial, cultural, recreational, and institutional investment, be transit/active transportation supportive and have a dense population and employment growth.

Region of Niagara Policy Plan

The subject lands are within the Urban Area Boundary for the City of St Catharines according to the Regional Official Plan and within the Built Boundary under Amendment 2-2009 (Niagara 2031 Sustainable Community Policies/conformity amendment). A full range and mix of urban land uses are permitted generally within the Urban Areas where appropriate levels of services and infrastructure exist, including residential, commercial and industrial uses.

Regional staff have confirmed that the proposal is consistent with the Regional Plan.

Garden City Plan (GCP)

Amendment to the Garden City Plan

The City's Official Plan, The Garden City Plan (GCP), designates the lands as Downtown (refer to Appendix 2). As mentioned in the Region's comments the subject lands are located within the identified Urban Growth Centre of the City and is intended to be a catalyst area and focus for investment and infrastructure.

Schedule E10 of the GCP (refer to Appendix 3) provides additional direction for the Downtown Planning District and designates the lands as Medium Density Residential. This designation does not permit stand-alone commercial uses. As such, an official plan amendment is required.

The Downtown designation, applicable to the site, is intended to facilitate the highest concentration, density, range and mix of office, commercial, entertainment, civic, government, institutional, recreation, creative and cultural employment uses and residential accommodation within the municipality.

The Medium Density Residential designation, also applicable to the site, permits a variety of housing types including the detached dwelling. Small scale ground floor retail, service commercial, office and indoor recreation uses are permitted, but only in conjunction with residential uses, and subject to a zoning by-law amendment. The applicant has requested that stand-alone commercial uses be allowed on the lands in addition to residential uses already permitted. The size of the site and the existing

building is so small that it would be difficult to accommodate more than one use on site. Staff believe that adding certain commercial uses appropriate to the site is warranted.

The subject lands are located on a stretch of Welland Avenue that contains small detached dwellings. Over the years, these dwellings have transformed into a variety of residential and commercial uses. The area contains a mixed-use cluster of residential dwellings, retail stores, offices, and cafes.

The Garden City Plan provides opportunities to further refine the Plan by way of an amendment, subject to certain criteria being met (Section 16, Implementation). In some instances, changes in land use can be appropriate. This application for amendment to the Official Plan has been evaluated on the basis of the prescribed general considerations, as follows:

Garden City Plan Policy (16.1)	Planning Comment
i) The degree of conformity of the proposed amendment to the general intent, purpose and philosophy of this Plan, particularly the vision, planning principles and general policies of the Plan	Part B, 'Vision and Guiding Principles', describes the general intent of the Plan and the basis for which the land use policies of the Plan have been prepared. The proposed amendment will add an additional permitted use and not detract from the uses already permitted by the plan. The subject property is constrained by size, thereby severely limiting commercial uses and residential uses, currently required by the GCP.
ii) Consistency with Provincial and upper tier government plans, policies and legislation	As is required of the municipality, Provincial and Regional policies are entrenched in the Garden City Plan, as outlined above and throughout this report. The proposal complies with Provincial and Regional land use policies.
iii) The availability and suitability of land already designated for the proposed use, and the need for, and the feasibility of the proposed use	While there are mixed use properties in the commercial core, the entire Downtown designation is meant to attract and accommodate a diverse mix of uses. The property is operating as an office. Similar commercial uses would not be detrimental to the intent of the current GCP policies.
iv) The compatibility of the proposal, or the adequacy of proposed mechanisms for achieving compatibility, with adjacent and planned uses	There are no changes proposed to the existing building. The area is a mix of residential and commercial uses and there are no concerns with compatibility.

v) The potential of the proposal to cause instability within an area intended to remain stable	The property is functioning as a stand-alone commercial use. There have been no issues from this operation. The proposal to expand the range of permitted commercial uses (without residential uses) does not compromise future mixed use development in the area and will not trigger instability.
vi) The ability of the City's infrastructure and public service facilities to accommodate the proposal without costly expansion, upgrading, or required deferral of other planned infrastructure and public service facility improvements in other areas of the City	The property is already serviced and the approval of additional merited commercial uses will not compromise the adequacy of those services.
vii) The financial implications, both cost and revenues, to the City	The proposed additional permitted commercial uses present no cost implications to the City.
viii) The degree to which approval of the amendment would establish an undesirable precedent	Staff note that approval of this application will not be precedent setting as each site and proposal is evaluated based on its own merits. The situation of unique timing of the beginning of the commercial operation on the site is unlikely to apply to any other property in the vicinity.

Staff would not be altering the designation of the subject lands but rather adding a special policy, which would allow for stand-alone commercial uses on the property. The lands would still be designated Downtown, and Medium Density Residential.

Zoning By-law Amendment to By-law 2013-283

The previous zoning of the property under the former zoning by-law, was Business Commercial. The Business Commercial zoning permitted a wide range of residential and commercial uses. The new zoning by-law seeks to concentrate the bulk of commercial uses in the commercial core of the downtown with residential uses being permitted on the outer limits of the downtown designation. This is why the subject lands were rezoned residential. This strategy promotes an economically healthy and revitalized downtown core.

As such, By-law 2013-283 zones the lands as Medium Density Residential, Special Provision 93 (R3-93), (refer to Appendix 4). The R3 permits commercial uses only together with residential uses on the same site in the form of a home-based business, subject to the provisions outline in the zoning by-law. Since the R3 zone does not permit stand-alone commercial uses, a zoning by-law amendment is required. Special Provision 93 is a residential parking exemption.

The R3 zone permits the following residential dwelling types: detached, semi-detached, duplex, triplex, fourplex, quadruplex, and townhouse dwellings, as well as private road developments, apartment buildings, and long term care facilities with a density requirement of 25-99 units/ha.

The applicant is proposing to rezone the lands to Local Convenience Commercial (C1), retain all of the existing R3 zone permissions and have a complete parking exemption, for both residential and commercial uses. Staff believe that it is more appropriate to retain the current R3 zone and add additional appropriate commercial uses for the property. Staff do not recommend an exemption for commercial uses from parking requirements.

It should be noted, that from a land use perspective, a home-based business would be permitted within the current R3 zone however the small size of the dwelling makes it nearly impossible to support more than one use on the site. Under existing zoning, a dwelling which could include an office use but would be limited to a maximum of 25% of the floor area of the total dwelling unit, to a maximum of 40m². The existing building has an area of 69.8 m². Twenty-five percent of the floor area would allow for a home based business of approximately 17.45m². As such, because of the small size of the building and lot, Staff believe that it is appropriate to allow for both residential and commercial stand-alone uses on the site.

Staff have reviewed the permitted uses in the C1 zone and have chosen ones that are appropriate for the subject lands. These uses are recommended as “additional permitted uses” with a special provision.

Commercial uses that staff are recommending for this site are as follow:

1. Animal Care Establishment
2. Cultural Facility
3. Day Care
4. Office
5. Recreation Facility, Indoor
6. Restaurant
7. Retail Store
8. Service Commercial
9. Social Service Facility

Apartment dwelling unit(s) are already permitted in the existing R3 permissions, and the size of the existing dwelling unit makes it unlikely to have more than one dwelling unit on the property. The access to the site and its small size renders a Motor Vehicle Gas Station inappropriate. As well, a Place of Worship was not included in the permitted uses because of the small size of the building and lack of direct access and limited parking on the site.

Parking Exemption Request

The applicant has requested a full parking exemption on the site. Currently, the subject lands are required to provide parking for residential use. The commercial parking exemption in the City applies only to the commercial core of the city. While the subject lands are in the downtown designation it is not located within the commercial core. Parking spaces exist on site and staff believe it is appropriate for this parking to remain, particularly if commercial uses are to be permitted. The site is accessed at the rear over city owned lands. Should parking be removed staff are concerned that parking may spill over onto the City owned lands to the rear of the property.

Fee Refund

Zoning By-law Amendment Application

The applicant has requested that the zoning by-law amendment application fee for \$4500 be refunded. Section 69(2) of the Planning Act allows a Council of a municipality to reduce or waive the amount of the planning fee where Council "is satisfied that it would be unreasonable to require payment in accordance with the tariff." Payment may also be made under protest: appeal to the Ontario Municipal Board. The applicant did not have full knowledge of the proposed changes in land use permissions at the time the property was acquired in November 2013. The changes in land use permissions took effect on December 16, 2013. The public notification of the new zoning by-law was extensive and in accordance with all legislative requirements. Staff note that although the new zoning permissions came into effect in December 2013, the new zoning by-law actually implemented land-use permissions that were established in 2010 with the City's approval of the new Official Plan.

Staff caution Council in refunding fees since it sets a precedent and could trigger many similar requests from other applicants. Staff do not recommend the fees be refunded for the zoning amendment application.

Official Plan Amendment Application

Staff recommend that the application fee of \$7800 for an official plan amendment be waived. The need for an official plan amendment was mistakenly not identified by staff at preconsultation. It was brought to the attention of the owner after the application for the zoning by-law amendment had already been made. Staff note that the extra fee may have affected their decision to make the applications, and accordingly the expense should be absorbed by the City.

Open House

The open house was attended by the owners, their legal representation and 3 members of the public. While residents were in support of the application there was concern about the public notification process for the new comprehensive zoning by-law. They were of the opinion that individual property owners should be notified if their property's zoning is affected by a new zoning by-law.

Staff advised the residents that there is an extensive public consultation process as part of the approval of a new zoning by-law. It is not possible to send out a personalized

notification for every property in the City, detailing how the new zoning by-law will affect their lands and current uses. Extensive consultation occurred during the comprehensive zoning by-law preparation process.

Secondary Planning Opinion Advisory

Should Council consider not supporting the Staff Recommendation provided in this report, Council is advised to defer its decision until such time as a second planning opinion from an outside consultant can be obtained. In the event the second planning opinion is supported by Council, and Council makes a decision based on that second planning opinion, and if and when the matter should be heard before the Ontario Municipal Board, then the planner who has provided the second opinion shall be retained for the purpose of a hearing before the Ontario Municipal Board.

Financial Implications

Should Council chose to refund the applicant's fees, the cost will be \$4500 (zoning amendment application) and \$7800 (official plan amendment application).

Relationship to Strategic Plan

The approval of this residential development proposal will serve to support the goals for economic sustainability by:

- Facilitating private investment through development in the City.

Conclusion

In summary, the proposed amendments are appropriate for the current and future use of this site. Staff is satisfied that the recommended amendments do not compromise the purpose and intent of the zoning by-law and Garden City Plan. R3 provisions are retained on the property, appropriate commercial uses are to be added and the parking requirement is to be upheld.

Notification

It is in order to advise Sullivan Mahoney LLP Lawyers, PO Box 1360, St. Catharines, ON, L2R 6Z2.

Prepared by:

Margaret Josipovic
Planner I

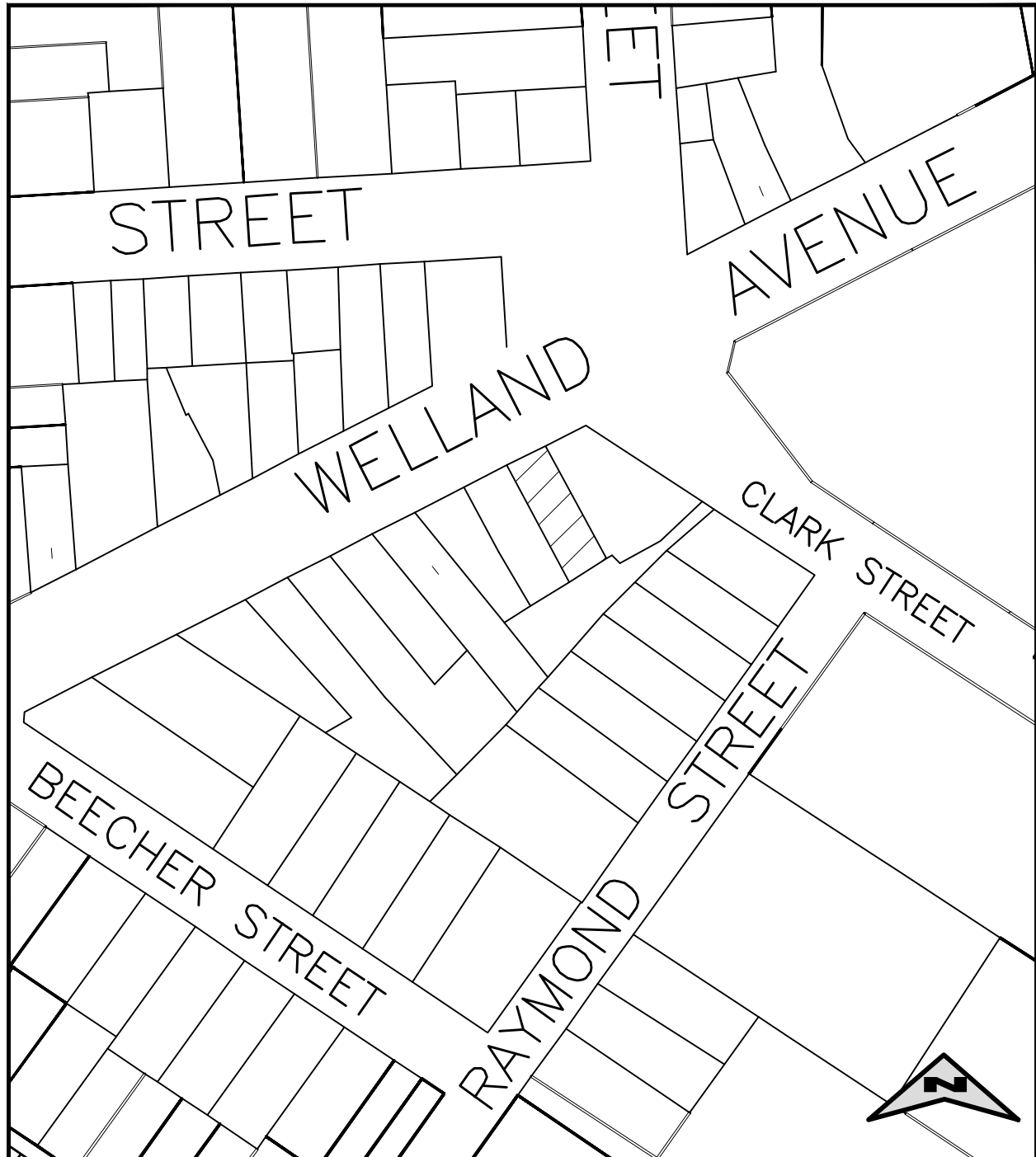
Submitted by:

Judy Pihach, MCIP, RPP
Manager of Planning Services

Approved by:

James N. Riddell, M.Pl., MCIP, RPP
Director of Planning and Building Services

Location Map



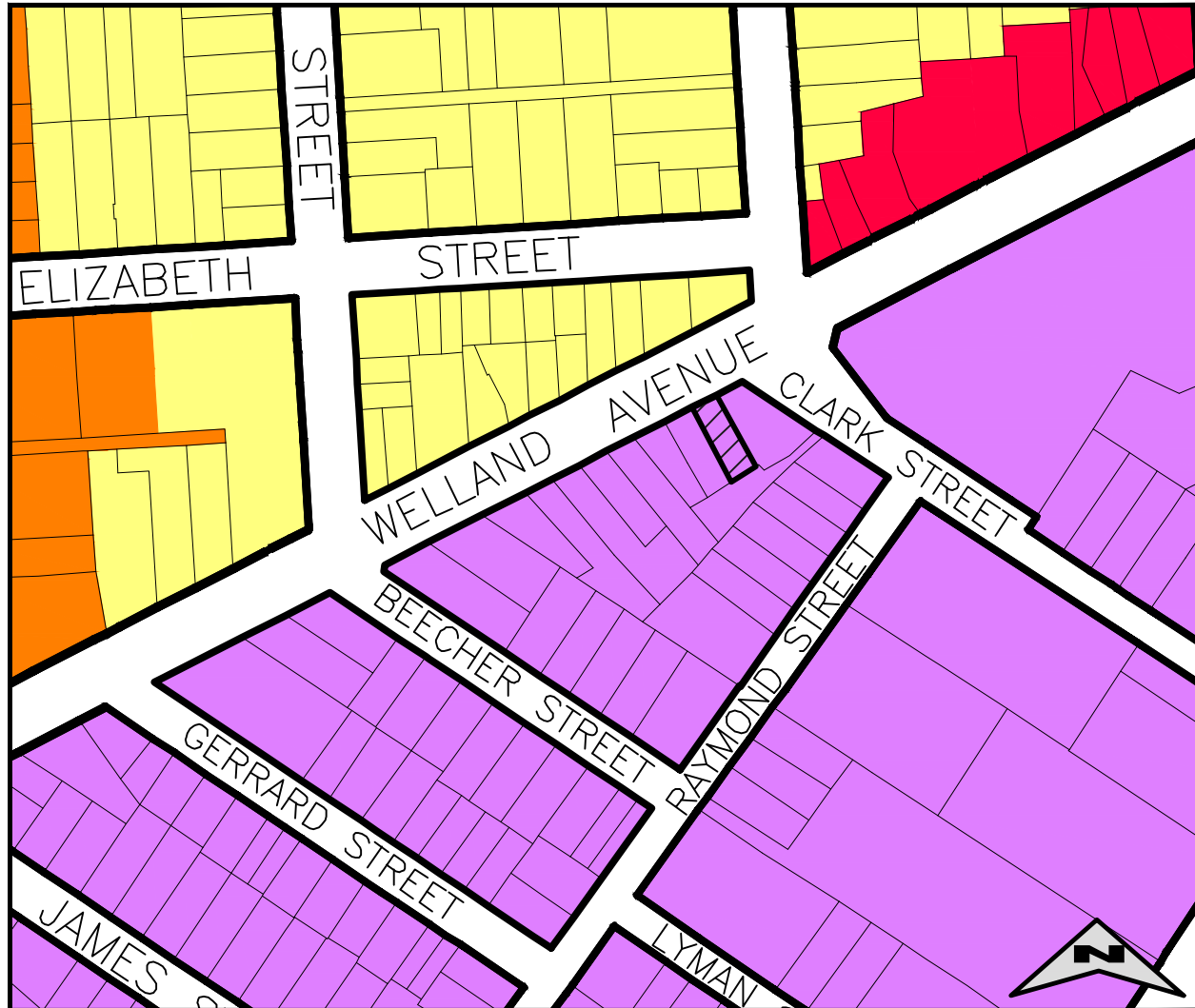
Subject Lands

98 Welland Avenue

File: 60.35.1013 & 60.30.327

Existing Land Use Designation

(General Land Use Plan D1 - Garden City Plan)



98 Welland Avenue

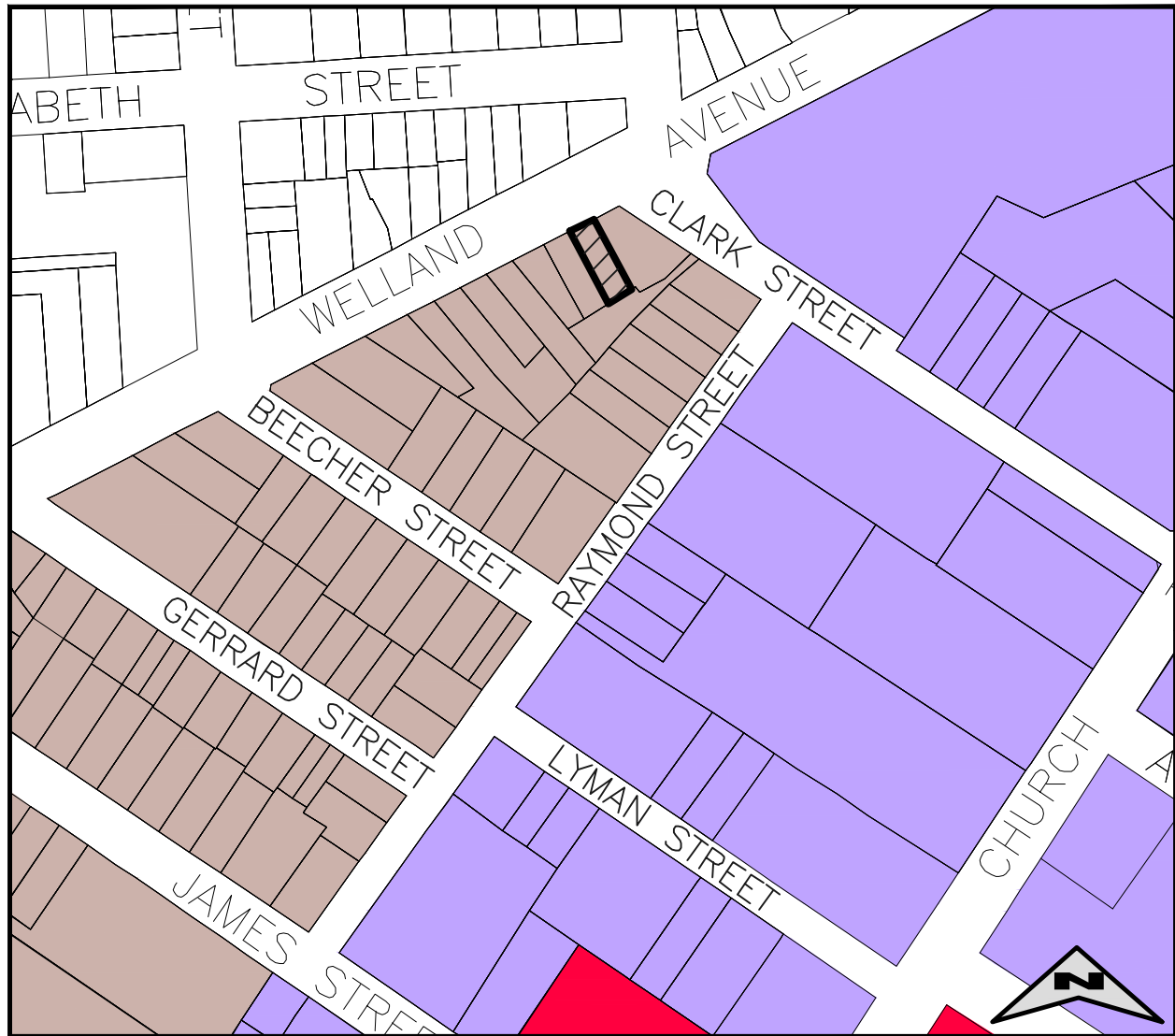
Land Use Designations

Neighbourhood Residential
Mixed Use

Commercial
Downtown




File: 60.35.1013 & 60.30.327

Existing Land Use Designation (Downtown Planning District E10 - Garden City Plan)



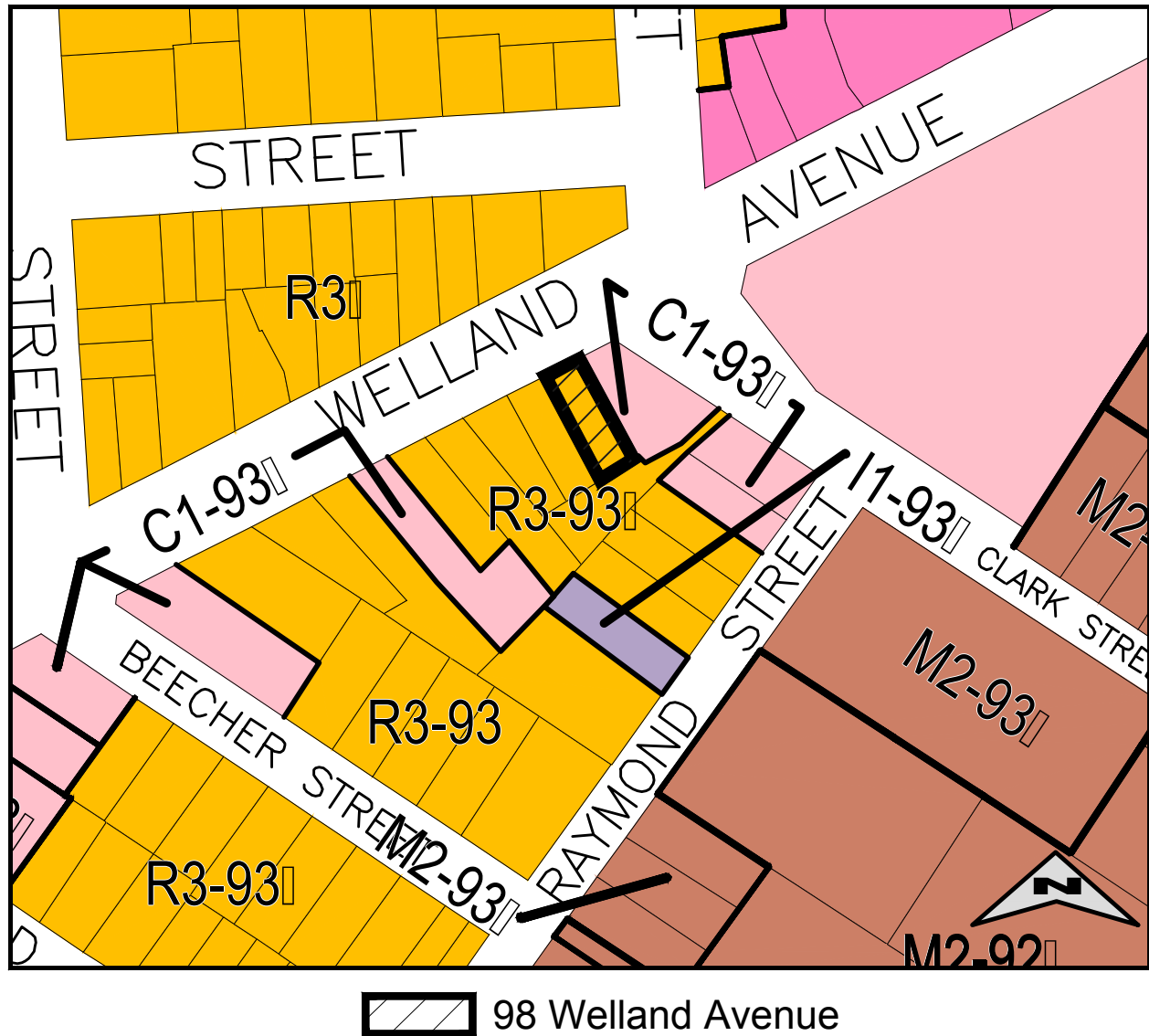
 98 Welland Avenue

Land Use Designations

- | | |
|---|---|
|  Medium Density Residential |  Commercial Core |
|  Mixed Medium High Density Residential | |

File: 60.35.1013 & 60.30.327

Proposed Amendment to Zoning By-Law 2013 - 283



Subject lands to have Special Provision 135 added to allow additional permitted uses and outline parking requirements

Zones	
R3 Medium Density Residential	M2 Medium / High Density Mixed Use
C1 Local Convenience Commercial	I1 Local Neighbourhood Institutional

Files: 60.35.1013 & 60.30.327

By-laws to be considered Monday, May 16, 2016

- (a) A By-law to amend By-law No. 90-255 entitled "A By-law to appoint certain persons engaged or employed by The Corporation of the City of St. Catharines municipal law enforcement officers". (One reading – with respect to change in personnel. Delegation By-law No. 2004-277, as amended.)
- (b) A By-law to remove certain lands from part lot control. (One reading – with respect to 1956 Third Street. Delegation By-law No. 2004-277, as amended.)
- (c) A By-law to authorize a Servicing Agreement with Merritton Mills Redevelopment Corp. (One reading – with respect to installation of a sanitary sewer under the lands leased to Trillium Railway Co. Ltd. Delegation By-law No. 2004-277, as amended.)
- (d) A By-law to authorize the acceptance of a conveyance of certain lands from Michael Mazzolino for the widening of Pelham Road and Rykert Street. (One reading – with respect to 54 Pelham Road. Delegation By-law No. 2004-277, as amended.)
- (e) A By-law to authorize an Encroachment Agreement with Michael Mazzolino. (One reading – with respect to 54 Pelham Road. Delegation By-law No. 2004-277, as amended.)
- (f) A By-law to appoint Municipal Law Enforcement Officers (Animal Control Officers). (One reading – with respect to appointment of Municipal Law Enforcement Officers pertaining to regulation and keeping of animals and in accordance with the *Dog Owner's Liability Act*. To be considered by General Committee, May 16, 2016.)
- (g) A By-law to amend By-law No. 2004-277 entitled "A By-law to authorize delegation of certain matters to staff." (One reading - with respect to appointment of Municipal Law Enforcement Officers (Animal Control Officers). To be considered by General Committee, May 16, 2016.)
- (h) A By-law to amend By-law No. 2004-277 entitled "A By-law to authorize delegation of certain matters to staff." (One reading – with respect to authorizing Director of TES to enter into agreements for curbside patio spaces. To be considered by General Committee, May 16, 2016.)
- (i) A By-law to authorize an Assignment of the Agreement from Charles Campbell and Bettina Campbell to Lydia Christina Szostak and Ward Charles Campbell. (One reading – with respect to Agreement with Brickyard Developments Limited, regarding Brownfield Tax Increment Based Incentive Grant Program for Phase 1, for 17 and 21 Woodburn Avenue and 246A Queenston Street. To be considered by General Committee, May 16, 2016.)

- (j) A By-law to provide for adoption of an amendment to the Official Plan of St. Catharines (Garden City Plan). (One reading – with respect to 98 Welland Avenue. To be considered by Council, May 16, 2016.)
- (k) A By-law to amend By-law No. 2013-283, entitled “A By-law to regulate the use of land, the bulk, height, location, erection and use of buildings and structures, the provision of parking spaces and other associated matters in the City of St. Catharines.” (One reading – with respect to 98 Welland Avenue. To be considered by Council, May 16, 2016.)
- (l) A By-law to confirm the proceedings of council at its meeting held on the 16st day of May, 2016. (One reading – with respect to confirming the proceedings of the meeting held on May 16, 2016.)