

COW-01/2020

Monday, January 13, 2020

Town of Pelham Municipal Office - Council Chambers

20 Pelham Town Square, Fonthill

If you require any accommodations for a disability in order to attend and participate in meetings or events, please contact the Office of the Clerk at 905 892-2607, ext. 315 or 320. Taping and/or recording of meetings shall only be permitted in accordance with the Procedure By-law. Rules of Decorum apply to observers.

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COMMITTEE REPORT
COMMUNITY PLANNING & DEVELOPMENT DEPARTMENT

Monday, January 13, 2020

Subject: Development Agreement Report – 997 Canboro Road (DA-02-19)

Recommendation:

THAT Committee receive Report #2020-0006 regarding a Development Agreement for 997 Canboro Road and:

THAT Committee recommend the By-law and Development Agreement be approved by Council and that the Mayor and Clerk be authorized to sign the Development Agreement with Jonathon Sinke.

Background:

The purpose of this report is to provide Council with information and a recommendation regarding a request for a Development Agreement that would be executed between the land owner of 997 Canboro Road and the Town of Pelham.

The purpose of the Development Agreement is to satisfy the conditions of Minor Variance approval for file A27/2019P which would include design details for the driveway entrance & culvert, as well as warning clauses regarding the future residential dwelling's location within the prescribed *MDS (Minimum Distance Separation)* setback of the Zoning By-law, protocol if deeply buried archaeological resources are uncovered and a restrictive covenant limiting the use of any future accessory building (i.e. attached / detached garage) to be used for residential living space due to its location within a calculated *MDS* radius.

Analysis:

Location:

The subject lands are 5.4 hectares in size and located on the north side of Canboro Road, lying east of Victoria Avenue (Figure 1), municipally known as 997 Canboro Road, and legally as Concession 9, Part of Lot 20, and Part 1 on RP 59R-500 in the Town of Pelham.

The lands are located outside of the Urban Area boundary and are designated Specialty Agriculture in the Town of Pelham Official Plan and zoned Agricultural (A) Zone in Zoning By-law 1186(1987).

Figure 1: Subject Lands – 997 Canboro Road



Project Description and Purpose:

The proposal is to enter into a Development Agreement to allow for the construction of one single detached residential dwelling. The subject land is 5.4 ha in size and currently supports outdoor crop farming but is otherwise vacant. It is also situated directly west of 971 Canboro Road which contains a poultry barn and is surrounded by other agricultural operations, rural-residential dwellings and an active railway to the north.

The subject land was granted minor variance approval on the 3rd of December, 2019. Application was made for relief of Section 6.14 (a) "New Development in or Adjacent to an 'Agricultural' (A) zone", which states whereas no dwelling on any adjacent lot shall be located within 300m of a livestock operation, to reduce the *Minimum Distance Separation (MDS)* to 201m of any livestock operation.

Condition #3 of Minor Variance approval A27/2019P requires the applicant to enter into a Development Agreement (registered on title) with the Town for the purposes of developing the lot to include, but not be limited to:

- a) Obtaining an Entrance Permit from the Public Works Department for the installation of a driveway/culvert, as applicable, in accordance with town standards. The applicant shall bear all costs associated with such, to the satisfaction of the Director of Public Works.
- b) An owner warning clause specifying that, "The owner acknowledges that their property is located within a 300 metre baseline *Minimum Distance Separation* spatial requirement in the Town's Zoning By-law and that they may potentially, from time to time, experience unpleasant odours from an existing adjacent livestock operation."
- c) An owner warning clause stating that, "Should deeply buried archaeological remains / resources be found on the property during construction activities, the Heritage Operations Unit of the Ontario Ministry of Tourism, Culture & Sport and the Owner's archaeology consultant shall be notified immediately. In the event that human remains are encountered during construction, the Owner shall also immediately notify the Police or coroner and the Registrar of Cemeteries of the Ministry of Small Business and Consumer Services."
- d) Restrictive covenant that the attached garage shall perpetually be prohibited from being converted into residential living space due to its location within the calculated MDS radius.

Financial Considerations:

The applicant is responsible for all costs associated with this development.

Alternatives Reviewed:

Council may choose to not approve the by-law and enter into a Development Agreement with the Owner.

Strategic Plan Relationship: Build Strong Communities and Cultural Assets

The Development Agreement will ensure that technical details with regards to developing this property are met that help support the building of strong communities.

Consultation:

Due to the narrow scope of the proposed Development Agreement, Town Planning staff had only requested comments from the Town Public Works department. The reason for this is because the Region of Niagara was previously consulted during the Minor Variance application process. At that stage, they declared no objections to the minor variance application but did note that the future residential dwelling will require septic system approval from their office prior to obtaining a building

permit. As a result, an exclusive condition was detailed on the Notice of Decision of file A27/2019P dealing with the private sewage system approval.

For Council's information, a Development Agreement is a legal agreement between a private land owner and the municipality to ensure a site is development in a particular manner. Similar to Site Plan Approval, they are not a publically consulted process under the *Planning Act*.

Staff Comments:

Planning staff are of the opinion that the proposed Development Agreement appropriately addresses the conditions of approval by the Committee of Adjustment. It is noted that the execution of this Development Agreement will satisfy Condition #3 of the minor variance approval. The applicant has satisfied Town staff comments with respect to a revised Conceptual Site Plan and Driveway Entrance & Culvert detail. Following the execution of the Development Agreement, compliance with the Agreement requirements, and the receipt of all necessary permits, construction of the future single detached dwelling may commence.

Planning staff recommend that Council approve the By-law authorizing the Mayor and Clerk to execute the Development Agreement with the land owner of 997 Canboro Road.

Other Pertinent Reports/Attachments:

- Appendix A:
 - Conceptual Site Plan
 - Driveway Entrance & Culvert detail (OPSD 301.020)
- Appendix B:
 - Notice of Decision – Minor Variance file A27/2019P
- Appendix C:
 - Cover Letter from Applicant
- Minor Variance (A27/2019P) Recommendation Report

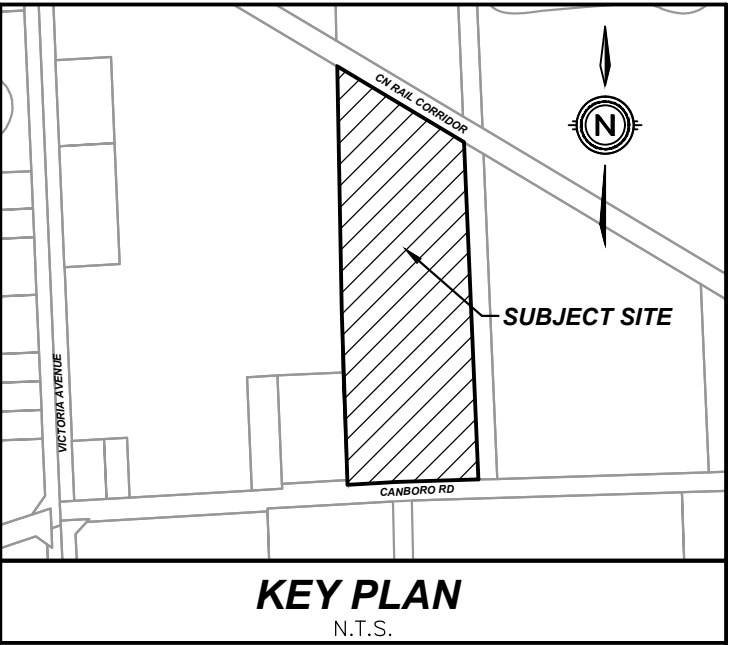
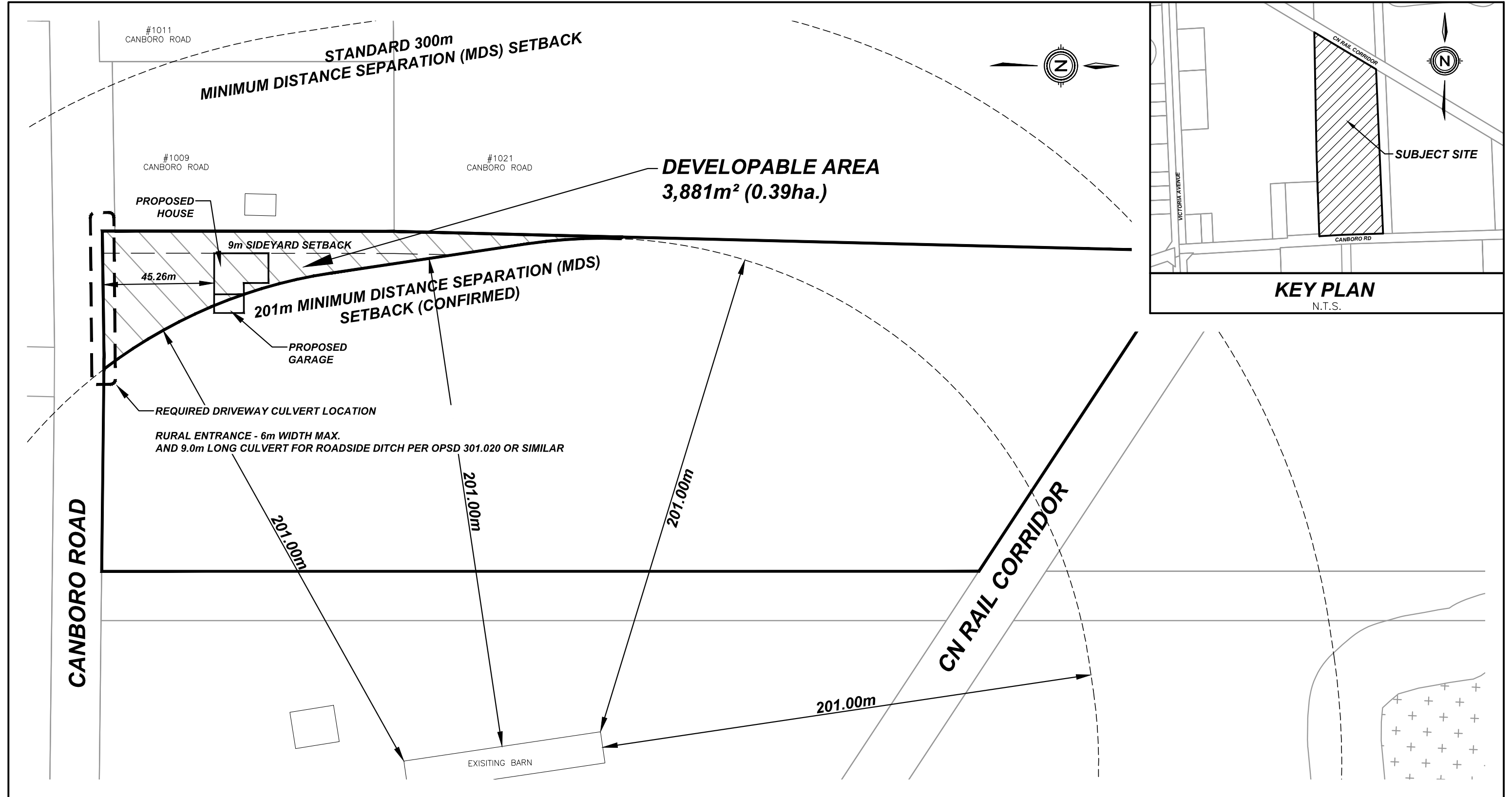
Prepared and Recommended by:

Curtis Thompson, B.URPI
Planner

Barbara Wiens, MCIP, RPP
Director of Community Planning and Development

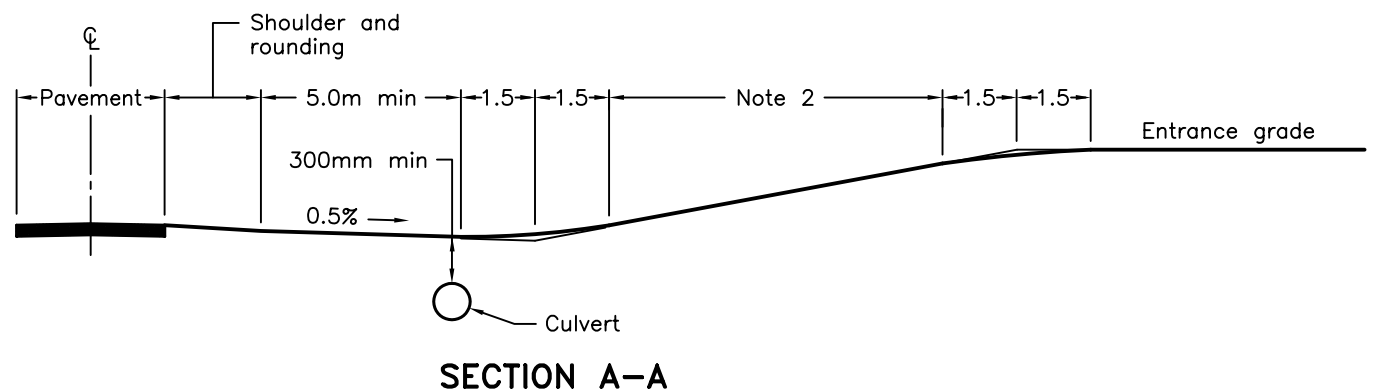
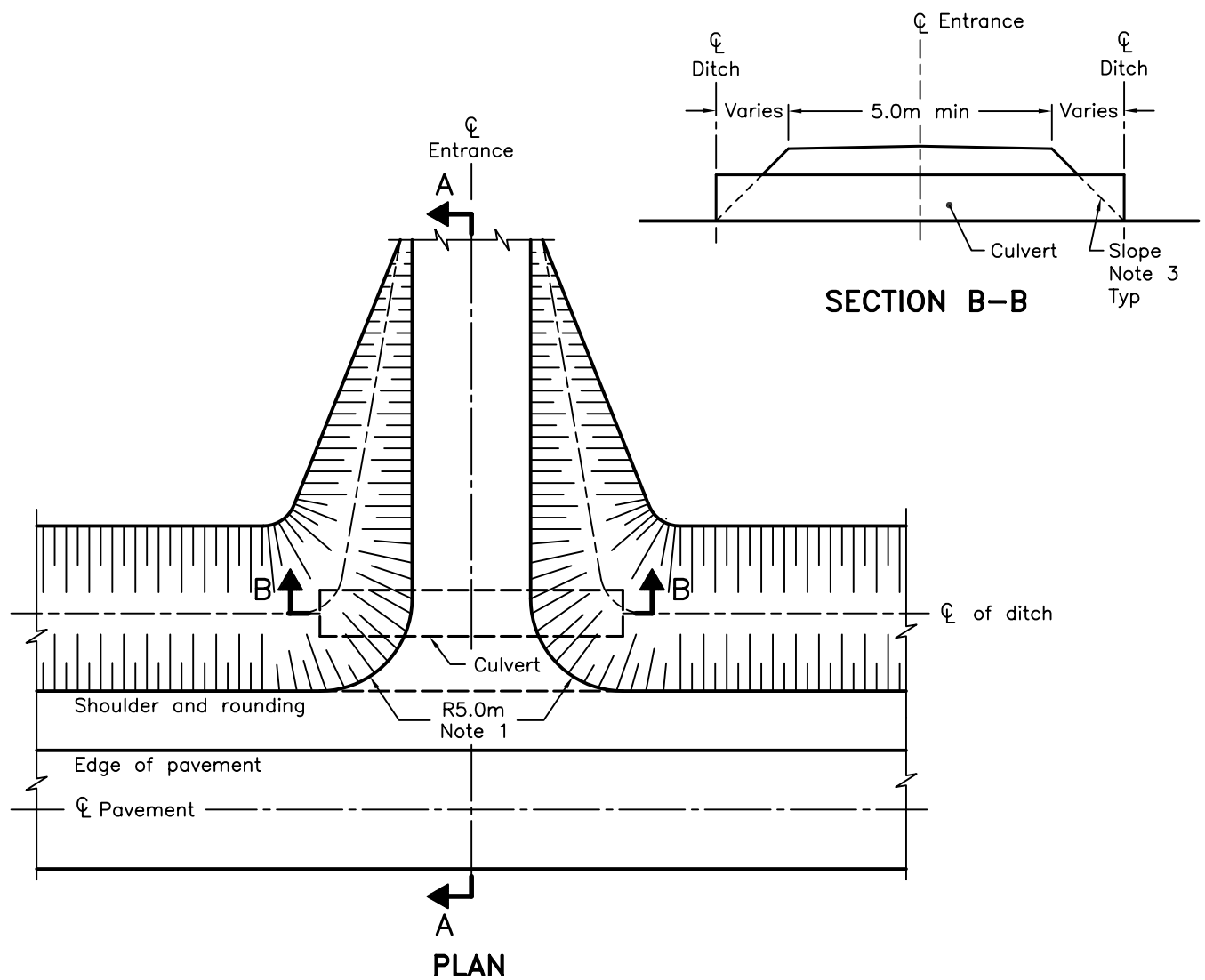
Prepared and Submitted by:

David Cribbs, BA, MA, JD, MPA
Chief Administrative Officer



CONCESSION 9, PART OF LOT 20, RP 59R-500, PART 1
CANBORO ROAD
TOWN OF PELHAM
DEVELOPMENT AGREEMENT

DATE	2019-12-09
SCALE	1:1500 m
REF No.	.
DWG No.	19100-DA



NOTES:

- 1 Radius shall be $8.0m$ when entrance is used for farm equipment.
- 2 Maximum gradient: 6% for residential entrances and 10% for farm and field entrances.
- 3 Slope shall be $3H:1V$ or flatter when specified.
- A All dimensions are in metres unless otherwise shown.

ONTARIO PROVINCIAL STANDARD DRAWING

Nov 2005

Rev 1

RURAL ENTRANCES
TO ROADS IN EARTH CUT
WITH CULVERT INSTALLATION

Page 8 of 129

OPSD - 301.020





In the matter of the Planning Act; Revised Statutes of Ontario, 1990, and In the matter of an application on behalf of:

NOTICE OF DECISION

WHAT:

FILE A27/2019P

WHO:

997 Canboro Road, Pelham

Part Lot 20, Concession 9 (Part 1 on 59R-500)

FOR MINOR VARIANCE AND RELIEF FROM RESTRICTED AREA ZONING BY-LAW #1136(1987), AS AMENDED:

Application for relief of 6.14 (a) "New Development in or Adjacent to An Agricultural 'A' Zone or Special Rural 'SR' Zone" to permit a reduction in the minimum Distance Separation 1 formula to facilitate construction of a dwelling within 201m of a livestock or poultry operation whereas the by-law requires a 300m setback is hereby:

DECISION:

☒ **GRANTED**

☐ **REFUSED**

Granted

The above decision is based on the following reasons:

Don Cook

Don Cook, Chair

Bill Sheldon

Bill Sheldon, Member

Sandra Marsh

Sandra Marsh, Member

**PLEASE REFER TO SCHEDULE A ATTACHED HERETO
FOR CONDITIONS AND REASONS**

Information



TOWN OF PELHAM COMMITTEE OF ADJUSTMENT

20 Pelham Town Square, P. O. Box 400

Fonthill, Ontario L0S 1E0

(905) 892-2607, ext. 315

Fax: (905) 892-5055 Toll Free: 1-866-271-0391

E-Mail: NJBozzato@pelham.ca

Nancy J. Bozzato
Nancy J. Bozzato, Dipl. M.M., AMCT
Town Clerk / Secretary-Treasurer

Date of Decision: December 3, 2019

Date of Mailing: December 5, 2019

I hereby certify this to be a true copy of the decision of the Committee of Adjustment for the Town of Pelham in the Regional Municipality of Niagara and this decision was concurred in by the majority of the members who heard the application.

IMPORTANT INFORMATION!

**Last day for filing an appeal of this decision to the Local Planning Appeal Tribunal is
Monday, December 23, 2019.**

PROCEDURE FOR APPEAL

The Planning Act, R.S.O. 1990, Section 45, Subsection 12, as amended states that the applicant, the Minister or any other person or public body who has an interest in the matter may within **twenty (20) days** of the making of the decision appeal to the Appeal Tribunal against the decision of the Committee by filing with the Secretary-Treasurer of the Committee the prescribed Appellant Form (A1) available from the Secretary-Treasurer or from the LPAT website at www.elto.gov.on.ca, together with payment to the Secretary-Treasurer of the fee prescribed by the Municipal Board under the **Local Planning Appeal Tribunal Act** as payable on an appeal from a Committee of Adjustment to the Board. The prescribed fee for an appeal to the Local Planning Appeal Tribunal is \$300.00 payable to the Minister of Finance, by certified cheque. Any person wishing to participate in an LPAT proceeding shall file a written participant statement setting out their position on the matter and issues of the proceeding, together with an explanation of reasons supporting the position. A participant may only make submissions to the Tribunal in writing, or in accordance with the LPAT Rules of Practice and Procedure.

SCHEDULE A – Page 1 of 1**FILE A27/2019P – 997 Canboro Road, Pelham**

This is Schedule A, appended to and forming part of the Notice of Decision for Minor Variance Application A27/2019P.

Application for relief of Section 6.14 (a) "New Development in or Adjacent to An Agricultural 'A' Zone or Special Rural 'SR' Zone" to permit a reduction in the minimum Distance Separation 1 formula to facilitate construction of a dwelling within 201m of a livestock or poultry operation whereas the by-law requires a 300m setback is required is hereby:

DECISION:☒ **GRANTED**☐ **REFUSED**


1. The variance is minor in nature overall given the lack of nuisance complaints with other existing dwellings in close proximity to the east and the prevailing westerly winds directing odour from the nearby livestock operation to the east.
 2. The general purpose and intent of the Zoning By-Law is maintained.
 3. The intent of the Official Plan is maintained.
 4. The proposal is desirable for the appropriate development and/or use of the land as it would provide for the development of a single detached dwelling.
 5. This application is granted without prejudice to any other application in the Town of Pelham.
- The Committee of Adjustment considered the written and oral comments and agrees with the minor variance report analysis and recommendation that this application meets the Planning Act tests for minor variance.

The above decision is subject to the following conditions:

1. That all necessary building permits are required prior to construction commencing to the satisfaction of the Chief Building Official.
2. Obtain approval from the Niagara Region Private Sewage Systems division for septic system compliance prior to building permit application.
3. The applicant shall enter into a Development Agreement with the Town for the purposes of developing the lot to include:
 - a. Obtaining an Entrance Permit from the Public Works Department for the installation of a driveway / culvert, as applicable, in accordance with Town standards.
 - b. An owner warning clause specifying that, "The owner acknowledges that their property is located within a 300 metre baseline Minimum Distance Separation spatial requirement in the Town's Zoning By-law and that they may potentially, from time to time, experience unpleasant odours from an existing adjacent livestock operation."
 - c. An owner warning clause stating that, "Should deeply buried archaeological remains / resources be found on the property during construction activities, the Heritage Operations Unit of the Ontario Ministry of Tourism, Culture & Sport and the Owner's archaeology consultant shall be notified immediately. In the event that human remains are encountered during construction, the Owner shall also immediately notify the Police or coroner and the Registrar of Cemeteries of the Ministry of Small Business and Consumer Services."
 - d. Restrictive covenant that the attached garage shall perpetually be prohibited from being converted into residential living space due to its location within the calculated MDS radius.



Nancy J. Bozzato, Dipl.M.M., AMCT

Town Clerk / Secretary-Treasurer

Date of Decision: December 3, 2019**Date of Mailing: December 5, 2019**

Last day for filing an appeal of this decision to the Local Planning Appeal Tribunal is Monday, December 23, 2019.



December 9, 2019

UCC File: 19100

To: Curtis Thompson
Planner
Town of Pelham
20 Pelham Town Square
Fonthill, ON L0S 1E0

**Re: Request for Development Agreement
Concession 9, Part of Lot 20, RP 59R-500, Part 1, Canboro Road, Pelham**

On behalf of our client Mr. Jonathan Sinke, please accept this letter as a request to prepare a development agreement in accordance with the Conditions of Approval for Application A27-2019P.

As discussed with staff, we are pleased to provide an agreement fee of \$2,700.00 and a revised conceptual site plan showing the general location of the driveway culvert and design detail.

It is our understanding the agreement will incorporate the required clauses recommended through Minor Variance File No. A27-2019P and prescribe that the driveway culvert crossing will need to be placed outside the MDS Arc as shown on the provided conceptual Site Plan drawing. It is further understood that the dwelling footprint shown on the plan is indeed conceptual only and does not bind our client or any future purchaser to a specific location or size.

The conditional date for the sale of this property to our client has been moved from January 2020 to February 4, 2020 to facilitate Council approval of the Agreement. We trust that this agreement request can be processed prior to the noted date, however, if delays occur please advise us as soon as possible so arrangements can be made with the affected parties.

If you have any question or require additional materials, please contact the undersigned.

Respectfully submitted,

Craig A. Rohe, M.Pl., MCIP, RPP
Senior Planner
Upper Canada Consultants

CC: Mr. Jonathan Sinke (jonathansinke@gmail.com)
Ron Vahrmeyer, Realtor for the Applicant (melron@vaxxine.com)
Wayne Schilstra, Realtor for the Seller (wayne.schilstra@gmail.com)

Attached: Notice of Decision – File A27-2019P
Conceptual Site Plan

COMMITTEE REPORT
COMMUNITY PLANNING & DEVELOPMENT DEPARTMENT
Monday, January 13, 2020

Subject: Removal of Holding Symbol & Execution of the Subdivision Agreement for Saffron Meadows Phase 2 (File No. 26T19-02014)

Recommendation:

THAT Committee receive Report #2020-0008 and recommend to Council:

THAT Council direct staff to prepare the By-laws to remove the holding symbol and authorize execution of the Subdivision Agreement for final approval of the Saffron Meadows Phase 2 Subdivision.

Background:

The Saffron Meadows Phase 2 subdivision is located on property on the west side of Rice Road (Regional Road 54), south of Acacia Road (refer to Figure 1).and immediately south of Saffron Meadows Phase 1 subdivision in the East Fonthill neighbourhood.



Figure 1: Subdivision Location

On December 15, 2016, Council granted draft approval for the plan of subdivision, subject to a number of conditions. The developer elected to register the subdivision in stages and on May 7, 2018, Council approved execution of the subdivision agreement for Phase 1 of the subdivision which is currently under construction. The registration of Phase 2 was delayed in order to obtain a permit from the Ministry of Natural Resources (now Ministry of Environment, Conservation and Parks) for endangered species located on the Phase 2 portion of the property. This requirement was recognized in the zoning through the inclusion of a holding symbol

that would prohibit the use of the property for the residential uses proposed in the subdivision until the holding symbol was removed following issuance of the permit from the Ministry. The Ministry issued the permit on November 5, 2019 allowing for the Phase 2 of the subdivision to proceed.

The Phase 2 subdivision consists of twenty-eight lots for single detached dwellings (Lots 1-28), eight blocks for street townhouse dwellings (Blocks 29-36), one block for block townhouse dwellings (Block 38), one block for environmental protection (Block 37), two blocks for a trail (Blocks 39 & 40) and one block for a road widening (Block 41) (refer to Figure 2).



Figure 2: Draft M-Plan of Subdivision

The property is zoned R2-266(H), RM1-268(H), RM1-269(H), OS-272(H) and OS-273(H). The zones permit the uses proposed in the draft plan of subdivision subject to removal of the Holding symbol.

Analysis:

Policy Review Planning Act

Section 3 of the Planning 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 51 (26) of the Planning Act indicates that a municipality may enter into agreements imposed as a condition to the approval of a plan of subdivision and the agreements may be registered against the land to which it applies and the municipality is entitled to enforce the provisions of it against the owner and, subject to the Registry Act and the Land Titles Act, any and all subsequent owners of the land. Section 51 (43) of the Act states at any time before the approval of the final plan of subdivision, under subsection (58), there may be the appeal of any of the conditions to the Local Planning Appeals Tribunal (LPAT). Section 51 (58) of the Act outlines that the approval authority may, if satisfied that the plan is in conformity with the approved draft plan and that the conditions of approval have been or will be fulfilled, approve the plan of subdivision and, once approved, the final plan of subdivision may be tendered for registration. Section 51 (59) of the Act provides if a final plan of subdivision is approved under subsection (58), but is not registered within 30 days of the date of approval, the approval authority may withdraw its approval. The Overall Benefit Permit related to the endangered species on the Phase 2 property was issued by the Ministry of Environment, Conservation and Parks on November 5, 2019. As a result, staff can support removal of the holding symbol and clearance of the corresponding condition of draft plan approval. All other conditions of draft plan approval have been, or will be, fulfilled and are appropriately addressed in the subdivision agreement.

The conditions remaining to be fulfilled are: the execution of the subdivision agreement, the registration of the subdivision agreement on title, the registration of the 59M (subdivision) and 59R (easement) plans and the dedication of lands (outlined in Schedule ‘B’ of the subdivision agreement) to the Town and Region of Niagara. If Council approves the execution of the subdivision agreement these outstanding conditions will be fulfilled as they are requirements of the subdivision agreement. There has not been an appeal of any of the draft approval conditions to the Local Planning Appeals Tribunal.

Schedule ‘F’ of the subdivision agreement will include a security deposit representing 2.5% of the value of the Phase 2 lands for a parkland dedication fee. Section 51.1 of the Planning Act allows the Town to require a developer to convey 5% of the land to the Town for park purposes. Alternatively, the Town may accept cash-in-lieu of the conveyance. In this case, the developer has agreed to dedicate two blocks to the Town for an off-road multi-use trail along Rice Road and to install

an asphalt pathway. Lands for a trail are generally not included as part of parkland dedication in the Town's Parkland Dedication By-law nor the Town of Pelham Official Plan as they typically are 3.0m wide mid-block connections to a park or school site, in contrast with this subdivision the trail is 6.0m and runs along the length of Rice Road and will be used for recreational purposes. If the Town were not to accept the trail as parkland dedication, it would result in the Town being required to pay fair market value for the lands. In an effort to simplify the process, staff recommend that Council accept the two blocks for the off road trail as parkland dedication (representing 2.5% of the Phase 2 lands) given that the lands do perform a recreational function and purpose. The remaining 2.5% of the fair market value of the lands is being posted as a security deposit because the applicant also owns the lands to the west and intends to dedicate lands for park purposes on that property which will be sufficient to make up the parkland dedication shortfalls in Phase 1 and Phase 2 of the subdivision. Staff also note that this large park is shown on the Land Use Plan for the East Fonthill Secondary Plan Area (Schedule A5 of the Official Plan). This approach was also used in the Phase 1 subdivision agreement.

In Planning staff's opinion that the plan is in conformity with the approved draft plan and therefore recommend that Council approve the plan of subdivision and authorize the entry into a subdivision agreement for Phase 2 of Saffron Meadows with Hert Inc.

Financial Considerations:

The legal costs for registration of the agreement are paid for by the developer through the application fees and the developer is responsible for all development related costs related to the installation of services and roadways within the subdivision.

Alternatives Reviewed:

Committee could recommend that Council not approve the removal of the holding symbol or the execution of the subdivision agreement, however, this alternative would result in appeals by the developer to the Local Planning Appeal Tribunal.

Strategic Plan Relationship: Build Strong Communities and Cultural Assets

The final approval of the Saffron Meadows Phase 2 subdivision will assist in creating a complete community in the East Fonthill neighbourhood and contribute to the mix of available housing types.

Consultation:

Clearance letters have been issued by the Region, Niagara Peninsula Conservation Authority, Town Departments as well as utilities. In addition, the Overall Benefits permit from the Ministry of Environment, Conservation and Parks with regards to the endangered species has been received in November, 2019. As a result, all conditions of draft plan approval have been satisfied and it is appropriate to grant final approval of Saffron Meadows Phase 2 and lift the holding symbol on the zoning

by-law amendment, in order to allow for the development to proceed. The Town's external legal counsel will review the subdivision agreement and plans at the time of registration.

Other Pertinent Reports/Attachments:

Report recommending draft plan approval of Saffron Meadows Subdivision in December 2016.

Ministry of Environment, Conservation and Parks Permit, November 5, 2019.

Prepared and Recommended by:

Shannon Larocque, MCIP, RPP
Senior Planner

Barbara Wiens, MCIP, RPP
Director of Community Planning and Development

Prepared and Submitted by:

David Cribbs, BA, MA, JD, MPA
Chief Administrative Officer

Subject: Encroachment Agreement – 1423 Pelham Street

Recommendation:

THAT Committee receive Report 2020-0001 and recommend to Council:

THAT Council approve the By-law, attached hereto as Appendix A, to enter into an Encroachment Agreement with the Owner of 1423 Pelham Street.

Background:

As part of the building addition and renovation at 1423 Pelham Street, the owner installed two bike rings on the edge of the sidewalk within the Town's road allowance (Figure 1). In order for the bike rings to remain on Town property, the owner has requested to enter into an Encroachment Agreement with the Town.



Figure 1: Bike Rings in front of 1423 Pelham Street

Analysis:

Town staff have reviewed the location of the existing two bike rings and have no objection to them remaining in their current location subject to the Encroachment Agreement and proper insurance being provided by the owner. The Town supports active transportation and the opportunity for additional bicycle parking in downtown Fonthill. While the bike rings were not considered as part of the site plan approval process and are not on the approved site plan for the redevelopment of this site, they do support active transportation in the downtown area, and are considered to offer a community benefit. In order for the bike rings to remain and be recognized as being located on Town property an Encroachment Agreement is required.

Financial Considerations:

There are no financial considerations provided the Encroachment Agreement is entered into and insurance provided by the property owner to protect the Town from future liability in the event of an accident of any type.

Alternatives Reviewed:

The Town could assume ownership of the bike rings and the Encroachment Agreement would no longer be required. This is not recommended as the bike rings are not the Town's standard bike rings and all future maintenance and liability would be assumed by the Town.

Though not recommended, the Town could request that the Owner remove the bike rings and the Encroachment Agreement would no longer be required.

Strategic Plan Relationship: Build Strong Communities and Cultural Assets

Promoting active transportation and a vibrant Downtown core is key to building a strong community and cultural assets.

Consultation:

Planning staff consulted with Public Works staff as well as Fire and By-law Services and their comments were included in the preparation of this report.

Other Pertinent Reports/Attachments:

Appendix A By-law to Enter into Encroachment Agreement

Prepared and Recommended by:

Shannon Larocque, MCIP, RPP
Senior Planner

Barbara Wiens, MCIP, RPP
Director of Community Planning and Development

Prepared and Submitted by:

David Cribbs, BA, MA, JD, MPA
Chief Administrative Officer

THE CORPORATION OF THE
TOWN OF PELHAM

BY-LAW NO. (2020)

Being a by-law to authorize the execution of an Encroachment Agreement for the lands located at 1423 Pelham Street.

Barber Family Holdings
File No. D16-01-19

WHEREAS it is deemed desirable to enter into an Encroachment Agreement as described in Schedule 'A' of the Document General which is attached hereto and forms part of this by-law;

NOW THEREFORE THE COUNCIL OF THE CORPORATION OF THE TOWN OF PELHAM ENACTS AS FOLLOWS:

1. **THAT** the Mayor and Clerk be and they are hereby authorized and directed to execute the Document General annexed to this by-law hereto attached as Schedule 'A' in order to effect the Encroachment Agreement with Barber Family Holdings for the lands described in Schedule 'A' of the Document General.
2. **THAT** in the event that minor modifications to the Encroachment Agreement are necessary to effect the intent herein, the Clerk of the Town of Pelham is hereby authorized to complete same in consultation with the Town Solicitor.

ENACTED, SIGNED AND SEALED THIS
3rd DAY OF FEBRUARY, 2020 A.D.

MAYOR MARVIN JUNKIN

CLERK NANCY J. BOZZATO

ENCROACHMENT AGREEMENT

THIS ENCROACHMENT AGREEMENT is made this ____ day of _____, 2020.

Between:

The Corporation of the Town of Pelham

(the "Town")

- and -

Barber Family Holdings

(the "Owner")

WHEREAS:

(a) The Owner represents that he is the registered owner of certain lands and premises, being Part Lot 27 on Plan No. 717 in the Town of Pelham, Regional Municipality of Niagara, known municipally as 1423 Pelham Street, (the "Owner's Property"), which abuts the Pelham Street road allowance (the "Town Lands");

(b) The Owner has installed two bike rings which encroach 0.2 m onto the Town Lands as shown on the sketch attached as **Schedule "A"** (the "Encroachment");

(c) The Owner has applied to the Town so that he may be allowed to maintain and use the Encroachment for an indefinite period.

NOW THEREFORE THIS AGREEMENT WITNESSETH that in consideration of the terms and conditions herein and the sum of Two (\$2.00) Dollars now paid by the Owner to the Town, the receipt and sufficiency of which is hereby acknowledged, the Owner and the Town covenant and agree as follows:

1. The Town and the Owner acknowledge and agree that the Encroachment shall be permitted on the Town Lands subject to the terms and conditions herein.
2. The Owner acknowledges that no representation has been made by the Town of any authority to grant the privilege to use and maintain the Encroachment and such use and maintenance by the Owner shall at all times be at the Owner's risk.
3. The Owner and the Town covenant and agree as follows:
 - (a) The Owner shall make no alteration to the Town Lands, including without limitation the removal of trees or grade changes, and shall not erect any

building or structures on the Town Lands without the Town's written permission;

- (b) The Owner shall obtain and maintain insurance in accordance with the following:
 - (i) Comprehensive general liability insurance, in a form satisfactory to the Town Clerk in an amount not less than Two Million Dollars (\$2,000,000.00) inclusive per occurrence for bodily injury, death and damage to property, including loss of use thereof, in the joint names of the Owner and the Town of Pelham;
 - (ii) To ensure that the above-mentioned insurance is not cancelled, amended or permitted to lapse, the policy shall contain an endorsement to provide all named insureds with thirty (30) days prior notice of changes or the cancellation of the policy; and
 - (iii) A Certificate of Insurance evidencing the above insurance coverage shall be provided to the Town prior to the Town signing the Agreement and thereafter promptly on the insurance renewal date;
- (c) Subject to section 3(e) herein, if the Encroachment is rebuilt, altered or removed in any way for any reason, the Owner shall remove the Encroachment from the Town Lands;
- (d) If the Encroachment is moved, altered or changed in any manner during the lifetime of this Agreement, the Owner shall apply for a new Encroachment Agreement if the Encroachment will remain on Town lands after such movement, alteration or change;
- (e) The Owner of the premises to which an Encroachment is appurtenant shall at all times maintain and keep the Encroachment and adjacent surface in proper repair at the Owner's expense, in a proper and safe condition for the traffic thereon, and to Town standards. If the Encroachment is not kept in good repair, upon written notice from the Town, the Owner of the premises to which the Encroachment is appurtenant shall repair the Encroachment and the adjacent surface at his own expense and to the Town's specifications. If the notice is not complied with within ten (10) days from the date that the notice is sent, the Town may renew or repair the highway at the expense of the Owner, add the cost to the tax roll and collect same in like manner as municipal taxes;
- (f) Upon removal of the Encroachment from the Town Lands, the Owner shall maintain and restore the Town Lands to the condition that the Town Lands were in prior to the date of the Encroachment or in compliance with the standards of the Town at the Owner's sole expense. In the event such restoration is not made, the Town may complete such restoration work at the expense of the Owner and recover the expense by any legal means available including the addition of the cost to the tax roll. The Town shall have the right to collect such expenses in like manner as municipal taxes.

4. The Owner will at all times indemnify and save harmless the Town from and against all loss, liability, claims, demands, damages, costs and expenses, including reasonable legal fees and disbursements, which the Town may suffer, be put to or incur for or by reason of or on account of the existence of the Encroachment or the entering into of this Agreement or the maintenance of the Encroachment or any other matter or thing relating to the Encroachment.
5. If the Owner defaults in performing any of its obligations under this Agreement, the Town shall give written notice to the Owner of such default giving the Owner ten (10) days to remedy the default, failing which the Town may terminate this Agreement. Any waiver by the Town of any breach by the Owner or any provisions of this Agreement shall be without prejudice to the exercise by the Town of all or any of its rights or remedies in respect of any continuance or repetition of such breach.
6. The Town or Owner may terminate this Agreement on sixty (60) days written notice for any reason.
7. The Owner and the Town hereby agree that this Encroachment Agreement shall cover the Encroachment described in any Application submitted by the Owner and this Encroachment Agreement shall not grant any permission to erect any new part of any new building and shall not provide any implied right on the part of the Owner to alter, reconstruct or otherwise change the Encroachment approved by the Town in the Encroachment Application.
8. This Encroachment Agreement shall not be assigned by the Owner to any third party without the prior written consent of the Town, which consent may be unreasonably withheld. For clarity, in the event that the Owner sells the property to which the Encroachment is appurtenant, the Owner shall instruct the purchaser of the said property to submit a new Encroachment Application to the Town for the Town's review and approval.
9. In the event that the Encroachment represents a danger or detrimentally impacts: (i) the safety of persons using the Town Lands; (ii) traffic flow; (iii) safety of the public (iv) encroaches on the rights of others to use the road allowance; or (v) interferes with future road improvements, the Owner and the Town acknowledge that the Town shall have a right to terminate this Agreement. Such termination of this Agreement shall be by written notice to the Owner, except in the case of an emergency. In the case of an emergency, the Encroachment Agreement may be terminated forthwith by the Town.

10. In the event that this Agreement is terminated, the Owner shall remove the Encroachment within thirty (30) days of the date of termination. If the Owner fails to remove the Encroachment on the date of termination, the Town shall provide the Owner with a notice requiring the Owner to remove the Encroachment within ten (10) days. If the Owner fails to remove the Encroachment within the ten (10) day period, the Town shall have the right to remove the Encroachment at the expense of the Owner and add the cost of removal to the tax roll and shall also have the right to collect such costs in like manner as municipal taxes. In the case of an emergency, the Town shall have the right to remove the Encroachment forthwith on the date of termination of the Agreement at the expense of the Owner and such costs shall be added to the tax roll and collected in like manner as municipal taxes.
11. Any notice required to be given to the Town or the Owner under this Agreement shall be sufficiently given if delivered or mailed postage prepaid to the addresses below. Such notice shall be deemed to have been received on the date of its delivery or in the case of mailing, three (3) business days after it was delivered to the post office.
- Town of Pelham
20 Pelham Town Square
P.O. Box 400 Fonthill,
ON L0S 1E0
- Barber Family Holdings
12 Giles Crescent
Fonthill, ON L0S 1E0
12. This Agreement shall enure to the benefit of, and be binding upon the parties and their respective heirs, administrators, estate trustees, successors and (where permitted) assigns.
13. The Owner and the Town hereby agree that this Agreement shall be registered on title to the Owner's Property at the Owner's expense. The Owner and the Town shall take such further deeds, actions and execute such further documents that may be necessary to effect such registration.

WITNESS my hand and seal at Fonthill, Ontario, this ____ day of _____, 2020. __

Owner

IN WITNESS WHEREOF the Corporation of the Town of Pelham has hereunto caused to be affixed its Corporate Seal attested by the hands of its proper signing officers.

THE CORPORATION OF THE TOWN OF PELHAM

Marvin Junkin, Mayor

Nancy Bozzato, Town Clerk

1423 + 1421 Pelham Street, Fonthill, OH

GENERAL NOTES

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out in the Ontario

QUALIFICATION

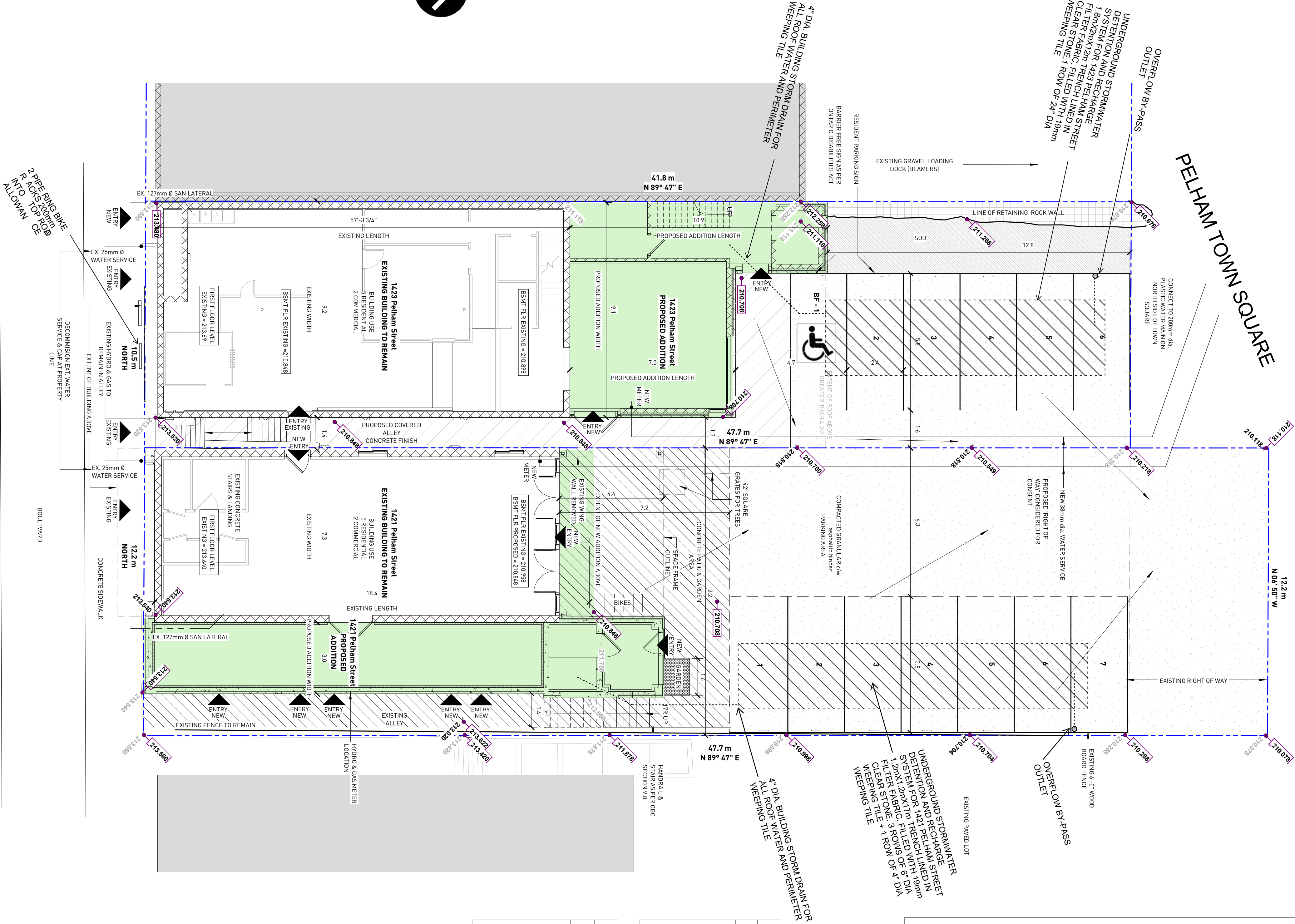
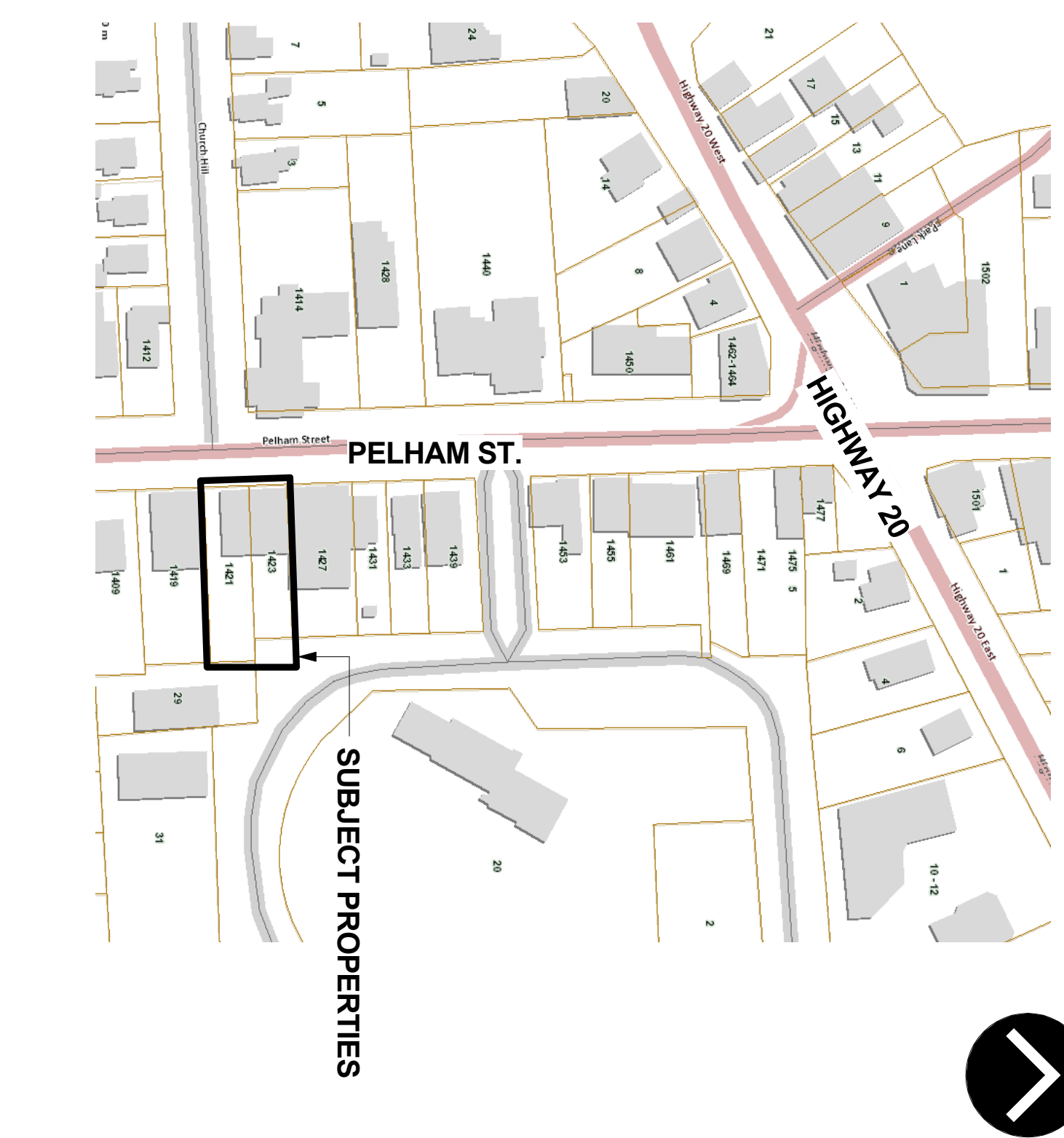
Todd Barber














REGISTRATION I

FULL NAME

purpose, in any permission of F

APPENDIX A



LEGEND	
	PROPOSED GRADE
\times 213.000	EXISTING GRADE
	EXISTING ENTRY
	NEW ENTRY
	WATER SERVICE
	EXISTING SANITARY SERVICE
	PROPERTY LINE
	RESIDENT PARKING SIGNAGE
	COMPACTED GRANULAR DW asphaltic binder
	WALK & PATIO (CONCRETE)
	COVERED ALLEY (CONCRETE)
	GARDEN
	SID
	PROPOSED ADDITION

1421 COVERAGES		
COVERAGE AREA	AREA M2	% OF TOTAL AREA
LOT COVERAGE	581	100%
BUILDING COVERAGE	203	35%
PARKING COVERAGE	271	47%
LANDSCAPED AREAS	100	18%

1423 COVERAGES		
COVERAGE AREA	AREA M2	% OF TOTAL AREA
LOT COVERAGE	436	100%
BUILDING COVERAGE	228	52%
PARKING COVERAGE	119	28%
LANDSCAPED AREAS	86	20%

GENERAL

1. ALL DISPOSITIONS AND CONTRACTS MUST BE VERIFIED BEFORE CONSTRUCTION. IF THERE IS ANY DISCREPANCY, THE CONTRACTOR IS TO NOTIFY THE ENGINEER IMMEDIATELY.
2. THE CONTRACTORS RESPONSIBILITY FOR LOCATING AND PROTECTING ALL UTILITIES EXISTING ON THE SITE OR WITHIN THE STREET LIMITS MUST BE COMPLETED BY 5:00 PM ON THE DATE OF THE PROJECT MEETING. THE CONTRACTOR SHALL BE RESPONSIBLE FOR THE PROTECTION OF ALL UTILITIES AND STRUCTURES NOT SHOWN ON THE ACADEMY OF THE ARTS MAP.
3. ALL UNDERGROUND SERVICES (ELECTRIC, GAS, AND INSTALLATIONS) ARE TO BE ACCORDANCE WITH THE CITY OF LOS ANGELES AND THE CITY OF WOODLAND SPECIFICATIONS.
4. THE PROPOSED UTILITIES WILL NOT DISTURB EXISTING PLANTING PATTERNS OF THE ACADEMY LAWN.
5. ALL PAVED AREAS TO BE WITHIN 1/4" MAX. SLOPE AT PROPERTY LINE.
6. CONCRETE SIDEWALK IS TO ENLARGE TO 2'0" (9'00" INCLUDING WIRE MESH REINFORCEMENT ON 18"00" CONCRETE ABUTMENT).

PARKING AREAS AND ROAD WORKS

- ALL ASPHALT PARKING LOT AREAS TO BE GRADED AT A MINIMUM OF 0.8%.

GEODETIC ELEVATIONS BASED ON:

LAT. 43-02.8, LONG. 79.17.2

NOTES:

- 3) SOFFIT DOWN LIGHTING IN ALLEY & ENTRANCE CANOPIES

COMMITTEE REPORT
COMMUNITY PLANNING & DEVELOPMENT DEPARTMENT
Monday, January 13, 2020

Subject: Site Plan Approval Report – 1010 Canboro Road (SP-09-19)

Recommendation:

THAT Committee receive Report #2020-0005 regarding Site Plan approval of 1010 Canboro Road and:

THAT the Committee recommends the By-law and Site Plan Agreement be approved by Council and the Mayor and Clerk be authorized to sign the Site Plan Agreement with Slappendel Greenhouses Inc.

Background:

The purpose of this report is to provide Council with information regarding an application for site plan control under Section 41 of the Planning Act for 1010 Canboro Road. The proposed site plan will provide for a 1,967 m² greenhouse addition off the south wall of the existing greenhouse.

Analysis:

Location:

The subject lands are 6.4 hectares in size and located on the south side of Canboro Road, lying east of Victoria Avenue (Figure 1), municipally known as 1010 Canboro Road, and legally as Concession 10, Part of Lot 20, in the Town of Pelham.

The lands are located outside of the Urban Area and are designated Specialty Agricultural in the Town Official Plan and zoned Agricultural (A) Zone in Zoning By-law 1186(1987).

Figure 1: Subject Lands – 1010 Canboro Road



The property is owned by Slappendel Greenhouses Inc. which produce tropical and spring bedding plants.

Project Description and Purpose:

The proposal is to enter into a site plan agreement to allow for the construction of a 1,967 m² greenhouse addition south of, and to the rear of the existing greenhouse. The 6.4 ha property also supports outdoor crop farming, a barn and one single detached dwelling. (No works are proposed within the road allowance for roadside ditches, culverts or driveway accesses. The existing driveway will continue to serve the agricultural greenhouse operation and existing dwelling. The existing septic system is situated between the house and existing greenhouse and is not proposed to be altered.

Policy Review:

Planning Act

Section 41 (2) of the Act authorizes the council of a local municipality to designate areas within their jurisdiction under a 'site plan control area'. Policy E1.4 of the Pelham Official Plan and By-law No. 1118 (1987) designates the entire Town as a site plan control area with certain exemptions. All greenhouse facilities in Pelham are no longer exempt from site plan control under By-law No. 4117 (2019) passed by Town Council on May 21, 2019.

Provincial Policy Statement (PPS) (2014)

The PPS designates the subject land within a 'Prime Agricultural Area'. The permitted uses (among others) include: agricultural / agricultural related uses, limited residential development and home occupations. 'Prime Agricultural Areas' are defined as including associated Canada Land Inventory Class 4-7 lands as well as 'Prime Agricultural Lands' (Class 1-3 lands).

Greenbelt Plan (2017)

The subject land is designated 'Tender Fruit & Grape Lands' (*Specialty Crop Area*) within the Greenbelt Plan's *Protected Countryside*.

Section 3.1.2 (Specialty Crop Area Policies) states that for lands falling within *specialty crop areas* of the *Protected Countryside* all types, sizes and intensities of agricultural uses and *normal farm practices* shall be promoted and protected.

The proposed greenhouse expansion will serve the Slappendel Greenhouses agricultural operation by increasing and / or diversifying its product yield while ensuring adequate setbacks are maintained from adjacent land uses.

Niagara Region Official Plan (Consolidated, August 2014)

The Regional Official Plan designates the subject parcel as 'Unique Agricultural Area' as part of the *Protected Countryside* lands in the Greenbelt Plan.

Policy 5.B.6 states that in the *Unique Agricultural Area*, the predominant use of land will be for agriculture of all types, which includes greenhouse bedding plants.

Pelham Official Plan (2014)

The local Official Plan designates the subject land as 'Specialty Agricultural'. The principle use of Specialty Agricultural lands shall be for the production of specialty crops identified in the Greenbelt Plan.

Town of Pelham Zoning By-law Number 1136 (1987)

The subject land is zoned Agricultural (A) which permits agricultural uses and greenhouses among other uses. The subject lands comply with the Town Zoning By-law with regards to Sections 7.3.

Financial Considerations:

The applicant is responsible for all development costs associated with the proposed greenhouse expansion in addition to the site plan and building permit fees.

Alternatives Reviewed:

Council may choose to not approve the by-law and enter into a site plan agreement with the Owner.

Strategic Plan Relationship: Build Strong Communities and Cultural Assets

The proposed expansion to the greenhouse operation supports the agricultural economy and contributes to building a strong agricultural community.

Consultation:

Agency Comments:

On November 15th 2019, a 'Request for Comments' was circulated to the various agencies, the Niagara Region and internal Town departments (i.e. Public Works, Building, etc.).

To date, the following comments have been received and summarized below:

- Public Works Department (November 19, 2019)
 - No comments.
- Building Department (November 20, 2019)
 - A building permit is required for the proposed work.
- Niagara Region Planning & Development Services (December 5, 2019)
 - The subject lands have high archaeological potential based on Ministry of Tourism, Culture and Sport's (MTCS) criteria and the Town's Heritage Master Plan. Based on the Anchor Post Layout Plan, prepared by Westbrook Greenhouse Systems Ltd. (dated 9/30/19), Region staff are of the opinion that the type of construction proposed will not result in deep excavation or disturbance of potential archaeological resources. This is supported by the interpretation of 'extensive and intensive disturbance' provided by the MTCS, which does not include gardening and landscaping, agricultural or historic building footprints. Therefore, provided the greenhouse is constructed using a slab-on-grade style foundation, which does not deeply excavate the Earth beyond the anchor posts, the requirement for an archaeological assessment can be waived in lieu of a standard *archaeological warning clause* in the Site Plan Agreement.
 - No objections re: private sewage servicing as long as no additional plumbing fixtures are installed in the addition. Condition to be included in Site Plan Agreement.
 - No objections to Site Plan approval.

- Enbridge Gas Inc. (December 2, 2019)
 - No objections.

Public Comments:

For Council's information, site plan control is not a public process under the *Planning Act* as it is an agreement between the land owner and the Town; therefore, there are no public notice requirements.

Staff Comments:

The proposal for the business currently known as Slappendel Greenhouses Inc. at 1010 Canboro Road is to enter into a Site Plan Agreement allowing for the construction of a 1,967 m² greenhouse addition south of the existing greenhouse. In the absence of a *cannabis production facility* policy adopted by Town Council, Planning staff are prepared to include a clause in the Site Plan Agreement stipulating that should a future conversion of the aforementioned greenhouse be contemplated, then a Site Plan Amendment will be required.

The existing driveways along Canboro Road will be maintained and continue to serve the farm and residential dwelling. The Region of Niagara is responsible for private sewage systems approvals for systems capable of sewage flows less than 10,000 L / day. According to the Site Plan, one septic system exists on the subject lands for which the Region has no record or permit information noted. Regional staff are satisfied with the setback between the proposed greenhouse and septic system. Any future changes to the existing house or plumbing fixtures would require further upgrade. Otherwise, Regional Private Sewage System staff do not object to the Site Plan Control application.

Planning staff note that the proposed development complies with the Zoning By-law regulations and are of the opinion that no adverse impacts regarding land use compatibility, agricultural viability and drainage issues among other things will arise as a result of this proposal.

Regarding the high archaeological potential in the area, Regional and Town staff were satisfied with the waiving of a standard archaeological assessment in lieu of a warning clause inclusion in the Site Plan Agreement stipulating the need for slab-on-grade style foundation construction, which does not deeply excavate the Earth beyond the limited amount of anchor posts detailed on the Foundation Plan.

Planning staff are of the opinion that the executed site plan agreement will result in the continued support of the agricultural operation known as Slappendel Greenhouses Inc. The applicant has satisfied Town and Regional staff's comments.

Planning staff recommend that Council approve the By-law and enter into a Site Plan Agreement with the land owner as the application is consistent with Provincial, Regional and Town policies, and represents good land use planning.

Other Pertinent Reports/Attachments:

- Appendix A:
 - Site Plan
 - Elevation Plans
 - Foundation Plan
- Appendix B:
 - Agency Comments Consolidated

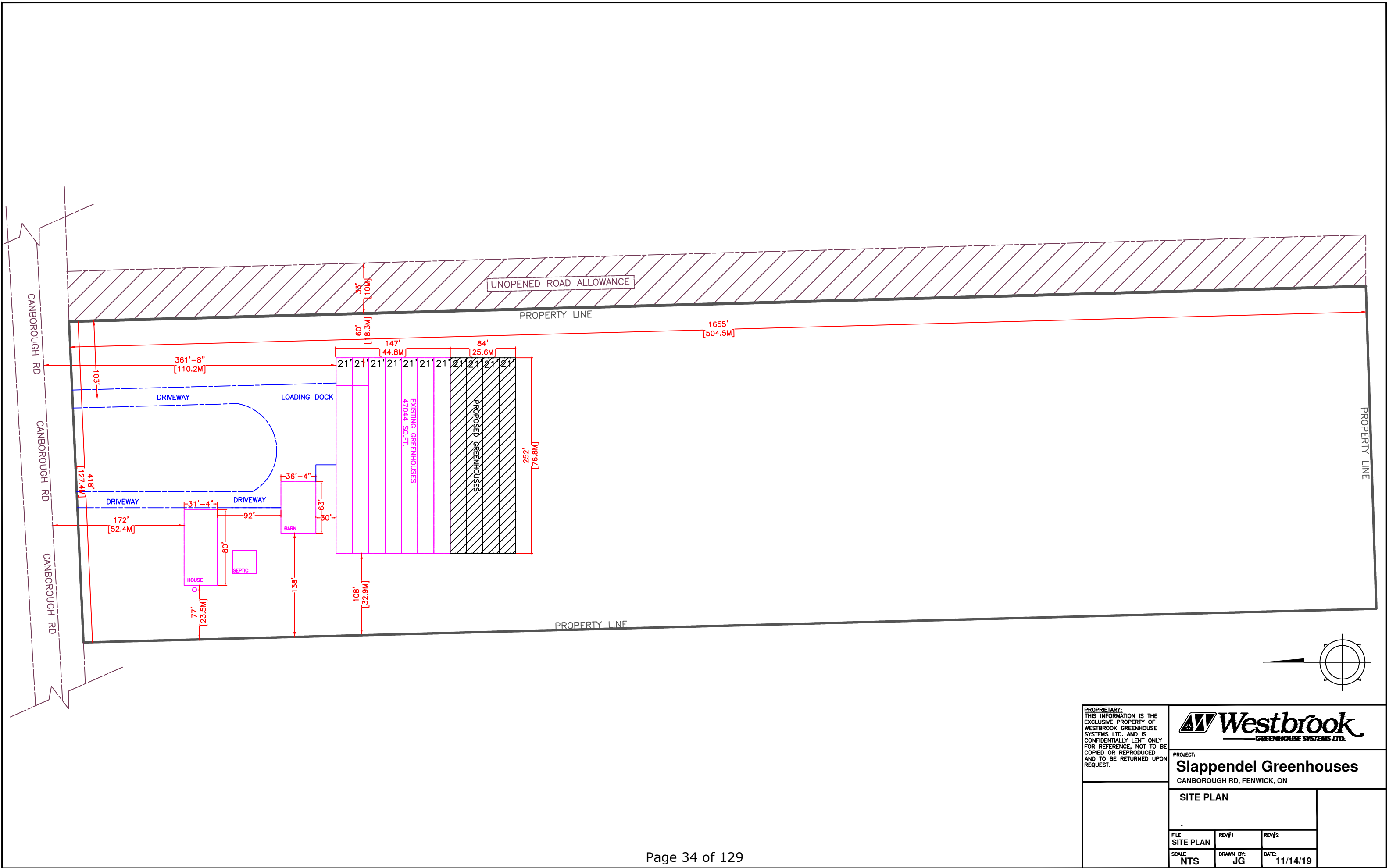
Prepared and Recommended by:

Curtis Thompson, B.URPI
Planner

Barbara Wiens, MCIP, RPP
Director of Community Planning and Development

Prepared and Submitted by:

David Cribbs, BA, MA, JD, MPA
Chief Administrative Officer

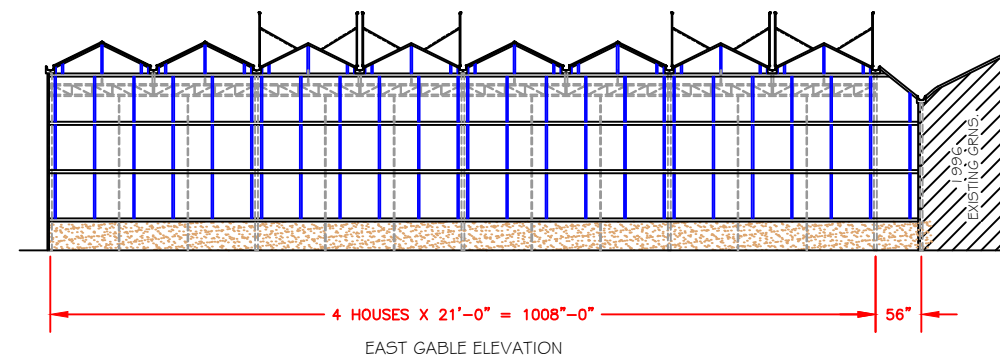
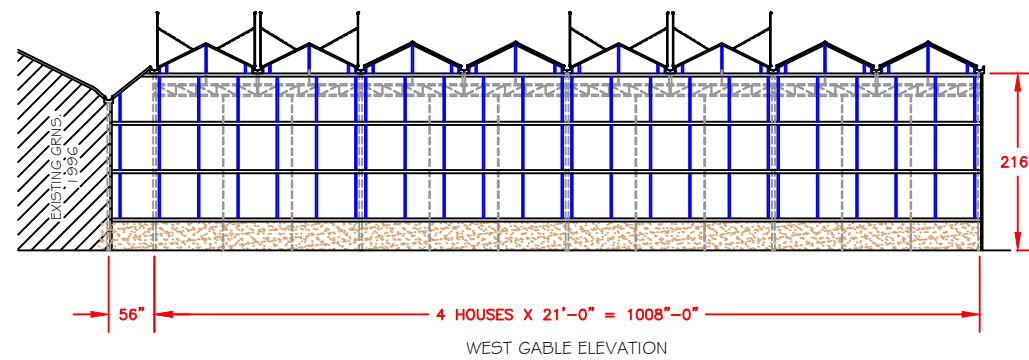
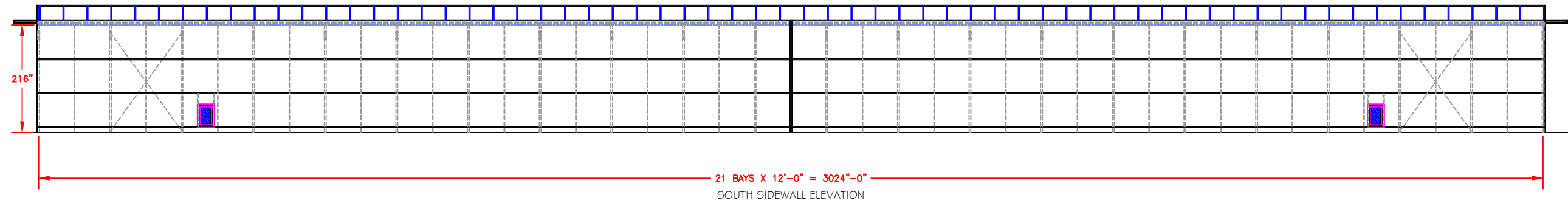



PROPRIETARY:
THIS INFORMATION IS THE
EXCLUSIVE PROPERTY OF
WESTBROOK GREENHOUSE
SYSTEMS LTD. AND IS
CONFIDENTIALLY LENT ONLY
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AND TO BE RETURNED UPON
REQUEST.

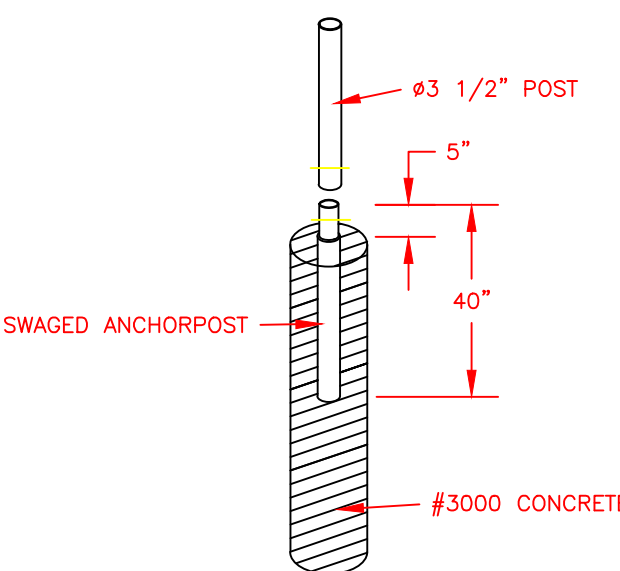
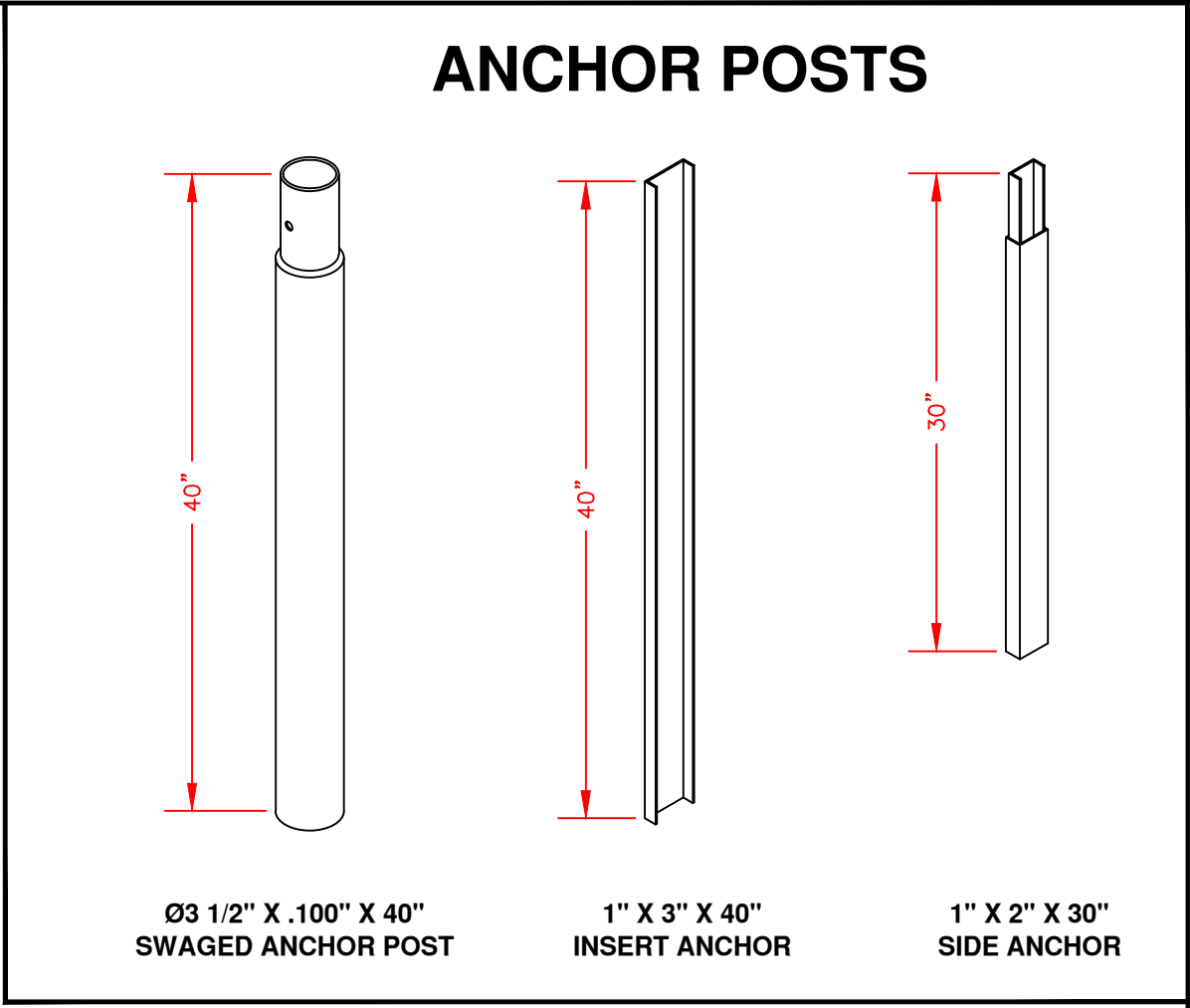
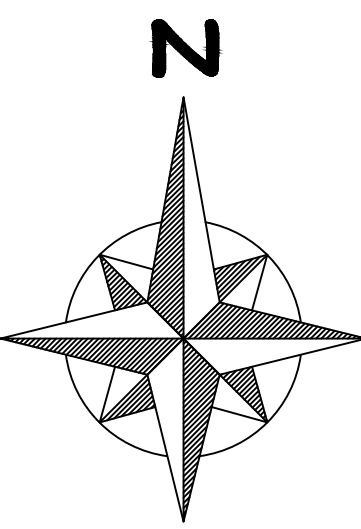
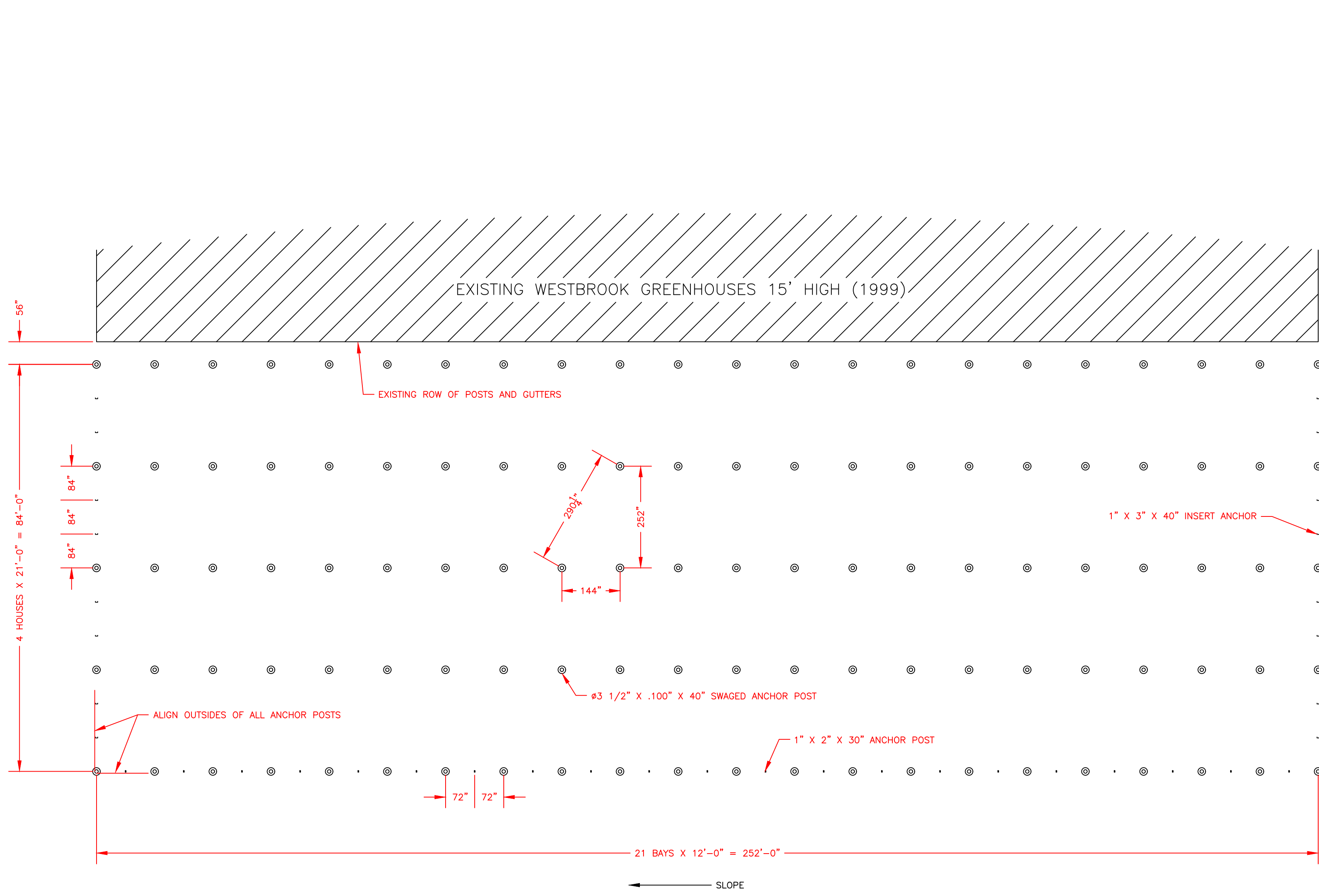
PROJECT:
Slappendel Greenhouses
CANBOROUGH RD, FENWICK, ON

SITE PLAN

FILE SITE PLAN	REV#1	REV#2
SCALE NTS	DRAWN BY: JG	DATE: 11/14/19



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		Slappendel Greenhouses CANBOROUGH RD, FENWICK, ON		
		Greenhouse Elevations		E1
		FILE C058295-EL	REV#1 ELEVATIONS	
SCALE NTS		DRAWN BY: Len	DATE: 10/30/19	



STANDARD ANCHORPOST SYSTEM
NOTE: DEPTH AND DIAMETER OF CONCRETE FOUNDATIONS FOR ANCHOR POSTS TO SUIT LOCAL CONDITIONS TO BE DETERMINED BY CUSTOMER. ANCHOR POSTS MUST EXTEND INTO THE CONCRETE PIERS A MINIMUM OF 20".

NOTES:
SET TOPS OF ALL ANCHOR POSTS ON THE SAME SLOPE (MATCH HEIGHT AND SLOPE OF EXISTING).
SET Ø3 1/2" ANCHOR POSTS WITH THE SWAGED END UP OR WELD DOWN.
ALL DIMENSIONS ARE TO POST CENTERS UNLESS OTHERWISE NOTED.
ANCHOR POSTS HAVE A HOLE DRILLED FOR CONNECTION TO POST. THE ANCHOR POST MUST BE SET SUCH THAT THE HOLE IS PERPENDICULAR TO THE GUTTER DIRECTION.
SET ANCHOR POSTS SUCH THAT THE COLLARS OF THE ANCHOR POSTS ARE AT GROUND LEVEL AT THE LOWEST END OF THE GREENHOUSE.

TOTALS:
110 - Ø3 1/2" X .100" X 40" SWAGED ANCHOR POST [00109]
16 - 1" X 3" X 40" INSERT ANCHOR [00156]
21 - 1" X 2" X 30" ANCHOR POST [00113]

CONCRETE PIER SIZES:
Ø3 1/2" ANCHORS =>Ø18" X 48"DP
INTERMEDIATE ANCHORS =>Ø12" X 48"DP
BASED ON 3000PSF SOIL LOAD BEARING CAP.

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	PROJECT: Slappendel Greenhouses CANBOROUGH RD, FENWICK, ON		
	ANCHOR POST LAYOUT		
	<div>2</div>		
	FILE C058295-02-ST	REV#1	REV#2
	SCALE 1/16"=1'	DRAWN BY: Randy	DATE: 10/3/19

Planning and Development Services

1815 Sir Isaac Brock Way, Thorold, ON L2V 4T7
905-980-6000 Toll-free: 1-800-263-7215

Via Email Only

December 5, 2019

File No.: D.19.06.SP-19-0100

Curtis Thompson
Planner
Town of Pelham
20 Pelham Town Square, PO Box 400
Fonthill, ON L0S1E0

Dear Mr./Ms. Thompson:

**Re: Provincial and Regional Comments
Site Plan Control Application
Town File: SP-09-19
Applicant: Slappendel Greenhouses Inc.
Address: 1010 Canboro Road
Town of Pelham**

Regional Planning and Development Services staff has reviewed the following materials, which were provided as part of the above noted application for Site Plan Control at 1010 Canboro Road in the Town of Pelham:

- Site Plan, prepared by Westbrook Greenhouse Systems Ltd., dated November 14, 2019;
- Foundation Plan, prepared by Westbrook Greenhouse Systems LTD., dated October 03, 2019;
- Elevation Plan (E1), prepared by Westbrook Greenhouse Systems LTD., dated October 30, 2019.

The proposal is for a 1,967 m² southerly greenhouse expansion. The application was received by Regional staff on November 15, 2019. The following comments are provided from a Regional and Provincial perspective based on the information submitted in order to assist the Town in reviewing the application.

Archaeological Potential

The PPS and ROP provide direction for the conservation of significant cultural heritage and archaeological resources. Specifically, Section 2.6.2 of the PPS states that, “development and site alteration shall not be permitted on lands containing archaeological resources or areas of archaeological potential, unless significant archaeological resources have been conserved.”

The subject land was identified at the pre-consultation meeting as having high archaeological potential based on the Ministry of Tourism, Culture and Sport’s (MTCS) Criteria for Evaluating Archaeological Potential and the Town of Pelham’s approved Heritage Master Plan. Based on discussions with the applicant at the preconsultation meeting and the Anchor Post Layout Plan, prepared by Westbrook Greenhouse Systems Ltd. (dated 10/3/19), Regional staff are of the opinion that the type of construction proposed for the greenhouse will not result in deep excavation or the disturbance of archaeological resources on site. This is supported by the interpretation of “extensive and intensive disturbance” provided by the MTCS, which does not include gardening and landscaping, agricultural or historic building footprints. Therefore, provided the greenhouses are constructed using a slab-on-grade type foundation, which does not include deep excavation of the soil, the archaeological assessment can be waived in lieu of a standard archaeological clause in the site plan agreement relating to deeply buried archaeological materials that may be encountered during grading and construction activities. A condition for the archaeological warning clause is included in the Appendix.

Private Servicing

Private Septic System (PSS) staff have reviewed the application. There was no permit information available for the existing sewage system currently servicing the property. Based on the plan submitted, the existing system is located south of the dwelling; however, its’ exact location and size is unknown. The location of the proposed greenhouses appears to meet with the minimum setback requirements to the sewage system and there is sufficient land available on the lot for any future upgrades as needed. Please note that any future changes to sewage flow rates on the property will require an upgrade of the septic system. Therefore, PSS staff have no objections to the site plan as submitted for the additional greenhouses, provided there is no increase to employees or plumbing. A condition is included in the Appendix in this regard.

Waste Collection

Niagara Region provides curbside waste and recycling collection for developments that meet the requirements of Niagara Region’s Waste Collection Policy. The subject property is eligible to receive Regional curbside waste and recycling collection provided that the owner brings the waste and recycling to the curbside on the designated pick up day, and that the following limits are met:

- No limit blue/grey containers;
- No limit green containers; and,
- 4 garbage containers.

The Owner should be advised that if Regional waste collection limits cannot be met or if curbside collection is not desirable, garbage collection for the development will be provided through a private contractor and not the Niagara Region. Notwithstanding the above comments, the site would remain eligible for Regional recycling and organics collection subject to the above limits. A clause has been included in the Appendix for waste collection.

Conclusion

In conclusion, Regional staff offers no objection to the application, subject to the conditions outlined in the Appendix. Please forward a copy of the final Site Plan and Site Plan Agreement to the Region for our files.

Should you have any questions related to the above comments, please feel free to contact me at 905-980-600 ext. 3432 or Lola Emberson, MCIP, RPP, Senior Development Planner, at 905-980-6000 ext. 3518.

Kind regards,



Britney Fricke, MCIP, RPP
Development Planner

cc: Lola Emberson, MCIP, RPP, Senior Development Planner, Niagara Region
Susan Dunsmore, P. Eng., Manager Development Engineering, Niagara Region
Tanya Killins, Private Sewage System Inspector, Niagara Region

Appendix 1

Regional Conditions for Site Plan Approval

1010 Canboro Road

1. That the following clauses be included in the site plan agreement:

“Should deeply buried archaeological remains/resources be found on the property during construction activities, all activities impacting archaeological resources must cease immediately, notify the Archaeology Programs Unit of the Ontario Ministry of Tourism, Culture and Sport (MTCS) (416-212-8886) and a licensed archaeologist is required to carry out an archaeological assessment in accordance with the Ontario Heritage Act and the Standards and Guidelines for Consultant Archaeologists.

In the event that human remains are encountered during construction, all activities must cease immediately and the local police as well as the Cemeteries Regulation Unit of the Ministry of Government and Consumer Services in Toronto (416-326-8800) must be contacted. In situations where human remains are associated with archaeological resources, MTCS should also be notified to ensure that the site is not subject to unlicensed alterations which would be a contravention of the Ontario Heritage Act.”

“The Owner is advised that if the waste collection limits cannot be met or if curbside collection is not desirable, waste collection will be the responsibility of the Owner through a private contractor and not Niagara Region. However, the site remains eligible for Regional recycling and organics collection subject to compliance with the current Regional Waste Collection Policy.”

2. That the addition not include any additional plumbing fixtures, as any future changes to sewage flow rates on the property (including number of employees or plumbing) will require an upgrade of the septic system.

Memorandum

Public Works Department - Engineering

To: Curtis Thompson, Planner

CC: Jason Marr, Director of Public Works; Barb Wiens, Director of Planning and Development

From: Tolga Aydin, Engineering Technologist

Date: November 19, 2019

File #: SP-09-19

Subject: 1010 Canboro Road – **First Submission**

The Public Works Department has reviewed the submitted documentation regarding the proposed development located at 1010 Canboro Road. Please note the following notes and conditions provided.

Public Works has no comments or concerns.

SITE PLAN COMMENTS

Date: November 20, 2019

Re: SP-09-19

The building department offers the following comment,

- A building permit will be required for the proposed work.

Respectfully,
Belinda Menard, Dipl.T.
Building Intake/Plans Examiner

December 2, 2019

Curtis Thompson
Senior Planner
Town of Pelham
20 Pelham Town Square
PO Box 400
Fonthill, ON L0S 1E0

Dear Curtis,

Re: Site Plan Control Application
Slappendel Greenhouses Inc.
1010 Canboro Road
Town of Pelham
File No.: SP-09-19

Enbridge Gas Inc. does not object to the proposed application(s).

In the event that easement(s) are required to service this development, the applicant will provide the easement(s) to Enbridge Gas Inc. at no cost.

The applicant will contact Enbridge Gas Inc.'s Customer Connections department by emailing CustomerConnectionsContactCentre@Enbridge.com prior to any site construction activities to determine if existing piping facilities need to be relocated or abandoned.

Enbridge Gas Inc. reserves the right to amend or remove development conditions.

Sincerely,



Alice Coleman
Municipal Planning Coordinator
Long Range Distribution Planning

—
ENBRIDGE GAS INC.
TEL: 416-495-5386
MunicipalPlanning@enbridge.com
500 Consumers Rd, North York, ON, M2J 1P8

enbridgegas.com
Safety. Integrity. Respect.

Curtis Thompson

From: Curtis Thompson
Sent: November 15, 2019 4:17 PM
To: Dev Planning Applications - Region (devtplanningapplications@niagararegion.ca); 'Fricke, Britney'; Derek Young; Bob Lymburner; Belinda Menard; Mike Zimmer; Enbridge- Municipal Planning (MunicipalPlanning@enbridge.com); Bell Canada; Niagara Peninsula Energy (info@npei.ca)
Cc: Barbara Wiens; Shannon Larocque
Subject: Request for Comments - Site Plan Control (SP-09-19)
Attachments: SP-09-19 - Application.pdf; SP-09-19 1010 Canboro - Site Plan.pdf; SP-09-19 1010 Canboro - Foundation Plan.pdf; SP-09-19 1010 Canboro - Elevation Plans.pdf; Email re_Floor Areas.pdf

Hello,

We are in receipt of an Site Plan Control (SP-09-19) application for the lands at **1010 Canboro Road** (Slappendel Greenhouses Inc.). The proposal includes a 1967 m² southerly greenhouse expansion.

Attached you'll find:

- Site Plan
- Foundation Plan
- Elevation Plans
- SPA Application
- Email re: Floor Area Details

Hardcopies will also be provided, as well as the required payment (Region).

Comments would be appreciated by, **Friday, December 6th 2019**.

Thank you,



Curtis Thompson, B. Urban
Planner
Community Planning &
Development

e: cthompson@pelham.ca
p: 905.892.2607 x324
pelham.ca

20 Pelham Town Square
P.O. Box 400
Fonthill, ON L0S 1E0

TOWN OF PELHAM CONFIDENTIALITY NOTICE:

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Curtis Thompson

From: Greenhouse Slappendel <info@slappendelgreenhouses.com>
Sent: October 31, 2019 8:25 AM
To: Curtis Thompson
Subject: Site plans Missed an important detail on previous email
Attachments: C058290-ELEVATIONS.pdf; C058295-elevations.pdf; SITE PLAN-Canborough.pdf; SITE PLAN-maple1.pdf

Follow Up Flag: Follow up
Flag Status: Completed

Sorry forgot to add the proposed greenhouse space I have added the proposed addition in bold

Please find attached the site plans and elevations for the additions at both locations

Also the sizes of all buildings for each property are as follows, it was easier to put in a list like this

1010 Canboro Road

Property size	15.8 Acres	63920 Sq Metres	6.39 Ha
Greenhouse	37,044 sq feet	3441.5 Sq Metres	
Barn	2287 Sq feet	212.5 Sq Metres	
House	2504 Sq Feet	232.6 Sq Metres	
Proposed Addition	21,168 Sq feet	1966.6 Sq Metres	

1361 Maple Street

Property Size	24.9 Acres	100766.7 Sq metres	10.1 Ha
Greenhouse	82368 Sq Feet	7652.2 Sq Metres	
Hoop Houses	21904 Sq Feet	2035 Sq Metres	
Barns	18934 Sq Feet	1759 Sq Metres	
Houses	4731 Sq Feet	439.5 Sq metres	
Proposed Addition	27,000 Sq feet	2508.4 Sq Metres	

Please let me know if you need any more info so I can get it to you as soon as possible, Hope this is everything you need for next weeks meeting

Thanks

Ed Slappendel

info@slappendelgreenhouses.com

www.slappendelgreenhouses.com

ph--905-892-6756

fax-905-892-6506

COMMITTEE REPORT
COMMUNITY PLANNING & DEVELOPMENT DEPARTMENT
Monday, January 13, 2020

Subject: Site Plan Approval Report – 1361 Maple Street (SP-08-19)

Recommendation:

THAT Committee receive Report #2020-0004 regarding Site Plan approval for 1361 Maple Street and:

THAT Committee recommend the By-law and Site Plan Agreement for 1361 Maple Street be approved by Council and the Mayor and Clerk be authorized to sign the Site Plan Agreement with Slappendel Greenhouses Inc.

Background:

The purpose of this report is to provide Council with information regarding an application for site plan control under Section 41 of the Planning Act for 1361 Maple Street. The proposed site plan will provide for a 2,508 m² greenhouse addition off the east wall of the existing greenhouse.

Analysis:

Location:

The subject lands are 10.1 hectares in size and located on the east side of Maple Street, lying south of Highway 20 West (Figure 1), municipally known as 1361 Maple Street, and legally as Concession 8, Part of Lot 15, in the Town of Pelham.

The lands are located outside of the Urban Area and are designated Specialty Agricultural in the Town Official Plan and Environmental Protection 3 (EPA 3) and zoned Agricultural (A) Zone in Zoning By-law 1186(1987).

Figure 1: Subject Lands – 1361 Maple Street



The property is owned by Slappendel Greenhouses Inc. which produce tropical and spring bedding plants.

Project Description and Purpose:

The proposal is to enter into a site plan agreement to allow for the construction of a 2,508 m² greenhouse addition east of, and to the rear of the existing greenhouse. The 10.1 ha property also supports polyculture crop farming, various hoop houses, one single detached dwelling and one farm help house among other uses. (No works are proposed within the road allowance for roadside ditches, culverts or driveway accesses. The existing driveways will continue to serve the agricultural greenhouse operation and existing dwellings. The existing septic systems are situated west and southwest of the existing greenhouses and are not proposed to be altered.

Policy Review:

Planning Act

Section 41 (2) of the Act authorizes the council of a local municipality to designate areas within their jurisdiction under a 'site plan control area'. Policy E1.4 of the Pelham Official Plan and By-law No. 1118 (1987) designates the entire Town as a site plan control area with certain exemptions. All greenhouse facilities in Pelham are no

longer exempt from site plan control under By-law No. 4117 (2019) passed by Town Council on May 21, 2019.

Provincial Policy Statement (PPS) (2014)

The PPS designates the subject land within a 'Prime Agricultural Area'. The permitted uses (among others) include: agricultural / agricultural related uses, limited residential development and home occupations. 'Prime Agricultural Areas' are defined as including associated Canada Land Inventory Class 4-7 lands as well as 'Prime Agricultural Lands' (Class 1-3 lands).

Greenbelt Plan (2017)

The subject land is designated 'Tender Fruit & Grape Lands' (*Specialty Crop Area*) within the Greenbelt Plan's *Protected Countryside*. In addition, the northeast section of the lands is also designated as a *Natural Heritage System*.

Section 3.1.2 (Specialty Crop Area Policies) states that for lands falling within *specialty crop areas* of the *Protected Countryside* all types, sizes and intensities of agricultural uses and *normal farm practices* shall be promoted and protected.

The northeast quadrant of the subject lands contains a *Provincially Significant Wetland (PSW)* and *Significant Woodlands* complex. The *Protected Countryside* designation contains a Natural System that provides a continuous and permanent land base necessary to support human and ecological health in the Greenbelt region. The Natural System policies protect areas of natural heritage and hydrologic features which are often functionally inter-related and collectively provide essential ecosystem services, including water storage and filtration, cleaner air, habitat, support for pollinators and carbon storage.

Section 3.2.5.5 (Key Natural Heritage Features) states that new *development* or *site alteration* within 120m of a *key natural heritage feature* (i.e. wetlands / woodlands) within the Natural Heritage System, anywhere within the Protected Countryside requires a natural heritage evaluation which identifies a *vegetation protection zone (VPZ)*.

Section 3.2.5.7 (Key Natural Heritage Features) states that notwithstanding section 3.2.5.5, new buildings for *agricultural* uses are not required to undertake a natural heritage evaluation if a minimum 30 metre *VPZ (vegetation protection zone)* is provided from a *key natural heritage feature*. In addition, these uses are exempt from the requirement of establishing a condition of *natural self-sustaining vegetation* if the land is and will continue to be used for agricultural purposes. However, agricultural uses shall pursue best management practices to protect and/or restore *key natural heritage features* and functions.

According to the proposed Site Plan, ± 55 m separates the nearest extent of the proposed greenhouse to the *Significant Woodlands* and ± 81 m to the *Provincially Significant Wetland*. The applicant has supplied an explanation letter regarding their *VPZ* (see attached). The letter explains how the *VPZ* will remain farm land, be used for the growing of sunflowers and other harvestable crops as in the past. There will

also be a 1-3m weed free border around the proposed greenhouse in accordance with CFIA and USDA regulations which allow Slappendel Greenhouses to ship into certain parts of the United States (Japanese beetle program).

Based on this information, Regional staff and Town staff confirm that no EIS (Environmental Impact Study) or NHE (Natural Heritage Evaluation) is required.

The proposed greenhouse expansion will serve the Slappendel Greenhouses agricultural operation by increasing and / or diversifying its product yield while ensuring adequate setbacks are upheld from sensitive natural heritage features.

Niagara Region Official Plan (Consolidated, August 2014)

The Regional Official Plan designates the subject parcel as 'Unique Agricultural Area' as part of the *Protected Countryside* lands in the Greenbelt Plan.

Policy 5.B.6 states that in the *Unique Agricultural Area*, the predominant use of land will be for agriculture of all types, which includes greenhouse flowers.

Pelham Official Plan (2014)

The local Official Plan designates the subject land as 'Specialty Agricultural' while the northeast quadrant is designated 'Environmental Protection 3' (EP3) with the *Greenbelt Natural Heritage Overlay*. The EP3 designation relates to the *Provincially Significant Wetland (PSW)* and *Significant Woodlands* complex. The principle use of Specialty Agricultural lands shall be for the production of specialty crops identified in the Greenbelt Plan.

Policy B3.5 (Greenbelt Natural Heritage Overlay) states that the purpose of this designation is to implement the 'Natural Heritage System' provisions of the *Greenbelt Plan*. Development and site alteration may occur within this overlay provided that an EIS is prepared in accordance with Section C7. The proposed development takes place outside of the *Greenbelt Natural Heritage Overlay*, therefore no additional studies are required.

Town of Pelham Zoning By-law Number 1136 (1987)

The subject land is zoned Agricultural (A) which permits agricultural uses and greenhouses among other uses. The subject lands comply with the Town Zoning By-law with regards to Sections 7.3.

Financial Considerations:

The applicant is responsible for all development costs associated with the proposed greenhouse expansion in addition to the site plan and building permit fees.

Alternatives Reviewed:

Council may choose to not approve the by-law and enter into a site plan agreement with the Owner.

Strategic Plan Relationship: Build Strong Communities and Cultural Assets

The proposed expansion to the greenhouse operation supports the agricultural economy and contributes to building a strong agricultural community.

Consultation:

Agency Comments:

On November 15th 2019, a 'Request for Comments' was circulated to the various agencies, the Niagara Region and internal Town departments (i.e. Public Works, Building, etc.).

To date, the following comments have been received and summarized below:

- Public Works Department (November 19, 2019)
 - No comments.
- Building Department (November 20, 2019)
 - A building permit is required for the proposed work.
- Niagara Region Planning & Development Services (December 5, 2019)
 - Regional staff have reviewed the Site Plan & *Vegetation Protection Zone* explanation letter and are satisfied that Regional & Provincial natural heritage policies have been adequately addressed. No EIS (Environmental Impact Statements) are required.
 - The subject lands have high archaeological potential based on Ministry of Tourism, Culture and Sport's (MTCS) criteria and the Town's Heritage Master Plan. Based on the Anchor Post Layout Plan, prepared by Westbrook Greenhouse Systems Ltd. (dated 9/30/19), Region staff are of the opinion that the type of construction proposed will not result in deep excavation or disturbance of potential archaeological resources. This is supported by the interpretation of 'extensive and intensive disturbance' provided by the MTCS, which does not include gardening and landscaping, agricultural or historic building footprints. Therefore, provided the greenhouse is constructed using a slab-on-grade style foundation, which does not deeply excavate the Earth beyond the anchor posts, the requirement for an archaeological assessment can be waived in lieu of a standard *archaeological warning clause* in the Site Plan Agreement.
 - No objections re: private sewage servicing as long as no additional plumbing fixtures are installed in the addition. Condition to be included in Site Plan Agreement.
 - No objections to Site Plan approval.
- Niagara Peninsula Conservation Authority (November 29, 2019)
 - No objections as the expansion is outside of the NPCA's regulated features.
- Enbridge Gas Inc. (December 2, 2019)
 - No objections.

Public Comments:

For Council's information, site plan control is not a public process under the *Planning Act* as it is an agreement between the land owner and the Town; therefore, there are no public notice requirements.

Staff Comments:

The proposal for the business currently known as Slappendel Greenhouses Inc. at 1361 Maple Street is to enter into a Site Plan Agreement allowing for the construction of a 2,508 m² greenhouse addition east of the existing greenhouse. The proposal is not for a cannabis production facility. In the absence of a *cannabis production facility* policy adopted by Town Council, Planning staff are prepared to include a clause in the Site Plan Agreement stipulating that should a future conversion of the be contemplated, then a Site Plan Amendment approved by Council will be required.

The existing driveways along Maple Street will be maintained and continue to serve the farm and residential dwellings. The Region of Niagara is responsible for private sewage systems approvals for systems capable of sewage flows less than 10,000 L / day. Multiple septic systems exist on the subject lands which were inspected by Regional staff and at the time, no visible defects were noted. Regional staff are satisfied with the setbacks between the proposed greenhouse and septic systems. Any future changes to the existing houses or plumbing fixtures would require further upgrade. Otherwise, Regional Private Sewage System staff do not object to the Site Plan Control application.

Planning staff note that the proposed development complies with the Zoning By-law regulations and are of the opinion that no adverse impacts regarding land use compatibility, agricultural viability and drainage issues among other things will arise as a result of this proposal. Furthermore, the *Vegetative Protection Zone* separating the *Provincially Significant Wetland & Significant Woodlands* from the proposed greenhouse will satisfy Greenbelt Plan policies as the area will continue to be farmed for harvestable crops, alleviating the need for a Natural Heritage Evaluation or Environmental Impact Study in this instance.

Regarding the high archaeological potential in the area, Regional and Town staff were satisfied with the waiving of a standard archaeological assessment in lieu of a warning clause inclusion in the Site Plan Agreement stipulating the need for slab-on-grade style foundation construction, which does not deeply excavate the earth beyond the limited amount of anchor posts detailed on the Foundation Plan.

Planning staff are of the opinion that the executed site plan agreement will result in the continued support of the agricultural operation known as Slappendel Greenhouses Inc. The applicant has addressed Town comments and has satisfied Regional staff with respect to the *core natural heritage system*, associated *VPZ* requirements and septic system approvals.

Planning staff recommend that Council approve the By-law and enter into a Site Plan Agreement with the land owner as the application is consistent with Provincial, Regional and Town policies, and represents good land use planning.

Other Pertinent Reports/Attachments:

- Appendix A:
 - Site Plan
 - Elevation Plans
 - Foundation Plan
- Appendix B:
 - Agency Comments Consolidated

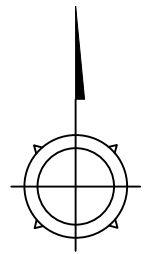
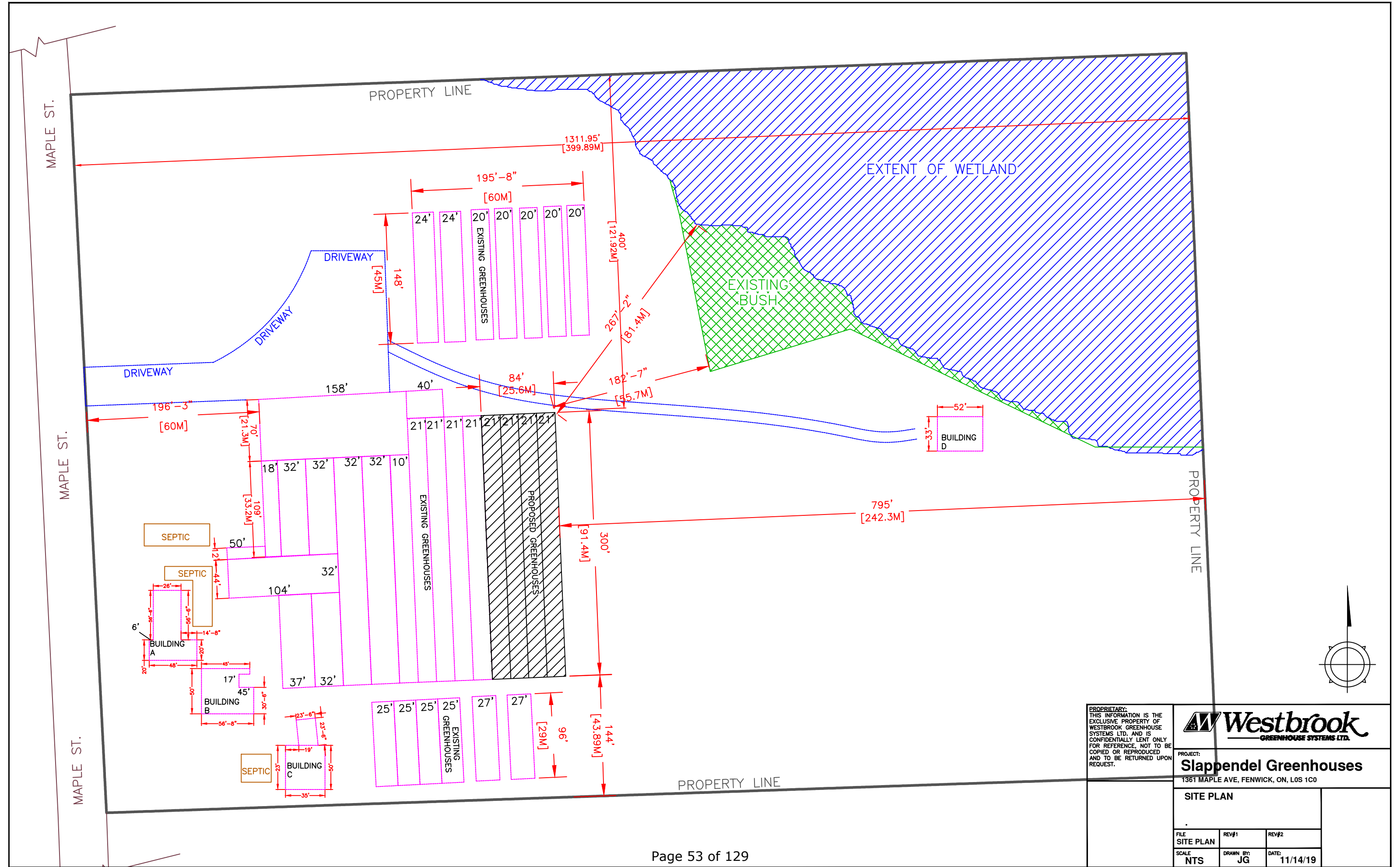
Prepared and Recommended by:

Curtis Thompson, B.URPI
Planner

Barbara Wiens, MCIP, RPP
Director of Community Planning & Development

Prepared and Submitted by:

David Cribbs, BA, MA, JD, MPA
Chief Administrative Officer



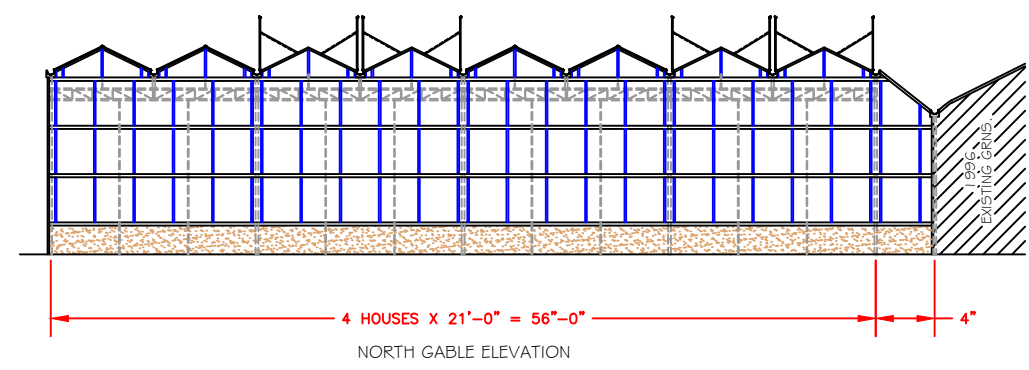
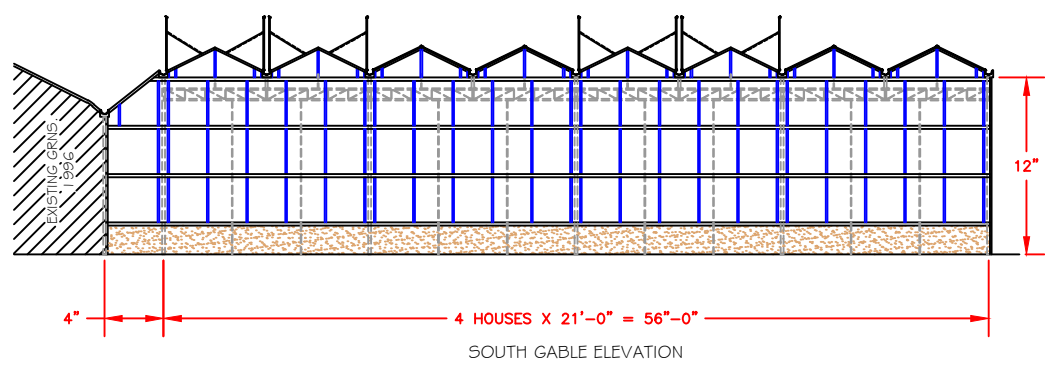
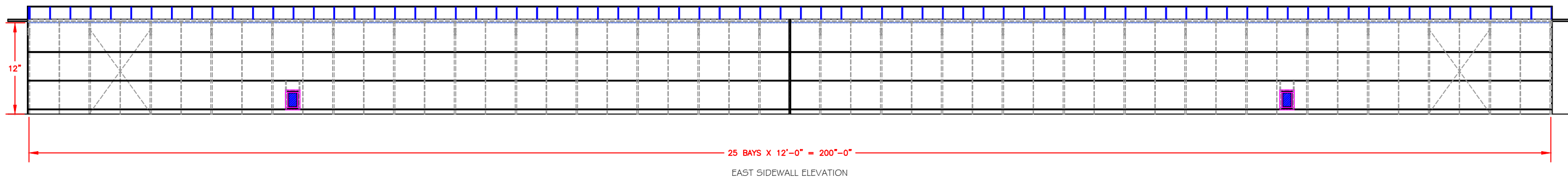
Westbrook
GREENHOUSE SYSTEMS LTD.

PROJECT:
Slappendel Greenhouses
1361 MAPLE AVE, FENWICK, ON, L0S 1C0

SITE PLAN

FILE SITE PLAN	REV#1	REV#2
SCALE NTS	DRAWN BY: JG	DATE: 11/14/19

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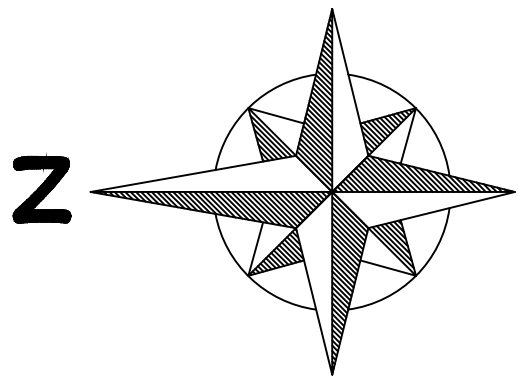


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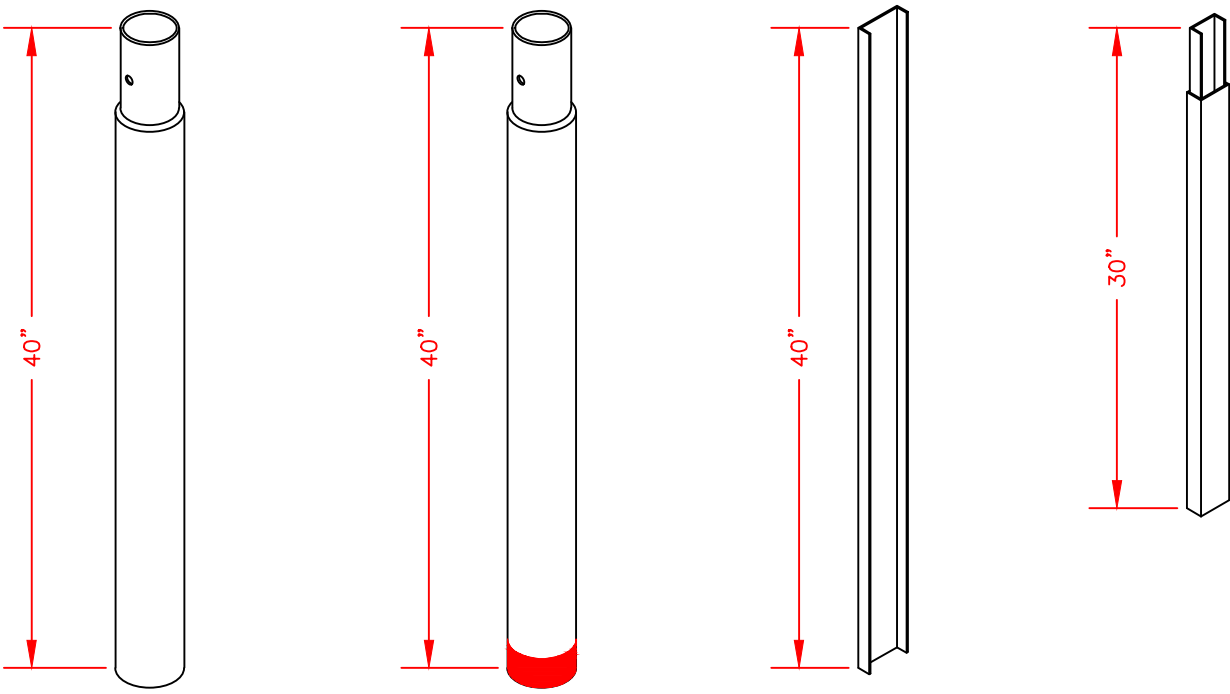
PROJECT:
Slappendel Greenhouses
1361 MAPLE AVE, FENWICK, ON, L0S 1C0

GREENHOUSE ELEVATIONS		
FILE C058290-EL	REV#1 ELEVATIONS	REV#2
SCALE NTS	DRAWN BY: Len	DATE: 10/30/19

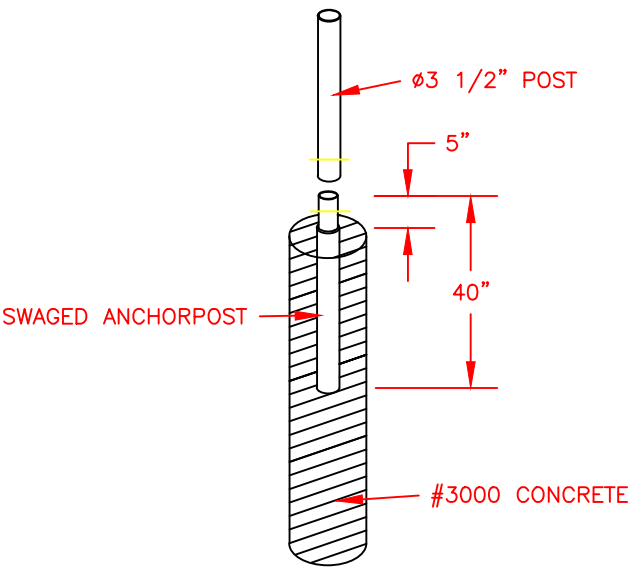
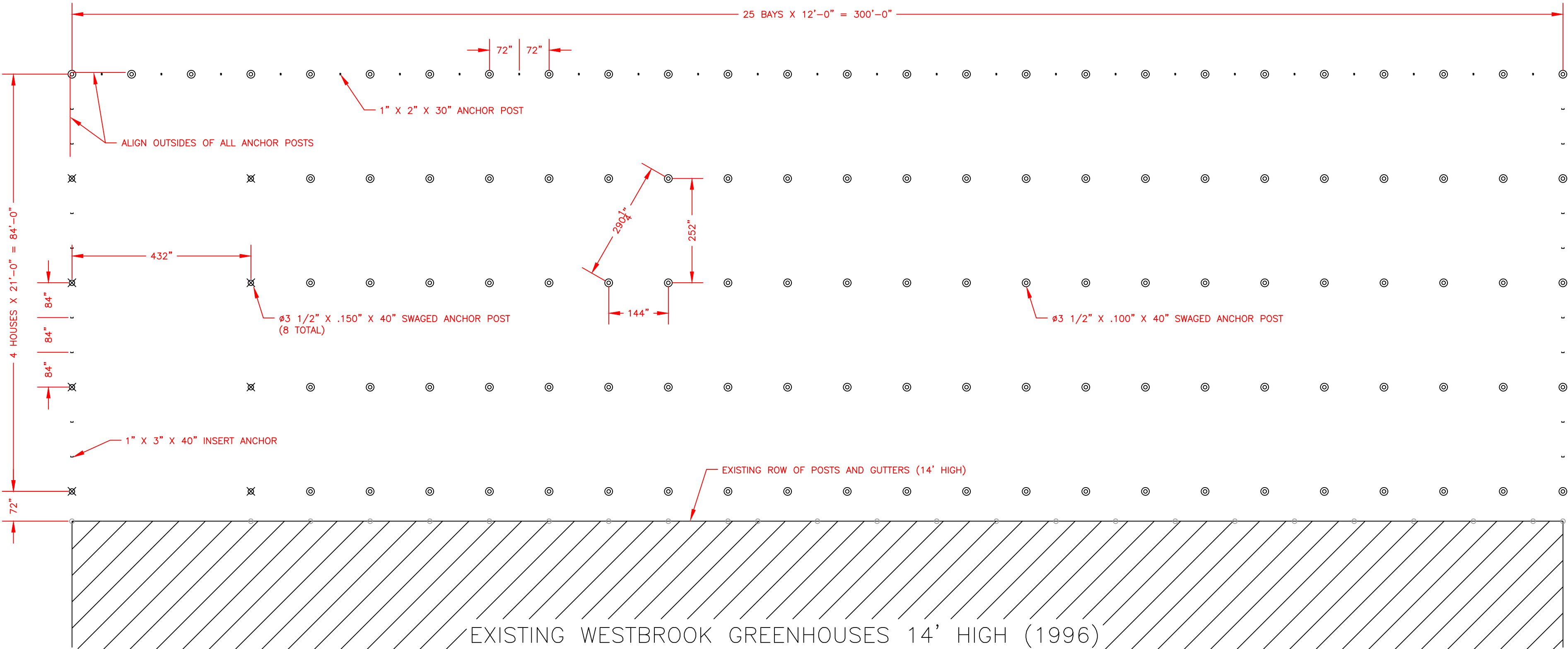
E1



ANCHOR POSTS



Ø3 1/2" X .100" X 40" SWAGED ANCHOR POST
Ø3 1/2" X .150" X 40" SWAGED ANCHOR POST
1" X 3" X 40" INSERT ANCHOR
1" X 2" X 30" SIDE ANCHOR



STANDARD ANCHORPOST SYSTEM

NOTE: DEPTH AND DIAMETER OF CONCRETE FOUNDATIONS FOR ANCHOR POSTS TO SUIT LOCAL CONDITIONS TO BE DETERMINED BY CUSTOMER. ANCHOR POSTS MUST EXTEND INTO THE CONCRETE PIERS A MINIMUM OF 20".

NOTES:
SET TOPS OF ALL ANCHOR POSTS ON THE SAME SLOPE (MATCH HEIGHT AND SLOPE OF EXISTING). SET Ø3 1/2" ANCHOR POSTS WITH THE SWAGED END UP OR WELD DOWN. ALL DIMENSIONS ARE TO POST CENTERS UNLESS OTHERWISE NOTED. ANCHOR POSTS HAVE A HOLE DRILLED FOR CONNECTION TO POST. THE ANCHOR POST MUST BE SET SUCH THAT THE HOLE IS PERPENDICULAR TO THE GUTTER DIRECTION. SET ANCHOR POSTS SUCH THAT THE COLLARS OF THE ANCHOR POSTS ARE AT GROUND LEVEL AT THE LOWEST END OF THE GREENHOUSE.

TOTALS:
114 - Ø3 1/2" X .100" X 40" SWAGED ANCHOR POST [00109]
8 - Ø3 1/2" X .150" X 40" SWAGED ANCHOR POST [00854]
16 - 1" X 3" X 40" INSERT ANCHOR [00156]
25 - 1" X 2" X 30" ANCHOR POST [00113]

CONCRETE PIER SIZES:
Ø3 1/2" X .100" ANCHORS =>Ø18" X 48"DP
Ø3 1/2" X .150" ANCHORS =>Ø24" X 48"DP
INTERMEDIATE ANCHORS =>Ø12" X 48"DP
BASED ON 3000PSF SOIL LOAD BEARING CAP.

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PROJECT:
Slappendel Greenhouses
1361 MAPLE AVE, FENWICK, ON, L0S 1C0



ANCHOR POST LAYOUT

FILE C052890-02-ST	REV#1	REV#2
SCALE 1/16"=1'	DRAWN BY: Randy	DATE: 9/30/19

2

Planning and Development Services

1815 Sir Isaac Brock Way, Thorold, ON L2V 4T7
905-980-6000 Toll-free: 1-800-263-7215

Via Email Only

December 5, 2019

File No.: D.19.06.SP-19-0101

Curtis Thompson
Planner
Town of Pelham
20 Pelham Town Square, PO Box 400
Fonthill, ON L0S1E0

Dear Mr./Ms. Thompson:

**Re: Provincial and Regional Comments
Site Plan Control Application
Town File: SP-08-19
Applicant: Slappendel Greenhouses Inc.
Address: 1361 Maple Street
Town of Pelham**

Regional Planning and Development Services staff has reviewed the following materials, which were provided as part of the above noted application for Site Plan Control at 1361 Maple Street in the Town of Pelham:

- Site Plan, prepared by Westbrook Greenhouse Systems Ltd., dated November 14, 2019;
- Foundation Plan, prepared by Westbrook Greenhouse Systems LTD., dated October 03, 2019;
- Elevation Plan (E1), prepared by Westbrook Greenhouse Systems LTD., dated October 30, 2019; and,
- Vegetate Protection Zone explanation letter from Ed Slappendel.

The proposal is for a 2,508 m² easterly greenhouse expansion. The application was received by Regional staff on November 15, 2019. The following comments are provided from a Regional and Provincial perspective based on the information submitted in order to assist the Town in reviewing the application.

Natural Heritage

Regional environmental staff has reviewed the Site Plan and Vegetation Protection Zone explanation letter, and are satisfied that Regional and Provincial natural heritage policies have been adequately addressed. Staff will not require the completion of any further studies.

Archaeological Potential

The PPS and ROP provide direction for the conservation of significant cultural heritage and archaeological resources. Specifically, Section 2.6.2 of the PPS states that, “development and site alteration shall not be permitted on lands containing archaeological resources or areas of archaeological potential, unless significant archaeological resources have been conserved.”

The subject land was identified at the pre-consultation meeting as having high archaeological potential based on the Ministry of Tourism, Culture and Sport’s (MTCS) Criteria for Evaluating Archaeological Potential and the Town of Pelham’s approved Heritage Master Plan. Based on discussions with the applicant at the preconsultation meeting and the Anchor Post Layout Plan, prepared by Westbrook Greenhouse Systems Ltd. (dated 9/30/19), Regional staff are of the opinion that the type of construction proposed for the greenhouse will not result in deep excavation or the disturbance of archaeological resources on site. This is supported by the interpretation of “extensive and intensive disturbance” provided by the MTCS, which does not include gardening and landscaping, agricultural or historic building footprints. Therefore, provided the greenhouses are constructed using a slab-on-grade type foundation, which does not include deep excavation of the soil, the archaeological assessment can be waived in lieu of a standard archaeological clause in the site plan agreement relating to deeply buried archaeological materials that may be encountered during grading and construction activities. A condition for the archaeological warning clause is included in the Appendix.

Private Servicing

Private Septic System (PSS) staff have reviewed the application. Septic permits were issued by the Health Department for the following: 3-bedroom house located west side of lot in 1980 with the tile bed extended in 1998 for a house addition; 4-bedroom house located on the south side of the lot in 1998. No visible defects were noted with the septic systems at the time of inspection. The location of the proposed greenhouse addition appears to meet with the minimum setback requirements to the sewage systems and there is sufficient land available on the lot for any future upgrades as needed. Please note that if any changes are proposed to the houses in the future, the existing septic systems would need to be upgraded to meet current Building Code requirements. Therefore, PSS staff have no objections to the site plan as submitted for the additional greenhouses, provided there is no increase to employees or plumbing. A condition is included in the Appendix in this regard.

Waste Collection

Niagara Region provides curbside waste and recycling collection for developments that meet the requirements of Niagara Region's Waste Collection Policy. The subject property is eligible to receive Regional curbside waste and recycling collection provided that the owner brings the waste and recycling to the curbside on the designated pick up day, and that the following limits are met:

- No limit blue/grey containers;
- No limit green containers; and,
- 4 garbage containers.

The Owner should be advised that if Regional waste collection limits cannot be met or if curbside collection is not desirable, garbage collection for the development will be provided through a private contractor and not the Niagara Region. Notwithstanding the above comments, the site would remain eligible for Regional recycling and organics collection subject to the above limits. A clause has been included in the Appendix for waste collection.

Conclusion

In conclusion, Regional staff offers no objection to the application, subject to the conditions outlined in the Appendix. Please forward a copy of the final Site Plan and Site Plan Agreement to the Region for our files.

Should you have any questions related to the above comments, please feel free to contact me at 905-980-600 ext. 3432 or Lola Emberson, MCIP, RPP, Senior Development Planner, at 905-980-6000 ext. 3518.

Kind regards,



Britney Fricke, MCIP, RPP
Development Planner

cc: Lola Emberson, MCIP, RPP, Senior Development Planner, Niagara Region
Susan Dunsmore, P. Eng., Manager Development Engineering, Niagara Region
Tanya Killins, Private Sewage System Inspector, Niagara Region

Appendix 1

Regional Conditions for Site Plan Approval

1361 Maple Street

1. That the following clauses be included in the site plan agreement:

“Should deeply buried archaeological remains/resources be found on the property during construction activities, all activities impacting archaeological resources must cease immediately, notify the Archaeology Programs Unit of the Ontario Ministry of Tourism, Culture and Sport (MTCS) (416-212-8886) and a licensed archaeologist is required to carry out an archaeological assessment in accordance with the Ontario Heritage Act and the Standards and Guidelines for Consultant Archaeologists.

In the event that human remains are encountered during construction, all activities must cease immediately and the local police as well as the Cemeteries Regulation Unit of the Ministry of Government and Consumer Services in Toronto (416-326-8800) must be contacted. In situations where human remains are associated with archaeological resources, MTCS should also be notified to ensure that the site is not subject to unlicensed alterations which would be a contravention of the Ontario Heritage Act.”

“The Owner is advised that if the waste collection limits cannot be met or if curbside collection is not desirable, waste collection will be the responsibility of the Owner through a private contractor and not Niagara Region. However, the site remains eligible for Regional recycling and organics collection subject to compliance with the current Regional Waste Collection Policy.”

2. That the addition not include any additional plumbing fixtures, as any future changes to sewage flow rates on the property (number of employees or plumbing in the greenhouses or dwellings) will require an upgrade of the septic system.

Memorandum

Public Works Department - Engineering

To: Curtis Thompson, Planner

CC: Jason Marr, Director of Public Works; Barb Wiens, Director of Planning and Development

From: Tolga Aydin, Engineering Technologist

Date: November 19, 2019

File #: SP-08-19

Subject: 1361 Maple Street – **First Submission**

The Public Works Department has reviewed the submitted documentation regarding the proposed development located at 1361 Maple Street. Please note the following notes and conditions provided.

Public Works has no comments or concerns.

SITE PLAN COMMENTS

Date: November 20, 2019
Re: SP-08-19

The building department offers the following comment,

- A building permit will be required for the proposed work.

Respectfully,
Belinda Menard, Dipl.T.
Building Intake/Plans Examiner

December 2, 2019

Curtis Thompson
Senior Planner
Town of Pelham
20 Pelham Town Square
PO Box 400
Fonthill, ON L0S 1E0

Dear Curtis,

Re: Site Plan Control Application
Slappendel Greenhouses Inc.
1361 Maple Street
Town of Pelham
File No.: SP-08-19

Enbridge Gas Inc. does not object to the proposed application(s).

In the event that easement(s) are required to service this development, the applicant will provide the easement(s) to Enbridge Gas Inc. at no cost.

The applicant will contact Enbridge Gas Inc.'s Customer Connections department by emailing CustomerConnectionsContactCentre@Enbridge.com prior to any site construction activities to determine if existing piping facilities need to be relocated or abandoned.

Enbridge Gas Inc. reserves the right to amend or remove development conditions.

Sincerely,

A handwritten signature in black ink that reads 'Alice Coleman'.

Alice Coleman
Municipal Planning Coordinator
Long Range Distribution Planning

—
ENBRIDGE GAS INC.
TEL: 416-495-5386
MunicipalPlanning@enbridge.com
500 Consumers Rd, North York, ON, M2J 1P8

enbridgegas.com
Safety. Integrity. Respect.

Curtis Thompson

From: Neil Stoop <nstoop@npca.ca>
Sent: November 29, 2019 2:36 PM
To: Curtis Thompson
Subject: RE: Request for Comments - Site Plan Control (SP-08-19)

Hello Curtis,

The proposed works are located outside of the NPCA regulated areas. The NPCA has no objections as proposed.

If you have any further questions, please do not hesitate to ask.

Thank-you

Neil Stoop, MSc.

Watershed Planner

Niagara Peninsula Conservation Authority (NPCA)
250 Thorold Road West, 3rd Floor | Welland, ON L3C 3W2
Tel: 905-788-3135 | ext. 248
nstoop@npca.ca
www.npca.ca

[NPCA Watershed Explorer](#)

From: Curtis Thompson <CThompson@pelham.ca>
Sent: November 15, 2019 4:21 PM
To: Dev Planning Applications - Region (devtplanningapplications@niagararegion.ca) <devtplanningapplications@niagararegion.ca>; 'Fricke, Britney' <Britney.Fricke@niagararegion.ca>; Sarah Mastroianni <smastroianni@npca.ca>; Bob Lymburner <BLymburner@pelham.ca>; Derek Young <DYoung@pelham.ca>; Belinda Menard <BMenard@pelham.ca>; Mike Zimmer <MZimmer@pelham.ca>; Enbridge- Municipal Planning (MunicipalPlanning@enbridge.com) <MunicipalPlanning@enbridge.com>; Niagara Peninsula Energy (info@npei.ca) <info@npei.ca>; Bell Canada <circulations@mmm.ca>; Neil Stoop <nstoop@npca.ca>
Cc: Barbara Wiens <BWiens@pelham.ca>; Shannon Larocque <SLarocque@pelham.ca>
Subject: Request for Comments - Site Plan Control (SP-08-19)

Hello,

We are in receipt of an Site Plan Control (SP-08-19) application for the lands at **1361 Maple Street** (Slappendel Greenhouses Inc.). The proposal includes a 2508 m² easterly greenhouse expansion.

Attached you'll find:

- Site Plan
- Foundation Plan
- Elevation Plans
- SPA Application
- *Vegetated Protection Zone* Explanation Letter
- Email re: Floor Area Details

Hardcopies will also be provided, as well as the required payment (Region).

Comments would be appreciated by, **Friday, December 6th 2019**.

Thank you,



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Curtis Thompson

From: Greenhouse Slappendel <info@slappendelgreenhouses.com>
Sent: October 31, 2019 8:25 AM
To: Curtis Thompson
Subject: Site plans Missed an important detail on previous email
Attachments: C058290-ELEVATIONS.pdf; C058295-elevations.pdf; SITE PLAN-Canborough.pdf; SITE PLAN-maple1.pdf

Follow Up Flag: Follow up
Flag Status: Completed

Sorry forgot to add the proposed greenhouse space I have added the proposed addition in bold

Please find attached the site plans and elevations for the additions at both locations

Also the sizes of all buildings for each property are as follows, it was easier to put in a list like this

1010 Canboro Road

Property size	15.8 Acres	63920 Sq Metres	6.39 Ha
Greenhouse	37,044 sq feet	3441.5 Sq Metres	
Barn	2287 Sq feet	212.5 Sq Metres	
House	2504 Sq Feet	232.6 Sq Metres	
Proposed Addition	21,168 Sq feet	1966.6 Sq Metres	

1361 Maple Street

Property Size	24.9 Acres	100766.7 Sq metres	10.1 Ha
Greenhouse	82368 Sq Feet	7652.2 Sq Metres	
Hoop Houses	21904 Sq Feet	2035 Sq Metres	
Barns	18934 Sq Feet	1759 Sq Metres	
Houses	4731 Sq Feet	439.5 Sq metres	
Proposed Addition	27,000 Sq feet	2508.4 Sq Metres	

Please let me know if you need any more info so I can get it to you as soon as possible, Hope this is everything you need for next weeks meeting

Thanks

Ed Slappendel

info@slappendelgreenhouses.com

www.slappendelgreenhouses.com

ph--905-892-6756

fax-905-892-6506



Letter for the regional staff identifying land use

This letter is to confirm the land use at 1361 Maple street after the construction of the additional greenhouses is to remain farm land, will be use for sunflowers and other harvestable crops as in the past. There will be approximately 55 metres from the corner of the addition to the nearest tree with a driveway crossing in between. There will be a border around the greenhouse of 1-3 metres that is weed free to meet the criteria of CFIA and the USDA allowing me to ship into certain areas of the US (Japanese beetle program) This all should meet the requirements of the green belt policies.

Thank you

Ed Slappendel

COMMITTEE REPORT
COMMUNITY PLANNING & DEVELOPMENT DEPARTMENT
Monday, January 13, 2020

Subject: Site Plan Approval Report – 730 Tice Road (SP-07-19)

Recommendation:

THAT Committee receive Report #2020-0003 regarding Site Plan approval for 730 Tice Road: and

THAT Committee recommend the By-law and Site Plan Agreement for 730 Tice Road be approved by Council and the Mayor and Clerk be authorized to sign the Site Plan Agreement with 1825115 Ontario Inc.

Background:

The purpose of this report is to provide Council with information regarding an application for site plan control under Section 41 of the Planning Act for 730 Tice Road. The proposed site plan will provide for the addition of 30,154 m² of greenhouses (in 5 phases), and one agricultural building addition (phase 6) situated northwest of the existing greenhouse with 1,301 m² in floor area.

Analysis:

Location:

The subject lands are 10.12 hectares in size and is located on the south of Tice Road, lying west of Balfour Street (Figure 1), municipally known as 730 Tice Road, and legally as Concession 7, Part of Lot 14, in the Town of Pelham.

The lands are located outside of the Urban Area and are designated Specialty Agricultural and the rear portion of the lands are Greenbelt Natural Area in the Town Official Plan, and zoned Agricultural (A) Zone in Zoning By-law 1186(1987).

Figure 1: Subject Lands – 730 Tice Road



The property is part of Greenfield Gardens Inc. land holdings which produce bedding plants, pot mums, poinsettias and hydrangeas among other garden plants.

Project Description and Purpose:

The proposal is to enter into a site plan agreement to allow for the construction of a 30,154 m² greenhouse addition (in 5 phases) south of the existing greenhouse, and one 1,301 m² agricultural building addition northwest of the existing greenhouse (phase 6). No works are proposed within the road allowance for roadside ditches, culverts or driveway accesses. The existing driveway will continue to be used for the agricultural greenhouse operation while existing dwelling will continue to utilize a separate driveway to the east. The current septic bed (2017) is situated northwest of the existing agricultural building and is not proposed to be altered.

Policy Review:

Planning Act

Section 41 (2) of the Act authorizes the council of a local municipality to designate areas within their jurisdiction under a 'site plan control area'. Policy E1.4 of the

Pelham Official Plan and By-law No. 1118 (1987) designates the entire Town as a site plan control area with certain exemptions. All greenhouse facilities in Pelham are no longer exempt from site plan control under By-law No. 4117 (2019) passed by Town Council on May 21, 2019.

Provincial Policy Statement (PPS) (2014)

The PPS designates the subject land within a 'Prime Agricultural Area'. The permitted uses (among others) include: agricultural / agricultural related uses, limited residential development and home occupations. 'Prime Agricultural Areas' are defined as including associated Canada Land Inventory Class 4-7 lands as well as 'Prime Agricultural Lands' (Class 1-3 lands).

Greenbelt Plan (2017)

The subject land is designated 'Tender Fruit & Grape Lands' within the Greenbelt Plan's *Protected Countryside*. In addition, a narrow portion of land along the rear lot line is also designated as a *Natural Heritage System*.

Section 3.1.2 (Specialty Crop Area Policies) states that for lands falling within *specialty crop areas* of the *Protected Countryside* all types, sizes and intensities of agricultural uses and *normal farm practices* shall be promoted and protected.

South of the subject lands exist a *Provincially Significant Wetland (PSW)* and *Critical Fish Habitat*. The *Protected Countryside* designation contains a Natural System that provides a continuous and permanent land base necessary to support human and ecological health in the Greenbelt region. The Natural System policies protect areas of natural heritage and hydrologic features which are often functionally inter-related and collectively provide essential ecosystem services, including water storage and filtration, cleaner air, habitat, support for pollinators and carbon storage.

Section 3.2.5.5 (Key Natural Heritage Features) states that new *development* or *site alteration* within 120m of a *key natural heritage feature* (i.e. wetlands) within the Natural Heritage System anywhere within the Protected Countryside requires a natural heritage evaluation. As illustrated on the proposed Site Plan, and further described in Regional staff's comments, the cumulative distance between the nearest proposed greenhouse and the existing PSW is at least 137m. Therefore, no EIS / NHE is required.

The proposed greenhouse expansion will serve the Greenfield Gardens agricultural operation by increasing and / or diversifying its product yield while ensuring adequate setbacks are upheld from sensitive natural heritage features.

Niagara Region Official Plan (Consolidated, August 2014)

The Regional Official Plan designates the subject parcel as 'Unique Agricultural Area' as part of the *Protected Countryside* lands in the Greenbelt Plan.

Policy 5.B.6 states that in the *Unique Agricultural Area*, the predominant use of land will be for agriculture of all types, which includes greenhouse flowers.

Pelham Official Plan (2014)

The local Official Plan designates the subject land as 'Specialty Agricultural' with a slight encroachment of the *Greenbelt Natural Heritage Overlay* offset approximately 25m from the rear lot line onto the subject lands. The principle use of Specialty Agricultural lands shall be for the production of specialty crops identified in the Greenbelt Plan.

Policy B3.5 (Greenbelt Natural Heritage Overlay) states that the purpose of this designation is to implement the 'Natural Heritage System' provisions of the *Greenbelt Plan*. Development and site alteration may occur within this overlay provided that an EIS is prepared in accordance with Section C7. The proposed development takes place outside of the *Greenbelt Natural Heritage Overlay*, therefore no additional studies are required.

Town of Pelham Zoning By-law Number 1136 (1987)

The subject land is zoned Agricultural (A) which permits agricultural uses and greenhouses among other uses. The subject lands comply with the Town Zoning By-law with regards to Sections 7.2 and 7.3.

Financial Considerations:

The applicant is responsible for all costs associated with the development of the site in addition to the site plan application fees and building permit fees.

Alternatives Reviewed:

Council may choose to not approve the by-law and enter into a site plan agreement with the Owner.

Strategic Plan Relationship: Build Strong Communities and Cultural Assets

The proposed expansion to the greenhouse operation supports the agricultural economy and contributes to building a strong agricultural community.

Consultation:

Agency Comments:

On November 13th 2019, a 'Request for Comments' was circulated to the various agencies, the Niagara Region and internal Town departments (i.e. Public Works, Building, etc.).

To date, the following comments have been received:

- Public Works Department (November 18, 2019)
 - No comments.
- Building Department (May 28, 2019)
 - A building permit is required for the proposed conversion.

- Niagara Region Planning & Development Services (December 17, 2019; November 28, 2019)
 - See attached.
 - The proposed setback from the *Provincially Significant Wetland* (PSW) and critical fish habitat is at least 137m. Regional staff do not require the completion of an Environmental Impact Statement (EIS). Rather, it is recommended that site alteration for construction purposes be limited as close as possible to the proposed Phase 5 building. Staff also recommend that silt fencing be installed and maintained at the limits of site alteration for the duration of construction to prevent sediment / materials from encroaching off-site.
 - No objections.
- Niagara Peninsula Conservation Authority (December 11, 2019; October 16, 2019)
 - No objections as the expansion is separated from the NPCA regulated features by the existing buildings.
- Enbridge Gas Inc. (November 27, 2019)
 - No objections.
- Hydro One (November 15, 2019)
 - No comments.
- Bell Canada (November 20, 2019)
 - No objections.

Public Comments:

For Council's information, site plan control is not a public process under the *Planning Act* as it is an agreement between the land owner and the Town; therefore, there are no public notice requirements.

Staff Comments:

The proposal for the business currently known as Greenfield Gardens Inc. is to enter into a site plan agreement allowing for the construction of a 30,154 m² greenhouse addition (in 5 phases) south of the existing greenhouse, and one 1,301 m² (phase 6) agricultural building addition northwest of the existing greenhouse. This proposal is not for cannabis production facility. In the absence of a *cannabis production facility* policy adopted by Town Council, Planning staff are prepared to include a clause in the Site Plan Agreement stipulating that should a future conversion of the greenhouse be contemplated, then a Site Plan Amendment and approval from Council will be required.

The existing driveway access from Tice will be maintained and continue to serve the farm with the existing dwelling utilizing a separate driveway. The Region of Niagara is responsible for private sewage systems approvals for systems capable of sewage flows less than 10,000 L / day. A septic system was installed and approved in 2017 to serve the greenhouse which contains 2 washrooms. The existing residence on the subject lands is served with a separate septic system. The proposed agricultural

building and greenhouse additions meet the setback requirements for the septic system and there is sufficient land available for future upgrades, as needed.

Planning staff note that the proposed development complies with the Zoning By-law regulations and are of the opinion that no adverse impacts regarding land use compatibility, agricultural viability and drainage issues among other things will arise as a result of this proposal.

Regarding the high archaeological potential in the area, Regional and Town staff were satisfied with the waiving of a standard archaeological assessment in lieu of a warning clause inclusion in the Site Plan Agreement stipulating the need for slab-on-grade style foundation construction.

Planning staff are of the opinion that the executed site plan agreement will result in the continued support of the large-scale agricultural operation known as Greenfield Gardens Inc. The applicant has addressed Town comments and has satisfied Regional staff regarding septic system approvals.

Planning staff recommend that Council approve the By-law and enter into a Site Plan Agreement with the land owner as the application is consistent with Provincial, Regional and Town policies, and represents good land use planning.

Other Pertinent Reports/Attachments:

Site Plan, Elevation Plans and consolidated comments.

Prepared and Recommended by:

Curtis Thompson, B.URPI
Planner

Barbara Wiens, MCIP, RPP
Director of Community Planning & Development

Prepared and Submitted by:

David Cribbs, BA, MA, JD, MPA
Chief Administrative Officer

ISSUED FOR PERMITS ONLY



EXISTING BUILDINGS:
BUILDING 'A' = 100' X 225'
BUILDING 'B' = 50' X 50'
BUILDING 'C' = +/-1,700 SQ FT
BUILDING 'D' = 252' X 552'

NEW CONSTRUCTION:
PHASE #1-4 = 126' X 552' EACH
PHASE #5 = 84' X 552'
PHASE #6 = 100' X 140'

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PROJECT:
Greenfield Gardens
700 Tice Rd, R.R.#4, Fenwick, ON, L0S 1C0

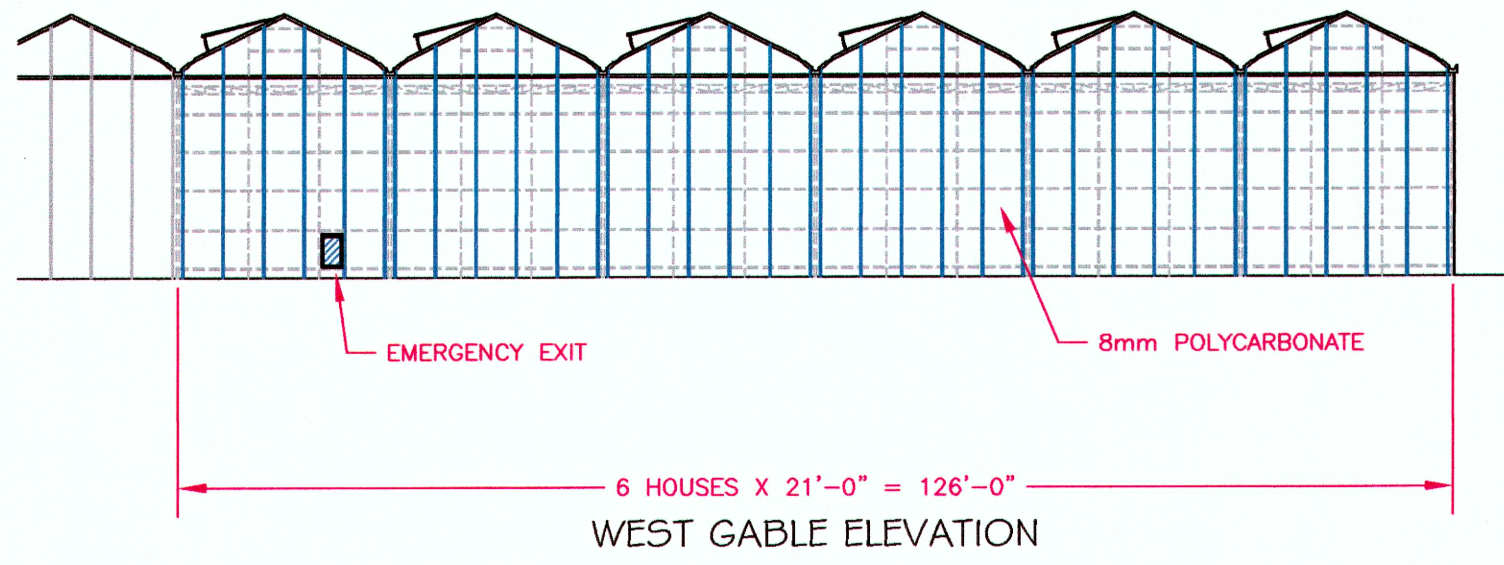
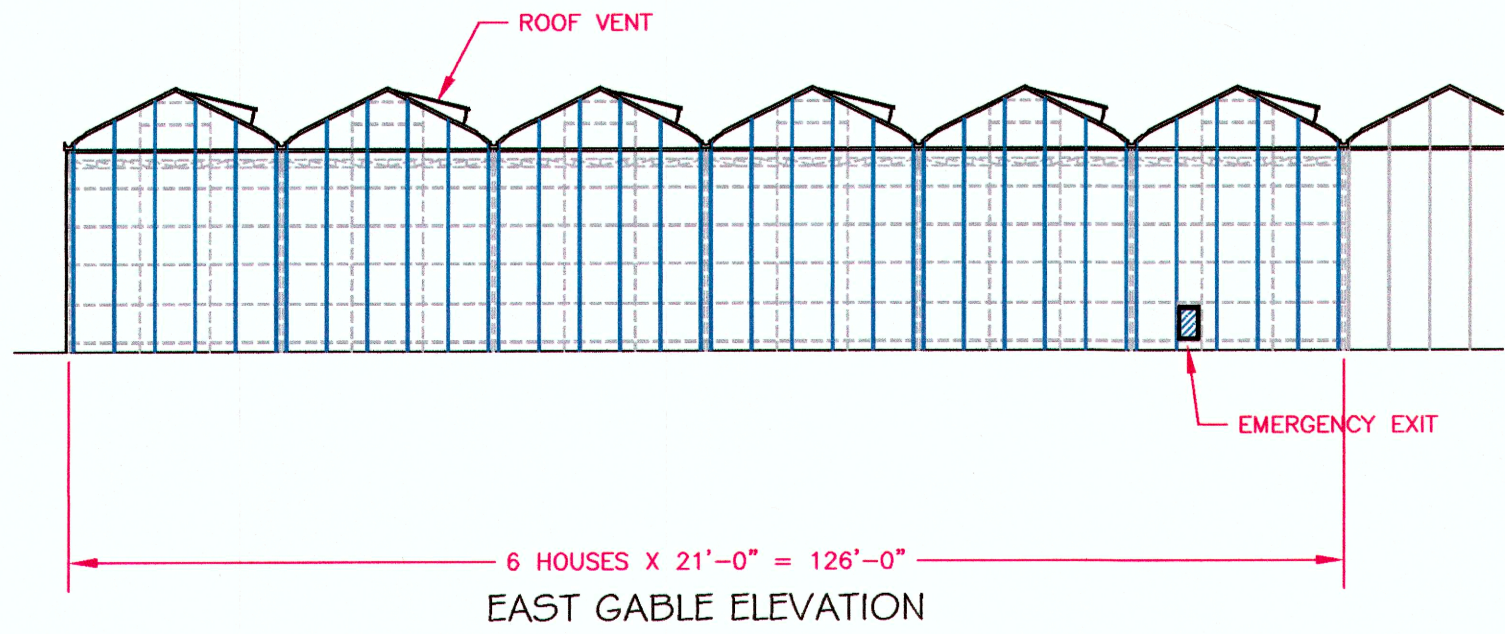
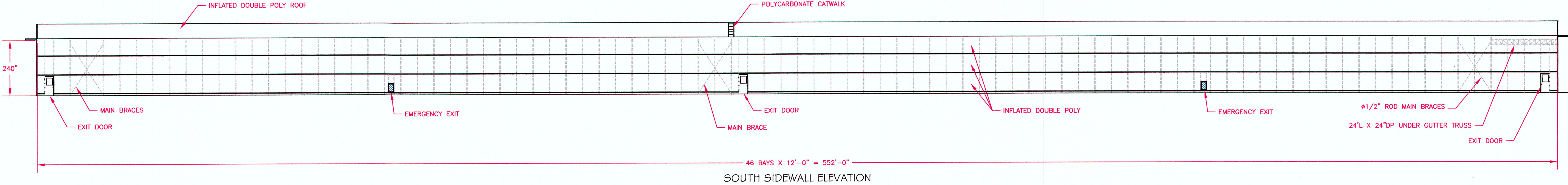
SITE
LAYOUT

FILE: GFG_2019_S1_REV	REV#1	REV#2
SCALE: 1:1000	DRAWN BY: Randy	DATE: 12/6/19

S1

###

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PROJECT:
Greenfield Gardens
700 TICE RD, FENWICK, ON, L0S 1C0

Elevations

FILE C048322-04A-ST	REV#1	REV#2
SCALE NTS	DRAWN BY: Len	DATE: 11/6/19

4C

quote: 24855

Curtis Thompson

From: Neil Stoop <nstoop@npca.ca>
Sent: December 11, 2019 10:53 AM
To: Curtis Thompson
Subject: RE: FW: Pre-Consult re: 730 Tice Rd

Hi Curtis,

The proposed development is not encroaching on the NPCA regulated features and the NPCA will not have any objections as proposed.

Thank-you for keeping us involved.

**Neil Stoop, MSc.
Watershed Planner**

Niagara Peninsula Conservation Authority (NPCA)
250 Thorold Road West, 3rd Floor | Welland, ON L3C 3W2
Tel: 905-788-3135 | ext. 248
nstoop@npca.ca
www.npca.ca

[NPCA Watershed Explorer](#)

From: Curtis Thompson <CThompson@pelham.ca>
Sent: December 10, 2019 10:20 AM
To: Neil Stoop <nstoop@npca.ca>
Subject: RE: FW: Pre-Consult re: 730 Tice Rd

Hi Neil,

Please see the amended Site Plan by the owner of 730 Tice Road. Based on this submission, we'd like to bring the Recommendation Report to Council for January. I'll send over the draft Site Plan Agreement when it's available for your review.

Best,



Curtis Thompson, B.UrP
Planner
Community Planning &
Development

e: cthompson@pelham.ca
p: 905.892.2607 x324
pelham.ca

20 Pelham Town Square
P.O. Box 400
Fonthill, ON L0S 1E0

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From: Neil Stoop [<mailto:nstoop@npca.ca>]
Sent: December 3, 2019 11:36 AM

VIA E-MAIL ONLY

December 10, 2019

Curtis Thompson
Planner
Community Planning and Development
Town of Pelham
20 Pelham Town Square, P.O. Box 400
Fonthill, ON, L0S1E0

Submission for Site Plan Application - 2nd Submission

Applicant: Town of Pelham

Proposal: Conversion of a Greenhouse expansion on phases 1-5 while phases 6-7 are agricultural buildings.

Location: 730 Tice Road
In the Town of Pelham

Our File: SP-19-0098

Regional Planning and Development Services staff have completed a review of the following materials which were provided as part of an application for a development at 730 Tice Road in Town of Pelham:

- Site Plan (S1), prepared by Westbrook Greenhouse Systems LTD., dated November 11, 2019;
- Elevation Plans (4C), Prepared by Westbrook Greenhouse Systems LTD., dated November 06, 2019

The above-noted documents were received by Regional staff on November 13, 2019. The submitted Site Plan application is proposing to create an expansion of a greenhouse through phases 1-5 and phases 6-7 are for agricultural buildings. This proposed development was the subject of a pre-consultation meeting attended by the applicant, City and Regional Staff on October 17, 2018. Regional comments for this development were provided to City staff on November 28, 2019. The following comments are provided from a Regional and Provincial perspective based on the information submitted in order to assist the Town in reviewing the application.

Waste Collection

Please see previous comments (dated November 28, 2019).

Environmental Planning

Please see previous comments (dated November 28, 2019).

Private Sewage System

Private Sewage System staff have reviewed the site plan application to construct additional greenhouses onto the site in various phases. A septic permit was issued by our Department in 2017 for a new system to service the greenhouse with 2 washrooms and 4 loading bays. The site also supports a dwelling, which is serviced with a separate septic system. The location of the proposed greenhouse additions meets with the minimum setback requirements to the existing sewage systems and there is sufficient land available on the lot for any future upgrades as needed. Please note that the existing septic system will need to be changed to accommodate any increase in sewage flows generated by the additional greenhouses. If calculated sewage flows for the site exceed 10,000 L/day, then approvals will need to be obtained through the Ministry of Environment.

Therefore, we have no objections to the site plan as submitted for the additional greenhouses, provided that permits are applied for to upgrade the septic system prior to any building permits being issued

Conclusion

Based on the analysis and comments above, Regional staff offers no objection to the Site Plan Application, please forward a copy of the final approved Site Plan and executed Site Plan Agreement for our files.

If you have any questions or wish to discuss these comments please contact the undersigned at extension 3426, or Susan Dunsmore, Manager Development Engineering, at extension 3661.

Best Regards,



Matteo Ramundo
Development Approvals Intern
Niagara Region

Attention: Appendix- Regional Conditions for Site Plan Approval

cc. Susan Dunsmore, Manager, Development Engineering, Niagara Region
Justin Noort, Private Sewage System Inspector, Niagara Region
Jennifer Whittard, Manager, Environmental Planning, Niagara Region
Britney Fricke, Development Planner, Niagara Region

Appendix I
Regional Conditions of Site Plan Approval
730 Tice Road, City of Thorold

1. That the following clauses be included in the Site Plan Agreement:

- “The Owner is advised that if the waste collection limit cannot be met or if curbside collection is not desirable, waste collection will be the responsibility of the owner through a private contractor and not Niagara Region. However, the site remains eligible for Regional recycling and organics collection subject to compliance with the current Regional Waste Collection Policy.”

Curtis Thompson

From: Curtis Thompson
Sent: December 6, 2019 12:36 PM
To: 'Elbert Groeneveld'
Cc: Barbara Wiens; 'Neil Stoop'; 'Fricke, Britney'
Subject: 730 Tice Rd (SP-07-19) Submission #1 Comments
Attachments: SP-07-19 730 Tice - Review Comments (Dec.6.2019).pdf; SP-07-19 - NPCA Comments.pdf; SP-07-19 - Region Comments.pdf; SP-07-19 - Enbridge Comments.pdf; SP-07-19 - Hydro One Comments.pdf; SP-07-19 - Bell Comments.pdf; SP-07-19 - Public Works Comments.pdf

Hi Elbert,

Attached, you'll find the consolidated comments from the Town and circulated agencies. Please advise how you wish to proceed.

Thanks,



Curtis Thompson, BURN
Planner
Community Planning &
Development

e: cthompson@pelham.ca
p: 905.892.2607 x324
pelham.ca

20 Pelham Town Square
P.O. Box 400
Fonthill, ON L0S 1E0

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December 6, 2019

File No. SP-07-19

EMAIL ONLY (elbert@greenfieldgardens.ca)

1825115 Ontario Inc. (Greenfield Gardens Inc.)
700 Tice Road
Fenwick, ON L0S 1C0

RE: Site Plan Application – 1st Submission
730 Tice Road
Concession 7, Part of Lot 14
Roll No. 2732 010 016 00400

Below are the consolidated comments provided regarding your Site Plan application.

- As per the comments received from the NPCA, there is an issue with the proximity of Phase 7 from the regulated water course to the north. Town staff note two available options at your discretion:
 - 1) Delete Phase 7 from your current Site Plan and proceed with approvals of everything else proposed on the lands. Under this scenario, when you choose to move forward with Phase 7 in the future, alterations / construction mitigation measures may be required at that time to resolve NPCA concerns prior to obtaining a building permit.
 - 2) Amend your Site Plan to illustrate the nearest setback of Phase 7 to the NPCA regulated water course to the north. This will mean another round of circulation for comments which will solely be for the NPCA. (Please contact NPCA directly, and prior to resubmitting should you choose this option.)

Niagara Peninsula Conservation Authority (NPCA)

- Cannot approve of the Site Plan because Phase 7 is located too close to the regulated water course at the north.
- No issues with the other phases.

Regional Municipality of Niagara

(See attached for detailed comments)

- The southernmost greenhouse (Phase 5) is located ± 137 m from the *Provincially Significant Wetland*, therefore staff do not require an Environmental Impact Statement for review.
 - Rather, staff recommend that site alteration for construction purposes be limited as close as possible to the Phase 5 building footprint. Silt fencing should be installed and maintained at the limit of site disturbance for the duration of construction to prevent sediment / materials from encroaching towards the *Key Natural Heritage Features*.
 - Private Sewage System staff have not completed a review for this Site Plan application as the associated (\$400) review fee has not been provided. Please provide this fee in order to have this review completed.
- No objection, subject to the applicant receiving private sewage system approval.

Department of Fire & By-law Services

- No issues as long as no highly combustible material within greenhouse.

Department of Public Works & Utilities

- No comments.

Bell Canada

- No objections.
- See attached for detailed comments.

Enbridge Gas Distribution

- No objections. Standard SPA clauses.
- See attached for detailed comments.

Please advise us in writing how you wish to move forward.

If you have any questions or concerns, please contact me.

Sincerely,



Curtis Thompson,
Planner, B.URPI

C: Barb Wiens – (Town) Director of Community Planning & Development
Tolga Aydin – (Town) Engineering Technologist
Neil Stoop – (NPCA) Watershed Planner
Britney Fricke – (Niagara Region) Development Planner

Curtis Thompson

From: Neil Stoop <nstoop@npca.ca>
Sent: December 2, 2019 4:21 PM
To: Curtis Thompson
Subject: RE: FW: Pre-Consult re: 730 Tice Rd

If there is going to be a round two of circulation we can certainly jump in then.

We will require that the 15m buffer be marked for the entire extent of the water course, and the setback from the structures to the watercourse be marked. We will certainly have further comments when we know the separation distance and can do a proper review, if they keep phase 7.

Thanks,

Neil Stoop, MSc.

Watershed Planner

Niagara Peninsula Conservation Authority (NPCA)
250 Thorold Road West, 3rd Floor | Welland, ON L3C 3W2
Tel: 905-788-3135 | ext. 248
nstoop@npca.ca
www.npca.ca

[NPCA Watershed Explorer](#)

From: Curtis Thompson <CThompson@pelham.ca>
Sent: December 2, 2019 4:19 PM
To: Neil Stoop <nstoop@npca.ca>
Cc: Barbara Wiens <BWiens@pelham.ca>
Subject: RE: FW: Pre-Consult re: 730 Tice Rd

Hi Neil,

Comments would have been due today, if you were circulated.

Understood, let me talk to the applicant first. The owner may wish to delete Phase 7 from the Site Plan in the interest of moving ahead with the balance of the buildings.

I'll keep you posted,



Curtis Thompson, BURN
Planner
Community Planning &
Development

e: cthompson@pelham.ca
p: 905.892.2607 x324
pelham.ca

20 Pelham Town Square
P.O. Box 400
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From: Neil Stoop [<mailto:nstoop@npca.ca>]
Sent: December 2, 2019 4:01 PM
To: Curtis Thompson <CThompson@pelham.ca>
Subject: RE: FW: Pre-Consult re: 730 Tice Rd

Hi Curtis,

Could you please circulate us, it appears that phase 7 is going to fall within the 15 m buffer.

How soon are looking to have comments?

We will need to collect the site plan fee (\$800).

Thanks,

Neil Stoop, MSc.
Watershed Planner
Niagara Peninsula Conservation Authority (NPCA)
250 Thorold Road West, 3rd Floor | Welland, ON L3C 3W2
Tel: 905-788-3135 | ext. 248
nstoop@npca.ca
www.npca.ca

[NPCA Watershed Explorer](#)

From: Curtis Thompson <CThompson@pelham.ca>
Sent: December 2, 2019 2:49 PM
To: Neil Stoop <nstoop@npca.ca>
Subject: RE: FW: Pre-Consult re: 730 Tice Rd
Importance: High

Hi Neil,

I am working on the SPA application (SP-07-19) we've received for [730 Tice Rd](#). I was reviewing the comments in detail and was going to reference the NPCA comments originally submitted for the Pre-Consult (below) in the Recommendation Report. However, it just dawned on me that the submitted Site Plan encroaches further north towards the feature that the NPCA regulates. Phase 7 is the addition in question.

Please advise,



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-----Original Appointment-----

From: Neil Stoop [<mailto:nstoop@npca.ca>]

Sent: October 16, 2019 11:19 AM

To: Curtis Thompson

Subject: Declined: FW: Pre-Consult re: 730 Tice Rd

When: October 17, 2019 9:00 AM-9:45 AM (UTC-05:00) Eastern Time (US & Canada).

Where: MeetingRoom UpstairsVault

Hi Curtis,

The NPCA will not be attending the pre-con for Tice Rd.

The expansion of the facility is separated from the NPCA regulated features by the existing greenhouse. The NPCA has no objection to the proposed development.

If you have any further questions, please do not hesitate to contact me.

Thank-you,

Neil Stoop, MSc.

Watershed Planner

Niagara Peninsula Conservation Authority (NPCA)

250 Thorold Road West, 3rd Floor | Welland, ON L3C 3W2

Tel: 905-788-3135 | ext. 248

nstoop@npca.ca

www.npca.ca

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VIA E-MAIL ONLY

November 28, 2019

Curtis Thompson
Planner
Community Planning and Development
Town of Pelham
20 Pelham Town Square, P.O. Box 400
Fonthill, ON, L0S1E0

Submission for Site Plan Application

Applicant: Town of Pelham

Proposal: Conversion of a Greenhouse expansion on phases 1-5 while phases 6-7 are agricultural buildings.

Location: 730 Tice Road
In the Town of Pelham

Our File: SP-19-0098

Regional Planning and Development Services staff have completed a review of the following materials which were provided as part of an application for a development at 730 Tice Road in Town of Pelham:

- Site Plan (S1), prepared by Westbrook Greenhouse Systems LTD., dated November 11, 2019;
- Elevation Plans (4C), Prepared by Westbrook Greenhouse Systems LTD., dated November 06, 2019

The above-noted documents were received by Regional staff on November 13, 2019. The submitted Site Plan application is proposing to create an expansion of a greenhouse through phases 1-5 and phases 6-7 are for agricultural buildings. This proposed development was the subject of a pre-consultation meeting attended by the applicant, City and Regional Staff on October 17, 2018. The following comments are provided from a Regional and Provincial perspective based on the information submitted in order to assist the Town in reviewing the application.

Waste Collection

Niagara Region provides curbside waste and recycling collection for developments that meet the requirements of Niagara Region's Waste Collection Policy. The subject property is eligible to receive Regional curbside waste and recycling collection provided that the owner bring the waste and recycling to the curbside on the designated pick up day, and that the following limits are met:

- No limit blue/grey containers;
- No limit green containers; and,
- Container per Unite with a max of 4 containers.

The Owner should be advised that if Regional waste collection limits cannot be met or if curbside collection is not desirable, garbage collection for the development will be provided through a private contractor and not the Niagara Region. Notwithstanding the above comments, the site would remain eligible for Regional recycling and organics collection subject to the above conditions. A clause has been included in the Appendix for waste collection.

Environmental Planning

The property is located immediately north of portions of the Region's Core Natural Heritage System (NHS), including the Fifteen Mile Creek Provincially Significant Wetland (PSW) Complex and Critical (Type 1) Fish Habitat. The property is also located within the Greenbelt Protected Countryside and the adjacent Core NHS features are mapped as part of the Provincial NHS. The Greenbelt Plan (2017) identifies wetlands and fish habitat as Key Natural Heritage Features (KNHFs) and the Greenbelt Plan natural heritage system policies apply.

Greenbelt Plan policies typically require the completion of a Natural Heritage Evaluation (NHE) when development and/or site alteration is proposed within 120 metres (m) of a KNHF. Regional policies similarly require the completion of an Environmental Impact Study (EIS) when development and/or site alteration is proposed within 120 m of a PSW and/or 30 m of Critical Fish Habitat. However, Greenbelt Plan policies do not require that an EIS/NHE be undertaken for proposed structures for agricultural or agriculture-related uses if a minimum 30 m vegetation protection zone is provided from the outside boundary of the KNHFs. In addition, these uses are exempt from the requirement of establishing a condition of natural self-sustaining vegetation if the land is and will continue to be used for agricultural purposes. Regional policies permit similar exemptions.

The Site Plan submitted with the application, dated November 11, 2019, shows that the limit of the proposed greenhouse expansion (Phase 5) is located 102.65 m from the south property line. Staff note that the northern limit of the PSW is located approximately 35 m further south (at its closest point) from this property line. Therefore, the proposed development is setback at least 137 m from the PSW and the fish habitat contained within it. As such, staff do not require the completion of an EIS/NHE. Rather, staff recommend that site alteration for construction purposes be limited as close as possible to the proposed Phase 5 building. Staff further recommend that silt fencing be installed and maintained at the limit of site alteration for the duration of construction to prevent sediment/materials from further encroaching towards the KNHFs offsite.

Please note the Niagara Peninsula Conservation Authority (NPCA) continues to be responsible for the review and comment on planning applications related to their regulated features, including the existing ditch located at the north end of the property. As such, NPCA should continue to be consulted with respect to their comments and/or requirements pursuant to Ontario Regulation 155/06.

Private Sewage System

Regional Private Sewage System staff have not completed a review for this site plan application as the associated fee has not been received. Without this review, this application cannot be approved. The septic review fee required for this application is \$400.00.

Kindly arrange to have this fee made payable to the Regional Municipality of Niagara, submitted to the Development Services Division of the Planning and Development Department at 1815 Sir Isaac Brock Way, P.O. Box 1042, Thorold, ON, L2V 4T7, so that staff may finalize review of this application. Payments can alternatively be made by credit card by calling (905)-980-6000 ext. 3313.

Conclusion

Based on the analysis and comments above, Regional staff offers no objection to the application, subject to the Conditions outlined in the Appendix. Please forward a copy of the final Site Plan and Site Plan Agreement to the Region for our files.

- That the applicant submit the required payment addressing the Private Sewage System comments above for review and approval.

If you have any questions or wish to discuss these comments please contact the undersigned at extension 3426, or Susan Dunsmore, Manager Development Engineering, at extension 3661.

Best Regards,



Matteo Ramundo
Development Approvals Intern
Niagara Region

Attention: Appendix- Regional Conditions for Site Plan Approval
cc. Susan Dunsmore, Manager, Development Engineering, Niagara Region
Justin Noort, Private Sewage System Inspector, Niagara Region
Jennifer Whittard, Manager, Environmental Planning, Niagara Region
Britney Fricke, Development Planner, Niagara Region

Appendix I
Regional Conditions of Site Plan Approval
730 Tice Road, City of Thorold

1. That the following clauses be included in the Site Plan Agreement:

- “The Owner is advised that if the waste collection limit cannot be met or if curbside collection is not desirable, waste collection will be the responsibility of the owner through a private contractor and not Niagara Region. However, the site remains eligible for Regional recycling and organics collection subject to compliance with the current Regional Waste Collection Policy.”

Memorandum

Public Works Department - Engineering

To: Curtis Thompson, Planner

CC: Jason Marr, Director of Public Works; Barb Wiens, Director of Planning and Development

From: Tolga Aydin, Engineering Technologist

Date: November 18, 2019

File #: SP-07-19

Subject: 730 Tice Road – **First Submission**

The Public Works Department has reviewed the submitted documentation regarding the proposed development located at 730 Tice Road. Please note the following notes and conditions provided.

The following submitted drawings have been considered for the purpose of this application:

- S1 – Site Layout, prepared by Westbrook Greenhouse Systems Ltd, dated November 11, 2019

Public Works has no comments or concerns.

November 27, 2019

Curtis Thompson, B.URPI
Planner
Town of Pelham
20 Pelham Town Square
PO Box 400
Fonthill, ON L0S 1E0

Dear Curtis,

Re: Site Plan Control Application
Greenfield Gardens Inc. c/o Elbert Groeneveld
730 Tice Road
Town of Pelham
File No.: SP-07-19

Enbridge Gas Inc. does not object to the proposed application(s).

This response does not constitute a pipe locate or clearance for construction.

The applicant shall contact Enbridge Gas Inc.'s Customer Connections department by emailing CustomerConnectionsContactCentre@Enbridge.com for service and meter installation details and to ensure all gas piping is installed prior to the commencement of site landscaping (including, but not limited to: tree planting, silva cells, and/or soil trenches) and/or asphalt paving.

If the gas main needs to be relocated as a result of changes in the alignment or grade of the future road allowances or for temporary gas pipe installations pertaining to phase construction, all costs are the responsibility of the applicant.

In the event that easement(s) are required to service this development, the applicant will provide the easement(s) to Enbridge Gas Inc. at no cost.

Enbridge Gas Inc. reserves the right to amend or remove development conditions.

Sincerely,



Alice Coleman
Municipal Planning Coordinator
Long Range Distribution Planning

ENBRIDGE GAS INC.
TEL: 416-495-5386
MunicipalPlanning@enbridge.com
500 Consumers Rd, North York, ON, M2J 1P8

enbridgegas.com
Safety. Integrity. Respect.

Curtis Thompson

From: LandUsePlanning@HydroOne.com
Sent: November 15, 2019 9:11 AM
To: Curtis Thompson
Subject: Pelham - 730 Tice Rd - SP-07-19

Hello,

We are in receipt of your Site Plan Application, SP-07-19 dated November 13, 2019. We have reviewed the documents concerning the noted Plan and have no comments or concerns at this time. **Our preliminary review considers issues affecting Hydro One's 'High Voltage Facilities and Corridor Lands' only.**

For proposals affecting 'Low Voltage Distribution Facilities' please consult your local area Distribution Supplier.

To confirm if Hydro One is your local distributor please follow the following link:

<http://www.hydroone.com/StormCenter3/>

Please select " Search" and locate address in question by entering the address or by zooming in and out of the map

Curtis Thompson

From: circulations@wsp.com
Sent: November 20, 2019 9:10 AM
To: Curtis Thompson
Subject: Site Plan application (SP-07-19) - 730 Tice Rd.

2019-11-20

Curtis Thompson

Pelham

, ,

Attention: Curtis Thompson

Re: Site Plan application (SP-07-19) - 730 Tice Rd.; Your File No. SP-07-19

Our File No. 85889

Dear Sir/Madam,

We have reviewed the circulation regarding the above noted application. We have no conditions and/or objections to the application at this time. We hereby advise the Developer, however, to contact Bell Canada during detailed design to confirm the provision of communication/telecommunication infrastructure needed to service the development.

As you may be aware, Bell Canada is Ontario's principal telecommunications infrastructure provider, developing and maintaining an essential public service. It is incumbent upon the Municipality and the Developer to ensure that the development is serviced with communication/telecommunication infrastructure. In fact, the 2014 Provincial Policy Statement (PPS) requires the development of coordinated, efficient and cost-effective infrastructure, including telecommunications systems (Section 1.6.1).

The Developer is hereby advised that prior to commencing any work, the Developer must confirm that sufficient wire-line communication/telecommunication infrastructure is available. In the event that such infrastructure is unavailable, the Developer shall be required to pay for the connection to and/or extension of the existing communication/telecommunication infrastructure.

If the Developer elects not to pay for the above noted connection, then the Developer will be required to demonstrate to the satisfaction of the Municipality that sufficient alternative communication/telecommunication will be provided to enable, at a minimum, the effective delivery of communication/telecommunication services for emergency management services (i.e., 911 Emergency Services).

WSP operates Bell Canada's development tracking system, which includes the intake and processing of municipal circulations. Please note, however, that **all responses to circulations and other requests, such as requests for clearance, come directly from Bell Canada, and not from WSP.** WSP is not responsible for the provision of comments or other responses.

As of June 1, 2019, Meaghan Palynchuk will be taking maternity leave and returning in the first quarter of 2020. In her absence please contact Ryan Courville for any matters concerning this file.

Yours truly,

Ryan Courville
Access Network Provisioning Manager
Municipal Relations
Phone: 416-570-6726
Email: planninganddevelopment@bell.ca

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-LAEmHhHzdJzBITWfa4Hgs7pbKI

Curtis Thompson

From: Curtis Thompson
Sent: November 13, 2019 10:58 AM
To: Enbridge- Municipal Planning (MunicipalPlanning@enbridge.com); Bell Canada; Niagara Peninsula Energy (info@npei.ca); Hydro One- Land Use Planning (landuseplanning@hydroone.com)
Subject: Request for Comments - Site Plan Control (SP-07-19)
Attachments: SP-07-19 730 Tice - Application.pdf; SP-07-19 730 Tice - Site Plan.pdf; SP-07-19 730 Tice - Elevation Plans.pdf

Hello,

We are in receipt of an Site Plan Control application for the lands at **730 Tice Road** (Greenfield Gardens Inc.). The proposal includes greenhouse expansions on Phases 1-5, while Phases 6-7 are agricultural buildings.

Attached you'll find:

- Site Plan
- Elevation Plans
- SPA Application

Hardcopies will also be provided, as well as the required payment (Region).

Comments would be appreciated by, **Wednesday, December 4th 2019.**

Thank you,



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Curtis Thompson

From: Curtis Thompson
Sent: November 13, 2019 10:48 AM
To: Dev Planning Applications - Region (devtplanningapplications@niagararegion.ca); 'Fricke, Britney'; Derek Young; Bob Lymburner; Belinda Menard; Mike Zimmer
Cc: Barbara Wiens; Shannon Larocque
Subject: Request for Comments - Site Plan Control
Attachments: SP-07-19 730 Tice - Application.pdf; SP-07-19 730 Tice - Site Plan.pdf; SP-07-19 730 Tice - Elevation Plans.pdf; SP-07-19 Email re_Deem Complete Application.pdf

Hello,

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Attached you'll find:

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Subject: Town of Pelham sign bylaw 2020

Recommendation:

THAT Committee receive Report #2020-00007 and recommend to Council:

THAT Council approve the Sign Bylaw 2020 at the next regular meeting of Council scheduled for February 3, 2020.

Background:

The current Town of Pelham sign bylaw (3310) 2012 has been in effect for the past 7 years. New development within the town and changing technology has made the current bylaw obsolete, creating difficulties relating to consistency with permission and enforcement requirements.

Analysis:

The current sign bylaw was reviewed by the Director of Fire and Bylaw, Bylaw Officers, Director of Planning and the Chief Administrative Officer, resulting in a number of updates to various sections of the Bylaw to ensure it remains current and addresses the needs of staff and outside stakeholders while supporting the permission and enforcement components as required by the Town.

Financial Considerations:

There are no direct costs associated with this report.

Alternatives Reviewed:

The updates to the Sign Bylaw are recommended, with no alternatives suggested.

Strategic Plan Relationship: Strong Organization

Excellent customer service is provided through the adoption of a current sign bylaw that ensures consistency throughout the municipality as it pertains to allowing sign permissions as well as enforcement.

Consultation:

Bylaw Officers, Director of Planning, Chief Administrative Officer, and external stake holders.

Other Pertinent Reports/Attachments:

None

Prepared and Recommended by:

Bob Lymburner, Fire Chief

Prepared and Submitted by:

David Cribbs, BA, MA, JD, MPA
Chief Administrative Officer

SIGN By-law ##### (2020)

In Force and Effect << date >>

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For by-law related Complaints please contact Municipal Law Enforcement Officers at 905-892-2607 x201



THE CORPORATION OF THE
TOWN OF PELHAM
BY-LAW NO. ####(2020)

A By-law prohibiting and regulating Signs, and regulating the placing of Signs upon highways and Buildings, and to Repeal and Replace By-law 3310(2012) as amended by 3548(2014) and 3884(2017).

WHEREAS section 5(3) of the *Municipal Act, 2001* S.O. 2001, c.25 as amended, provides that a municipal power shall be exercised by by-law;

AND WHEREAS section 8(1) of the *Municipal Act, 2001* provides that the powers of a municipality under this Act shall be interpreted broadly so as to confer broad authority on the municipality to enable the municipality to govern its affairs as it considers appropriate and to enhance the municipality's ability to respond to municipal issues;

AND WHEREAS section 8(3) of the *Municipal Act, 2001* provides that a by-law may regulate or prohibit respecting the matter, require Persons to do things respecting the matter, and provide for a system of licenses respecting the matter;

AND WHEREAS section 10(1) of the *Municipal Act, 2001* provides that a municipality may provide any service or thing that the municipality considers necessary or desirable for the public;

AND WHEREAS section 10(2) of the *Municipal Act, 2001* provides that a municipality may pass by-laws respecting: Economic, social and environmental well-being of the municipality; Health, safety and well-being of Persons; Services and things that the municipality is authorized to provide under section (101 of the Act); Protection of Persons and Property, including consumer protection; Structures, including fences and Signs;

AND WHEREAS sections 98, 99 and 99.1 refer to specific municipal powers under Part III of the *Municipal Act, 2001* for Structures, including fences and Signs;

AND WHEREAS sections 9, 10 and 23.1 through 23.5 of the *Municipal Act, 2001* authorize a municipal COUNCIL to delegate powers and duties subject to restrictions;

AND WHEREAS section 63 of the *Municipal Act, 2001* provides that a by-law may prohibit or regulate the placing or standing of an object on or near a highway, and may provide for the removal and impounding or restraining and immobilizing of any object placed or standing on or near a highway;

AND WHEREAS section 445 of the *Municipal Act, 2001* provides that a municipality may make an order requiring a Person who has contravened a by-law or who caused or permitted the contravention, or the Owner or occupier of land on which the contravention occurred to do work to correct the contravention;

AND WHEREAS section 446 of the *Municipal Act, 2001* provides that where a municipality has the authority to direct or require a Person to do a matter or thing, the municipality may also provide that, in default of it being done by the Person directed or required to do it, the matter or thing shall be done at the Person's expense, and that the municipality may recover the costs of doing a matter or thing by action or by adding the costs to the tax roll and collecting them in the same manner as Property taxes;

AND WHEREAS sections 9, 10, 23.1 to 23.5 and 284.1 authorize a municipality to delegate its powers and duties, subject to certain restrictions, and authorize a municipality to provide for a review or appeal of a decision made by a Person or body in the exercise of a power or duty delegated to him, her or it;

AND WHEREAS in the opinion of Council, the power being delegated to authorize minor variances is of a minor nature, having regard to the number of people, the size of the geographic area and the time period affected by an exercise of the power;

NOW THEREFORE the Municipal Council of The Corporation of the Town of Pelham enacts as follows:

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(to be revised)

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SECTION 1 - SCOPE AND INTENT

1.1 Short Title

This By-law may also be cited as the “Sign By-law 2020”.

1.2 Scope

1.2.1 This By-law regulates the location, size, number, construction, ALTERATION, REPAIR, and MAINTENANCE of all outdoor SIGNS and SIGNS visible from the exterior of PREMISES, including SIGNS located in windows.

1.2.2 All SIGNS as described in 1.2.1, located on public and PRIVATE PROPERTY, are subject to the provisions of this By-law.

1.2.3 SIGNS may be subject to the provisions of other By-laws in addition to this By-Law and to provincial, regional or federal statutes or regulations, including, but not limited to: the relevant provisions of the *Ontario BUILDING Code*, or provisions of the TOWN's ZONING BY-LAW.

1.3 Intent

The purpose of this By-law is to regulate all SIGNS in the TOWN of Pelham with the intent of authorizing SIGNS that:

- a) are proportionate to the PROPERTY they identify and advertise and as such should be appropriate in size, number, and location to the type of activity or USE to which they pertain;
- b) provide reasonable and appropriate means for the public to locate and identify facilities, businesses, and services without difficulty or confusion;
- c) are compatible with their surroundings, supplement the land USE and do not dominate the landscape;
- d) protect and enhance the aesthetic qualities and visual character of the PROPERTY and promote the statement that “*the visual quality of a SIGN matters to the overall community image*”;
- e) are consistent with the TOWN of Pelham’s planning, urban design, and heritage objectives. One size does not fit all – some parts of the TOWN have characteristics that warrant exemptions, limitations, experimentation, etc.;
- f) do not create a distraction or safety hazard for pedestrians or motorists. The cumulative effects of signage matter – SIGN clutter is a civic liability;
- g) minimize adverse impacts on nearby public and PRIVATE PROPERTY.

SECTION 2 - DEFINITIONS

In this By-law:

“**A-FRAME SIGN**” means a TEMPORARY SIGN not anchored to the ground with no more than two faces, each joined at their top along the straight line edge and constructed in a manner, and of such materials, which permit it to be repositioned by an individual without mechanical aid. This definition shall include SIGNS commonly referred to as sandwich board SIGNS and A-board SIGNS;

“**ACCESSORY STRUCTURE**” means a BUILDING or STRUCTURE which is customarily incidental and subordinate to the main USE of the LOT. An ACCESSORY STRUCTURE must be separate (detached) from the main BUILDING;

“**ADVERTISING DEVICE**” means any device or object, including a SIGN and SIGN STRUCTURE, ERECTED or displayed so as to attract public attention to any PREMISES, business, enterprise, good, service, facility or event;

“**ADVERTISING SIGN**” in reference to SIGN classification advertises a business enterprise or the marketing or promotion of an activity, goods or services;

“ALTER” (including **“ALTERED”**, and **“ALTERATION”**) means any change to a SIGN or SIGN FACE, including the addition, deletion or re-arrangement of parts, but does not include;

(a) the re-arrangement of numerals, letters or COPY applied directly to a SIGN FACE that is specifically designed and intended to be periodically re-arranged, or;

(b) MAINTENANCE;

“APPROVED” means APPROVED by the CHIEF BUILDING OFFICIAL or DIRECTOR OF FIRE & BY-LAW;

“AWNING” means a space-frame system covered with non-rigid materials designed in a moveable, retractable or fixed position, which is attached to, and projecting from a BUILDING or STRUCTURE, but not forming an integral part thereof. This definition does not include a CANOPY;

“AWNING SIGN” means a SIGN painted on, or otherwise affixed to, the surface of an AWNING and such SIGN does not project out from the AWNING in any direction;

“BANNER SIGN” means a TEMPORARY SIGN that is made from cloth or a similar lightweight non-rigid material which is secured or mounted to a BUILDING or PERMANENT GROUND SIGN. This definition does not include a flag, AWNING SIGN, CANOPY SIGN, WINDOW SIGN or INFLATABLE SIGN;

“BILLBOARD SIGN” means a THIRD PARTY GROUND SIGN or THIRD PARTY FACIAL SIGN, which has CHANGING COPY and which is owned and maintained by a PERSON engaged in the rental or leasing of the SIGN FACE AREA for advertising goods, products, services or facilities that are not present or sold on the PROPERTY on which the SIGN is located;

“BUILDING” defined by the BUILDING Code

“BUILDING FRONTAGE” means the horizontal distance, measured at GRADE, along a BUILDING WALL that faces a street and includes the BUILDING WALL which incorporates the main entrance(s) facing a parking area on the same PREMISES. The main entrance to the BUILDING may include entrances to individual USEs.

“BUILDING WALL” means an exterior wall of a BUILDING that encloses the STRUCTURE;

“CANOPY” means a roof-like STRUCTURE, un-enclosed by BUILDING WALLS and designed to provide shelter for goods, materials, equipment, people or vehicles. It may either project outward from a BUILDING WALL or be freestanding;

“CANOPY SIGN” means a WALL SIGN with COPY affixed flat on the surface of a CANOPY or hanging from the underside of a CANOPY;

“CHANGING COPY” means COPY on a SIGN that can be periodically changed or rearranged;

“CHANGING COPY AREA” means the COPY AREA on a SIGN FACE permitted for ELECTRONIC, MANUAL, ROTATING or CHANGING COPY;

“CHARITY” means a registered CHARITY as defined in the *Income Tax Act (Canada)* or successor legislation, which has a registration number issued by the Canada Revenue Agency, or successor agency;

“CHIEF BUILDING OFFICIAL” means the PERSON appointed by COUNCIL, pursuant to the *BUILDING Code Act, 1992*, as amended, or their designate;

“CLEARANCE” means the vertical distance measured between the lowest horizontal element of a SIGN and the GRADE level;

“CM” when following a numeral means centimetre(s);

“CONGRATULATORY SIGN” in reference to SIGN classification means a TEMPORARY SIGN that promotes a private special occasion and does not contain a commercial message or direct PERSONs to a commercial enterprise;

“CONSTRUCTION SIGN” means a TEMPORARY SIGN that;

- a) includes, in whole or in part, information promoting a development within the TOWN of Pelham, and;
- b) relates to or advertises the location, construction of a BUILDING or STRUCTURE in the process of being ERECTED on a PREMISES, or;
- c) promotes a plan of subdivision, a plan of condominium, or the construction of a BUILDING or BUILDING complex on a PREMISES Zoned therefore, or;
- d) promotes a bona fide model home for which an OCCUPANCY permit has not been issued, in a plan of subdivision, or a plan of condominium;

“CONTRACTOR SIGN” means a TEMPORARY SIGN that advertises work being performed on the PROPERTY by a trade, including but not limited to general contractors, painters and renovators;

“COPY” means all letters, numerals, symbols, images and characters Displayed upon, against or through a SIGN FACE. This definition does not include letters or numerals Used to identify the municipal address;

“COPY AREA” means the area of a SINGLE rectangle whose perimeter encloses letters, numerals, symbols, shapes or characters of a SIGN in their entirety;

“COUNCIL” means the COUNCIL of the Corporation of the TOWN of Pelham;

“DAYS” shall mean calendar DAYS;

“DESIGNATED LIGHT STANDARD” means a light standard owned by the TOWN or Region of Niagara and fitted with a POSTER PANEL;

“DIRECTIONAL SIGN” in reference to SIGN classification indicates directions to be followed to reach a destination. It may include a LOGO identifying the place of destination, instructions or warnings for the control of vehicular or pedestrian traffic, and entry and exit Signage but contains no other advertising COPY;

“DIRECTOR OF FIRE & BY-LAW” means the PERSON appointed by COUNCIL, pursuant to the *Fire Code Act, 1997*, as amended, or their designate;

“DISPLAY” includes authorizing, allowing or permitting the DISPLAY of a SIGN;

“DOUBLE” in reference to a SIGN FACE means a SIGN having two SIGN FACE planes with each SIGN FACE being of equal area and identical length and HEIGHT, and the maximum interior angle between two faces of a DOUBLE faced SIGN shall not exceed 90 degrees;

“DOWNTOWN BUSINESS IMPROVEMENT AREA” means those lands in the TOWN designated by COUNCIL as an improvement area as the TOWN of Pelham DOWNTOWN BUSINESS IMPROVEMENT AREA

“ELECTRONIC” in reference to CHANGING COPY means COPY that is changed or rearranged Electronically, which may be computer controlled, which DISPLAYs ILLUMINATED COPY and graphic information in a programmed sequence for scrolling DISPLAY, STATIC COPY or video;

“ERECT” (including **“ERECTED”**, and **“ERECTION”**) means to attach, build, construct, reconstruct, locate, or relocate any SIGN, and includes authorizing, allowing or permitting same. This definition does not include COPY changes on any SIGN FACE or MAINTENANCE as set out in subsection 3.11 of this By-law;

“EXISTING SIGN” means a LAWFUL SIGN existing as of the effective date of this By-law, unless otherwise provided by this By-law;

“EXTERNAL” in reference to ILLUMINATION means a light source directed towards a SIGN;

“FACIAL SIGN” means a SIGN, which is painted on, affixed to or supported by an exterior BUILDING WALL or STRUCTURE attached to the BUILDING WALL and ERECTED in a predominantly parallel manner to that BUILDING WALL. This definition does not include a BANNER SIGN or PROJECTING WALL SIGN;

“FEATHER FLAG SIGN” means a TEMPORARY SIGN that is made from cloth or a similar lightweight non-rigid material which does not rely upon a BUILDING or fixed foundation for its structural support and is typically supported with a base or stand on the ground, and can be easily carried or transported. This definition does not include a BANNER SIGN;

“FIRST PARTY” in reference to a SIGN means a SIGN which identifies or directs attention to a business, profession, commodity, service, event or other activity being conducted, sold or offered on the PROPERTY on which the SIGN is located;

“FIRST STOREY” is defined as the STOREY that has its floor closest to GRADE and its underside of finished ceiling more than 1.8m above the average GRADE;

“FLASHING” in reference to ILLUMINATION means the INTERNAL or EXTERNAL ILLUMINATION is varied or perceived to vary in intensity or design at periodic intervals;

“FRONTAGE” means the distance measured on a horizontal plane along the FRONT LOT LINE, between the SIDE LOT LINES;

“GRADE” means the average surface elevation of the ground where the ground is in contact with any BUILDING, SIGN or other STRUCTURE;

“GROUND SIGN” means a freestanding SIGN in a fixed location directly supported by the ground without the aid of any BUILDING or STRUCTURE other than the SIGN STRUCTURE, to a maximum HEIGHT of 3m (9.84ft.). This definition does not include a MOBILE SIGN, READ-O-GRAPH MOBILE SIGN or an A-FRAME SIGN;

“GROUP USE” means the organization of land USEs and related activities into groups, each of which require SIGNS of similar characteristics to fulfil common needs of identification or advertising.

“HEIGHT” means the vertical measurement from the average finished GRADE at the base of the SIGN to the highest point of the SIGN STRUCTURE, SIGN or SIGN FACE;

“HEIGHT OF SIGN FACE” means the maximum vertical limit between the extremities of the COPY AREA, including individually installed letters, numerals, symbols, images or characters but excluding borders and frames.

“HOARDING SIGN” means a TEMPORARY SIGN attached to hoarding panels or fences which surround a construction site and provide information about the BUILDING or STRUCTURE under construction and may include the builder or trades;

“IDENTIFICATION SIGN” in reference to SIGN classification identifies the name, address or LOGO of a business enterprise;

“ILLUMINATION” (including **“ILLUMINATED”**) when used in reference to a SIGN shall mean the act of lighting up a SIGN by way of an artificial light and shall include INTERNAL or EXTERNAL sources;

“INCIDENTAL SIGN” in reference to SIGN classification is a FIRST PARTY, non-ADVERTISING SIGN of minor consequence and size, and includes a SIGN bearing a street name and municipal address, or one that is customarily located on a newspaper box, cornerstone, or grave marker;

“INDUSTRIAL PARK SIGN” means a GROUND SIGN which provides information related to the park and the tenants within it, where the SIGN information shall be limited to LOGOs, directions or distances;

“INFLATABLE SIGN” means a TEMPORARY SIGN filled with air or gas;

“INFORMATION SIGN” in reference to SIGN classification provides information concerning public order or public safety or which provides for public education or enlightenment concerning an activity or the nature of their surroundings;

“INTENSITY OF ILLUMINATION” means the brightness of the SIGN;

“INTERACTIVE COPY” means SIGN COPY which specifically changes so as to communicate directly with a particular observer;

“INTERNAL” in reference to ILLUMINATION means the SIGN is ILLUMINATED by light emitted from within the SIGN;

“LAWFUL SIGN” means a SIGN that complies with the applicable regulations of this bylaw or with the applicable regulations of the governing By-law in force and effect at the time the SIGN was ERECTED or DISPLAYED and if applicable a SIGN PERMIT was issued for said SIGN;

“LENGTH OF SIGN FACE” means the maximum horizontal limit between the extremities of the COPY AREA, including individually installed letters, numerals, symbols, images or characters but excluding borders and frames;

“LOGO” shall mean a graphic representation or symbol of a company name, trademark or abbreviation often uniquely designed for easy recognition. A LOGO may not be solely represented by the name of the company;

“LOT” means a parcel or tract of land which:

- a) is a whole LOT or block as shown on a registered plan of subdivision but a registered plan of subdivision for the purposes of this paragraph does not include a registered plan of subdivision deemed not to be a plan of subdivision under a By-law passed pursuant to section 49 of the *Planning Act*, as amended from time to time, or;
- b) fronts an open street and is a separate parcel of land without any adjoining lands being owned by the same OWNER or OWNERS as at the date of the passing of this By-law, or;
- c) the description of which is the same as in a Deed which has been given consent pursuant to section 52 of the *Planning Act*, as amended from time to time, or;
- d) is the whole remnant remaining to an OWNER or OWNERS after a conveyance made with consent pursuant to section 52 of the *Planning Act*, as amended from time to time;

“LOT LINE” means the boundary of a LOT and;

“FRONT LOT LINE” means the LOT LINE(s) along a street;

“REAR LOT LINE” means the LOT LINE which is located the farthest from the FRONT LOT LINE;

“SIDE LOT LINE” means LOT LINEs other than the FRONT LOT LINE or REAR LOT LINE;

“M” when following a numeral means metre(s);

“M2” when following a numeral means square metre(s);

“MANUAL” in reference to CHANGING COPY means COPY that is changed or rearranged by MANUAL means;

“MAINTAIN” means anything done to preserve, restore or REPAIR an EXISTING SIGN using identical components or materials and does not include SIGN replacement or substantial ALTERATION;

“MAINTENANCE” means to MAINTAIN;

“MENU BOARD SIGN” means a SIGN ERECTED as part of a drive-through facility used to DISPLAY and order products and services available through a drive-through business;

“MOBILE SIGN” means a TEMPORARY SIGN designed to be readily moved from one location to another and which does not rely on a BUILDING or fixed foundation for its structural support. This includes but is not limited to such SIGNS as FEATHER FLAG SIGNS and A-FRAME SIGNS greater than **0.6M2** but does not include READ-O-GRAPH MOBILE SIGNS, INFLATABLE SIGNS or a SIGN attached to a vehicle where the principal USE of the vehicle is the transportation of people, goods and other material;

“MULTIPLE” in reference to a SIGN FACE means a SIGN having two or more SIGN FACEs but does not include a DOUBLE SIGN FACE;

“MULTIPLE OCCUPANCY BUILDING” means any BUILDING that contains two or more units for OCCUPANCY by residential, commercial, institutional or industrial USEs, or a combination thereof;

“NEW HOME DEVELOPMENT SIGN” means a TEMPORARY SIGN that can be repositioned by an individual without mechanical aid, the purpose for which is to direct attention to the sale of new homes or developments;

“NON-PROFIT” means a club, society, or association and is organized and operated solely for social welfare, civic improvement, pleasure or recreation or any other purpose except profit which has a registration number issued by the Canada Revenue Agency, or successor agency for a NON-PROFIT organization;

“OCCUPANCY” means the USE or intended USE operating from a BUILDING on a continuous basis or part thereof for the shelter or support of PERSONs, animals or things;

“OFFICIAL SIGN” means a SIGN required by and ERECTED in accordance with any statute, regulation, By-law or other directive of any federal, provincial or regional government or agency, board or commission thereof, or the TOWN;

“OFFICER” means a Municipal Law Enforcement Officer appointed by the TOWN, a police or an officer, employee, or agent of the TOWN whose responsibilities include the enforcement and administration of this By-law;

“OWNER” means all PERSONs or their authorized agents in lawful control of the PREMISES, BUILDING, OCCUPANCY or other STRUCTURE or portion thereof under consideration;

“PARAPET” (including PARAPET wall) means that portion of a BUILDING WALL, which rises above the roof level of the STRUCTURE;

“PERMANENT” in reference to a SIGN means a SIGN attached to a BUILDING, STRUCTURE, or the ground so as to resist environmental loads, such as wind and preclude its ready removal or relocation and not limited as to the time it can be ERECTED or displayed;

“PERSON” (including PERSONs) means any individual, association, proprietorship, partnership, association, syndicate, company, corporation, firm, authorized agent, trustee and the heirs, executors or other legal representatives, or any combination of the foregoing;

“POLE SIGN” means a SIGN greater than 3.0m (9.84 ft.) in HEIGHT directly supported from the ground without the aid of any BUILDING or STRUCTURE other than the SIGN STRUCTURE

“POSTER” means a printed notice conveying information intended to be displayed for a TEMPORARY period of time and includes but is not limited to a bill, handbill, leaflet, notice and placard;

“POSTER BOARD SIGN” means a TEMPORARY SIGN that is made from lightweight rigid material, which is secured or mounted to a BUILDING or other STRUCTURE. This definition does not include a BANNER SIGN, WALL SIGN or POSTER;

“POSTER PANEL” means a panel provided and fitted by the TOWN to a DESIGNATED LIGHT STANDARD;

“PRE-MENU BOARD SIGN” means a SIGN ERECTED as part of a drive-through facility and only used to DISPLAY products and services available at the drive-through business;

“PREMISES” means a specific PROPERTY, private or public, under registered Ownership, and includes all BUILDINGs and ACCESSORY STRUCTUREs thereon; except that multi-tenant BUILDINGs or groups of BUILDINGs containing two or more business establishments developed as a unit providing common open spaces, off-street parking facilities, driveways and other shared facilities shall constitute a SINGLE PREMISES regardless of registered Ownership;

“PRIVATE PROPERTY” means PROPERTY, lands, or BUILDINGs owned by a PERSON, other than a PUBLIC AUTHORITY;

“PROJECTING WALL SIGN” means a SIGN attached to and projects out horizontally from an exterior wall of a BUILDING in a predominantly perpendicular manner. This definition does not include AWNING SIGN; CANOPY SIGN or FACIAL SIGN;

“PROPERTY” means a LOT which has specific boundaries and which is capable of legal transfer, and;

“PUBLIC PROPERTY” means PROPERTY, lands, or BUILDINGs owned by the TOWN, PUBLIC AUTHORITY, local board or utility as defined in the *Municipal Affairs Act R.S.O. 1990, c.M.46*, as may be amended from time to time. PUBLIC PROPERTY also includes a PUBLIC ROAD ALLOWANCE;

“PUBLIC ROAD ALLOWANCE” means a highway under the TOWN’s jurisdiction established under

authority of any statute, and includes where applicable the curb, shoulder, boulevard, sidewalk and landscaping. A street is a PUBLIC ROAD ALLOWANCE for the purposes of this By-law;

“PUBLIC AUTHORITY” means the TOWN, the Provincial Government, Regional Government, Federal Government and any board, commission, committee or body established or exercising any power or authority under a statute of Canada or Ontario with respect to any of the affairs or purposes, including school purposes, of the TOWN;

“PYLON SIGN” has the same meaning as a **“POLE SIGN”**

“READ-O-GRAPH MOBILE SIGN” means a TEMPORARY SIGN designed to be readily moved from one location to another and which does not rely on a BUILDING or fixed foundation for its structural support in which the entire SIGN FACE is MANUAL CHANGING COPY. This definition includes T-FRAME SIGNS greater than 0.6M²;

“REAL ESTATE DIRECTIONAL SIGN” means a TEMPORARY SIGN, not anchored to the ground, intended to provide direction to a BUILDING, PROPERTY, PREMISES or a portion thereof offered for sale, rent or lease and may indicate information as to the real estate agent and the name and location of the sales office. This definition shall include SIGNS commonly referred to as real estate open house SIGNS but does not include REAL ESTATE SIGNS;

“REAL ESTATE SIGN” means a TEMPORARY SIGN that advertises a BUILDING, PROPERTY, PREMISES, or a portion thereof, offered for sale, rent or lease, and may provide information such as the agent’s name, the location of the sales office. This definition does not include a REAL ESTATE DIRECTIONAL SIGN;

“REPAIR” means anything done to preserve, restore or MAINTAIN the SIGN according to the regulations of this By-law;

“ROOF SIGN” means any of the following:

- a) A SIGN ERECTED on or located wholly above the roof of a BUILDING;
- b) A SIGN ERECTED, constructed, attached to or located wholly or partially above the PARAPET wall of a BUILDING;

“ROTATING” in reference to CHANGING COPY means STATIC COPY that is changed or rearranged mechanically, commonly referred to as tri-vision;

“ROTATION” means the action of turning around an axis or center;

“SEQUENTIAL SIGN” means two or more SIGNS used in series to convey a cohesive message related to the subject matter, each such SIGN message being dependent upon the other;

“SIDEWALK SIGN” means a TEMPORARY SIGN not anchored to the ground and constructed in a manner, and of such materials, which permit it to be repositioned by an individual without mechanical aid. This definition includes A-FRAME SIGNS not greater than 0.6M² and T-FRAME SIGNS not greater than 0.6M²;

“SIGHT TRIANGLE” means an area free of BUILDINGs or STRUCTUREs or other visual obstructions, and which is to be determined by measuring, the point of intersection of street lines on a corner LOT, a minimum of 9m (29.53 ft.) along each such street line and joining such points with a straight line, and the triangular shaped land between the intersecting street lines and the straight line joining the points the required distance along the street lines is the SIGHT TRIANGLE.

“SIGN” means any device, object or thing which directs attention to and which is designed to convey a message and that is placed for the purposes of advertising goods and services offered, identifying a business or enterprise or for conveying any other type of message and, without limiting the generality of the foregoing, this definition includes but is not limited to, the types of SIGNS specifically defined in this section;

“SIGN FACE” means that portion of the SIGN, excluding the supporting STRUCTURE, borders and frames, upon which, against, or through which COPY is displayed or is capable of being displayed;

“SIGN FACE AREA” means the LENGTH OF SIGN FACE multiplied by the HEIGHT OF SIGN FACE. In reference to;

- a) SIGNS comprised of more than one part (individually installed letters, numerals, symbols, shapes or characters) SIGN FACE AREA shall mean the same as the COPY AREA;

- b) a SIGN box, SIGN FACE AREA will be determined by the area of the SIGN cabinet and the frame of the SIGN;
- c) a GROUND SIGN, SIGN FACE AREA shall include the SIGN FACE and all cladding;
- d) a DOUBLE SIGN FACE, SIGN FACE AREA, shall be calculated based on one SIGN FACE. For the purposes of calculating permit fees, both sides of the DOUBLE SIGN FACE shall be considered;

“SIGN OWNER” means the PERSON who owns the SIGN. Where there is no known OWNER of the SIGN, or such PERSON cannot be determined with certainty, the SIGN OWNER shall be deemed to be the PERSON having authority over the associated USE or deriving the major benefit from the SIGN. If such PERSON is unknown, the SIGN OWNER shall be deemed to be the registered OWNER of the land upon which the SIGN is situated;

“SIGN PERMIT” means a permit issued by the DIRECTOR OF FIRE & BY-LAW or delegate pursuant to the provisions of this By-law or a previous By-law to ERECT or DISPLAY a SIGN;

“SIGN STRUCTURE” means a STRUCTURE, framework or bracing, which supports, is constructed to support or did support a SIGN FACE or faces and in turn is supported by the ground, BUILDING or other STRUCTURE not deemed to be an integral part of the SIGN;

“SIGN TYPE” means a SIGN referenced by its means of support, manner of displaying information, or the information intended to be displayed;

“SIGNAGE MASTER PLAN” means a submission with drawings, text, and specifications setting out the location, arrangement, type and SIGN FACE AREA of all existing and proposed SIGNS on a PREMISES.

“SINGLE” in reference to a SIGN FACE means a SIGN having only one face plane;

“STATIC COPY” in reference to ELECTRONIC or ROTATING CHANGING COPY means COPY that is static for durations set out in subsection 4.2 before, in the case of ELECTRONIC CHANGING COPY, it instantaneously transitions, or in the case of ROTATING COPY, scrolls or rotates to the next COPY;

“STREET FRONTAGE” shall mean PROPERTY that abuts a PUBLIC ROAD ALLOWANCE or any 0.3m reserve;

“STOREY” means that part of a BUILDING between any floor and the floor, ceiling or roof next above;

“STRUCTURE” means anything that is ERECTED, built or constructed of parts joined together or any such ERECTION fixed to or supported by or incorporated within the soil or any other STRUCTURE;

“T-FRAME SIGN” means a TEMPORARY SIGN not anchored to the ground, where the SIGN STRUCTURE resembles an inverted capital T and which is constructed in a manner, and of such materials, which permit it to be repositioned by an individual without mechanical aids;

“TEMPORARY” in reference to a SIGN, means a SIGN not intended or designed for PERMANENT installation, to be ERECTED or displayed for a limited time determined by the DIRECTOR OF FIRE & BY-LAW or delegate;

“TEMPORARY SPECIAL EVENT BOULEVARD LAWN SIGN” means a TEMPORARY SIGN promoting a public festival, charitable event or NON-PROFIT group event, anchored in shallow ground and is capable of being easily moved or re-located.

“TEMPORARY SPECIAL EVENT SIGN” means a read-o-graph mobile type SIGN and may include a third party SIGN, in conjunction with the NON-PROFIT celebrations, public events, charitable organization events or similar functions or events.

“THIRD PARTY” in reference to a SIGN means a SIGN which identifies or directs attention to a business, profession, commodity, service, event or other activity not being conducted, sold or offered on the PROPERTY on which the SIGN is located;

“TOWN” means The Corporation of the TOWN of Pelham;

“UNSAFE” in reference to a SIGN, means a SIGN, or a SIGN STRUCTURE, which is structurally unsound, which constitutes a fire, traffic, or pedestrian hazard, which impedes a means of egress from any BUILDING, or otherwise constitutes a risk to the safety of PERSONS in, about or adjacent to the PREMISES or the SIGN;

“USE” when used as a noun in conjunction with the words ZONE, residential, employment, industrial, commercial, institutional, agricultural, open space, or similar words, shall mean such USEs as may be

permitted under the ZONING BY-LAW of the TOWN;

“WALL AREA” means the total area, including all openings, of a BUILDING WALL, upon which a SIGN is ERECTED. In the case of an irregular BUILDING WALL, which does not form a vertical plane, the WALL AREA shall be the total area of a vertical plane projected from the wall;

“WALL SIGN” includes an AWNING SIGN, CANOPY SIGN, FACIAL SIGN and WINDOW SIGN;

“WAY FINDING SIGN” means a TEMPORARY SIGN on or over a TOWN road allowance indicating the direction to a time-specific event which may include a residential open house, residential garage or lawn sale, or a non- commercial event.

“WINDOW SIGN” means any picture, image, symbol, or combination thereof painted, etched, or attached directly on glass and projecting no more than **1mm** or placed inside a window and is intended to be visible from the exterior;

“ZONE” means any land USE ZONE established in the ZONING BY-LAW of the TOWN and passed under the Planning Act or any predecessor or successor Act;

“ZONING BY-LAW” means a By-law of the TOWN of Pelham and passed under the Planning Act, or any predecessor or successor Act, and as may be amended from time to time.

SECTION 3 - INTERPRETATION, ADMINISTRATION AND PERMITS

3.1 Interpretation

Where a SIGN is defined in this By-law, the interpretation of that SIGN shall not include any other specifically referred to SIGN definition.

Definitions of words and phrases used in this By-law that are not included in the list of definitions in subsection 2.1. and are not defined in another provision of this By-law shall have the meanings that are commonly assigned to them in the context in which they are used, taking into account the specialized USE of terms by the various trades and professions to which the terminology applies.

Where anything in this By-Law is prohibited, it shall not be authorized by way of minor variance.

3.2 Administration

- 3.2.1 The DIRECTOR OF FIRE & BY-LAW services or designate shall be responsible for the administration and enforcement of this By-law on all public and PRIVATE PROPERTY within the TOWN of Pelham.
- 3.2.2 The DIRECTOR OF FIRE & BY-LAW or an Officer may enter upon any PROPERTY at any reasonable time to inspect a SIGN for the purpose of determining its compliance with this By-law.

3.3 Prohibited SIGNS

No PERSON shall ERECT or DISPLAY a SIGN that:

- (a) does not comply with all applicable By-laws, statutes or regulations including, but not limited to, the *Ontario Human Rights Code*, or which is not in compliance with this By-law or the conditions of any variance granted under this By-law;
- (b) is not specifically permitted in this By-law;
- (c) interferes with any electrical or telephone wires or associated supports;
- (d) is attached, affixed to, or on any traffic Signal or traffic control device or the supporting STRUCTURE appurtenant thereto unless expressly permitted by the TOWN of Pelham;
- (e) obstructs the view of any driver of a vehicle, obstructs the visibility of any traffic Signal or traffic control device, or interferes with vehicular traffic in a manner that could endanger any PERSON;
- (f) bears or DISPLAYs the TOWN LOGO, crest or seal in whole or in part, without the express written permission of the TOWN;

- (g) emits sound or odour, or discharges any gas, liquid, or solid;
- (h) features INTERACTIVE COPY;
- (i) is on a roof, except as otherwise permitted under this By-law;
- (j) is on a vehicle or trailer or painted thereon (except a TEMPORARY sales trailer for new construction located on the site of the construction) where the vehicle is not used in weekly operation for transportation and is parked or located in a manner so as to make the SIGN visible from a street for the purpose of acting as a SIGN;
- (k) obstructs or is within a parking space required by By-law or as part of a Registered Site Plan Agreement;
- (l) is attached to a tree, fence, gate, railing unless otherwise permitted in this By-law; or the TOWN of Pelham fence By-Law 4157 (2019).
- (m) is a SEQUENTIAL SIGN;
- (n) is on any ACCESSORY STRUCTURE or painted thereon, except facial or PROJECTING WALL SIGNS that relate solely to an OCCUPANCY or USE carried out in conjunction with the ACCESSORY STRUCTURE;
- (o) is primarily supported by cables or guy wires EXTERNAL to the SIGN FACE or SIGN box;
- (p) is located on a PUBLIC ROAD ALLOWANCE and attached to any utility pole or OFFICIAL SIGN STRUCTURE, unless such SIGN is ERECTED by another PUBLIC AUTHORITY having jurisdiction in the matter, or except as otherwise permitted under this by-law.
- (q) SIGN within site triangle within a PROPERTY formed by the intersection of two streets, a street and a driveway or a street and a level railway crossing and may include projections thereof on the road allowance;
- (r) Is a THIRD PARTY SIGN except if specifically allowed in this by-law.
- (s) BILLBOARD SIGN

3.4 SIGNS Exempt from This By-Law

The following SIGNS are exempt from this By-law:

- (a) a memorial SIGN or tablet, commemorative or Heritage Designation plaque, or corner stone denoting the date of ERECTION of BUILDINGS or other related information;
- (b) a flag of civic, educational or religious organizations;
- (c) SIGNS that are regulated by TOWN of Pelham By-law with respect to elections under the *Canada Elections Act*, the *Election Act (Ontario)*, or the *Municipal Elections Act, 1996*, or any successor legislation;
- (d) any SIGN located on a PUBLIC ROAD ALLOWANCE, APPROVED by the Director of Public works;
- (e) OFFICIAL SIGNS
- (f) SIGNS within a BUILDING, not visible beyond any boundary of the PROPERTY on which the SIGN is located;
- (g) INCIDENTAL SIGNS;
- (h) SIGNS on TOWN sports field fences, backstops and ACCESSORY STRUCTURES pursuant to a contract with the TOWN;
- (i) PERMANENT THIRD PARTY SIGNS on sports field fencing, backstops, and ACCESSORY STRUCTURES so long as they are not visible off the PREMISES;

- (j) POSTERs affixed to a POSTER PANEL that are located on a PUBLIC ROAD ALLOWANCE.

3.5. SIGNS Not Requiring Permits

- 3.5.1 The following SIGNS are permitted and may be ERECTED, displayed, modified or restored without obtaining a SIGN PERMIT:
 - (a) INFORMATION SIGN ERECTED or displayed as:
 - i) a SIGN pertaining exclusively to public safety, not exceeding **0.35M2** of SIGN FACE AREA;
 - ii) a SIGN exclusively indicating the maximum headroom, not exceeding **0.35M2** of SIGN FACE AREA;
 - (b) a non-ILLUMINATED “no trespassing” or other warning SIGN provided it is not greater than **0.2M2** of SIGN FACE AREA;
 - (c) a PERMANENT, non-ILLUMINATED FACIAL SIGN having no greater than **0.6M2** of SIGN FACE AREA;
 - (d) a flag of a corporate organization, not exceeding **7.5m** in HEIGHT, provided that no more than three flags are located on one PREMISES and any such flag does not exceed **2.7M2** of SIGN FACE AREA;
- 3.5.2 A permit is not required for the following SIGNS, however these SIGNS shall comply with all other requirements of this By-law, unless otherwise specifically provided:
 - (a) REAL ESTATE SIGNS no greater than **0.6M2** (6.5 sq. ft.) of SIGN FACE AREA;
 - (b) REAL ESTATE DIRECTIONAL SIGNS;
 - (c) way finding DIRECTIONAL SIGNS;
 - (d) CONSTRUCTION SIGNS on PRIVATE PROPERTY having a SIGN FACE AREA not greater than **10.0M2** of SIGN FACE AREA;
 - (e) CONGRATULATORY SIGNS displayed on PRIVATE PROPERTY for a period less than 72 hours;
 - (f) WINDOW SIGN;
 - (g) CONTRACTOR SIGN;
 - (h) HOARDING SIGNS, provided the Signage does not extend beyond the STRUCTURE of the hoarding;
 - (i) SIDEWALK SIGNS no greater than **0.6M2** of SIGN FACE AREA;
 - (j) A TEMPORARY BANNER SIGN
 - (k) A TEMPORARY FEATHER FLAG SIGN

3.6 Permits

- 3.6.1 (1) Where a permit is required under this By-law, no PERSON shall ERECT or DISPLAY a SIGN without a permit.
- (2) A permit under this By-law is required for the ERECTION or DISPLAY of:
 - (a) BANNER SIGN;
 - (b) CONSTRUCTION SIGN greater than **10.0M2** of SIGN FACE AREA;
 - (c) GROUND SIGN;
 - (d) INDUSTRIAL PARK SIGN;
 - (e) INFLATABLE SIGN;
 - (f) MENU BOARD SIGN;

- (g) NEW HOME DEVELOPMENT SIGN;
- (h) PRE-MENU BOARD SIGN;
- (i) POLE SIGN
- (j) POSTER BOARD SIGN;
- (k) PROJECTING WALL SIGN;
- (l) READ-O-GRAPH MOBILE SIGN;
- (m) REAL ESTATE SIGNS greater than **0.6M²** of SIGN FACE AREA;
- (n) ROOF SIGN;
- (o) T-FRAME SIGN greater than **0.6M²** of SIGN FACE AREA;
- (p) WALL SIGN (including AWNING SIGN, CANOPY SIGN, FACIAL SIGN), excluding WINDOW SIGN.

3.6.2 (1) Where a permit is required under this By-law, no PERSON shall substantially ALTER or REPAIR a SIGN without a permit.

(2) Except as provided for in 3.11.1, a permit under this By-law is required for the substantial ALTERATION or REPAIR of:

- (a) BANNER SIGN;
- (b) CONSTRUCTION SIGN greater than **10.0M²** of SIGN FACE AREA;
- (c) GROUND SIGN;
- (d) INDUSTRIAL PARK SIGN;
- (e) MENU BOARD SIGN;
- (f) POLE SIGN
- (g) PRE-MENU BOARD SIGN;
- (h) PROJECTING WALL SIGN;
- (i) REAL ESTATE SIGNS greater than **0.6M²** of SIGN FACE AREA;
- (j) ROOF SIGN;
- (k) WALL SIGN (including AWNING SIGN, CANOPY SIGN, FACIAL SIGN), excluding WINDOW SIGN.

3.6.3 PERSONs seeking to ERECT, DISPLAY, replace, substantially ALTER or REPAIR a SIGN when a permit is required shall provide to the DIRECTOR OF FIRE & BY-LAW or delegate permit application materials which include:

- (a) a completed application form as prescribed by the DIRECTOR OF FIRE & BY-LAW or delegate;
- (b) 2 copies of all plans, drawings and other materials in metric as required by the TOWN;
- (c) applicable fees as set out in the fees & services By-Law 3728 (2016) at the time of application;
- (d) written authorization from the OWNER of the PROPERTY (where the PERSON applying for the SIGN PERMIT is not also the OWNER of the PROPERTY) where the SIGN will be ERECTED or ALTERED;
- (e) if applicable, authorization for the proposed SIGN from all Government authorities having jurisdiction, or necessary municipal departments.

- 3.6.4 As per 3.6.3 (b), an application for SIGN PERMIT shall be accompanied by plans and drawings in metric that contain the following information:
- (a) A location plan, drawn to scale, which clearly identifies the PROPERTY where the SIGN is to be displayed including the dimensions of the PROPERTY, existing and proposed BUILDINGS, and the location, HEIGHT, size and nature of existing and proposed SIGNS on the same PROPERTY dimensioned to clearly illustrate the shortest distance from the PROPERTY line(s) for all existing and proposed STRUCTURES and SIGNS;
 - (b) Information including, but not limited to drawings, photos, artwork and specifications of the proposed SIGN, drawn to scale, which clearly demonstrates the SIGN and SIGN COPY intended for DISPLAY, and which includes construction details, supporting framework, foundations, materials, weight, cross section wall details, base details, ILLUMINATION details, HEIGHT of SIGN, SIGN area, length and width of SIGN;
 - (c) Sufficient information for the CHIEF BUILDING OFFICIAL to determine that the SIGN has been designed and will be constructed/ERECTED/suspended in compliance with the *Ontario BUILDING Code*, and;
 - (d) Further to sub clause (b), drawings for the following SIGNS shall be signed and sealed by a Professional Engineer or Architect registered to practice in the Province of Ontario:
 - i) a POLE SIGN that exceeds 3m (9.84 ft) in HEIGHT above the adjacent finished ground;
 - ii) a ROOF SIGN
 - iii) a PROJECTING WALL SIGN attached or fastened in any manner to a PARAPET wall.
- 3.6.5 No PERSON enjoys a vested right in the continuance of a permit and whether issued, expired, revoked or otherwise terminated, the permit and any value of such permit shall continue to be the PROPERTY of the TOWN. No PERSON other than the TOWN may assign a permit.
- 3.6.6 No PERSON other than the TOWN shall sell, purchase, lease, mortgage, charge, assign, pledge, transfer, seize, distraint or otherwise deal with a permit issued under this by-law.
- 3.7 Inspection**
- 3.7.1 **Notice to CHIEF BUILDING OFFICIAL** – Where the CHIEF BUILDING OFFICIAL has prescribed inspections as part of the SIGN PERMIT, the SIGN PERMIT holder shall notify the CHIEF BUILDING OFFICIAL, at least 72 hours prior to the commencement of each stage of construction or ERECTION of the SIGN to have the inspection(s) undertaken.
- 3.8 SIGN PERMIT Refusal, Revocation and Cancellation**
- 3.8.1 The DIRECTOR OF FIRE & BY-LAW or delegate may refuse to issue a SIGN PERMIT for any of the following reasons:
- (a) the proposed SIGN does not comply with this By-law, other TOWN of Pelham By-laws, or any applicable federal, regional or provincial statute or regulation;
 - (b) the proposed SIGN is to be displayed on PRIVATE PROPERTY, if any other SIGN displayed on said PROPERTY does not comply with this By-law;
- 3.8.2 The DIRECTOR OF FIRE & BY-LAW or delegate may revoke a permit for any of the following circumstances:
- (a) the permit was issued in error;
 - (b) the permit was issued as the result of false, mistaken, incorrect, or misleading statements, information, or undertakings on the application;
 - (c) the DISPLAY of the SIGN has not commenced within six months after the issuance of the permit;

- (d) the permit holder requests in writing that the permit be revoked.

3.8.3 The DIRECTOR OF FIRE & BY-LAW or delegate may cancel an application for permit for any of the following circumstances:

- (a) an application for a permit remains incomplete, or inactive, for six months after it is made;
- (b) any conditions, including those as part of a variance associated with permit issuance, have not been adhered to.

3.9 Refunds

3.9.1 The TOWN will not refund fees paid for a SIGN PERMIT application for any of the following reasons:

- (a) the CHIEF BUILDING OFFICIAL or DIRECTOR OF FIRE & BY-LAW or delegate refuse to issue the SIGN PERMIT because the SIGN does not comply with this By-law, any other By-law, the *Ontario BUILDING Code*, the *Ontario Heritage Act* or any federal, regional or provincial statute or regulation;
- (b) the SIGN or the work described for the SIGN for which the permit application is made, has been displayed prior to the issuance of a permit;
- (c) the SIGN PERMIT has been revoked;
- (d) substantial review has been conducted by municipal staff in processing the SIGN PERMIT application.

3.9.2 Pursuant to subsection 3.9.1 of this By-law, upon written request from the applicant, the fees that may be refunded shall be a percentage of all permit fees payable under this By-law, calculated by the DIRECTOR OF FIRE & BY-LAW or delegate as follows:

- (a) 90 percent, if administrative functions only have commenced;
- (b) 60 percent, if the permit application has been reviewed and the permit is ready to be issued;
- (c) 50 percent, if the permit has been issued and no field inspections have been conducted within six months from the date the permit was issued;
- (d) if the calculated refund is equal to or less than the minimum fee applicable to the work, no refund shall be made of the fees paid;
- (e) additional fees, charged due to the commencement of installation or DISPLAY of a SIGN or SIGN STRUCTURE prior to permit issuance, equal to 100% of the amount calculated as the regular permit fee, shall not be refundable in any case.

3.10 ADVERTISING DEVICES Lawfully ERECTED On the Day This By-Law Comes into Force

3.10.1 This By-law does not apply to an ADVERTISING DEVICE that was lawfully ERECTED or displayed on the day this By-law comes into force if the ADVERTISING DEVICE has not been substantially ALTERED. The MAINTENANCE and REPAIR of the ADVERTISING DEVICE, or a change in the message or contents displayed, does not in itself constitute a substantial ALTERATION.

3.10.2 This By-law does apply to an ADVERTISING DEVICE that was lawfully ERECTED or displayed on the day this By-law comes into force if it has been substantially ALTERED.

3.10.3 In the event that the TOWN requires that a SIGN be relocated or replaced for any municipal purpose:

- (a) the relocation of the SIGN shall be subject to the location requirements of this By-law;
- (b) a SIGN of the same dimensions and materials as the removed/relocated SIGN shall not be subject to the regulations of this By-law where the contravention is caused by the relocation/replacement;
- (c) notwithstanding sentence 3.10.3 (a) and (b), relocated SIGNS require a permit.

3.11 MAINTENANCE, REPAIR and Replacement

- 3.11.1 The SIGN OWNER shall MAINTAIN any and all SIGNS in good order so that they do not become unsightly, UNSAFE, defective or dangerous. Every SIGN OWNER shall ensure that:
- (a) all exposed SIGN and SIGN STRUCTURE surfaces are covered with a durable, weather resistant, protective finish;
 - (b) repainting or refinishing is undertaken as often as is necessary to prevent peeling or flaking of paint or corrosion;
 - (c) all lights, bulbs, tubes and other forms of ILLUMINATION are functioning and comply with the regulations of this By-law;
 - (d) all SIGN FACES and SIGN STRUCTURES are kept intact and operative and do not contain deteriorating, peeling, broken or cracked parts;
 - (e) SIGN is maintained in accordance with the APPROVED plan authorizing its ERECTION;
 - (f) there is no visible deterioration of the SIGN, COPY or its STRUCTURE;
 - (g) the SIGN is not UNSAFE and does not create a danger to any PERSON.
- 3.11.2 Every SIGN OWNER shall ensure that where a SIGN FACE is required to cover and protect any electrical components, lamps or SIGN box from the elements, the SIGN FACE remains intact at all times. If a SIGN FACE is removed for REPAIR or replacement, a SIGN FACE shall be reinstalled within twenty-eight (28) DAYS of removal.
- 3.11.3 The replacement of a SIGN that was lawfully ERECTED or displayed on the day this By-law comes into force, except to REPAIR or MAINTAIN the STRUCTURE as per subsection 3.11.1, is “substantially ALTERED”, and therefore requires full compliance with this By-law;
- 3.11.4 Notwithstanding subsection 3.11.3, a SIGN PERMIT is not required when a SIGN which was lawfully ERECTED under this or a previous By-law is removed for a period of no more than 28 DAYS for the purposes of either MAINTENANCE or REPAIR to the BUILDING WALL, or to the SIGN, provided the SIGN STRUCTURE or the BUILDING WALL that it is affixed to is not substantially ALTERED.

3.12 Enforcement

3.12.1 Every PERSON who contravenes any provision of this By-law is guilty of an offence.

3.12.2 Fines for Contravention, Individuals

Every PERSON contravention under this By-law is liable:

- (a) upon a conviction, to a maximum fine of \$5,000.00;
- (b) upon any subsequent conviction, to a maximum fine of \$10,000.00.

3.12.3 Fines for Conviction, Corporations

Notwithstanding subsection 3.12.2, where the PERSON convicted is a corporation, the corporation is liable:

- (a) upon a first conviction, to a maximum fine of \$10,000.00;
- (b) upon any subsequent conviction, to a maximum fine of \$25,000.00.

3.12.4 Order Prohibiting Continuation or Repetition

Where a PERSON has been convicted of an offence, the court in which the conviction has been entered and any court of competent jurisdiction thereafter may, in addition to any other remedy or penalty provided for by this By-law, make an order prohibiting the continuation or repetition of the offence by the PERSON convicted.

3.12.5 Removal without Notice, TOWN PROPERTY including road allowance within the TOWN

Where a SIGN is ERECTED or displayed on or over PROPERTY owned by, or under the jurisdiction of, the TOWN and not in accordance with the regulations of this By-law, the SIGN may be removed immediately by the TOWN without notice or compensation.

3.12.6 Removal without Notice

Where a SIGN is displayed in contravention of this By-law, the DIRECTOR OF FIRE & BY-LAW or delegate may immediately pull down or remove any SIGN that he/she determines constitutes a safety hazard or a safety concern without notice or compensation.

3.12.7 Order to Remove

- (1) The DIRECTOR OF FIRE & BY-LAW or designate may order the OWNER or SIGN OWNER to remove a SIGN or bring a SIGN into compliance in the manner, and within the time, specified in the order. The CHIEF BUILDING OFFICIAL may order the SIGN OWNER to comply with subsection 4.1.8 of the By-law and require the OWNER of the SIGN to remove the SIGN. Where the SIGN OWNER fails to remove the non-compliant SIGN after being ordered to do so, the DIRECTOR OF FIRE & BY-LAW may issue an order to the OWNER of the land to comply with subsection 4.1.9 of the By-law and require the OWNER of the land to remove the SIGN.
- (2) The order in sentence (1) shall set out:
 - (a) reasonable particulars of the contravention adequate to identify the contravention and the location of the land on which the contravention occurred;
 - (b) the date by which there must be compliance with the order;
 - (c) requiring the SIGN be removed and not replaced, or requiring the SIGN be made to comply with this By-law;
 - (d) that if the SIGN is not removed or made to comply within the specified period, the TOWN may remove the SIGN.

3.12.8 Serving of the Order

The order mentioned in subsection 3.12.7 may be served by any of the following means:

- (a) Personal service upon the PROPERTY OWNER;
- (b) regular mail or prepaid registered mail sent to the last address of the PROPERTY OWNER, shown on the records of the TOWN;
- (c) prominently posting a COPY of the order either on the SIGN in respect of which the order is made, or on the PROPERTY upon which the SIGN is displayed.

3.12.9 Deemed to Have Been Received

Where the order is served in accordance with subsection 3.12.8 it is deemed to have been received by the party being served upon the mailing or posting of the order.

3.12.10 Removal Following Order

Where a SIGN is not removed or is not brought into conformity as required by an order under subsection 3.12.7, the DIRECTOR OF FIRE & BY-LAW or designate or an Officer may have the SIGN removed without notice or compensation. For this purpose, the DIRECTOR OF FIRE & BY-LAW or delegate or an Officer may enter upon the PROPERTY at any reasonable time, with or without warrant.

3.12.11 Compliance with Order

No PERSON shall fail to comply with an order issued to them under this By-law.

3.13 Removal and Storage of SIGNS – Costs & Charges

SIGNS removed pursuant to subsections 3.12.5, 3.12.6 and 3.12.10 shall be stored by the TOWN for a period of not less than 30 DAYS, during which time the SIGN OWNER or the SIGN OWNER's agent may be entitled to redeem the removed item(s), subject to the following fees

- a) Large SIGNS removed by TOWN Public Works Department:

- 1) Removal and first day of storage - \$285.00
- 2) Additional storage - \$50.00 per day

- b) For smaller SIGNS removed by an Officer alone
 - 1) Removal and storage - \$50.00

3.13.1 Claiming of Removed Items Subject to Charges

Upon the claiming of a removed and stored SIGN, the TOWN of Pelham shall require of the PERSON claiming the SIGN to remit the appropriate charges

3.13.2 Destruction After Storage Elapses

Where a SIGN has been removed by the TOWN and stored for a period of at least 30 DAYS, and the SIGN has not been claimed, the SIGN may be forthwith destroyed or otherwise disposed of by the TOWN.

3.13.3 Costs and Charges – Lien upon PROPERTY

Where a SIGN has been removed and stored by the TOWN and the SIGN has not been claimed, all costs and charges for the removal, care and storage of the SIGN under this by-law are a lien upon it which may be enforced by the TOWN in the manner provided by the *REPAIR and Storage Liens Act, R.S.O. 1990, c. R.24*, as amended.

3.13.4 Costs deemed to be Tax

The cost incurred by the TOWN in removing a SIGN may be added to the tax roll and collected in the same manner as municipal taxes. Despite the foregoing, the cost incurred by the TOWN in removing a SIGN under this part of the By-law is a debt payable to the TOWN and may be recovered in any court of competent jurisdiction.

3.14 Safety Requirements

Every SIGN OWNER shall ensure that the following Codes, safety regulations and requirements are adhered to and observed at all times for all SIGNS ERECTED or displayed in the TOWN of Pelham:

(a) Ontario BUILDING Code

All SIGNS, except for TEMPORARY FIRST PARTY SIGNS and TEMPORARY THIRD PARTY SIGNS, shall comply with the *Ontario BUILDING Code*, as amended from time to time, and all applicable and reference standards for structural and life safety matters.

(b) Electrical Safety Authority and the Ontario Electrical Safety Code

Every SIGN which utilizes electricity shall comply with all governing requirements of the Ontario Electrical Safety Authority as amended from time to time.

(c) Occupational Health and Safety Act

Construction safety measures conforming to the *Occupational Health and Safety Act*, as amended from time to time, as provided therein apply to the ERECTION, ALTERATION, relocation, removal or demolition of SIGNS and canopies.

(d) Resemblance to Emergency Light

No ROTATING beam, beacon or FLASHING ILLUMINATION resembling an emergency light or lights shall be used in conjunction with any SIGN so as to create a traffic hazard, or in a manner that would otherwise endanger any PERSON.

(e) BUILDING Openings

No SIGN shall obstruct any window or openings required for light, ventilation, egress, or access.

(f) Overhang of Sidewalks

No SIGN shall overhang or be within a horizontal distance of 0.6 m of a sidewalk or other pedestrian walkway unless the minimum vertical distance between GRADE and the bottom of the overhanging SIGN FACE is at least 2.4 m.

(g) **CLEARANCE from Vehicle Travel Areas**

No SIGN shall be within **0.6m** of the travelled portion of a roadway or private lane, or of a parking area, unless the minimum vertical distance between GRADE and the bottom of the overhanging SIGN is at least **0.5m**. Where the HEIGHT of all vehicles using any private road or parking area is permanently restricted, the vertical distance requirements of this section may be reduced to the amount of the actual HEIGHT restriction, for as long as the said HEIGHT restriction is in existence on the PREMISES.

(h) **Underground Electrical Wiring**

All electrical wiring required to service any GROUND SIGN shall, if so available from the utility provider, be located underground. If power is brought from a BUILDING or STRUCTURE to the SIGN, that wiring shall be located underground.

3.15 Measurements

- a) All measurements of length or area used in this By-law shall be subject to rounding, within the degree of precision specified by the number of digits following the decimal point (if any), so that:
- b) For a whole number, measurements of less than **0.5** shall be rounded downward to the next whole unit;
- c) For a whole number, measurements of **0.5** and greater shall be rounded upward to the next whole unit;
- d) for a number having one decimal place, measurements of less than **0.05** shall be rounded downward to the next one-tenth unit;
- e) For a number having one decimal place, measurements of **0.05** and greater shall be rounded upward to the next one-tenth unit;
- f) Ratios and percentage figures shall not be subject to rounding.

SECTION 4 - GENERAL PROVISIONS

4.0 Application of General Provisions

No PERSON shall ERECT or DISPLAY any SIGN within the TOWN of Pelham for lands affected by this By-law except in conformity with the regulations specified in Section 3, and by the applicable general provisions set out in all subsections of Section 4.

4.1 Regulations for All SIGN TYPES

- 4.1.1 Where this section requires a SIGN to be ERECTED or displayed a minimum distance from another SIGN or Special District, the SIGN OWNER shall ensure no part of the SIGN is within the prescribed minimum distance.
- 4.1.2 The SIGN OWNER shall ensure that the SIGN does not move or appear to move, in whole or in part, unless otherwise expressly permitted by this By-law.
- 4.1.3 No PERSON shall project a SIGN or SIGN COPY onto a BUILDING or any other surface from or by a source EXTERNAL to the SIGN or SIGN COPY unless otherwise expressly permitted by this By-law.
- 4.1.4 The SIGN OWNER shall ensure that the SIGN DISPLAYs only STATIC COPY unless otherwise expressly permitted by this By-law.
- 4.1.5 Where this By-law requires the SIGN FACE AREA to be calculated as a percentage of the area of the wall of a BUILDING, the area of the wall shall include the windows located therein.
- 4.1.6 Notwithstanding that the permitted CHANGING COPY AREA is based on a percentage of the maximum total SIGN FACE AREA, the maximum SIGN FACE AREA does not have to be ERECTED or displayed in order to DISPLAY the CHANGING COPY.

- 4.1.7 Where a SIGN does not comply with this By-law, the SIGN OWNER shall remove the SIGN.
- 4.1.8 Where the SIGN OWNER fails to remove the SIGN under subsection 4.1.8, the OWNER of the land on which the SIGN is situated shall remove the SIGN.

4.2 ELECTRONIC CHANGING COPY

- 4.2.1 Where this By-law permits a SIGN to DISPLAY ELECTRONIC CHANGING COPY, the SIGN OWNER shall ensure following requirements are met:
- (a) during the message transition, the SIGN shall not include any blinking, intermittent or FLASHING light or the illusion of such effects;
 - (b) all ELECTRONIC CHANGING COPY shall come equipped with functioning automatic dimming technology which will automatically adjust the SIGN's brightness in direct correlation with ambient light conditions;
 - (c) a SIGN displaying ELECTRONIC CHANGING COPY shall be designed so as to cease operating in the case of a malfunction;
 - (d) for all FIRST PARTY SIGNS, the ROTATING or ELECTRONIC changing STATIC COPY duration shall not be less than ten (10) seconds before instantaneously transitioning to the next STATIC COPY; and

4.3 ILLUMINATION (Lighting) Of SIGNS

- 4.3.1 Where this By-law permits a SIGN to be ILLUMINATED, the SIGN OWNER shall ensure the following requirements are met:
- (a) ILLUMINATION which is EXTERNAL shall not be directed toward adjacent LOTS, PUBLIC ROAD ALLOWANCES or into the direction of oncoming traffic;
 - (b) ILLUMINATION which is EXTERNAL shall be downcast, or shielded, to minimize reflective impact on the night sky by being ground oriented;
- 4.3.2 Where this By-law permits a SIGN to be ILLUMINATED, the SIGN OWNER shall ensure the SIGN is not ILLUMINATED during the following time periods:
- (a) Between the hours of **10:00 p.m.** and **7:00 a.m.** where the SIGN is located in, or within **30m** of, a Residential (R) ZONE, except where:
 - i) the SIGN is a FIRST PARTY SIGN associated with a lawful business which operates during this period, and only while the business is actually in operation; or
 - (b) Between the hours of **11:00 p.m.** and **7:00 a.m.**, except where:
 - i) the SIGN is a FIRST PARTY SIGN associated with a lawful business which operates during this period and only while the business is actually in operation;
- 4.3.3 SIGNS associated with the following USEs may be ILLUMINATED and are not subject to sections 4.3.1 nor 4.3.2:
- (a) hospitals and emergency treatment facilities;
 - (b) power generating stations and electrical substations;
 - (c) control centres for land transportation;
 - (d) public transit facilities;
 - (e) public water treatment and storage facilities;
 - (f) water and sewage pumping stations;
 - (g) emergency response facilities;
 - (h) fire, rescue, and police stations;
 - (i) storage facilities for vehicles or boats used for fire, rescue and police purposes; and

- (j) public telephones and emergency call stations.

4.4 SIGHT TRIANGLE

No PERSON shall ERECT or DISPLAY a SIGN within the SIGHT TRIANGLE.

See schedule "A" attached for SIGHT TRIANGLE calculation explanation sketch

4.5 CONGRATULATORY SIGNS on Residential PREMISES

Notwithstanding any other regulation in this By-law, not more than one CONGRATULATORY SIGN, regardless of SIGN TYPE, is permitted to be ERECTED or displayed on any residential PREMISES.

SECTION 5 - CLASSIFICATION OF SIGNS

BANNER SIGN over 0.6M2

5.1 All BANNER SIGNS over 0.6M2 shall comply with the following conditions:

- a) Must be installed completely on the subject PROPERTY to which it pertains and not be installed on or over a PUBLIC ROAD ALLOWANCE.
- b) Is limited to one SIGN per every 20m of BUILDING FRONTAGE. In the case of a MULTIPLE unit BUILDING, one SIGN is limited to every 20m of individual business FRONTAGE. If the unit or BUILDING has less than 20m of FRONTAGE, then the number of SIGNS shall be limited to one.
- c) All SIGNS must be kept in good REPAIR and must not DISPLAY a condition of fading, tearing or deterioration.

FEATHER FLAG SIGNS over 0.6M2

5.2 All FEATHER FLAG SIGNS over 0.6M2 shall comply with the following conditions:

- a) Must be installed completely on the subject PROPERTY to which it pertains and not be installed on or over a PUBLIC ROAD ALLOWANCE.
- b) Is limited to one SIGN per every 20m of BUILDING FRONTAGE. In the case of a MULTIPLE unit BUILDING, one SIGN is limited to every 20m of individual business FRONTAGE. If the unit or BUILDING has less than 20m of FRONTAGE, then the number of SIGNS shall be limited to one.
- c) All SIGNS must be kept in good REPAIR and must not DISPLAY a condition of fading, tearing or deterioration.

SECTION 6 - GROUND SIGNS

- a) No GROUND SIGN shall be located on any PROPERTY other than the PROPERTY to which the GROUND SIGN applies.
- b) No GROUND SIGN shall be located closer to the street line or any other PROPERTY line than the setback line for a BUILDING as established by the Corporation's ZONING BY-LAW or 3.0m (9.84 ft.), whichever is the lesser.
- c) No GROUND SIGN shall be ERECTED which:
- d) Exceeds 3m (9.84 ft.) in HEIGHT of a SIGN
- e) Exceeds 0.3M2 (3.2 sq. ft.) in area on residential lands;
- f) Exceeds 9M2 (96.0 sq. ft.) in area per side or visible face;
- g) No PERSON shall ERECT a GROUND SIGN within 6m (19.68 ft.) of a driveway entrance/exit or intersection of two streets. when the setback is less than the HEIGHT of the SIGN.
- h) No PERSON shall ERECT on any LOT more than one GROUND SIGN for every 20m (65.5 ft.) of the FRONTAGE of the LOT on which the GROUND SIGN is located. Where a LOT has less than 20m (65.5 ft.) of FRONTAGE the OWNER may ERECT one GROUND SIGN

SECTION 7 - POLE SIGNS

- a) No POLE SIGN shall be located on any PROPERTY other than the PROPERTY to which the POLE SIGN applies;
- b) No POLE SIGN shall be located closer to the street line or any other PROPERTY line than the setback line for a BUILDING as established by the Corporation's ZONING BY-LAW or 3m (9.84 ft.), whichever is the lesser.
- c) No POLE SIGN shall be ERECTED which:
- d) Exceeds 9m (29.5 ft.) in HEIGHT of SIGN;
- e) Exceeds 20M² (215 sq. ft.) in area per side or visible face;
- f) No PERSON shall ERECT on any LOT more than one POLE SIGN for every 60m (197 ft.) of the FRONTAGE of the LOT on which the POLE SIGN is located. Where a LOT has less than 60m (197 ft.) of FRONTAGE a POLE SIGN is not permitted;
- g) No PERSON shall ERECT a POLE SIGN on residential lands.

SECTION 8 - READ-O-GRAPH MOBILE SIGN

- a) No READ-O-GRAPH MOBILE SIGN shall be located on any PROPERTY other than the PROPERTY to which the READ-O-GRAPH MOBILE SIGNS applies.
- b) No READ-O-GRAPH MOBILE SIGN shall be located closer to; any street line or other PROPERTY line than 1.0m (3.2 ft.);
- c) Any street line, not closer to 2m (6.5 ft.) where the READ-O-GRAPH MOBILE SIGN exceeds 1m (3.25 ft.) in HEIGHT of SIGN;
- d) Any other, not closer to READ-O-GRAPH MOBILE SIGN than 30m (98.4 ft.)
- e) No PERSON shall ERECT a READ-O-GRAPH MOBILE SIGN which:
- f) Exceeds 2.4m (7.8ft) in HEIGHT of SIGN;
- g) Exceeds 4.6M² (50.0 sq. ft.) in area per side or visible face;
- h) Has more than two sides or visible faces
- i) No PERSON shall ERECT a READ-O-GRAPH MOBILE SIGN on residential lands except a TEMPORARY SPECIAL EVENT SIGN.
- j) No PERSON shall ERECT on any LOT more than one READ-O-GRAPH MOBILE SIGN for every 30m (98.4 ft.) of the FRONTAGE of the LOT on which the READ-O-GRAPH MOBILE SIGN is located. Where a LOT has less than 30m (98.4 ft.) of FRONTAGE the OWNER may ERECT one READ-O-GRAPH MOBILE SIGN.
- k) READ-O-GRAPH MOBILE SIGN may be ILLUMINATED or luminous provided such lighting does not consist of FLASHING lights, moving lights or intermittent or activated lighting of any kind.
- l) All electrical cables, extensions, wires or outlets of every nature or kind attached to, or relating in any way to a READ-O-GRAPH MOBILE SIGN must comply with the regulations of the Electrical Safety Authority.
- m) No PERSON shall ERECT a READ-O-GRAPH MOBILE SIGN in or on a required parking space on a PROPERTY.
- n) No PERSON shall ERECT a READ-O-GRAPH MOBILE SIGN within 6m (19.68 ft.) of a driveway entrance/exit or intersection of two streets when the setback is less than the HEIGHT of the SIGN.
- o) READ-O-GRAPH MOBILE SIGN may be APPROVED on a TEMPORARY basis only and shall only be permitted to be ERECTED, subject to a permit for each individual time period in accordance with the provisions above, for a maximum of four (4) - thirty (30) day periods, two (2) sixty (60) day periods, or a combination thereof within any one calendar year, with a minimum thirty (30) day interval between each permitted period.

- p) Notwithstanding subsection “o” above, a new business may be granted a one-time permit to ERECT a READ-O-GRAPH MOBILE SIGN for a three (3) month period of continuous advertising from the opening day of the business to promote the new business.
- q) READ-O-GRAPH MOBILE SIGN and supporting STRUCTURE must be removed from the PROPERTY or yard, or adequately screened from view by fencing or landscaping, once the time frame indicated on the SIGN PERMIT has lapsed.

SECTION 9 - PROJECTING WALL SIGNS

- a) PROJECTING WALL SIGNS shall only be fastened to a structural component of the BUILDING to which such SIGN is attached in accordance with good engineering practice subject to the approval of the CHIEF BUILDING OFFICIAL;
- b) No part of any PROJECTING WALL SIGN may project beyond the street line or any other PROPERTY line or encroach on or over any other PROPERTY;
- c) Every PROJECTING WALL SIGN shall have a minimum 2.4 m (7.87 ft.) CLEARANCE between the bottom of the SIGN and GRADE.

SECTION 10 - ROOF SIGNS

- a) No ROOF SIGN shall be located on any PROPERTY other than the PROPERTY to which the ROOF SIGN applies.
- b) A ROOF SIGN shall be located on a roof and shall be setback at least 1m (3.3 ft.) from the BUILDING face on which such ROOF SIGN is ERECTED.
- c) Drawings that accompany all ROOF SIGN PERMIT application shall be signed and sealed by a Professional Engineer or Architect registered to practice in the Province of Ontario
- d) No ROOF SIGN shall be ERECTED which:
 - (i) is not constructed of non-combustible materials;
 - (ii) does not have a clear space of at least 1.22m (4 ft.) from the underside of the SIGN to the level of the roof or top of the BUILDING except for the SIGN's support STRUCTURE;
 - (iii) HEIGHT exceeds the maximum BUILDING HEIGHT from GRADE a prescribed by the Corporation's zoning by- law.

SECTION 11 - SIDEWALK SIGN ON PRIVATE PROPERTY

Any PERSON who has a legal commercial business operating within the TOWN of Pelham, may ERECT one SIDEWALK SIGN on the PROPERTY on which such business is located without obtaining a permit provided such SIGN complies with the following regulations:

- a) By its decision to ERECT a SIDEWALK SIGN the business assumes all liability for personal injury and PROPERTY damage caused or contributed to by the sandwich board;
- b) The SIDEWALK SIGN shall only be ERECTED on the business PROPERTY and not on PUBLIC PROPERTY;
- c) The SIDEWALK SIGN will not impede pedestrian or vehicular traffic and will not cause a traffic visibility hazard;
- d) No SIDEWALK SIGN shall be larger than 0.6m (2 ft.) wide x 1.2m (3.9 ft.) high or 0.9m (3ft.) in depth;
- e) Each SIDEWALK SIGN shall be properly maintained to the satisfaction of the Officer.
- f) The SIDEWALK SIGN shall be removed from public viewing any time when the business is not open to the public.

SECTION 12 - SIDEWALK SIGNS ON PUBLIC PROPERTY

Any PERSON who has a legal commercial business operating within the TOWN of Pelham may ERECT one SIDEWALK SIGN on PUBLIC PROPERTY where it is not possible to ERECT a SIDEWALK SIGN on PRIVATE PROPERTY provided the sandwich board SIGN complies with the following regulations:

- a) There shall be only one SIDEWALK SIGN adjacent to the business FRONTAGE of each business on the ground floor;
- b) By its decision to ERECT a SIDEWALK SIGN the business assumes all liability for personal injury and PROPERTY damage caused or contributed to by the sandwich board. Each business shall MAINTAIN a minimum \$2,000,000.00 of Commercial General Liability Insurance naming the TOWN as an additional insured and providing 30 DAYS' notice of cancellation or non-renewal;
- c) No SIDEWALK SIGN shall be closer than 0.3 m (1 ft.) to the travelled portion of the roadway;
- d) No SIDEWALK SIGN shall be located in such as manner as to interfere with either pedestrian or vehicular traffic. This also includes vehicle parking stalls;
- e) Where a SIDEWALK SIGN is located on a public sidewalk. there shall be a minimum CLEARANCE around the SIGN of 1.2 m (4 ft.) to allow pedestrians to pass; each SIDEWALK SIGN shall be properly maintained;
- f) No SIDEWALK SIGN shall be larger than 0.6 m (2 ft.) wide, 1.2 m (3.9 ft.) high, or 0.9 m (3 ft.) in depth;
- g) The SIDEWALK SIGN shall be removed from public view any time the business is not open to the public.

SECTION 13 - TEMPORARY SPECIAL EVENTS

- a) Nothing herein shall be deemed to prevent TEMPORARY street decorations or other TEMPORARY ADVERTISING DEVICES installed for various civic celebrations and/or other festivals and/or special events, which are not for profit in nature.
- b) TEMPORARY SPECIAL EVENT SIGNS may be ERECTED for a period from thirty (30) DAYS prior to the event to not more than five (5) DAYS after the event at which time the SIGN shall have been removed.
- c) TEMPORARY SPECIAL EVENT SIGNS shall be ERECTED in compliance with the read-o-graph provisions of subsections
- d) TEMPORARY SPECIAL EVENT SIGNS shall not be ILLUMINATED in any manner.
- e) A permit is required for a special event SIGN but not subject to the fee outlined in fee schedule. The permit must be obtained prior to the ERECTION of the SIGN.
- f) No TEMPORARY SPECIAL EVENT SIGNS shall be ERECTED on PUBLIC PROPERTY unless specifically APPROVED by COUNCIL.

SECTION 14 - TEMPORARY SPECIAL EVENT BOULEVARD LAWN SIGNS

- a) TEMPORARY SPECIAL EVENT BOULEVARD LAWN SIGNS shall not be greater than 0.75m (2.5 ft.) in HEIGHT from GRADE.
- b) TEMPORARY SPECIAL EVENT BOULEVARD LAWN SIGNS shall not have a greater face area than 0.37M² (4.0 ft²) per side and not contain more than two (2) SIGN FACES.
- c) TEMPORARY SPECIAL EVENT BOULEVARD LAWN SIGNS shall be installed on the Outer Boulevard of a highway. Where no sidewalk exists the SIGN may be placed on the Inner Boulevard.
- d) TEMPORARY SPECIAL EVENT BOULEVARD LAWN SIGNS may be ERECTED by an organization promoting a public festival, public show, charitable event or NON-PROFIT event for a period from oner than 30 DAYS prior to the event and must be removed within 3 DAYS after the closing of the event.
- e) TEMPORARY SPECIAL EVENT BOULEVARD LAWN SIGNS must be set back at least 0.5m (1.6 ft.) from the edge of the travelled road, sidewalk, or shoulder of a highway.

Should the OWNER or resident of a PROPERTY which abuts the TOWN Boulevard where a TEMPORARY SPECIAL EVENT BOULEVARD LAWN SIGN has been placed, request removal of the SIGN, the SIGN shall be immediately removed by the organization responsible for placement of the SIGN or by an Officer upon notification.

SECTION 15 - WALL SIGNS

- a) No WALL SIGN shall be located on any PROPERTY or BUILDING other than the PROPERTY or BUILDING to which the WALL SIGN applies.
- b) No WALL SIGN shall be ERECTED which;
- c) is not ERECTED against the exterior wall of the BUILDING to which the WALL SIGN is to be attached;
- d) projects more than 0.3M (1 ft.) from the wall of the BUILDING;
- e) the upper limit of a WALL SIGN shall not project above eaves line or PARAPET of a BUILDING;
- f) has an area or aggregate area of all WALL SIGNS which exceeds 0.5M² (5.38 ft.²) of the BUILDING FRONTAGE, or business wall FRONTAGE of an individual business in a multi-unit BUILDING.
- g) Exceeds 0.3M² (3.2 sq. ft.) in area on a BUILDING on residential lands;
- h) SIGNS that project more than 100MM (4") shall have at least 2.4M (7.87 ft.) CLEARANCE between GRADE and the underside of the WALL SIGN;
- i) In the case of a BUILDING consisting of MULTIPLE occupancies or tenants, the area or aggregate area of all WALL SIGNS on the FRONTAGE for an individual business must not exceed 0.5M² of the business wall FRONTAGE for the individual unit. A WALL SIGN on the rear facing business wall of an individual unit will only be permitted if the rear facing wall of the unit abuts a highway and the area or aggregate area of all WALL SIGNS on the rear facing business wall does not exceed 0.5M² of the linear measurement of rear facing business wall of the individual unit.
- j) Where two (2) or more WALL SIGNS are attached to the same BUILDING face, the SIGNS shall MAINTAIN a uniform band of signage along the BUILDING face by locating all signage on the BUILDING face in a manner that MAINTAINS a consistent horizontal alignment and vertical HEIGHT.
- k) AWNING SIGNS may project to a maximum distance of 1.2M from the face of the BUILDING WALL to which they are attached. They are prohibited to DISPLAY CHANGING COPY.
- l) CANOPY SIGNS may project to a maximum vertical distance of 0.6M beyond the limits of the STRUCTURE to which they are attached. CANOPY SIGNS are prohibited to DISPLAY CHANGING COPY.

SECTION 16 - TEMPORARY WAY FINDING DIRECTIONAL SIGNS OVER OR ON PUBLIC ROAD ALLOWANCES

TEMPORARY way finding DIRECTIONAL SIGNS are permitted over or on a PUBLIC ROAD ALLOWANCE with the following restrictions:

- a) Maximum SIGN FACE AREA 0.4M²
- b) Maximum SIGN HEIGHT 0.6M
- c) Time limit of between the hours of 8:00 a.m. and 8:00 p.m. on the day of the event.
- d) Must not be on a median, island or any other location on a street that obstructs a sight line, interferes with street MAINTENANCE, impedes the movement of pedestrian or vehicular traffic, or otherwise creates a hazard
- e) Not be placed within 10M to any transit stop;
- f) Not be placed within 3.0M of a driveway
- g) Not be placed within 1.0M of a municipal sidewalk;
- h) Not be placed within 0.6M from the vehicular travelled portion of the street.

SECTION 17 - TEMPORARY DIRECTIONAL NEW HOME DEVELOPMENT SIGNS OVER OR ON PUBLIC ROAD ALLOWANCE

TEMPORARY Directional NEW HOME DEVELOPMENT SIGNS are permitted over or on a PUBLIC ROAD ALLOWANCE with the following restrictions:

- a) Not to be ERECTED before 4:00 p.m. on a Friday, and all such SIGNS shall be removed no later than 9:00 a.m. of the immediately following Monday, provided that where a Friday or a Monday is a statutory holiday, the hours shall be;
- b) extended only to the extent necessary to include the statutory holiday.
- c) Must not be on a median, island or any other location on a street that obstructs a sight line, interferes with street MAINTENANCE, impedes the movement of pedestrian or vehicular traffic, or otherwise creates a hazard
- d) Not be placed within 10M to any transit stop;
- e) Not be placed within 3.0M of a driveway
- f) Not be placed within 1.0M of a municipal sidewalk;
- g) Not be placed within 0.6M from the vehicular travelled portion of the street.

SECTION 18 - SIGNS ON VEHICLES OR TRAILERS

SIGNS attached to or painted on a vehicle are exempt from the regulations of this subsection provided the vehicle is in weekly operation for transportation and is not parked or located in a manner so as to make the SIGN visible from a street for the purpose of functioning as an ADVERTISING DEVICE when not being driven.

SECTION 19 - VARIANCES TO THE SIGN BY-LAW PROVISIONS

19.1 Variances Possible Except Where Prohibited

Any OWNER may apply for a minor variance to a provision of this By-law.

19.2 Application Materials

An application for variance shall be made on forms prescribed by the DIRECTOR OF FIRE & BY-LAW and shall be accompanied by the applicable fee as set out in fee schedule, and materials as set out on the prescribed forms.

19.3 Authority of the DIRECTOR OF FIRE & BY-LAW

The DIRECTOR OF FIRE & BY-LAW may authorize a variance if in his or her opinion the general intent and purpose of the By-law are maintained and the variance is minor in nature. The DIRECTOR OF FIRE & BY-LAW shall not authorize a variance if such variance pertains to a prohibited provision in this By-law.

19.4 Basis for Variance Decisions

In considering an application for a variance, the DIRECTOR OF FIRE & BY-LAW or delegate shall have regard for:

- a) any special circumstances or conditions relating to the land, BUILDING or USE identified in the application;
- b) whether strict application of the provisions of this By-law, in the context of the special circumstances applying to the land, BUILDING or USE, would result in practical difficulties or unnecessary and unusual hardship for the applicant, inconsistent with the general intent and purpose of this By-law;
- c) whether such special circumstances or conditions are pre-existing and not created by the SIGN OWNER or applicant;
- d) whether the SIGN that is the subject of the variance will ALTER the essential character of the area in which the SIGN will be located;

- e) design guidelines for SIGNS or neighborhood character set out in secondary plans and area-specific policies of the Official Plan;

19.5 Terms, Conditions, Requirements

The DIRECTOR OF FIRE & BY-LAW or delegate may impose terms, provisions or restrictions as conditions of granting a minor variance to provisions of this By-law which will be tied to the associated SIGN PERMIT.

19.6 Complete Application for Variance

Where an application for variance is incomplete, or does not provide enough information, the DIRECTOR OF FIRE & BY-LAW or delegate may refuse to accept the application or may return the application.

an application is incomplete where:

- (a) it is not in the form prescribed by the DIRECTOR OF FIRE & BY-LAW or delegate or a reasonable facsimile thereof; or
- (b) it is not accompanied by;
 - i) the full application fee for a minor variance; and
 - ii) such information required as set out on the prescribed form by the CHIEF BUILDING OFFICIAL

19.7 Appeal to the COUNCIL

- a) An applicant may appeal the variance decision within 21 DAYS of the date of the decision of the DIRECTOR OF FIRE & BY-LAW or delegate to the COUNCIL.
- b) The TOWN Clerk shall notify the applicant once a hearing date has been fixed. If the applicant does not attend at the appointed time and place, the hearing may proceed in the absence of the applicant and the applicant shall not be entitled to further notice of the proceedings.
- c) The decision of the COUNCIL shall be considered final and not subject to further appeal.
- d) A variance from provisions of this By-law shall expire six months from the date of issuance of a permit associated with a variance unless the SIGN is ERECTED or displayed as granted, within that time period. Furthermore, upon removal or substantial ALTERATION of the subject SIGN, the variance shall also expire.

SECTION 18 – REPEAL AND REPLACE; COMMENCEMENT

THAT By-law 3310(2012), as amended by By-law 3548(2014) and

By-law 3884(2017) be and are all hereby REPEALED AND

REPLACED; and

THAT this By-law shall come into force and effect on the day it is

passed. PASSED in Open COUNCIL on << date >>

Marvin Junkin
Mayor

Nancy J. Bozzato
Town Clerk

First Reading – (Committee, January 13, 2020)
Second Reading – (insert date)
Third Reading - (insert date)

The leasing is to be held at any public meeting of COUNCIL. The applicant will be provided with the opportunity to make both written and verbal submissions. The hearing is subject to the *Statutory Powers Procedure Act*, RSO 1990, c.S.22, as amended

SCHEDULE 'A'

By-Law Services
EXPLANATORY SKETCH OF SITE TRIANGLE
(2013)

