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February 4, 2020

Mrs. Nancy J. Bozzato, Secretary Treasurer  
Committee of Adjustment  
Town of Pelham  
Fonthill, ON L0S 1E0

**Re: Consent Application B2/2020P**  
**813 Foss Road, Pelham**  
Part of Lot 19, Plan 703  
**Roll No. 2732 010 016 14300**

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The subject parcel, shown as Part 1 on the attached sketch, has 13.72 m of frontage on the north side of Foss Road, lying west of Church Street, legally described above, in the Town of Pelham.

Application is made for consent to partial discharge of mortgage and to convey 689.9 m<sup>2</sup> of land (Part 1) for construction of a residential dwelling. 842.7 m<sup>2</sup> of land (Part 2) is to be retained for continued use of the single detached dwelling known as 813 Foss Road.

Note: Files A1/2020P & A2/2020P are being considered concurrently to address zoning deficiencies.

### **Applicable Planning Policies**

#### Planning Act (Consolidated July 2016)

Section 51 (24) states that when considering the division of land, regard shall be had to the health, safety, convenience, accessibility and welfare of the present and future inhabitants of the municipality and among other things to,

- a) The development's effect on provincial matters of interest;
  - ✓ See PPS and Growth Plan analyses below.
- b) Whether the proposed subdivision is premature or in the public interest;
  - ✓ The neighbourhood block's parcel fabric is highly fragmented with a traditional lotting geometry. Although the subject lands lot depth ± 50m is quite deep, it is not so deep as to reasonably invite further development proposals internally. Because of this, any common infill proposal would likely continue to utilize the existing street frontages available to them, both for practical and economic reasons. Planning staff are of the opinion this severance application would not be consider premature and upholds the public interest.
- c) Whether the plan conforms to the Official Plan and adjacent plans of subdivisions, if any
  - ✓ See Official Plan analysis below. The proposed lot does not compromise the adjacent subdivision parcel fabric as it works within the existing confines of an existing corner lot.
- d) The suitability of the land for such purposes;
  - ✓ The lands (neighbourhood) are predominantly one of lower density with mostly ground-

oriented residential dwellings. The proposed consent would facilitate the construction of one additional single detached residential dwelling under the current zoning regulations.

- f) The dimensions and shapes of the proposed lots;
  - ✓ The proposed lot dimensions and shape are consistent with traditional neighbourhood development standards and can comfortably site a new dwelling.
- h) Conservation of natural resources and flood control;
  - ✓ No natural resources are impacted because of this redevelopment. An overall Lot Grading & Drainage Plan is required as a condition of this severance approval to avoid future localized drainage concerns under typical storm events.
- i) The adequacy of utilities and municipal services;
  - ✓ Available.
- j) The adequacy of school sites
  - ✓ Available nearby.

Section 53 (1) states a land owner may apply for a consent and the council may, subject to this section, give a consent if satisfied that a plan of subdivision is not necessary for the proper and orderly development of the municipality.

The proposed development supports provincial interest by making more efficient use of finite urban land and increasing housing supply upon existing linear municipal infrastructure meant to serve the public. The severance is not premature, and does not compromise any future land use redevelopment considerations on adjacent lands. The proposed lot geometry is consistent with traditional neighbourhood development practice and the community at large. Public service facilities, service commercial uses, Downtown and public schools are either nearby within Fenwick or a short drive from Fonthill.

#### Provincial Policy Statement (PPS) (2014)

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

Section 3 of the *Planning Act* requires that decisions affecting planning matters “shall be consistent with” policy statements issued under the *Act*. The PPS recognizes the diversity of Ontario and that local context is important. Policies are outcome-oriented, and some policies provide flexibility provided that provincial interests are upheld. PPS policies represent minimum standards.

The subject land is located in a ‘Settlement Area’ according to the PPS. Policy 1.1.3.1 states that settlement areas shall be the focus of growth and their vitality and regeneration shall be promoted.

Policy 1.1.3.3 states municipalities shall identify appropriate locations and promote opportunities for intensifications where this can be accommodated taking into account existing building stock and the availability of suitable existing infrastructure and public service facilities.

The Niagara Region Official Plan prescribes an annual residential intensification rate of 15% for all lands within Pelham’s *Urban Settlement Areas*, this policy target is also reflected in the Pelham Official Plan.

Policy 1.1.3.4 states appropriate development standards should be promoted which facilitate *intensification*, *redevelopment* and compact form, while avoiding or mitigating risks to public health and safety.

Concurrent minor variance applications have been submitted seeking relief from some zoning provisions in order to legalize the proposed lots.

Policy 2.6.2 states that development and site alteration shall not be permitted on lands containing archaeological resources or archaeological potential unless the resources have been conserved. The Town's Heritage Master Plan identifies this area as having high archaeological resource potential, therefore an Assessment and Ministry Clearance is required as a condition of approval.

The proposal will facilitate the construction of one new single detached dwelling in a more compact form that helps reduce the amount of under-utilized *urban land* within the Village of Fenwick.

#### Growth Plan for the Greater Golden Horseshoe (2019)

This Plan informs decision-making regarding growth management and environmental protection in the Greater Golden Horseshoe (GGH). All decisions made after May 16, 2019 that affect a planning matter will conform with this Growth Plan, subject to any legislative or regulatory provisions providing otherwise. The policies of this Plan take precedence over the PPS to the extent of any conflict.

The subject parcel is located within a 'Settlement Area' according to the Growth Plan. Guiding principles regarding how land is developed:

- Support the achievement of *complete communities* to meet people's needs through an entire lifetime.
- Prioritize *intensification* and higher densities to make efficient use of land and *infrastructure*.
- Support a range and mix of housing options, including second units and *affordable* housing, to serve all sizes, incomes, and ages of households.
- Provide for different approaches to manage growth that recognize the diversity of communities in the GGH.
- Integrate climate change considerations into planning and managing growth.

Policy 2.2.1 Managing Growth – 2. Forecasted growth to the horizon of this Plan will be allocated based on the following:

- a) the vast majority of growth will be directed to *settlement areas* that:
  - i. have a *delineated built boundary*;
  - ii. have existing municipal water / wastewater systems; and
  - iii. can support the achievement of complete communities.

*Complete Communities* are defined as mixed-use neighbourhoods or other areas within a Town that offer and support opportunities for people of all ages and abilities to conveniently access most of the necessities for daily living, including an appropriate mix of jobs, local stores, and services, a full range of housing, transportation options and *public service facilities*. *Complete communities* may take different shapes and forms appropriate for their contexts.

Policy 2.2.2 Delineated built-up areas – states that when the next *municipal comprehensive review* is approved and in effect, the applicable minimum intensification for Niagara is 50% of all residential development annually. Until that time, the Region's current annual minimum intensification target is 15% for the Town of Pelham.

Policy 2.2.6.2 Housing – states that notwithstanding policy 1.4.1 of the PPS (2014), in implementing policy 2.2.6.1, municipalities will support the achievement of *complete communities* by:

- a) planning to accommodate forecasted growth to this Plan's horizon;
- b) planning to achieve the minimum intensification and density targets in this Plan;
- c) considering the range and mix of housing options and densities of the existing housing stock; and
- d) planning to diversify their overall housing stock across the municipality.

The proposed severance will facilitate the construction of one additional single detached dwelling. Ground-oriented residential dwellings are the predominant housing type in this Fenwick neighbourhood, with single detached dwellings making up the majority of that mix. Single detached dwellings are also the only permitted

use under the RV1 zone of the current Zoning By-law (1987).

The subject lands are located around 1 km from Downtown Fenwick, various other commercial uses along Canboro Road two public elementary schools. The local public high school is nearby just west of the Village of Fonthill.

The proposal will facilitate the construction of one new single detached dwelling on a fairly large (1533 m<sup>2</sup>) residential lot in a more compact form that helps reduce the amount of under-utilized *urban land* within the Village of Fenwick. The proposed dwelling will also help contribute towards the municipal property tax base which helps towards maintaining linear infrastructure and *public service facilities*. The existing water and sanitary sewer mains already extend along the frontage of the subject lands but would be better utilized with additional building connections.

#### Regional Official Plan (Consolidated August 2014)

The Regional Official Plan designates the subject land as 'Built-Up Area' within the Urban Area Boundary.

Policy 4.G.6.2 indicates 'Urban Areas' will be the focus for accommodating the Region's growth and development.

Policy 4.G.8.1 states *Built-Up Areas* will be the focus of residential intensification and redevelopment.

Regional staff did not request to be circulated the proposed applications as the development aligns with Provincial and Regional policies.

The proposed severance conforms to the Regional Official Plan because the lands are located within the *built-up* area which is the planned focus of residential intensification and redevelopment over the long term. The proposed dwelling, together with the required zoning by-law provisions is compatible with the existing surrounding neighbourhood from a land use and housing perspective.

#### Pelham Official Plan (2014)

The Town of Pelham Official Plan is the primary planning document that will direct the actions of the Town and shape growth that will support and emphasize Pelham's unique character, diversity, cultural heritage and protect our natural heritage features.

The local Official Plan designates the subject land as 'Urban Living Area / Built Boundary'.

Policy A2.1.2 Natural Environment – states the natural environment objectives of this Plan are to make planning decisions that consider the health and integrity of the broader landscape as well as the long term and cumulative impacts on the ecosystem.

No *key natural heritage features* such as *Significant Woodlands*, *Provincially Significant Wetlands* or *valleylands* etc. are located near the subject lands.

Policy A2.2.2 Growth & Settlement – states that it is a goal of this Plan to encourage intensification and redevelopment within the *Urban Area* specifically in proximity to the Downtown.

The subject lands are just over 1 km to Downtown Fenwick.

Policy A2.3.2 Urban Character – stated objectives of this Plan include:

- To respect the character of existing development and ensure that all applications for development are physically compatible with the character of the surrounding neighbourhood.

- To encourage the intensification and use of the lands within the Fonthill Downtown core and to make every effort to improve its economic health by encouraging redevelopment and broadest mix of compatible uses.
- To maintain and enhance the character and stability of existing and well-established residential neighbourhoods by ensuring that redevelopment is compatible with the scale and density of existing development.
- To encourage the development of neighbourhoods which are compact, pedestrian-friendly and provide a mix of housing types.

The proposed severance would facilitate the construction of one new single detached dwelling in proximity to Downtown Fenwick. The neighbourhood character is one of predominantly ground-oriented residences (i.e. single detached) on large lots.

Policy A2.5.2 Infrastructure – stated objectives of this Plan include maintaining existing infrastructure in a manner that is cost effective and contributes to the quality of life of citizens.

Policy A2.7.2 Cultural Heritage – states it is the Plan’s objective to ensure that the nature and location of cultural heritage and archaeological resources are known and considered before land use decisions are made.

No Part IV designated heritage properties flank the subject lands and an archaeological clearance from the Ministry is required as a condition of severance approval.

Policy B1.1.1 recognizes the existing urban area of Fonthill and the role the Town will need to accommodate various forms of residential intensifications, where appropriate.

Policy B1.1.3 provides policy guidance and direction with respect to intensification proposals within the *Urban Living Area / Built Boundary*. While intensification opportunities are encouraged, proponents will be expected to demonstrate, that such proposals will be respectful of, compatible with, and designed to be integrated with the neighbourhood where they’re proposed.

In considering residential intensification proposals, the following criteria are applicable:

- Schedules A1 and A2 identify a number of areas that may be good candidates for residential intensification. This does not preclude consideration elsewhere in the *Urban Living Area* provided these sites abut arterial or collector roads or are located on a local road on a site that is no further than 100 metres from an intersection with a collector or arterial road;
  - ✓ The subject lands are not identified symbolically as a ‘Potential Intensification Area’ according to Schedule ‘A1’. They are located just over 50 metres from Church Street, being the closest collector road.
- Intensification and redevelopment proposals are encouraged to achieve a unit density and housing type that is in keeping with the character of the neighbourhood density;
  - ✓ The neighbourhood is predominantly single detached dwellings and the severance would yield one new single detached dwelling on a deep lot.
- Residential intensification and redevelopment proposals located on lands which abut local roads shall maintain the unit density and unit type of the surrounding neighbourhood, but may through a Zoning By-law Amendment, increase the unit density by up to 25% of the existing gross density of lands located within 300 metres of the site, provided the resultant development will be characterized by quality design and landscaping, suitable building setbacks, and further that parking areas and traffic movements will not negatively impact the surrounding neighbourhood from the perspectives of safety or neighbourhood character;
  - ✓ The proposed zoning (minor variances A1-A2/2020P) both seek to legalize the RV1 zone lot frontage and/or lot area deficiencies.
  - ✓ There are no traffic and parking issues anticipated with this lot creation.

- d) Notwithstanding items (b) and (c), the creation of new freehold infill lots through the consent process, for ground-oriented detached dwellings, may be permitted provided the proposed lot and unit type is similar to and compatible with the established character of the street or neighbourhood where it is proposed. The Zoning By-law shall establish minimum lot area and frontages and minimum and/or maximum densities which are considered appropriate within the Urban Living Area designation;
  - ✓ The proposed use is very similar to the surround neighbourhood, which consists of single detached, semi-detached and apartment dwellings.
  - ✓ The RV1 zone does not stipulate a maximum density but does have default minimum lot frontage and minimum lot area requirements. Concurrent minor variance applications have been filed seeking relief from both of these performance standards of the RV1 zone.
  - ✓ Low density residential development within an existing low density residential neighbourhood is a compatible level of density.
- e) The creation of accessory apartments and in-law suites within residential neighbourhoods is considered to be an appropriate form of residential intensification.
  - ✓ The current RV1 zoning does not permit second dwelling units nor has the applicant submitted a rezoning application requesting the additional permitted use.

Policy D5.2.1 states that for any consent application, the Committee of Adjustment shall be satisfied that (among other things) the proposed lot:

- a) Fronts on and will be directly accessed by a public road;
  - ✓ Yes.
- b) Will not cause a traffic hazard;
  - ✓ One additional residential dwelling and driveway apron will not cause a traffic hazard on this low volume, local street.
- c) Is in keeping with the intent of relevant provisions and performance standards of the Zoning By-law;
  - ✓ Yes.
- d) Can be serviced with an appropriate water supply and means of sewage disposal;
  - ✓ Yes.
- e) Will not have a negative impact on the drainage patterns in the area;
  - ✓ Grading & Drainage Plan required as a condition of approval.
- f) Will not affect the developability of the remainder of the lands, if they are designated for development by this Plan;
  - ✓ No special land use plans or development considerations are native to this specific block. The severance will not impede the ability for a neighbouring land owner to explore other redevelopment opportunities.
- g) Will not have a negative impact on the features and functions of any environmentally sensitive feature in the area;
  - ✓ No issue.
- h) Conforms with Regional lot creation policy as articulated in the Regional Official Plan.
  - ✓ Complies with Regional Official Plan.
- i) Complies with the appropriate Provincial Minimum Distance Separation Formulae, where applicable.
  - ✓ Not applicable.

In accordance with Provincial and Regional policy, the Town will accommodate at least 15% of projected housing growth, or about 300 residential dwelling units, within the existing built boundaries of Fonthill and Fenwick.

It is noted that the application is for consent to partial discharge of mortgage and to convey vacant land (Part 1) for the purposes of constructing one single detached dwelling. The remnant land (Part 2) is proposed to be retained for continued single detached residential use. The proposed severance conforms with the Pelham Official Plan as it supports additional housing, appropriate lot geometry, good land use planning and is a compatible form of residential intensification.

## Pelham Zoning By-law No. 1136 (1987), as amended

The subject land is currently zoned 'Residential Village 1' (RV1) according to the Zoning By-law. The permitted uses include:

- a) One single detached dwelling;
- b) Accessory uses;
- c) Home occupations.

Concurrent minor variance applications have been submitted to address the following zoning deficiencies:

- Part 1 (severed) {File A1/2020P}
  - Required → Minimum Lot Area & Minimum Lot frontage
- Part 2 (retained) {File A2/2020P}
  - Required → Minimum Lot Frontage

The resulting parcel configuration requires certain applicable zoning regulations to be legalized. Any future development other than that which is currently permitted under Section 9 (one single detached dwelling) would require a Zoning By-law Amendment.

### **Agency & Public Comments**

In accordance with the *Planning Act*, on January 9, 2020 a notice of public hearing was circulated by the Secretary Treasurer of the Committee of Adjustment to applicable agencies, Town departments, and to all assessed property owners within 60 metres of the property's boundaries.

To date, the following comments have been received:

- Building Department (Jan 21, 2020)
  - No comments.
- Public Works Department (Jan 23, 2019)
  - No objections, see conditions.

No comments were received from the public at the time of this writing.

### **Planning Staff Comments**

The subject application deals with the severance (& consent to partial mortgage discharge) of a large side yard on an interior lot which would seek to create one additional residential building lot for a single detached dwelling.

A pre-consult was held with the applicant(s) of the property and staff from the Town and Niagara Region Planning & Development Services on September 6, 2018 to discuss the subject applications.

The subject lands are located on the north side of Foss Road, lying west of Church Street and is surrounded by single and semi-detached residential dwellings from all directions.

At present, the immediate neighbourhood is not in the midst of any development projects. This area of south Fenwick is characterized by many large lot ground-oriented residences and some apartment dwellings to the west.

It is a well-accepted planning principle that all communities have a role to play in helping to manage population growth. *Built-up* neighbourhoods (properties with existing development) are anticipated, and expected, to also contribute towards Pelham's overall background household growth. The Town's current Official Plan

recognizes the Region's previous 25-year growth allocation originally planned to 2031. Niagara Region is currently undergoing their legislated *Municipal Comprehensive Review* as part of the Regional Official Plan update. The updated household growth to 2041 which were recently updated to incorporate the 2016 Census data and to reflect policy targets of the 2017 Growth Plan now yields a residential intensification share of at least 25% for the Town of Pelham.

The Official Plan recognizes that additional housing growth via residential intensification is an opportunity, and a way to achieve other important goals such as helping support the local business community, providing a diverse housing / demographic mix and maintaining existing infrastructure and neighbourhood vitality.

The applicant did supply a letter of rationale prepared by their solicitor speaking to planning policy. The agent has indicated that the existing detached garage on Part 1 will be relocated to Part 2.

The proposed severance is considered to be a *gentler* form of residential intensification, as in there minimal neighbourhood disruption, no significant demolition is warranted and the impacts are rather minor overall.

Planning staff is of the opinion that the proposal applies current planning and development goals dealing with appropriate infill development, making more efficient use of the existing urban lands, where suitable to do so. The proposed severance should not negatively impact the surrounding neighbourhood with regards to traffic, privacy and storm water runoff. The remnant lands will continue as a single detached residential use for the foreseeable future.

In Planning staff's opinion, the application is consistent with the PPS and conforms to Provincial, Regional, and local plans.

Planning staff recommend that the consent known as file B2/2020P **be granted**, and subject to the following conditions:

**THAT** the applicant

- Obtain approval of minor variance files:
  - A1/2020P inclusive.
  - A2/2020P inclusive.
- Conduct an archaeological assessment and receive clearance from the Ministry of Tourism, Culture, Heritage and Sport.
- Ensure both lots are serviced with an individual 20 mm Ø water service and 125 mm Ø sanitary sewer lateral in accordance with Town standards. Installation of any service will require a Temporary Works Permit(s) to be obtained and approved by the Public Works Department. If existing services are proposed for reconnection, such services shall be inspected by the Public Works Department to determine their condition is satisfactory prior to connection. The applicant shall bear all costs associated with these works.
- Submit a drawing indicating the location of the individual water services and sanitary laterals for all lots to confirm no existing service branches from, or through any proposed lot lines to other lands, and from or through the remnant parcel to other lands. Locate cards are required after the installation of new services.
- Submit a comprehensive overall Lot Grading & Drainage Plan for all parcels demonstrating that the drainage neither relies upon, nor negatively impacts neighbouring properties, to the satisfaction of the Director of Public Works.
- Obtain approval for a Driveway Entrance & Culvert Permit for both lots, as applicable, issued through the Public Works Department, to Town standards. The applicant shall bear all costs associated with these works.



- In consultation with the Town's Arborist, plant at least one (1) appropriately sized street tree from the Town's approved Street Tree Planting Schedule along the Part 1 frontage, to the satisfaction of the Director of Community Planning & Development.
- Provide one (1) required parking stall in accordance with Section 6.16 of the Zoning By-law by obtaining and completing a building permit for the construction of a carport or garage on Part 2. Or, the applicant shall obtain zoning relief to amend this parking provision for the required carport / garage.
- Obtain and close a demolition permit for the existing detached garage on Part 1. If being relocated to Part 2, a demolition permit is still required, and to the satisfaction of the Director of Community Planning & Development.
- Demonstrate through a detailed Elevation Plan or Cross-Section, that the existing deck off the west wall, complies with Section 6.35 c) of the Zoning By-law. In the event the deck does not comply, zoning relief or its removal will be required, to the satisfaction of the Director of Community Planning & Development.
- Sign the Town of Pelham's standard "Memorandum of Understanding" explaining that development charges and cash-in-lieu of the dedication of land for park purposes are required prior to the issuance of a Building Permit.
- Provide the Secretary-Treasurer with a registerable legal description of the subject parcel, together with a copy of the deposited reference plan, if applicable, for use in the issuance of the Certificate of Consent.
- Provide the final certification fee of \$395, payable to the Treasurer, Town of Pelham, be submitted to the Secretary-Treasurer. All costs associated with fulfilling conditions of consent shall be borne by the applicant.

Prepared by,



Curtis Thompson, B.URPI  
Planner

Approved by,



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