REGULAR COUNCIL AGENDA

C-02/2020
Monday, February 3, 2020
5:30 PM
Town of Pelham Municipal Office - Council Chambers
20 Pelham Town Square, Fonthill

Doors will be open to the public at 5:15 pm. If you require any accommodation 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. All cell phones, pagers, radios, etc. shall be switched off, set to non-audible, or muted upon entry to the Council Chamber. Taping and/or recording of meetings shall only be permitted in accordance with the Procedure By-law. Rules of Decorum apply to observers.

Pages

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4. By-law 4194(2020) - Being a by-law to authorize the execution of a Development Agreement for the lands located at 997 Canboro Road. Jonathan & Amy Sinke. File No. DA-02-19

5. By-law 4195(2020) - Being a by-law to authorize the sale of Town-owned lands to Fonthill Gardens Incl., or successors in title, the lands being described on Schedules A and B appended hereto; and to authorize the Mayor and Clerk to execute all necessary documents to complete the transaction; and to authorize the Mayor and clerk to enter into an Agreement with Fonthill Gardens Inc. for the burying of hydro service, hydro transmission lines and all other utilities along Regional Road 20 (Highway 20) as detailed in Schedule Be to the Agreement of Purchase and Sale dated January 13th, 2020; and to repeal and replace By-law #4167(2019)

6. By-law 4196(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

7. By-law 4197(2020) - Being a by-law to remove the Holding (H) Provision executed by By-laws Nos. 3810 (2016) & 4074(2019) for the lands located on the south side of Acacia Road in the Saffron Phase 2 Subdivision; legally described as Parts 10, 12 & 13, Plan 59R-16039. Hert Inc. File No. AM-10-19

8. By-law 4198(2020) - Being a by-law to authorize the execution of a subdivision agreement with Hert Inc. and the Corporation of the Town of Pelham— Saffron Meadows Phase 2 Subdivision. Hert Inc. and the Corporation of the Town of Pelham. File No. 26T19-02014

9. By-law 4199 (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)

10. By-law 4200(2020) Being a by-law authorizing the borrowing of money to meet current expenditures of the Council of the Corporation of the Town of Pelham; And to repeal and replace By-law

#4122(2019), being a by-law authorizing borrowing.

15. Motions and Notices of Motion

16. Matters for Committee of the Whole or Policy and Priorities Committee

17. Matters Arising Out of Committee of the Whole or Policy and Priorities Committee

18. Resolution to Move in Camera

Municipal Act Section 239(2):

(b) personal matters about an identifiable individual, including municipal or local board employees and (f) advice subject to solicitor-client privilege, including communications necessary for that purpose (1 item)

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Submitted at P&P meeting Feb. 3, 2020.

2nd DRAFT RECOMMENDATION REPORT ON MANAGING CANNABIS NUISANCES IN THE TOWN OF PELHAM

Cannabis Control Committee

Town of Pelham

29 January 2020

RESTRICTION NOTICE

The information in this document is draft work product and is not for public release until it has been formally approved and authorized by the Cannabis Control Committee (CCC) of the Town of Pelham. The information contained herein is for discussion purposes only. Use, duplication or disclosure of the information contained herein for any other purpose is strictly prohibited without prior written approval from the CCC.

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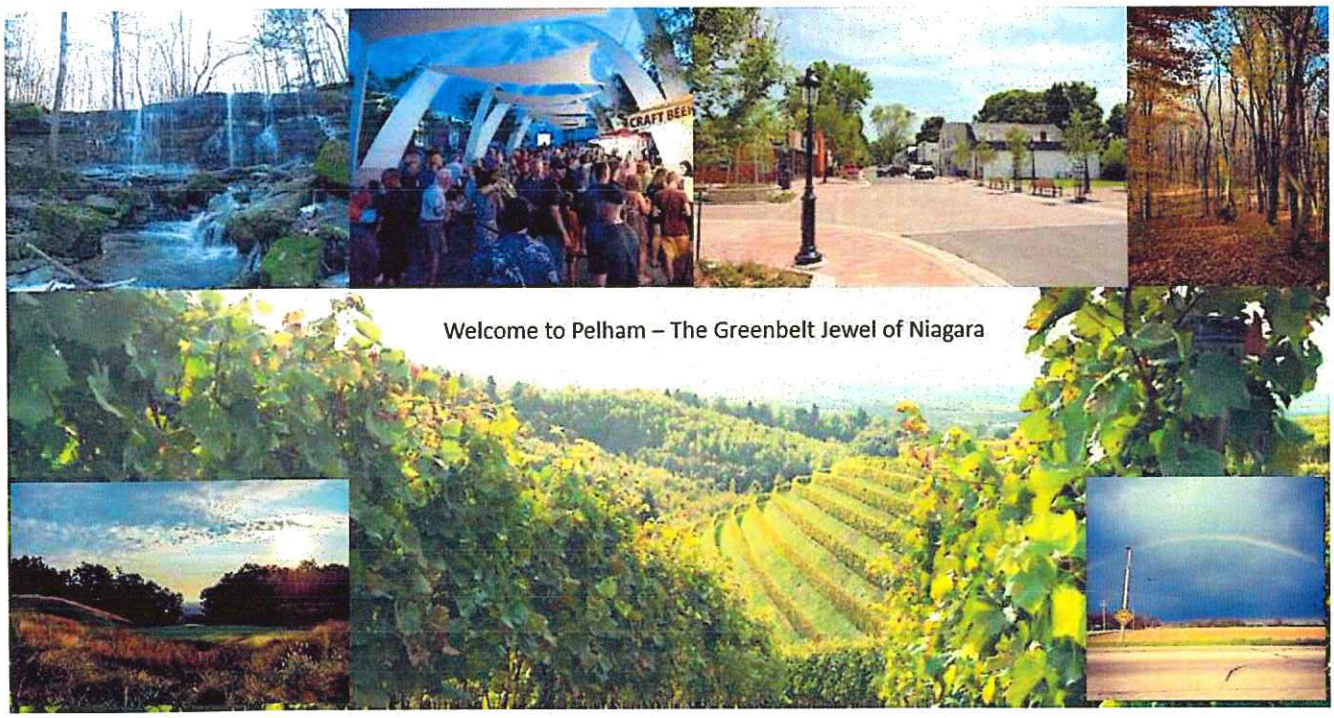
EXECUTIVE SUMMARY

The Cannabis Control Committee (CCC) of the Town of Pelham was created by Council in May 2019 to provide advice to Council on opportunities to mitigate against adverse land use impacts of cannabis production facilities in the Town.



Pelham is a unique and charming rural community with a natural heritage, tender fruit belt, and wholesome living that requires great care to protect for future generations. Because of its small town size and feel where everyone knows each other, Pelham has been a complaints-based community without the depth and breadth of by-laws and policies to manage unexpected, sudden growth in its rural areas.

With the final approval of the legalization of recreational marijuana in October 2018, Pelham suddenly found itself home to two major cannabis facilities and others looking to set up their expansive operations in Pelham. Within twelve months, numerous residents had experienced unanticipated adverse effects which resulted in an interim control bylaw and the creation of the CCC to address concerns.

For a little over seven months, the CCC has been busy researching the issues in order to recommend appropriate policies and bylaws to manage the existing cannabis facilities and to ensure the same adverse impacts are mitigated with respect to new cannabis facilities interested in establishing their operations in Pelham.

This Recommendation Report is the CCC's first installment to Council. It discusses the adverse impacts residents have experienced, examines the planning context that serves as a background for developing regulations to manage cannabis and other odourous industries in our Town, makes recommendations regarding the approach to co-exist with cannabis, and finally proposes an Odourous Industries Nuisance Bylaw for Council review and approval. This bylaw applies to existing as well as new cannabis operations and represents the last line of defence. Proposed Official Plan and Zoning By-Law amendments will follow soon and will serve as the first line of defence for compatible land use.

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1. INTRODUCTION

1.1. IDENTIFICATION

This document, the Recommendation Report on Managing Cannabis Nuisances in the Town of Pelham (the "Report"), was prepared by the Cannabis Control Committee (the "CCC") of the Town of Pelham.

The CCC is a Committee of the Town of Pelham created by Council as an advisory committee to provide advice to Council on opportunities to mitigate against adverse land use impacts of cannabis production facilities in the Town. The CCC began its work on 29 May 2019. The first priority of the CCC is the recommendation of control measures including policies, by-laws, regulations and standards that can be implemented prior to the expiry of Interim Control By-law 4046(2018) on 15 July 2020. The CCC reports directly to the Town Council and provides recommendations for Council in resolution form, under the signature of the Chair, in accordance with its Terms of Reference.

This Report provides rationale and justification for an Odourous Industries Nuisance Bylaw being recommended to Council by the CCC to address adverse effects experienced by many residents in Pelham from existing cannabis facilities. The draft Odourous Industries Nuisance Bylaw is found in the Appendices of this Report.

1.2. POINTS OF CONTACT

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1.3. ACKNOWLEDGEMENTS

The CCC acknowledges the contributions of Mike Ciolfi, it's Council representative, planning staff members Barbara Wiens, Shannon Larocque, Jodi Legros, and CAO David Cribbs which have informed this Report.

The CCC also acknowledges its community members Carla Baxter, Jim Jeffs, James Steele, Louis Damm, Bill Heska, John Langendoen and Tim Nohara for their effort, knowledge and expertise which have been instrumental to this work. This knowledge & expertise includes Pelham's agricultural and greenhouse operations, cannabis internal operations, professional engineering, research, and direct linkage to residents affected by the adverse impacts of existing cannabis operations.

We also wish to acknowledge Phil Girard, P.Eng, an odour expert who resides in Pelham, for his exceptional contribution to our work.

2. REGULATORY CONSIDERATIONS

The purpose of this section is to describe the matters of concern that Pelham should consider in the development of its cannabis regulations. These regulatory considerations are based on direct complaints and comments provided by members of the Pelham community, as well as research carried out by the CCC.

2.1. UNPLANNED CANNABIS OPERATIONS IN PELHAM

Following the legalization of recreational marijuana in October 2018, major cannabis operations appeared in the Town of Pelham, catching residents completely off guard as there was no requirement for public meeting. Town staff were also unprepared as there was no guidance provided to municipalities on how to manage this new dynamic industry.

The Redecan operation is located at 182 Foss Rd in Pelham, in the eastern part of the Town very close to the border with the City of Welland. It is estimated that this high-security facility employs at least 100 people with operations in excess of 200,000 square feet. After the completion of its initial plan, Redecan expanded its operation by an estimated 100%, and it purchased additional adjacent lands, presumably for further expansion to the east.

A second, much smaller facility, is owned by Redecan and is located at 1760 Effingham St. near Moore Street.

The CannTrust operation set up at 1396 Balfour Street at the corner of Hwy 20 West in Pelham. This operation employs an estimated 350 people (before its operations were suspended due to violations) and is estimated to grow to almost 500,000 square feet with its Phase III expansions.

A third large scale operator, Leviathan, has been planning to build a cannabis operation at 770 Foss Rd. Leviathan must wait until the conclusion of the interim control bylaw before it will be able to consider proceeding.

2.2. PUBLIC CONCERNS

This section provides a summary of public concerns, making reference to public comments received by way of petitions and public meetings.

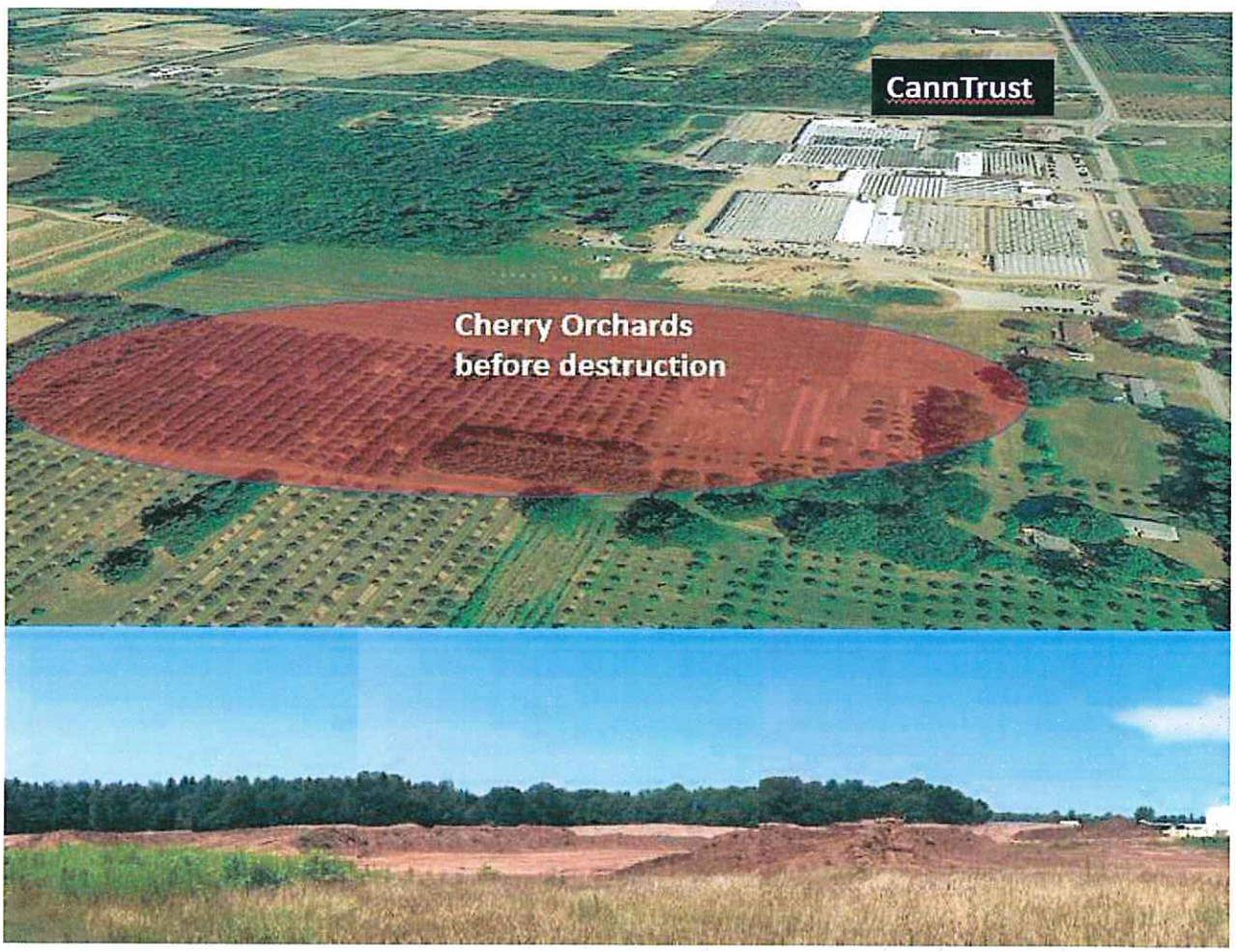
The adverse impacts from the CannTrust and Redecan operations began to be felt by many residents in early summer 2018. By September 2018, residents were organizing and meeting to share concerns, and on October 15th, 2018, resident David Ireland made a presentation to Council on behalf of some 150 residents with a petition of 127 signatures to pass an interim control bylaw (ICBL) so the problems could be properly studied and addressed. The ICBL was passed on 15 October 2018.

Residents' complaints have continued and include all of the following:

- Loss of precious specialty crop agricultural lands
- Skyglow causing severe light pollution
- Skunk-like odour
- Heavy traffic and noise disrupting their quiet country streets and neighbourhoods
- Industrial-like facilities disrupting their picturesque country street and neighbourhoods

As a result of the aforementioned adverse effects, residents are extremely concerned about loss of property value. Real estate agents now require disclosure if you live near a cannabis facility. Considering the fact that many of these properties that are affected are million-dollar retirement properties, even a 10% loss in value has significant economic ramifications.

At the Public Meeting held in accordance with the Planning Act on 10 September 2019, former Regional Councillor Brian Baty told Council of his concern that we do not have a mechanism to protect prime agricultural land and in particular, tender fruit. He indicated that he has seen the destruction of 19 1/2 acres of farmland next to CannTrust with big earth movers removing all of the topsoil. This should not be allowed. There should be some controls. He also saw the removal of coniferous trees along Balfour. A bylaw should prevent this. He proposed that external monitoring of odour and light be done by a third-party independent firm paid for by the proprietors of the cannabis operations.

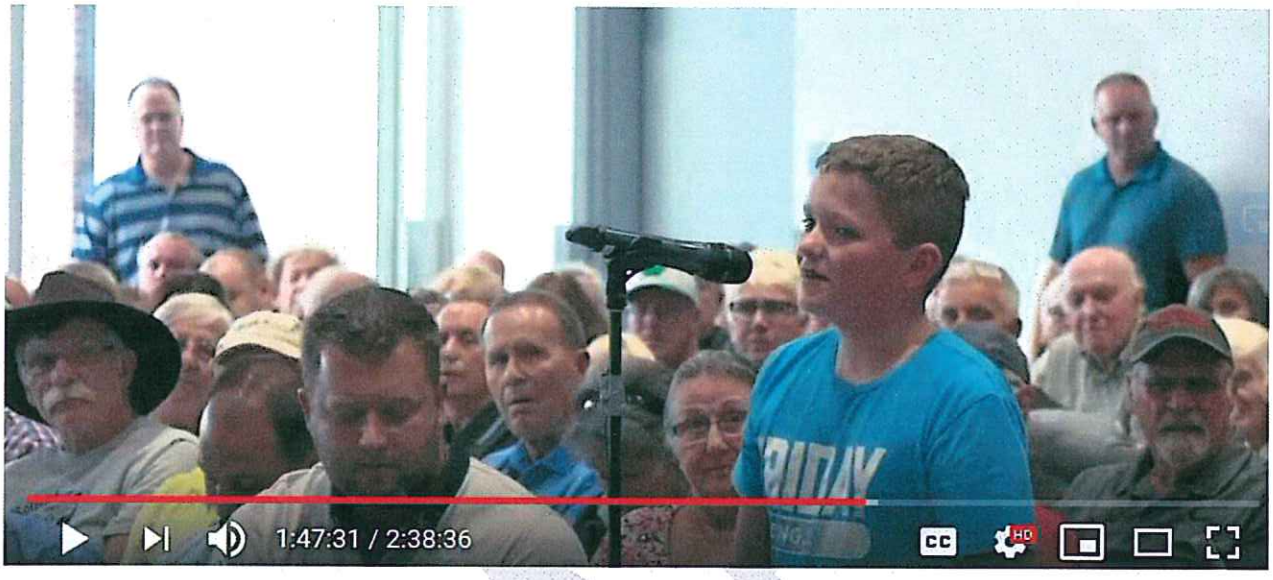


The cherry orchard that Mr. Baty was referring to is shown above, along with the removal of the topsoil after the cherry trees were destroyed. The upper figure is a Google Earth annotated image showing the cherry orchard before it was destroyed; the lower photo shows what remains after the destruction. CannTrust has received a building permit from the Town to expand its facility on these lands.

The severe light pollution caused by these cannabis facilities is shown above. This is a regular occurrence, especially for CannTrust. The skyglow can be seen many kilometres away, and it not only disrupts the neighbours who have lost complete enjoyment of their sunsets and evening walks with star-filled skies, but it also disrupts the rich animal life that Pelham is known for.

Pelham was one of the few places in the Niagara Region where you could watch stars and satellites pass overhead at night, because of its naturally dark sky. Cannabis has changed that for residents.

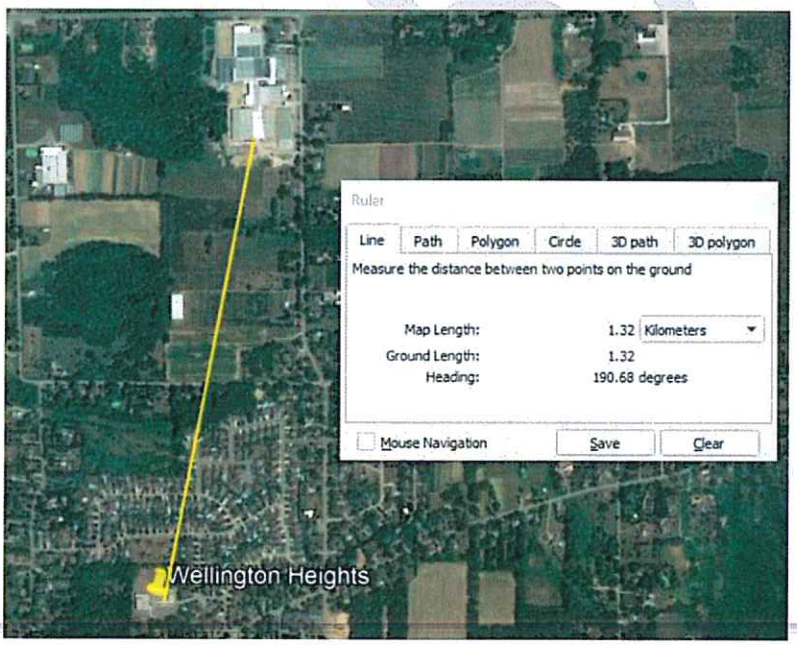
There is no doubt that the skunk-like odour that travels far distances from these cannabis facilities is a regularly occurring nuisance that impacts many people and results in loss of enjoyment of their properties, especially in the spring, summer and fall when they want to be outdoors.



A Grade 8 Student at Wellington Heights School spoke at the Public Meeting 10 Sep 2019

At the Public Meeting held on September 10th, 2019 which an estimated 350 residents attended with standing room only, a grade 8 student and others spoke of their concerns.

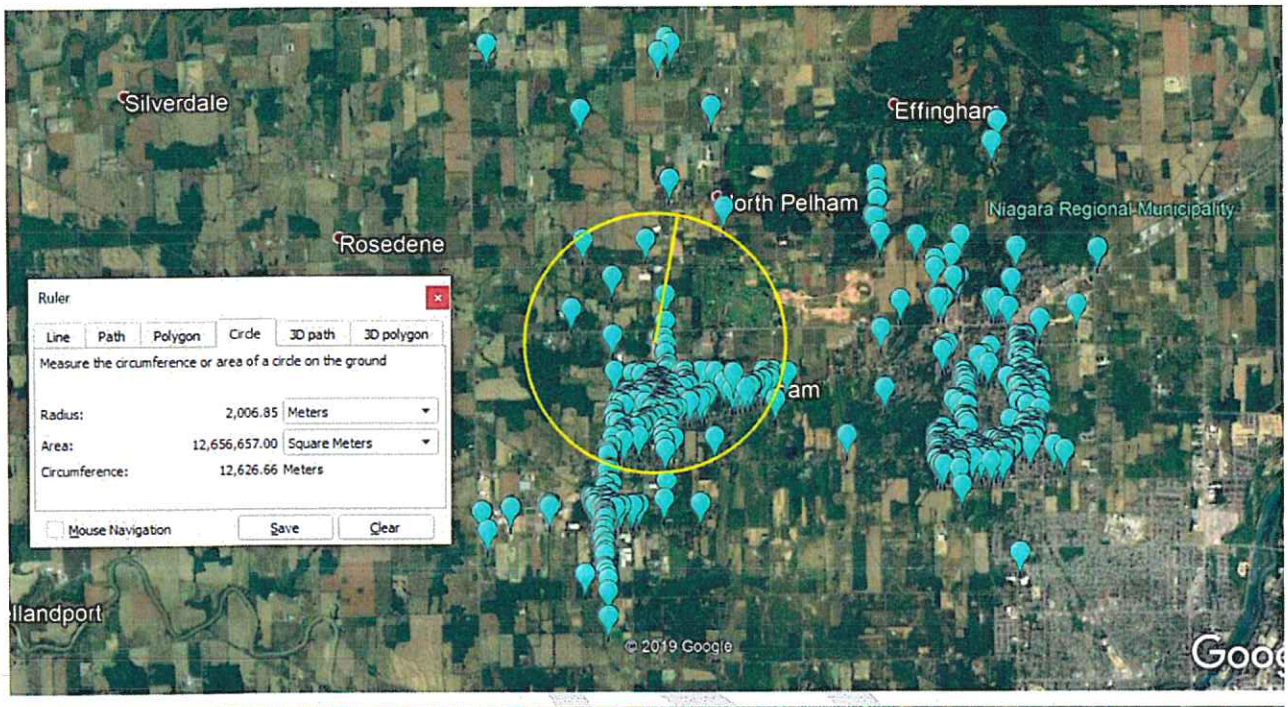
The young lad's school is over 1 km away from the Balfour Street facility (see the map below). He informed Council that school children were called inside from the playground due to the strong odour from the plant. He suggested that rules and guidelines should be in place so that schools are not affected by the odours.

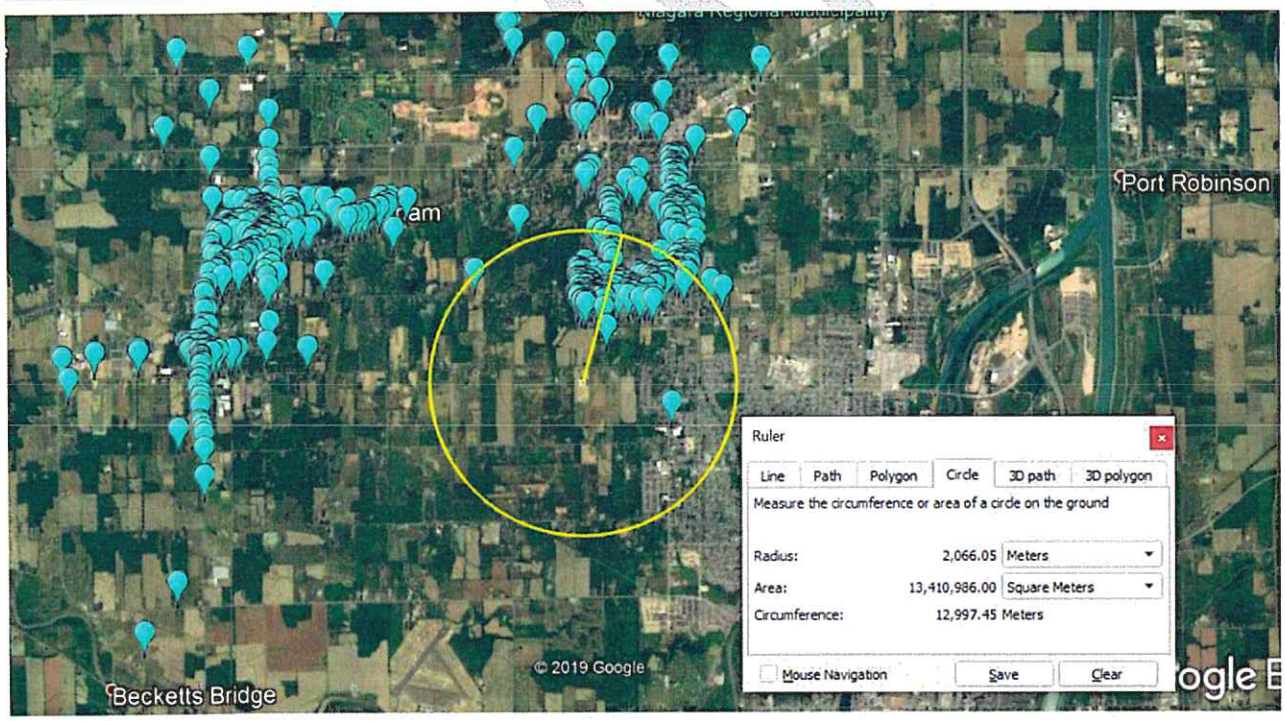


The student's father made an impact statement. He lives within 1 km of CannTrust. He and his wife have four children and they are appalled that their children have to endure that smell.

John VanVliet lives on Foss Rd. Redecan is down from him and he can see the planned Leviathan facility from his house. He says the traffic on this road "is brutal, it's extreme, it's fast, it's dangerous and his kids are not allowed to ride down a country road in Fenwick because they are going to get killed".

Over 800 residents signed a petition for Council to address their concerns, and many have spoken directly to Council at the Public Meeting on September 10th. Please see the Appendices for this information.





The above figures plot the addresses of the people who signed the petition, with the upper figure showing a circle with an approximate 2 km radius around the CannTrust facility and the lower figure showing a circle with an approximate 2 km radius around the Redecan facility.

Those who signed the petitions by and large experienced the odour issues with these two facilities. As a result, the distribution of their addresses is a strong indicator of the odour dispersion pattern experienced. As can easily be seen, a 2 km radius is far too small a radius to represent the area of influence; it is more like 4.5 km.

It should be noted that in the case of Redecan, petitions were only gathered for residents of Pelham, notwithstanding the numerous complaints that are coming out of Welland to the East and South-East of the Redecan facility. Residents from Welland indicate they are most affected when the winds are from the North or North West. If Welland was surveyed, one can imagine that the populated residential areas to the East and South-East of Redecan would be filled with blue balloons as well.

2.3. SUMMARY OF ISSUES AND ADVERSE EFFECTS TO REGULATE

The public comments and concerns raised in Section 2.2 are supplemented with additional issues and concerns that have arisen through the research carried out by the CCC. The collection of adverse effects or impacts are listed in the table below.

Odour	Light	Traffic, Noise	Loss of Property Value	Loss of Precious Agricultural Lands	Adverse impacts including stormwater flow & contamination of ground (drinking) water and septic	Environmental Impacts including endangered species, habitat loss, agricultural co-existence & other ecological harm	Human Safety & Security (fire, police, ambulance)	Financial Costs to Community

The CCC has investigated and seeks to recommend regulatory solutions for these, where feasible and justifiable.

2.3.1. Consideration of Other Odourous Industries

During its research on the obnoxious cannabis odour, the CCC has learned that other odourous industries produce similar undesirable odours; however, such industries are regulated to avoid adverse effects on their neighbours.

These *heavy odour* industries include landfills, slaughter houses, and rendering operations.

In light of this, the particular controls that the CCC proposes to mitigate cannabis odour will also be proactively proposed for these heavy odour industries. This broadening of our proposed odour controls will hopefully serve the Town better in the future, should one of these operations decide to locate in Pelham.

3. PLANNING CONTEXT

This section reviews the planning context that guides our approach to developing recommendations, given the regulatory considerations presented in Section **Error! Reference source not found.**.

3.1. FEDERAL CANNABIS ACT

Cannabis Regulations SOR/2018-144, Section 85 Filtration of Air requires the following:

> *The building where cannabis is produced must be equipped with a system that filters air to prevent the escape of odours.*

A description of the relevant information including the types of cultivation and processing licences will be added here.

3.2. CANNABIS INDUSTRY – INDUSTRIAL OR AGRICULTURAL?

There is plenty of confusion around whether the operations of the cannabis industry should be considered industrial or agricultural since it involves industrial processes as well as cultivation. The truth is that it is a hybrid industry, which makes it complex to manage and requires care in land use planning, or unintended harm and consequences will be the result for neighbouring land uses.

The North American Industry Classification System (NAICS) Canada 2017 Version 3.0 provides a variety of NAICS codes for the cannabis industry, depending on the precise nature of the operation. This includes the following NAICS codes:

- 111412 Growing cannabis under glass
- 111995 Growing cannabis in open fields
- 3123xx Making products from cannabis plants
- 4134xx Wholesaler of unprocessed cannabis and cannabis products
- 453993 Retail cannabis

These codes cover the spectrum from agricultural to commercial to industrial operations.

The Ontario Municipal Property Assessment Corporation (MPAC) has studied the cannabis classification issue and has concluded that it is both industrial and agricultural [MPAC Webinar 6 November 2019]. MPAC will use a Hybrid Classification System which it believes presents the least risk. The fundamental question is, "What is it, industrial

or agricultural?". In Ontario, MPAC thinks the answer is BOTH. MPAC put the earlier medical cannabis in the industrial class because of Ontario Regulation 28298 Industry Class.

> *Original Medical Cannabis was put in Industrial. MPAC will assess each Cannabis facility case by case depending on its use in accordance with the Assessment Act (Section 19.5) and Regulation 28298. MPAC is required to classify land used in connection with manufacturing or producing or processing anything essentially in the industrial class). Section 19.5 only land and buildings used solely for farm purposes are entitled to beneficial farm treatment. Section 44 Land, not buildings are eligible for 19.5 treatment. Industrial property class is for buildings. If the operator holds a licence for processing, it will be classed industrial.*

If the cannabis facility only holds a cultivation licence (most major cannabis players hold both cultivation and processing licences), it will likely be treated as farm class assuming it qualifies by obtaining a designation from Agricorp. Otherwise it will be treated like residential class. A "Value Added Farm" is a property with both a cultivation and a processing licence. In this case, the land could be valued as farm class, and the building(s) would be valued on a cost approach on the basis of what it is (i.e. a greenhouse, a manufacturing building, et cetera).

3.3. ENVIRONMENTAL PROTECTION ACT & PROVINICIAL GUIDELINES AND REGULATIONS

The *Environmental Protection Act* R.S.O. 1990, Chapter E.19, Section 14 Prohibition on discharge of a contaminant states:

> *Subject to subsection (2) but despite any other provision of this Act or the regulations, a person shall not discharge [leak or emit] a contaminant [odour] or cause or permit the discharge of a contaminant into the natural environment, if the discharge causes or may cause an adverse effect [1(g) loss of enjoyment of normal use of property]. 2005, c. 12, s. 1 (5).*

The MECP D-6 Guidelines on compatibility between Industrial Facilities and Sensitive Land Uses, including O. Reg. 419/05 Odour and NPC-300 Guidelines Noise Regulation Guidelines are relevant [Forristal et al].

These guidelines are applicable where an impacting land use is proposed where an existing sensitive land use would be within the impacting land use area of influence or potential influence.

The D-Series Guidelines are also intended to inform municipalities when drafting and implementing planning policies and documents such as its official plans and zoning by-laws.

NPC-300 calls for a Noise Impact Study to assess the impact of all noise sources and identify noise mitigation measures required to ensure compatibility. Sound levels must be determined for all points of reception (e.g. bedroom window) at all times of the day and must be below defined thresholds. O.Reg. 419/05 compliance requires an Emission Summary and Dispersion Modelling ("ESDM") Report which provides for the use of specified and approved atmospheric dispersion models to predict the concentration of contaminants that can be expected at a POI. These models consider all pertinent information such as discharge rates of contaminants, distance to buildings and property lines and meteorological data.

MECP also provides methods and procedures for the measurement of odours measured in odour units per cubic meter of air (OU/m3). MECP typically requires facilities to meet a standard of 1 OU/m3 and this standard may be imposed as a condition under a Section 9 Environmental Compliance Approval "ECA".

In response to an inquiry from the CCC's Dr. Jim Jeffs, MPP Sam Oosterhoff's Office forwarded a response from the Ministry of Environment, Conservation and Parks (MECP) on 15 October 2019 by e-mail re Cannabis Zoning which stated:

While cannabis production facilities are subject to provincial environmental legislation, MECP does not prescribe separation distances for industrial or agricultural facilities. Municipalities have tools (e.g., zoning by-laws, site plan agreements, building permits, etc.) that can be used to mitigate nuisance disturbances that may arise from land use incompatibility, such as cannabis production odour complaints. The development and implementation of set-backs that apply to cannabis production facilities are a municipality's prerogative.

3.4. PROVINCIAL POLICY STATEMENT (PPS)

Ontario Provincial Policy Statement 2014, 1.2.6.1 – Land Use Compatibility states:

> *Major facilities and sensitive land uses should be planned to ensure they are appropriately designed, buffered and/or separated from each other to prevent or mitigate adverse effects from odour, noise and other contaminants, minimize risk to public health and safety, and to ensure the long-term viability of major facilities.*

3.5. THE PLANNING ACT

The *Planning Act*, R.S.O. 1990, CHAPTER P.13, 26(1)(c) requires that the Official Plan is consistent with the PPS and states:

> *If an official plan is in effect in a municipality, the council of the municipality shall revise the official plan as required to ensure that it is consistent with policy statements issued under subsection 3 (1).*

3.6. GREENBELT PLAN 2017

To be completed.

3.7. NIAGARA PLANS

To be completed.

3.7.1. Niagara Escarpment Plan, 2017

To be completed.

3.7.2. Growth Plan for the Greater Golden Horseshoe, 2019

To be completed.

3.7.3. Regional Official Plan, consolidated August 2015

To be completed.

3.8. TOWN OF PELHAM OFFICIAL PLAN (2014)

To be completed.

3.8.1. Draft Amendment to Official Plan 10 Sep 2019

To be completed.

3.9. ZONING BY-LAW 1136 (1987)

Pelham Zoning Bylaw 1136 (1987) provides as follows. Section 6.19 Obnoxious Uses states:

> *No land shall be used and no building or structure erected, altered or used for any purpose which is obnoxious, for any purpose that creates or is likely to become a nuisance or offensive, or both by reason of the emission of objectionable odour.*

To be completed.

3.9.1. Draft Amendment to Zoning By-Law 1136 (1987) 10 Sep 2019

To be completed.

3.10. REGULATING NUISANCES

The aforementioned Federal, Provincial, Regional and Municipal laws, guidance, regulations and policy inform a standard of behaviour, compatible land use and co-existence between the new cannabis industry and existing residents and businesses in Pelham. Furthermore, municipalities also have specific authority under the Municipal Act to regulate nuisances including odour, light and noise.

Section 129(a) of the *Municipal Act 2001*, R.S.O. 2001,.c25 provides that municipalities can prohibit and regulate with respect to odour, light and noise and specifically states:

> *A municipality may prohibit and regulate with respect to noise, vibration, odour, dust and outdoor illumination, including indoor lighting that can be seen outdoors; and prohibit these matters unless a permit is obtained from the municipality and may impose conditions for obtaining, continuing to hold and renewing the permit, including requiring the submission of plans.*

And Section 128 of the *Municipal Act 2001*, R.S.O. 2001,.c 25 – provides that municipalities can prohibit and regulate with respect to public nuisances, and specifically states:

> *a local municipality may prohibit and regulate with respect to public nuisances, including matters that, in the opinion of council, are or could become or cause public nuisances.*

Finally, Section 447.1 of Municipal Act indicates that a municipality has jurisdiction to regulate where:

(b) the public nuisance has a detrimental impact on the use and enjoyment of property in the vicinity of the premises including, but not limited to, impacts such as,

(i) trespass to property,

(ii) interference with the use of highways and other public places,

(iii) an increase in garbage, noise or traffic or the creation of unusual traffic patterns,

(iv) activities that have a significant impact on property values,

(v) an increase in harassment or intimidation, or

(vi) the presence of graffiti

Based on the above, it is clear that municipalities have the authorities they need to regulate cannabis operations to mitigate the adverse effects on residents and other existing neighboring land uses. It is no wonder that Health Canada requires cannabis facilities to comply with municipal regulations, and why the Federal and Provincial governments have both consistently indicated that municipalities have the tools to regulate at a local level.

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4. RECOMMENDED APPROACH TO REGULATIONS

The CCC's recommended approach to implementing regulations that address the Cannabis concerns raised in Section 2 is presented here. The proposed regulations are in accordance with the planning context presented in Section 3.

4.1. OVERVIEW OF RECOMMENDED APPROACH

The CCC's recommended approach to developing the required regulations is two-pronged:

- The first line of defence is achieved through amendments to the Town's Official Plan and Zoning Bylaw. These amendments will pro-actively define and implement new policy to ensure that new cannabis operations that wish to locate in Pelham in the future will likely not cause significant adverse effects like those presented in Section 2. Further details are provided in Section 4.1.2.

- The second or last line of defence is a nuisance bylaw that applies to both existing and new cannabis operations and it attempts to motivate cannabis operators to comply with the expected regulations through enforcement, consisting of fines as well as an application to the Provincial Offences Court, if necessary, for a temporary shutdown order. With odour being one of the key adverse effects, this bylaw will extend to other odourous industries as described in Section 2.3.1. Hence, the proposed name for this bylaw is the Odourous Industries Nuisance Bylaw. Further details are described in Section 4.1.1.

4.1.1. Odourous Industries Nuisance Bylaw

The recommended Odourous Industries Nuisance Bylaw was developed through extensive research, including expert guidance to inform the odour regulations from Mr. Phil Girard, P.Eng, who spent his career in this field. See the briefing Mr. Girard provided to the CCC on 30 October 2019 [Girard, 2019]. The recommended bylaw follows the MECP guidelines and regulations described in Section 3.3.

The bylaw closely follows the overview presented to Council on September 23rd, 2019 as illustrated in Table 1, which accounts for comments received from the Public Meeting held on 10 September 2019. The deviations are highlighted in red.

The draft Odourous Industries Nuisance Bylaw is presented in Appendix C.

Table 1: Overview of Nuisance Regulations Presented at Council Meeting of 23 Sep 2019

Item	The Cannabis Nuisance Bylaw CCC-Proposed Regulations (23 Sep 2019)
Odour & Light Mitigation and Enforcement	• Existing and new CPFs require installation and operation of odour and light mitigation systems that reduce the off-property impact at sensitive receptors to a level of trivial impact (i.e. no adverse effects). • Existing and new CPFs must prepare contingency odour and light mitigation plans in the event of substantiated complaints so that the plans can be immediately implemented as necessary. • The odour and light control and monitoring plans should be signed/sealed by a Licensed Engineering Practitioner (LEP) consistent with Ministry of the Environment, Conservation and Parks (MECP) requirements. • The Town will have the Plans peer reviewed at the CPF's expense. • If odour and/or light violations continue to cause more than a level of trivial impact to off-property sensitive receptors, fines of $5,000 per day will apply and a Court Order may be sought to shut-down the CPF if necessary, to resolve the adverse impact including loss of enjoyment of neighbours.
Proof for Enforcement & Transparency	• Existing and new CPFs will be required to document, and report complaints received from neighbours to the Town and detail the corrective action that will be implemented to prevent further adverse impacts. • Ongoing odour ambient neighbourhood monitoring will be conducted at CPF(s) expense by independent trained and competent odour practitioners with results simultaneously delivered to the Town and CPF(s) and posted on website for public access.
Mitigation of other adverse impacts	• CPFs will be required to conduct other professional studies (traffic, waste management, etc) and be subject to development charges. CPFs will comply with a variety of regulations (e.g. Health Canada, fortification and fence regulations, odour & light emissions) and be subject to enforcement. • CPFs will be subject to regulations (to be developed by CCC) to address infrastructure, human safety, environmental, biological and ecological concerns, and to ensure measures are put in place and maintained to mitigate hazards and adverse impacts. • CPFs will manage noise in accordance with provincial standards (e.g. generators used for primary power)

4.1.2. Official Plan and Zoning Bylaw Amendments

To be completed.

The preliminary overview presented to Council on September 23rd, 2019 is illustrated in Table 2, and is a starting point for the resulting amendments which will be presented here in a future release of this Report.

Table 2: Preliminary Overview of Proposed OP/ZBL Regulations Presented at Council Meeting of 23 Sep 2019

Item	CCC-Proposed Regulations (Preliminary findings - need to complete research, investigate unintended consequences through consultation with stakeholders, and draft resolutions)
What is allowed & Notice	• Outdoor grow-ops will be prohibited because there is no practical way to stop obnoxious odours from escaping to neighbouring properties • All new CPFs will require a Zoning Bylaw amendment to ensure residents are notified and have a chance to voice concerns before permits are granted
Where	• If new CPFs are allowed to locate anywhere in Rural Pelham (Agricultural A and Industrial M1 and M2) they cannot locate within 1,000? m of the Greenbelt Natural Heritage Overlay, the Niagara Escarpment Plan Area and rural/urban settlements. • Alternatively, we can confine them to Industrial areas and/or along major regional roads. (The point is location is important to avoid major adverse impacts. Our research will inform location constraints.)
Setbacks	New CPF setbacks will be a minimum of 300 m and up to 1,000 m measured between lot lines as per Ministry of Environment, Conservation and Parks (MECP) setback guidance (D-6 Land Use Planning Guide for Industry Class III), as determined case by case. The actual setback requirement will be determined based on odour, noise and dust study that demonstrates how the emissions can be effectively reduced to a level of trivial impact (i.e. no adverse effect).

Note: The 300 m and 1,000 m minimum setbacks noted above were preliminary. As a result of the Committee's research, the actual minimum setbacks and locations that will be proposed can be expected to differ from the preliminary information in the above table.

4.2. JUSTIFICATION AND RATIONALE FOR ODOUROUS INDUSTRIES NUISANCE BYLAW

Justification and rationale for the recommended approach and proposed Odourous Industries Nuisance Bylaw is provided in this section.

4.2.1. Justification for an Odourous Industries Nuisance Bylaw

The justification for establishing an Odourous Industries Nuisance Bylaw is clearly established in Section 2.2 and Section 2.3 of this report. The proposed bylaw is reactive, not proactive, and is based on direct experience with the existing cannabis producers discussed in Section 2.1.

Pelham's adverse effects, especially with respect to odour and light which the proposed bylaw addresses, are severe. We have studied the problem and Pelham's *rolling hills* geography and its high, sensitive-receptor density in its rural areas are unlike other jurisdictions, which are flat, open and low density. With reference to Section 4.2.5, neither Health Canada nor the Ontario Government has shown the initiative to implement the required odour monitoring programs. Rather, they have left if for municipalities to deal with.

Perhaps the greatest indicator that this bylaw is urgently needed is the fact that Cannabis producers have not remediated the problem and are still in non-compliance with the Health Canada Regulations note in Section 3.1, notwithstanding that it has been over fifteen (15) months since the Interim Control Bylaw was put in place and Cannabis grow operations were legalized.

4.2.2. Approach Taken with the Odourous Industries Nuisance Bylaw

The approach we are recommending with respect to the Odourous Industries Nuisance Bylaw is summarized in Table 3.

Table 3: Structure & Approach of Proposed Odourous Industries Nuisance Bylaw

Section	Description	Approach Taken
Recitals	The "WHEREAS" recitals that provided the background for the Bylaw	We make reference to the Planning Context in Section 3 and the key public concerns in Section 2.2.
1. Interpretation	Definitions are provided here	To remove ambiguities and provide consistency throughout the bylaw, we define all key definitions here. These have been informed by our research as well as legal advice.
2. Prohibitions	Describes what is prohibited in Pelham	Every Odourous Industrial Facility, which includes a Cannabis facility, must follow the Bylaw, not release a substance or contaminant that may be harmful to the public or environment, and must not cause an Adverse Effect. Unauthorized Cannabis facilities are not allowed in Pelham.
3. Licences	Licences, registrations and other forms of authorization.	These must be produced for inspection by the Town.
4. Regulations	This section provides the regulations which the Town is imposing.	Regulations include the following at no cost to the Town: • Inform the Town promptly of lapses or changes in licences • Prepare a Contingency Odour Mitigation Plan to be used promptly to enhance odour mitigation if off-property odour is affecting neighbours – standards are provided in accordance with MECP guidelines and includes an Emission Summary and Dispersion Modelling (ESDM) Report with odour threshold of two Odour Units (OUs).

Section	Description	Approach Taken
		• Prepare a Contingency Light Mitigation Plan to be used promptly in the face of complaints. • Enter into Site Plan Control and Site Plan Approval prior to issuance of a building permit, and carry out requested studies first. • Employ air filtration systems to prevent the escape of Obnoxious Odours • Ensure that lighting does not cause a Light Trespass or Glare. Prevent sky glow at night so as not to be a nuisance to neighbours • Noise should not exceed the limits set out in MECP's NPC-300 guidelines • Document and report to the Town all complaints received • Report to the Town any corrective action taken • Pay for an ongoing neighbourhood, ambient odour monitoring program conducted by an independent odour practitioner selected by the Town with results simultaneously delivered to the Town and the facility operator and posted online for public access
5. Penalty	Fines for Contraventions	• Any contravention of a provision of the Bylaw can be designated as a continuing offence under the Municipal Act • A Person who contravenes is guilty of an offence and liable to a fine under the Provincial Offences Act. • For a person the maximum fine is $5,000 per day the offence continues • For a corporation the maximum fine is $10,000 per day the offence continues
6. Continuing Offence	Each calendar day is considered a separate offence	Applies to Section 2, 3 or 4 contraventions
7. Enforcement	Facility Shutdown	Can apply to the Superior Court of Justice to close the facility for up to two years under certain conditions
8. Powers of Entry	Powers of Entry	The Town can enter the facility under certain conditions

Section	Description	Approach Taken
9. Powers of Inspection	Powers of Inspection	The Town can require and inspect documents, request information, make examinations or conduct tests, and inspect for the purpose of a Section 8 Inspection.

4.2.3. Managing Cannabis Nuisances Does Not Conflict with Normal Farm Practices

Notwithstanding the strong regulatory authorities provided in Section 3.3 and Section 3.10, the question often arises as to whether we can regulate nuisances with respect to cannabis operations, given the protections provided for normal farm practices under the Farming and Food Production Protection Act, 1998 (FFPPA). We have examined that question, and our conclusion is yes, Pelham can regulate cannabis nuisances.

The relevant exceptions in the FFPPA are noted below:

1. Section **2** (1.1) A practice that is inconsistent with a regulation made under the Nutrient Management Act, 2002 is not a normal farm practice. 2002, c. 4, s. 63 (1).

2. Section **2** (3) Subsections (1) and (2) do not apply to preclude an injunction or order, in respect of a nuisance or disturbance, against a farmer who has a charge pending related to that nuisance or disturbance under the,
   - (a) Environmental Protection Act;
   - (b) Pesticides Act;
   - (c) Health Protection and Promotion Act; or
   - (d) Ontario Water Resources Act. 1998, c. 1, s. 2 (3).

3. Section **2** (5) This Act is subject to the Environmental Protection Act, the Pesticides Act and the Ontario Water Resources Act. 1998, c. 1, s. 2 (5).

The regulation of nuisances recommended in the Odourous Industries Nuisance Bylaw relies on the Environmental Protection Act which takes precedence over the FFPPA.

Furthermore, the cannabis industry is new and changing and what constitutes a normal farm practice is yet to be established and proven. [Reference].

4.2.4. Agency Comments and Cannabis Producer Comments Regarding Cannabis Nuisance By-law

The Niagara Region only provided comments with respect to the draft Official Plan Amendment (OPA) and Zoning Bylaw Amendment (ZBA) presented at the 10 September 2019 Public Meeting. The Niagara Region did not provide any comments with respect to the proposed Cannabis Odour bylaw presented at the Public Meeting. See [4].

The Solicitors for CannTrust provided the following general comments:

- Municipal by-laws cannot conflict with federal legislation/regulations.
- Municipal by-laws cannot frustrate the purpose of a federal enactment.
- The proposed prohibition section creates the potential for direct conflict with federal approvals.
- Both light and odour are dealt with in the Cannabis Regulations.
- How does the Town justify targeting cannabis? The by-law is discriminatory.

The CCC has considered these comments and done its best to address them. The CCC believes the proposed by-law is consistent with federal legislation and has taken care with legal advice to not frustrate the purpose of the Federal Cannabis Act.

The Solicitors for RedeCan provided the following comments:

- The regulations as currently drafted do not set out the requirements in a clear and objective manner. Several specific ambiguities were identified.
- It also appears that certain portions of the Regulations may overstep the Town's authority and conflict with provincial and federal legislation.
- It is suggested that the consequence be tailored to the type or nature of the offence.
- It is felt that it is an extremely broad provision to force a closure of a facility for up to two years.
- Any enforcement access rights to their facilities should be consistent with the licensee's federal obligations.
- Any removal of documents need to be limited to copies.

These comments have been considered by the CCC and by staff and efforts have been made to address them where appropriate.

Leviathan did not attend the Public Meeting and did not provide any comments on the draft by-laws, OPA, and ZBA.

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4.2.5. Managing Odour

Pelham is fortunate to have a local odour expert, Mr. Phil Girard, P.Eng, who is a resident of Pelham. Mr. Girard spent his career at Pinchin Ltd working with odourous industries and the MECP in Ontario, to help stinky industries mitigate the adverse effects of odour and comply with MECP regulations. He started the Air/Nose Group at Pinchin Environmental in 1996 and has provided training to staff at the former Ministry of the Environment.

Mr. Girard has volunteered countless hours of his time to assist the CCC in understanding odour and how to use practices established for stinky industries by the MECP to develop bylaw provisions to manage cannabis odour in Pelham.

As he indicated below [Girard, 2019, pg.56/57] the Town does not have to re-invent the wheel, and so we didn't.

> *Odour can be quantitatively measured so that it can be managed. The "type" of smell is irrelevant.*
> *• Ambient programs can be used to evaluate ongoing compliance.*
> *• Industry is already required to prepare emission summary and dispersion modelling reports that demonstrate compliance with provincial limits.*
> *• If a complaint arises, industry is required to develop an abatement plan.*
> *• There are MECP protocols for contaminant reporting, odour sampling, analysis and modelling. The Town does not have to re-invent the wheel.*

Odour problems can be predicted by conducting an odour study that produces an Emission Summary and Dispersion Modelling Report (ESDM) in accordance with Ministry Guidelines. The CCC recommends that new cannabis industry applicants or existing cannabis facilities seeking an expansion or site alteration are required to prepare an ESDM using a licenced engineering practitioner (LEP), prior to the granting of site plan approval or a building permit. Cannabis applicants would be wise to do this anyway, as Pelham's *rolling hills* geography can cause odour to disperse long distances in comparison to other flat geographies.

The ESDM in Ontario typically uses AERMOD modelling software to predict odour dispersion and odour strength levels measured in odour units (OUs) at sensitive receptors such as residents and schools in the vicinity of a proposed cannabis facility. AERMOD takes into account five years of meteorological data and incorporates local terrain topography to predict how odour will travel from the proposed facility.

The ESDM allows a cannabis facility operator to determine the extent of their odour mitigation systems needed to ensure that odour remains at the detection threshold at sensitive receptors, which is 2 OUs.

The Contingency Odour Mitigation Plan that is incorporated in the regulations of the recommended bylaw (See Table 3 Section 4) provides for additional odour mitigation at the facility should the facility be determined to not be in compliance with the odour thresholds established by the Bylaw.

If you don't measure it, you can't manage it. In accordance with our proposed Bylaw and following MECP established guidelines and industry practices, two different methods are proposed to measure the odour that

escapes cannabis facilities and other stinky industrial facilities that may wish to locate to Pelham in the future:

1. An ambient neighbourhood monitoring program that measures odour at many different locations in the vicinity of a facility (upwind and downwind) and at unannounced or random times, so that the actual odour dispersion and odour strength can be monitored and assessed over time at sufficient frequency to quantitatively characterize the escaping odour. These data are invaluable as they can be used to quantitatively assess compliance, validate complaints at sensitive receptors, and monitor improvements made by cannabis operators with the addition of further odour mitigation technologies.

2. Odour measurement at the property line(s) of a facility in response to complaints and randomly.

We recommend that the Ambient Neighbourhood Odour Monitoring Program be conducted by a third-party professional paid for by the cannabis facilities, with data published on-line to share with the cannabis industry, the Town and the public.

We recommend that odour measurement at the property line(s) of a facility be conducted by enforcement staff.

Because cannabis odour is not continuous from a facility, arises in the flowering stage, will vary depending on how a facility is venting air, and will vary with meteorological conditions, only an ambient monitoring program can capture the necessary data.

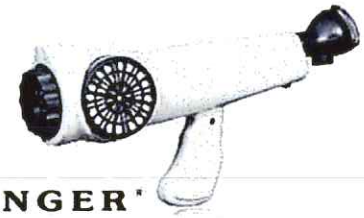
The ambient neighbourhood monitoring data will be invaluable for research, and will also assist with relations with neighbouring Towns.

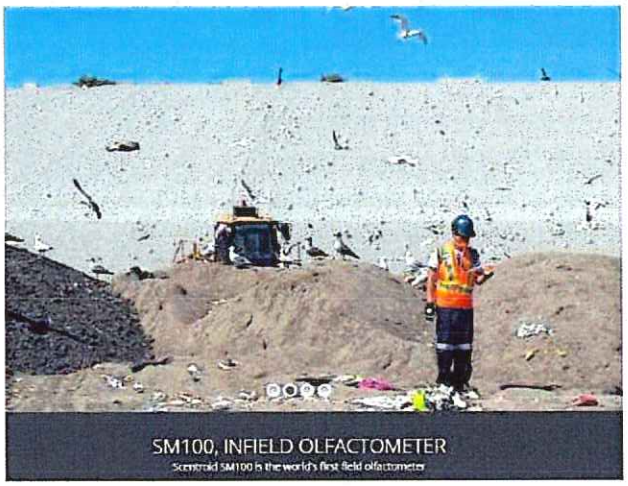
For example, residents of Welland in the Balsam Street area who are downwind from RedeCan have made numerous complaints regarding the excessive odour they regularly face with prevailing westerly winds. Because odour from cannabis facilities in Pelham travels distances in excess of 2 km, Pelham should be neighbourly with Welland by ensuring that the ambient monitoring program includes neighbourhoods in Welland. The tables could be turned quite quickly on Pelham residents if new cannabis facilities locate in bordering Welland, Thorold, Wainfleet and West Lincoln.

Measuring odour is done most practically using a field olfactometer, which is a device that costs approximately $5,000. The Nasal Ranger or the Scentroid SM100 are examples of such field olfactometers. The CCC recommends that the Town's enforcement staff purchase and use one of these devices for the property line measurements.

FIELD OLFACTOMETERS

- Portable devices that measure odour in the community
- Examples: Nasal Ranger
  Scentroid SM100





[Girard, 2019, pg. 34/57]

4.2.6. Managing Noise

The source for the CCC's recommendation of MECP's NPC-300 Guideline for managing noise is [Forristal et al, 2013], where the following is provided:

In October 2013 the MOE released the new Environmental Noise Guideline, Stationary and Transportation Sources - Approval and Planning – Publication NPC-300 (the "NPC-300 Guidelines"), replacing older guidelines including Publication LU-131 – Noise Assessment Criteria in Land Use Planning and Publication NPC-205 – Sound Level Limits for Stationary Sources in Class 1 and 2 Areas (Urban). The NPC-300 Guidelines are intended to address the control of sources of noise emissions to the environment by providing sound level limits for stationary sources such as industrial establishments. Compliance with the NPC-300 Guidelines must be demonstrated by applicants for ECAs under the EPA. The sound level limits may also be applied when noise complaints are made to the MOE and an investigation is undertaken to determine if such noise constitutes an adverse effect contrary to section 14 of the EPA.

The NPC-300 Guidelines also provide advice, sound level limits and guidance that may be used in the land use planning process.

NPC-300 itself [NPC-300] notes the following in Section A6.4 Municipal Act[1]:

The Municipal Act empowers municipalities to enact noise by-laws to control sound (noise). The NPC guidelines are included by municipalities in many municipal noise by-laws enacted under the Municipal Act.

4.2.7. Managing Light

The light pollution in Pelham associated with the sky glow emanating from the cannabis facilities in Pelham is severe and continues to plague Pelham and neighbouring residents unabated, where it can be seen at great distances (see Section 2.2). Hence regulations and enforcement are required.

The Planning Context presented in Section 3 certainly supports Pelham regulating to mitigate this nuisance. The sky glow can be eliminated by the cannabis operators and it should be eliminated to restore Pelham to the picturesque, dark sky community that it was.

The Royal Astronomical Society of Canada (RASC) has been promoting Dark-Sky Protection Program to protect people and wildlife from the harmful effects of light pollution, including sky glow, light trespass and glare [RASC, 2018].

[1] It should be noted that the NPC guidelines do not apply to noise sources from agricultural operations during the course of normal farm practice, which are subject to the Farming and Food Production Protection Act, 1998.

The goal of the RASC Dark-Sky Protection Program is to promote the reduction in light pollution, demonstrate good ecologically sound night-time lighting practices, improve the nocturnal environment of wildlife, protect and expand dark observing sites for astronomy, and provide accessible locations for the general public to experience the naturally dark night sky.

Communities in North America have begun to react to the harmful effects of light pollution and are adopting Dark Sky policies to reduce light pollution and its effects on their communities.

4.3. JUSTIFICATION AND RATIONALE FOR OP AND ZBL AMENDMENTS

Justification and rationale for the recommended approach and proposed Official Plan (OP) and Zoning Bylaw (ZBL) amendments are provided in this section.

To be completed.

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5. REFERENCES

References will be provided here.

1. AM-07-19 OP-AM-01-19 September 10 Public Meeting minutes.pdf
2. [Forristal et al, 2013], Land Use Compatibility – Noise & Odour, Annik Forristal, Mary Flynn-Guglietti & Henry Krupa, McMillan LLP
3. MPAC Webinar 6 November 2019 Regarding Classification Treatment of Cannabis Licenced Facilities: https://www.youtube.com/watch?v=C-7zudPJPsg&feature=youtu.be
4. AM-07-19 OP-AM-01-19 Regional Comments.pdf
5. AM-07-19 OP-AM-01-19 Public Comments as of December 9 19. Pdf
6. [Girard, 2019] P Girard Cannabis Control Committee Odour Briefing Oct 30 2019.Pdf
7. [NPC-300] NPC-300_Final-Approved_011-0597.Pdf
8. [RASC, 2018] RASC-GOL_2018_1.Pdf

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6. APPENDICES

Appendices will be provided here.

Appendices

a. Public Concerns
b. Public Meeting Comments 10 September 2019
c. Odourous Industries Nuisance Bylaw
d. Site Plan Control Bylaw Amendment
e. Official Plan Amendment
f. Zoning Bylaw Amendment
g. Research Reports

APPENDIX C: Odourous Industries Nuisance Bylaw

The draft, recommended bylaw follows.

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THE CORPORATION OF THE

TOWN OF PELHAM

BY-LAW NO. (2019)

Odourous Industries Nuisance By-Law

Being a by-law to regulate certain matters and nuisances related to odourous industrial facilities.

WHEREAS, Section 128 of the *Municipal Act, 2001,* R.S.O. 2001, .c 25 provides that a local municipality may prohibit and regulate with respect to public nuisances including matters that in the opinion of Council are, or could become, or cause public nuisances;

AND WHEREAS Section 129(a) of the *Municipal Act, 2001*, R.S.O. 2001, .c25 provides that a local municipality may prohibit and regulate with respect to noise, vibration, odour, dust and outdoor illumination, including indoor lighting that can be seen outdoors; and prohibit these matters unless a permit is obtained from the municipality and may impose conditions for obtaining, continuing to hold and renewing the permit, including requiring the submission of plans;

AND WHEREAS Section 429 of the *Municipal Act, 2001,* R.S.O. 2001, c.25 provides a municipality with the authority to impose fines for offences of a by-law of the municipality passed under the *Municipal Act, 2001,* R.S.O 2001, c.25;

AND WHEREAS Cannabis facilities are a new industry requiring municipalities to look to federal and provincial regulations, policies and legislation as a guide for how to regulate certain matters related to Cannabis production facilities;

AND WHEREAS Cannabis Regulations SOR/2018-144, Section 85 requires the building where Cannabis is produced to be equipped with a system that filters air to prevent the escape of odours;

AND WHEREAS The *Environmental Protection Act* R.S.O. 1990, Chapter E.19, Section 14 requires that no person shall discharge or cause or permit the discharge of a contaminant including an odour into the natural environment, if the discharge causes or may cause an adverse effect;

AND WHEREAS The Ministry of the Environment, Conservation and Parks D-6 Guidelines, O. Reg. 419/05 Odour Regulation and NPC-300 Noise Regulation provide a framework, standards and methods for assessing whether adverse effects are likely, whether proposed mitigations are likely to be adequate, and how to measure compliance;

AND WHEREAS Ontario Provincial Policy Statement 2014, 1.2.6.1 requires that major facilities and sensitive land uses should be planned to ensure they are appropriately designed, buffered and/or separated from each other in order to prevent or mitigate adverse effects from odour, noise and other contaminants, and minimize risk to public health and safety;

AND WHEREAS The *Planning Act* R.S.O. 1990, CHAPTER P.13 requires that a municipality's Official Plan and Zoning By-laws are consistent with Provincial Policy statements;

AND WHEREAS The Town of Pelham's Zoning Bylaw 1136 (1987) Section 6.19 requires that no land shall be used and no building or structure erected, altered or used for any purpose which is obnoxious, for any purpose that creates or is likely to become a nuisance or offensive, or both by reason of the emission of objectionable odour;

AND WHEREAS without proper regulation, the activities regulated by this By-law, especially in the absence of sufficient regulation and enforcement by another level of government, could become or cause public nuisances;

AND WHEREAS The residents of the Town of Pelham have filed numerous complaints which clearly indicate their strong dislike of the Cannabis odour they have been subjected to and the adverse effects it and other Cannabis nuisances are having on them;

AND WHEREAS The aforementioned complaints have highlighted the need to update by-laws to address the negative impacts of Cannabis and other odourous industrial facilities that may wish to locate in Pelham;

AND WHEREAS the Council of the Town of Pelham has deemed it to be in the public interest that such a By-law be enacted;

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

Interpretation

1. In this By-law:

   a) "Adverse Effect" means an effect that has greater than a trivial impact, including effects such as (i) loss of the ordinary enjoyment or use of one's property including for Sensitive Uses; (ii) loss in property value; (iii) a negative health impact on a resident; (iv) a negative impact on the environment including soil, ground water and septic system contamination; (v) loss of ~~precious~~ agricultural lands and hazards to sensitive nearby crops; (vi) a negative ecological impact including habitat loss; and (vii) increase in ~~garbage,~~ noise or traffic or the creation of unusual traffic patterns.

   b) "Authorized Cannabis Operation" means a Cannabis Operation authorized by an issued license or registration by the federal Minister of Health, pursuant to the Cannabis Regulations SOR/2018-144 or the Access to Cannabis for Medical Purposes Regulations SOR/2016-230, and in compliance with the *Cannabis Act* S.C. 2018, C.16 and the *Controlled Drugs and Substances Act*, SC 1996, c 19, as amended from time to time, or any successors thereto, and operating in accordance with relevant provincial regulations and all municipal bylaws and regulations including this bylaw.

   c) "Cannabis" shall have the same meaning as cannabis as defined in the *Cannabis Act* (Canada) S.C.2018, c.16 as

amended from time to time, or any successors thereto.

d) "Cannabis Cultivation Operation" means the growing of Cannabis for medical or recreational purposes, subject to regulations under the *Cannabis Act*, as amended.

e) "Cannabis Operation" means any of the following: a Cannabis Cultivation Operation, a Cannabis Processing Operation, a Cannabis research operation, a Cannabis analytical testing operation, or a Cannabis drug production operation, each which is subject to regulations under the *Cannabis Act*, as amended.

f) "Cannabis Processing Operation" means the extraction of Cannabis oil for the purpose of producing or manufacturing Cannabis oils, gels or other edibles, carried out subject to regulations under the *Cannabis Act*, as amended.

g) "Council" means the Council of the Municipality.

h) "Enforcement Officer" means the By-law Enforcement Officer appointed by the Council of the Municipality for the purpose of the enforcement of Town by-laws; or any Police Officer as defined by the *Police Service Act*, R.S.O. 1990 c.p. 15 as amended.

i) "Glare" means light emitting from a luminaire with intensity great enough to reduce a viewer's ability to see, or to produce a sensation of discomfort.

j) "Heavy Odour Operation" means a landfill operation, slaughter house operation, or rendering operation.

k) "LEP" means a licensed engineering practitioner who is a person who holds a licence, limited licence or temporary licence under the *Professional Engineers Act Ontario*.

l) "Light Trespass" means the shining of light by a luminaire beyond the boundaries of a property on which it is located.

m) "Luminaire" means a complete lighting system including a lamp or lamps enclosed in a housing complete with reflectors or refractors.

n) "MECP" means the Ministry of the Environment, Conservation and Parks, Ontario.

o) "Municipality" means The Corporation of the Town of Pelham.

p) "Obnoxious Odour" means an odour of Cannabis or an odour from an Odourous Industrial Facility that:

   a. emanates from a property and disperses or is likely to disperse to one or more other properties; and

b. is of such strength that it causes or is likely to cause an Adverse Effect.

q) "Odour Unit" or "Odour Threshold Value" is a measure of the number of dilutions required to render a sample to the detection threshold, commonly expressed as an odour concentration (OU/m^3). One odour unit is defined as the point where 50% of a normal population could just detect that an odour is present. Measurement of the strength of an odour in odour units is facilitated using a laboratory or field olfactometer.

r) "Odourous Industrial Facility" means the property, including all its lands, buildings, structures and improvements on the lands, associated with:

a) a Cannabis Operation, including an Authorized Cannabis Operation, but shall not mean any property ~~on which Cannabis is grown~~used exclusively for the legal ~~use solely by the registered owner~~personal cultivation of up to four Cannabis plants per household in accordance with the ~~property~~*Cannabis Act* (Canada) S.C.2018, c.16; or

b) a Heavy Odour Operation.

s) "Person" means a natural person, a corporation, partnership or association and their heirs, executors, administrators or other legal representatives of a person to whom the context can apply according to law.

t) "Public Nuisance" means a nuisance as defined in Section 128 and 129 of the *Municipal Act, 2001*, R.S.O. 2001, .c25.

u) "Sensitive Use" or "Sensitive Receptor" means a school, day care, playground, sporting venue, park, recreational area, residence, place of worship, community centre or any other place where people regularly gather or sleep.

v) "Vicinity" means the region formed between the inner polygon defined by the property lines of an Odourous Industrial Facility and an outer polygon separated by 2 km from the inner polygon, wherein every point in the region is a distance of no more than 2 km from the nearest point on the inner polygon.

w) "Zone" means an area delineated on a zoning map schedule and established and designated by the Comprehensive Zoning By-law 1136(1987), or any amendment or subsequent comprehensive Zoning By-law duly enacted, for a specific use or group of uses.

Prohibitions

2. No person shall:

a) operate an Odourous Industrial Facility except in accordance with the provisions of this By-Law;

b) operate an Odourous Industrial Facility that releases a substance or contaminant that may be harmful to the public or the environment;

c) operate an Odourous Industrial Facility that causes an Adverse Effect; or

d) operate an Odourous Industrial Facility, in the case of a Cannabis Operation, except as one maintained as an Authorized Cannabis Operation.

Licences

3. The owner, occupier and/ or operator of an Odourous Industrial Facility shall produce for inspection all licences, registrations and other forms of authorization which permit the Authorized Cannabis Operation or the Heavy Odour Operation, as the case may be, on the property.

Odourous Industrial Facility Regulations

4. An Odourous Industrial Facility shall:

a) promptly inform the Municipality of any lapses, non-compliances, changes or proposed changes to its licences and operating authorities from Canadian governments and agencies including Health Canada and Canada Revenue Agency, the Province of Ontario including the MECP, the Municipality and any other competent authority;

b) operate indoors except with Council approval where it can be demonstrated that the regulations of this by-law will be satisfied;

c) prepare at no cost to the Municipality a contingency odour mitigation plan signed/sealed by an LEP, for use in the event of substantiated complaints so that the plans can be immediately implemented as necessary. The odour mitigation plan shall be in the form of an MECP Emission Summary and Dispersion Modelling report detailing the odour inventory and mitigation that will be employed, off-property odour impact predictions, implementation timelines, and a signed/sealed statement by the LEP that (i) the off-property odour impact will not cause an adverse effect at any sensitive use in the Vicinity, and (ii) the odour strength will not exceed two odour units at any sensitive use in the Vicinity (where the standard of compliance is that two odour units will only be exceeded at any given sensitive use up to 0.5% of the time on an annual basis as per MECP Technical Bulletin "Methodology for Modelling Assessment of Contaminants with 10-Minute Average

Standards and Guidelines", September 2016);

d) prepare at no cost to the Municipality a contingency light mitigation plan with implementation timelines signed/sealed by an LEP, for use in the event of substantiated complaints so that the plan can be immediately implemented as necessary;

e) prior to the issuance of any building permit for new construction or alteration, or if no construction or alteration is required then prior to commencing operation associated with any change in land use, obtain site plan approval and enter into a Site Plan Agreement with the Municipality pursuant to Section 41 of the *Planning Act, R.S.O. 1990, c.P.13*. Site plan approval will require, at no cost to the Municipality with independent peer review on behalf of the Municipality, site plans and designated Section 41(7) studies, and may include additional studies if requested in support of a zoning bylaw amendment application such as on-site monitoring plans and contingency mitigation plans signed/sealed by an LEP which demonstrate that the odour, noise and light requirements of this by-law will be met;

f) operate only in a Zone designated for such use or in accordance with a zoning by-law amendment approved by the Council of the Municipality;

g) employ systems, including air filtration systems, throughout the Odourous Industrial Facility where Cannabis or other odour is present to prevent the escape of obnoxious odours and to ensure that:

   i. at all sensitive uses within the Vicinity, the odour strength measured from the Odourous Industrial Facility never exceeds two odour units more than 44 times per year; ~~and~~

   ii. at all sensitive uses within the Vicinity, the odour strength measured from the Odourous Industrial Facility never exceeds four odour units; and

   ~~ii.~~iii. the odour strength measured at any point on any property line of the Odourous Industrial Facility never exceeds six odour units;

h) ensure that all security and parking lot lighting are shielded, directed downward and do not spill over onto adjacent properties or create a Light Trespass or Glare so as to cause a nuisance to any adjacent property;

i) ensure that structures that require interior supplemental lighting for the growing of Cannabis or for another purpose employ a light control plan and light blocking systems to prevent skyglow at night so as to not cause a nuisance to neighbours and the general public;

j) ensure that noise generated by the Odourous Industrial Facility, including noise from the use of power generators as a primary power source, does not result in sound levels that exceed the limits set out in MECP's NPC-300 guidelines;

k) operate in a manner to avoid becoming a public nuisance, including implementing pro-active measures to mitigate potential Adverse Effects, and acting quickly and in good faith by implementing contingency measures and additional mitigation measures as needed if complaints arise;

l) document, and report to the Municipality all complaints received from neighbours and residents and detail the corrective action that will be implemented, including a timeline to prevent further adverse impacts;

m) report to the Municipality any corrective action taken within five days of commencement of such action and again within five days following completion of such action;

n) pay for an ongoing neighbourhood, ambient odour monitoring program conducted by independently trained and competent odour practitioner(s) selected by the Municipality with results simultaneously delivered to the Municipality and the Odourous Industrial Facility operator and posted online for public access; and

o) in the case of a Cannabis Operation, cultivate and process Cannabis solely for the Health Canada licence holder associated with the Odourous Industrial Facility.

Penalty

5. The following penalties would apply to any contravention of this By-law:

a) any contravention of a provision of this By-law can be designated as a continuing offence, pursuant to Section 429 (2)(a) of the *Municipal Act, 2001*, R.S.O. 2001, c.25;

b) any Person who contravenes any provision of this By-law is guilty of an offence and upon conviction, is liable to a fine, including the fines set out in this By-law and such other penalties as provided for in the *Provincial Offences Act,* R.S.O, 1990 c.P.33, and the *Municipal Act, 2001,* R.S.O. 2001. c.25;

c) every Person who contravenes any provision of this By-law is guilty of an offence and on conviction, is liable to a fine not exceeding $5,000 per day that the offence continues;

d) notwithstanding paragraph (a) and (c) above, every Person who is a corporation that contravenes any provision of this By-law is guilty of an offence and upon conviction, liable to a

fine not exceeding $10,000 per day that the offence continues.

Continuing Offence

6. Each calendar day a violation of Section 2, Section 3 or Section 4 continues is deemed to be a separate offence.

Enforcement

7. In addition to any other penalty or remedy available to the Municipality, the Council may apply to the Superior Court of Justice for an order requiring all or part of an Odourous Industrial Facility to be closed for a period not exceeding two (2) years if it be proved on a balance of probabilities that:

   a) activities or circumstances on or in the premises of an Odourous Industrial Facility constitute a public nuisance or cause or contribute to activities or circumstances constituting a public nuisance in the Vicinity;

   b) the public nuisance has a detrimental impact on the use and enjoyment of property in the Vicinity;

   c) the owner, operator or occupants of the Odourous Industrial Facility or part of the facility knew or ought to have known that the activities or circumstances constituting the public nuisance were taking place or existed and did not take adequate steps to eliminate the public nuisance; or

   d) a conviction for a contravention of this By-law by a court of competent jurisdiction of a public nuisance in respect to the Odourous Industrial Facility has been entered, and the conviction is not currently under appeal.

Powers of Entry

8. Pursuant to Section 436 of the *Municipal Act, 2001,* R.S.O. 2001, c. 25 and in addition to any other powers of entry granted to the Municipality, the Municipality, by its employees or agents, may enter on the premises of an Odourous Industrial Facility at any reasonable time for the purpose of carrying out an inspection to determine whether or not the following are being complied with:

   a) this By-law or any other by-law passed by the Municipality;

   b) any direction or order of the Municipality made under the *Municipal Act, 2001,* R.S.O. 2001, c.25, or this By-law;

   c) a condition of a license issued by the Municipality; or

   d) an order to discontinue or remedy a contravention of this By-law for which a conviction has been entered by a court of competent jurisdiction.

Powers of Inspection

9. The Municipality may do any of the following for the purpose of an inspection under Section 8:

   a) require the production for inspection of documents or things relevant to the enforcement of this By-law

   b) inspect and remove documents or things relevant to the enforcement of this By-law for the purpose of making copies or extracts;

   c) require information from any person concerning the matter relevant to the enforcement of this By-law; and

   d) alone or in conjunction with a person possessing special or expert knowledge, make examinations or take tests, sample or photographs necessary for the purposes of the inspection; and

   e) conduct a lawful inspection under this By-law by an Enforcement Officer without interference, obstruction or hinderance by any person.

Severability

10. If a Court of competent jurisdiction should declare any section or part of a section of this By-law to be invalid, such section shall not be construed as having persuaded or influenced Council to pass the remainder of the By-law and it is hereby declared that the remainder of the By-law shall be remain in force.

Effect

11. This By-law shall take effect and be in force upon enactment.

ENACTED, SIGNED AND SEALED THIS

_____ DAY OF _____, 2020

_____

MAYOR MARVIN JUNKIN

_____

CLERK NANCY J. BOZZATO

SPECIAL COUNCIL MINUTES

Meeting #: **SC-01/2020 Special Council**
Date: **Monday, January 13, 2020, 4:30 pm**
Location: **Town of Pelham Municipal Office - Council Chambers**
20 Pelham Town Square, Fonthill

Members Present
Marvin Junkin
Mike Ciolfi
Lisa Haun
Bob Hildebrandt
Ron Kore
Marianne Stewart
John Wink

Staff Present
David Cribbs
Charlotte Tunikaitis
Bob Lymburner
Jason Marr
Teresa Quinlin
Vickie vanRavenswaay
Barbara Wiens
Holly Willford
Callum Shedden

1. Call to Order and Declaration of Quorum

Noting that a quorum was present, the Mayor called the meeting to order at approximately 4:35 pm.

2. Approval of the Agenda

Moved By Mike Ciolfi
Seconded By Ron Kore
BE IT RESOLVED THAT the agenda for the January 13th, 2020 Special Meeting of Council be adopted as circulated.

Carried

3. Disclosure of Pecuniary Interest and General Nature Thereof

There were no pecuniary interests disclosed by any of the members present.

4. Resolution to Move in Camera

Moved By Ron Kore
Seconded By Lisa Haun
BE IT RESOLVED THAT the next portion of the meeting be closed to the public in order to consider a matter under Section 239 (2) of the Municipal Act, as follows:

(c) - proposed or pending acquisition or disposition of land by the municipality; (e) - litigation or potential litigation, including matters before administrative tribunals, affecting the municipality; (f) - advice that is subject to solicitor-client privilege, including communications necessary for that purpose - various items, including but not limited to File L07-2019-01-S and File L07-2018-01-S

Carried

5. Rise From In Camera

Moved By Lisa Haun
Seconded By Ron Kore
BE IT RESOLVED THAT Council adjourn the In Camera Session and that Council do now Rise: With Report

Carried

Moved By Bob Hildebrandt
Seconded By John Wink
BE IT RESOLVED THAT the Chief Administrative Officer be and is hereby authorized to undertake the directions provided during the In Camera meeting of January 13 2020.

Carried

6. Confirming By-law

Moved By John Wink
Seconded By Bob Hildebrandt
BE IT RESOLVED THAT the following By-law be read a first, second and third time and passed:

Being a By-law No. 4190 (2020) to Adopt, Ratify and Confirm the proceedings of Council of the Town of Pelham at its Special Meeting held on the 13th day of January, 2020.

Carried

7. Adjournment

Moved By Marianne Stewart
Seconded By John Wink
BE IT RESOLVED THAT this Special Meeting of Council be adjourned.

Carried

Mayor Marvin Junkin

_____

Deputy Clerk, Holly Willford

REGULAR COUNCIL

MINUTES

Meeting #:	**C-01/2020 - Regular Council**
Date:	**Monday, January 13, 2020**
Time:	**5:30 PM**
Location:	**Town of Pelham Municipal Office - Council Chambers** **20 Pelham Town Square, Fonthill**
Members Present:	**Marvin Junkin** **Mike Ciolfi** **Lisa Haun** **Bob Hildebrandt** **Ron Kore** **Marianne Stewart** **John Wink**
Staff Present:	**David Cribbs** **Bob Lymburner** **Jason Marr** **Teresa Quinlin** **Vickie vanRavenswaay** **Barbara Wiens** **Charlotte Tunikaitis**
Other:	**Doug Freeland, District Kinsmen Club,** **Tim Nohara, Cannabis Control Committee,** **Gayle Baltjes, Fonthill Bandshell** **Members of the Public and other interested parties** **Media**

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1. Call to Order and Declaration of Quorum

Noting that a quorum was present, the Mayor called the meeting to order at approximately 5:34 pm.

2. Singing of National Anthem

The National Anthem was sung by those present to officially open the meeting.

3. Approval of Agenda

Moved By Marianne Stewart
Seconded By John Wink

BE IT RESOLVED THAT the agenda for the January 13, 2020 Regular meeting of Council be adopted.

Carried

4. Disclosure of Pecuniary Interests and General Nature Thereof

There were no pecuniary interests disclosed by any of the members present.

5. Hearing of Presentation, Delegations, Regional Report

5.1 Presentations

5.2 Delegations

5.2.1 Fonthill and District Kinsmen Club

Doug Freeland of the Kinsmen Club of Fonthill & District made verbal presentation to Council requesting the Town declare the week of February 16-22nd as "Kinsmen & Kinette Week" in Fonthill.

The Mayor thanked the Kinsmen Club for all the work they do within the community.

Moved By John Wink
Seconded By Bob Hildebrandt

BE IT RESOLVED THAT Council receive the delegation submitted by the Kinsmen Club of Fonthill and District; and

THAT Council proclaim February 16th to 22nd, 2020 as Kinsmen and Kinette Week.

Carried

5.2.2 Tim Nohara - Cannabis Control Committee

The Chair of the Cannabis Control Committee provided an update on the progress of the Committee since the last report.

Mr. Nohara requested funds to hire a Planning Professional to aid the work of the Committee.

Moved by Bob Hildebrandt

Seconded by John Wink

BE IT RESOLVED that Council receive the delegation by Tim Nohara, Chair of the Cannabis Control Committee, for information.

Amendment:

Moved By Ron Kore
Seconded By Lisa Haun

THAT Council hereby waives the requirement to follow the Purchasing Policy – Procurement of Supplies and Services – S402-00 with regards to hiring a professional Planner to aid the Cannabis Control Committee and their work; and

THAT Council authorize the Cannabis Control Committee to proceed with selecting and hiring a professional Planner; and

THAT Council hereby authorizes the Cannabis Control Committee to spend a maximum budget of $40,000.00 on the contracted professional services; and

THAT the Mayor and Clerk shall have the signing authority for any contract or document required to retain said professional services.

Carried

Moved By Ron Kore
Seconded By Lisa Haun

BE IT RESOLVED that Council receive the delegation by Tim Nohara, Chair of the Cannabis Control Committee, for information; and

THAT Council hereby waives the requirement to follow the Purchasing Policy – Procurement of Supplies and Services – S402-00 with regards to hiring a professional Planner to aid the Cannabis Control Committee and their work; and

THAT Council authorize the Cannabis Control Committee to proceed with selecting and hiring a professional Planner; and

THAT Council hereby authorizes the Cannabis Control Committee to spend a maximum budget of $40,000.00 on the contracted professional services; and

THAT the Mayor and Clerk shall have the signing authority for any contract or document required to retain said professional services.

Carried

Moved By Mike Ciolfi
Seconded By John Wink

BE IT RESOLVED THAT the CAO is hereby granted the authority to authorize an additional $10,000.00 should the Cannabis Control Committee require additional funds.

Carried

5.2.3 Gayle Baltjes - Fonthill Bandshell

Gayle Baltjes from the Fonthill Bandshell Committee expressed the Committee's thanks to Council, Town staff, community volunteers and sponsors with regards to their support and effort in the 'Jazz Up Peace Park' project.

Ms. Baltjes indicated, to date, the Committee has reached 75% of their goal. In thanks, the Committee provided Council and staff Bandshell Committee pins.

Moved By Lisa Haun
Seconded By Ron Kore

BE IT RESOLVED that Council receive the delegation by Gail Baltjes, Chair of the Fonthill Bandshell Committee, for information.

Carried

5.3 Report of Regional Councillor: No Report

6. Adoption of Minutes

Moved By Ron Kore
Seconded By Lisa Haun

BE IT RESOLVED THAT the following minutes be adopted as printed, circulated and read:

1. C-21/2019 - Regular Council Minutes December 16, 2019

2. SC-41/2019 - Special Council Minutes December 16, 2019

Carried

7. Business Arising from Council Minutes: None

8. Request(s) to Lift Consent Agenda Item(s) for Separate Consideration

Item 9.5.2 – Amherstburg Resolution was lifted for separate consideration.

9. Consent Agenda Items to be Considered in Block

Moved by Mike Ciolfi

Seconded by Ron Kore

BE IT RESOLVED THAT the Consent Agenda items as listed on the January 13th, 2019 Council Agenda be received and the recommendations contained therein be approved, as applicable, save and except item 9.5.2

- -

9.1 Presentation of Recommendations Arising from COW or P&P, for Council Approval

BE IT RESOLVED THAT COUNCIL HEREBY approves the Recommendations Resulting from the following:

1. **COW-09/2019 - Committee of the Whole - December 16 2019**

9.2 Minutes Approval – Committee

9.2.1 COW-09/2019 Committee of the Whole Minutes December 16, 2019

BE IT RESOLVED THAT Council receive the COW-09/2019 Committee of the Whole minutes, dated December 16, 2019 for information.

9.4 Action Correspondence of a Routine Nature

9.4.1 ICIP Rural and Northern Stream – Transfer Payment Agreement

BE IT RESOLVED Council receive correspondence from the Province of Ontario dated December 18, 2019 regarding the Investing in Canada Infrastructure Program (ICIP) Rural and Northern Stream – Transfer Payment Agreement;

AND THAT Council approved the attached draft By-Law for execution;

AND THAT Council authorize and direct staff to execute the Transfer Payment Agreement and forward same to the Province of Ontario.

9.5 Information Correspondence Items

9.5.1 Transfer of Ownership to Region of Niagara - Niagara Central Dorothy Rungeling Airport

BE IT RESOLVED that Council receive the correspondence from the Niagara Region dated December 13th, 2019 regarding the transfer of ownership of the Niagara Central Dorothy Rungeling Airport, for information.

~~**9.5.2 Town of Amherstburg Support - Joint and Several Liability Consultation**~~

~~**BE IT RESOLVED THAT Council receive correspondence from the Town of Amherstburg, dated November 25, 2019, regarding Joint and Several Liability Consultation, for information.**~~
(Lifted)

9.5.3 Thank You Letter - Emily Bonisteel

BE IT RESOLVED THAT Council receive the thank you letter from Emily Bonisteel regarding her Town of Pelham Scholarship, for information.

9.7 Committee Minutes for Information

9.7.1 Mayors Youth Advisory Committee Minutes

BE IT RESOLVED THAT Council receive the Mayors Youth Advisory Committee Minutes dated November 19, 2019, for information.

9.7.2 Pelham Audit Committee Minutes

BE IT RESOLVED THAT Council receive the Pelham Audit Committee minutes dated July 15, 2019; September 11, 2019; October 16, 2019 and November 20, 2019, for information;

AND THAT Council approved the proposed name change from the Pelham Audit Committee to the 'Pelham Finance and Audit Committee';

AND THAT Council approved the proposed Revised Reference of Reference attached to the October 16th, 2019 Minutes

Carried

10. Items for Separate Consideration, if Any

8.1 Town of Amherstburg Support - Joint and Several Liability Consultation

Councillor Hildebrandt indicated Joint and Several Liability is an important issue, which affects the Town's insurance premiums. Councillor Hildebrandt requested the CAO to provide Council a brief explanation of Joint and Several Liability and how it may affect the Town. The CAO satisfied said request.

Moved by Mike Ciolfi

Seconded by Ron Kore

BE IT RESOLVED THAT Council receive correspondence from the Town of Amherstburg, dated November 25, 2019, regarding Joint and Several Liability Consultation, for information.

Amendment:

Moved By Bob Hildebrandt
Seconded By John Wink

THAT Council receive correspondence from the Town of Amherstburg, dated November 25, 2019, regarding Joint and Several Liability Consultation, for information; and

THAT Council endorse and support the Town of Amherstburg resolution; and

THAT the Clerk shall distribute the Town of Pelham's support as noted in the resolution from the Town of Amherstburg

Carried

Amendment:
Moved By Bob Hildebrandt
Seconded By John Wink

BE IT RESOLVED THAT Council receive correspondence from the Town of Amherstburg, dated November 25, 2019, regarding Joint and Several Liability Consultation; and

THAT Council endorse and support the Town of Amherstburg resolution; and

THAT the Clerk shall distribute the Town of Pelham's support as noted in the resolution from the Town of Amherstburg

Carried

11. Presentation & Consideration of Reports

11.1 Reports from Members of Council:

11.2 Staff Reports Requiring Action

12. Unfinished Business

13. New Business

14. Presentation and Consideration of By-Laws

Moved By Mike Ciolfi
Seconded By Ron Kore

BE IT RESOLVED THAT the Council of the Town of Pelham, having given due consideration to the following By-laws do now read a first, second and third time and do pass same, and

THAT the Mayor and Clerk be and are hereby authorized to sign and seal the by-laws:

1. By-law 4186(2020) - Being a by-law to provide for an interim tax levy for the year 2020.

2. By-law 4187(2020) - Being a by-law to amend By-law No. 3728(2016) to establish 2020 Fees and charges to be collected by the Corporation of the Town of Pelham, and to Repeal By-law No. 4088(2019).

3. By-law 4188 (2020) Being a by-law authorizing the Mayor and Clerk or designate to enter into an agreement with Her Majesty The Queen in Right of the Province of Ontario as represented by the Minister of Agriculture, Food and Rural Affairs under the Investing in Canada Infrastructure Program (ICIP) Rural and Northern Stream.

Carried

15. Motions and Notices of Motion

16. Matters for Committee of the Whole or Policy and Priorities Committee

17. Matters Arising Out of Committee of the Whole or Policy and Priorities Committee

18. Resolution to Move in Camera

Moved By Lisa Haun
Seconded By Ron Kore

BE IT RESOLVED THAT Council recess the In Camera portion of the meeting and reconvene immediately following the Committee meeting scheduled for this evening.

Carried

Moved By Bob Hildebrandt
Seconded By John Wink

BE IT RESOLVED THAT the regular Council meeting of January 13th, 2020 do now reconvene to complete the agenda.

Carried

Moved By Ron Kore
Seconded By Mike Ciolfi

BE IT RESOLVED THAT the next portion of the meeting be closed to the public in order to consider a matter under Section 239 (2) of the Municipal Act, as follows:

Subsection 239(2)(b) personal matters about an identifiable individual, including municipal or local board employees, 239(2)(e) litigation or potential litigation, and 239(2)(f) advice that is subject to solicitor-client privilege, including communications necessary for that purpose. (1 item)

Carried

19. Rise From In Camera

Moved By John Wink
Seconded By Bob Hildebrandt

BE IT RESOLVED THAT Council adjourn the In Camera Session and that Council do now Rise: With Report

Carried

Moved By Marianne Stewart
Seconded By John Wink

BE IT RESOLVED THAT the Chief Administrative Officer be and is hereby authorized to undertake the directions provided during the In Camera meeting of January 13, 2020.

Carried

20. Confirming By-Law

Moved By John Wink
Seconded By Bob Hildebrandt

BE IT RESOLVED THAT the following By-law be read a first, second and third time and passed:

Being a By-law No. 4189(2020) to Adopt, Ratify and Confirm the proceedings of Council of the Town of Pelham at its Regular Meeting held on the 13th day of January, 2020.

Carried

21. Adjournment

Moved By Marianne Stewart
Seconded By John Wink

BE IT RESOLVED THAT this Regular Meeting of Council be adjourned until the next regular meeting scheduled for February 3, 2020 at 5:30 pm.

Carried

_____

Mayor: Marvin Junkin

_____

Deputy Clerk: Holly Willford

Recommendations of the Committee of the Whole held January 13, 2020

BE IT RESOLVED THAT COUNCIL HEREBY approves the following Recommendations Resulting from the COW-01/2020 Committee of the Whole of January 13, 2020:

1. **THAT the agenda for the January 13th, 2020 regular meeting of Committee be adopted.**

2. **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.

3. **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.

4. **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.

5. **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.

6. **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.

7. **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.

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

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

   <u>Motion to Defer</u>

   THAT Committee defer Report #2020-00007 in order to receive clarification and more information regarding lawn signs.

9. **THAT this Regular Meeting of Committee be adjourned until the next regular meeting scheduled for February 3, 2020 following Council.**

COMMITTEE OF THE WHOLE

MINUTES

Meeting #:	**COW-01/2020**
Date:	**Monday, January 13, 2020**
Location:	**Town of Pelham Municipal Office - Council Chambers** **20 Pelham Town Square, Fonthill**
Members Present:	**Marvin Junkin** **Mike Ciolfi** **Lisa Haun** **Bob Hildebrandt** **Ron Kore** **Marianne Stewart** **John Wink**
Staff Present:	**David Cribbs** **Bob Lymburner** **Jason Marr** **Vickie vanRavenswaay** **Barbara Wiens** **Holly Willford** **Charlotte Tunikaitis**
Other:	**Members of the public and interested parties** **Media**

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1. Call to Order and Declaration of Quorum

Noting that a quorum was present, the Mayor called the meeting to order at approximately 6:55 pm.

2. Adoption of Agenda

Moved By Lisa Haun

THAT the agenda for the January 13th, 2020 regular meeting of Committee be adopted.

Carried

3. Disclosure of Pecuniary Interest and General Nature Thereof

There were no pecuniary interests disclosed by any of the members present.

4. Department Reports

4.1 Community Planning and Development

4.1.1 Development Agreement - 997 Canboro Road (DA-02-19) - Recommendation Report, 2020-0006-Planning

Moved By John Wink

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.

Carried

4.1.2 Execution of the Saffron Meadows Phase 2 Subdivision Agreement, 2020-0008-Planning

Moved By Bob Hildebrandt

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.

Carried

4.1.3 Report Regarding an Encroachment Agreement - 1423 Pelham Street, 2020-0001-Planning

Moved By Ron Kore

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.

Carried

4.1.4 Site Plan Approval - 1010 Canboro Road (SP-09-19) - Recommendation Report, 2020-0005-Planning

Moved By Ron Kore

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.

Carried

4.1.5 Site Plan Approval - 1361 Maple Street (SP-08-19) - Recommendation Report, 2020-0004-Planning

Moved By Marianne Stewart

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.

Carried

4.1.6 Site Plan Approval - 730 Tice Rd (SP-07-19) - Recommendation Report, 2020-0003-Planning

Moved By Mike Ciolfi

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.

Carried

4.2 Corporate Services

No Reports

4.3 Fire & By-law Services

4.3.1 Sign Bylaw 2020, 2020-0007-Fire Dept

Moved By Mike Ciolfi

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

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

Moved By Mike Ciolfi

THAT Committee defer Report #2020-00007 in order to receive clarification and more information regarding lawn signs.

Carried

4.4 Public Works and Utilities

No Reports

4.5 Recreation, Culture and Wellness

No Reports

4.6 Administration

No Reports

5. Unfinished Business

None

6. New Business

None

7. Adjournment

Moved By Bob Hildebrandt

THAT this Regular Meeting of Committee be adjourned until the next regular meeting scheduled for February 3, 2020 following Council.

Carried

_____

Mayor: Marvin Junkin

_____

Deputy Clerk: Holly Willford

LIPA PARK

TOWN OF PELHAM
JAN - 8 2020
RECEIVED

January 3rd, 2020

Town of Pelham
20 Pelham Town Square
Fonthill, ON L02 1E0

Attention: Ms. Nancy J. Bozzato,

RE: Community Festivals & Special Occasion Permits

Permission is requested to hold Community Festivals on the following dates:

May 18, 2020	**- Slovenian Open House, part of Niagara Folk Arts Festival**
July 5, 2020	**- Summerfest**
August 9, 2020	**- Music-in-the-Park Festival**

Questions 1 to 10 are addressed as follows:

1) Slovenian National Home Lipa Park, 2850 Oille Street, Pelham
2) Slovenian National Home Lipa Park, c/o , c/o Frank Chermaz, 8 St.Julien St, L2T 2G2
   or Boris Plut, 28 Springbank Dr, L2S 2J9
3) Our Festivals **do qualify** as fundraising events for the advancement of educational and community projects by Slovenian National Home Lipa Park, a **non profit** organization
4) There has been no **involvement** by the business community and residents
5) There is a proposed budget
6) Program Outlines at 2850 Oille as follows:

   May 18, 2020 - Slovenian Open House/Niagara Folkarts Festival – 12:00 noon to 7:30 pm (expected attendance approx.. 500 coming and going)

   July 5, 2020 - Summerfest - 12:00 noon to 8:00 pm (expected attendance approx. 400 coming and going)

   August 9, 2020 - Music-in-the-Park Festival - 12:00 noon to 8:00 pm (expected attendance approx. 500 coming and going)

7) Site Plan for May 18, July 5, and August 9, 2020 is enclosed as page 3.

8) A letter outlining the dates and times of the Festivals have been sent to the following:

   a) **Niagara Regional Police – Inspector, Des Carter**

   b) **Municipal Authorities – <u>Health</u>** – Mr. Anthony Hobjan

   - **<u>Building</u>** – Mr. Keegan Gennings

- **Fire** – Mr. Bob Lymburner

9) Slovenian National Home Lipa Park will supply council with a report of each event, if they so desire, as per Liquor License Act - Page R9.4 paragraph 39. (1)

10) These events have been and are **Annual Community Festivals.**

Additional Notes to Council:

1) Slovenian National Home Lipa Park has been in existence at 2850 Oille St., since Centennial Year, 1967. The local Police, Health, Building and Fire Department are quite familiar with our grounds
2) The **Slovenian Open House**, assigned for May 18, 2020 as part of the Niagara Folk Arts Festival, has been held on Victoria Day **since 1975**. **Music In The Park,** August 9, 2020, has been held annually for the past **22 years**.
3) These Local Musicians may be performing at one or more of the above festivals:

    - **Walter Ostanek Band** (Canada's Polka King and 3 Time Grammy Award Winner)
    - **Nu-Tones Band** of Welland
    - **Golden Keys Band** of Kitchener
    - **The Niagara Button Box Band**
    - **The Tamburitzan Musicians and Singers** of Hamilton and/or Welland

4) The Former **Lipa Park Button Box Band** has retired after 24 years. Some of their former members may play as guest musicians from time to time. Former Lipa Park Button Box Band retirees formed the **Niagara Button Box Band.**

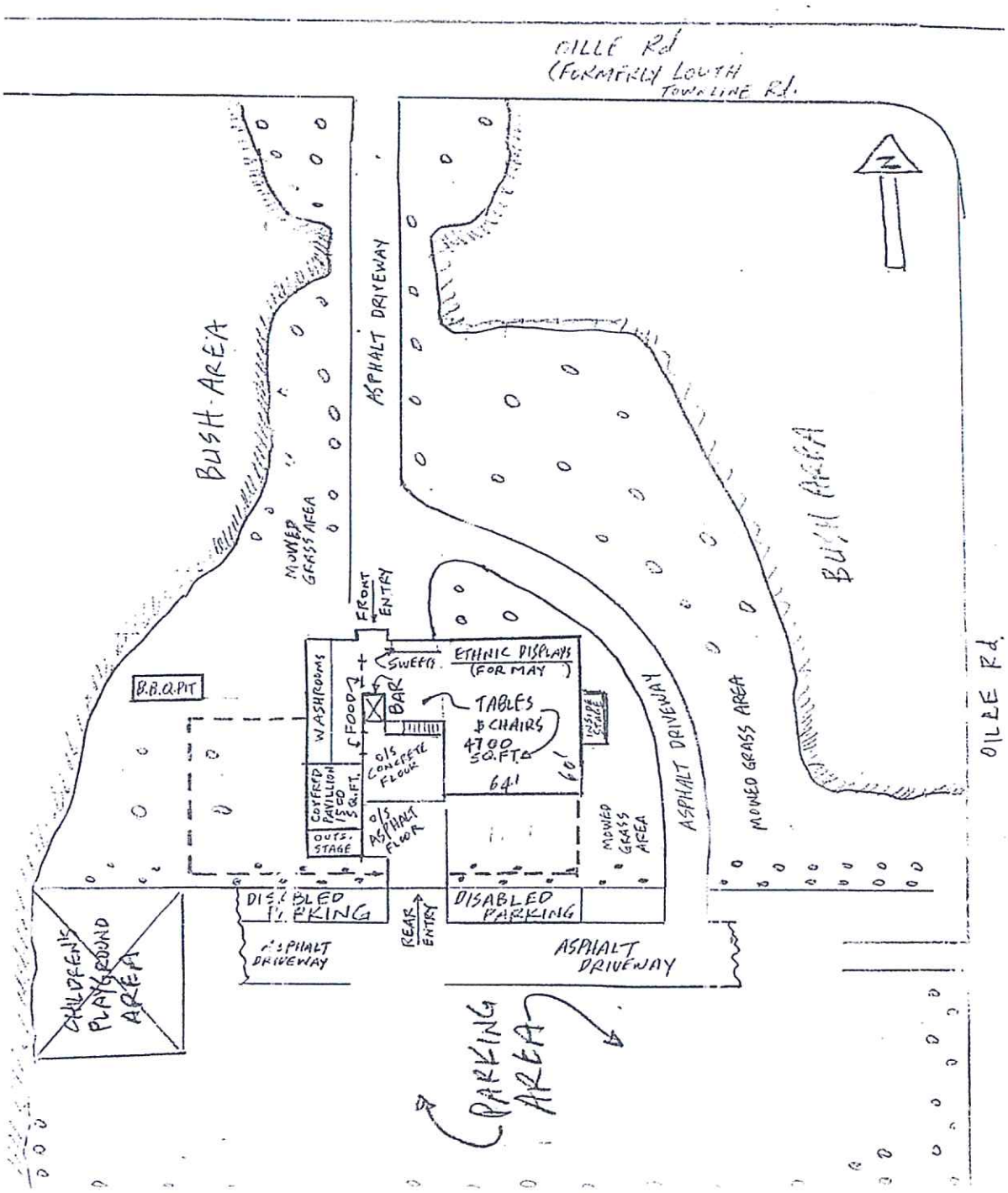
If there are any further concerns, please call the undersigned at 905-680-4362.

Sincerely,

John Reiter
President

CONTACT FRANK CHERMAZ @ 905-964-6055
WITH COUNCIL RESOLUTION

Site Plan for proposed Festivals on May 18, July 5, August 9 2020.


OILLE Rd
(FORMERLY LOUTH TOWNLINE Rd.)
BUSH AREA
ASPHALT DRIVEWAY
MOWED GRASS AREA
FRONT ENTRY
B.B.Q. PIT
WASHROOMS
FOOD
BAR
SWEEPS
ETHNIC DISPLAYS (FOR MAY)
TABLES & CHAIRS
4700 SQ.FT.
64'
60'
INSIDE STAGE
COVERED PAVILION 1500 SQ.FT.
OUTS. STAGE
O/S CONCRETE FLOOR
O/S ASPHALT FLOOR
MOWED GRASS AREA
ASPHALT DRIVEWAY
MOWED GRASS AREA
BUSH AREA
OILLE Rd.
DISABLED PARKING
DISABLED PARKING
REAR ENTRY
ASPHALT DRIVEWAY
ASPHALT DRIVEWAY
CHILDREN'S PLAYGROUND AREA
PARKING AREA

To: Members of Council, Town of Pelham, and J. Marr, Director, Public Works

Re: Revision of Policy S801-02 for Neighbourhood Traffic Management, 2019-0142-Public Works

At its December 2, 2019 meeting of the Policy and Priorities Committee, Council referred this item to the Pelham Active Transportation Committee for review and comment. The committee members appreciate the opportunity to provide input on this important issue, which is often identified by residents as a concern.

The committee was provided with an overview of the draft policy by J. Marr, Director, Public Works and R. Cook, Manager at its December 17th meeting. Following a robust discussion, the PATC members agreed to communicate the following comments to Council for its consideration:

1. The PATC is generally supportive of the proposed policy, as it will provide a consistent approach to traffic calming, using established criteria for evaluation, data and evidence to support decision making, and a clear process to communicate with residents in the affected area. The policy provides information, examples and creates a common understanding of what is and what is not traffic calming. Public access to the policy and the information is required for a complaint driven process, such as this. The PATC supports the implementation and evaluation of "soft" traffic calming measures prior to the introduction of more rigid measures.

2. The proposed policy does not address two important issues which have been identified to the PATC by residents, namely:

   - Traffic calming in rural areas and rural roads
   - Traffic calming in neighbourhoods that include schools, social hubs or parks. There may be many users of these facilities/areas who do not necessarily live in the neighbourhoods. School zones, in particular, may require a more inclusive process to address the concerns of students and parents, beyond those of the immediate neighbours. The input from those who utilize the schools/social hubs/parks is also valid and required.

   In addition, while the process is primarily complaint driven, it should also allow initiation by staff, should circumstances warrant it. For example, changes to road usage in other communities such as Welland or Thorold may require review of traffic calming of affected areas in Pelham.

3. Finally, the PATC also identified a number of related issues for Council's consideration:
   - Consider traffic calming requirements as new developments are being planned
   - The increased density of housing may affect traffic calming and the consultation process under consideration.

- Are there sufficient human resources to meet the requirements of the policy?
- Ensure clarity of the policy and process so that residents understand it and are able to use it
- Once the policy is approved, use media and other resources to inform and educate the residents of Pelham

Thank you for inviting the PATC to provide this input. If you require clarification or additional information, please do not hesitate to let us know.

Thank you,

Bea Clark, Chair
Pelham Active Transportation Committee

Members:
Brian Baty, Rhys Evans, Bob Fish, Bill Gibson, Lisa Gallant, Joe Marchant, Dave Nicholson, Barb Rybiak
Pelham Councillor John Wink, Regional Councillor Diana Huson

January 13, 2020

To: Members of Council, Town of Pelham and J. Marr, Director, Public Works

Re: 2019 Pedestrian Crossing on Pelham Street, 2019-0125 Public Works

At its December 2, 2019 Policy and Priorities Committee meeting, Council members referred this item to the Pelham Active Transportation Committee for review and comment. The committee members appreciate the opportunity to provide input on this important issue.

The history of the signalized pedestrian crossings on Pelham Street is very familiar to the PATC. Recommendations and concerns were previously identified and communicated to staff and Council. The most recent consultant's report offers additional information and insights regarding ongoing concerns about the pedestrian crossing at the intersection of Church Hill Street and Pelham Street.

At the December 17th meeting of the PATC, members agreed to provide Council with the following recommendations to ongoing concerns at this intersection:

1. Eliminate the two parking spots on the north side of Pelham Street, at this intersection, as per the consultant's recommendation.
2. Change the signage for motorists on Church Hill Street to make it more visible for motorists as they approach the intersection. A flashing light, indicating that the pedestrian signal is in use, could be considered.
3. Eliminate the delay in the crosswalk signal. When a pedestrian presses the button for the signal, the change to the amber light should be instantaneous. The current delay in the signal creates confusion and uncertainty for pedestrians and motorists alike.
4. Full signalization at this intersection would be the ideal solution.

If you require clarification or additional information, please do not hesitate to let us know.

Thank you for considering the input of the Pelham Active Transportation Committee.

Bea Clark, Chair
Pelham Active Transportation Committee

Members:
Brian Baty, Rhys Evans, Bob Fish, Bill Gibson, Lisa Gallant, Joe Marchant, Dave Nicholson, Barb Rybiak
Pelham Councillor John Wink, Regional Councillor Diana Huson

Ministry of Municipal Affairs and Housing

Office of the Minister

777 Bay Street, 17th Floor
Toronto ON M7A 2J3
Tel.: 416 585-7000

Ministère des Affaires municipales et du Logement

Bureau du ministre

777, rue Bay, 17e étage
Toronto ON M7A 2J3
Tél.: 416 585-7000

Ontario

234-2020-120

January 20, 2020

Your Worship
Mayor Marvin Junkin
Town of Pelham
mjunkin@pelham.ca

Dear Mayor Marvin Junkin,

Thank you for your municipality's joint submission to the Municipal Modernization Program and for your commitment to working together with partner municipalities to find smarter, more efficient ways to operate.

I am pleased to inform you that the Government of Ontario will provide funding of up to $38,850.00 towards your joint project *Shared Services Review of Four Municipalities* for the cost of an independent third-party reviewer to deliver a final report by June 30, 2020.

The Municipal Modernization Program is an important part of our government's plan to help municipalities lower costs and improve services for local residents and businesses over the long term. The joint review project being undertaken by your municipality, together with partner municipalities, is an important step toward achieving our shared goal of efficient, effective, modern services that meet the evolving needs of our communities.

A transfer payment agreement is required to provide funding for this work. Ministry staff will be in touch with your staff shortly to finalize the transfer payment agreement and work through details of funding implementation. Should you have any questions, please feel free to contact your Municipal Services Office, or the ministry at municipal.programs@ontario.ca.

I would like to offer my congratulations on this funding approval under the Municipal Modernization Program and extend my best wishes as we work together to modernize service delivery and focus spending on vital programs and services for Ontarians.

Sincerely,

Steve Clark
Minister

c. David Cribbs, Town of Pelham
Mayor Bill Steele, City of Port Colborne
Scott Luey, City of Port Colborne
Mayor Kevin Gibson, Township of Wainfleet
William Kolasa, Township of Wainfleet
Mayor Frank Campion, City of Welland
Gary Long, City of Welland

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Ontario

234-2020-120

January 20, 2020

Your Worship
Mayor Marvin Junkin
Town of Pelham
mjunkin@pelham.ca

Dear Mayor Marvin Junkin,

Thank you for your municipality's joint submission to the Municipal Modernization Program and for your commitment to working together with partner municipalities to find smarter, more efficient ways to operate.

I am pleased to inform you that the Government of Ontario will provide funding of up to $19,425.00 towards your joint project *Shared Services Review of Review of IT Services in Pelham and Wainfleet* for the cost of an independent third-party reviewer to deliver a final report by June 30, 2020.

The Municipal Modernization Program is an important part of our government's plan to help municipalities lower costs and improve services for local residents and businesses over the long term. The joint review project being undertaken by your municipality, together with partner municipalities, is an important step toward achieving our shared goal of efficient, effective, modern services that meet the evolving needs of our communities.

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Sincerely,

Steve Clark
Minister

c. David Cribbs, Town of Pelham
Mayor Kevin Gibson, Township of Wainfleet
William Kolasa, Township of Wainfleet

MPP Oosterhoff Announces Over $9.6 Million in Local Infrastructure Funding in Niagara

Supporting Municipalities in Building and Repairing Roads, Bridges, Water and Wastewater Infrastructure

NEWS January 22, 2020

ST. ANNS – The Ontario government is beginning the New Year by allocating $200 million through the Ontario Community Infrastructure Fund (OCIF) to 424 small, rural and northern communities across the province. The funding is designated for core infrastructure projects, including building and repairing roads, bridges, water and wastewater infrastructure.

This year, Niagara will receive over $9.6 million in local infrastructure funding, while the five municipalities in Niagara West will receive more than $2.5 million to address local community infrastructure needs.

Sam Oosterhoff, MPP for Niagara West, announced the local funding at Reece Bridge on the banks of Twenty Mile Creek in St. Anns in the Township of West Lincoln.

"As your MPP, I am upholding my commitment to support our local municipalities by creating jobs, attracting economic growth and investment, and making our community the best place to live and grow," noted MPP Oosterhoff.

"This funding will help build and repair roads, bridges, water and wastewater infrastructure in our community."

The total investment in communities in Niagara West are as follows:

Municipality	OCIF Allocation
Town of Grimsby	$1,112,750.00
Town of Lincoln	$616,612.00
Town of Pelham	$483,112.00
Township of Wainfleet	$50,000.00
Township of West Lincoln	$272,786.00

The investments in Niagara as a whole are as follows:

Municipality	OCIF Allocation
Town of Fort Erie	$1,076,740.00
City of Niagara Falls	$3,370,443.00
Town of Niagara-on-the-Lake	$815,143.00
City of Port Colborne	$418,760.00
City of Thorold	$470,298.00
City of Welland	$950,916.00

"This investment provides the predictable and stable infrastructure funding small, rural and northern municipalities have asked for," said Laurie Scott, Minister of Infrastructure.

"With this OCIF funding we are working directly with our municipal partners to deliver community infrastructure."

Recognizing that municipalities have different infrastructure needs, the province uses a straightforward and transparent formula that examines various social and economic factors to determine funding allocations across the province.

The infrastructure funding provides predictable and stable allocations for communities with populations under 100,000, along with all rural and northern communities.

Quick Facts:

- The Ontario Community Infrastructure Fund provides stable and predictable funding for communities with populations under 100,000, along with all rural and northern communities.
- Approximately $200 million in formula-based funding was allocated to small, rural and northern communities for 2019. Municipalities may accumulate their formula funding for up to five years to address larger infrastructure projects.
- Niagara as whole will receive $9,637,560.00 in funding.
- Ontario also provides funding to communities through the Investing in Canada Infrastructure Program (ICIP), a $30-billion, 10-year infrastructure program cost-shared between federal, provincial and municipal governments. Ontario's share per project will be up to 33.33 per cent, or $10.2 billion spread across four streams: Rural and Northern, Public Transit, Green, and Community, Culture and Recreation.

Media Contact | Crystal Mason |
crystal.mason@pc.ola.org

Administration
Office of the Regional Clerk
1815 Sir Isaac Brock Way, PO Box 1042, Thorold, ON L2V 4T7
Telephone: 905-685-4225 Toll-free: 1-800-263-7215 Fax: 905-687-4977
www.niagararegion.ca

January 10, 2020

CL 23-2019, December 12, 2019
BRCOTW 9-2019, November 28, 2019
CSD 71-2019, November 28, 2019

LOCAL AREA MUNICIPALITIES

SENT ELECTRONICALLY

2020 Budget-Water and Wastewater Operating Budget, Rate Setting and Requisition
CSD 71-2019

Regional Council, at its meeting held on December 12, 2019, approved the following recommendations of Budget Review Committee of the Whole:

That Report CSD 71-2019, dated November 28, 2019, respecting 2020 Budget-Water and Wastewater Operating Budget, Rate Setting and Requisition, **BE RECEIVED** and the following recommendations **BE APPROVED**:

1. That the 2020 net Water & Wastewater operating base budget increase of $2,340,055 or 2.00% over the 2019 operating budget **BE APPROVED** in accordance with Council approved budget planning direction;

2. That the 2020 net Water & Wastewater operating budget increase of an additional 3.15% over the 2019 operating budget **BE APPROVED** to accommodate enhanced Capital financing contributions in accordance with Council approved Safe Drinking Water Act Financial Plan as follows:

    a. $1,350,459 or 1.16% over the 2019 operating budget representing an increase in capital financing contributions for water; and

    b. $2,332,479 or 1.99% over the 2019 operating budget representing an increase in capital financing contributions for wastewater;

3. That the 2020 gross Water Operations operating budget of $46,300,620 and net budget in the amount of $45,920,957 as outlined in Appendix 6 of Report CSD 71-2019 for the Water Budget, Rates and Requisition **BE APPROVED**;

4. That the proposed fixed water requisition shown in Table 3 of Report CSD 71-2019, based on 25% of the Region's water net operating budget for the year and divided by 12 to determine the monthly charge, to be billed to each of the serviced Local Area Municipalities starting January 1, 2020, apportioned based on their previous three year's average water supply volumes, **BE APPROVED**;

5. That the Region's proposed 2020 variable water rate of $0.602, shown in Table 4 of Report CSD 71-2019, to be effective January 1, 2020 and calculated by taking 75% of the Region's water net operating budget and dividing by the estimated supply volume, to be billed on a monthly basis to each serviced Local Area Municipality based on the previous month's metered flows, **BE APPROVED**;

6. That the 2020 gross Wastewater Operations operating budget of $80,504,266 and net budget in the amount of $77,020,694 as outlined in Appendix 6 of Report CSD 71-2019 for the Wastewater Budget, Rates and Requisition **BE APPROVED**;

7. That the proposed 2020 fixed wastewater requisition as shown in Table 5 of Report CSD 71-2019, based on 100% of the Region's net operating budget for the year and divided by 12 to determine the monthly charge, to be billed to each of the Local Area Municipalities starting January 1, 2020, apportioned based on their previous three year's average wastewater supply volumes, **BE APPROVED**;

8. That the 2020 wastewater monthly bills **INCLUDE** reconciliation for the 2018 net requisition allocation based on actual wastewater flows versus the estimated flows, as shown in Table 6 of Report CSD 71-2019;

9. That the necessary by-laws **BE PREPARED** and **PRESENTED** to Council for consideration; and

10. That a copy of Report CSD 71-2019 **BE CIRCULATED** to the Local Area Municipalities.

A copy of Report CSD 71-2019 and By-law Nos. 2019-94 and 2019-95 are enclosed for your reference.

Yours truly,

Ann-Marie Norio
Regional Clerk
:cjp

CLK-C 2019-267

cc: H. Chamberlain, Director, Financial Management & Planning, Deputy Treasurer
T. Harrison, Commissioner, Corporate Services, Treasurer
M. Abraham, Executive Assistant, Corporate Services

Subject: 2020 Budget-Water and Wastewater Operating Budget, Rate Setting and Requisition

Report to: Budget Review Committee of the Whole

Report date: Thursday, November 28, 2019

Recommendations

1. That the 2020 net Water & Wastewater operating base budget increase of $2,340,055 or 2.00% over the 2019 operating budget **BE APPROVED** in accordance with Council approved budget planning direction;

2. That the 2020 net Water & Wastewater operating budget increase of an additional 3.15% over the 2019 operating budget **BE APPROVED** to accommodate enhanced Capital financing contributions in accordance with Council approved Safe Drinking Water Act Financial Plan as follows:

    a. $1,350,459 or 1.16% over the 2019 operating budget representing an increase in capital financing contributions for water; and

    b. $2,332,479 or 1.99% over the 2019 operating budget representing an increase in capital financing contributions for wastewater;

3. That the 2020 gross Water Operations operating budget of $46,300,620 and net budget in the amount of $45,920,957 as outlined in Appendix 6 for the Water Budget, Rates and Requisition **BE APPROVED**;

4. That the proposed fixed water requisition shown in Table 3 of report CSD 71-2019, based on 25% of the Region's water net operating budget for the year and divided by 12 to determine the monthly charge, to be billed to each of the serviced Local Area Municipalities starting January 1, 2020, apportioned based on their previous three year's average water supply volumes, **BE APPROVED**;

5. That the Region's proposed 2020 variable water rate of $0.602, shown in Table 4 of report CSD 71-2019, to be effective January 1, 2020 and calculated by taking 75% of the Region's water net operating budget and dividing by the estimated supply volume, to be billed on a monthly basis to each serviced Local Area Municipality based on the previous month's metered flows, **BE APPROVED**;

6. That the 2020 gross Wastewater Operations operating budget of $80,504,266 and net budget in the amount of $77,020,694 as outlined in Appendix 6 for the Wastewater Budget, Rates and Requisition **BE APPROVED**;

7. That the proposed 2020 fixed wastewater requisition as shown in Table 5 of report CSD 71-2019, based on 100% of the Region's net operating budget for the year and divided by 12 to determine the monthly charge, to be billed to each of the Local Area Municipalities starting January 1, 2020, apportioned based on their previous three year's average wastewater supply volumes, **BE APPROVED**;

8. That the 2020 wastewater monthly bills **INCLUDE** reconciliation for the 2018 net requisition allocation based on actual wastewater flows versus the estimated flows, as shown in Table 6 of report CSD 71-2019;

9. That the necessary by-laws **BE PREPARED** and **PRESENTED** to Council for consideration; and

10. That a copy of Report CSD 71-2019 **BE CIRCULATED** to the Local Area Municipalities.

Key Facts

- The proposed net Water budget before enhanced capital financing represents a $0.33 million increase, or 0.75% over 2019; the proposed net Wastewater budget before enhanced capital financing represents a $2.3 million increase, or 2.76% over 2019, for a combined Water & Wastewater Budget increase of 2.00% as shown in Table 1.
- The budget is representative of the Council approved 2020 budget planning direction of 2.0% for base budget expenditure.
- Staff are requesting a separate 3.15% increase for capital financing to support infrastructure requirements as outlined in the Council approved Safe Drinking Water Act (SDWA) Financial Plan.
- Included in the 2020 base program change (and therefore accommodated within the 2% budget planning direction) is a program change totaling $7 thousand representing 1 new FTEs.
- The requisition methodology conforms to Council approved cost recovery methodology from 2011, which was reaffirmed through report CSD 61-2015, on July 2, 2015. The methodology apportions to the local area municipalities water at 75% variable rate and 25% as a fixed component and wastewater 100% fixed.
- The proposed variable water rate is increased to $0.584 for base expenditure and by an additional $0.018 for capital for a total of $0.602 (2019 = $0.580) attributed to the budget increase with no projected change in water flows.

Financial Considerations

The Water and Wastewater Division's proposed 2020 net budget amount of $122.94 million represents a $6.02 million net increase or 5.15% from the 2019 budget, as shown in Table 1. $77.02 million of the total net cost is related to the Wastewater program, representing a net increase of $4.34 million, or 5.97% from 2019. The

remaining $45.92 million relates to the Water program, which has increased by $1.68 million, or 3.80% from 2019. The proposed gross budget and comparison to the 2019 net budget are outlined in Table 1.

Table 1 – Summary of Proposed Water and Wastewater Base Budgets

2020 Proposed Budget - Gross & Net			
	Water	**Wastewater**	**Total**
Net 2019 Budget Requisition	***44,238,899***	***72,679,759***	***116,918,658***
2020 Budget:			
Total Operating Expenses	21,928,290	48,378,209	70,306,499
Business support	2,043,659	3,013,601	5,057,260
Reserve Transfer & Debt Charges	20,978,212	26,779,977	47,758,189
Gross 2020 Budget Total	**44,950,161**	**78,171,787**	**123,121,948**
Less: Revenues*	(379,663)	(3,483,572)	**(3,863,235)**
Less: Reserve Funding*	**-**	**-**	**-**
Net 2020 Budget Requisition - Before Increased Capital Financing	**44,570,498**	**74,688,215**	**119,258,713**
Percentage Change	**0.75%**	**2.76%**	**2.00%**
Increased Capital Requirement	**1,350,459**	**2,332,479**	**3,682,938**
Net 2020 Budget Requisition - After Increased Capital Financing	**45,920,957**	**77,020,694**	**122,941,651**
Percentage Change	**3.80%**	**5.97%**	**5.15%**

**Revenue amounts presented in this table do not include revenue amounts in water and wastewater shared services (included as an offset in total operating expenses).*

Analysis

The 2020 Water and Wastewater budgets were developed giving consideration to historical results (2018 actuals, 2019 forecast), operational concerns, legislative compliance, standard operating procedures, collaborations with LAMs, and cross-divisional and corporate business support costs.

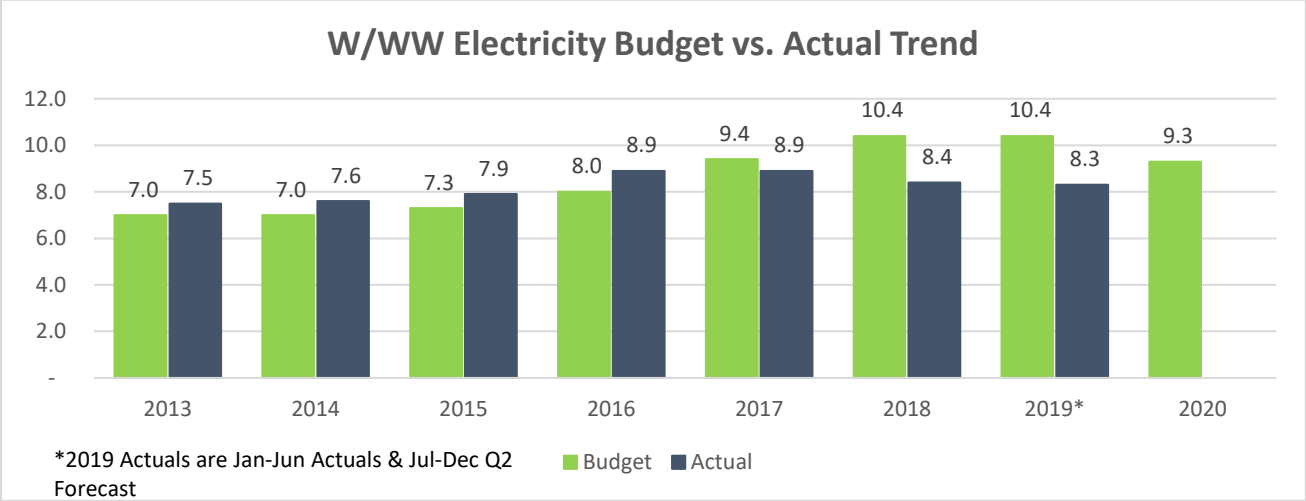
The total program cost includes both operating expenditures (representing 55% of total program costs), as well as transfers to reserve and debt charges in support of the capital program (representing 41% of the total program costs) with the remaining as business support (4%).

Pressures

Despite the pressures discussed below, the based combined operating budget impact for 2020 over 2019 has been limited to $2,340,055 or 2.00% as per Council approved budget planning direction. Pressures to the 2020 budget include:

- Labour Related Costs ($1.1 million) – Base labour related costs increased by $576,000 or 2.4% over 2019. The remainder of the increase can be attributed to a shift in resources directly attributed and funded by capital to asset management planning ($74k), a staffing program change as outlined in Table 2 ($80k gross) and the inclusion of 2.5 temporary FTEs that were added in 2019 by way of delegated authority and funded through salary gapping for capital project management.
- W/WW Master Servicing Plans (MSP) (Gross = $0.8 million, Net = $0.08 million) and Biosolids MSP (Gross = $0.5 million, Net = $0) - The MSP project was included in the Development Charge background study and is funded 90% from development charges with the remainder being funded by the existing ratepayers. Staff are recommending that the Biosolids MSP be funded from the wastewater stabilization reserve which will result in a net impact for 2020 of $0. The biosolids MSP was not identified in the Development Charges background study as an eligible project for development charge funding.
- Computer software support as a result of Asset Management improvements ($0.2 million) - Staff have identified an opportunity to enhance existing processes for water and wastewater asset management through a betterment to existing software. This software licensing fee has been accommodated within the base budget expenditure. Water and wastewater staff have communicated the need for this software enhancement with the corporate asset management office. It has been indicated that this enhancement does not overlap with future enhancement with the corporate asset management office.
- Large diameter mains inspection program ($0.3 million), chemicals based on usage and cost increases ($0.5 million), property taxes ($0.2 million) and indirect allocation support costs ($0.4 million).
- Anticipated savings in electricity ($1.1 million) - Savings experienced in the budget for electricity expenditures amounts to $1.1 million for 2020. As noted in Chart 1, historical actual electricity expenditures have shown a consistent year over year increase since 2013 through 2016. This trend however has leveled off starting in 2017. The budgeted decrease in electricity expenditures forecasted for 2020 is to right size the budget based on the recent flattened trend. It is expected that the current level of electricity expenditure will continue on the current trajectory until the expiry of the Fair Hydro Act in 2021.

Chart 1 – Electricity Budget vs. Actuals 2013 to 2020



The proposed 2020 operating budget includes in the base budget a staff initiative for one FTE as a program change. This program change is summarized below in **Table 2**.

Table 2 – Summary of Proposed Water and Wastewater Program Change

Division	FTE	Item	Net Amount	Details
Wastewater Operations	1	Biosolids Operator	$7.1 K	Compensation cost mostly offset by savings in sludge collection of $73K; currently there is only 1 employee at each facility; having a backup will enable processing to continue if existing staff is not available.
Total	**9**		**$7.1 K**	

Reserve Management - Capital/Infrastructure

Council provided budget planning direction of 2% for base services in accordance with core CPI. Staff have prepared the base budget in accordance with this planning direction but are making a specific request for enhanced financing for 2020 to align with the SDWA financial plan. As per the Council approved SDWA Financial Plan, staff presented a 5.15% increase for water and wastewater infrastructure within CSD 40-2019 – 2020 Budget Planning.

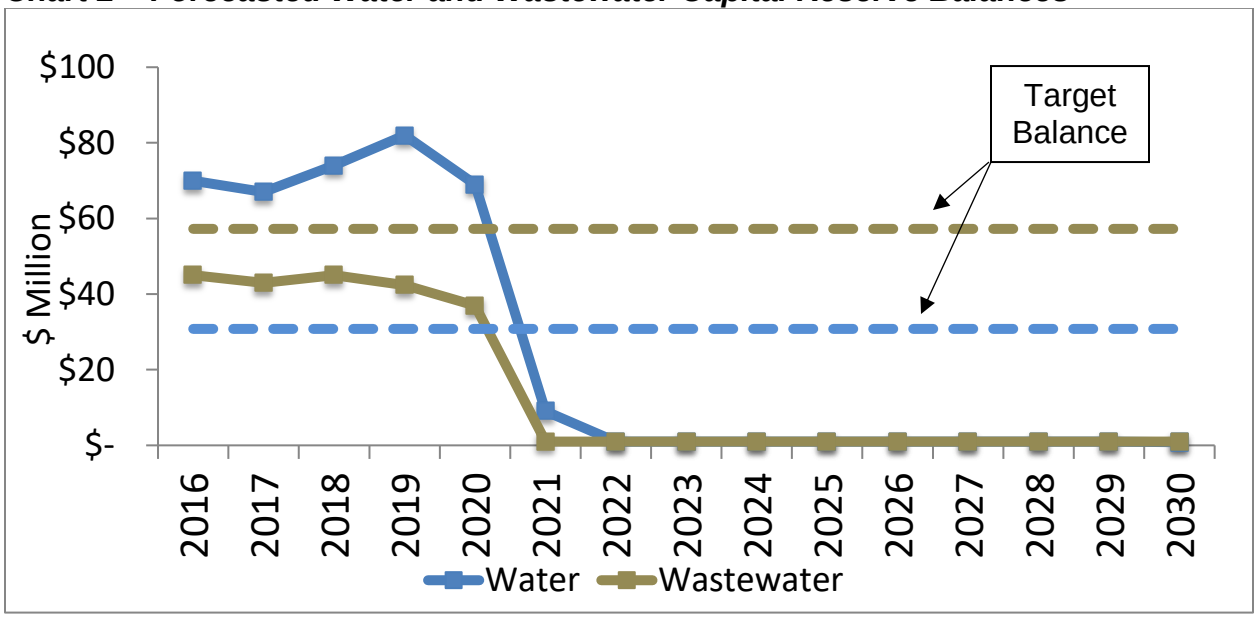
In 2017, Council approved a comprehensive Asset Management Plan (AMP). The detailed information available in the AMP was utilized in the 2020 capital budget preparation. The consultant reviewed the 10 year budget and established that even if the entire available capital dollars were applied against the replacement and rehabilitation of existing assets the Region's annual funding gap would be $77M (10

year Average Annual Renewal investment - AARI). This annual investment would address the average 10 year requirement and backlog as of December 2016.

During 2018, Regional Council reviewed and approved the Safe Water Drinking Act (SDWA) Financial Plan which identified increasing capital financing as an urgent need in order to address the current infrastructure gap. At that time Council approved in principle a combined annual 5.15% increase for water and wastewater. For 2019, this 3.15% increase for capital resulted in an additional combined water and wastewater transfer from operating to capital of $3M. If approved for 2020, a similar amount would be allocated to the capital financing.

As presented within the financial strategy, staff proposed as a guiding principle that a minimum reserve balance of 2% of the current asset value be maintained. The dotted lines on the chart below illustrate the 2% target compared against the forecasted reserve balance for each year. Without the additional 3.15% annual contribution towards capital, both the water and wastewater reserve are fully committed through the end of the forecast period and the capital financing does not adequately address the capital infrastructure needs for the future.

Chart 2 – Forecasted Water and Wastewater Capital Reserve Balances



<u>Water Requisition</u>

Fixed Water Requisition

As per Council's approved methodology, $11,480,239 (25%) of the net Water budget will be recovered from fixed monthly requisitions to the local municipalities based on historical flows. The historical water flows and percentages utilized are included in **Appendix 1 and 2.** This annual amount based on the historical flows is then divided by

12 to determine the monthly charge to be billed to each of the services LAMs starting January 1, 2020. Also included as part of **Appendix 1** is the annual impact on the fixed water requisition amount between 2019 and 2020 for each LAM. Table 3 summarizes the fixed amounts to be billed to each LAM based on the above methodology.

Table 3 – Fixed Water Requisition for 2020 Net Budget

Fixed Water Requisition for 2020 Net Budget			
Municipality	**3-Year Avg. (%)**	**Allocation ($)**	**Monthly ($)**
Fort Erie	7.84%	$899,645	$74,970
Grimsby	5.30%	$608,082	$50,674
Lincoln	3.94%	$452,771	$37,731
Niagara Falls	26.23%	$3,011,163	$250,930
Niagara-on-the-Lake	5.43%	$623,711	$51,976
Pelham	2.06%	$236,558	$19,713
Port Colborne	5.31%	$610,016	$50,835
St. Catharines	26.51%	$3,042,931	$253,578
Thorold	3.72%	$427,215	$35,601
Welland	12.13%	$1,392,536	$116,045
West Lincoln	1.53%	$175,609	$14,634
Total	**100.00%**	**$11,480,239**	**$956,687**

Variable Water Rate

The remaining $34,440,718 (75%) will be charged through the variable water rates. Staff is recommending that the variable rate be set at $0.602 per cubic metre as outlined in Table 4 using a water forecast based on the average flow volumes that have been realized over the past three years. For 2020, staff are projecting water flows to be consistent with the amount estimated for the 2019 budget. An overview of the water trends and related risk is outlined in more detail in **Appendix 2**. The proposed variable water rate is increased by $0.004 (0.67%) for base and $0.018 (3.05%) for capital for a total of $0.602 (2019 = $0.580) which is attributed to budget increases with no projected change in water flows. Despite above average growth for the Region in recent years the flow estimates are still volatile and are dependent on weather conditions for the year. Staff are projecting that the 2019 estimated flows will not be achieved by year end. By maintaining the flow forecast it will assist in mitigating the risks associated with the volatility in weather conditions (particularly wet weather conditions).

Table 4 – Variable Water Rate for 2020 Net Budget

2020 Variable Water Rate	
Variable Allocation (75% x $45,920,957)	$34,440,718
2020 Water Flow Forecast (m^3)	57,250,000
Variable Rate ($/$m^3$)	$0.602

Wastewater Requisition

100% of the net wastewater requisition will be recovered from fixed monthly requisitions to the local municipalities. The historical wastewater flows and percentages utilized are included in **Appendix 3**. This annual amount based on the historical flows is then divided by 12 to determine the monthly charge to be billed to each of the services Local Area Municipalities starting January 1, 2020. Also included as part of **Appendix 3** is the annual impact of the fixed wastewater requisition amount between 2019 and 2020 for each LAM. Table 5 summarizes the fixed amounts to be billed to each LAM based on the above methodology.

Table 5 – Fixed wastewater Requisition for 2020 Net Budget

Fixed Wastewater Requisition for 2020 Net Budget			
Municipality	**3-Year Avg. (%)**	**Allocation ($)**	**Monthly ($)**
Fort Erie	10.44%	$8,043,911	$670,326
Grimsby	4.86%	$3,740,290	$311,691
Lincoln	3.83%	$2,948,685	$245,724
Niagara Falls	19.62%	$15,113,526	$1,259,460
Niagara-on-the-Lake	4.14%	$3,185,401	$265,450
Pelham	1.79%	$1,379,048	$114,921
Port Colborne	5.90%	$4,544,117	$378,676
St. Catharines	28.45%	$21,916,001	$1,826,333
Thorold	5.06%	$3,899,808	$324,984
Welland	14.30%	$11,012,336	$917,695
West Lincoln	1.61%	$1,237,572	$103,131
Total	**100.00%**	**$77,020,694**	**$6,418,391**

As per Council's approved cost recovery methodology, the 2020 monthly Wastewater charges will include reconciliation of the 2018 Wastewater requisition payments. Municipal 2018 rebates or charges will be based on their respective share of actual flows versus the estimated share used to initially allocate the 2018 charges. This reconciliation results in a total of $1,176,562 in payments to, and $1,176,562 in rebates from, the local municipalities. Tables outlining the calculation of the reconciliation have been included as **Appendix 4**, and the total charge including the 2020 requisition and 2018 reconciliation by local municipality has been included as **Appendix 5**.

Table 6 – Wastewater Reconciliation for 2018 included in 2020 Requisition

Wastewater Reconciliation (2018)			
Municipality	Reconciliation ($)	Monthly Rebate ($)	Monthly Payment ($)
Fort Erie	(189,542)	(15,795)	
Grimsby	72,923		6,077
Lincoln	23,238		1,937
Niagara Falls	(711,135)	(59,261)	
Niagara-on-the-Lake	114,819		9,568
Pelham	(83,549)	(6,962)	
Port Colborne	159,962		13,330
St. Catharines	448,367		37,364
Thorold	300,668		25,056
Welland	(192,335)	(16,028)	
West Lincoln	56,585		4,715
Total	**(0)**	**(98,047)**	**98,047**

Risks

- Water revenue is weather dependant and therefore subject to fluctuations that are outside the Region's control.
- Wastewater costs can also be weather dependent and therefore subject to fluctuations that are outside the Region's control.
- Unanticipated equipment and underground infrastructure failure which may impact operating expenditures.
- Unanticipated new provincial standards that may create operational pressures.
- Limited operational financial flexibility until the budget fully addresses the asset management plan/SDWA and may create further pressure on the already forecasted decline in reserves.
- Additional capital expenditures may be required as a result of Ontario Power Generation's operational and maintenance activities with respect to the Hydro Power Canal closure.

Alternatives Reviewed

1. Council may elect to not approve the enhanced capital financing as presented representing an increase of 3.15% over 2019. This alternative is **NOT RECOMMENDED**. This alternative would limit the increase in the requisition from 2019 to 2020 to 2.00% which is within Council's approved budget directions. This alternative would not provide the requisite capital financing needed to support future capital expenditures as identified within the SDWA Financial Plan as approved by Council.

2. If Council approves the 3.15% or $3.68 million to enhance capital financing, staff **RECOMMEND** that $479,990 be allocated to debt servicing, $550,000 allocated

to reserve funding with the remaining $2,652,948 as a contribution to the reserve for capital project utilization in 2021 or future, to support an amendment to the 2020 Capital budget to address previously deferred projects as follows:

- Dain City Station Forcemain Replacement ($550k) – ***Reserve Financed***
- Thundering Waters Sanitary Trunk Sewer Rehab ($8.3M) – ***Debt Financed***
- The Niagara Falls WWTP Secondary Treatment Upgrade ($58M) which was also deferred is not recommended to be added back to 2020 as WWW staff have indicated that the Ministry of Environment , Conservation and Parks (MECP) has granted an extension on the project which will enable time to obtain necessary approvals and complete detailed design.
- The Port Dalhousie WWTP Upgrade ($14M) which was also deferred is not recommended to be added back to 2020 as WWW staff have indicated that a phased approach for this project is more appropriate due to the limited space to accommodate contractors on site, as such phase 2 should remain in 2021.

Relationship to Council Strategic Priorities

The 2020 Water and Wastewater proposed budgets support Council's strategic priorities of organizational excellence, by meeting or exceeding legislative requirements and having 41% of the total program costs related to infrastructure renewal and replacement.

Other Pertinent Reports

CSD 21-2017	Asset Management Plan
PDS 37-2016	Niagara 2041 Growth Strategy – Local Municipal Growth Allocations
PW 22-2017	2016 Water & Wastewater Master Servicing Plan Update
PW 5-2019	Safe Drinking Water Act Financial Plan

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Appendices

Appendix 1	Water Flows and Fixed Water Requisition by Local Area Municipality
Appendix 2	Water Volume Analysis
Appendix 3	Wastewater Flows and Fixed Wastewater Requisition by Local Area Municipality
Appendix 4	2017 By-law Wastewater Reconciliation
Appendix 5	Fixed Wastewater Requisition including Reconciliation by Local Area Municipality
Appendix 6	Water and Wastewater Schedule of Revenues and Expenditures by Object of Expenditure

Appendix 1 - Water Flows and Fixed Water Requsition by Local Area Municipality

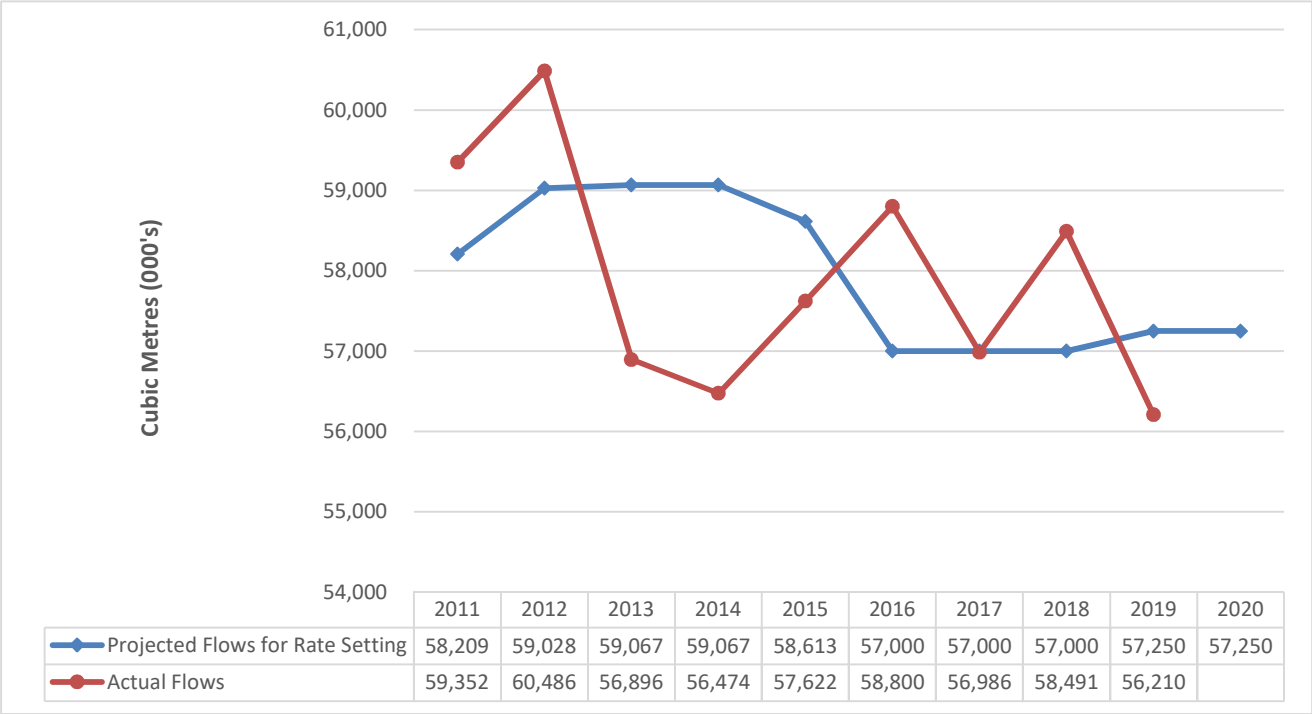
Table 1 - Water Flows by Municipality

Municipality	3-Year Avg. per 2019 By-law		3-Year Avg. per 2020 By-law	
	Megalitres	%	Megalitres	%
Fort Erie	4,686	8.06%	4,478	7.84%
Grimsby	3,258	5.60%	3,027	5.30%
Lincoln	2,315	3.98%	2,254	3.94%
Niagara Falls	15,424	26.53%	14,989	26.23%
Niagara-on-the-Lake	3,147	5.41%	3,105	5.43%
Pelham	1,266	2.18%	1,178	2.06%
Port Colborne	3,093	5.32%	3,037	5.31%
St. Catharines	15,350	26.41%	15,148	26.51%
Thorold	2,076	3.57%	2,127	3.72%
Welland	6,653	11.45%	6,932	12.13%
West Lincoln	862	1.48%	874	1.53%
Total	**58,130**	**100%**	**57,148**	**100%**

Table 2 - Fixed Water Requsition by Municipality

Municipality	Fixed Requisition			
	2019 ($000)	2020 ($000)	Difference	
			$000s	%
Fort Erie	892	900	8	0.91%
Grimsby	620	608	(12)	-1.89%
Lincoln	440	453	12	2.80%
Niagara Falls	2,935	3,011	77	2.61%
Niagara-on-the-Lake	599	624	25	4.16%
Pelham	241	237	(4)	-1.81%
Port Colborne	588	610	22	3.66%
St. Catharines	2,920	3,043	123	4.19%
Thorold	395	427	32	8.14%
Welland	1,266	1,393	127	10.02%
West Lincoln	164	176	12	7.12%
Total	**11,060**	**11,480**	**421**	**3.80%**

Appendix 2 - Water Volume Analysis



	2011	2012	2013	2014	2015	2016	2017	2018	2019	2020
Projected Flows for Rate Setting	58,209	59,028	59,067	59,067	58,613	57,000	57,000	57,000	57,250	57,250
Actual Flows	59,352	60,486	56,896	56,474	57,622	58,800	56,986	58,491	56,210	

The 2019 actual flows are estimate to finish the year approximately 1.82% lower than project flows. The forecasted water usage in 2019 is estimated to total to 56,210 ML.

The water volume forecast for 2020 has been prepared giving consideration to historical trends and input received from some local area municipalities.

The volume forecast for 2020 is above the 3-year calendar average of 57,229 ML and below the 5-year average of 57,622 ML. This includes 2015 and 2018 which were more typical summer weather years. 2016 experienced drought conditions during the summer. 2017 and 2019 experienced very wet summers. The 2020 estimate reflects no change over previous year's projections as a result of not meeting expected forecast for 2019.

Appendix 3 - Wastewater Flows and Fixed Requisitoin By Local Area Municipality

Table 1 - Wastewater Flows by Municipality

Municipality	3-Year Avg. per 2019 By-law		3-Year Avg. per 2020 By-law	
	Megalitres	%	Megalitres	%
Fort Erie	7,348	10.45%	7,931	10.44%
Grimsby	3,216	4.57%	3,688	4.86%
Lincoln	2,745	3.90%	2,907	3.83%
Niagara Falls	14,247	20.26%	14,901	19.62%
Niagara-on-the-Lake	2,864	4.07%	3,141	4.14%
Pelham	1,309	1.86%	1,360	1.79%
Port Colborne	3,944	5.61%	4,480	5.90%
St. Catharines	20,064	28.54%	21,608	28.45%
Thorold	3,420	4.86%	3,845	5.06%
Welland	10,025	14.26%	10,858	14.30%
West Lincoln	1,125	1.60%	1,220	1.61%
Total	**70,306**	**100%**	**75,938**	**100%**

Tables 2 - Fixed Wastewater Requsition by Municipality

Municipality	Fixed Requisition			
	2019 ($000)	2020 ($000)	Difference	
			$000s	%
Fort Erie	7,596	8,044	448	5.90%
Grimsby	3,324	3,740	416	12.52%
Lincoln	2,837	2,949	112	3.94%
Niagara Falls	14,728	15,114	386	2.62%
Niagara-on-the-Lake	2,961	3,185	224	7.58%
Pelham	1,354	1,379	25	1.85%
Port Colborne	4,077	4,544	467	11.46%
St. Catharines	20,741	21,916	1,175	5.67%
Thorold	3,536	3,900	364	10.29%
Welland	10,363	11,012	649	6.27%
West Lincoln	1,163	1,238	75	6.41%
Total	**72,680**	**77,021**	**4,341**	**5.97%**

Appendix 4 - 2018 By-law Wastewater Reconciliation

Wastewater Flows (Mega Litres)		
Municipality	Pior 3-Yr Avg	2018 By-Law Period Actual Flows[1]
Fort Erie	7,159	7,737
Grimsby	3,143	3,571
Lincoln	2,575	2,885
Niagara Falls	14,018	14,770
Niagara-on-the-Lake	2,655	3,076
Pelham	1,299	1,349
Port Colborne	3,934	4,547
St. Catharines	19,583	22,246
Thorold	3,183	3,870
Welland	9,951	10,835
West Lincoln	1,072	1,254
Total	**68,571**	**76,140**

Wastewater Fixed Allocation Percentages			
Municipality	Pior 3-Yr Avg	2018 By-Law Period Actual Flows[1]	Difference
Fort Erie	10.4%	10.2%	-0.3%
Grimsby	4.6%	4.7%	0.1%
Lincoln	3.8%	3.8%	0.0%
Niagara Falls	20.4%	19.4%	-1.0%
Niagara-on-the-Lake	3.9%	4.0%	0.2%
Pelham	1.9%	1.8%	-0.1%
Port Colborne	5.7%	6.0%	0.2%
St. Catharines	28.6%	29.2%	0.7%
Thorold	4.6%	5.1%	0.4%
Welland	14.5%	14.2%	-0.3%
West Lincoln	1.6%	1.6%	0.1%
Total	**100.0%**	**100.0%**	**0.0%**

Wastewater Fixed Allocation charge ($000)			
Municipality	2018 By-Law Charges[1,2]	Charges Based on Actual Flows[1]	Underpayment/ (Overpayment)[3]
Fort Erie	$ 7,114	$ 6,925	$ (190)
Grimsby	3,123	$ 3,196	73
Lincoln	2,559	$ 2,582	23
Niagara Falls	13,930	$ 13,219	(711)
Niagara-on-the-Lake	2,639	$ 2,753	115
Pelham	1,291	$ 1,207	(84)
Port Colborne	3,910	$ 4,070	160
St. Catharines	19,462	$ 19,910	448
Thorold	3,163	$ 3,464	301
Welland	9,890	$ 9,697	(192)
West Lincoln	1,066	$ 1,122	57
Total	**$ 68,146**	**$ 68,146**	**$ 0**

Sum of Overpayment:	(1,177)
Percentage of Requisition	1.73%

Notes:

1. 2018 By-Law period consists of the 12 month period from January 2018 to December 2018
2. Charges paid excluded payments made/rebates received for 2017 reconciliation.
3. Underpayments/(Overpayments) based on comparing 2 difference allocation methodologies (3-yr average vs. actual flows during By-law period).

Appendix 5 - Fixed Wastewater Requisition Including Reconciliation by Municipality Comparison

Municipality	Requisition		Reconciliation Payment / (Refund)		Total Charge (Requisition + Reconciliation)			
	2019 By-Law	2020 By-Law	2019 (2017 Rec.)	2020 (2018 Rec.)	2019 By-Law	2020 By-Law	Difference	
	($000)	($000)	($000)	($000)	($000)	($000)	($000)	%
Fort Erie	7,596	8,044	328	(190)	7,924	7,854	(70)	-0.88%
Grimsby	3,324	3,740	165	73	3,489	3,813	324	9.29%
Lincoln	2,837	2,949	231	23	3,068	2,972	(96)	-3.13%
Niagara Falls	14,728	15,114	805	(711)	15,532	14,402	(1,130)	-7.28%
Niagara-on-the-Lake	2,961	3,185	338	115	3,299	3,300	1	0.04%
Pelham	1,354	1,379	(65)	(84)	1,289	1,295	7	0.54%
Port Colborne	4,077	4,544	(181)	160	3,896	4,704	808	20.75%
St. Catharines	20,741	21,916	(1,427)	448	19,314	22,364	3,050	15.79%
Thorold	3,536	3,900	179	301	3,715	4,200	486	13.08%
Welland	10,363	11,012	(404)	(192)	9,960	10,820	860	8.64%
West Lincoln	1,163	1,238	32	57	1,195	1,294	99	8.32%
Total	**72,680**	**77,021**	**-**	**-**	**72,680**	**77,021**	**4,341**	**5.97%**

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	2018	2019		2020						
	Actual	Q2 Forecast	Budget				Budget Total Program Changes			
	Total	Total	Total	Base Services	Base Variance	Base Variance %		Total	Total Variance	Total Variance %
A_40000AB Compensation	22,214,973	23,254,127	23,739,732	24,852,445	1,112,713	4.7%	-	24,852,445	1,112,713	4.7%
A_41000AB Administrative	1,966,527	2,312,550	2,017,200	3,432,915	1,415,715	70.2%	-	3,432,915	1,415,715	70.2%
A_44000AB Operational & Supply	12,679,974	12,903,298	12,709,326	13,166,433	457,108	3.6%	-	13,166,433	457,108	3.6%
A_50000AB Occupancy & Infrastructure	16,059,319	18,134,584	17,950,464	17,699,503	(250,961)	(1.4%)	-	17,699,503	(250,961)	(1.4%)
A_52000AB Equipment, Vehicles,Technology	6,164,859	6,661,316	6,142,880	6,588,120	445,240	7.2%	-	6,588,120	445,240	7.3%
A_54000AB Community Assistance	153	965	-	-	-	-	-	-	-	-
A_56000AB Partnership, Rebate, Exemption	2,450,015	18,198,031	4,015,000	4,010,000	(5,000)	(0.1%)	-	4,010,000	(5,000)	(0.1%)
A_58000AB Financial Expenditures	9,053	31,302	-	-	-	-	-	-	-	-
A_75100AC Transfers To Funds	40,018,792	37,037,556	37,037,556	37,065,780	28,224	0.1%	3,682,938	40,748,718	3,711,162	10.0%
A_60000AC Allocation Between Departments	1,753,677	1,743,136	1,823,753	1,777,083	(46,669)	(2.6%)	-	1,777,083	(46,669)	(2.6%)
A_60260AC Allocation Within Departments	-	0	0	-	0	-	-	-	0	-
Gross Expenditure Subtotal	**103,317,341**	**120,276,865**	**105,435,911**	**108,592,279**	**3,156,368**	**3.0%**	**3,682,938**	**112,275,217**	**6,839,306**	**6.5%**
A_30000AB Taxation	(112,013,218)	(116,315,656)	(116,918,658)	(119,146,062)	(2,227,403)	1.9%	(3,795,589)	(122,941,651)	(6,022,993)	5.2%
A_32400AB By-Law Charges & Sales	(1,260,444)	(1,488,933)	(1,358,200)	(1,421,278)	(63,078)	4.6%	-	(1,421,278)	(63,078)	4.6%
A_34950AB Other Revenue	(1,275,273)	(7,293,962)	(2,481,106)	(3,161,957)	(680,851)	27.4%	-	(3,161,957)	(680,851)	27.4%
A_75000AC Transfers From Funds	(3,863,227)	(9,658,836)	-	(500,000)	(500,000)	-	-	(500,000)	(500,000)	-
Gross Revenue Subtotal	**(118,412,163)**	**(134,757,387)**	**(120,757,964)**	**(124,229,297)**	**(3,471,333)**	**2.9%**	**(3,795,589)**	**(128,024,886)**	**(7,266,922)**	**6.0%**
Net Expenditure (revenue) before indirect allocations	**(15,094,821)**	**(14,480,522)**	**(15,322,053)**	**(15,637,017)**	**(314,964)**	**2.1%**	**(112,651)**	**(15,749,669)**	**(427,616)**	**2.8%**
A_70000AC Indirect Allocation	3,602,252	4,254,855	4,366,304	4,709,867	343,564	7.9%	112,651	4,822,519	456,215	10.5%
A_70200AC Capital Financing Allocation	9,413,115	10,963,017	10,955,749	10,927,150	(28,600)	(0.3%)	-	10,927,150	(28,600)	(0.3%)
Allocation Subtotal	**13,015,368**	**15,217,872**	**15,322,053**	**15,637,017**	**314,964**	**2.1%**	**112,651**	**15,749,669**	**427,616**	**2.8%**
Net Expenditure (revenue) after indirect allocations	**(2,079,454)**	**737,350**	**0**	**-**	**0**	**-**	**-**	**-**	**0**	**-**
FTE - Reg			261.6	262.6	1.0		-	262.6	1.0	
FTE - Temp			4.5	7.0	2.5		-	7.0	2.5	

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	2018	2019		2020						
	Actual	Q2 Forecast	Budget				Budget			
	Total	Total	Total	Base Services	Base Variance	Base Variance %	Total Program Changes	Total	Total Variance	Total Variance %
A_40000AB Compensation	7,120,433	7,570,603	7,810,164	7,954,489	144,325	1.8%	-	7,954,489	144,325	1.9%
A_41000AB Administrative	690,749	862,265	770,733	594,726	(176,007)	(22.8%)	-	594,726	(176,007)	(22.8%)
A_44000AB Operational & Supply	1,887,750	1,931,846	1,719,988	1,759,425	39,437	2.3%	-	1,759,425	39,437	2.3%
A_50000AB Occupancy & Infrastructure	5,064,546	5,283,782	6,125,436	5,639,309	(486,127)	(7.9%)	-	5,639,309	(486,127)	(7.9%)
A_52000AB Equipment, Vehicles,Technology	933,836	1,059,384	1,014,655	1,175,515	160,860	15.9%	-	1,175,515	160,860	15.9%
A_56000AB Partnership, Rebate, Exemption	10,000	(13,750)	15,000	10,000	(5,000)	(33.3%)	-	10,000	(5,000)	(33.3%)
A_58000AB Financial Expenditures	168	326	-	-	-	-	-	-	-	-
A_75100AC Transfers To Funds	18,414,458	18,425,078	18,425,078	18,435,757	10,679	0.1%	1,350,459	19,786,216	1,361,138	7.4%
A_60000AC Allocation Between Departments	594,720	595,713	605,396	629,912	24,516	4.0%	-	629,912	24,516	4.1%
A_60260AC Allocation Within Departments	3,986,249	3,836,537	3,842,500	4,164,914	322,414	8.4%	-	4,164,914	322,414	8.4%
Gross Expenditure Subtotal	**38,702,909**	**39,551,784**	**40,328,950**	**40,364,047**	**35,097**	**0.1%**	**1,350,459**	**41,714,506**	**1,385,556**	**3.4%**
A_30000AB Taxation	(43,867,547)	(43,635,898)	(44,238,899)	(44,518,840)	(279,940)	0.6%	(1,402,117)	(45,920,957)	(1,682,057)	3.8%
A_32400AB By-Law Charges & Sales	(11,943)	(10,649)	(5,000)	(12,000)	(7,000)	140.0%	-	(12,000)	(7,000)	140.0%
A_34950AB Other Revenue	(512,580)	(513,441)	(408,615)	(367,663)	40,952	(10.0%)	-	(367,663)	40,952	(10.0%)
A_75000AC Transfers From Funds	(29,108)	-	-	-	-	-	-	-	-	-
Gross Revenue Subtotal	**(44,421,178)**	**(44,159,988)**	**(44,652,514)**	**(44,898,503)**	**(245,988)**	**0.6%**	**(1,402,117)**	**(46,300,620)**	**(1,648,105)**	**3.7%**
Net Expenditure (revenue) before indirect allocations	**(5,718,269)**	**(4,608,204)**	**(4,323,564)**	**(4,534,456)**	**(210,891)**	**4.9%**	**(51,658)**	**(4,586,114)**	**(262,550)**	**6.1%**
A_70000AC Indirect Allocation	1,220,919	1,523,527	1,674,950	1,890,908	215,957	12.9%	51,658	1,942,566	267,616	16.0%
A_70200AC Capital Financing Allocation	2,047,974	2,637,521	2,648,614	2,643,548	(5,066)	(0.2%)	-	2,643,548	(5,066)	(0.2%)
Allocation Subtotal	**3,268,893**	**4,161,048**	**4,323,564**	**4,534,456**	**210,892**	**4.9%**	**51,658**	**4,586,114**	**262,550**	**6.1%**
Net Expenditure (revenue) after indirect allocations	**(2,449,376)**	**(447,156)**	**0**	**-**	**0**	**-**	**-**	**-**	**0**	**-**
FTE - Reg			82.0	81.0	(1.0)		-	81.0	(1.0)	
FTE - Temp			2.0	2.0	-		-	2.0	-	

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	2018	2019		2020						
	Actual	Q2 Forecast	Budget				Budget Total Program			
	Total	Total	Total	Base Services	Base Variance	Base Variance %	Changes	Total	Total Variance	Total Variance %
A_40000AB Compensation	9,637,596	10,112,827	10,324,944	10,773,458	448,514	4.3%	-	10,773,458	448,514	4.3%
A_41000AB Administrative	824,074	936,355	934,994	742,955	(192,039)	(20.5%)	-	742,955	(192,039)	(20.5%)
A_44000AB Operational & Supply	10,512,270	10,617,090	10,386,744	10,854,079	467,335	4.5%	-	10,854,079	467,335	4.5%
A_50000AB Occupancy & Infrastructure	10,307,189	12,201,423	11,470,028	11,340,226	(129,802)	(1.1%)	-	11,340,226	(129,802)	(1.1%)
A_52000AB Equipment, Vehicles,Technology	3,019,774	3,569,019	3,088,313	3,301,033	212,720	6.9%	-	3,301,033	212,720	6.9%
A_54000AB Community Assistance	153	965	-	-	-	-	-	-	-	-
A_56000AB Partnership, Rebate, Exemption	2,440,015	18,211,781	4,000,000	4,000,000	-	-	-	4,000,000	-	-
A_58000AB Financial Expenditures	827	331	-	-	-	-	-	-	-	-
A_75100AC Transfers To Funds	21,604,334	18,612,478	18,612,478	18,630,023	17,545	0.1%	2,332,479	20,962,502	2,350,024	12.6%
A_60000AC Allocation Between Departments	854,035	865,676	893,415	862,801	(30,613)	(3.4%)	-	862,801	(30,613)	(3.4%)
A_60260AC Allocation Within Departments	5,864,550	5,608,971	5,396,046	6,503,657	1,107,611	20.5%	-	6,503,657	1,107,611	20.5%
Gross Expenditure Subtotal	**65,064,815**	**80,736,917**	**65,106,961**	**67,008,233**	**1,901,272**	**2.9%**	**2,332,479**	**69,340,712**	**4,233,751**	**6.5%**
A_30000AB Taxation	(68,145,671)	(72,679,758)	(72,679,759)	(74,627,222)	(1,947,463)	2.7%	(2,393,472)	(77,020,694)	(4,340,936)	6.0%
A_32400AB By-Law Charges & Sales	(1,244,048)	(1,475,126)	(1,353,200)	(1,409,278)	(56,078)	4.1%	-	(1,409,278)	(56,078)	4.1%
A_34950AB Other Revenue	(761,455)	(6,780,521)	(2,072,491)	(2,074,294)	(1,803)	0.1%	-	(2,074,294)	(1,803)	0.1%
A_75000AC Transfers From Funds	(3,834,119)	(9,658,836)	-	-	-	-	-	-	-	-
Gross Revenue Subtotal	**(73,985,294)**	**(90,594,241)**	**(76,105,450)**	**(78,110,794)**	**(2,005,344)**	**2.6%**	**(2,393,472)**	**(80,504,266)**	**(4,398,817)**	**5.8%**
Net Expenditure (revenue) before indirect allocations	**(8,920,478)**	**(9,857,325)**	**(10,998,489)**	**(11,102,561)**	**(104,073)**	**0.9%**	**(60,993)**	**(11,163,555)**	**(165,066)**	**1.5%**
A_70000AC Indirect Allocation	1,971,987	2,301,818	2,691,354	2,818,960	127,606	4.7%	60,993	2,879,953	188,599	7.0%
A_70200AC Capital Financing Allocation	7,318,414	8,288,210	8,307,135	8,283,602	(23,534)	(0.3%)	-	8,283,602	(23,534)	(0.3%)
Allocation Subtotal	**9,290,401**	**10,590,029**	**10,998,489**	**11,102,561**	**104,073**	**0.9%**	**60,993**	**11,163,555**	**165,066**	**1.5%**
Net Expenditure (revenue) after indirect allocations	**369,923**	**732,704**	**-**	**-**	**-**	**-**	**-**	**-**	**-**	**-**

FTE - Reg			115.6	116.6	1.0		-	116.6	1.0
FTE - Temp			0.5	-	(0.5)		-	-	(0.5)

THE REGIONAL MUNICIPALITY OF NIAGARA

BY-LAW NO. 2019-94

A BY-LAW TO ADOPT THE 2020 WATER BUDGET AND TO SET THE REQUISITION TO BE CHARGED FOR WATER SUPPLIED TO LOWER-TIER MUNICIPALITIES FOR THE PERIOD JANUARY 1, 2020 TO DECEMBER 31, 2020

WHEREAS Section 11 of the *Municipal Act, 2001,* S.O. 2001, c.25, provides that a municipality may pass by-laws respecting services and things that the municipality is authorized to provide;

WHEREAS section 390 of the *Municipal Act, 2001,* S.O. 2001, c.25, provides that the definition of a person includes a municipality;

WHEREAS section 391 of the *Municipal Act, 2001,* S.O. 2001, c.25, provides that a municipality is authorized to impose fees or charges on person for costs payable by it for services or activities provided or done by or on behalf of any other municipality; and

WHEREAS water supplied to the lower-tier municipalities is a service provided by the Regional Municipality of Niagara on behalf of the lower-tier municipalities within the Niagara Region.

NOW THEREFORE the Council of The Regional Municipality of Niagara enacts as follows:

1. That the 2020 Water Gross Operating Budget of $46,300,620 and Net Operating Budget of $45,920,957 be and hereby is adopted.

2. That 75% of the Net Operating Budget, $34,440,718 be recovered from the lower-tier municipalities based on actual metered water flows multiplied by the Region's annually set uniform water rate.

3. That the rate payable by the lower-tier municipalities for treated water supplied by the Regional Waterworks system shall be established at $0.602 for every cubic meter supplied to each lower-tier municipality for the period of January 1, 2020 to December 31, 2020.

4. That 25% of the Net Operating Budget, $11,480,239 be apportioned to the lower-tier municipalities based on their proportionate share of the Region's total three year average historical flows.

5. That the lower-tier municipalities be requisitioned during the period January 1, 2020 to December 31, 2020 as follows:

Fixed Water Requisition for 2020 Net Budget			
Municipality	3-Year Avg. (%)	Allocation ($)	Monthly ($)
Fort Erie	7.84%	$899,645	$74,970
Grimsby	5.30%	$608,082	$50,674
Lincoln	3.94%	$452,771	$37,731
Niagara Falls	26.23%	$3,011,163	$250,930
Niagara-on-the-Lake	5.43%	$623,711	$51,976
Pelham	2.06%	$236,558	$19,713
Port Colborne	5.31%	$610,016	$50,835
St. Catharines	26.51%	$3,042,931	$253,578
Thorold	3.72%	$427,215	$35,601
Welland	12.13%	$1,392,536	$116,045
West Lincoln	1.53%	$175,609	$14,634
Total	**100.00%**	**$11,480,239**	**$956,687**

6. That the Treasurer of the Regional Corporation shall submit similar invoices on or before the 15th day of each month commencing February 15, 2020 for the monthly requisition. Such monthly invoices shall continue thereafter until the December monthly requisition has been invoiced. Each lower-tier municipality shall remit the amount of each such invoices to the Treasurer of the Regional Corporation on or before the last business date of the month in which such invoice is submitted.

7. That in the event of default of payment of any monies payable under this by-law by a lower-tier municipality, interest at the rate of 15 per cent per annum shall be added to the amount in arrears from the date of default until the date of payment thereof.

8. That this by-law shall come into force and effect on January 1, 2020.

THE REGIONAL MUNICIPALITY OF NIAGARA

James Bradley, Regional Chair

Ann-Marie Norio, Regional Clerk

Passed: December 12, 2019

THE REGIONAL MUNICIPALITY OF NIAGARA

BY-LAW NO. 2019-95

A BY-LAW TO ADOPT THE 2020 WASTEWATER BUDGET AND SET THE REQUISITIONS TO BE CHARGED FOR WASTEWATER RECEIVED FROM THE LOWER-TIER MUNICIPALITIES FOR THE PERIOD JANUARY 1, 2020 TO DECEMBER 31, 2020

WHEREAS section 11 of the *Municipal Act, 2001,* S.O. 2001, c.25, provides that a municipality may pass by-laws respecting services and things that the municipality is authorized to provide;

WHEREAS section 390 of the *Municipal Act, 2001*, S.O. 2001, c.25, provides that the definition of a person includes a municipality;

WHEREAS section 391 of the *Municipal Act, 2001,* S.O. 2001, c.25, provides that a municipality is authorized to impose fees or charges on person for costs payable by it for services or activities provided or done by or on behalf of any other municipality,

WHEREAS wastewater received from the lower-tier municipalities is a service provided by the Regional Municipality of Niagara on behalf of the lower-tier municipalities within the Niagara Region; and

WHEREAS the Council of the Regional Municipality of Niagara passed By-Law No. 119-2011 which indicated that, consistent with the wastewater reconciliation methodology described in PWA 87-2011, a reconciliation adjustment will commence with the 2013 Budget.

NOW THEREFORE the Council of The Regional Municipality of Niagara enacts as follows:

1. That the 2020 Wastewater Gross Operating Budget of $80,504,266 and Net Operating Budget of $77,020,694 be and hereby is adopted.

2. That the 2020 budgeted net wastewater operating budget be apportioned to the lower-tier municipalities based on their proportionate share of the Region's total three year average historical wastewater flows.

3. That the 2020 wastewater bills also include reconciliation of the 2018 net requisition allocated based on actual wastewater flows versus the estimated flows.

4. That the lower-tier municipalities be requisitioned during the period January 1, 2020 to December 31, 2020 as follows:

Wastewater Requisition (2020 Net budget & 2018 Reconciliation)				
Municipality	**2020 Net Budget Allocation ($)**	**2018 Reconciliation ($)**	**Total ($)**	**Monthly ($)**
Fort Erie	8,043,911	(189,542)	7,854,369	654,531
Grimsby	3,740,290	72,923	3,813,213	317,768
Lincoln	2,948,685	23,238	2,971,924	247,660
Niagara Falls	15,113,526	(711,135)	14,402,391	1,200,199
Niagara-on-the-Lake	3,185,401	114,819	3,300,220	275,018
Pelham	1,379,048	(83,549)	1,295,498	107,958
Port Colborne	4,544,117	159,962	4,704,079	392,007
St. Catharines	21,916,001	448,367	22,364,368	1,863,697
Thorold	3,899,808	300,668	4,200,476	350,040
Welland	11,012,336	(192,335)	10,820,001	901,667
West Lincoln	1,237,572	56,585	1,294,157	107,846
Total	**77,020,694**	**-**	**77,020,694**	**6,418,391**

5. That the Treasurer of the Regional Corporation shall submit similar invoices on or before the 15th day of each month commencing February 15, 2020 for the monthly requisition. Such monthly invoices shall continue thereafter until December monthly requisition has been invoiced. Each lower-tier municipality shall remit the amount on each such invoice to the Treasurer of the Regional Corporation on or before the last business day of the month in which such invoice is submitted.

6. That in the event of default of payment of any monies payable under this by-law by the lower-tier municipality, interest at the rate of 15 per cent per annum shall be added to the amount in arrears from the date of default until the date of payment thereof.

7. That this by-law shall come into force and effect on January 1, 2020

THE REGIONAL MUNICIPALITY OF NIAGARA

James Bradley, Regional Chair

Ann-Marie Norio, Regional Clerk

Passed: December 12, 2019

Administration
Office of the Regional Clerk
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January 10, 2020

CL 23-2019, December 12, 2019
BRCOTW 9-2019, November 28, 2019
CSD 70-2019 REVISED, November 28, 2019

LOCAL AREA MUNICIPALITIES

SENT ELECTRONICALLY

2020 Budget – Waste Management Services Operating Budget and Requisition
CSD 70-2019 REVISED

Regional Council, at its meeting held on December 12, 2019, approved the following recommendations of the Budget Review Committee of the Whole:

That Report CSD 70-2019 **REVISED,** dated November 28, 2019, respecting 2020 Budget – Waste Management Services Operating Budget and Requisition, **BE RECEIVED** and the following recommendations **BE APPROVED:**

1. That the net 2020 Waste Management Services operating base budget increase of $75,657 or 0.2% plus $1,814,083 or 5.13% for the new curbside collection contract net of stabilization reserve funding **BE APPROVED**;

2. That an additional net increase of $1,603,551 or 4.5% for the negative revenue pressures related to end market recyclables **BE APPROVED**;

3. That the total 2020 gross Waste Management Services operating budget of $57,225,193 and net budget amount of $38,821,604 as per Appendix 1 of Report CSD 70-2019 REVISED as amended, **BE APPROVED** with optional services;

4. That the net budget amount of $38,821,604 **BE APPORTIONED** between the local municipalities in accordance with the methodology approved in PWA 55-2011 as per Appendix 2 of Report CSD 70-2019 REVISED as amended;

5. That the necessary by-laws **BE PREPARED** and **PRESENTED** to Council for consideration; and

6. That a copy of Report CSD 70-2019 **BE CIRCULATED** to the Local Area Municipalities (LAMs) for information.

A copy of Report CSD 70-2019 REVISED and By-law No. 2019-96 are enclosed for your reference.

Yours truly,

Ann-Marie Norio
Regional Clerk
:cjp

CLK-C 2019-268

cc: H. Chamberlain, Director, Financial Management & Planning, Deputy Treasurer
T. Harrison, Commissioner, Corporate Services, Treasurer
M. Abraham, Executive Assistant, Corporate Services

Subject: 2020 Budget-Waste Management Services Operating Budget and Requisition

Report to: Budget Review Committee of the Whole

Report date: Thursday, November 28, 2019

Recommendations

1. That the net 2020 Waste Management Services operating base budget increase of $75,657 or 0.2% plus $1,782,969 or 5.1% for the new curbside collection contract net of stabilization reserve funding **BE APPROVED**;

2. That an additional net increase of $1,603,551 or 4.5% for the negative revenue pressures related to end market recyclables **BE APPROVED**;

3. That the total 2020 gross Waste Management Services operating budget of ~~$57,279,626~~ **$57,194,079** and net budget amount of $38,790,490 as per Appendix 1, **BE APPROVED**;

4. That the net budget amount of $38,790,490 **BE APPORTIONED** between the local municipalities in accordance with the methodology approved in PWA 55-2011 as per Appendix 2;

5. That the necessary by-laws **BE PREPARED** and **PRESENTED** to Council for consideration; and

6. That a copy of this Report **BE CIRCULATED** to the Local Area Municipalities (LAM) for information.

Key Facts

- The proposed net 2020 Waste Management Services (WMS) operating base budget before the new collection contract and negative revenue pressure is below Council's budget planning direction for 2020 of 2%.
- The net budget including the impacts of the start of the new collection contract and negative revenue pressures is proposed at an increase of $3,462,177 or 9.8% over the approved 2019 net budget.
- Staff are recommending a 9.8% increase each year for the next three years, which includes significant use of the Waste Management Stabilization reserve funding over this same time period to mitigate the pressure associated with the new collection contract award; however, future years are subject to the availability of future year reserves and approval of Council.

- The draft budget does not include any of the Optional Collection Services as presented in PW 65-2019, with the exception of the delivery of roll-offs for special events recycling, or Diversion Container Distribution Options, as they are not recommended by staff.
- The five-year average year-over-year net budget requisition change (2016 to 2020) represents an average annual change of 1.83%.
- Assessment growth in aggregate for the Niagara Region is projected to be 1.42% for 2019, resulting in the net requisition changes by local area municipality as summarized in **Appendix 2** ranging from an estimated increase of ~~5.69% to 14.52%~~ **5.92% to 12.85%** (total net requisition after growth estimate equals 8.38%).
- The net requisition amount has been allocated in accordance with the methodology approved in PWA 55-2011. The impacts by local area municipality is affected by the budget increase as well as growth in households and the enhanced services (as requested and selected by each LAM), and results in an increase/decrease for each municipality, as per **Appendix 3.**
- **The municipal requisitions have been adjusted to reflect some further amendments to negotiated prices for enhanced municipal services with the offset being a benefit to the amount used from the reserve to mitigate the overall budget increase.**

Financial Considerations

Year over Year Budget Change

The gross budget proposed for 2020 totals ~~$57.3 million~~ **$57.2 million** with a net budget of $38.8 million, which is $3.5 million or a 9.8% increase over 2019 as outlined in Table 1.

As shown below, net base expenditures have increased by 0.2% over 2019 excluding the impacts of the new collection contract and negative end-market revenue pressures.

There are two main drivers of the additional annual increase, which includes decreased net end market recycling revenue of approximately 4.5% or $1.6 million over the 2019 budget, and increased net collection contract costs of 5.1% or $1.8 million associated with the new collection contract anticipated to start in October 2020, after stabilization reserve funding to partially mitigate the increases.

The proposed 2020 program increases the permanent staff resources from 32.0 FTEs to 34.0 FTEs through a business case that has been prepared to recommend that two temporary FTEs (Collection & Diversion Advisors) be made permanent starting 2020 to continue providing on-road collection contract support. The net impact of this change is $0. The 2020 budget also proposes an increase in temporary staffing (1 FTE) and student interns (1.8 FTEs) for a one-year period to support service level changes anticipated under the new collection contract (discussed in detail under the Analysis

section). The temporary staffing is to be funded from the stabilization reserve as a one-time expenditure.

~~Table 1 – 2020 Waste Management Gross & Net Budget ('000)~~

~~-~~	~~**2019**~~	~~**2020**~~	~~**2021**~~	~~**2022**~~
~~**Total Operating Expenditures**~~	~~**48,431**~~	~~**50,707**~~	~~**59,047**~~	~~**60,264**~~
~~Business Support~~	~~1,544~~	~~1,624~~	~~1,651~~	~~1,664~~
~~Capital Transfer to Reserve & Debt Charges~~	~~4,952~~	~~4,948~~	~~4,136~~	~~4,136~~
~~**Gross Budget**~~	~~**54,927**~~	~~**57,280**~~	~~**64,834**~~	~~**66,063**~~
~~Less: Revenues~~	~~-19,019~~	~~-16,800~~	~~-17,326~~	~~-17,401~~
~~**Net Budget Requisition – Before Reserve Funding**~~	~~**35,908**~~	~~**40,480**~~	~~**47,508**~~	~~**48,662**~~
~~**Percentage Change**~~	~~-~~	~~**12.73%**~~	~~**17.36%**~~	~~**2.43%**~~
~~Less: Reserve Transfers:~~	~~-~~	~~-~~	~~-~~	~~-~~
~~2019 Reserve Transfer~~	~~-580~~	~~-~~	~~–~~	~~-~~
~~Service Level Campaign~~	~~-~~	~~-485~~	~~–~~	~~-~~
~~Collection Contract One-time Payment~~	~~-~~	~~-259~~	~~–~~	~~-~~
~~Revenue Fluctuation Mitigation~~	~~-~~	~~-450~~	~~–~~	~~-~~
~~New Collection Contract Mitigation (2020)~~	~~-~~	~~-495~~	~~-4,916~~	~~-1,896~~
~~**Net Budget Requisition – After Reserve Funding**~~	~~**35,328**~~	~~**38,790**~~	~~**42,592**~~	~~**46,766**~~
~~**Percentage Change**~~	~~-~~	~~**9.80%**~~	~~**9.80%**~~	~~**9.80%**~~

Table 1 – 2020 Waste Management Gross & Net Budget ('000) - REVISED

	2019	2020	2021	2022
Total Operating Expenditures	**48,431**	**50,622**	**58,646**	**59,854**
Business Support	1,544	1,624	1,651	1,664
Capital Transfer to Reserve & Debt Charges	4,952	4,948	4,136	4,136
Gross Budget	**54,927**	**57,194**	**64,432**	**65,653**
Less: Revenues	-19,019	-16,800	-17,326	-17,401
Net Budget Requisition – Before Reserve Funding	**35,908**	**40,394**	**47,106**	**48,252**
Percentage Change		**12.49%**	**16.62%**	**2.43%**
Less: Reserve Transfers:				
2019 Reserve Transfer	-580	0	0	0
Service Level Campaign	0	-485		
Collection Contract One-time Payment	0	-259		
Revenue Fluctuation Mitigation	0	-450		
New Collection Contract Mitigation (2020)	0	-410	-4,514	-1,486
Net Budget Requisition – After Reserve Funding	**35,328**	**38,790**	**42,592**	**46,766**
Percentage Change		**9.80%**	**9.80%**	**9.80%**

A schedule providing the revenues and expenditures by object of expenditure for 2019 and 2020 is included as **Appendix 1**. This appendix includes the 2019 budget and the 2020 budget including program changes and the percentage change for comparison.

Analysis

Overview

The 2020 WMS budget represents an increase of 9.8% over the approved 2019 net operating budget. As discussed below, the main drivers of the annual increase are a result of decreased end market recycling revenue of approximately 4.5% and increased collection contract costs of 5.1% over the 2019 budget after reserve funding.

Trends over the last few years, as summarized in Table 2, show that historically the WMS net operating budget increase/decrease has been at or below previously established Council approved budget guidance. The five-year average year-over-year requisition change (including 2020) represents an average annual change of 1.83%.

Table 2 – Historical WMS Net Budget Increases / (Decreases) Summary ($000)

Year	Net Budget Requisition ($)	$ Change	% Change
2016	35,301	(278)	-0.78%
2017	34,891	(410)	-1.16%
2018	34,602	(289)	-0.83%
2019	35,328	726	2.10%
2020 (Proposed)	38,790	3,462	9.80%
Average (5-yr)			1.83%

Approximately 39% of the gross budget is related to the waste collection and disposal program areas, followed by 18% for organics collection and processing, 34% for recycling collection and processing, with the remaining 9% of the budget for a range of other diversion programs, planning, and administration. As much of the program is delivered through partnerships with private service providers, 76% of the operating-related costs (before capital financing and cost allocation) are in the form of outsourced costs (alternative service delivery) and are subject to contract escalations and conditions.

Pressures

Expenditure pressures to the 2020 budget include:

- New Collection Contract ~~(Gross = $2.3 million, Net = $1.8 million)~~ **(Gross = $2.2 million, Net = $1.8 million)** – Staff are projecting an increase in the new collection contract annual amount above current collection costs as per the pricing submitted by the successful proponents in 2019-RFP-156 Request for Proposal for Niagara Region Curbside Collection, Haulage of Garbage, Recycling, and Organics. With the new collection contract anticipated to start October 2020, staff have included an estimate of anticipated collection costs under the new contract for the last 3 months of the year only. The full impact of a new contract will not be included until 2021. Staff have proposed a three-year mitigation plan to assist in phasing in the increased costs of the new collection contract. Under the proposed approach, staff are recommending reserve funding from the WM stabilization reserve over 2020, 2021 and 2022. The intent of the reserve funding is to limit the annual increase in the WM operating budget to 9.8% over the next three years. Please see impact on reserves in Table 3.
- One-time Lump Sum Collection Contract Payment (Gross = $0.26 million, Net = $0 million) – As per the Budget Planning By-law, staff are recommending that the one-time lump sum payment under the current collection contract (as identified in PW 35-2016) be funded from the waste management stabilization reserve for 2020.

- Contractual increases including CPI, fuel and household count increases ($0.57 million) – the current curbside collection contract includes annual provisions for CPI increases for various operating expenditures as well as increases for updated household counts and fuel costs.
- Service level marketing campaign (Gross = $0.49 million, Net $0 million) - As part of the 2020 operating budget, staff are recommending additional resources to assist with the transition between collection contactors, as well as for the transition to every-other-week garbage collection service and other changes that may occur with the new contract. As mentioned above, the annual impact amounts to $0.49 million for 2020 which includes the addition of 1 FTE (temporary 1-year), 2 student interns for 2020 as well as program and education expenditures. As a result of the one-time nature of these expenditure, staff are recommending a one-time draw from the waste management stabilization reserve in the amount of $0.49 million to offset these expenditures.
- Other operational contracts including disposal operations, landfill operation and attendants, drop-off depot and leachate collection & processing ($0.43 million).
- Repairs and maintenance ($0.16 million).
- Operational supplies ($0.16 million).
- Mitigation efforts to reduce the impact of these pressures have included postponing the potential expansion of the Region's partnership with Links for Greener Learning, and elimination of subsidies and funding provided for public space recycling materials and recycling and organics carts.

Revenue pressures to the 2020 budget include:

- End Market Recycling Revenue (Gross = $2.05 million, Net = $1.60 million) - A significant pressure is on end market recycling revenues. The decreased revenue from end market recycling represents an increase in the 2020 WM operations budget due to forecasted decreases in end market recycling revenues for 2020 of $2.05 million. Staff expect there to be an improvement in the end market revenue starting 2021. Reserve funding has been used to mitigate the temporary pressure seen in 2020.

  Poor market conditions have existed throughout 2019 and are anticipated to continue into 2020. The revenue projections are based on 2019 rates received by the Region and are typically estimated using the previous year's actual rates and market trends. However, for the 2020 budget, revenues were developed based on the May and June 2019 rates as being representative of anticipated average rates and the market trend for 2020 because the rates have continued to further decrease since June. Rates per tonne of recycled goods are currently at an unprecedented low and are not anticipated to improve to the extent seen in previous years. Staff recognize a potential risk in the recycling revenue assumptions for 2020 as markets have continue to deteriorate further since the finalization of the budget and this trend may continue into 2020.

Niagara Region also has contracts to transport and process recyclable material from the Region of Waterloo and Haldimand County. With the current market conditions, Niagara's budgeted expenses for these purchases have decreased by approximately $1.65 million in alignment with the decreased revenue rates. During 2019, Council approved initiation of Recycling Facility improvements (PW 48-2019). These improvements were to ensure the facility continues to operate efficiently and to improve the quality and marketability of the end market recyclable products. These improvements are anticipated to help mitigate additional decreases seen in end market revenues. Staff will continue to explore other options or process enhancements in 2020 with the goal of maximizing end market recycling revenues.

- Other revenues are forecasting to increase for 2020 when compared to 2019 of approximately $0.79 million. This increase is primarily as a result of increases in landfill tipping fee revenues based on current tonnage trends ($0.49 million) and garbage bag tag revenues ($0.25 million). The increase in garbage bag tag revenue is a result of a combination of increased garbage tag user fee rates from $2.00 per tag to $2.50 per tag in April 2020, in order to fully recover the increasing costs of collection and disposal associated with additional garbage bags, as well as increased projected quantities based on 2019 actuals to date.
- Resource Productivity & Recovery Authority (RPRA) Blue Box program funding had decreased in 2019 as a result of higher than anticipated end market recycling revenue in 2017 (on which the 2019 funding RPRA amount is based). Accordingly, for 2019 Council approved a one-time draw from the WM stabilization reserve of $0.23 million to offset the decreased RPRA funding. For the 2020 WM operating budget, staff are projecting that annual RPRA funding will normalize to historical levels meaning the draw on reserves that occurred in 2019 will not be required for 2020. Conversely, staff are projecting that the RPRA funding for 2020 will increase by $0.7 million over 2019.

Reserve Management

As summarized in Table 3, the operating budget includes a $4.14 million transfer to reserves consistent with CSD 70-2017 - Waste Management Reserve Strategy, which proposed a strategy to fund waste management capital needs, landfill liability for closure and post-closure care and operating budget risks. It proposed that the $4.14 million base budget be reallocated into the three separate Waste Management reserves as follows:

- $2.52 million to the Waste Capital Reserve – to fund open landfill site and MRF capital.
- $1.39 million to the Landfill Liability Reserve – to fund the landfill liability related to existing closed landfill site capital, and Humberstone and NR12 post-closure operating and capital, estimated at $61.4 million in 2018. This will provide for operating revenues currently generated from operation of the landfills to address

disposal costs in the future when the Region no longer has open landfills for this purpose and generating tipping fee revenue.

- $0.23 million to the Waste Stabilization Reserve – to fund operating budget fluctuations, one-time items, contingencies, and risks such as those associated with pending regulations that may affect the recycling facility and operations.

~~Table 3 – WMS Forecasted Reserve Balances and Targets ($M)~~

~~**Reserve**~~	~~**Projected 2019 YE Balance**~~	~~**Projected 2020 YE Balance**~~	~~**Projected 2021 YE Balance**~~	~~**Projected 2022 YE Balance**~~	~~**Target Reserve Balance**~~
~~Waste Capital Reserve~~	~~$6.3~~	~~$0.6~~	~~$0.0~~	~~$0.0~~	~~**$7.0**~~
~~Landfill Liability Reserve~~	~~$8.2~~	~~$9.5~~	~~$8.1~~	~~$7.9~~	~~**$61.4**~~
~~Waste Stabilization Reserve~~	~~$5.9~~	~~$4.7~~	~~$0.9~~	~~$0.2~~	~~**$5.5 to $8.2**~~
~~**Total**~~	~~**$20.4**~~	~~**$14.8**~~	~~**$9.0**~~	~~**$8.1**~~	~~**$74-77**~~

Table 3 – WMS Forecasted Reserve Balances and Targets ($M) - REVISED

Reserve	**Projected 2019 YE Balance**	**Projected 2020 YE Balance**	**Projected 2021 YE Balance**	**Projected 2022 YE Balance**	**Target Reserve Balance**
Waste Capital Reserve	$6.3	$0.6	$0.0	$0.0	**$7.0**
Landfill Liability Reserve	$8.2	$9.5	$8.1	$7.9	**$61.4**
Waste Stabilization Reserve	$5.9	$4.8	$1.4	$1.1	**$5.5 to $8.2**
Total	**$20.4**	**$14.9**	**$9.5**	**$9.0**	**$74-77**

Report CSD 70-2017 - Waste Management Reserve Strategy when presented showed the WMS capital reserve in a positive position over the proceeding 10-year capital forecast period. Due to higher than anticipated capital program costs over the last 3 years, the reserve is projected to be at $0 by the end of 2020. The main capital project that contributed to the utilization of the reserve was the Environmental Centre Expansion, which required reserve funding of $7.9 million.

As noted in Table 3, the existing post-closure landfill liability is $61.4 million. The projected balance of the Landfill Liability reserve for the end of 2019 is estimated at $8.2 million, which is not adequate to address the future liability. As such, staff recommend that the contribution to the reserve continues as outlined above so that the Region is in a suitable position for the future.

As discussed under the Financial Considerations section of this report, staff are recommending funding from the WMS stabilization reserve totalling ~~$1.69 million~~ **$1.6 million** for 2020, which has been summarized below in Table 4. The reserve funding will assist in mitigating pressures from one-time expenditures and decreased recycling revenue. The reserve funding for the new collection contract mitigation is part of a three-year mitigation strategy, which will require reserve funding to be included in the 2020, 2021 and 2022 WMS operating budgets. As noted in Table 3, the proposed strategy to utilize the WM stabilization reserve to mitigate the impacts of the new collection contract will reduce the reserve to near zero by the end of 2022. This approach does generate operational risk, as there will be no stabilization funding available in the future to mitigate one-time pressures or in-year deficits, therefore contributions to the stabilization reserve will be evaluated each year. In the absence of reserve balances to fund year-end deficits, increases to future budgets will be required.

The following table summarizes the recommended use of stabilization reserve for the 2020 operating budget.

~~***Table 4 – Recommended 2020 WMS Reserve Funding***~~

~~**Program/Item to be Funded**~~	~~**Amount ($)**~~
~~Service Level Campaign~~	~~$485,000~~
~~Collection Contract One-time Payment~~	~~$258,950~~
~~Revenue Fluctuation Mitigation~~	~~$450,000~~
~~New Collection Contract Mitigation (2020)~~	~~$495,250~~
~~**Total**~~	~~**$1,689,200**~~

Table 4 – Recommended 2020 WMS Reserve Funding - REVISED

Program/Item to be Funded	**Amount ($)**
Service Level Campaign	$485,000
Collection Contract One-time Payment	$258,950
Revenue Fluctuation Mitigation	$450,000
New Collection Contract Mitigation (2020)	$409,653
Total	**$1,603,603**

2020 Waste Management Requisition

The net requisition amount will be allocated in accordance with the methodology approved in PWA 55-2011. As such, base WMS costs will be apportioned based on the 2018 percentage of residential units in each municipality, while the enhanced collection services and associated disposal costs will be apportioned to the requesting municipalities.

The year-over-year increase in requisition amount by local area municipality before assessment growth equates to an increase ranging from ~~8.36% to 16.23%~~ **8.59% to 14.56%** with an average increase of 9.80%, as outlined in **Appendix 2**.

The net requisition changes by local area municipality after growth of 1.42% ranges from ~~5.69% to 14.52%.~~ **5.92% to 12.85%.** This range is the result of the differences in household growth between local area municipalities as well as net assessment growth. The WM levy is collected as a special levy with the Region establishing the tax rates for each municipality (with the exception of NOTL). Note that these are average impacts and the actual impact will vary on each individual property based on year-over-year assessment change relative to the average assessment change.

Appendix 3 provides the impacts of the WMS requisition for 2020 in comparison to 2019 on a cost per typical residential unit basis by area municipality.

Staff are also recommending a review of the allocation methodology utilized for the WMS requisition between area municipalities. The current methodology was reaffirmed by Council in 2011 and has not been reviewed since that time. As part of the review, staff will engage the local area municipalities and review relevant legislation. Any changes that may occur based on this review will not impact the 2020 requisition.

Risks & Opportunities

The proposed budget, like any budget, has a number of risks, as well as opportunities, which include:

- Recycling Commodity Price Risk –The market for commodities does have significant risk based on market fluctuations. As noted in WMPSC-C 29-2019, staff have noted decreased in commodity pricing for 2019. This negative trend in pricing is projected to continue in 2020 but there is a further risk that the commodity prices could decrease more than what has been projected.
- Risk associated with the uncertainty around the Waste Free Ontario Act and the transition to extended producer responsibility and the impacts on the recycling facility.
- Other Price Risks – the collection contract with the private sector contains a number of contract adjustments related to fuel prices and CPI. If these factors exceed the forecast, that could have a material impact on the budget.
- Counterparty risk related to the waste collection contract for services that represents 44% of WMS's 2020 operating costs.
- Multi-year collection contract mitigation – staff are recommending to utilize the waste management stabilization reserve to help phase-in the pressures generated from the new collection contract start October 2020. As a result, the stabilization reserve is projected to decrease to a balance of $0.2 million by the end of 2022. This may limit staff's ability to mitigate in-year budget pressures as they arise (i.e. decreased end-market revenues) and could therefore result in increased pressure on future year budgets.
- The Niagara Region continues to explore opportunities for procurement of recyclable material processing for other municipalities.

Alternatives Reviewed

The 2020 budget includes base and enhanced collection services as approved by Council and does not include additional Optional Collection Services (with the exception of the delivery of roll-offs for special events recycling, as outlined in Confidential PW 65-2019) which are **NOT RECOMMENDED** due to the significant budget pressure related to base services. Should these be considered, they would require an additional budget increase to be added to the recommended 9.8% budget increase.

The 2020 budget does not include the Diversion Container Distribution Options 4 or 5, which would be to maintain the existing distribution program but with a 50% subsidy for a period of six (6) months (Option 4) or twelve (12) months (Option 5), as presented to Public Works Committee on November 5. The incremental cost of Option 4 is $225,000 and would change the budget increase from 9.8% to 10.4%. The incremental cost of Option 5 is $251,000 and would change the budget increase from 9.8% to 10.5%. Staff are recommending the status quo service, which is to sell the containers to residents on a full-cost recovery basis through 13 different distribution locations throughout the Region, due to the significant budget pressure related to base services. Staff are also not recommending the use of the stabilization reserve for the one time expenditure as the reserve is already significantly depleted to mitigate the base budget to 9.8%.

Relationship to Council Strategic Priorities

The 2020 WMS budget supports responsible growth and infrastructure planning and supports Council's objective of environmental sustainability and stewardship.

Other Pertinent Reports

PWA 55-2011 – Waste Management Services Financing Study
CSD 70-2017 – Waste Management Reserve Strategy
WMPSC-C 33 – 2018 Waste Management Tipping Fees
PW 61-2019 – Base Level Service for Waste Management Collection Contract
PW 65-2019 – Confidential – Pricing of Successful Proponents and Review of Optional Services for WM Collection Contract

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Submitted by:
Ron Tripp, P.Eng.
Acting, Chief Administrative Officer

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Appendices

Appendix 1	Waste Management – Schedule of Revenues and Expenditures
Appendix 2	Proposed 2020 Requisition by Municipalities
Appendix 3	2020 WM Requisition for Typical Residential Property by Municipality

D_65000B

	2018	2019		2020						
	Actual	Q2 Forecast	Budget				Budget			
	Total	Total	Total	Base Services	Base Variance	Base Variance %	Total Program Changes	Total	Total Variance	Total Variance %
A_40000AB Compensation	3,287,740	3,550,334	3,688,358	3,865,070	176,712	4.8%	58,036	3,923,106	234,748	6.4%
A_41000AB Administrative	720,571	1,702,072	1,077,950	965,112	(112,838)	(10.5%)	331,000	1,296,112	218,162	20.2%
A_44000AB Operational & Supply	37,771,528	38,995,464	40,848,472	42,491,114	1,642,643	4.0%	11,143	42,502,257	1,653,786	4.1%
A_50000AB Occupancy & Infrastructure	1,455,001	1,425,989	1,438,380	1,453,183	14,804	1.0%	-	1,453,183	14,804	1.0%
A_52000AB Equipment, Vehicles,Technology	1,213,343	1,195,529	1,053,036	1,214,097	161,061	15.3%	-	1,214,097	161,061	15.3%
A_56000AB Partnership, Rebate, Exemption	166,821	182,167	195,700	188,906	(6,793)	(3.5%)	-	188,906	(6,793)	(3.5%)
A_58000AB Financial Expenditures	(28,415)	(946)	-	-	-	-	-	-	-	-
A_75100AC Transfers To Funds	5,066,955	4,135,500	4,135,500	4,135,500	-	-	-	4,135,500	-	-
A_60000AC Allocation Between Departments	145,879	127,778	128,626	129,808	1,183	0.9%	-	129,808	1,183	0.9%
Gross Expenditure Subtotal	**49,799,423**	**51,313,887**	**52,566,021**	**54,442,792**	**1,876,770**	**3.6%**	**400,179**	**54,842,971**	**2,276,949**	**4.3%**
A_30000AB Taxation	(34,602,337)	(35,328,318)	(35,328,312)	(38,758,812)	(3,430,500)	9.7%	(31,677)	(38,790,490)	(3,462,177)	9.8%
A_32400AB By-Law Charges & Sales	(13,743,584)	(11,128,925)	(14,588,064)	(11,609,056)	2,979,008	(20.4%)	-	(11,609,056)	2,979,008	(20.4%)
A_34950AB Other Revenue	(4,924,221)	(4,457,566)	(4,430,915)	(5,190,883)	(759,968)	17.2%	-	(5,190,883)	(759,968)	17.2%
A_75000AC Transfers From Funds	(521,831)	(1,511,455)	(580,000)	(1,289,021)	(709,021)	122.2%	(400,179)	(1,689,200)	(1,109,200)	191.2%
Gross Revenue Subtotal	**(53,791,973)**	**(52,426,265)**	**(54,927,291)**	**(56,847,772)**	**(1,920,481)**	**3.5%**	**(431,856)**	**(57,279,628)**	**(2,352,337)**	**4.3%**
Net Expenditure (revenue) before indirect allocations	**(3,992,550)**	**(1,112,378)**	**(2,361,269)**	**(2,404,980)**	**(43,711)**	**1.9%**	**(31,677)**	**(2,436,657)**	**(75,388)**	**3.2%**
A_70000AC Indirect Allocation	1,510,714	1,469,787	1,489,826	1,467,083	(22,743)	(1.5%)	31,677	1,498,760	8,934	0.6%
A_70200AC Capital Financing Allocation	931,063	901,325	871,443	937,897	66,454	7.6%	-	937,897	66,454	7.6%
Allocation Subtotal	**2,441,776**	**2,371,112**	**2,361,269**	**2,404,980**	**43,711**	**1.9%**	**31,677**	**2,436,657**	**75,388**	**3.2%**
Net Expenditure (revenue) after indirect allocations	**(1,550,774)**	**1,258,734**	**-**	**0**	**0**	**-**	**-**	**0**	**0**	**-**
FTE - Reg			32.0	32.0	-		2.0	34.0	2.0	
FTE - Temp			2.2	3.2	1.0		(2.0)	1.2	(1.0)	

D_65000B

	2018	2019		2020						
	Actual	Q2 Forecast	Budget				Budget			
	Total	Total	Total	Base Services	Base Variance	Base Variance %	Total Program Changes	Total	Total Variance	Total Variance %
A_40000AB Compensation	3,287,740	3,550,334	3,688,358	3,865,070	176,712	4.8%	58,036	3,923,106	234,748	6.4%
A_41000AB Administrative	720,571	1,702,072	1,077,950	965,112	(112,838)	(10.5%)	331,000	1,296,112	218,162	20.2%
A_44000AB Operational & Supply	37,771,528	38,995,464	40,848,472	42,405,567	1,557,095	3.8%	11,143	42,416,710	1,568,238	3.8%
A_50000AB Occupancy & Infrastructure	1,455,001	1,425,989	1,438,380	1,453,183	14,804	1.0%	-	1,453,183	14,804	1.0%
A_52000AB Equipment, Vehicles,Technology	1,213,343	1,195,529	1,053,036	1,214,097	161,061	15.3%	-	1,214,097	161,061	15.3%
A_56000AB Partnership, Rebate, Exemption	166,821	182,167	195,700	188,906	(6,793)	(3.5%)	-	188,906	(6,793)	(3.5%)
A_58000AB Financial Expenditures	(28,415)	(946)	-	-	-	-	-	-	-	-
A_75100AC Transfers To Funds	5,066,955	4,135,500	4,135,500	4,135,500	-	-	-	4,135,500	-	-
A_60000AC Allocation Between Departments	145,879	127,778	128,626	129,808	1,183	0.9%	-	129,808	1,183	0.9%
Gross Expenditure Subtotal	**49,799,423**	**51,313,887**	**52,566,021**	**54,357,244**	**1,791,223**	**3.4%**	**400,179**	**54,757,423**	**2,191,402**	**4.2%**
A_30000AB Taxation	(34,602,337)	(35,328,318)	(35,328,312)	(38,758,812)	(3,430,499)	9.7%	(31,677)	(38,790,489)	(3,462,177)	9.8%
A_32400AB By-Law Charges & Sales	(13,743,584)	(11,128,925)	(14,588,064)	(11,609,056)	2,979,008	(20.4%)	-	(11,609,056)	2,979,008	(20.4%)
A_34950AB Other Revenue	(4,924,221)	(4,457,566)	(4,430,915)	(5,190,883)	(759,968)	17.2%	-	(5,190,883)	(759,968)	17.2%
A_75000AC Transfers From Funds	(521,831)	(1,511,455)	(580,000)	(1,203,474)	(623,474)	107.5%	(400,179)	(1,603,653)	(1,023,653)	176.5%
Gross Revenue Subtotal	**(53,791,973)**	**(52,426,265)**	**(54,927,291)**	**(56,762,224)**	**(1,834,934)**	**3.3%**	**(431,856)**	**(57,194,080)**	**(2,266,790)**	**4.1%**
Net Expenditure (revenue) before indirect allocations	**(3,992,550)**	**(1,112,378)**	**(2,361,269)**	**(2,404,980)**	**(43,711)**	**1.9%**	**(31,677)**	**(2,436,657)**	**(75,388)**	**3.2%**
A_70000AC Indirect Allocation	1,510,714	1,469,787	1,489,826	1,467,083	(22,743)	(1.5%)	31,677	1,498,760	8,934	0.6%
A_70200AC Capital Financing Allocation	931,063	901,325	871,443	937,897	66,454	7.6%	-	937,897	66,454	7.6%
Allocation Subtotal	**2,441,776**	**2,371,112**	**2,361,269**	**2,404,980**	**43,711**	**1.9%**	**31,677**	**2,436,657**	**75,388**	**3.2%**
Net Expenditure (revenue) after indirect allocations	**(1,550,774)**	**1,258,734**	**-**	**0**	**0**	**-**	**-**	**0**	**0**	**-**
FTE - Reg			32.0	32.0	-		2.0	34.0	2.0	
FTE - Temp			2.2	3.2	1.0		(2.0)	1.2	(1.0)	

Appendix 2

Proposed 2020 Requisition by Municipality

Municipality	2019 Charges ($000)	2020 Requisition ($000)	Difference		Growth Impact %	
			Increase/ (Decrease) ($000)	% Increase/ (Decrease)	Taxable Assessment Growth (%)	Net Increase/ (Decrease) (%)
Fort Erie	$ 2,677	$ 2,946	$ 269	10.05%	1.48%	8.57%
Grimsby	$ 1,850	$ 2,150	$ 300	16.23%	1.72%	14.52%
Lincoln	$ 1,602	$ 1,765	$ 163	10.18%	2.44%	7.73%
Niagara Falls	$ 6,930	$ 7,595	$ 664	9.59%	1.13%	8.45%
Niagara-on-the-Lake*	$ 1,545	$ 1,678	$ 133	8.60%	1.00%	7.60%
Pelham	$ 1,205	$ 1,368	$ 164	13.59%	2.70%	10.89%
Port Colborne	$ 1,771	$ 1,941	$ 170	9.58%	0.59%	8.99%
St. Catharines	$ 10,873	$ 11,782	$ 909	8.36%	0.12%	8.24%
Thorold	$ 1,476	$ 1,651	$ 175	11.89%	2.74%	9.15%
Wainfleet	$ 547	$ 599	$ 52	9.42%	1.32%	8.10%
Welland	$ 3,964	$ 4,343	$ 379	9.55%	3.86%	5.69%
West Lincoln	$ 888	$ 973	$ 85	9.55%	2.60%	6.96%
Total	**$ 35,328**	**$ 38,790**	**$ 3,462**	**9.80%**	**1.42%**	**8.38%**

* NOTL assessment growth value on increase in residential units NOT CVA (as per NOTL requisition methodology).
* Total taxable assessment growth percentage of 1.42% represents Niagara forecasted growth for 2019 as of November 6, 2019

Change in Residential Units - 2020 Budget over 2019 Budget

Municipality	Residential Units 2019 Budget	Residential Units 2020 Budget	Difference	
			Increase/ (Decrease)	% Increase/ (Decrease)
Fort Erie	15,588	15,697	109	0.70%
Grimsby	10,676	11,175	499	4.67%
Lincoln	9,224	9,305	81	0.88%
Niagara Falls	37,916	38,306	390	1.03%
Niagara-on-the-Lake	8,520	8,605	85	1.00%
Pelham	6,945	7,064	119	1.71%
Port Colborne	10,285	10,304	19	0.18%
St. Catharines	59,709	59,879	170	0.28%
Thorold	8,406	8,510	104	1.24%
Wainfleet	3,204	3,220	16	0.50%
Welland	23,176	23,293	117	0.50%
West Lincoln	5,342	5,399	57	1.07%
Total	**198,991**	**200,757**	**1,766**	**0.89%**

Appendix 2 - REVISED

Proposed 2020 Requisition by Municipality

Municipality	2019 Charges ($000)	2020 Requisition ($000)	Difference		Growth Impact %	
			Increase/ (Decrease) ($000)	% Increase/ (Decrease)	Taxable Assessment Growth (%)	Net Increase/ (Decrease) (%)
Fort Erie	$ 2,677	$ 2,951	$ 275	10.27%	1.48%	8.79%
Grimsby	$ 1,850	$ 2,119	$ 269	14.56%	1.72%	12.85%
Lincoln	$ 1,602	$ 1,769	$ 166	10.39%	2.44%	7.95%
Niagara Falls	$ 6,930	$ 7,610	$ 679	9.80%	1.13%	8.67%
Niagara-on-the-Lake*	$ 1,545	$ 1,681	$ 136	8.81%	1.00%	7.81%
Pelham	$ 1,205	$ 1,342	$ 137	11.36%	2.70%	8.66%
Port Colborne	$ 1,771	$ 1,945	$ 174	9.80%	0.59%	9.21%
St. Catharines	$ 10,873	$ 11,807	$ 934	8.59%	0.12%	8.47%
Thorold	$ 1,476	$ 1,641	$ 165	11.22%	2.74%	8.48%
Wainfleet	$ 547	$ 600	$ 53	9.64%	1.32%	8.32%
Welland	$ 3,964	$ 4,352	$ 388	9.78%	3.86%	5.92%
West Lincoln	$ 888	$ 974	$ 86	9.68%	2.60%	7.08%
Total	**$ 35,328**	**$ 38,790**	**$ 3,462**	**9.80%**	**1.42%**	**8.38%**

* NOTL assessment growth value on increase in residential units NOT CVA (as per NOTL requisition methodology).
* Total taxable assessment growth percentage of 1.42% represents Niagara forecasted growth for 2019 as of November 6, 2019

Change in Residential Units - 2020 Budget over 2019 Budget

Municipality	Residential Units 2019 Budget	Residential Units 2020 Budget	Difference	
			Increase/ (Decrease)	% Increase/ (Decrease)
Fort Erie	15,588	15,697	109	0.70%
Grimsby	10,676	11,175	499	4.67%
Lincoln	9,224	9,305	81	0.88%
Niagara Falls	37,916	38,306	390	1.03%
Niagara-on-the-Lake	8,520	8,605	85	1.00%
Pelham	6,945	7,064	119	1.71%
Port Colborne	10,285	10,304	19	0.18%
St. Catharines	59,709	59,879	170	0.28%
Thorold	8,406	8,510	104	1.24%
Wainfleet	3,204	3,220	16	0.50%
Welland	23,176	23,293	117	0.50%
West Lincoln	5,342	5,399	57	1.07%
Total	**198,991**	**200,757**	**1,766**	**0.89%**

~~Appendix 3 - 2020 WM Requisition For Typical Residential Property by Municipality~~

~~Municipality~~	2019 Final		~~2020 Draft~~ [1]		~~Annual Increase/(Decrease)~~		~~Monthly~~
	~~CVA~~[3]	~~WM taxes~~	~~CVA~~[3]	~~WM taxes~~	~~$~~	~~%~~	~~$~~
~~Fort Erie~~	~~210,015~~	~~$ 138.97~~	~~214,712~~	~~$ 150.73~~	~~$ 11.76~~	~~8.46%~~	~~$ 0.98~~
~~Grimsby~~	~~382,289~~	~~$ 146.09~~	~~402,891~~	~~$ 166.50~~	~~$ 20.41~~	~~13.97%~~	~~$ 1.70~~
~~Lincoln~~	~~354,651~~	~~$ 150.61~~	~~370,494~~	~~$ 162.02~~	~~$ 11.41~~	~~7.58%~~	~~$ 0.95~~
~~Niagara Falls~~	~~246,816~~	~~$ 125.52~~	~~256,262~~	~~$ 135.85~~	~~$ 10.34~~	~~8.24%~~	~~$ 0.86~~
~~Niagara-on-the-Lake~~[2]							
~~Pelham~~	~~348,986~~	~~$ 157.03~~	~~365,439~~	~~$ 176.47~~	~~$ 19.44~~	~~12.38%~~	~~$ 1.62~~
~~Port Colborne~~	~~199,310~~	~~$ 167.73~~	~~204,313~~	~~$ 182.37~~	~~$ 14.64~~	~~8.73%~~	~~$ 1.22~~
~~St. Catharines~~	~~252,106~~	~~$ 159.90~~	~~259,659~~	~~$ 172.44~~	~~$ 12.55~~	~~7.85%~~	~~$ 1.05~~
~~Thorold~~	~~231,911~~	~~$ 133.21~~	~~238,276~~	~~$ 144.88~~	~~$ 11.67~~	~~8.76%~~	~~$ 0.97~~
~~Wainfleet~~	~~255,870~~	~~$ 143.97~~	~~265,652~~	~~$ 154.80~~	~~$ 10.82~~	~~7.52%~~	~~$ 0.90~~
~~Welland~~	~~208,841~~	~~$ 157.09~~	~~214,538~~	~~$ 165.72~~	~~$ 8.63~~	~~5.49%~~	~~$ 0.72~~
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[2] ~~NOTL charge to residents based on fixed household amount.~~

[3] ~~2019 and 2020 average CVA based on MPAC phased-in assessment increase for the municipality.~~

Appendix 3 - 2020 WM Requisition For Typical Residential Property by Municipality - REVISED

Municipality	2019 Final		2020 Draft [1]		Annual Increase/(Decrease)		Monthly
	CVA[3]	WM taxes	CVA[3]	WM taxes	$	%	$
Fort Erie	210,015	$ 138.97	214,712	$ 151.03	$ 12.06	8.68%	$ 1.00
Grimsby	382,289	$ 146.09	402,891	$ 164.11	$ 18.02	12.34%	$ 1.50
Lincoln	354,651	$ 150.61	370,494	$ 162.34	$ 11.73	7.79%	$ 0.98
Niagara Falls	246,816	$ 125.52	256,262	$ 136.12	$ 10.61	8.45%	$ 0.88
Niagara-on-the-Lake[2]							
Pelham	348,986	$ 157.03	365,439	$ 173.01	$ 15.98	10.17%	$ 1.33
Port Colborne	199,310	$ 167.73	204,313	$ 182.73	$ 15.00	8.94%	$ 1.25
St. Catharines	252,106	$ 159.90	259,659	$ 172.44	$ 12.55	7.85%	$ 1.05
Thorold	231,911	$ 133.21	238,276	$ 144.00	$ 10.79	8.10%	$ 0.90
Wainfleet	255,870	$ 143.97	265,652	$ 155.10	$ 11.13	7.73%	$ 0.93
Welland	208,841	$ 157.09	214,538	$ 166.06	$ 8.98	5.71%	$ 0.75
West Lincoln	300,968	$ 133.22	315,157	$ 142.29	$ 9.07	6.81%	$ 0.76

[1] 2020 draft WM rates based on 2019 tax policy and 2020 draft requisition amounts.

[2] NOTL charge to residents based on fixed household amount.

[3] 2019 and 2020 average CVA based on MPAC phased-in assessment increase for the municipality.

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	2018	2019		2020						
	Actual	Q2 Forecast	Budget				Budget			
	Total	Total	Total	Base Services	Base Variance	Base Variance %	Total Program Changes	Total	Total Variance	Total Variance %
A_40000AB Compensation	3,287,740	3,550,334	3,688,358	3,865,070	176,712	4.8%	58,036	3,923,106	234,748	6.4%
A_41000AB Administrative	720,571	1,702,072	1,077,950	965,112	(112,838)	(10.5%)	331,000	1,296,112	218,162	20.2%
A_44000AB Operational & Supply	37,771,528	38,995,464	40,848,472	42,491,114	1,642,643	4.0%	11,143	42,502,257	1,653,786	4.1%
A_50000AB Occupancy & Infrastructure	1,455,001	1,425,989	1,438,380	1,453,183	14,804	1.0%	-	1,453,183	14,804	1.0%
A_52000AB Equipment, Vehicles,Technology	1,213,343	1,195,529	1,053,036	1,214,097	161,061	15.3%	-	1,214,097	161,061	15.3%
A_56000AB Partnership, Rebate, Exemption	166,821	182,167	195,700	188,906	(6,793)	(3.5%)	-	188,906	(6,793)	(3.5%)
A_58000AB Financial Expenditures	(28,415)	(946)	-	-	-	-	-	-	-	-
A_75100AC Transfers To Funds	5,066,955	4,135,500	4,135,500	4,135,500	-	-	-	4,135,500	-	-
A_60000AC Allocation Between Departments	145,879	127,778	128,626	129,808	1,183	0.9%	-	129,808	1,183	0.9%
Gross Expenditure Subtotal	**49,799,423**	**51,313,887**	**52,566,021**	**54,442,792**	**1,876,770**	**3.6%**	**400,179**	**54,842,971**	**2,276,949**	**4.3%**
A_30000AB Taxation	(34,602,337)	(35,328,318)	(35,328,312)	(38,758,812)	(3,430,500)	9.7%	(31,677)	(38,790,490)	(3,462,177)	9.8%
A_32400AB By-Law Charges & Sales	(13,743,584)	(11,128,925)	(14,588,064)	(11,609,056)	2,979,008	(20.4%)	-	(11,609,056)	2,979,008	(20.4%)
A_34950AB Other Revenue	(4,924,221)	(4,457,566)	(4,430,915)	(5,190,883)	(759,968)	17.2%	-	(5,190,883)	(759,968)	17.2%
A_75000AC Transfers From Funds	(521,831)	(1,511,455)	(580,000)	(1,289,021)	(709,021)	122.2%	(400,179)	(1,689,200)	(1,109,200)	191.2%
Gross Revenue Subtotal	**(53,791,973)**	**(52,426,265)**	**(54,927,291)**	**(56,847,772)**	**(1,920,481)**	**3.5%**	**(431,856)**	**(57,279,628)**	**(2,352,337)**	**4.3%**
Net Expenditure (revenue) before indirect allocations	**(3,992,550)**	**(1,112,378)**	**(2,361,269)**	**(2,404,980)**	**(43,711)**	**1.9%**	**(31,677)**	**(2,436,657)**	**(75,388)**	**3.2%**
A_70000AC Indirect Allocation	1,510,714	1,469,787	1,489,826	1,467,083	(22,743)	(1.5%)	31,677	1,498,760	8,934	0.6%
A_70200AC Capital Financing Allocation	931,063	901,325	871,443	937,897	66,454	7.6%	-	937,897	66,454	7.6%
Allocation Subtotal	**2,441,776**	**2,371,112**	**2,361,269**	**2,404,980**	**43,711**	**1.9%**	**31,677**	**2,436,657**	**75,388**	**3.2%**
Net Expenditure (revenue) after indirect allocations	**(1,550,774)**	**1,258,734**	**-**	**0**	**0**	**-**	**-**	**0**	**0**	**-**
FTE - Reg			32.0	32.0	-		2.0	34.0	2.0	
FTE - Temp			2.2	3.2	1.0		(2.0)	1.2	(1.0)	

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	2018	2019		2020						
	Actual	Q2 Forecast	Budget				Budget			
	Total	Total	Total	Base Services	Base Variance	Base Variance %	Total Program Changes	Total	Total Variance	Total Variance %
A_40000AB Compensation	3,287,740	3,550,334	3,688,358	3,865,070	176,712	4.8%	58,036	3,923,106	234,748	6.4%
A_41000AB Administrative	720,571	1,702,072	1,077,950	965,112	(112,838)	(10.5%)	331,000	1,296,112	218,162	20.2%
A_44000AB Operational & Supply	37,771,528	38,995,464	40,848,472	42,405,567	1,557,095	3.8%	11,143	42,416,710	1,568,238	3.8%
A_50000AB Occupancy & Infrastructure	1,455,001	1,425,989	1,438,380	1,453,183	14,804	1.0%	-	1,453,183	14,804	1.0%
A_52000AB Equipment, Vehicles,Technology	1,213,343	1,195,529	1,053,036	1,214,097	161,061	15.3%	-	1,214,097	161,061	15.3%
A_56000AB Partnership, Rebate, Exemption	166,821	182,167	195,700	188,906	(6,793)	(3.5%)	-	188,906	(6,793)	(3.5%)
A_58000AB Financial Expenditures	(28,415)	(946)	-	-	-	-	-	-	-	-
A_75100AC Transfers To Funds	5,066,955	4,135,500	4,135,500	4,135,500	-	-	-	4,135,500	-	-
A_60000AC Allocation Between Departments	145,879	127,778	128,626	129,808	1,183	0.9%	-	129,808	1,183	0.9%
Gross Expenditure Subtotal	**49,799,423**	**51,313,887**	**52,566,021**	**54,357,244**	**1,791,223**	**3.4%**	**400,179**	**54,757,423**	**2,191,402**	**4.2%**
A_30000AB Taxation	(34,602,337)	(35,328,318)	(35,328,312)	(38,758,812)	(3,430,499)	9.7%	(31,677)	(38,790,489)	(3,462,177)	9.8%
A_32400AB By-Law Charges & Sales	(13,743,584)	(11,128,925)	(14,588,064)	(11,609,056)	2,979,008	(20.4%)	-	(11,609,056)	2,979,008	(20.4%)
A_34950AB Other Revenue	(4,924,221)	(4,457,566)	(4,430,915)	(5,190,883)	(759,968)	17.2%	-	(5,190,883)	(759,968)	17.2%
A_75000AC Transfers From Funds	(521,831)	(1,511,455)	(580,000)	(1,203,474)	(623,474)	107.5%	(400,179)	(1,603,653)	(1,023,653)	176.5%
Gross Revenue Subtotal	**(53,791,973)**	**(52,426,265)**	**(54,927,291)**	**(56,762,224)**	**(1,834,934)**	**3.3%**	**(431,856)**	**(57,194,080)**	**(2,266,790)**	**4.1%**
Net Expenditure (revenue) before indirect allocations	**(3,992,550)**	**(1,112,378)**	**(2,361,269)**	**(2,404,980)**	**(43,711)**	**1.9%**	**(31,677)**	**(2,436,657)**	**(75,388)**	**3.2%**
A_70000AC Indirect Allocation	1,510,714	1,469,787	1,489,826	1,467,083	(22,743)	(1.5%)	31,677	1,498,760	8,934	0.6%
A_70200AC Capital Financing Allocation	931,063	901,325	871,443	937,897	66,454	7.6%	-	937,897	66,454	7.6%
Allocation Subtotal	**2,441,776**	**2,371,112**	**2,361,269**	**2,404,980**	**43,711**	**1.9%**	**31,677**	**2,436,657**	**75,388**	**3.2%**
Net Expenditure (revenue) after indirect allocations	**(1,550,774)**	**1,258,734**	**-**	**0**	**0**	**-**	**-**	**0**	**0**	**-**
FTE - Reg			32.0	32.0	-		2.0	34.0	2.0	
FTE - Temp			2.2	3.2	1.0		(2.0)	1.2	(1.0)	

Appendix 2

Proposed 2020 Requisition by Municipality

Municipality	2019 Charges ($000)	2020 Requisition ($000)	Difference		Growth Impact %	
			Increase/ (Decrease) ($000)	% Increase/ (Decrease)	Taxable Assessment Growth (%)	Net Increase/ (Decrease) (%)
Fort Erie	$ 2,677	$ 2,946	$ 269	10.05%	1.48%	8.57%
Grimsby	$ 1,850	$ 2,150	$ 300	16.23%	1.72%	14.52%
Lincoln	$ 1,602	$ 1,765	$ 163	10.18%	2.44%	7.73%
Niagara Falls	$ 6,930	$ 7,595	$ 664	9.59%	1.13%	8.45%
Niagara-on-the-Lake*	$ 1,545	$ 1,678	$ 133	8.60%	1.00%	7.60%
Pelham	$ 1,205	$ 1,368	$ 164	13.59%	2.70%	10.89%
Port Colborne	$ 1,771	$ 1,941	$ 170	9.58%	0.59%	8.99%
St. Catharines	$ 10,873	$ 11,782	$ 909	8.36%	0.12%	8.24%
Thorold	$ 1,476	$ 1,651	$ 175	11.89%	2.74%	9.15%
Wainfleet	$ 547	$ 599	$ 52	9.42%	1.32%	8.10%
Welland	$ 3,964	$ 4,343	$ 379	9.55%	3.86%	5.69%
West Lincoln	$ 888	$ 973	$ 85	9.55%	2.60%	6.96%
Total	**$ 35,328**	**$ 38,790**	**$ 3,462**	**9.80%**	**1.42%**	**8.38%**

* NOTL assessment growth value on increase in residential units NOT CVA (as per NOTL requisition methodology).
* Total taxable assessment growth percentage of 1.42% represents Niagara forecasted growth for 2019 as of November 6, 2019

Change in Residential Units - 2020 Budget over 2019 Budget

Municipality	Residential Units 2019 Budget	Residential Units 2020 Budget	Difference	
			Increase/ (Decrease)	% Increase/ (Decrease)
Fort Erie	15,588	15,697	109	0.70%
Grimsby	10,676	11,175	499	4.67%
Lincoln	9,224	9,305	81	0.88%
Niagara Falls	37,916	38,306	390	1.03%
Niagara-on-the-Lake	8,520	8,605	85	1.00%
Pelham	6,945	7,064	119	1.71%
Port Colborne	10,285	10,304	19	0.18%
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Total	**198,991**	**200,757**	**1,766**	**0.89%**

Appendix 2 - REVISED

Proposed 2020 Requisition by Municipality

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~~Thorold~~	~~231,911~~	~~$ 133.21~~	~~238,276~~	~~$ 144.88~~	~~$ 11.67~~	~~8.76%~~	~~$ 0.97~~
~~Wainfleet~~	~~255,870~~	~~$ 143.97~~	~~265,652~~	~~$ 154.80~~	~~$ 10.82~~	~~7.52%~~	~~$ 0.90~~
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Appendix 3 - 2020 WM Requisition For Typical Residential Property by Municipality - REVISED

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	CVA[3]	WM taxes	CVA[3]	WM taxes	$	%	$
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Grimsby	382,289	$ 146.09	402,891	$ 164.11	$ 18.02	12.34%	$ 1.50
Lincoln	354,651	$ 150.61	370,494	$ 162.34	$ 11.73	7.79%	$ 0.98
Niagara Falls	246,816	$ 125.52	256,262	$ 136.12	$ 10.61	8.45%	$ 0.88
Niagara-on-the-Lake[2]							
Pelham	348,986	$ 157.03	365,439	$ 173.01	$ 15.98	10.17%	$ 1.33
Port Colborne	199,310	$ 167.73	204,313	$ 182.73	$ 15.00	8.94%	$ 1.25
St. Catharines	252,106	$ 159.90	259,659	$ 172.44	$ 12.55	7.85%	$ 1.05
Thorold	231,911	$ 133.21	238,276	$ 144.00	$ 10.79	8.10%	$ 0.90
Wainfleet	255,870	$ 143.97	265,652	$ 155.10	$ 11.13	7.73%	$ 0.93
Welland	208,841	$ 157.09	214,538	$ 166.06	$ 8.98	5.71%	$ 0.75
West Lincoln	300,968	$ 133.22	315,157	$ 142.29	$ 9.07	6.81%	$ 0.76

[1] 2020 draft WM rates based on 2019 tax policy and 2020 draft requisition amounts.

[2] NOTL charge to residents based on fixed household amount.

[3] 2019 and 2020 average CVA based on MPAC phased-in assessment increase for the municipality.

THE REGIONAL MUNICIPALITY OF NIAGARA

BY-LAW NO. 2019-96

A BY-LAW TO ADOPT THE 2020 WASTE MANAGEMENT BUDGET FOR THE REGIONAL MUNICIPALITY OF NIAGARA

WHEREAS subsection 289 (1) of the *Municipal Act, 2001*, S.O. 2001, c.25, as amended, requires that an upper-tier municipality shall in each year prepare and adopt a budget; and,

WHEREAS the Council of the Regional Municipality of Niagara adopted its 2020 Waste Management Budget as described herein.

NOW THEREFORE the Council of The Regional Municipality of Niagara enacts as follows:

1. That the 2020 Waste Management Gross Operating Budget of $57,225,193 and Net Operating Budget of $38,821,604 be and hereby is adopted.

2. That this by-law shall come into force and effect on the day upon which it is passed.

THE REGIONAL MUNICIPALITY OF NIAGARA

James Bradley, Regional Chair

Ann-Marie Norio, Regional Clerk

Passed: December 12, 1996

Pelham Public Library

January 23, 2019

Mayor Marvin Junkin
Town of Pelham
20 Pelham Town Square
Fonthill, ON

Dear Mayor Junkin,

Re: Pelham Council Resolution to Appoint Interim Acting Library CEO

Please be advised that at the regular meeting on January 22, 2020, the Pelham Public Library Board passed the following motion:

BE IT RESOLVED that the Pelham Public Library Board wishes to work collaboratively with the Pelham Town Council, and we still do not accept the instructions in the resolution of December 2, 2019. We have heard Council's concerns with regard to the administrative structure of the Library. We will suspend our CEO search at this time and continue with our current Acting-CEO. We request a meeting between the Pelham Public Library Board members and the Pelham Town Council, to determine a process to evaluate the administrative structure of the Library.

Thank you,

Nicole Nolan
Chair, Pelham Public Library Board

Cc: Members of Pelham Town Council
N. Bozzato
A. Guilmette
V. vanRavenswaay

FONTHILL BRANCH I 43 PELHAM TOWN SQUARE, BOX 830, FONTHILL ON I 905.892.6443
MAPLE ACRE BRANCH I 781 CANBORO ROAD, FENWICK ON I 905.892.5226
WWW.PELHAMLIBRARY.ON.CA

Cannabis Control Committee
Town of Pelham

Minutes of Meeting
Wednesday, November 6, 2019 - 5:00 p.m.
Pelham Town Hall Council Chambers, 20 Pelham Town Square, Fonthill

PRESENT: Mike Ciolfi, Councillor - Town of Pelham
Tim Nohara **(Chair)**
John Langendoen
Jim Steele
Carla Baxter
Bill Heska
David Cribbs, CAO - Town of Pelham
Barbara Wiens, Director, Community Planning & Development - Town of Pelham
Shannon Larocque, Senior Planner, Community Planning & Development-Town of Pelham
Jodi Legros, Administrative Assistant, Community Planning & Development-Town of Pelham **(Secretary)**

REGRETS: Louis Damm, Jim Jeffs

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1. **Declaration of Quorum**

Chair declared quorum at 5:05 pm.

2. **Approve Agenda**

Item 5c-Amendment to Site Plan By-law was added to the agenda.

Moved by C. Baxter, seconded by J. Steele that the agenda of November 6 be approved, as amended.

CARRIED

3. **Minutes**

- Chair delivered signed Minutes of September 18 to the Secretary.
- Moved by J. Langendoen, seconded by B. Heska that the minutes of October 2 and 30 be deferred to the next meeting date of November 13, 2019.

CARRIED

4. **Overview of Proposed Regulatory By-laws**

The Chair introduced a prepared 'Response Summary to the Town of Pelham October 28, 2019 Comments' and reviewed with the committee and town staff.

- Draft Cannabis Nuisance By-Law

The Committee reviewed their response to staff on the amendments to the draft Cannabis Nuisance By-law. Discussions ensued between town staff and committee members on the proposed changes in regards to paragraph 2b), 4a) and 4b), and the potential that adoption of the by-laws may be delayed. The committee indicated that it is focused on meeting dates as set out in their work plan.

Motion approved by C. Baxter, seconded by J. Steele to accept and approve the draft Cannabis Nuisance By-Law, as amended by removing paragraph 2b).

CARRIED

- Draft Odour Bylaw

The Committee reviewed their response to staff on amendments to the draft Odour By-law.

Motion approved by B. Heska, seconded by J. Steele to accept and approve the draft Odour By-law.

- Site Plan Control By-law proposed amendment

The Committee reviewed their proposed amendments to the Site Plan Control By-law.

Motion approved by C. Baxter, seconded by J. Steele to accept and approve the draft amendments to the Site Plan Control By-law.

CARRIED

T. Nohara requested and B. Wiens agreed to place the above three CCC-approved by-laws and amendments on the Agenda for the 2 December 2019 Council Policy & Priorities meeting and on the Agenda for the 16 December 2019 Council meeting for a vote.

M. Ciolfi prefers that town staff and the committee be in agreement and present By-laws together at council and requests that the entire committee confirm where they are at during the next Cannabis Control Committee meeting on November 13.

5. **Next meeting Date**: Wednesday, November 13, 2019 at 5:00 p.m.
Fire Station #1 - 177 Highway 20 W, Fonthill

6. **Adjournment:**

Moved by B. Heska, seconded by J. Langendoen that the meeting be adjourned.

The meeting adjourned at approximately 7:02 p.m.

CARRIED

Signed by:

Edited by: T. Nohara
Tim Nohara (Chair)

J. Legros
Prepared by: Jodi Legros, Administrative Assistant
Community Planning & Development-Town of Pelham

Cannabis Control Committee
Town of Pelham

Minutes of Meeting
Wednesday, November 13, 2019 – 5:00 p.m.
Fire Station #1, 177 Highway 20 W., Fonthill

Present: Mike Ciolfi, Councillor – Town of Pelham
Tim Nohara **(Chair)**
John Langendoen
Jim Steele
Bill Heska
Carla Baxter
David Cribbs, CAO – Town of Pelham
Barbara Wiens, Director, Community Planning & Development – Town of Pelham
Shannon Larocque, Senior Planner, Community Planning & Development – Town of Pelham
Jodi Legros, Administrative Assistant, Community Planning & Development – Town of Pelham **(Secretary)**

Other: Mayor Marvin Junkin

Regrets: Louis Damm
Jim Jeffs

---

1. **Declaration of Quorum**

Chair declared quorum at 5:09 p.m.

2. **Approve Agenda**

Moved by J. Steele, seconded by B. Heska that the agenda of November 13, 2019 be approved.

CARRIED.

3. **Minutes**

- Moved by C. Baxter, seconded by J. Langendoen that the minutes of October 2, 2019 be approved, as amended.
- Moved by J. Langendoen, seconded by B. Heska that the minutes of October 30, 2019 be approved, as amended.
- Moved by J. Steele, seconded by B. Heska that the minutes of November 6, 2019 be deferred to the next meeting date of November 27, 2019.

CARRIED.

4. Discussions took place regarding the draft nuisance and odour by-laws approved by the committee on November 6th. Staff proposed and the committee discussed expanding the nuisance bylaw to include other odourous industries such as landfills, slaughter houses and rendering. Proposed amendments to 4(a) and 4(b) were also discussed. The committee agreed to take a look at these in advance of the December 2nd Policy and Priorities meeting. Town staff commented that the comments received during the public meeting had not yet been discussed with the Committee. Committee members were not in agreement with providing the cannabis producers with the current draft by-laws for review and comment; they felt they should be presented to the public (which includes the cannabis producers) and Council at the same time. Town staff

noted external legal review and By-law Enforcement Staff review may also be required. The Committee took a survey and they unanimously agreed to stick with the December 2nd and December 16th meetings for presenting their draft by-laws to Council.

5. Town staff indicated they will provide new drafts of Official Plan and Zoning By-law amendments for discussion with the Committee at the next meeting on November 27th. S. Larocque proposed that moving forward and working together, Town staff could revise future draft documents allowing Committee members better use of their time. Any member of the Committee can reach out to Town staff at any time with any questions or concerns. T. Nohara noted that the Committee's concerns on the draft zoning bylaw and Official Plan amendments originally proposed at the September 10th Public Meeting were presented to Council on September 23rd and include special attention on where to grow, setbacks, and the need for a cannabis production zone.

6. **Link to MPAC Webinar** – B. Wiens provided a link to an MPAC Webinar regarding new information relating to MPAC classification of cannabis licensed facilities.

7. **Next Meeting:** November 27, 2019 at 5:00 pm – Fire Station 1, 177 Highway 20 West, Fonthill.

8. **Adjournment**

Moved by J. Steele, seconded by C. Baxter that the meeting be adjourned.

The meeting adjourned at approximately 7:19 p.m.

CARRIED.

Signed by:

Edited by: T. Nohara

Tim Nohara (Chair)

J. Legros

Prepared by: Jodi Legros, Administrative Assistant
Community Planning & Development-Town of Pelham

Cannabis Control Committee
Town of Pelham

Minutes of Meeting
Wednesday, November 27, 2019 – 5:00 p.m.
Fire Station #1, 177 Highway 20 W., Fonthill

Present: Mike Ciolfi, Councillor – Town of Pelham
Tim Nohara **(Chair)**
John Langendoen
Jim Steele
Bill Heska
Louis Damm
Barbara Wiens, Director, Community Planning & Development – Town of Pelham
Shannon Larocque, Senior Planner, Community Planning & Development – Town of Pelham
Jodi Legros, Administrative Assistant, Community Planning & Development – Town of Pelham **(Secretary)**

Other: Mayor Marvin Junkin
Bob Lymburner, Fire Chief – Town of Pelham
Craig Genesse, Senior By-Law Officer – Town of Pelham

Regrets: David Cribbs, CAO – Town of Pelham
Jim Jeffs
Carla Baxter

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1. **Declaration of Quorum**

Chair declared quorum at 5:04 p.m.

2. **Approve Agenda**

Moved by B. Heska, seconded by L. Damm that the agenda of November 27, 2019 be approved.

CARRIED

3. **Minutes of October 2 and 30, 2019**

Chair provided the signed Minutes of October 2 and 30 to the Secretary.

CARRIED

4. **Minutes of November 6 and 13, 2019**

Moved by J. Steele, seconded by J. Langendoen that the minutes of November 6 and 13, 2019 be deferred to the next meeting date of December 11, 2019.

CARRIED

5. **Closed Discussion with External Legal Counsel**

Motion moved at 5:10 pm by J. Langendoen, seconded by L. Damm for the next portion of the meeting to move in camera to consider the following:

Section 239(2)(e) of the Municipal Act – litigation or potential litigation including matters before administrative tribunals, affecting the municipality, and Section 239(2)(f) – advice that is subject to solicitor-client privilege, including communications necessary for that purpose.

Moved by L. Damm, seconded by B. Heska to rise from the in camera portion of the meeting at approximately 6:34 pm.

6. **Discussion with By-law Enforcement**

Bob Lymburner, Fire Chief, Director of Fire and By-law Services together with Craig Genesse, Senior By-law Enforcement Officer discussed enforcement challenges of nuisance by-laws. They noted that the by-laws that provide for simple enforcement capability are better to enforce and are more defensible in the courts. If odour is measured at the property line of a cannabis production facility then there is a better chance of being able to prove that odour emanated from that facility. Enforcement staff need to be able to definitively say odour did not come from any other intervening property/use that may exist between a complainant and a cannabis production facility. The more complex a by-law is, the more variables exist that make a by-law more difficult to enforce and defend. Discussion regarding use of graduated Administrative Municipal Penalty System (AMPS) also took place.

T. Nohara thanked B. Lymburner and C. Genesse for their input and expertise and indicated that the committee would look to provide a property line odour measurement standard for enforcement to use. In addition, the committee will be recommending an ambient neighbourhood monitoring program that would likely be carried out by a contractor, as used in other odorous industries.

L. Damm shared information regarding an outbreak of legionnaires disease that resulted from bacterial build up in cooling towers in Moncton New Brunswick. A CPF is the suspected source of the outbreak. Cooling Towers and High Pressure fog systems are known risk sources for the legionella outbreaks.

7. **General Discussion**

Discussion regarding process to complete work and the need to be efficient at meetings to allow Committee to get through agenda items occurred. Planning staff to present draft OPA and ZBA to Committee at next meeting and update timeframe to complete work.

Mayor Junkin challenged the Committee to be completed by mid-March.

8. **Next Meeting: December 11, 2019 at 5:00 pm** – Kinsmen Room, Meridian Community Centre, Fonthill.

9. **Adjournment**

Moved by J. Langendoen, seconded by J. Steele that the meeting be adjourned.

The meeting adjourned at approximately 8:05 p.m.

CARRIED.

Signed by:

Edited By: _____
Tim Nohara (Chair)

_____
Prepared by: Jodi Legros, Administrative Assistant
Community Planning & Development-Town of Pelham

FIRE & BY-LAW ENFORCEMENT DEPARTMENT
Monday, February 03, 2020

Subject: Sign bylaw 2020 update

Recommendation:

> **BE IT RESOLVED THAT Council receive Report #2020-0010 ; and Council consider approval of the sign by-law forming part of February 3rd 2020 Council agenda.**

Background:

The Bylaw Enforcement Department submitted a new sign bylaw at the previous committee meeting. Additional information regarding the new bylaw was requested and subsequently, the bylaw was deferred to the next meeting of council. Staff was requested to provide clarity regarding signs on private property.

Analysis:

Signs which are put on private property and display a message shall be considered an information sign. These signs are required to be located on the subject owner's property. There are no restrictions on size, time limits or setbacks. Refer to bylaw section 3.5 (a) and "Information Sign" under definitions.

Financial Considerations:

Not applicable

Alternatives Reviewed:

Clarification of bylaw only

Strategic Plan Relationship: Communication and Engagement

Customer service

Consultation:

Bylaw officers

Other Pertinent Reports/Attachments:

The new bylaw will be submitted by the clerk's office

Prepared and Recommended by:

Bob Lymburner, Fire Chief

Prepared and Submitted by:

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

THE CORPORATION OF THE
T O W N O F P E L H A M
BY-LAW #4191 (2020)

Being a by-law to authorize the execution of a Site Plan Agreement for the lands located at 730 Tice Road.

1825115 Ontario Inc. (Greenfield Gardens)
File No. SP-07-19

WHEREAS By-law No. 1118 (1987) designates the Town of Pelham as a site plan control area, and

WHEREAS it is deemed desirable to enter into a Site Plan Agreement in order to control the lands as described in Schedule 'A' of the Document General which is attached hereto and forms part of this by-law;

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

1. **THAT** the Mayor and Clerk be and they are hereby authorized and directed to execute the Agreement to this by-law hereto attached as Schedule 'A' in order to effect the Site Plan Agreement with 1825115 Ontario Inc. for the lands described in Schedule 'A' of the Document General.

2. **THAT** in the event minor modifications to the Site Plan 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

Site Plan Agreement
1825115 Ontario Inc.
730 Tice Road

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THIS AGREEMENT made this 3rd day of February, 2019.

BETWEEN:

1825115 ONTARIO INC.

Hereinafter called the "Owner"

OF THE FIRST PART

- and -

THE CORPORATION OF THE TOWN OF PELHAM

Hereinafter called the "Town"

OF THE SECOND PART

WHEREAS the Owner represents and warrants that it is the owner of the lands in the Town of Pelham described in Schedule 'A' attached hereto (the "Lands");

AND WHEREAS the Owner has assumed and agreed to be bound by the terms and conditions of the Site Plan Agreement;

AND WHEREAS the Owner is looking forward to develop the parcel with greenhouses and a barn in accordance with Schedule 'B-C' attached hereto, being a Site Plan filed in the Town's offices;

AND WHEREAS the Town has agreed to permit the said construction subject to certain terms and conditions;

NOW THEREFORE THIS AGREEMENT WITNESSETH that in consideration of the sum of One Dollar ($1.00) now paid by the Owner to the Town (the receipt whereof is hereby acknowledged), the Parties hereto mutually covenant and agree as follows:

1. Definitions

In this Agreement:

(a) **Chief Building Official** shall mean the Chief Building Official of the Corporation of the Town of Pelham.

(b) **Clerk** shall mean the Clerk of the Corporation of the Town of Pelham.

(c) **Council** shall mean the Council of the Corporation of the Town of Pelham.

(d) **Director of Community Planning & Development** shall mean the Director of Community Planning & Development of the Corporation of the Town of Pelham.

(e) **Director of Corporate Services** shall mean the Director of Corporate Services of the Corporation of the Town of Pelham.

(f) **Director of Public Works** shall mean the Director of Public Works of the Corporation of the Town of Pelham.

(g) **Facilities and Works** shall mean and includes those facilities and works which are shown on or referred to in any one or more of the plans, drawings and schedules to this Agreement.

(h) **Lands** shall mean the lands described in Schedule 'A' attached hereto.

(i) **Professional Engineer** shall mean a Professional Engineer registered in good standing with the Association of Professional Engineers.

(j) **Surveyor** shall mean an Ontario Land Surveyor registered in good standing with the Association of Ontario Land Surveyors.

2. General Provisions

(a) The Owner shall develop and maintain the Lands only in accordance with the terms and conditions contained herein and any other applicable by-law of the Town.

(b) Unless the context otherwise requires, where the Owner is obligated by this Agreement or the approved plans to make any payments or install, construct, or carry out any services or action, the provisions therefore contained herein shall be deemed to include the words, "at the sole expense of the Owner".

(c) The Owner shall perform any and all construction and installation of works on the Lands and any off-site works in accordance with the terms and conditions contained herein and as shown on Schedule 'B-C' attached hereto and forming part of this Agreement to the reasonable satisfaction of the Town.

(d) The Owner shall not perform any construction or installation on the Lands that contravenes the Zoning By-law, except in accordance with the terms and conditions contained herein and shown on said Schedule 'B-C' attached hereto and forming part of this Agreement and to the reasonable satisfaction of the Town.

(e) The Owner shall maintain and keep in good repair driveways and access servicing the buildings located in the development.

(f) The Owner shall keep all construction access routes open and ensure that adequate dust control, mud tracking and debris control measures are carried out during the site's development.

(a) Prior to construction of Phases 3-5, the Owner shall install appropriate sediment (silt) and erosion control fencing prior to the commencement of construction and maintain it in good condition until all construction is complete and all lands are revegetated. The fencing shall be located as reasonably close as practical to the southern limits of site disturbance.

(g) During construction, the Owner shall ensure all construction related vehicles that are not carrying out the works are parked on the subject lands and are not parked within the municipal road allowance.

(h) All delivery / construction trucks taking materials from the subject lands included within this Agreement shall be adequately covered and not

unreasonably loaded so as to scatter refuse, rubbish, dust or debris on neighbouring properties or public roadways.

(i) The Owner shall ensure the building foundation is constructed using a slab-on-grade style concrete pad notwithstanding the limited amount of anchor posts detailed on Schedule 'D', to avoid disturbing deeply buried archaeological resources. Schedule 'D' depicts the Anchor Post Plan for Phase 1, and it is understood that Phases 1-5 will employ a similar foundation structure. And further:

i. 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 Heritage, Sport, Tourism & Culture Industries (416-212-8886) and the Owner's archaeology consultant 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 & Consumer Services (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 in contravention of the *Ontario Heritage Act*.

(j) The Owner grants to the Town, its servants, agents, and assigns permission to enter upon the Lands for the purpose of inspection of any Facilities and Works referred to in this Agreement and for the purpose of the completion of any Facilities and Works in accordance with this Clause and this Agreement.

(k) The Owner will, at all times, indemnify and save harmless the Town from all loss, costs, damages and injuries which the Town may suffer or be put to for or by reason of the construction, maintenance, or existence of any Facilities and Works done by the Owner, its contractors, servants or agents on the Lands or which the Town may suffer or be put to for, or by reason of the completion by the Town of any of the required Facilities and Works in accordance with this clause and this Agreement.

(l) The Owner shall not call into question directly or indirectly in any proceeding whatsoever in law or in equity or before any administrative tribunal the right of the Town to enter into this Agreement and to enforce each and every term, covenant, and condition herein contained and this Agreement may be pleaded as an estoppel against the Owner in any such proceeding.

(m) In the event that a Mortgagee(s) exercises any rights as to sale, possession or foreclosure or takes any other steps to enforce its security against the subject lands, then such Mortgagee(s) agrees on behalf of itself, its heirs, executors, administrators, successors and assigns not to deal with the lands as a development or part thereof unless and until a new Agreement in the same form, mutatis mutandis, as this Agreement has been entered into with the Town.

(n) Any lands required to be conveyed by the Owner in accordance with the provisions hereof shall be in a neat and tidy condition, free of all debris and trash, and the Owner shall complete all services for the lands in accordance with the terms of this Agreement.

(o) Notwithstanding the provisions of this Agreement, the Owner shall be subject to all of the Town's By-laws and all Provincial and Federal government statutes and / or regulations and amendments thereto affecting the site's development and installation of municipal services.

(p) Should the existing and /or proposed greenhouses depicted on Schedule 'C' be subject to a future conversion to a *cannabis production facility*, approval from Council through a subsequent Site Plan Amendment is required.

3. Grading

(a) Unless otherwise approved or required by the Town, the Owner shall not alter the grades of the said Lands until such time as a Building Permit is issued for the construction of the buildings contemplated herein on the said Lands.

4. Sanitary Sewer System

(a) Domestic waste water from the existing and proposed building(s) shall be discharged into a private sanitary sewer system approved by the Region of Niagara at the time of building permit approval, as applicable.

5. Water Supply

(a) The Owner shall, at its own expense, provide and maintain an internal private water supply necessary to serve the lands.

(b) The Owner shall comply with the provisions of the *Ontario Water Resources Act and Safe Drinking Water Act* and amendments thereto and all regulations thereunder, on all internal water supply services, which said Act and regulations shall be enforced by the Town.

6. Storm Sewer System

(a) The Owner shall ensure that all storm water runoff is maintained on-site and does not negatively impact adjacent property.

7. Roads & Access

(a) The Owner shall utilize and maintain the existing driveways for access to the greenhouses, agricultural building(s) and existing residential dwelling.

8. Landscaping & Trees

(b) The Owner agrees to install appropriate sediment (silt) and erosion control fencing prior to the commencement of construction (of phases 3-5) and maintain it in good condition until all construction is complete and all lands are revegetated.

9. Waste Collection

a) The Owner is advised that if the waste collection limit cannot be met, or if curbside collection is not desired, waste collection will be the responsibility of the Owner via private contractor. However, the site remains eligible for Regional recycling and organics collection subject to compliance with the current Regional Waste Collection Policy.

10. Photometry

(a) The Owner shall ensure that any lighting facility used to illuminate any building or parking area shall be designed and installed so as to deflect from adjacent buildings and streets.

11. Building & Services

(a) The Owner shall construct and the Town shall permit the construction of the buildings and other structures on the Lands in accordance with the Schedules attached hereto to permit the development provided that all such uses shall comply with all building and zoning requirements of the Town.

(b) The Owner shall ensure the building foundation is constructed using a slab-on-grade style concrete pad notwithstanding the limited amount of anchor posts detailed on Schedule 'D', to avoid disturbing deeply buried archaeological resources.

12. Default

Upon breach by the Owner of any covenant, term, condition or requirement of this Agreement, or upon the Owner becoming insolvent or making any assignment for the benefit of creditors, the Town, at its option, may declare the Owner to be in default. Notice of such default shall be given by the Town, and if the Owner shall not remedy such default within such time as provided in the notice, the Town may declare the Owner to be in final default under this Agreement. Upon notice of default having been given, the Town may require all work by the Owner, its servants, agents, independent contractors and sub-contractors to cease (other than any work necessary to remedy such default) until such default shall have been remedied, and in the event of final default, may require all work as aforesaid, to cease. Upon final default of the Owner, the Town may, at its option, adopt or pursue any or all of the following remedies, but shall not be bound to do so:

i. Enter upon the subject Lands by its servants, agents and contractors and complete any work, service, repair or maintenance wholly or in part required herein to be done by the Owner, and collect the cost thereof from the Owner and/or enforce any security available to it;

ii. Make any payment which ought to have been made by the Owner to the Town, for any purpose, and apply the same in payment or part payment for any work which the Town may undertake;

iii. Retain any sum of money heretofore paid by the Owner to the Town, for any purpose, and apply the same in payment or part payment for any work which the Town may undertake;

iv. Bring action to compel specific performance of all or any part of this Agreement for damages; and

v. Exercise any other remedy granted to the Town under the terms of this Agreement or available to the Town in law.

13. Covenants

The Owner covenants for itself, its successors and assigns and the Owners from time to time of the said Lands and the burden of the covenants contained in this Agreement shall be deemed to be negative and shall run with and be binding upon the Lands to and for the Town, its successors and assigns.

14. Registration

The Owner agrees and consents to the registration of notice of this Agreement against the said Lands.

15. Obligation

This Agreement and the provisions hereof do not give to the Owner or any person acquiring any interest in the said Lands (each hereinafter in this paragraph called "such person") or any other person any rights against the Town with respect to the failure of any such person to perform or fully perform any obligation under this Agreement, or the failure of the Town to force any such person to perform or fully perform any obligation under this Agreement or any negligence of any such person in the performance of the said obligation.

16. Building Permit

Notwithstanding any of the provisions of this Agreement, the Owner, its successors and assigns, shall be subject to all of the by-laws, as amended, of the Town at the time of the issuance of a Building Permit required pursuant to the terms of the Agreement or at the time of the execution of this Agreement, whichever is applicable.

17. Plans

The Owner agrees that all plans shall be drawn by a Qualified Designer or by a Professional Engineer and all surveys by an Ontario Land Surveyor, subject to the reasonable satisfaction of the Town.

18. Notices

Any notice, demand, acceptance or request provided for in this Agreement shall be in writing and shall be deemed to be sufficiently given if personally delivered or sent by registered mail (postage prepaid) as follows:

To the Town at: Clerk
Town of Pelham
P.O. Box 400
20 Pelham Town Square

Fonthill, ON L0S 1E0

To the Owner at: 1825115 Ontario Inc.
700 Tice Road,
Fenwick, ON L0S 1C0

or as such other address as the party to whom such notice is to be given shall have last notified the party giving the notice in the manner provided in this Section. Any notice delivered to the party to whom it is addressed in this Section 18 shall be deemed to have been given and received on the day it is so delivered at such address. Any notice mailed as aforesaid shall be deemed to have been given and received on the fifth day next following the date of its mailing.

19. Schedules

The originals of the plans set out in Schedule 'B' and 'C' are available at the offices of the Town at the address set out in Section 18.

20. Binding Effect

This Agreement shall be binding upon the parties hereto and their heirs, executors, administrators, successors, and assigns.

IN WITNESS WHEREOF the parties hereto have executed this Agreement as of the date and year first above written.

1825115 ONTARIO INC.

WITNESS

(printed name) (printed name)

(signature) (signature)

(date) (date)

☐ 'I have the authority to bind the Corporation'

THE CORPORATION OF THE TOWN OF PELHAM

Mayor Marvin Junkin

Clerk Nancy J. Bozzato

S C H E D U L E ‘A’

LEGAL DESCRIPTION

Concession 7, Part of Lot 14; Town of Pelham

PIN:	_____ (LT)
Municipal:	730 Tice Road
Roll Number:	2732 010 016 00400

Schedule 'B'

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'

PROPRIETARY:
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Westbrook GREENHOUSE SYSTEMS LTD.

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

SITE LAYOUT

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

S1

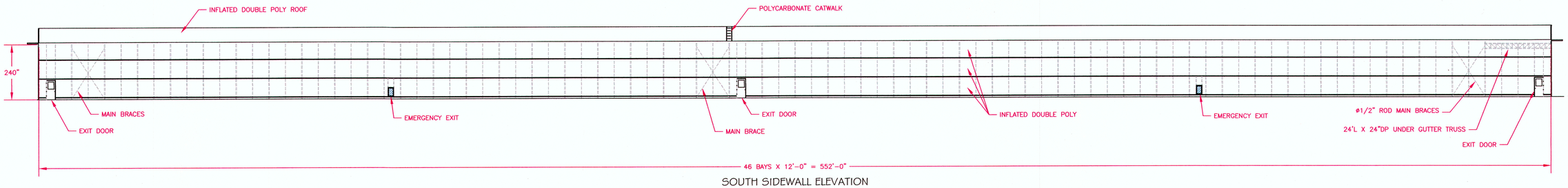
G:\G\Greenfield Gardens\C058780-Stamped Dwgs 2020\GFG_2019_S1_rev.dwg, 12/6/2019 11:02:54 AM

ISSUED FOR PERMITS ONLY

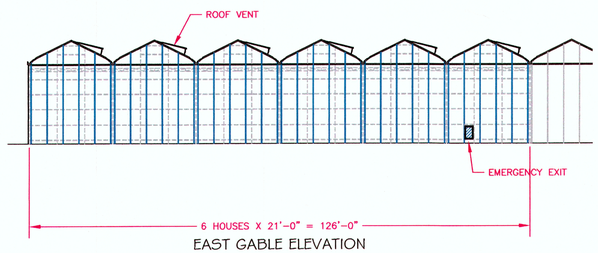
####

Schedule 'C'

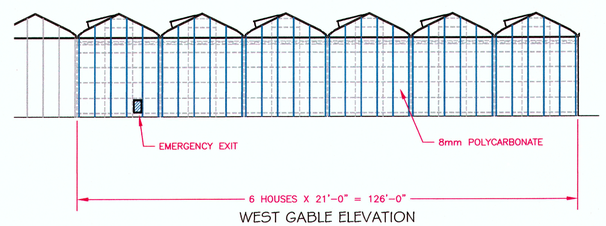
ISSUED FOR PERMITS ONLY



SOUTH SIDEWALL ELEVATION



EAST GABLE ELEVATION



WEST GABLE ELEVATION

ISSUED FOR PERMITS ONLY

ISSUED FOR PERMITS ONLY

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Westbrook GREENHOUSE SYSTEMS LTD.

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

REGISTERED PROFESSIONAL ENGINEER
D. C. GLENNEY
PROVINCE OF ONTARIO

Elevations

FILE	REV#1	REV#2	
C048322-04A-ST			**4C**
SCALE: NTS	DRAWN BY: Len	DATE: 11/6/19	

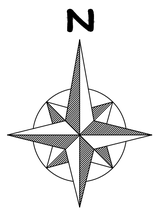
quote: 24855

G:\G\Greenfield Gardens\C048322\Stamped Dwgs\C048322-04A-ST.dwg, 11/6/2019 1:50:32 PM

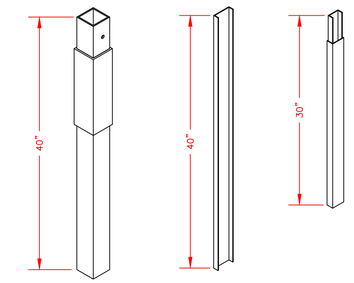
ISSUED FOR PERMITS ONLY

Schedule 'D'

ISSUED FOR PERMITS ONLY



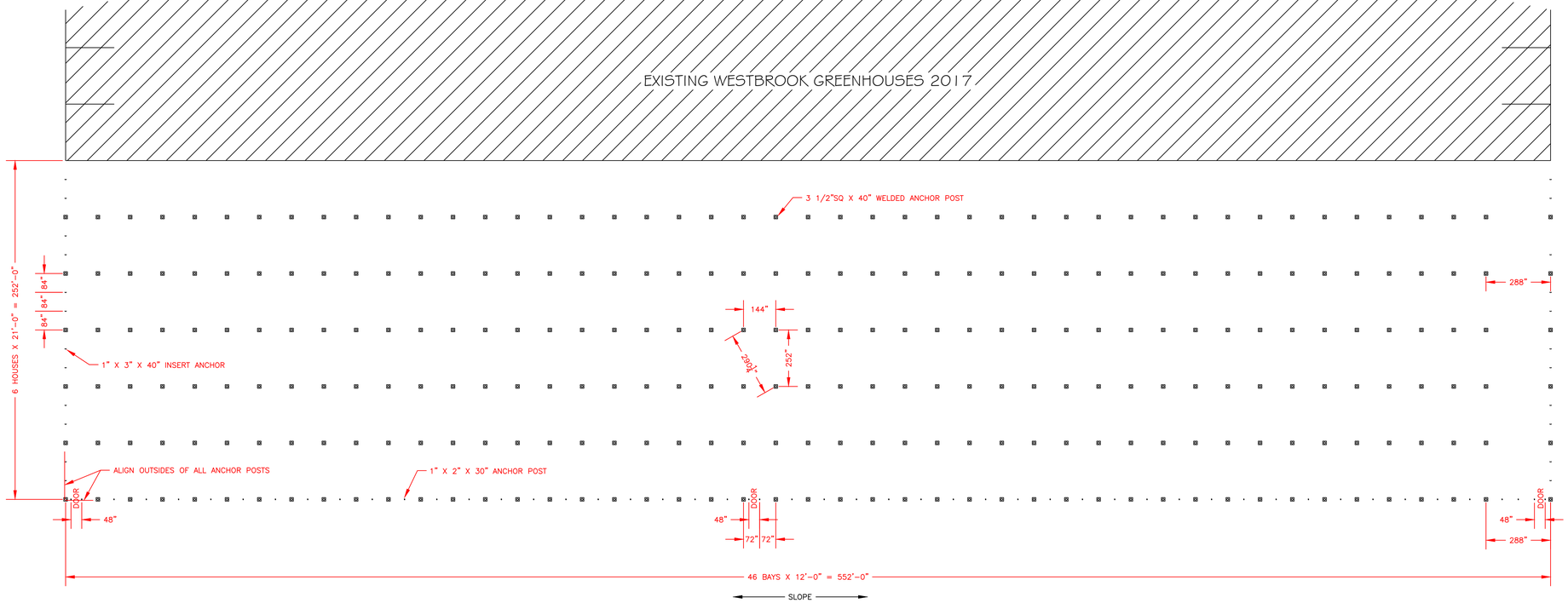
ANCHOR POSTS

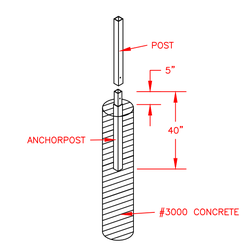


3 1/2"SQ X 40" WELDED ANCHOR POST | 1" X 3" X 40" INSERT ANCHOR | 1" X 2" X 30" SIDE ANCHOR

TOTALS:
286 – 3 1/2"SQ X 40" WELDED ANCHOR POST [01379]
24 – 1" X 3" X 40" INSERT ANCHOR [00156]
50 – 1" X 2" X 30" ANCHOR POST [00113]

NOTES:
SET TOPS OF ALL ANCHOR POSTS ON THE SAME SLOPE (APPROX. 2" PER 100').
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.





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".

CONCRETE PIER SIZES:
3 1/2"SQ ANCHORS @ U.G. TRUSSES =>ø24" X 48"DP
3 1/2"SQ ANCHORS (TYP.) =>18" X 48"DP
INTERMEDIATE ANCHORS =>ø12" X 48"DP
BASED ON 3000PSF SOIL LOAD BEARING CAPACITY

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Westbrook GREENHOUSE SYSTEMS LTD.

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

REGISTERED PROFESSIONAL ENGINEER
D. C. GLENNEY
PROVINCE OF ONTARIO

ANCHOR POST LAYOUT

FILE	REV#1	REV#2	
C058780-02-ST			2
SCALE 1"=24'	DRAWN BY: Len	DATE: 12/6/19	

ISSUED FOR PERMITS ONLY

ISSUED FOR PERMITS ONLY

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quote: 24855

THE CORPORATION OF THE
T O W N O F P E L H A M

BY-LAW #4192 (2020)

Being a by-law to authorize the execution of a Site Plan Agreement for the lands located at 1361 Maple Street.

Slappendel Greenhouses Inc.
File No. SP-08-19

WHEREAS By-law No. 1118 (1987) designates the Town of Pelham as a site plan control area, and

WHEREAS it is deemed desirable to enter into a Site Plan Agreement in order to control the lands as described in Schedule 'A' of the Document General which is attached hereto and forms part of this by-law;

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

1. **THAT** the Mayor and Clerk be and they are hereby authorized and directed to execute the Agreement to this by-law hereto attached as Schedule 'A' in order to effect the Site Plan Agreement with Slappendel Greenhouses Inc. for the lands described in Schedule 'A' of the Document General.

2. **THAT** in the event minor modifications to the Site Plan 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

Site Plan Agreement
Slappendel Greenhouses Inc.
1361 Maple Street

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THIS AGREEMENT made this 3rd day of February, 2019.

BETWEEN:

SLAPPENDEL GREENHOUSES INC.

Hereinafter called the "Owner"

OF THE FIRST PART

- and -

THE CORPORATION OF THE TOWN OF PELHAM

Hereinafter called the "Town"

OF THE SECOND PART

WHEREAS the Owner represents and warrants that it is the owner of the lands in the Town of Pelham described in Schedule 'A' attached hereto (the "Lands");

AND WHEREAS the Owner has assumed and agreed to be bound by the terms and conditions of the Site Plan Agreement;

AND WHEREAS the Owner is looking forward to develop the parcel with greenhouses and a barn in accordance with Schedule 'B-D' attached hereto, being a Site Plan filed in the Town's offices;

AND WHEREAS the Town has agreed to permit the said construction subject to certain terms and conditions;

NOW THEREFORE THIS AGREEMENT WITNESSETH that in consideration of the sum of One Dollar ($1.00) now paid by the Owner to the Town (the receipt whereof is hereby acknowledged), the Parties hereto mutually covenant and agree as follows:

1. Definitions

In this Agreement:

(a) **Chief Building Official** shall mean the Chief Building Official of the Corporation of the Town of Pelham.

(b) **Clerk** shall mean the Clerk of the Corporation of the Town of Pelham.

(c) **Council** shall mean the Council of the Corporation of the Town of Pelham.

(d) **Director of Community Planning & Development** shall mean the Director of Community Planning & Development of the Corporation of the Town of Pelham.

(e) **Director of Corporate Services** shall mean the Director of Corporate Services of the Corporation of the Town of Pelham.

(f) **Director of Public Works** shall mean the Director of Public Works of the Corporation of the Town of Pelham.

(g) **Facilities and Works** shall mean and includes those facilities and works which are shown on or referred to in any one or more of the plans, drawings and schedules to this Agreement.

(h) **Lands** shall mean the lands described in Schedule 'A' attached hereto.

(i) **Professional Engineer** shall mean a Professional Engineer registered in good standing with the Association of Professional Engineers.

(j) **Surveyor** shall mean an Ontario Land Surveyor registered in good standing with the Association of Ontario Land Surveyors.

2. General Provisions

(a) The Owner shall ensure the lands between the proposed greenhouse / existing driveway and the *Significant Woodlands* / *Provincially Significant Wetland*, otherwise referred to as the *Vegetation Protection Zone,* shall remain farm land, and continue to be used for the growing of harvestable crops in accordance with *Greenbelt Plan* policy.

(b) The Owner shall develop and maintain the Lands only in accordance with the terms and conditions contained herein and any other applicable by-law of the Town.

(c) Unless the context otherwise requires, where the Owner is obligated by this Agreement or the approved plans to make any payments or install, construct, or carry out any services or action, the provisions therefore contained herein shall be deemed to include the words, "at the sole expense of the Owner".

(d) The Owner shall perform any and all construction and installation of works on the Lands and any off-site works in accordance with the terms and conditions contained herein and as shown on Schedule 'B-C' attached hereto and forming part of this Agreement to the reasonable satisfaction of the Town.

(e) The Owner shall not perform any construction or installation on the Lands except in accordance with the terms and conditions contained herein and shown on said Schedule 'B-D' attached hereto and forming part of this Agreement and to the reasonable satisfaction of the Town.

(f) The Owner shall maintain and keep in good repair driveways and access servicing the buildings located in the development.

(g) The Owner shall keep all construction access routes open and ensure that adequate dust control, mud tracking and debris control measures are carried out during the site's development.

(h) The Owner shall ensure the driveway leading to Building D shall remain a permeable surface, such as gravel or dirt.

(i) During construction, the Owner shall ensure all construction related vehicles that are not carrying out the works are parked on the subject lands and are not parked within the municipal road allowance.

(j) All delivery / construction trucks taking materials from the subject lands included within this Agreement shall be adequately covered and not unreasonably loaded so as to scatter refuse, rubbish, dust or debris on neighbouring properties or public roadways.

(k) The Owner shall ensure the building foundation is constructed using a slab-on-grade style concrete pad, notwithstanding the limited amount of anchor posts detailed on Schedule 'D', to avoid disturbing deeply buried archaeological resources. And further:

i. 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 Heritage, Sport, Tourism & Culture Industries (416-212-8886) and the Owner's archaeology consultant 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 & Consumer Services (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 in contravention of the *Ontario Heritage Act*.

(l) The Owner grants to the Town, its servants, agents, and assigns permission to enter upon the Lands for the purpose of inspection of any Facilities and Works referred to in this Agreement and for the purpose of the completion of any Facilities and Works in accordance with this Clause and this Agreement.

(m) The Owner will, at all times, indemnify and save harmless the Town from all loss, costs, damages and injuries which the Town may suffer or be put to for or by reason of the construction, maintenance, or existence of any Facilities and Works done by the Owner, its contractors, servants or agents on the Lands or which the Town may suffer or be put to for, or by reason of the completion by the Town of any of the required Facilities and Works in accordance with this clause and this Agreement.

(n) The Owner shall not call into question directly or indirectly in any proceeding whatsoever in law or in equity or before any administrative tribunal the right of the Town to enter into this Agreement and to enforce each and every term, covenant, and condition herein contained and this Agreement may be pleaded as an estoppel against the Owner in any such proceeding.

(o) In the event that a Mortgagee(s) exercises any rights as to sale, possession or foreclosure or takes any other steps to enforce its security against the subject lands, then such Mortgagee(s) agrees on behalf of itself, its heirs, executors, administrators, successors and assigns not to deal with the lands as a development or part thereof unless and until a new Agreement in the same form, mutatis mutandis, as this Agreement has been entered into with

the Town.

(p) Any lands required to be conveyed by the Owner in accordance with the provisions hereof shall be in a neat and tidy condition, free of all debris and trash, and the Owner shall complete all services for the lands in accordance with the terms of this Agreement.

(q) Notwithstanding the provisions of this Agreement, the Owner shall be subject to all of the Town's By-laws and all Provincial and Federal government statutes and / or regulations and amendments thereto affecting the site's development and installation of municipal services.

(r) Should the existing and /or proposed greenhouses depicted on Schedule 'C' be subject to a future conversion to a *cannabis production facility*, approval from Council through a subsequent Site Plan Amendment is required.

3. Grading

(a) Unless otherwise approved or required by the Town, the Owner shall not alter the grades of the said Lands until such time as a Building Permit is issued for the construction of the buildings contemplated herein on the said Lands.

4. Sanitary Sewer System

(a) Domestic waste water from the existing and proposed building(s) shall be discharged into a private sanitary sewer system approved by the Region of Niagara at the time of building permit approval, as applicable.

5. Water Supply

(a) The Owner shall, at its own expense, provide and maintain an internal private water supply necessary to serve the lands.

(b) The Owner shall comply with the provisions of the *Ontario Water Resources Act and Safe Drinking Water Act* and amendments thereto and all regulations thereunder, on all internal water supply services, which said Act and regulations shall be enforced by the Town.

6. Storm Sewer System

(a) The Owner shall ensure that all storm water runoff is maintained on-site and does not negatively impact adjacent property.

7. Roads & Access

(a) The Owner shall utilize and maintain the existing driveways for access to the greenhouses, agricultural building(s) and existing residential dwelling.

8. Landscaping & Trees

(a) The Owner shall ensure the lands between the proposed greenhouse / existing driveway and the *Significant Woodlands* / *Provincially Significant Wetland*, otherwise referred to as the *Vegetation Protection Zone,* shall

remain farm land, and continue to be used for the growing of harvestable crops in accordance with *Greenbelt Plan* policy.

(b) The Owner shall ensure the driveway leading to Building D shall remain a permeable surface, such as gravel or dirt.

9. Waste Collection

a) The Owner is advised that if the waste collection limit cannot be met, or if curbside collection is not desired, waste collection will be the responsibility of the Owner via private contractor. However, the site remains eligible for Regional recycling and organics collection subject to compliance with the current Regional Waste Collection Policy.

10. Photometry

(a) The Owner shall ensure that any lighting facility used to illuminate any building or parking area shall be designed and installed so as to deflect from adjacent buildings and streets.

11. Building & Services

(a) The Owner shall construct and the Town shall permit the construction of the buildings and other structures on the Lands in accordance with the Schedules attached hereto to permit the development provided that all such uses shall comply with all building and zoning requirements of the Town.

(b) The Owner shall ensure the building foundation is constructed using a slab-on-grade style concrete pad, notwithstanding the limited amount of anchor posts detailed on Schedule 'D', to avoid disturbing deeply buried archaeological resources.

12. Default

Upon breach by the Owner of any covenant, term, condition or requirement of this Agreement, or upon the Owner becoming insolvent or making any assignment for the benefit of creditors, the Town, at its option, may declare the Owner to be in default. Notice of such default shall be given by the Town, and if the Owner shall not remedy such default within such time as provided in the notice, the Town may declare the Owner to be in final default under this Agreement. Upon notice of default having been given, the Town may require all work by the Owner, its servants, agents, independent contractors and sub-contractors to cease (other than any work necessary to remedy such default) until such default shall have been remedied, and in the event of final default, may require all work as aforesaid, to cease. Upon final default of the Owner, the Town may, at its option, adopt or pursue any or all of the following remedies, but shall not be bound to do so:

i. Enter upon the subject Lands by its servants, agents and contractors and complete any work, service, repair or maintenance wholly or in part required herein to be done by the Owner, and collect the cost thereof from the Owner and/or enforce any security available to it;

ii. Make any payment which ought to have been made by the Owner to the

Town, for any purpose, and apply the same in payment or part payment for any work which the Town may undertake;

iii. Retain any sum of money heretofore paid by the Owner to the Town, for any purpose, and apply the same in payment or part payment for any work which the Town may undertake;

iv. Bring action to compel specific performance of all or any part of this Agreement for damages; and

v. Exercise any other remedy granted to the Town under the terms of this Agreement or available to the Town in law.

13. Covenants

The Owner covenants for itself, its successors and assigns and the Owners from time to time of the said Lands and the burden of the covenants contained in this Agreement shall be deemed to be negative and shall run with and be binding upon the Lands to and for the Town, its successors and assigns.

14. Registration

The Owner agrees and consents to the registration of notice of this Agreement against the said Lands.

15. Obligation

This Agreement and the provisions hereof do not give to the Owner or any person acquiring any interest in the said Lands (each hereinafter in this paragraph called "such person") or any other person any rights against the Town with respect to the failure of any such person to perform or fully perform any obligation under this Agreement, or the failure of the Town to force any such person to perform or fully perform any obligation under this Agreement or any negligence of any such person in the performance of the said obligation.

16. Building Permit

Notwithstanding any of the provisions of this Agreement, the Owner, its successors and assigns, shall be subject to all of the by-laws, as amended, of the Town at the time of the issuance of a Building Permit required pursuant to the terms of the Agreement or at the time of the execution of this Agreement, whichever is applicable.

17. Plans

The Owner agrees that all plans shall be drawn by a Qualified Designer or by a Professional Engineer and all surveys by an Ontario Land Surveyor, subject to the reasonable satisfaction of the Town.

18. Notices

Any notice, demand, acceptance or request provided for in this Agreement shall be in writing and shall be deemed to be sufficiently given if personally delivered

or sent by registered mail (postage prepaid) as follows:

To the Town at:	Clerk Town of Pelham P.O. Box 400 20 Pelham Town Square Fonthill, ON L0S 1E0
To the Owner at:	Slappendel Greenhouses Inc. 1361 Maple Street, Fenwick, ON L0S 1C0

or as such other address as the party to whom such notice is to be given shall have last notified the party giving the notice in the manner provided in this Section. Any notice delivered to the party to whom it is addressed in this Section 18 shall be deemed to have been given and received on the day it is so delivered at such address. Any notice mailed as aforesaid shall be deemed to have been given and received on the fifth day next following the date of its mailing.

19. Schedules

The originals of the plans set out in Schedule 'B', 'C' and 'D' are available at the offices of the Town at the address set out in Section 18.

20. Binding Effect

This Agreement shall be binding upon the parties hereto and their heirs, executors, administrators, successors, and assigns.

IN WITNESS WHEREOF the parties hereto have executed this Agreement as of the date and year first above written.

WITNESS	**SLAPPENDEL GREENHOUSES INC.**
(printed name)	(printed name)
(signature)	(signature)
(date)	(date)

☐ 'I have the authority to bind the Corporation'

THE CORPORATION OF THE TOWN OF PELHAM

Mayor Marvin Junkin

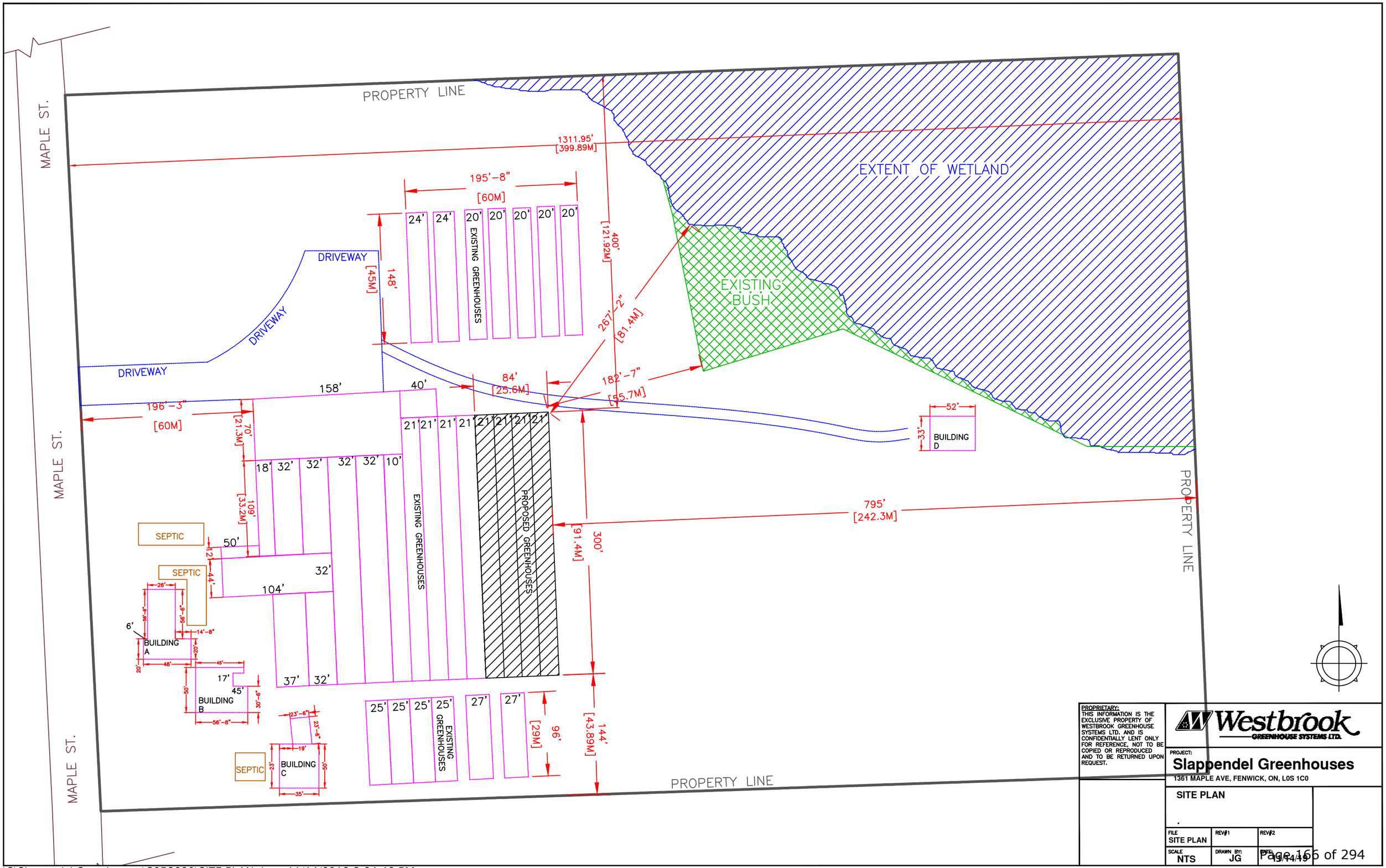
Clerk Nancy J. Bozzato

S C H E D U L E ‘A’

LEGAL DESCRIPTION

Concession 8, Part of Lot 15; Town of Pelham

PIN:	_____ (LT)
Municipal:	1361 Maple Street
Roll Number:	2732 010 016 05100



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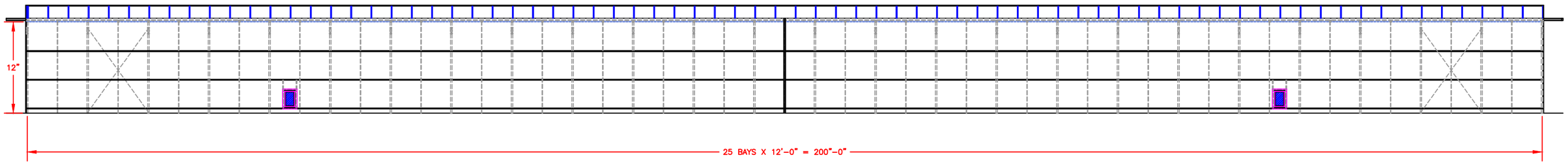
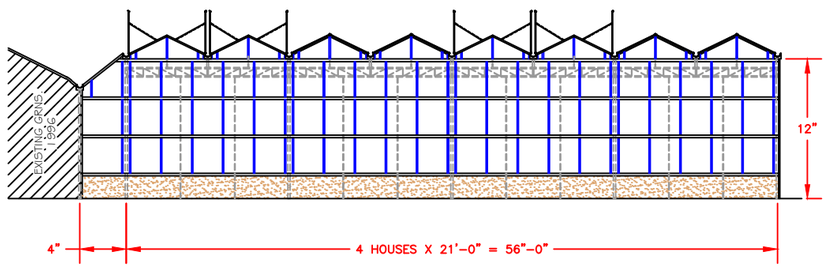
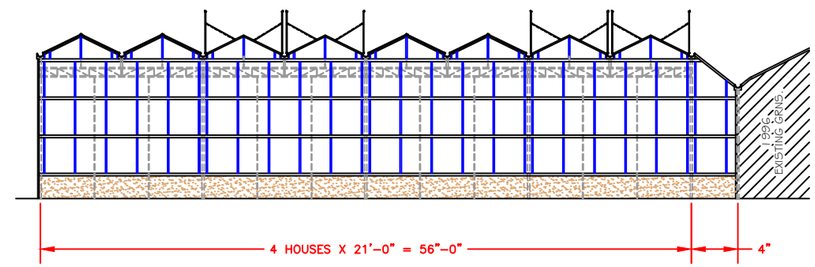
quote: 25684D



EAST SIDEWALL ELEVATION



SOUTH GABLE ELEVATION



NORTH GABLE ELEVATION

ISSUED FOR CONSTRUCTION

ISSUED FOR CONSTRUCTION

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Westbrook GREENHOUSE SYSTEMS LTD.

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

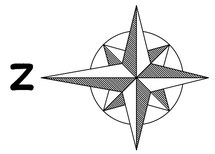
GREENHOUSE ELEVATIONS
.

FILE	REV#1	REV#2	
C058290-ELEVATIONS			**E1**
SCALE: NTS	DRAWN BY: Len	DATE: 10/30/19	

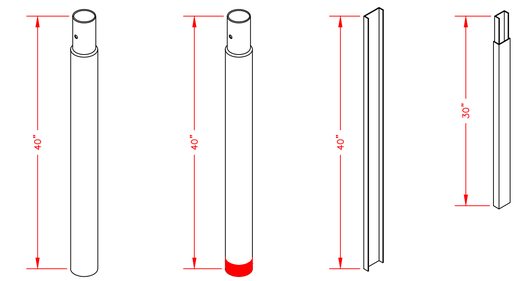
G:\S\Slappendel Greenhouses\C058290\C058290-ELEVATIONS.dwg, 10/30/2019 2:54:25 PM

quote: 25684D

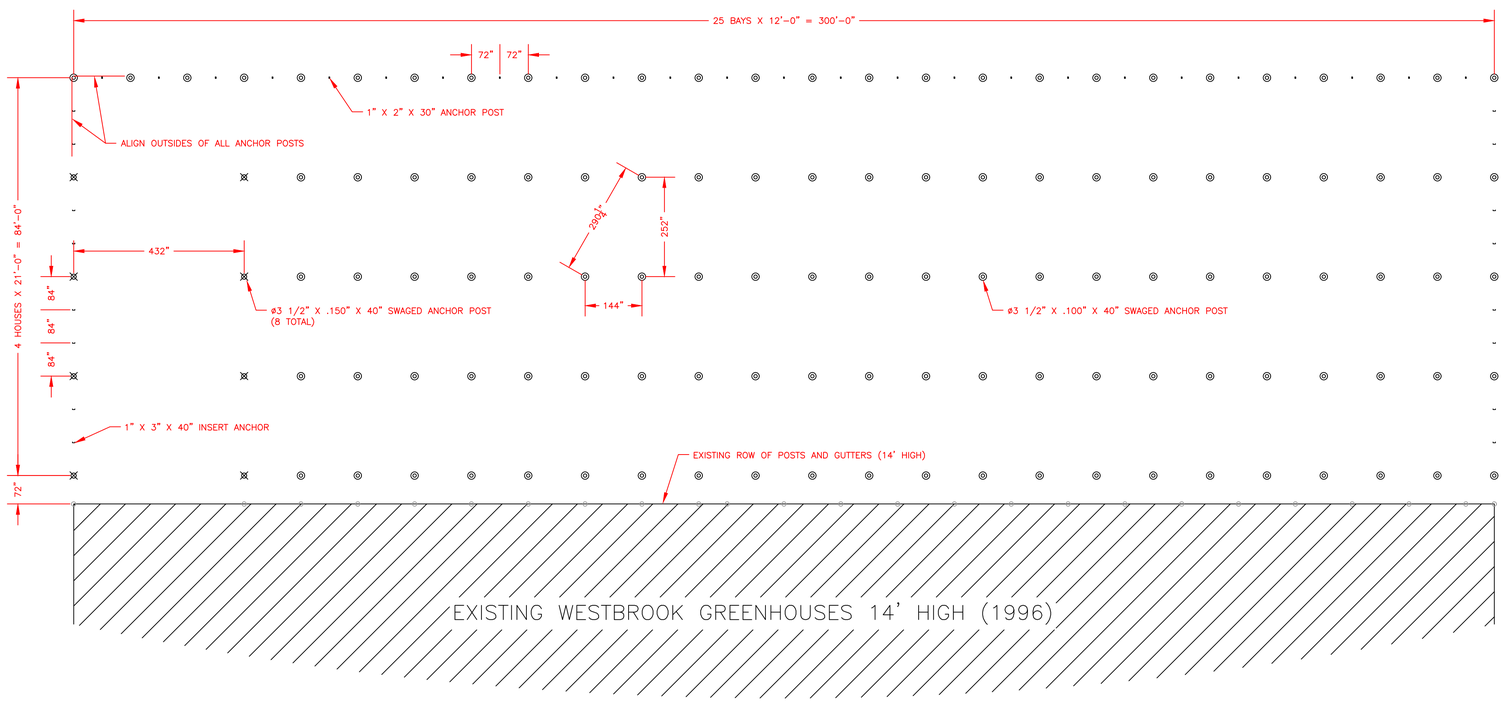
ISSUED FOR CONSTRUCTION

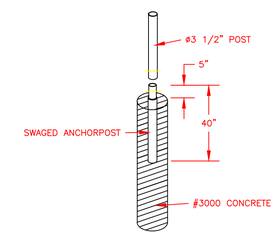


ANCHOR POSTS



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.

PROPRIETARY:
THIS INFORMATION IS THE EXCLUSIVE PROPERTY OF WESTBROOK GREENHOUSE SYSTEMS LTD. AND IS CONFIDENTIALLY LENT ONLY FOR REFERENCE, NOT TO BE COPIED OR REPRODUCED AND TO BE RETURNED UPON REQUEST.

REGISTERED PROFESSIONAL ENGINEER
D. C. GLENNEY
PROVINCE OF ONTARIO

Westbrook GREENHOUSE SYSTEMS LTD.

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

ANCHOR POST LAYOUT

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

ISSUED FOR PERMITS ONLY
ISSUED FOR PERMITS ONLY

THE CORPORATION OF THE
T O W N O F P E L H A M

BY-LAW #4193 (2020)

Being a by-law to authorize the execution of a Site Plan Agreement for the lands located at 1010 Canboro Road.

Slappendel Greenhouses Inc.
File No. SP-09-19

WHEREAS By-law No. 1118 (1987) designates the Town of Pelham as a site plan control area, and

WHEREAS it is deemed desirable to enter into a Site Plan Agreement in order to control the lands as described in Schedule 'A' of the Document General which is attached hereto and forms part of this by-law;

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

1. **THAT** the Mayor and Clerk be and they are hereby authorized and directed to execute the Agreement to this by-law hereto attached as Schedule 'A' in order to effect the Site Plan Agreement with Slappendel Greenhouses Inc. for the lands described in Schedule 'A' of the Document General.

2. **THAT** in the event minor modifications to the Site Plan 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

Site Plan Agreement
Slappendel Greenhouses Inc.
1010 Canboro Road

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THIS AGREEMENT made this 3rd day of February, 2019.

BETWEEN:

SLAPPENDEL GREENHOUSES INC.

Hereinafter called the "Owner"

OF THE FIRST PART

- and -

THE CORPORATION OF THE TOWN OF PELHAM

Hereinafter called the "Town"

OF THE SECOND PART

WHEREAS the Owner represents and warrants that it is the owner of the lands in the Town of Pelham described in Schedule 'A' attached hereto (the "Lands");

AND WHEREAS the Owner has assumed and agreed to be bound by the terms and conditions of the Site Plan Agreement;

AND WHEREAS the Owner is looking forward to develop the parcel with greenhouses and a barn in accordance with Schedule 'B-D' attached hereto, being a Site Plan filed in the Town's offices;

AND WHEREAS the Town has agreed to permit the said construction subject to certain terms and conditions;

NOW THEREFORE THIS AGREEMENT WITNESSETH that in consideration of the sum of One Dollar ($1.00) now paid by the Owner to the Town (the receipt whereof is hereby acknowledged), the Parties hereto mutually covenant and agree as follows:

1. Definitions

In this Agreement:

(a) **Chief Building Official** shall mean the Chief Building Official of the Corporation of the Town of Pelham.

(b) **Clerk** shall mean the Clerk of the Corporation of the Town of Pelham.

(c) **Council** shall mean the Council of the Corporation of the Town of Pelham.

(d) **Director of Community Planning & Development** shall mean the Director of Community Planning & Development of the Corporation of the Town of Pelham.

(e) **Director of Corporate Services** shall mean the Director of Corporate Services of the Corporation of the Town of Pelham.

(f) **Director of Public Works** shall mean the Director of Public Works of the Corporation of the Town of Pelham.

(g) **Facilities and Works** shall mean and includes those facilities and works which are shown on or referred to in any one or more of the plans, drawings and schedules to this Agreement.

(h) **Lands** shall mean the lands described in Schedule 'A' attached hereto.

(i) **Professional Engineer** shall mean a Professional Engineer registered in good standing with the Association of Professional Engineers.

(j) **Surveyor** shall mean an Ontario Land Surveyor registered in good standing with the Association of Ontario Land Surveyors.

2. General Provisions

(a) The Owner shall develop and maintain the Lands only in accordance with the terms and conditions contained herein and any other applicable by-law of the Town.

(b) Unless the context otherwise requires, where the Owner is obligated by this Agreement or the approved plans to make any payments or install, construct, or carry out any services or action, the provisions therefore contained herein shall be deemed to include the words, "at the sole expense of the Owner".

(c) The Owner shall perform any and all construction and installation of works on the Lands and any off-site works in accordance with the terms and conditions contained herein and as shown on Schedule 'B-C' attached hereto and forming part of this Agreement to the reasonable satisfaction of the Town.

(d) The Owner shall not perform any construction or installation on the Lands except in accordance with the terms and conditions contained herein and shown on said Schedule 'B-D' attached hereto and forming part of this Agreement and to the reasonable satisfaction of the Town.

(e) The Owner shall maintain and keep in good repair driveways and access servicing the buildings located in the development.

(f) The Owner shall keep all construction access routes open and ensure that adequate dust control, mud tracking and debris control measures are carried out during the site's development.

(a) The Owner shall ensure the driveway leading to Building D shall remain a permeable surface, such as gravel or dirt.

(g) During construction, the Owner shall ensure all construction related vehicles that are not carrying out the works are parked on the subject lands and are not parked within the municipal road allowance.

(h) All delivery / construction trucks taking materials from the subject lands included within this Agreement shall be adequately covered and not unreasonably loaded so as to scatter refuse, rubbish, dust or debris on neighbouring properties or public roadways.

(i) The Owner shall ensure the building foundation is constructed using a slab-on-grade style concrete pad, notwithstanding the limited amount of anchor posts detailed on Schedule 'D', to avoid disturbing deeply buried archaeological resources. And further:

   i. 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 Heritage, Sport, Tourism & Culture Industries (416-212-8886) and the Owner's archaeology consultant 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 & Consumer Services (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 in contravention of the *Ontario Heritage Act*.

(j) The Owner grants to the Town, its servants, agents, and assigns permission to enter upon the Lands for the purpose of inspection of any Facilities and Works referred to in this Agreement and for the purpose of the completion of any Facilities and Works in accordance with this Clause and this Agreement.

(k) The Owner will, at all times, indemnify and save harmless the Town from all loss, costs, damages and injuries which the Town may suffer or be put to for or by reason of the construction, maintenance, or existence of any Facilities and Works done by the Owner, its contractors, servants or agents on the Lands or which the Town may suffer or be put to for, or by reason of the completion by the Town of any of the required Facilities and Works in accordance with this clause and this Agreement.

(l) The Owner shall not call into question directly or indirectly in any proceeding whatsoever in law or in equity or before any administrative tribunal the right of the Town to enter into this Agreement and to enforce each and every term, covenant, and condition herein contained and this Agreement may be pleaded as an estoppel against the Owner in any such proceeding.

(m) In the event that a Mortgagee(s) exercises any rights as to sale, possession or foreclosure or takes any other steps to enforce its security against the subject lands, then such Mortgagee(s) agrees on behalf of itself, its heirs, executors, administrators, successors and assigns not to deal with the lands as a development or part thereof unless and until a new Agreement in the same form, mutatis mutandis, as this Agreement has been entered into with the Town.

(n) Any lands required to be conveyed by the Owner in accordance with the provisions hereof shall be in a neat and tidy condition, free of all debris and trash, and the Owner shall complete all services for the lands in accordance with the terms of this Agreement.

(o) Notwithstanding the provisions of this Agreement, the Owner shall be subject to all of the Town's By-laws and all Provincial and Federal government statutes and / or regulations and amendments thereto affecting the site's development and installation of municipal services.

(p) Should the existing and / or proposed greenhouses depicted on Schedule 'C' be subject to a future conversion to a *cannabis production facility*, approval from Council through a subsequent Site Plan Amendment is required.

3. Grading

(a) Unless otherwise approved or required by the Town, the Owner shall not alter the grades of the said Lands until such time as a Building Permit is issued for the construction of the buildings contemplated herein on the said Lands.

4. Sanitary Sewer System

(a) Domestic waste water from the existing and proposed building(s) shall be discharged into a private sanitary sewer system approved by the Region of Niagara at the time of building permit approval, as applicable.

5. Water Supply

(a) The Owner shall, at its own expense, provide and maintain an internal private water supply necessary to serve the lands.

(b) The Owner shall comply with the provisions of the *Ontario Water Resources Act and Safe Drinking Water Act* and amendments thereto and all regulations thereunder, on all internal water supply services, which said Act and regulations shall be enforced by the Town.

6. Storm Sewer System

(a) The Owner shall ensure that all storm water runoff is maintained on-site and does not negatively impact adjacent property.

7. Roads & Access

(a) The Owner shall utilize and maintain the existing driveways for access to the greenhouses, agricultural building(s) and existing residential dwelling.

8. Waste Collection

a) The Owner is advised that if the waste collection limit cannot be met, or if curbside collection is not desired, waste collection will be the responsibility of the Owner via private contractor. However, the site remains eligible for Regional recycling and organics collection subject to compliance with the current Regional Waste Collection Policy.

9. Photometry

(a) The Owner shall ensure that any lighting facility used to illuminate any building or parking area shall be designed and installed so as to deflect from

adjacent buildings and streets.

10. Building & Services

(a) The Owner shall construct and the Town shall permit the construction of the buildings and other structures on the Lands in accordance with the Schedules attached hereto to permit the development provided that all such uses shall comply with all building and zoning requirements of the Town.

(b) The Owner shall ensure the building foundation is constructed using a slab-on-grade style concrete pad, notwithstanding the limited amount of anchor posts detailed on Schedule 'D', to avoid disturbing deeply buried archaeological resources.

11. Default

Upon breach by the Owner of any covenant, term, condition or requirement of this Agreement, or upon the Owner becoming insolvent or making any assignment for the benefit of creditors, the Town, at its option, may declare the Owner to be in default. Notice of such default shall be given by the Town, and if the Owner shall not remedy such default within such time as provided in the notice, the Town may declare the Owner to be in final default under this Agreement. Upon notice of default having been given, the Town may require all work by the Owner, its servants, agents, independent contractors and sub-contractors to cease (other than any work necessary to remedy such default) until such default shall have been remedied, and in the event of final default, may require all work as aforesaid, to cease. Upon final default of the Owner, the Town may, at its option, adopt or pursue any or all of the following remedies, but shall not be bound to do so:

i. Enter upon the subject Lands by its servants, agents and contractors and complete any work, service, repair or maintenance wholly or in part required herein to be done by the Owner, and collect the cost thereof from the Owner and/or enforce any security available to it;

ii. Make any payment which ought to have been made by the Owner to the Town, for any purpose, and apply the same in payment or part payment for any work which the Town may undertake;

iii. Retain any sum of money heretofore paid by the Owner to the Town, for any purpose, and apply the same in payment or part payment for any work which the Town may undertake;

iv. Bring action to compel specific performance of all or any part of this Agreement for damages; and

v. Exercise any other remedy granted to the Town under the terms of this Agreement or available to the Town in law.

12. Covenants

The Owner covenants for itself, its successors and assigns and the Owners from time to time of the said Lands and the burden of the covenants contained in this

Agreement shall be deemed to be negative and shall run with and be binding upon the Lands to and for the Town, its successors and assigns.

13. Registration

The Owner agrees and consents to the registration of notice of this Agreement against the said Lands.

14. Obligation

This Agreement and the provisions hereof do not give to the Owner or any person acquiring any interest in the said Lands (each hereinafter in this paragraph called "such person") or any other person any rights against the Town with respect to the failure of any such person to perform or fully perform any obligation under this Agreement, or the failure of the Town to force any such person to perform or fully perform any obligation under this Agreement or any negligence of any such person in the performance of the said obligation.

15. Building Permit

Notwithstanding any of the provisions of this Agreement, the Owner, its successors and assigns, shall be subject to all of the by-laws, as amended, of the Town at the time of the issuance of a Building Permit required pursuant to the terms of the Agreement or at the time of the execution of this Agreement, whichever is applicable.

16. Plans

The Owner agrees that all plans shall be drawn by a Qualified Designer or by a Professional Engineer and all surveys by an Ontario Land Surveyor, subject to the reasonable satisfaction of the Town.

17. Notices

Any notice, demand, acceptance or request provided for in this Agreement shall be in writing and shall be deemed to be sufficiently given if personally delivered or sent by registered mail (postage prepaid) as follows:

To the Town at:	Clerk Town of Pelham P.O. Box 400 20 Pelham Town Square Fonthill, ON L0S 1E0
To the Owner at:	Slappendel Greenhouses Inc. 1010 Canboro Road, Fenwick, ON L0S 1C0

or as such other address as the party to whom such notice is to be given shall have last notified the party giving the notice in the manner provided in this Section. Any notice delivered to the party to whom it is addressed in this Section 17 shall be deemed to have been given and received on the day it is so delivered at such address. Any notice mailed as aforesaid shall be deemed to have been

given and received on the fifth day next following the date of its mailing.

18. Schedules

The originals of the plans set out in Schedule 'B', 'C' and 'D' are available at the offices of the Town at the address set out in Section 17.

19. Binding Effect

This Agreement shall be binding upon the parties hereto and their heirs, executors, administrators, successors, and assigns.

IN WITNESS WHEREOF the parties hereto have executed this Agreement as of the date and year first above written.

WITNESS

SLAPPENDEL GREENHOUSES INC.

(printed name)	(printed name)
(signature)	(signature)
(date)	(date)

☐ 'I have the authority to bind the Corporation'

THE CORPORATION OF THE TOWN OF PELHAM

Mayor Marvin Junkin

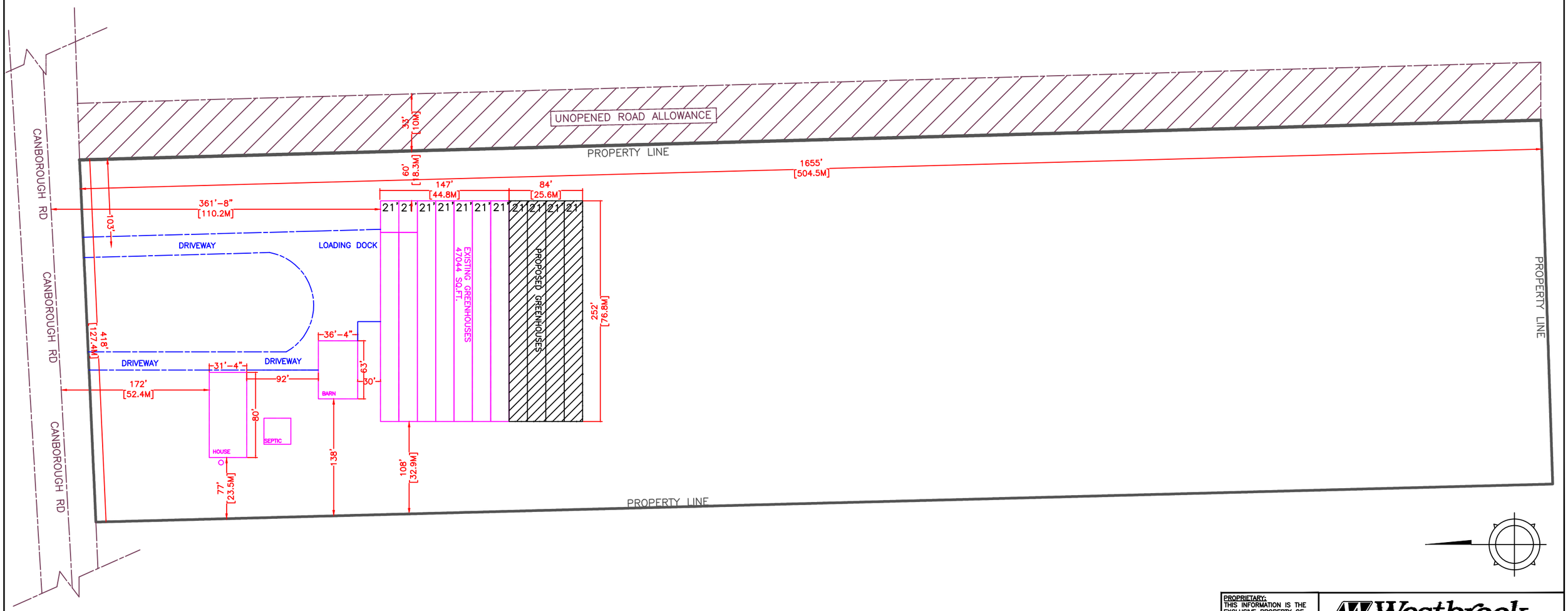
Clerk Nancy J. Bozzato

S C H E D U L E 'A'

LEGAL DESCRIPTION

Concession 10, Part of Lot 20; Town of Pelham

PIN:	_____ (LT)
Municipal:	1010 Canboro Road
Roll Number:	2732 010 016 15801



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Westbrook GREENHOUSE SYSTEMS LTD.

PROJECT:
Slappendel Greenhouses
CANBOROUGH RD, FENWICK, ON

SITE PLAN

FILE	REV#1	REV#2
SITE PLAN		
SCALE: NTS	DRAWN BY: JG	DATE: 15/11/19

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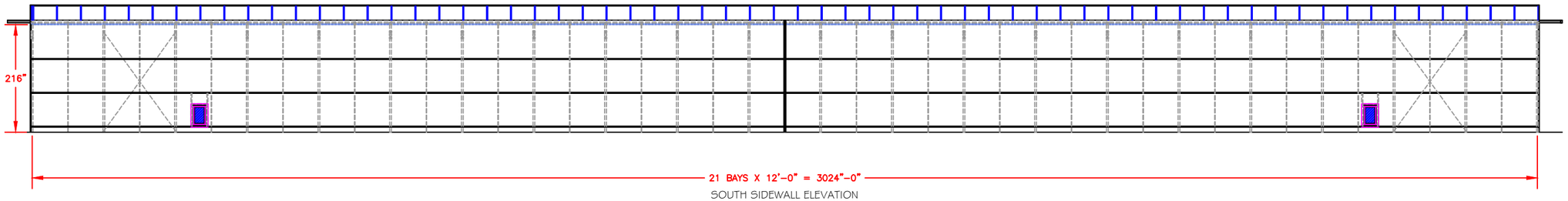
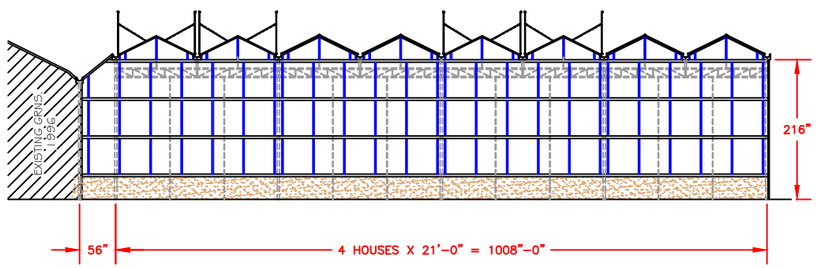
quote: 25683



SOUTH SIDEWALL ELEVATION



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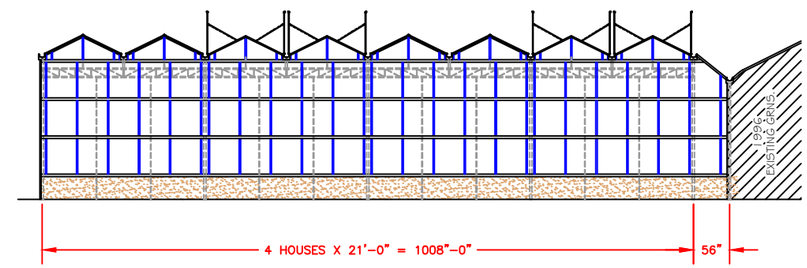

EAST GABLE ELEVATION

ISSUED FOR CONSTRUCTION

ISSUED FOR CONSTRUCTION

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Westbrook GREENHOUSE SYSTEMS LTD.

PROJECT:
Slappendel Greenhouses
CANBOROUGH RD, FENWICK, ON

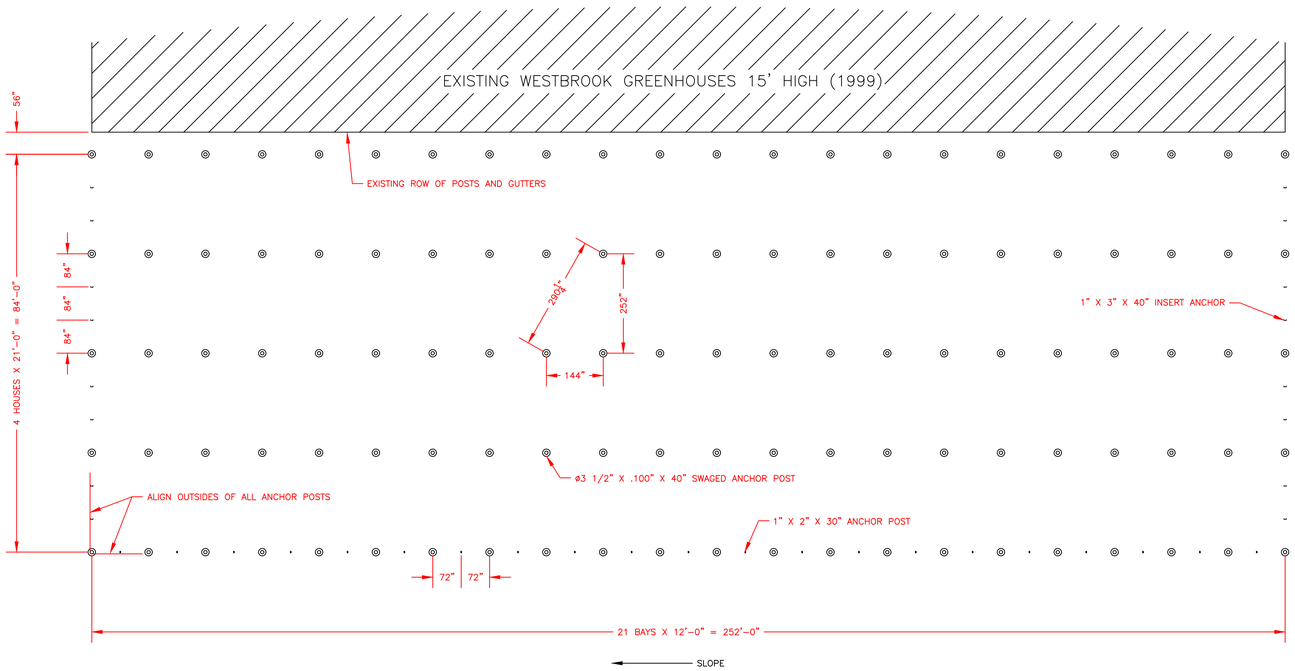
Greenhouse Elevations

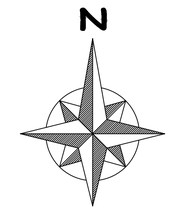
FILE	REV#1	REV#2
C058295-ELEVATIONS		
SCALE: NTS	DRAWN BY: Len	DATE: 10/30/19

E1

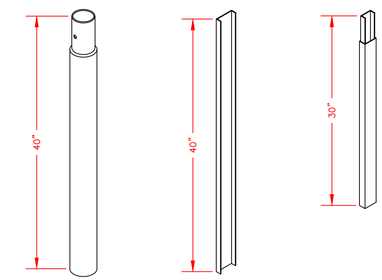
quote: 25683

ISSUED FOR CONSTRUCTION





ANCHOR POSTS



Ø3 1/2" X .100" X 40"
SWAGED ANCHOR POST

1" X 3" X 40"
INSERT ANCHOR

1" X 2" X 30"
SIDE ANCHOR

NOTES:
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TOTALS:
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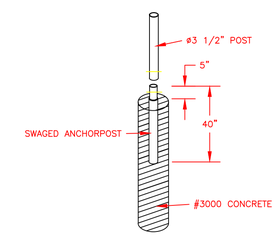

STANDARD ANCHORPOST SYSTEM

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BASED ON 3000PSF SOIL LOAD BEARING CAP.

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REGISTERED PROFESSIONAL ENGINEER
D. C. GLENNEY
PROVINCE OF ONTARIO

Westbrook GREENHOUSE SYSTEMS LTD.

PROJECT:
Slappendel Greenhouses
CANBOROUGH RD, FENWICK, ON

ANCHOR POST LAYOUT

FILE	REV#1	REV#2	
C058295-02-ST			2
SCALE 1/16"=1	DRAWN BY: Randy	DATE: 10/3/19	

ISSUED FOR PERMITS ONLY

ISSUED FOR PERMITS ONLY

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quote: 25683

THE CORPORATION OF THE
T O W N O F P E L H A M

BY-LAW #4194 (2020)

Being a by-law to authorize the execution of a Development Agreement for the lands located at 997 Canboro Road.

Jonathan & Amy Sinke
File No. DA-02-19

WHEREAS at the Committee of the Whole meeting held on the 13th of January 2020, Council of the Town of Pelham authorized the Mayor and Clerk to enter into a Development Agreement with Jonathan & Amy Sinke; and

WHEREAS it is deemed desirable to enter into a Development Agreement in order to control the lands as described in Schedule 'A' of the Document General which is attached hereto and forms part of this By-law;

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

1. **THAT** the Mayor and Clerk be and they are hereby authorized and directed to execute the Agreement to this by-law hereto attached as Schedule 'A' in order to effect the Development Agreement with Jonathan & Amy Sinke for the lands described in Schedule 'A' of the Document General.

2. **THAT** in the event minor modifications to the Development 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

Development Agreement
Jonathan Sinke, Amy Sinke
997 Canboro Road (Part 1 on RP 59R-500)

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Schedule A Legal Description…… 12
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Schedule C Rural Entrance & Culvert Detail (OPSD – 301.020.....14

THIS AGREEMENT made this 3rd day of February, 2020.

BETWEEN:

JONATHAN SINKE, AMY SINKE

Hereinafter called the "Owner"

OF THE FIRST PART

- and -

THE CORPORATION OF THE TOWN OF PELHAM

Hereinafter called the "Town"

OF THE SECOND PART

WHEREAS the Owner represents and warrants that it is the owner of the lands in the Town of Pelham described in Schedule 'A' attached hereto (the "Lands");

AND WHEREAS the Owner has assumed and agreed to be bound by the terms and conditions of the Development Agreement;

AND WHEREAS the Owner is looking forward to develop the parcel to a residential use in accordance with Schedule 'B' attached hereto, being a Conceptual Site Plan filed in the Town's offices;

AND WHEREAS the Town has agreed to permit the said construction subject to certain terms and conditions;

NOW THEREFORE THIS AGREEMENT WITNESSETH that in consideration of the sum of One Dollar ($1.00) now paid by the Owner to the Town (the receipt whereof is hereby acknowledged), the Parties hereto mutually covenant and agree as follows:

1. Definitions

In this Agreement:

(a) **Building Permit** means a permit issued by the Chief Building Official of the Town and required pursuant to the provisions of the *Building Code Act*, as amended, or any successor thereto and the Building By-law of the Town and amendments thereto.

(b) **Chief Building Official** shall mean the Chief Building Official of the Corporation of the Town of Pelham.

(c) **Clerk** shall mean the Clerk of the Corporation of the Town of Pelham.

(d) **Cost of Construction** means the cost of construction approved by the Director and may include engineering fees ancillary thereto.

(e) **Council** shall mean the Council of the Corporation of the Town of Pelham.

(f) **Director of Community Planning & Development** shall mean the Director

of Community Planning & Development of the Corporation of the Town of Pelham.

(g) **Director of Corporate Services** shall mean the Director of Corporate Services of the Corporation of the Town of Pelham.

(h) **Director of Public Works** shall mean the Director of Public Works of the Corporation of the Town of Pelham.

(i) **Facilities and Works** shall mean and includes those facilities and works which are shown on or referred to in any one or more of the plans, drawings and schedules to this Agreement.

(j) **Lands** shall mean the lands described in Schedule 'A' attached hereto.

(k) **Professional Engineer** shall mean a Professional Engineer registered in good standing with the Association of Professional Engineers.

(l) **Surveyor** shall mean an Ontario Land Surveyor registered in good standing with the Association of Ontario Land Surveyors.

2. General Provisions

(a) The Owner shall develop and maintain the Lands only in accordance with the terms and conditions contained herein and any other applicable by-law of the Town.

(b) Unless the context otherwise requires, where the Owner is obligated by this Agreement or the approved plans to make any payments or install, construct, or carry out any services or action, the provisions therefore contained herein shall be deemed to include the words, "at the sole expense of the Owner".

(c) The Owner shall not perform any construction or installation on the Lands except in accordance with the terms and conditions contained herein and to the reasonable satisfaction of the Town. And further, that the single detached dwelling shall only be located within the developable area shown on Schedule 'B' attached hereto and forming part of this Agreement and in compliance with the current Zoning By-law, as amended from time to time. Other permitted non-residential uses of the Zoning By-law are not prohibited within the prescribed *Minimum Distance Separation* setbacks.

(d) The Owner shall obtain the required Driveway Entrance & Culvert Permit in accordance with Section 7, prior to any building permit issuance and any construction works taking place within the Town road allowance.

(e) During construction, the Owner shall ensure all construction related vehicles that are not carrying out the works are parked on the subject lands and are not parked within the municipal road allowance.

(f) All delivery / construction trucks taking materials from the subject lands included within this Agreement shall be adequately covered and not unreasonably loaded so as to scatter refuse, rubbish, dust or debris on

neighbouring properties or public roadways.

(g) 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 Heritage, Sport, Tourism & Culture Industries (416-212-8886) and the Owner's archaeology consultant 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 & Consumer Services (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 in contravention of the *Ontario Heritage Act*.

(h) The Owner grants to the Town, its servants, agents, and assigns permission to enter upon the Lands for the purpose of inspection of any Facilities and Works referred to in this Agreement and for the purpose of the completion of any Facilities and Works in accordance with this Clause and this Agreement.

(i) The Owner will, at all times, indemnify and save harmless the Town from all loss, costs, damages and injuries which the Town may suffer or be put to for or by reason of the construction, maintenance, or existence of any Facilities and Works done by the Owner, its contractors, servants or agents on the Lands or which the Town may suffer or be put to for, or by reason of the completion by the Town of any of the required Facilities and Works in accordance with this clause and this Agreement.

(j) The Owner and the Town acknowledge and agree that it is their intent that all terms, conditions and covenants contained herein:
   i. Shall run with the subject lands on title;
   ii. Shall be binding upon the Owner, its heirs, executors, administrators, assigns and successors in title, from time to time; and
   iii. The benefits of said covenants shall ensure to the Town, its successors and assigns in title, of all roads, streets, and public lands forming part of the subject lands.

(k) Any notices required or permitted to be given pursuant to the terms of this Agreement shall be given in the manner set out in Section 16.

(l) The Owner shall not call into question directly or indirectly in any proceeding whatsoever in law or in equity or before any administrative tribunal the right of the Town to enter into this Agreement and to enforce each and every term, covenant, and condition herein contained and this Agreement may be pleaded as an estoppel against the Owner in any such proceeding.

(m) In the event that a Mortgagee(s) exercises any rights as to sale, possession or foreclosure or takes any other steps to enforce its security against the subject lands, then such Mortgagee(s) agrees on behalf of itself, its heirs, executors, administrators, successors and assigns not to deal with the lands

as a development or part thereof unless and until a new Agreement in the same form, mutatis mutandis, as this Agreement has been entered into with the Town.

(n) Notwithstanding the provisions of this Agreement, the Owner shall be subject to all of the Town's By-laws and all Provincial and Federal government statutes and / or regulations and amendments thereto affecting the site's development and installation of municipal services.

3. Grading

(a) Unless otherwise approved or required by the Town, the Owner shall not alter the grades of the said Lands until such time as a Building Permit is issued for the construction of the buildings contemplated herein on the said Lands.

4. Sanitary Sewer System

(a) Domestic waste water from any proposed building(s) shall be discharged into a private sanitary sewer system approved by the Region of Niagara at the time of building permit approval, as applicable.

5. Water Supply

(a) The Owner shall, at its own expense, provide and maintain an internal private water supply necessary to serve the lands.

6. Storm Sewer System

(a) The Owner shall ensure that all storm water runoff is maintained so as not negatively impact adjacent properties.

7. Driveways / Entrances

(a) The Owner shall obtain approval for a Driveway Entrance & Culvert Permit issued through the Public Works Department at its own expense, provide and at all times utilize said driveway(s) necessary to serve the residential dwelling and / or the continued agricultural operation upon the lands. The driveway entrance specifications are detailed on Schedule 'C' of this Agreement, and shall be to the satisfaction of the Director of Public Works.

8. Building Permit & MDS Restrictions

(a) The Owner may construct and the Town shall permit the construction of the buildings and other structures on the Lands in accordance with the Schedules attached hereto to permit the development provided that all such uses shall comply with all building and zoning requirements of the Town. The precise location of the future residential dwelling is not tied to Schedule 'B' other than that it must be located outside of the calculated MDS setback within the 'developable area' as shown on Schedule 'B', and in accordance with the Zoning By-law. Other permitted, non-residential uses may be located within the MDS setback and shall comply with the Zoning By-law, as amended from time to time, with an approved building permit(s).

9. Administrative & Consulting Costs

The Owner shall pay the Town's reasonable costs, **$2,700** (Two-thousand, seven hundred dollars) in connection with this Agreement for preparation, processing, administration and supervision including, but not limited to, all administrative, legal, inspection and consulting expenses.

10. Default

Upon breach by the Owner of any covenant, term, condition or requirement of this Agreement, or upon the Owner becoming insolvent or making any assignment for the benefit of creditors, the Town, at its option, may declare the Owner to be in default. Notice of such default shall be given by the Town, and if the Owner shall not remedy such default within such time as provided in the notice, the Town may declare the Owner to be in final default under this Agreement. Upon notice of default having been given, the Town may require all work by the Owner, its servants, agents, independent contractors and sub-contractors to cease (other than any work necessary to remedy such default) until such default shall have been remedied, and in the event of final default, may require all work as aforesaid, to cease. Upon final default of the Owner, the Town may, at its option, adopt or pursue any or all of the following remedies, but shall not be bound to do so:

i. Enter upon the subject Lands by its servants, agents and contractors and complete any work, service, repair or maintenance wholly or in part required herein to be done by the Owner, and collect the cost thereof from the Owner and/or enforce any security available to it;

ii. Make any payment which ought to have been made by the Owner to the Town, for any purpose, and apply the same in payment or part payment for any work which the Town may undertake;

iii. Retain any sum of money heretofore paid by the Owner to the Town, for any purpose, and apply the same in payment or part payment for any work which the Town may undertake;

iv. Bring action to compel specific performance of all or any part of this Agreement for damages; and

v. Exercise any other remedy granted to the Town under the terms of this Agreement or available to the Town in law.

11. Covenants

The Owner covenants for itself, its successors and assigns and the Owners from time to time of the said Lands and the burden of the covenants contained in this Agreement shall be deemed to be negative and shall run with and be binding upon the Lands to and for the Town, its successors and assigns.

(a) The following clauses shall be included in all *Agreements of Purchase and Sale*, in perpetuity:

i. "Purchasers are advised and acknowledge that the property is located within a 300 metre baseline radius setback – Minimum

Distance Separation spatial requirement in the Town of Pelham Zoning By-law No. 1136 (1987), as amended, and that they may potentially, from time to time, experience unpleasant odours from an existing nearby livestock operation."

ii. *"Purchasers are advised and acknowledge that any attached garage, or detached accessory building, located within the calculated MDS radius (as determined by the Ministry of Agriculture, Food & Rural Affairs), is perpetually forbidden from being converted into, or developed for residential living space purposes."*

12. Registration

The Owner agrees and consents to the registration of notice of this Agreement against the said Lands.

13. Obligation

This Agreement and the provisions hereof do not give to the Owner or any person acquiring any interest in the said Lands (each hereinafter in this paragraph called "such person") or any other person any rights against the Town with respect to the failure of any such person to perform or fully perform any obligation under this Agreement, or the failure of the Town to force any such person to perform or fully perform any obligation under this Agreement or any negligence of any such person in the performance of the said obligation.

14. Building Permit

Notwithstanding any of the provisions of this Agreement, the Owner, its successors and assigns, shall be subject to all of the by-laws, as amended, of the Town at the time of the issuance of a Building Permit required pursuant to the terms of the Agreement or at the time of the execution of this Agreement, whichever is applicable.

The Owner shall pay applicable parkland dedication fees and Town & Regional development charges at the time a building permit is issued for the residential dwelling conceptually shown on Schedule 'B' and any future building(s) requiring the payment of such fees, as applicable.

15. Plans

The Owner agrees that all plans shall be drawn by a Qualified Designer or by a Professional Engineer and all surveys by an Ontario Land Surveyor, subject to the reasonable satisfaction of the Town.

16. Notices

Any notice, demand, acceptance or request provided for in this Agreement shall be in writing and shall be deemed to be sufficiently given if personally delivered or sent by registered mail (postage prepaid) as follows:

To the Town at: Clerk

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

To the Owner at: Jonathan and Amy Sinke
1158 Regional Road 24,
Fenwick, ON L0S 1C0

or as such other address as the party to whom such notice is to be given shall have last notified the party giving the notice in the manner provided in this Section. Any notice delivered to the party to whom it is addressed in this Section 16 shall be deemed to have been given and received on the day it is so delivered at such address. Any notice mailed as aforesaid shall be deemed to have been given and received on the fifth day next following the date of its mailing.

17. Schedules

The originals of the plans set out in Schedule 'B' and 'C' are available at the offices of the Town at the address set out in Section 16.

18. Binding Effect

This Agreement shall be binding upon the parties hereto and their heirs, executors, administrators, successors, and assigns.

IN WITNESS WHEREOF the parties hereto have executed this Agreement as of the date and year first above written.

WITNESS	**JONATHAN SINKE**
(printed name)	(printed name)
(signature)	(signature)
(date)	(date)

WITNESS	**AMY SINKE**
(printed name)	(printed name)

(signature)

(date)

(signature)

(date)

THE CORPORATION OF THE TOWN OF PELHAM

Mayor Marvin Junkin

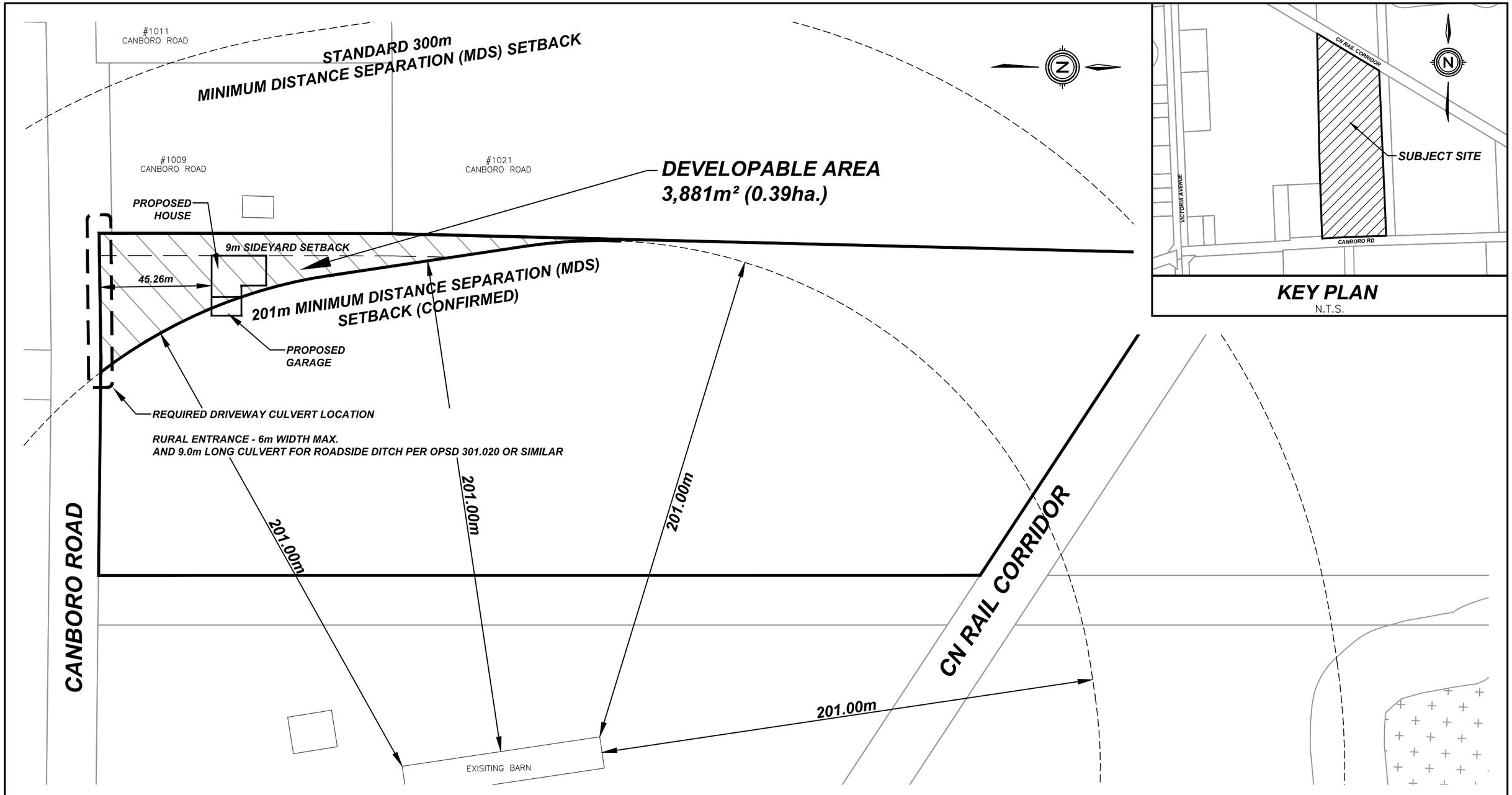
Clerk Nancy J. Bozzato

S C H E D U L E ‘A’

LEGAL DESCRIPTION

Part Lot 20, Concession 9 and being Part 1 on RP 59R-500; Town of Pelham

PIN:	_____ (LT)
Municipal:	997 Canboro Road
Roll Number:	2732 010 016 10903



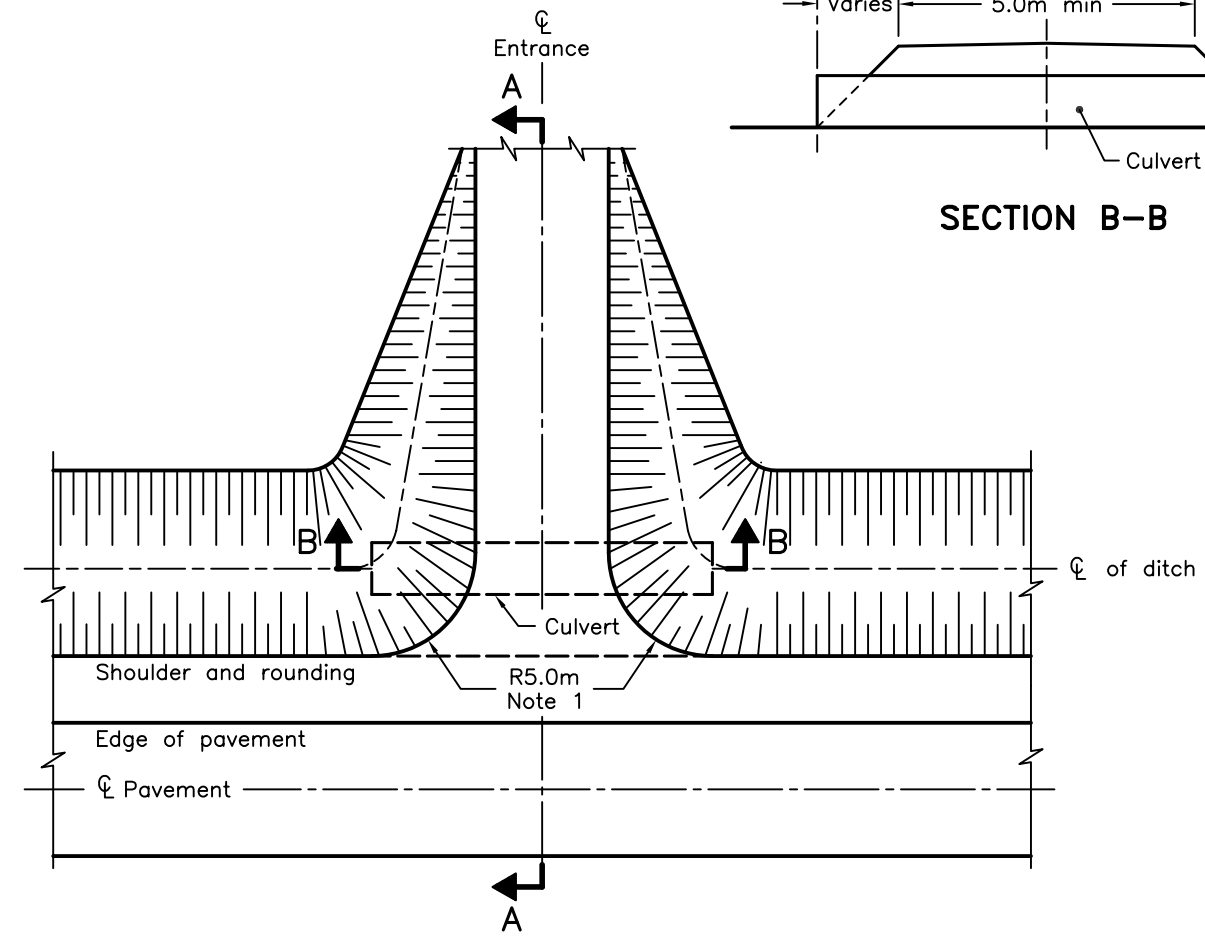
UPPER CANADA CONSULTANTS
ENGINEERS / PLANNERS

CONCESSION 9, PART OF LOT 20, RP 59R-500, PART 1
CANBORO ROAD

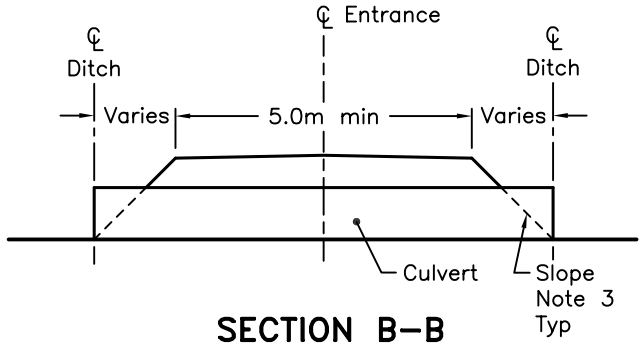
TOWN OF PELHAM
DEVELOPMENT AGREEMENT

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

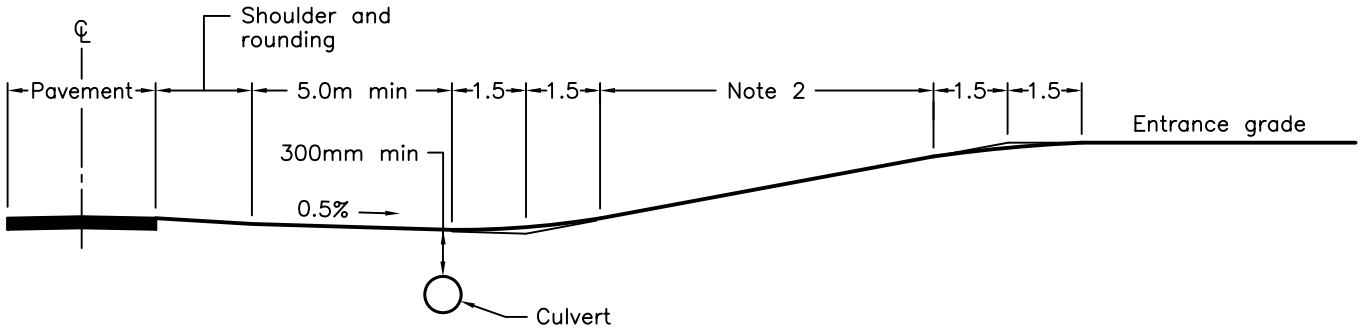
DRAWING FILE: F:\19100\Concepts\19100 concept.dwg PLOTTED: Dec 09, 2019 - 4:47pm PLOTTED BY: mark



PLAN



SECTION B–B



SECTION A–A

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		OPSD – 301.020

THE CORPORATION OF THE

T O W N O F P E L H A M

BY-LAW #4195(2020)

Being a by-law to authorize the sale of Town-owned lands to Fonthill Gardens Inc., or successors in title, the lands being described on Schedules A and B appended hereto; and

To authorize the Mayor and Clerk to execute all necessary documents to complete the transaction; and

To authorize the Mayor and Clerk to enter into an Agreement with Fonthill Gardens Inc. for the burying of hydro service, hydro transmission lines and all other utilities along Regional Road 20 (Highway 20) as detailed in Schedule B to the Agreement of Purchase and Sale dated January 13, 2020; and

To Repeal and Replace By-law #4167(2019).

WHEREAS Council for the Town of Pelham is the registered owner of the lands as described in Schedules "A" and "B" attached hereto;

AND WHEREAS Council has previously determined that the lands therein described are surplus to the Town's needs through the passage of By-law #3928(2018);

AND WHEREAS Council deems it desirable to effect the sale of said lands to Fonthill Gardens Inc., or successors in title, for development in keeping with the Urban Design Guidelines and zoning requirements for said lands, in accordance with the Agreement of Purchase and Sale, as amended, dated January 13th, 2020 and as endorsed by Council at a meeting of the same date wherein Council directed Staff to execute the document and associated Schedule B;

AND WHEREAS the sale of said lands falls within the provisions of the Towns Sale of Surplus Land By-law,

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

(1) THAT the sale of lands described in Schedule "A" to Fonthill Gardens Inc., or successors in title, be and is hereby authorized; and

(2) THAT the Mayor and Clerk be and are hereby authorized to execute all documents necessary to complete the transactions for the sale of said lands; and

(3) THAT the Mayor and Clerk be and are hereby authorized through Council Direction dated January 13, 2020, to execute the Agreement with Fonthill Gardens for the burying of hydro service, hydro transmission lines and all other utilities along Regional Road 20 (Highway 20) as detailed in Schedule B to the Agreement of Purchase and Sale dated January 13th, 2020; and

(4) THAT By-law #4167(2019) be and is hereby Repealed and Replaced with this By-law #4195(2020).

ENACTED, SIGNED & SEALED THIS
3rd DAY OF FEBRUARY, 2020

_____

M. JUNKIN, MAYOR

_____

NANCY J. BOZZATO, TOWN CLERK

SCHEDULE A
To By-law #4195 (2020)

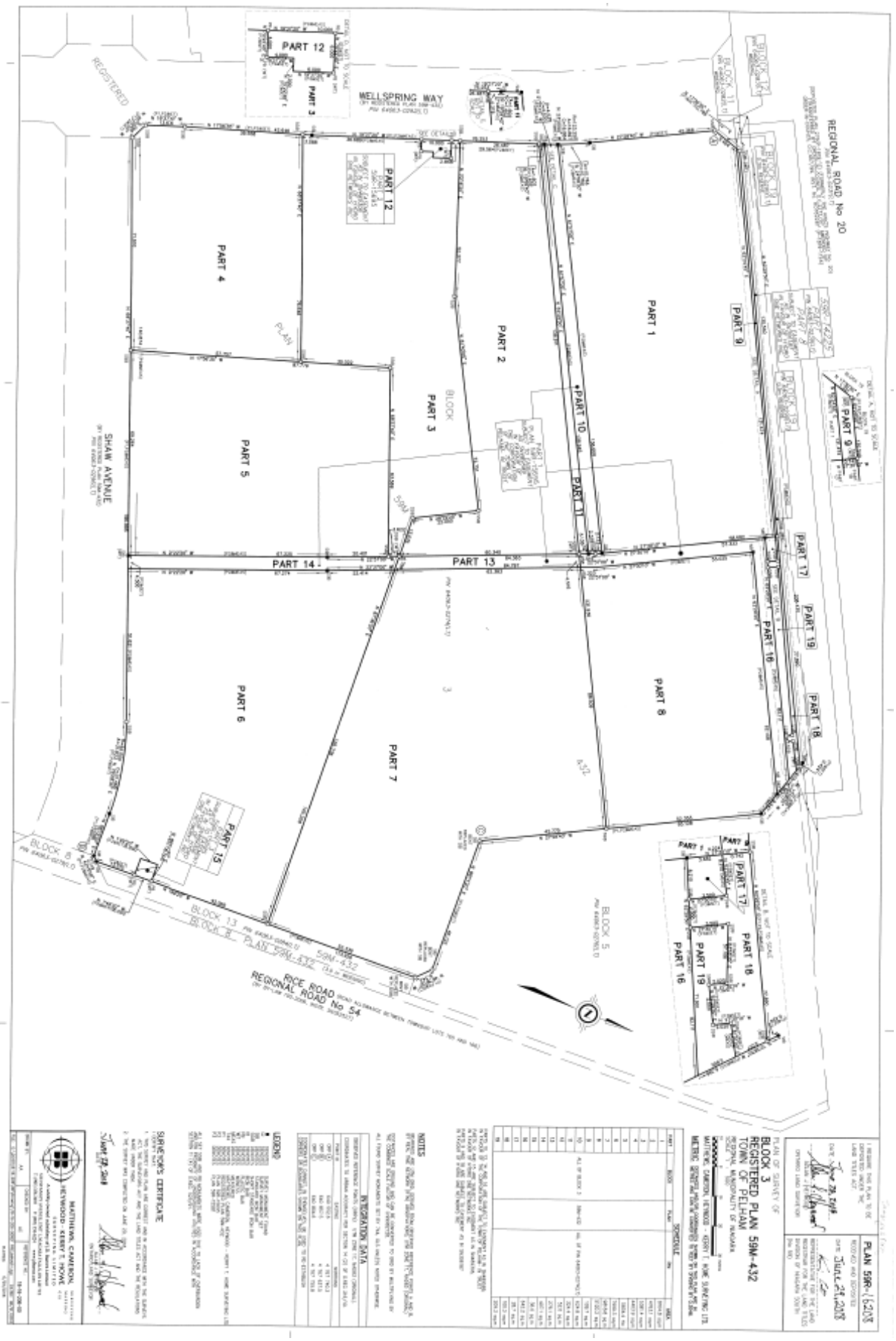
Property Description:

Containing 3.79 acres more or less, as shown on Schedule "B" hereto and subject to encumbrances as in SN306187, SN489304, SN4879306 and SN489589

The Property being legally described as:

Part of PIN 64063-0274(LT being Part of Block 3, Plan 59M-432, designated as Parts 1, 8, 9, 10, 11, 16, 17, 18 and 19 on reference Plan 59R-16208, Town of Pelham.

SCHEDULE B TO BY-LAW #4193(2020)



THE CORPORATION OF THE
T O W N O F P E L H A M

BY-LAW NO. 4196(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 LOS lE0

    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

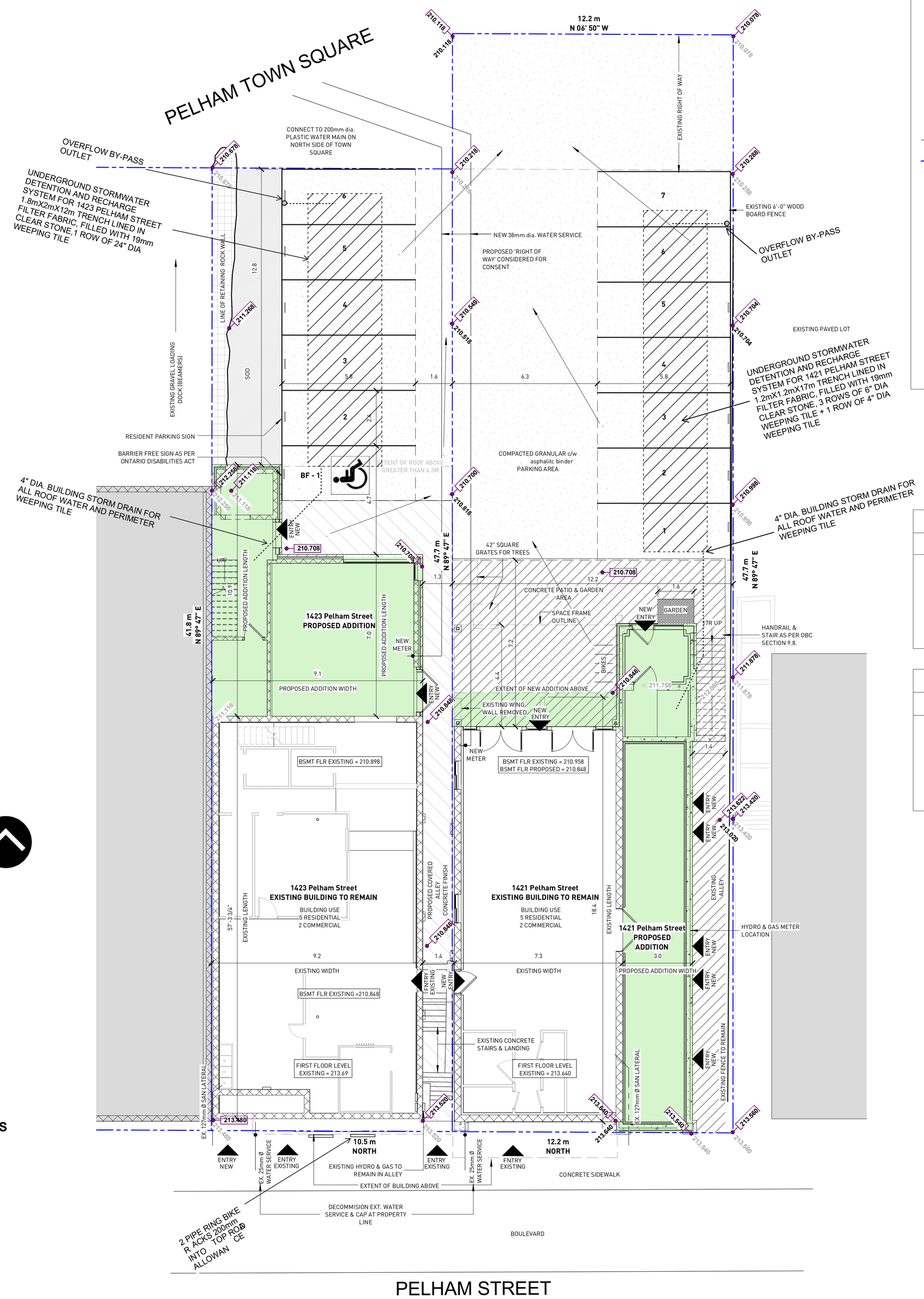
IN WITNESS WHEREOF the Corporation of the Town of Pelham has hereunto caused to be affixed its Corporate Seal attested by the hands of its proper signing officers.

THE CORPORATION OF THE TOWN OF PELHAM

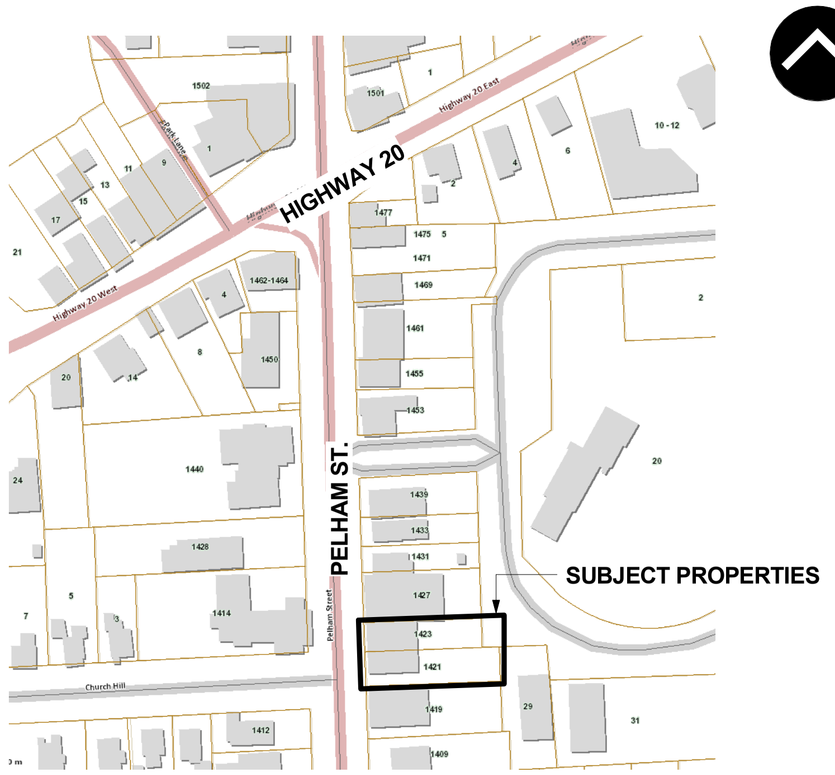
Marvin Junkin, Mayor

Nancy Bozzato, Town Clerk

APPENDIX A



1 Grading Plan
1 : 100



2 Key plan
1 : 200

LEGEND

- 213.000 — PROPOSED GRADE
- × 213.000 — EXISTING GRADE
- EXISTING ENTRY — EXISTING ENTRY
- NEW ENTRY — NEW ENTRY
- WATER SERVICE
- EXISTING SANITARY SERVICE
- PROPERTY LINE
- RESIDENT PARKING SIGNAGE
- COMPACTED GRANULAR c/w asphaltic binder
- WALK & PATIO (CONCRETE)
- COVERED ALLEY (CONCRETE)
- GARDEN
- SOD
- 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 DIMENSIONS AND INVERTS MUST BE VERIFIED PRIOR TO CONSTRUCTION, IF THERE IS ANY DISCREPANCY THE CONTRACTOR IS TO NOTIFY THE ENGINEER PROMPTLY
2. THE CONTRACTOR IS RESPONSIBLE FOR LOCATING AND PROTECTING ALL UTILITIES DURING CONSTRUCTION. GAS, HYDRO, TELEPHONE AND ANY OTHER UTILITIES THAT MAY EXIST ON THE SITE OR WITHIN THE STREET LINES MUST BE LOCATED BY ITS OWN UTILITIES AND VERIFIED PRIOR TO CONSTRUCTION. WHERE SHOWN THE ACCURACY OF THE POSITION OF SUCH UTILITIES AND STRUCTURES IS NOT GUARANTEED.
3. ALL UNDERGROUND SERVICES MATERIALS AND INSTALLATIONS TO BE IN ACCORDANCE WITH THE LATEST OPSS & OPSD STANDARDS AND CODES OF THE MUNICIPALITY.
4. FINISHED LOT GRADING WILL NOT ADVERSELY AFFECT DRAINAGE PATTERNS OF ADJACENT LANDS.
5. ALL GRADES TO BE WITHIN 3.1% MAX. SLOPE AT PROPERTY LINE.
6. CONCRETE SIDEWALK ON AT ENTRANCE TO BE 150 mm THICK INCLUDING WIRE MESH REINFORCEMENT ON 100 mm COMPACTED GRANULAR 'A'.

PARKING AREAS AND ROAD WORKS

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

GEODETIC ELEVATIONS BASED ON:
STATION: 00819708358
DHO PRECISE BM 358-70
ELEV. 217.705 m
LAT. 43-02.8, LONG. 79.17.2

NOTES:
1) ALL DIMENSIONS ARE IN METRES
2) GARAGE & RECYCLING STORAGE FACILITIES ARE INTERNAL
3) SOFFIT DOWN LIGHTING IN ALLEY & ENTRANCE CANOPIES

NORTH

FORESTGREEN

FORESTGREEN CREATIONS INC.
DESIGN + BUILD

1423 Pelham Street
Fonthill, Ontario
L0S 1E0

T: 905 892 9737
F: 905 892 4940
E: todd@forestgreencreations.com

PROJECT

Downtown Development

1423 + 1421 Pelham Street, Fonthill, ON

GENERAL NOTES

Contractor is to check and verify all dimensions and conditions on the project and report any discrepancies to the designer before proceeding with the work. Drawings are not to be scaled.

Contract documents are the copyright of the consultants and shall not be used or reproduced without authorization. Documents are to be returned upon completion of the project.

REVISION SCHEDULE

#	Revision Description	Date
1	Issued for Siteplan Agreement and C of A	09.14.2015
2	Issued for Final Site Plan Agreement	03.03.2016
4	Issued for Final Site Plan Agreement	04.08.2016
5	ISSUED FOR AS BUILT SPA	10/24/2019
	CLEARANCE	

OWNERS NAME

SIGNATURE

THE TOWN OF PELHAM

CLERK — MAYOR

NOTE: THE DIMENSIONS, AREAS AND LOCATIONS SHOWN ON THIS PLAN ARE APPROXIMATE AND MAY BE SLIGHTLY ALTERED IN THE FINAL DESIGN, PROVIDING THE INTENT AND PURPOSE OF THE ORIGINAL PLAN IS MAINTAINED AND ALL RELEVANT ZONING PROVISIONS COMPLIES WITH FURTHER, AND NOTWITHSTANDING ANYTHING SHOWN ON THIS PLAN CONTRARY, ALL SITE SERVICING, GRADING AND DRAINAGE SHALL BE IN ACCORDANCE WITH PLANS APPROVED BY THE ENGINEER

LICENSED PROFESSIONAL ENGINEER
R. M. SHOALTS
90516857
Oct 24/19
PROVINCE OF ONTARIO

SHOALTS ENGINEERING

MARK SHOALTS, P.ENG., CAHP

P.O. Box 218
Fenwick, Ontario
L0S 1C0

P 905-892-2110
C 905-933-1239
E mark@shoalts.ca

DATE	4/11/2016 3:25:45 PM
SCALE	As indicated
DRAWN	MAB
CHECKED	TJB
PROJECT NO.	15-004 + 15-017

The undersigned has reviewed and takes responsibility for this design, and has the qualifications and meets the requirements set out in the Ontario Building Code to be a Designer

QUALIFICATION IMFORMATION
Required unless deisgn is exempt under 2.17.5.1 of the building code

FULL NAME	BCIN	SIGNATURE
Todd Barber	22666	

REGISTRATION IMFORMATION
Required unless deisgn is exempt under 2.17.5.1 of the building code

FULL NAME	BCIN	SIGNATURE
Forestgreen Creations Inc.	30817	FG

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DRAWING — Servicing/Grading Plan

DRAWING NO. — A1.0

THE CORPORATION OF THE
T O W N O F P E L H A M

BY-LAW NO. 4197(2020)

Being a by-law to remove the Holding (H) Provision executed by By-laws Nos. 3810 (2016) & 4074(2019) for the lands located on the south side of Acacia Road in the Saffron Phase 2 Subdivision; legally described as Parts 10, 12 & 13, Plan 59R-16039.

Hert Inc.

File No. AM-10-19

WHEREAS Section 34 of the Planning Act, R.S.O. 1990, as amended, provides the governing body of a municipal corporation may pass by-laws to regulated the use of lands and the character, location and use of buildings and structures;

WHEREAS the Council of the Corporation of the Town of Pelham is empowered to enact this By-law by virtue of the provisions of Section 36 of the Planning Act, R.S.O. 1990, as amended;

WHEREAS notice of removal of the Holding (H) Provision has been provided in accordance with the provisions of the Planning Act, R.S.O. 1990, as amended;

WHEREAS the Council of the Corporation of the Town of Pelham deems it desirable to remove the Holding (H) Provision;

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

1. **THAT** the Holding (H) Provision affecting lands legally described as Parts 10, 12 & 13, Plan 59R-16039; in the Town of Pelham, be removed.

2. **THAT** Schedule 'A5' of the Zoning By-law No. 1136 (1987), as amended, be amended by removing the Holding (H) Provision from the lands zoned R2-266(H), RM1-268(H), RM1-269(H), OS-272(H) and OS-273(H) also shown on Schedule 'A' of this By-law.

3. **THAT** this By-law shall come into force and take effect pursuant to Sections 34 and 36 of the Planning Act, R.S.O. 1990, as amended;

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

_____

MAYOR MARVIN JUNKIN

_____

CLERK NANCY J. BOZZATO

Explanation of the Purpose and Effect of By-law No. 4197(2020)

The subject lands are located on the south side of Acacia Road in Fonthill and legally described as Parts 10, 12 & 13, Plan 59R-16039; in the Town of Pelham.

The By-law authorizes the removal of the Holding (H) Provision from a portion of the lands currently zoned R2-266(H), RM1-268(H), RM1-269(H), OS-272(H) and OS-273(H).

Schedule 'A':

70 35 0 70 Meters

Prepared: January, 2020

This is Schedule 'A' to By-law No. 4197(2020) passed the 3rd day of February, 2020.

Mayor: Marvin Junkin

Clerk: Nancy Bozzato

THE CORPORATION OF THE

T O W N O F P E L H A M

BY-LAW NO. 4198(2020)

Being a by-law to authorize the execution of a subdivision agreement with Hert Inc. and the Corporation of the Town of Pelham— Saffron Meadows Phase 2 Subdivision.

Hert Inc. and the Corporation of the Town of Pelham
File No. 26T19-02014

WHEREAS at the Council meeting held on January 13, 2020 the Municipal Council of the Town of Pelham approved the Report Regarding the Execution of the Saffron Meadows Phase 2 Subdivision Agreement, authorizing the entry into a Subdivision Agreement with Hert Inc. (the 'Developer') and the Corporation of the Town of Pelham detailing certain land conveyances, payments and dedications, and the conditions whereby development can occur; and,

WHEREAS it is deemed desirable to enter into a Subdivision Agreement for Saffron Meadows Phase 2 with Hert Inc. in order to control development of lands as described in Schedule 'A' of the Subdivision Agreement which is attached hereto and forms part of this by-law;

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

1. **THAT** provided Hert Inc. first satisfies the requirements mentioned in the Agreement attached to and forming part of this by-law that are to be satisfied prior to or at the time of execution of the Agreement by Hert Inc. and the Corporation of the Town of Pelham, then the Mayor and Clerk are authorized to execute the Subdivision Agreement annexed hereto and once executed by all parties, the Agreement shall be registered upon the title to the lands described in Schedule 'A' of the said agreement.

2. **THAT** the conveyances, payments, and dedications required by the said Subdivision Agreement, are authorized and approved.

3. **THAT** the Mayor and Clerk be and they are hereby authorized and directed to execute the Subdivision Agreement attached to and forming part of this by-law.

4. **THAT** in the event minor modifications to the Subdivision 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

SAFFRON MEADOWS (PHASE 2) SUBDIVISION AGREEMENT
HERT INC.
(SUBDIVISION FILE NO. 26T19-02014)

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THIS AGREEMENT made this _____….day of ……_ , 20__.

BETWEEN:

HERT INC.

Hereinafter called the "Developer"

OF THE FIRST PART

- and –

THE CORPORATION OF THE TOWN OF PELHAM

Hereinafter called the "Town"

OF THE SECOND PART

WHEREAS the Developer warrants and represents that:

a) it is the registered owner in fee simple in possession of the lands described in Schedule “A” annexed hereto;

b) as of the date of execution of this Agreement and on the date of registration of this Agreement, the Developer shall be a valid and subsisting corporation in good standing duly incorporated under the laws of the Province of Ontario;

c) as of the date of execution of this Agreement, registration of this Agreement and registration of the Plan of Subdivision, there will be no outstanding claims, liens, or encumbrances registered against the lands described in Schedule “A” annexed hereto all of which shall be postponed to this Agreement unless otherwise authorized by the Town in writing; and

d) this Agreement shall take priority over any subsequent registrations against the Lands;

AND WHEREAS the Developer has applied to the Town for approval of a Plan of Subdivision of the Lands described in Schedule “A” annexed hereto;

AND WHEREAS the Town’s “Conditions of Draft Plan Approval” require that all conditions must be fulfilled before the aforesaid Plan of Subdivision is given final approval, and the Developer must enter into a Subdivision Agreement with the Town to satisfy all its requirements, financial and otherwise, relating to the Lands being subdivided;

AND WHEREAS this Agreement is made to satisfy the said Conditions of Draft Plan Approval;

AND WHEREAS the Developer previously entered into an Agreement with the Town for Phase 1 of the Saffron Meadows Subdivision registered against the Lands as Instrument SN558715 on July 17, 2018;

AND WHEREAS subsection 51 (26) of the *Planning Act, 1990,* permits the registration of this Agreement against the lands to which it applies;

AND WHEREAS subsection 27 (1) of the *Development Charges Act, 1997*, permits the early payment of all or part of a development charge;

NOW THEREFORE THIS AGREEMENT WITNESSETH that in consideration of the mutual covenants and agreements to be observed and performed by each of the Parties hereto, and in consideration of the sum of ONE ($1.00) DOLLAR of lawful money of Canada now paid by the Developer to the Town, the receipt whereof is hereby acknowledged by the Town, the Parties hereto mutually covenant and agree as follows:

1. DEFINITIONS

In this Agreement:

1.1 **AGREEMENT** means this Subdivision Agreement.

1.2 **ASSUMPTION BY-LAW** means a by-law passed by the Town accepting all of the Works to be constructed hereunder.

1.3 **BLOCK** shall mean the whole of a parcel or tract of land create by the Plan of Subdivision.

1.4 **BUILDER** means the person engaged by the Developer or subsequent Owner to construct a Building or any other work on the Lot.

1.5 **BUILDING BY-LAW** means the Building By-law No. 2686 (2005) passed by the Town and amended from time to time.

1.6 **BUILDING** means any structure which is used or intended to be used for the shelter, accommodation or enclosure of persons, animals or chattels, and includes any structure as defined as a Building in the *Building Code Act* or in the Building By-law, but does not include any vehicles as defined herein.

1.7 **BUILDING PERMIT** means a permit issued by the Chief Building Official of the Town and required pursuant to the provisions of the *Building Code Act*, as amended, or any successor thereto and the Building By-law of the Town and amendments thereto.

1.8 **CHIEF BUILDING OFFICIAL** means the Chief Building Official of the Town as appointed by by-law of the Council, or their designate appointed pursuant to the *Building Code Act*, as amended, or any successor thereto.

1.9 **CLERK** means the Clerk of the Town.

1.10 **COMPLETION CERTIFICATE OF PRIMARY SERVICES** means the Certificate issued by the Director of Public Works upon satisfactory completion of the Primary Services for the Lands prior to commencement of the maintenance period for the Primary Services as installed.

1.11 **COMPLETION CERTIFICATE OF SECONDARY SERVICES** means the Certificate issued by the Director of Public Works upon satisfactory completion of the Secondary Services for the Lands prior to commencement of the maintenance period for the Secondary Services as installed.

1.12 **COST OF CONSTRUCTION** means the cost of construction approved by the Director of Public Works and may include engineering fees ancillary thereto.

1.13 **COUNCIL** means the Council of the Corporation of the Town of Pelham.

1.14 **DEVELOPER** shall mean the applicant for the approval of a Plan of Subdivision and the registered owner or owners in fee simple of the lands for which the Plan of Subdivision is proposed and their respective heirs, executors, administrators, successors and assigns. Wherever the singular is used herein it shall, where the context requires, include the plural.

1.15 **DEVELOPER'S CONSULTING ENGINEER** means the person or persons registered with the Professional Engineers of Ontario who are employed by the Developer, at its own expense, to provide engineering services for the Plan of Subdivision.

1.16 **DEVELOPMENT CHARGES** means the development charges imposed under the Town's Development Charge By-law No. 3527 (2014), or any successor by-law, as prescribed by the *Development Charges Act, 1997*, as amended, or any successor thereto.

1.17 **DIRECTOR OF COMMUNITY PLANNING AND DEVELOPMENT** means the

Director of Community Planning and Development for the Town, or their designate.

1.18 **DIRECTOR OF PUBLIC WORKS** means the Director of Public Works for the Town, or their designate.

1.19 **EASEMENTS** shall mean the easements described in Schedule “D” annexed hereto, which forms part of this Agreement.

1.20 **FINAL DEFAULT** means a situation where the Developer fails to remedy a default within such time as provided in the notice given by the Town, as provided in Section 39 hereof.

1.21 **FINAL CERTIFICATE OF COMPLETION OF SERVICES** means the certificate issued by the Director of Public Works after the end of the maintenance period certifying that all Works required by this Agreement are acceptable for assumption by the Town.

1.22 **FRONT LOT LINE** means the front lot line as defined in the Town's Zoning By-law No. 1136 (1987), as amended, or any successor thereto.

1.23 **GRADING CONFORMANCE CERTIFICATE** means the Certificate identified in Section 29 hereof.

1.24 **LANDS** means the lands described in Schedule "A" annexed hereto, and forming part of this Agreement.

1.25 **LETTER OF CREDIT** means a standby municipal, irrevocable Letter of Credit issued by a major chartered bank or credit union, posted with the Town pursuant to the terms of this Agreement. The Letter of Credit shall be in form satisfactory to the Town and shall contain a clause that automatically renews it from year to year, unless the Town gives written notice that it does not require the Letter of Credit to be renewed.

1.26 **LETTER OF OCCUPANCY** means a Letter of Occupancy issued by the Chief Building Official subsequent to final inspection of a dwelling, as required by Section 35 hereof.

1.27 **LOCAL IMPROVEMENT** shall include utilities, fencing, sanitary sewers, storm sewers, sidewalks, curbs and gutters, pavements and such other local improvements as are defined by the *Local Improvements Act* or the *Municipal Act*, as amended, or any successor thereto.

1.28 **LOT** means a lot as defined in Town's Zoning By-law No. 1136 (1987), as amended, or any successor thereto.

1.29 **LOT FRONTAGE** means lot frontage as defined in Town's Zoning By-law No. 1136 (1987), as amended, or any successor thereto.

1.30 **LOT GRADING DEPOSIT** means a deposit of security as specified in Section 30 hereof.

1.31 **LOT GRADING PLAN** means a drawing showing grades, swales, and drainage patterns and may include catch basins and floor heights in relation to grades for each individual Building Lot or Block in the Plan of Subdivision.

1.32 **MAINTENANCE GUARANTEE** means an undertaking by the Developer to the Town that all Works constructed under this Agreement will function as designed and will not fail in any manner whatsoever so as to cause a risk to public safety or private lands, Building or structures within the Plan of Subdivision or immediately adjacent boundary lands, and that should the Works, or any of them, fail or not perform their intended function within the specified maintenance guarantee period, they will be replaced or repaired to the satisfaction of the Director of Public Works by the Developer at its cost.

1.33 **MAINTENANCE GUARANTEE PERIOD** means the period of time during

which the Developer is obliged to maintain the Works following approval of the Completion Certificate for Primary Services or Secondary Services, as the case may be, which period is defined in Section 38 hereof.

1.34 **ONTARIO LAND SURVEYOR** means a surveyor commissioned by the Province of Ontario and qualified to establish monuments that define the boundaries of a parcel or parcels of land and to prepare all necessary reference plans and surveys for the purpose of the Agreement.

1.35 **OWNER** means the applicant for a Building Permit for one of the Lots or Blocks and includes the person on whose behalf an application for a Building Permit is made.

1.36 **PARTY** shall mean a party to the Agreement and the successors or permitted assigns.

1.37 **PLAN OF SUBDIVISION** means the Plan of Subdivision of the Lands described in Schedule "A" approved for registration by the Town and registered on title pursuant to the provisions of the *Planning Act*.

1.38 **PLANS** means all drawings, plans, specifications, contracts and other documents providing for the installation, construction and erection of the Works approved by and filed in the office of the Director of Public Works prior to execution of this Agreement by the Town.

1.39 **PRE-SERVINCING** means the installation of Works prior to registration of this Agreement.

1.40 **PRIMARY SERVICES** means all private utilities and all municipal services including, without restricting the generality of the foregoing, shall include: storm sewers, storm water management, sanitary sewers, watermain, roads (including base coarse asphalt and curbs and gutters), footpaths, street lighting, and drainage works and swales (including hydroseeding and landscaping).

1.41 **PRIVATE UTILITIES** means telephone, hydro-electric systems, natural gas systems, and cable television systems.

1.42 **REGION** means the Regional Municipality of Niagara.

1.43 **REGIONAL PUBLIC WORKS DEPARTMENT** means the Regional Municipality of Niagara Public Works Department.

1.44 **RESERVE STRIP** shall mean a parcel of land conveyed by the Developer to the Town in fee simple, free of encumbrances, abutting a Street Line and separating the street from the next abutting lot or block, for the purpose of preventing legal access from said street to the said next abutting lot or block.

1.45 **SECONDARY SERVICES** means all works to be installed, constructed, or erected which are not Primary Services or private utilities, and without limiting the generality of the foregoing, shall include: top course roadway asphalt, paved driveway aprons, sidewalks, fencing, and sodding/hydroseeding, landscaping, and tree plantings of boulevards and hydroseeding, landscaping and tree plantings of park blocks and stormwater management blocks.

1.46 **SECTION**, when used in reference to a numbered part of the Agreement, means:

a) a complete section including all its sections and subsections;

b) a particular subsection including its subsections; and

c) a particular subsection as the context may dictate or require.

1.47 **STORM WATER MANAGEMENT FACILITY** means a system of physical works including but not necessarily only, such things as storm water structures or ponds and infiltration trenches or pits located at the downstream end of a storm sewer conveyance system (including roof rain water leaders) that are designed to treat storm water and control pollution and control storm water runoff to predetermined levels prior to discharge to receiving surface water courses and subsurface ground water regimens.

1.48 **STORM WATER MANAGEMENT REPORT** means an approved storm water management report and specifications prepared by the Developer in accordance with Section 17 of this Agreement.

1.49 **STREET** means street as defined in the Town's Zoning By-law No. 1136 (1987), as amended, or any successor thereto.

1.50 **STREET LINE** means Street Line as defined in Town's Zoning By-law No. 1136 (1987), as amended, or any successor thereto.

1.51 **SUBDIVISION** means the division of a parcel of land into lesser parcels by means of a registered Plan of Subdivision.

1.52 **SUBDIVISION GRADE CONTROL PLAN** shall mean a plan for the purpose of controlling the overall drainage pattern through the establishment of relative surface elevations in accordance with good engineering and drainage practices as shown in Schedule “E”, annexed hereto.

1.53 **SUPERVISION** means the full-time inspection and scrutiny of every phase of the Works for the express purpose of enforcing the provisions of this Agreement and certifying that the Works have been performed and completed to Town standards in the form prescribed for this purpose and "SUPERVISE" means to carry out such Supervision.

1.54 **TOWN** means The Corporation of the Town of Pelham.

1.55 **TREASURER** means the Director of Corporate Services for the Town, or their designate.

1.56 **UTILITY SERVICES** means physical plant including but not limited to pipes, valves, conduits, cables, terminals, transformers, etc. owned and operated by communications, television, hydro, gas and oil companies or any other utility companies.

1.57 **WORKS** shall jointly and severally mean and include all Primary Services and Secondary Services and all other matters, both internal and external, and all construction, erection, installation and engineering required to be completed or performed by the Developer pursuant to this Agreement.

2. LANDS TO BE SUBDIVIDED

The Lands to be subdivided by the Plan of Subdivision are those lands described in Schedule "A" annexed hereto and the Plan of Subdivision shall be registered against all of such Lands.

3. GENERAL PROVISIONS

3.1 Unless the context or any other collateral agreements between the Town or the Developer otherwise requires, where the Developer is obliged by this Agreement or the approved Plans to make payments or install or construct or carry out any services or action the provisions therefore contained herein shall be deemed to include the words “at the sole expense of the Developer”.

3.2 The Developer hereby covenants, warrants and agrees to save harmless and keep the Town and its agents, contractors, employees and elected officials indemnified from and against all manner of actions, causes of actions, suits, claims and demands whatsoever which may arise directly or indirectly by reason of the design, installation, construction, or operation of any of the Works required under this Agreement, or by reason of the maintenance or lack

of maintenance of such Works by the Developer pursuant to the terms of this Agreement or by reason of any defect in workmanship or material.

3.3 The Developer and the Town acknowledge and agree that it is their intent that all terms, conditions and covenants contained herein:

a) shall run with the Lands; and,

b) shall be binding upon the Developer, its heirs, executors, administrators, assigns and successors in title, from time to time; and,

c) the benefits of the said covenants shall enure to the Town, its successors and assigns in title, of all roads, streets, and public Lands forming part of or abutting on the Lands.

3.4 Any notices required or permitted to be given pursuant to the terms of this Agreement shall be given in the manner set out in Section 42.

3.5 This Agreement and everything herein contained shall enure to the benefit of and be binding upon the successors and assigns of the parties hereto and upon those persons and/or corporations hereafter acquiring title to all or any part of the Lands.

3.6 The Developer shall impose restrictions as set forth in Schedule "H" annexed hereto on all the Lands so that subsequent Owners will be made aware of and shall strictly adhere to the requirements of this Agreement.

3.7 The Schedules annexed hereto, being Schedules “A” to “H” inclusive, are deemed to be a part of this Agreement and are to be interpreted as if the contents thereof were included in this Agreement.

3.8 The Developer agrees to be bound by the penalty provisions sent forth in Section 67 of the *Planning Act, 1990,* and amendments thereto.

3.9 In constructing, installing or providing the Works, the Developer shall comply with all statutes, laws, by-laws, regulations, ordinances, orders and requirements of any governmental or other public authorities having jurisdiction at any time from time to time enforced. Without limiting the foregoing, the Developer agrees to comply with and cause to be complied with, the provisions of the *Occupational Health and Safety Act*, the *Environmental Protection Act*, the *Ontario Water Resources Act, the Safe Drinking Water Act* and any regulations, policies and guidelines relating thereto. The Developer further agrees to handle and dispose of all materials in accordance with the foregoing legislation.

3.10 The Developer shall do, cause to be done, or refrain from doing any act or thing as directed by the Town if at any time the Town considers that any situation or condition is unsafe, damaging to the environment, or contrary to the provisions of any applicable laws. If the Developer fails to comply with such direction, the Town may take action to remedy the situation at the expense of the Developer and in this regard the Town shall also be entitled to draw upon any security filed by the Developer under this Agreement.

3.11 If any term of this Agreement shall be found to be *ultra vires* of the Town, or otherwise unlawful, such term shall conclusively be deemed to be severable and the remainder of this Agreement *mutatis mutandis* shall be and remain in full force and effect.

3.12 The Developer shall not call into question directly or indirectly, in any proceeding whatsoever in law or in equity, or before any court or administrative or other tribunal, the right of the Town to enter into this Agreement and to enforce each and every term, covenant and condition thereof and this provision may be pleaded by the Town in any such action or proceeding as a complete and conclusive estoppel of any denial of such right.

3.13 Time shall be of the essence of this Agreement.

3.14 Prior to execution of this Agreement by the Town, the Developer shall deliver to the Town a Certificate of Status issued by the Ontario Ministry of Government and Consumer Services verifying that the Developer is a company duly incorporated under the laws of the Province of Ontario and is in good standing.

3.15 The Developer hereby agrees to procure, register and provide to the Town any postponement agreements which the Town solicitor considers necessary to ensure that this Agreement shall have priority over any interest of a mortgagee in the Lands.

3.16 The Developer shall notify or cause to be notified each and every purchaser of a Lot or Lots or Block or Blocks of all Works contracted by the Developer, the Developer's obligations to maintain the Works and all other conditions covered by this Agreement by providing a complete and accurate summary of same and shall cause such information to be fully recorded in any Offer to Purchase or Agreement of Purchase and Sale entered into by the Developer.

3.17 In the event that a Mortgagee(s) exercises any rights as to sale, possession or foreclosure or takes any other steps to enforce its security against the Lands then such Mortgagee(s) agrees on behalf of itself, its heirs, executors, administrators, successors and assigns not to deal with the Lands as a subdivision or part thereof unless and until a new agreement in the same form, *mutatis mutandis*, as this Agreement has been entered into with the Town.

3.18 In the event that the Developer wishes to register more than one Plan of Subdivision over the Lands, the Developer shall first obtain the written consent of the Town to do so, which consent shall be conditional upon the Developer registering such Plans of Subdivision in such order as determined by the Town and upon registering such Plans of Subdivision concurrently. The Developer shall not register a Plan of Subdivision over part of the Lands without prior written consent of the Town.

3.19 Any and all of the Developer's obligations under this Agreement shall be joint and several.

4. SERVICING PLANS AND SPECIFICATIONS

4.1 All Plans and specifications must be approved in writing by the Director of Public Works prior to the execution of this Agreement by the Town and the Developer commencing construction of any of the Works.

4.2 The Developer shall submit to the Director of Public Works three (3) copies of each plan required to be submitted for approval with respect to the construction of the Works contemplated in this Agreement.

4.3 It is understood and agreed the Director of Public Works in their appraisal of the Plans and specifications will be guided by current requirements of the Province of Ontario, established specifications and standards adopted by the Town, or existing practices and standards as may from time to time be established or amended by the Town by its officials or agents. The Town may require, in writing, such variances from the Plans as it may deem appropriate due to conditions which may be disclosed as the work progresses and by sound engineering practices.

4.4 No approval by the Director of Public Works shall operate as a release by the Town of any liability of the Developer which, but for such approval, might exist or hereafter arise.

4.5 All Plans shall be prepared and stamped by a Consulting Engineer or an Ontario Land Surveyor licensed to practice in the Province of Ontario.

5. DESIGN AND SUPERVISION OF CONSTRUCTION OF SERVICES

5.1 The Developer shall employ, at its cost, a competent and qualified Consulting

Engineer approved by the Director of Public Works, to:

a) carry out all soil investigations to the satisfaction of the Director of Public Works;

b) design all of the Works required to be completed by this Agreement;

c) prepare plans, profiles and specifications for the Works and submit detailed plans, profiles and specifications to the Director of Public Works for approval prior to the installation or construction of such Works;

d) obtain from the Director of Public Works the details regarding the form and scale of these drawings prior to their presentation;

e) obtain and provide the Town with all necessary approvals prior to installation or construction of the Works and prior to execution of this Agreement;

f) prior to execution of this Agreement, prepare and furnish the Director of Public Works with estimates of the cost of installation and construction of said Works;

g) if required, prepare contract documents and call tenders for the installation and construction of the said Works;

h) provide full-time resident supervision, inspection and contract administration of all Works covered by this Agreement including watermain commissioning;

i) maintain all records for the installation and construction of the said Works and submit “as constructed” records in electronic form in AutoCad format (NAD 83 coordinates) and PDF format, and two (2) sets “as constructed” records shall be submitted in a reproducible form to the Director of Public Works, at the time of completion of Primary Services (including all street light and utility services) prior to approving the Completion Certificate for the Works.

j) upon completion of the installation or construction of the Works, supply the Town with a certificate, in a form satisfactory to the Director of Public Works, that the Works were installed and constructed in accordance with the approved Plans and specifications;

k) provide the Director of Public Works with individual record sheets for all sewer and water service locations and depths;

l) when requested by the Director of Public Works, accompany them on inspections of the Works including a final inspection of the Works at the conclusion of the maintenance period herein specified and before the assumption of the Works by the Town;

m) supervise the construction of all Works on a full-time basis including any remedial work which the Director of Public Works may require;

n) test all services and verify to the Director of Public Works, in writing, that all testing has been completed in accordance with the appropriate requirements;

o) provide building levels for construction purposes; and,

p) certify, in writing, to the Director of Public Works, as to the actual cost of all Works completed, prior to the Town approving a Completion Certificate for such Works or reducing any Letter of Credit.

5.2 The Developer shall not install Works prior to the receipt, in writing, of the approval of the detailed Plans and specifications by the Director of Public Works.

5.3 All of the Primary, Secondary, and Utility Services to be installed or constructed under this Agreement shall be installed, constructed, inspected and tested under the direct supervision of the Developer's Consulting Engineer at the sole expense of the Developer.

5.4 The Developer's Consulting Engineer shall conduct all testing of Works and materials to the complete satisfaction of the Director of Public Works. All sanitary and storm sewers must be inspected and videoed via closed circuit T.V. prior to final acceptance by the Town.

5.5 The Director of Public Works, or designate, shall have the right at any time and from time to time to request an inspection and re-inspection of any of the Works in progress to ensure such Works are being constructed in accordance with the Plans and specifications approved by the Director of Public Works. Such inspections may include testing and the method and time of testing shall be at the sole discretion of the Director of Public Works. Town inspections shall be in addition to inspections provided by the Developer's Consulting Engineer and shall in no way relieve the Developer or their Consulting Engineer of any responsibility with regard to design, construction, inspection, testing or proper completion of the Works.

5.6 The Director of Public Works shall have a discretionary right to order any work-in-progress stopped and such work shall not be recommenced without written authority from the Director of Public Works.

6. BY-LAW(S), DOCUMENTATION, AND REGISTRATION

6.1 The Council may authorize Pre-Servicing (installation of Works) upon such terms and conditions it deems appropriate and/or necessary, which terms and conditions shall include, but not be limited to, posting all security set forth in Schedule "F" annexed hereto, obtaining and filing with the Director of Public Works all necessary and/or required approvals, consents, agreements and certificates, and having all Plans and specifications approved by the Director of Public Works.

6.2 Before this Agreement is executed by the Town, the appropriate authorizing By-law must be enacted by the Council of the Town.

6.3 The Developer shall provide the Town with two (2) paper copies and a PDF format copy each of the draft Plan of Subdivision (M-Plan) for the Lands and the Reference Plan (R-Plan) providing legal descriptions for Easements within or outside the Lands.

6.4 The Developer acknowledges that the Town may register an Inhibiting Order against the Lands and that the Town will not have the Inhibiting Order removed from title until the Developer has supplied all documents in compliance with this Agreement in a form satisfactory to the Town for registration and all other documents required to provide discharges, releases, and postponements with respect to any charges, mortgages or encumbrances with respect to the Lands that have been registered against title to the Lands.

6.5 Upon the Town being satisfied that all conditions of Draft Plan approval for the Plan of Subdivision have been satisfied by the Developer within the required time, the Town shall register the following documentations at the sole expense of the Developer as soon as practicable:

a) the approved Plan of Subdivision; and,

b) all other documentation related thereto, including without limitation, Cessations of Charge, Transfers, and Easements.

6.6 In the event the Plan of Subdivision is not registered within one (1) year from the date of registration on title of this Agreement, the Town may declare the Developer in Final Default.

6.7 The Developer shall not deal in any manner whatsoever with any Lot or Block shown on the Plan of Subdivision until this Agreement, the Plan of Subdivision and all other documentation (including Transfers, Easements, Cessation of Charge, Inhibiting Orders, Reference Plans, and Postponements of Charges) required by this Agreement and by the Town's solicitor have been delivered, approved and registered on title to the complete satisfaction of the Town's solicitor.

7. LAND FOR MUNICIPAL PURPOSES

7.1 The Developer shall, at its own expense, convey to the Town in fee simple, free of all encumbrances, such lands as may be required for the development of the Lands in accordance with Schedule "B" annexed hereto.

7.2 All of the road allowances and road widenings shown on the Plan of Subdivision shall be dedicated by the Developer as public highways.

7.3 All road allowances shown on the Plan of Subdivision shall be named to the satisfaction of the Town.

8. EASEMENTS FOR MUNICIPAL PURPOSES

8.1 The Developer covenants and agrees, at its sole expense, to obtain and/or grant to the Town such easements as may be required for the installation and construction of services or development of the Lands in accordance with Schedule "C" annexed hereto.

8.2 The Developer shall convey to the Town or to such public utility company or commission or cable television company as the Town may direct, easements required for utility and/or co-axial purposes in accordance with Schedule "D" annexed hereto. All such easements shall be prepared to the complete satisfaction of the Town, and if required by the Town, any such utility or cable television company.

8.3 The Developer shall undertake and complete all improvements in, over, along and upon such easement lands conveyed to the Town, including Primary Services, Secondary Services and Utility Services, in accordance with the terms of this Agreement and the Plans filed to the complete satisfaction of the Director of Public Works and shall keep such easement lands in a neat and tidy condition, free of all debris and trash until the Town has passed the Assumption By-Law.

9. GENERAL SERVICES

9.1 Where the Plan of Subdivision is serviced by a secondary means of egress or emergency access to be constructed by the Developer, an existing road allowance, open or unopened, or any newly dedicated widening thereof, the Developer agrees such secondary means of egress or emergency access, road allowance and any widening thereof shall be deemed to form part of the Lands and be subject to the requirements related thereto specifically indicated in the approved Plans.

9.2 Where it is necessary to use a secondary means of egress or emergency access to be constructed by the Developer or an unopened road allowance to service all or any part of the Lands, the Developer shall, at its own expense, construct the necessary municipal services in accordance with the approved Plans.

9.3 The Developer shall not change, or do any work that will prejudicially effect, any natural watercourse or drainage ditch without making full and proper provisions satisfactory to the Director of Public Works, and the Developer shall be solely responsible for any damage caused thereby and the Developer hereby indemnifies and saves harmless the Town from any claim arising from such damage.

9.4 The Developer shall keep all portions of the development well, properly, and efficiently drained during construction and completion and will be held

responsible for all damage which may be caused or results from water backing up or flowing over, through, from or along any part of the Works, or which any of the Developer's operations may cause to flow elsewhere, and the Developer hereby indemnifies and saves harmless the Town from any claim arising from said damage.

9.5 The Developer covenants and agrees to carry out all Works necessary to service the Plan of Subdivision in such a manner as to prevent erosion and earth, debris and other material from being washed or carried in any manner onto any road, road allowance or highway whether opened or unopened, or onto the property of any other person or persons. If such earth, debris or other material is washed or carried onto such road, road allowance, whether opened or unopened, or onto the property of any person or persons, the Town, its servants or agents, may, at the Town's discretion, clean and remove such material, rectify any damage caused, and abate any nuisance created by the Developer in the development of the Plan of Subdivision. The cost of any such work performed by or at the instruction of the Town, shall be paid by the Developer on demand, and without limiting any of its remedies at law or in equity, the Town may enforce any security available to it to recover such costs or may collect such costs in like manner as municipal taxes as provided in the *Municipal Act* and with the same priorities as taxes that are overdue and payable.

9.6 The Developer shall be solely responsible for controlling dust nuisance in conjunction with the Works, both within the Plan of Subdivision and elsewhere.

9.7 All streets abutting on the Lands or used for access to the Lands during installation or construction of the Works or during construction of dwellings shall, at all times, be kept as dust free as possible and in a good and usable condition, and without restricting the generality of the foregoing, the Developer shall at the end of each day during such construction cause all such streets to be cleaned of all refuse, rubbish, waste, debris and other materials of any kind, whether the same resulted from installation and construction of Works or otherwise, and if such streets are damaged the Developer shall at its own cost restore same immediately to the Town’s requirements and to the satisfaction of the Director of Public Works.

9.8 All trucks making deliveries to or taking materials from the Lands shall be adequately covered and not unreasonably loaded so as to scatter refuse, rubbish, dust or debris on abutting streets or properties. If at any time, in the opinion of the Director of Public Works, damage is being or is likely to be done to any street or any improvement thereon, other than such portions as are part of the Works, by the Developer’s or its contractor’s vehicles or other equipment, whether licensed or unlicensed, the Developer or its contractor shall on the direction of the Director of Public Works make changes in or substitutions for such vehicles or other equipment or shall alter loading or shall in some other manner satisfactory to the Director of Public Works remove the cause of such damage or nuisance. The Developer shall at its own cost repair any such damage immediately to the Town’s requirements and to the satisfaction of the Director of Public Works.

9.9 The Developer shall inform all public utility companies having legal authority to install or construct utility systems (including without limitation Bell Canada, Enbridge Consumers Gas, Niagara Peninsula Energy, Hydro One Networks Inc., Cogeco Cable) of the approximate date of construction of the Works in order that such utility companies may place their work in accordance with their requirements and to the satisfaction of the Director of Public Works, and the Developer shall assume complete responsibility and make all necessary arrangements for the moving of hydro-electric, gas, telephone and co-axial cables, pipes, conduits, wires, pipe lines, or any other public utility works as necessary and as approved by the Director of Public Works, and the Developer shall be solely responsible for any damage caused to the said cables, pipes, conduits, wires, pole lines and other works.

9.10 The Town disclaims any responsibility or liability for the support and protection of sewers, drains, pipes, conduits, tracks or other utilities, services and

structures owned by the Town or any other public body, by companies, or any other person enjoying special franchises or occupying any portion of the streets or ways on or below or above the surface. The Developer is directed to carefully examine the location of the Works and to make special inquiry of the companies or persons owning, controlling or operating said pipes, conduits, tracks and other utilities, services and structures, and to determine the character, size, position and length of such pipes, conduits, tracks, utilities and structures, and to inspect the public records of the various Town Departments having recognizance and control of pipes, conduits and sewers, and to make such further personal inspection and investigation as is necessary to determine the correctness of the information so obtained. It is the Developer's responsibility to consult the companies concerned as to the exact location of said utilities, services and structures, and, where necessary, the Developer shall protect and support same to maintain their operation. In the event damage is done to a utility, service or structure the Developer thereof shall be notified immediately by the Developer and any costs arising from such damage shall be paid for by the Developer. A copy of such notice shall be sent to the Director of Public Works.

9.11 The Developer agrees to keep boulevards and Easements graded and free and clear of all material and obstructions which might interfere with the construction of telephone, co-axial, gas and hydro-electric installations, and other utility works.

9.12 The Developer shall remove from all road allowances in the Plan of Subdivision, any surplus or other material and obstructions and such trees and vines, as necessary and to the satisfaction of the Director of Public Works. In the event this clause is not complied with within fourteen (14) days of written notice delivered by the Town to the Developer, the Town may have such material removed and collect the cost thereof from the Developer, and without limiting its remedies at law or equity, the Town may enforce any security held by it to recover costs or may collect the costs in like manner as municipal taxes as provided in the *Municipal Act* and with the same priorities as taxes that are overdue and payable.

9.13 The Developer shall not add any fill to the Lands without first obtaining written approval from the Director of Public Works.

9.14 The Developer shall not remove any topsoil from the Lands without first obtaining written approval from the Director of Public Works.

9.15 All Works required to be installed or constructed by the Developer shall be installed and constructed in accordance with the Town's specifications therefor at the date of the commencement of the installation or construction of the Works and in accordance with the approved Plans.

9.16 The Developer acknowledges and agrees, notwithstanding the complete installation of services in the subdivision as authorized by the Town, that the Town will not be held liable for any stoppage or delay of the registration of the Plan or the issuance of Building Permits for the lots in the Plan.

9.17 The Developer acknowledges and agrees that in the event that the Lands are not maintained in an acceptable standard to the Town in regards to refuse, rubbish, dust or debris or if refuse, rubbish, dust or debris from the Lands are found on abutting streets or properties and are not removed in an acceptable standard to the Town that the Town may bill the Developer for the removal of refuse, rubbish, dust or debris from the Lands or on abutting streets or properties impacted by the development of the Lands.

10. SURVEY MONUMENTS TO BE PRESERVED

10.1 The Developer agrees that all survey monuments or related markings established in connection with the installation of public utility and municipal services are to be preserved.

10.2 The Developer agrees if any survey monument or related marking is accidentally or deliberately damaged, destroyed or removed, to immediately

repair or replace such monuments or related markings under the direction of the person or persons responsible for establishing said survey monuments or related markings.

11. TOWN'S RIGHT TO ENTER AND REPAIR

11.1 The Town shall have the right to enter on the Lands at all times and from time to time and to carry out maintenance and repair of the Works:

a) without notice to the Developer where, in the sole opinion of the Director of Public Works, danger to public safety or an emergency condition exists, or the streets have not been kept free of mud, dust and/or snow or to prevent damage or hardship to any persons or property; and,

b) where repairs to or maintenance of the said Works has not been completed within twelve (12) hours after written notice requiring such repairs or maintenance has been delivered to the Developer; and,

c) such repairs, remedial works or maintenance shall not be deemed acceptance of the Works by the Town or an assumption by the Town of any liability in connection therewith and shall not release the Developer from any of its obligations under this Agreement; and,

d) the cost of any repair or maintenance work (including professional fees) undertaken by the Town pursuant to the provisions of this Agreement shall be borne by the Developer and the amount thereof shall be paid to the Town within thirty (30) days after a statement of account therefor has been delivered to the Developer. If the Developer fails to pay the amount due to the Town within such thirty (30) day period, the Town may and is hereby expressly authorized by the Developer to deduct the amount owing to the Town for such repairs or maintenance from any monies or Letter of Credit deposited with the Town; and,

e) repairs or maintenance undertaken by the Developer pursuant to this subsection shall be completed in the presence of the Director of Public Works or their representative.

11.2 The Developer shall obtain from any Purchaser of any of the Lots or Blocks shown on the Plan of Subdivision, a license permitting the Developer and the Town to enter upon such Lands for a period of three (3) years after the transfer thereof in order to ensure compliance with the provisions of this Agreement and shall forward an executed copy of such license to the Town upon demand therefor.

12. SERVICES TO BE COORDINATED

The Developer agrees and acknowledges that the designs of all municipal and public utilities and services for the subdivision of the Lands must be co-ordinated with all adjacent developments to ensure secondary access, service main looping and other integration and co-ordination of utilities and services.

13. INTERIM WORKS

The Developer agrees and acknowledges that, until the Director of Public Works affixes their signature of approval to the Plans, all works which may be carried out in the interim are done solely and entirely at the Developer's risk, and that changes to existing works or additional works may be required or reflected in the final approved Plans.

14. ROADS

14.1 The Developer agrees to construct, install, and complete all road Works required by this Agreement and the approved Plans and specifications to the

complete satisfaction of the Director of Public Works.

14.2 The Developer agrees to rough grade to the Town's specifications the full width of all road allowances as shown on the Plans prior to the installation or construction of the Works. Prior to the construction of any Works, the topsoil shall be stripped and shall be stockpiled during the period of construction at a location which is approved by the Director of Public Works and is conducive to the interim drainage requirements of the Plan of Subdivision. The topsoil so stockpiled shall be used to grade the Lots and boulevards after construction thereon in accordance with the Subdivision Grade Control Plan filed with and approved by the Director of Public Works.

14.3 The Developer shall restore any existing road damaged during the development of the Plan of Subdivision to the complete satisfaction of the Director of Public Works, prior to approval of the Completion Certificate for Primary Services.

14.4 The Developer shall install a minimum 3.5m wide, 2-way raised cycle track on the south side of Walker Road as follows:

a) The 3.5m cycle track allowance includes a striped pavement marking buffer;
b) The mountable concrete curb (OPSD 600.100) is exclusive of the 3.5m cycle track which includes a 100mm Ø sub-drain and separates the vehicle travel lanes.
c) Bicycle lanes shall be adjacent to the boulevard, and parking protected when, or if, curb-side parking is provided;
d) Pavement markings and signage prescribed in accordance with OTM Books 5 & 18.

The Walker Road bicycle facilities shall be to the satisfaction of the Director of Community Planning & Development and the Director of Public Works.

15. SANITARY SEWER SYSTEM

15.1 If required by the Town, and prior to execution of this Agreement by the Town, the Developer shall undertake a review of the existing downstream sanitary sewer system to ensure the capacity of the system is sufficient for the increase in flows from the Plan of Subdivision. In the event the downstream system is inadequate for the flow increase from this Subdivision, upgrading of those facilities will be the financial responsibility of the Developer and the Work required and/or necessary to upgrade such facilities shall be completed by the Developer as part of development of this Plan of Subdivision to the complete satisfaction of the Director of Public Works.

15.2 The Developer shall construct a sanitary sewer system, including service laterals from the sewer main to the Street Line and other appurtenances, to adequately service the Lands. All sanitary sewers, including upgrading of downstream facilities if deemed necessary by the Town, shall be constructed according to the approved Plans and specifications. Plans must be approved by the Director of Public Works, the Region of Niagara Public Works Department and the Ministry of the Environment, and the construction and materials used therein shall be in accordance with the Town’s most recent specifications therefor.

15.3 All sanitary sewer Works shall be flushed and cleaned by high velocity sewer flushing equipment:

a) after placement of the base course asphalt upon the streets in the Plan of Subdivision; and,

b) upon receipt of any written notice from the Director of Public Works.

15.4 All sanitary sewer Works shall be tested, and if necessary re-tested, and the method and time of testing shall be to the satisfaction of the Director of Public Works.

15.5 All sanitary sewer Works shall be inspected and videoed via closed circuit TV to the satisfaction, and upon any written notice from, the Director of Public Works and prior to assumption of the sanitary sewer Works by the Town. In the event the results are not satisfactory in the sole opinion of the Director of Public Works, the Developer shall take such remedial steps as may, in the sole opinion of the Director of Public Works, be required.

15.6 Prior to the Director of Public Works approving the Completion Certificate for Primary Services, the Developer shall supply the Director of Public Works with "as constructed drawings" showing the location and depth of the sanitary sewer lateral constructed to service each Lot.

15.7 Prior to registration of the Plan, the Region shall confirm that adequate sanitary sewage allotment is available.

15.8 The Developer agrees to perform and complete all sanitary sewer Works required by this Agreement and the approved Plans and specifications to the complete satisfaction of the Director of Public Works.

15.9 The Developer agrees to decommission any existing water services to the satisfaction of the Director of Public Works.

16. STORM DRAINAGE SYSTEM

16.1 The Developer shall construct a storm drainage and storm water management system to adequately service the Lands and all or any portion of the ultimate drainage area in which the Lands are located. This system shall be constructed in accordance with the Plans approved by the Director of Public Works, the Region of Niagara Planning & Development Department, the Niagara Peninsula Conservation Authority, and the Ministry of the Environment, and the construction and materials used therein shall be in accordance with the Town's most recent specifications therefor.

16.2 All storm sewer Works shall be flushed and cleaned by high velocity sewer flushing equipment:

a) after placement of the base course asphalt upon the streets in the Plan of Subdivision; and,

b) upon receipt of any written notice from the Director of Public Works.

16.3 All storm sewer Works shall be inspected and videoed via closed circuit TV to the satisfaction of, and upon any written notice from, the Director of Public Works and prior to assumption of the storm sewer Works by the Town. In the event the results are not satisfactory in the sole opinion of the Director of Public Works, the Developer shall take such remedial steps as may, in the sole opinion of the Director of Public Works, be required.

16.4 Prior to the Director of Public Works approving the issuance of the Completion Certificate for Primary Services, the Developer shall supply the Director of Public Works with "as constructed drawings" showing the location and depth of the storm sewer lateral constructed to service each Lot.

17. STORMWATER MANAGEMENT FACILITIES

17.1 The Developer agrees that prior to the Town executing this Agreement the Developer shall prepare and provide a Storm Water Management Report which shall be submitted for approval by the Director of Public Works, the Region of Niagara Planning & Development Department, the Ministry of the Environment, the Niagara Peninsula Conservation Authority and the Region of Niagara Public Works Department, indicating the following:

a) the manner in which storm water will be conveyed across the Lands in both major and minor storms, using storm water management techniques that are in accordance with the Provincial guidelines contained in "Storm Water Management Practices Planning & Design Manual - June 1994" (Ministry of Environment) and the latest revision

thereof or such more stringent standards as may be applicable;

b) an assessment of downstream and upstream constraints and how these constraints can be addressed (at a minimum the storm water management system must provide Level 1 protection for downstream fisheries and resources); and,

c) an Erosion and Sediment Control Plan for the development of the Lands whereby erosion and sediment and their effects will be minimized on site during and after construction in accordance with the "Ontario Guidelines on Erosion and Sediment Control for Urban Construction Sites" May 1987 and the latest revision thereof or such more stringent standards as may be applicable.

17.2 The Developer shall prepare and provide a Subdivision Grading Plan in accordance with Section 28 hereof indicating the existing and proposed grades as well as the means whereby major system flows will be conveyed across the Lands. The 100-year flood level shall be plotted on the Plan to ensure that all structural development will be located above this elevation.

17.3 The Developer agrees to implement the Niagara Peninsula Conservation Authority's approved Storm Water Management Plan including the approved grading and drainage, any required erosion and flood protection works, and all Niagara Peninsula Conservation Authority approvals.

17.4 The Developer agrees to carry out or to have carried out all storm water management techniques and Works necessary and/or required to convey storm water runoff from the Lands in accordance with the approved Subdivision Grading Plan and Storm Water Management Plan to the complete satisfaction of the Director of Public Works and the Region of Niagara Planning & Development Department.

18. WATER DISTRIBUTION SYSTEM

18.1 The Developer shall construct a complete water supply and distribution system, including valves, valve boxes, fire hydrants, service connections, curb stops and boxes, blow offs and ground hydrants as may be required, for the purpose of servicing the Plan of Subdivision. The water distribution system shall be constructed in accordance with the Plans approved by the Director of Public Works, the Region of Niagara Public Works Department and the construction and materials shall be in accordance with Town's most recent specifications therefor. All work on water distribution system shall be performed in accordance with Ontario Regulation 170/03 made under the *Safe Drinking Water Act*, 2002, S.O. 2002, c.32, as amended and the Town's DWWP and DWWL. The Developer shall install, charge, test and maintain fire hydrants as required by the approved Plans and specifications in accordance with this Agreement to the complete satisfaction of the Town of Pelham Fire Department and the Director of Public Works.

18.2 The Developer shall install, charge, test, and maintain fire hydrants as required by the approved Plans and specifications in accordance with this Agreement to the complete satisfaction of the Town of Pelham Fire Department and the Director of Public Works.

18.3 The water supply and distribution system shall be designed to accommodate residential and fire flows with the minimum size of 150 mm in diameter.

18.4 All water mains shall be flushed, chlorinated, pressure tested, and bacterial tested in accordance with Town standards and to the satisfaction of the Director of Public Works prior to approval of the Completion Certificate for Primary Services.

18.5 The operation of valves which cause the water mains within the Plan of Subdivision to be charged from existing municipal water mains SHALL ONLY be carried out by Town Staff. All work on water distribution system shall be performed in accordance with Ontario Regulation 170/03 made under the *Safe Drinking Water Act*, 2002, S.O. 2002, c.32, as amended and the Town's

DWWP and DWWL. The Town has an approved Quality Management System for the Pelham Distribution System and the Developer and its contractors shall be aware and informed of the Quality Management System.

18.6 The Developer shall, prior to the Director of Public Works approving the issuance of the Completion Certificate for Primary Services, supply the Director of Public Works with “as constructed drawings” showing the location and depth of the water connections constructed to service each of the Lots.

19. SIDEWALKS

19.1 The Developer shall, at its sole expense, construct, install and complete concrete sidewalks in accordance with the approved Plans filed and specifications therefor.

19.2 All sidewalks shall be deemed to be Secondary Services for the Plan of Subdivision and shall be completed within six (6) months of occupancy of each dwelling, except between November 15th and April 15th at which time the sidewalks must be installed as soon as possible, at the locations shown on the Plans and in accordance with the approved Subdivision Grade Control Plan or as amended by the Director of Public Works. The sidewalks are to be constructed in their entirety in block long sections.

20. DRIVEWAY APPROACHES

20.1 Each Lot and Block shall be serviced with a driveway approach constructed in accordance with the Plans filed to the complete satisfaction of the Director of Public Works.

20.2 The Developer shall provide driveway curb cuts and granular driveway access on the boulevard prior to occupancy of any Building. It shall be the responsibility of the Developer to ensure that driveway access is maintained at all normal times during the construction or maintenance of the Works.

20.3 All driveway approaches (aprons) between the curb line and the sidewalk, or in the absence of a sidewalk between the curb line and the Street Line, shall be installed and paved by the Developer by no later than the 1st day of November in the year after the year in which the Buildings served by the driveway approaches are occupied in accordance with the approved plans and specifications therefor prior to the Director of Public Works approving the Completion Certificate for Secondary Services.

20.4 All driveway approaches shall be constructed to the satisfaction of the Director of Public Works prior to the assumption of the Plan of Subdivision and no curbstops shall be allowed in driveways.

21. FENCING

The Developer shall, at its sole expense, construct fencing in accordance with the approved Plans filed and specifications therefor.

22. STREET AND TRAFFIC SIGNS

22.1 The Developer shall erect and maintain temporary traffic signs and such other traffic control devices to the satisfaction of the Director of Public Works during the construction period.

22.2 The Developer shall pay for all permanent street pavement markings, traffic signs and other traffic control devices as required by the approved Plans, in accordance with OTM Books 5 & 18 and to the satisfaction of the Director of Public Works, in accordance with Schedule “F” annexed hereto.

The Town shall be responsible to supply and install all permanent street and traffic control signs to the current standards of the Town.

23. ELECTRICAL DISTRIBUTION SYSTEM AND STREET LIGHTING

23.1 The Developer shall arrange with Niagara Peninsula Energy/Hydro One Networks Inc. for the design provision and installation of all electrical transmission and distribution system and street lighting system required to service all of the Lots shown on the Plan with electrical power in accordance with the plans and specifications therefor approved by Niagara Peninsula Energy/Hydro One Networks Inc. and the Director of Public Works. All such facilities shall be installed underground unless specific external systems are approved by Niagara Peninsula Energy/Hydro One Networks Inc. and the Director of Public Works. The cost of providing such facilities shall be borne by the Developer.

23.2 The Developer shall arrange with Niagara Peninsula Energy/Hydro One Networks Inc. for local electrical supply connections and appurtenances thereto from the distribution system to terminals on abutting private property. The wiring for such service connections shall be underground. The cost of providing such service connections and appurtenances shall be borne by the Developer and the Developer shall pay the cost thereof to Niagara Peninsula Energy/Hydro One Networks Inc. upon receipt of a statement of account therefor.

23.3 The Developer shall design and provide a decorative street lighting system to the satisfaction of the Director of Public Works and the Director of Community Planning and Development.

23.4 Prior to the Director of Public Works approving the Certificate of Final Acceptance for Primary Services, the Developer shall deliver to the Town satisfactory proof of installation and construction of the aforesaid electrical transmission and distribution system and the street lighting system, which shall have been approved and/or accepted by a utility supplier satisfactory to the Town, and upon Council passing the Assumption By-law the Town will assume the street lighting system into the Town’s street light inventory. Energizing of the street lights will be undertaken by Town staff.

24. UTILITY SERVICES

24.1 All Utility Services required to service the Plan of Subdivision, including, without restricting the generality of the foregoing, gas, electrical, telephone cables and coaxial cables, shall be installed underground from the source with pad-mounted transformers.

24.2 The Developer shall be responsible for providing, at its sole expense, Utility Services to each Lot and Block in accordance with the approved Plans. All Utility Services shall be installed and constructed prior to the Director of Public Works approving the Completion Certificate for Primary Services.

24.3 The Developer shall, prior to the Director of Public Works approving the issuance of the Completion Certificate for Primary Services, supply the Director of Public Works with “as constructed drawings” showing the location of all Utility Services required to service the Plan of Subdivision.

25. TREE PLANTINGS

25.1 In order to maintain a high standard of amenity and appearance, the

Developer, its heirs, executers, administrators, successors and assigns hereby undertake and agree to retain the maximum number of trees within the lands consistent with good design and conservation practices and the East Fonthill Secondary Plan Area Urban Design Guidelines and to provide tree plantings in accordance with the approved Streetscaping Plan to the satisfaction of the Director of Public Works in accordance with the following:

a) one (1) tree per Lot and two (2) trees per side yard flankage shall be planted in the sodded/hydroseeded portion of the street allowance between the Front Lot Line and the roadway in accordance with the Plans. Trees shall be sound, healthy, vigourous and free from disease with normally healthy root systems; and,

b) trees should be 50mm caliper, balled and burlapped at planting.

25.2 In accordance with Schedule "F" annexed hereto, prior to registration of this Agreement by the Town, the Developer shall provide security in the form of a Letter of Credit to the Town for Tree Planting within the subdivision, for the cost of replacing and maintaining trees within the Plan.

25.3 The Developer shall be solely responsible for acquiring and planting trees in accordance with the terms of this Agreement and in accordance with the approved Streetscaping Plan to the satisfaction of the Director of Public Works and shall deliver written notice to the Town that such work has been completed. All trees shall be planted within nine (9) months of occupancy on each respective lot.

25.4 The Developer shall be solely responsible for maintaining all tree plantings in a healthy state on boulevards until such time as Council passes an Assumption By-law.

25.5 Provided, however, that in the event the Developer does not plant trees in accordance with the provisions of this Agreement or within the prescribed time or to the complete satisfaction of the Director of Public Works, then the Town may, at its sole discretion, plant or replace or replant trees in accordance with the provisions of this Agreement and apply the above mentioned security against the Town's costs and/or collect such costs in like manner as municipal taxes.

26. LANDSCAPING

26.1 The Developer shall grade and place a minimum of one hundred (100) millimetres of topsoil with No. 1 nursery sod/hydroseed on all portions of road allowances in the Plan of Subdivision not covered by asphalt or sidewalks and along all sides of the Plan of Subdivision abutting on adjacent existing streets. All streetscaping shall be in accordance with the approved Plans to the satisfaction of the Director of Public Works. All sodding/hydroseeding as herein described shall be considered as part of the cost of construction of Secondary Services for the Plan of Subdivision and shall be completed at the time of or within three (3) months after the final sodding/hydroseeding of any Lot in accordance with the approved final lot grading certificate and prior to the Director of Public Works approving the Completion Certificate for Secondary Services. The Developer shall maintain all sod/hydroseed until Council passes the Assumption By-law.

26.2 The Developer is responsible for ensuring that each Lot or Block within the Plan of Subdivision is:

a) fine graded in accordance with the approved individual Lot Grading Plans for each lot; and,

b) sodded with No. 1 nursery sod or hydroseeded within six (6) months of initial occupancy of the Building, in all areas of the Lot or Block including front yards, side yard and rear yards not covered by structure, driveway or walkway; and that all sodding/hydroseeding is maintained until it has become established.

26.3 All drainage ditches, major overland flow drainage swales and depressions within the Plan of Subdivision shall be fine graded and hydroseeded and landscaped according to the East Fonthill Secondary Plan Area Urban Design Guidelines in accordance with the approved Channel Plans prior to the Town issuing any building permits. Prior to and during construction, silt traps are to be put in place until vegetation is established to prevent erosion and sedimentation, to the satisfaction of the Director of Public Works.

26.4 Unless exempted by the Director of Public Works, all lands conveyed to the Town (including but not limited to parks, channels, and stormwater management facilities) shall be serviced, hydroseeded, and landscaped in accordance with the approved Streetscaping, and Landscaping Plans. The improvements are considered as part of the Secondary Services of the Plan of Subdivision. Once the lands have been hydroseeded and landscaped and approved by the Director of Public Works the Town will maintain the lands.

27. EROSION AND SEDIMENTATION CONTROL

27.1 The Developer agrees to implement the approved erosion and sedimentation and control plans and lot grading and drainage plans to the satisfaction of the Town, Niagara Region, and Niagara Peninsula Conservation Authority.

27.2 The Developer agrees to re-vegetate or otherwise restore all disturbed areas immediately upon the completion of on-site grading to the satisfaction of the Town and the Niagara Peninsula Conservation Authority.

28. SUBDIVISION GRADING AND DRAINAGE

28.1 Unless otherwise approved or required by the Town, the Developer, its heirs, executors, administrators, successors and assigns hereby irrevocably undertake not to alter the grades or remove trees or other vegetation from the Lands until such time as:

a) the Town has agreed in writing to such alteration or removal; and,

b) the Town has approved the Subdivision Grading Plan pursuant to the terms of this Agreement and the Town's Lot Grading and Drainage Policy and amendments thereto; and,

c) prior to execution of this Agreement by the Town or commencing any phase of development, and in accordance with the Town's Lot Grading and Drainage Policy and amendments thereto, the Developer shall prepare and provide the Town, as part of the engineering drawings, a Subdivision Grading Plan for the purpose of controlling the overall drainage pattern in the Plan of Subdivision. The Subdivision Grading Plan shall be prepared in conformance with the Town's Lot Grading and Drainage Policy and amendments thereto.

28.2 Unless otherwise approved or required by the Town, the Developer, their heirs, executors, administrators, successors and assigns hereby irrevocably undertake not to alter the grades or remove trees or other vegetation from the Lands described in Schedule "A" until such time as the Director of Public Works has agreed in writing to such alteration or removal and the Director of Public Works has approved a Subdivision Grade Control Plan pursuant to the terms of this Agreement.

28.3 The following grading works shall be completed prior to the issuance of any Building Permits:

a) construction and hydroseeding of all major overland flow drainage swales and other erosion control devices to the satisfaction of the Director of Public Works for the Plan of Subdivision, subject to weather conditions; and,

b) rough grading of all Lots to generally conform to the Subdivision Grading Plan.

28.4 If drainage problems arise which are as a result of non-compliance with the requirements of the Town's Lot Grading and Drainage Policy and amendments thereto, the Developer shall within forty-eight (48) hours of receiving notice thereof correct the problems. Without limiting its remedies at law or in equity, the Town may enter upon the Lands to remedy any such problem and may use the Subdivider's Grading Deposit to cover the costs of any remedial works deemed necessary. Any costs of these remedial works in excess of the amount of the Subdivider's Grading Deposit shall be the responsibility of the Developer, and if not reimbursed to the Town forthwith after being incurred by the Town, the Town may collect such costs in like manner as municipal taxes as provided in the *Municipal Act* and with the same priorities as taxes that are overdue and payable.

28.5 The Developer shall deposit with the Town as security for carrying out the provisions of the Subdivision Grading Plan, in accordance with Schedule "F" annexed hereto, a Subdivider's Grading Deposit as required by the Town's Lot Grading and Drainage Policy and amendments thereto.

28.6 Upon completion of the Works and acceptance by the Town of a Subdivision Grading Conformance Certificate prepared and signed by an Ontario Land Surveyor or Professional Engineer, the Developer may apply in writing for release of the Subdivider's Grading Deposit, less any cost for remedial work undertaken by the Town.

28.7 The Developer shall register the following covenant on all Lots and Blocks contained within the Lands described in Schedule "A" and such registration shall occur at the time of or immediately after registration of the Agreement and shall submit proof to the Town that such covenant has been registered on all the Lots and Blocks within the Subdivision:

> *"No one shall interfere with the drainage swales or surface drainage pattern on a lot or block without explicit written permission from the Town's Director of Public Works. All swales are for storm water management purposes and it shall be the responsibility of the Owner to maintain the drainage across the lot or block in accordance with the approved grading plan. Should the Town find it necessary to enter upon the Lands to undertake any inspection of or any Works with regard to any drainage or storm water management works, the Town shall have such rights as are prescribed by the Subdivision Agreement dated the _____ day of _____, 2020 and registered the _____ day of _____, 2020."*

29. LOT GRADING AND DRAINAGE

29.1 Prior to the issuance of a Building Permit for a Lot or Block, the Owner or the Building Permit applicant shall submit to the Town three copies of a proposed Lot Grading Plan prepared by a Professional Engineer or an Ontario Land Surveyor and shall conform to the Subdivision Grading Plan.

29.2 Prior to issuance of a building permit for a Lot or Block, the Owner or the Building Permit applicant shall submit to the Town as security for carrying out the provisions of the Lot Grading Plan a Lot Grading Deposit in the amount of $1,000.00 per Lot or Block.

29.3 Upon acceptance of the Grading Conformance Certificate by the Town, the Owner or the Building Permit applicant may apply in writing for release of the Lot Grading Deposit, less any cost of remedial work performed by the Town.

29.4 The grading of a Lot or Block shall be considered complete when the building has been erected and such Lot or Block has been graded and sodded or hydroseeded. Sodding or hydroseeding shall be done within two months after occupancy of the dwelling or by the next June 1st following occupancy should occupancy take place after November 1st.

29.5 Upon completion of the grading, prior to landscaping or fencing, the Developer shall submit to the Town one copy of the Lot Grading Plan which shall indicate

the finished elevation as shown on the proposed Lot Grading Plan. This "as constructed" Lot Grading Plan shall be prepared and certified by a Professional Engineer or Ontario Land Surveyor.

29.6 Once the "as constructed" grading of a Lot has been certified and signed by an Ontario Land Surveyor or Professional Engineer to be in conformance with the latest revision of the Subdivision Grading Plan, the Lot Grading Plan if approved by the Town, shall be accepted and dated by the Town, as the "Grading Conformance Certificate."

29.7 The Developer, its heirs, executors, administrators, successors and assigns hereby irrevocably undertake to maintain the grading and drainage schemes as established and verified by the Grading Conformance Certificate and not to alter or revise the grading or drainage without the express written consent of the Director of Public Works or the Chief Building Official.

29.8 The Developer agrees that foundation drains shall be pumped by a sump pump in each house discharging via storm laterals. The Developer covenants and warrants that foundation drains will not be connected to the sanitary sewer system.

29.9 The Developer agrees that roof water drainage from any structure or building shall be directed via downspouts discharging via splash pads (concrete or other suitable material) to grass surfaces. These splash pads shall extend a distance at least 1.2 metres away from the structure and must direct the flow away from the building, not onto walks or driveways, and not towards adjacent property.

29.10 If required, the Developer agrees to submit a plan for approval to the Director of Public Works, detailing the basement control elevations for individual dwellings or structures within the Plan of Subdivision and to ensure compliance with approved basement control elevations.

30. PRIMARY SERVICES AND COMPLETION CERTIFICATE FOR PRIMARY SERVICES

30.1 The Developer shall proceed with the installation or construction of the work required hereunder with all reasonable dispatch and shall complete all of the Primary Services within one (1) year after the date of the registration of the Plan of Subdivision. The Director of Public Works may extend the time for the completion of the Primary Services or any of them for such length of time as they may deem expedient upon the written application of the Developer.

30.2 Primary Services installation will not be considered complete by the Town until an inspection has been made by the Director of Public Works, or designate, and the Completion Certificate for Primary Services has been issued by the Director of Public Works. The Director of Public Works shall be accompanied during their inspection by the Developer's Consulting Engineer. The Works shall be inspected and all deficiencies rectified to the complete satisfaction of the Director of Public Works, prior to the approval of the Completion Certificate for Primary Services.

30.3 The performance by the Developer of its obligations hereunder to the satisfaction of the Director of Public Works shall be a condition precedent to the acceptance by the Town of the Works or any of them.

30.4 Prior to the Director of Public Works approving the Completion Certificate for Primary Services, the documentation listed in Sections 30.5, 30.6, 30.7 must be provided to the Director of Public Works in a single submission package. Only one reduction shall be permitted prior to issuance of the final completion certificate.

30.5 The Developer's Consulting Engineer shall provide to the Director of Public Works:

a) certificate(s) verifying that all Primary Services were installed and constructed in accordance with approved plans and specifications;

b) certificate(s) stating that all water mains have been flushed, chlorinated and pressure tested in accordance with Town standards;

c) certificate(s) stating that all water main tracer wires have been tested and the new water distribution system can be traced;

d) certificate(s) stating that all fire hydrants servicing the development have been tested by a qualified hydrant testing agent;

e) copies of the hydrant test reports and fire flow test reports;

f) certificate(s) stating that all storm and sanitary sewers have been flushed after placement of base course asphalt, air pressure tested, and inspected and videoed via close circuit T.V.;

g) copies of the storm and sanitary sewer inspection video tape(s) and documentation;

h) certificate stating that the approved Tree Preservation Plan, if required, has been complied with including a Clearance Letter from the Region;

i) certificate(s) stating that all utility services required to service the Plan of Subdivision are installed & constructed or a letter of commitment to complete the utility services from utility companies;

j) certificate (Overall Grading Certificate) stating that rough grading and major drainage works or swales have been completed in accordance with the Subdivision Grade Control Plan;

k) the original drawings showing each of the said works "As Constructed" together with electronic drawing files in AutoCAD format and PDF format using Town of Pelham Drafting Standards; and,

l) plans (cards) showing the location and depth of each sanitary sewer lateral, storm sewer lateral and water service lateral constructed to service each of the Lots or Blocks.

30.6 The Developer shall provide the Director of Public Works with:

a) a Statutory Declaration from the Developer in a form satisfactory to the Director of Public Works setting out the Works completed and verifying:

1. all such works have been completed in accordance with the terms of this Agreement and the approved plan and specifications;

2. all accounts have been paid for installation, construction, inspection, repair and maintenance of such Works; and,

3. that there are no outstanding debts, claims, or liens in respect of such works.

30.7 The Developer shall provide the Town with the Maintenance Guarantee, as required by Section 38 hereof.

30.8 Subject to Sections 30.5, 30.6, 30.7 hereof, upon receipt of the required documentation and the Director of Public Works' satisfaction that the installation and construction of all Primary Services related to Town land has been completed in accordance with this Agreement and approved Plans, the Director of Public Works, shall date and approve the Completion Certificate for Primary Services.

31. SECONDARY SERVICES AND COMPLETION CERTIFICATE FOR SECONDARY SERVICES

31.1 With the exception of the asphalt surface course and the sodding/hydroseeding required by Sections 26.1 and 26.2, all Secondary Services, including hydroseeding and landscaping required by Sections 26.3 and 26.4, shall be completed within eighteen (18) months after the date of the registration of the Plan of Subdivision. The Director of Public Works may extend the time for completion of the Secondary Services or any of them for

such length of time as they may deem necessary upon the written application of the Developer.

31.2 The final asphalt surface course shall be completed no sooner than twenty-four (24) months and no later than thirty-six (36) months after issuance of the Completion Certificate for Primary Services or as directed by the Director of Public Works.

31.3 Secondary Services installation will not be considered complete by the Town until an inspection has been made by the Director of Public Works or designate and the Completion Certificate for Secondary Services has been issued by the Director of Public Works. The Director of Public Works shall be accompanied during their inspection by the Developer's Consulting Engineer. The Works shall have been inspected and all deficiencies rectified to the complete satisfaction of the Director of Public Works, prior to the approval of the Completion Certificate for Secondary Services.

31.4 The Town may withhold approval of a Completion Certificate if, in the sole opinion of the Director of Public Works, the Developer is in default of its obligations pursuant to this Agreement or the approved Plans.

31.5 Prior to the Director of Public Works approving the Completion Certificate for Secondary Services, the documentation listed in Sections 31.5 and 31.6 must be provided to the Director of Public Works in a single submission package. Only one reduction shall be permitted prior to issuance of the final completion certificate.

The Developer's Consulting Engineer shall provide to the Director of Public Works:

a) certificate(s) verifying that all secondary services have been installed, fully completed, repaired and maintained in accordance with approved plans and specifications; and,

b) if required, the original Drawings showing each of the said works" as constructed" together with electronic drawing files in AutoCAD format and PDF format using Town of Pelham Drafting Standards.

31.6 The Developer shall provide the Director of Public Works with a Statutory Declaration from the Developer in a form satisfactory to the Director of Public Works setting out the Works completed and verifying:

a) all such works have been completed in accordance with the terms of this Agreement and the approved plan and specifications;

b) all accounts have been paid for installation, construction, inspection, repair and maintenance of such Works; and,

c) that there are no outstanding debts, claims or liens in respect of such works.

31.7 Subject to Sections 31.5 and 31.6 hereof, upon receipt of the required documentation and the Director of Public Works' satisfaction that the installation and construction of all Secondary Services has been completed in accordance with this Agreement and approved Plans, the Director of Public Works shall date and approve the Completion Certificate for Secondary Services.

32. MAINTENANCE OF THE SUBDIVISION

32.1 Until the Town issues the Final Certificate of Completion of Services, the Town agrees to provide only snow plowing and sanding services on paved roads connected by paved road to a public roadway. The Developer shall provide all other services including, but not limited to, maintenance and repairs of sewers, water mains and appurtenances, storm water management facility, fencing (including silt fencing and control structures) and overland drainage systems. The Developer agrees that any service provided by the Town prior to actual acceptance of the roads by the Town shall not be deemed acceptance of the roads.

32.2 The Developer shall, at its own expense and to the satisfaction of the Director of Public Works, repair and maintain all Primary Services and other private services herein required to be installed or constructed for a minimum period of three (3) years from the date of issuance of the Completion Certificate of Primary Services or until the date of issuance of the Final Certificate of Completion of Services, whichever is later.

32.3 The Developer shall guarantee all Secondary Services including any repairs and maintenance performed by it pursuant to Section 32.2 or by the Town pursuant to Section 11.1 for a minimum period of twelve (12) months from the date of completion of said services, notwithstanding that the three (3) year period of maintenance provided under Section 32.2 may have elapsed.

32.4 The Developer shall be responsible for the general tidy appearance of the entire Lands until completion of all building, and carry out all weed cutting and maintenance on all unsold lands and all unassumed roads to the satisfaction of the Director of Public Works.

32.5 The Developer shall adequately maintain all roads, sidewalks and pedestrian walkways within the Plan of Subdivision free from mud, debris, building materials, and other obstructions, to the satisfaction of the Director of Public Works until Council passes an Assumption By-Law.

32.6 The Developer shall be responsible to control weeds and to maintain vacant lands free from debris, waste building materials, tree stumps, discarded boulders, and other refuse, and shall notify any purchaser, in writing, to refrain from dumping on such vacant lands, including lands dedicated by it to the Town for municipal purposes.

32.7 Should the Developer, for any reason, fail to carry out the repairs or maintenance, including weed control, when requested by the Town, the Director of Public Works, at their sole option, after giving the Developer twelve (12) hours written notice, may perform the repairs or maintenance and all costs, charges and expenses so incurred shall be borne by the Developer. The decision of the Director of Public Works shall be final as to the necessity of repairs or of any work done or required to be done. Any costs incurred by the Town not reimbursed by the Developer forthwith may be collected by the Town in like manner as municipal taxes as provided in the *Municipal Act* and with the same priorities as taxes that are overdue and payable.

32.8 The Developer's obligation to maintain the Works as aforesaid shall commence on the approval date of the Final Certificate of Completion of Services and extend for a minimum of one (1) year or until the Director of Public Works approves the Final Certificate of Completion of Services whichever occurs last (this period is herein referred to as the "Maintenance Guarantee Period").

32.9 The Maintenance Guarantee Period for Primary Services shall commence on the date the Director of Public Works approves the Completion Certificate for Primary Services. The Developer shall, at its own expense and to the satisfaction of the Director of Public Works, repair and maintain all Primary Services and other private services herein required to be installed or constructed for a minimum period of three (3) years from the date of issuance of the Completion Certificate for Primary Services or until the date of issuance of the Final Certificate of Completion of Services, whichever is later.

32.10 The Maintenance Guarantee Period for Secondary Services shall commence on the date the Director of Public Works approves the Completion Certificate for Secondary Services. The Developer shall guarantee all Secondary Services including any repairs and maintenance performed by it pursuant to Section 32.2 or by the Town pursuant to Section 11.1 for a minimum period of twelve (12) months from the date of completion of the said services, notwithstanding that the three (3) year period of maintenance provided under Section 32.2 may have elapsed.

33. CERTIFICATE OF FINAL ACCEPTANCE

33.1 After the expiry of the maintenance period provided for in Section 32.3 hereof, the Town shall, subject to the compliance by the Developer with Section 33.3 hereof, issue a Final Certificate of Completion of Services upon written application by the Developer provided, however, that the Town may withhold the issuance of the Final Certificate of Completion of Services if, in the sole opinion of the Director of Public Works, the Developer is in default of its obligations to repair, construct or maintain any of the Works pursuant to this Agreement. Upon expiration of the three year Maintenance Guarantee Period for Primary Services or the one year Maintenance Guarantee Period for Secondary Services and upon receipt of written application by the Developer, the applicable Works will be inspected by the Director of Public Works, and provided all deficiencies have been rectified to his satisfaction and the Developer is not in default of the terms of this Agreement, the subject Works shall be accepted by the Town and the Director of Public Works shall approve the Certificate of Final Acceptance prepared by the Developer's Consulting Engineer provided the requirements of the Certificate of Final Acceptance have been met.

33.2 The Developer is required to submit a certificate from a registered Ontario Land Surveyor certifying they have found and/or replaced all standard iron bars (SIB's) shown on the registered Plan of Subdivision as of a date not earlier than seven days prior to the Director of Public Works approving the Certificate of Final Acceptance for Secondary Services.

33.3 The application, in writing, by the Developer for the Final Certificate of Completion of Services shall include the following:

a) a statutory declaration in a form satisfactory to the Director of Public Works that all accounts for the installation, construction and maintenance of all the Works required to be installed or constructed hereunder have been paid and that there are no outstanding debts, claims or liens in respect of the Works of any of them; and,

b) a Certificate in a format acceptable to the Director of Public Works signed by the Developer's Consulting Engineer certifying that all the Works including any repairs and deficiencies have been fully completed, inspected, tested and maintained in accordance with the provisions hereof and the standards and specifications of the Town and the Plans as approved by the Director of Public Works.

33.4 If upon inspection of the Works all deficiencies have not been rectified to the complete satisfaction of the Director of Public Works, the Maintenance Guarantee Period shall be extended until such time as all deficiencies have been rectified and the Certificate of Final Acceptance has been approved by the Director of Public Works.

33.5 The Director of Public Works may withhold approval of a Certificate of Final Acceptance for Primary or Secondary Services, if, in the sole opinion of the Director of Public Works, the Developer is in default of its obligations to inspect, repair, construct, or maintain any of the Works pursuant to this Agreement and the approved Plans.

33.6 The issuance by the Town of the Final Certificate of Completion of Secondary Services may be withheld until eighty-five percent (85%) of the Lots have been built upon with Buildings completed to the *Building Code Act* occupancy requirements and the final grading certificates for the Lots have been approved by the Director of Public Works.

33.7 Upon the issuance of the Final Certificate of Completion of Primary and Secondary Services, the Director of Public Works shall recommend to Council that the Town assume by By-law the Primary and Secondary Services within the Plan of Subdivision as required to be constructed or installed under this Agreement.

34. ASSUMPTION OF MUNICIPAL SERVICES

The Developer hereby acknowledges that upon assumption by the Town of the municipal services required to be installed and constructed by this Agreement and the approved Plans, all such municipal services shall wholly vest in the Town without payment therefor, free and clear of all claims and liens and the Developer shall have no right, title or interest therein. Municipal services shall be assumed by the Town by Council passing an Assumption By-law after the Director of Public Works approves the Certificate of Final Acceptance for Primary Services and the Certificate of Final Acceptance for Secondary Services.

35. BUILDING PERMITS AND OCCUPANCY

35.1 The Developer/Owner covenants and agrees not to apply for building permits until:

a) all Primary Services (including roadways to base asphalt and curbs) have been completed and are operational and a Completion Certificate for Primary Services has been approved to the satisfaction of the Director of Public Works;

b) the Town has on file an approved Subdivision Grading Plan;

c) the Developer has completed the following grading works:

i) rough grading of all Lots and Blocks to generally conform to the Subdivision Grading Plan;

ii) construction and hydroseeding of all major overland flow drainage swales and other erosion control devices deemed necessary by the Town for the Lands;

d) the Town has on file an approved Proposed Lot Grading Plan;

e) the Town is in receipt of all applicable fees and deposits including, without limiting the generality of the foregoing:

i) development fees at the prevailing rate as prescribed by the Town's Development Charges By-Law 3527 (2014) and amendments thereto;

ii) the Lot Grading Deposit;

iii) Building Permit application fee;

iv) Plumbing Permit application fee;

v) water meter fee;

vi) service main connection application and fee, if applicable; and,

vii) any other fees, deposits or payments required under this Agreement or as otherwise provided for under any other executed agreement between the Town and the Developer;

f) the Town's Fire Department has confirmed that an adequate water supply for firefighting operations and satisfactory access for firefighting equipment is available to service the Lands;

g) the Town is satisfied all terms and conditions of this Agreement have been complied with insofar as they apply at that point in time;

h) the Developer/Owner has paid or otherwise satisfied all development charges required by the Development Charges By-Law of the Town of Pelham, and the Development Charges By-Law of the Regional Municipality of Niagara, and the Development Charge of the Niagara District Catholic School Board; and,

i) the Developer/Owner has otherwise complied with all applicable law.

35.2 The Developer/Owner agrees to comply with the East Fonthill Secondary Plan Area Urban Design Guidelines. The building's licensed Architect/Designer shall provide their stamp and a statement on the submitted plans that indicates the building complies with the East Fonthill Secondary Plan Area Urban Design Guidelines.

35.3 Notwithstanding anything herein contained, the Town may refuse to issue building permits if there is an existing default in any of the provisions of this Agreement.

35.4 Prior to making any connections, if required, to existing municipal services the Developer/Owner shall submit to the Town, completed Connection Permit applications and applicable fees for connection to existing sewer or water mains. No connection shall be made until the Connection Permits are approved by the Town's Public Works Department.

35.5 The Developer acknowledges and confirms that all charges, payments, Works to be constructed or installed, studies to be carried out and all other obligations contained in this Agreement or the cost thereof (except where a charge is referred to herein as "a development charge" are characterized as:

a) services installed or provided at the expense of the Developer within the Plan of Subdivision, as a condition of approval under Section 51 of the *Planning Act*; or

b) services denoted on approved Plans or specifically noted in the Agreement for which the Developer is making no claim for credits under the Development Charge By-law except as otherwise provided for under other agreements between the Town and the Developer; and,

c) are not charges related to development within the meaning of the *Development Charges Act*, *1997* except as otherwise provided for under other agreements between the Town and the Developer.

35.6 Except as otherwise provided for under other agreements between the Town and the Developer, the Developer hereby releases and forever discharges the Town from any and all claims for credit against development charges payable hereunder or payable at the issuance of a building permit or permits for construction within the Plan of Subdivision and the Developer hereby waives all such claims for credits except for the credits that may be specified in any schedule forming part of this Agreement. Any such credits so specified herein and the calculation thereof shall be deemed to be conclusive and binding on the Developer.

35.7 The Developer/Owner may construct 20 model units once the following Primary Services are completed: roads (base coat asphalt), watermain, and sanitary sewers.

35.8 Unless otherwise determined by the Chief Building Official, no dwelling, including model units, shall be occupied:

a) until the Director of Public Works has approved the Completion Certificate for Primary Services;

b) until the Town has on file a Grading Conformance Certificate for the Lot; and,

c) until a final inspection has been completed and a Letter of Occupancy is issued by the Chief Building Official.

35.9 The Developer/Owner agrees to pay all applicable permit fees and unless otherwise satisfied pursuant to the terms of other agreements between the Town and the Developer, any development charges for the buildings or

structures constructed as model units, and shall otherwise comply with Section 35 herein, prior to a Letter of Occupancy being issued for said units.

35.10 All new homes constructed shall be equipped with water meters at the sole expense of the Developer/Owner.

36. TENDERS, INSURANCE, AND BONDING

36.1 If required by the Town, the Developer shall call for tenders for the Works in accordance with the Town's Procurement Policy. Where the Town requires the Developer to call for tenders, any tender proposed to be accepted by the Developer shall not be accepted until same has been approved in writing by the Director of Public Works.

36.2 Prior to commencement of any Works, the Developer shall, at its own expense, provide the Town with:

a) a certified copy of the Developer's third party All Perils and Liability Insurance Policy naming the Town as an additional insured in a form satisfactory to the Town as follows:

(i) a limit of liability of not less than five million dollars ($5,000,000.00) or such greater amount as the Director of Public Works deems advisable;

(ii) inclusion of the Town, its agents and servants and the Regional Municipality of Niagara as additional named insureds;

(iii) a provision for cross liability in respect of the named insureds;

(iv) non-owned automobile coverage with a limit of at least five million dollars ($5,000,000.00) including contractual non-owned coverage;

(v) completed operations coverage;

(vi) that sixty (60) days prior notice, of any alteration, cancellation or change in policy terms which reduces coverage, shall be given in writing to the Town; and

(vii) owner's protective coverage.

b) a Certificate from the Worker's Safety Insurance Board certifying the contractor is in good standing with the Board; and,

c) satisfactory evidence the contractor is qualified, experienced and has the equipment to successfully complete the Works.

37. SECURITY DEPOSITS AND REFUNDS

<u>Security Deposits</u>

37.1 The Developer shall be responsible for the full amount of the cost for the design, construction, installation, servicing and maintenance of the Works for the Plan of Subdivision together with all Town inspection charges, administrative and consulting fees, engineering and legal costs and in order to guarantee compliance with all conditions contained herein, the Developer shall be required to post security and cash payments, in a form satisfactory to the Town, on accounts of aforesaid costs, charges and fees in accordance with Schedule "F" annexed hereto prior to execution of this Agreement by the Town. The security should be in the form of a standby Letter or Letters of Credit with **automatic renewal provision,** in a form approved by the Town. The Developer covenants and agrees that the Letter of Credit shall be kept in full force and effect and that it will pay all premiums as the Letter of Credit

becomes due or until such time as the Town returns the Letter of Credit in accordance with the provisions of this agreement.

37.2 The Developer acknowledges and agrees that should there be a deficiency in or failure to carry out any work or matter required by any provision of this Agreement, whether or not such work or matter is specifically secured by way of Letter of Credit, and the Developer fails to comply within seven (7) days of being given written notice with a direction to carry out such work or matter, the Town may draw on the Letter of Credit and enter onto the Lands and complete all outstanding works or matters, and pay all costs and expenses incurred thereby from the proceeds so drawn.

37.3 The Developer acknowledges and agrees that the Town reserves the right to draw on and use the proceeds from the Letters of Credit to complete any work or matter required to be done by the Developer pursuant to this Agreement. The Developer further acknowledges and agrees that, notwithstanding any provision to the contrary in this Agreement specifying the reduction or release of security, in the event that the Town determines that any reduction in the Letter of Credit would create a shortfall with respect to securing the completion of any work or matter remaining to be carried out by the Developer pursuant to this Agreement, the Town will not be obligated to reduce or release the Letter of Credit as by the particular provision until such time as such work is satisfactorily completed, or the Town has sufficient security to ensure that such work will be completed.

37.4 Whenever in this Agreement a Letter of Credit is required to be filed with the Town, the Developer may instead deposit cash or a certified cheque to be cashed in an amount equal to the Letter of Credit and such deposit shall be held by the Town as security in accordance with this Agreement provided that no interest shall be payable on any such deposit.

37.5 The Developer acknowledges that upon the transfer of any ownership of the Lands, the Town will not return any Letters of Credit or cash deposit required under this Agreement until the new Developer files a substitute Letter or Letters of Credit or cash or certified cheque in the required amounts with the Town.

37.6 The Developer acknowledges that for the purpose of determining the amount of security to be posted prior to execution, the Developer's Engineer shall provide the Town with an estimate of the cost of design, construction, supervision, inspection and maintenance of all Works. Security to be posted for Primary Services and Secondary Services and to cover Town inspection charges, engineering, administrative, legal, and consulting fees shall be calculated, in a manner satisfactory to the Director of Public Works, on the basis of the Developer's Engineer's estimated cost of design, construction, supervision, inspection and maintenance of all Works as set out in Schedule "F" annexed hereto. If in the opinion of the Town the cost estimate does not reflect current costs, the Town reserves the right to modify the estimate.

37.7 From time to time, upon written request, the Developer's Engineer shall be required to certify in writing the actual cost of design, construction and maintenance of all Works installed and constructed to date, and the estimated cost of all outstanding Works, and the Director of Public Works may adjust the amount of security required if the actual cost of construction of all Works, installed and constructed to date or the estimated cost of all outstanding Works exceeds the original estimated costs as set out in Schedule "F" annexed hereto by twenty percent (20%) of the original estimates or tender costs and the Developer shall be required to obtain, and the Developer hereby covenants to obtain, an amendment to the security to give effect thereto. In the event the Developer fails to increase the amount of security within fourteen (14) days of receipt of aforesaid written notice, then the Developer shall be deemed to be in Final Default of the terms and conditions of this Agreement.

37.8 Whereas the East Fonthill Secondary Plan shows land for parkland on lands to the west also owned by the developer; and whereas the Developer is required to fulfill the requirements of Parkland Dedication prior to the

registration of the Plan of Subdivision, the Developer agrees to provide a security deposit equal to 5% of the appraised value of the land (please refer to Schedule F) for cash-in-lieu of parkland less the lands to be conveyed to the Town for park purposes (Blocks 40 and 39). The security deposit shall be provided for a period of no more than 5 years or until a Plan of Subdivision is registered for the lands to the west and land for parkland dedication is transferred to the Town. In the event that the Plan of Subdivision is not registered for the lands to the west within 5 years of the registration of the Plan of Subdivision for Saffron Meadows, the Town will draw on the letter of credit for the amount calculated for cash-in-lieu of parkland dedication and deposit the funds as cash-in-lieu of parkland dedication.

Cash Payments

37.9 Prior to the execution of this Agreement by the Town, as security for payment of services to be rendered by the Town and its agents as required by this Agreement, and for presently outstanding payments owing to the Town, the Developer shall, in accordance with Schedule "F" annexed hereto, deposit with the Town cash payment and cash security as set out in Schedule “F”, which security shall include, but not be limited to the following:

a) a cash amount to secure the Town’s engineering, administrative consulting and legal costs for this Agreement, approval of the Plans, and enactment of by-laws in accordance with the Town’s applicable Fees and Charges By-law.

b) a cash amount to cover the Town's cost to supply and install street name and traffic control signage at the rate of five hundred dollars ($500.00) per sign; and

c) a cash amount to cover all arrears of taxes and all current taxes and all local improvement charges assessed against the Lands described in Schedule “A” annexed hereto.

Letters of Credit

37.9 Before commencing any of the Works provided for in this Agreement, the Developer will deposit with the Town a Letter of Credit drawn upon a chartered bank in favour of the Town and in a form satisfactory to the Treasurer, in an amount approved by the Director of Public Works and/or Director of Community Planning and Development, which Letter of Credit shall be sufficient to guarantee the satisfactory completion of the Works or any portion of the Works as established by the Town in its sole discretion, and payments or any part thereof required to be made by this Agreement, and will, without restricting the generality of the foregoing, guarantee the following:

(1) payment of twenty percent (20%) of the approved estimated costs of the construction of the Primary Services to service the Lands, plus one hundred and twenty percent (120%) of the approved estimated construction costs of the Secondary Services upon the Lands as shown in Schedule "F" annexed hereto; and,

(2) payment of one hundred percent (100%) of any other payments or Works as may be required of the Developer by the Town pursuant to this Agreement.

37.10 The amount of the Letter of Credit required hereunder shall not be reduced unless all of the conditions of this Agreement are complied with and the estimated costs of rectifying any outstanding deficiencies, as estimated in the sole discretion of the Director of Public Works, plus one hundred and twenty percent (120%) of the estimated costs of the completion of all outstanding Primary Services and Secondary Services plus all other outstanding costs payable under this Agreement, plus the Maintenance Guarantee as required under Section 38 of this Agreement, plus any *Construction Lien Act* requirements are all, in total, less than the amount of the Letter of Credit held

by the Town. In such an instance, the amount of the Letter of Credit may, at the sole discretion of the Director of Public Works be reduced to an amount equal to the total of all amounts set out above. Only one reduction shall be permitted prior to issuance of the final completion certificate. Such reduction shall be based on the following:

(1) progress certificates from the Developer's Consulting Engineer setting forth the cost of the Works completed and paid to date and the cost of unfinished Works;

(2) a request for reduction in the amount of the Letter of Credit in a form approved by the Director of Public Works and/or Director of Community Planning and Development; and,

(3) proof of payment in a form satisfactory to the Director of Public Works and/or Director of Community Planning and Development of the amounts paid on account of the completed Works to the date of the application for reduction.

37.11 Notwithstanding anything herein contained, the amount of the Letter of Credit shall at all times be sufficient to cover the balance of the costs of the completion of the unfinished Works, including Works deferred for extended periods and the requirements of the *Construction Lien Act.*

37.12 The Developer shall pay the cost of the Works and the fees of the Developer's Consulting Engineer and the Ontario Land Surveyor.

38. MAINTENANCE GUARANTEE

38.1 The Letter of Credit deposited by the Developer pursuant to Section 37 hereof may, upon the completion of the Primary Services, and prior to the assumption of the Works by the Town, at the Director of Public Works discretion, be reduced to an amount equal to ten percent (10%) of the completed Works (Schedule "F") plus one hundred and twenty per cent (120%) of the value, as estimated by the Director of Public Works, of any uncompleted Works and such Letter of Credit shall be retained by the Town as a Maintenance Guarantee to guarantee the workmanship and materials of the Works until such time as the maintenance guarantee periods as provided for in Sections 32.2 and 32.3 have both expired.

38.2 The Letter of Credit may be realized upon by the Town if the Developer defaults in any payment or condition contained herein.

38.3 The Developer shall be conclusively deemed to be in breach of the covenant if, in the case of the cost of the Works or the fees of the Owner’s/Developer's Consulting Engineer and the Ontario Land Surveyor, a lien against the Lands or any part thereof is preserved pursuant to the *Construction Lien Act* and if, in the case of any other payment required to be made under this Agreement, a notice to that effect is forwarded to the Developer by the Director of Public Works in accordance with Section 39.2 hereof.

39. DEFAULT

39.1 Upon breach by the Developer of any covenant, term, condition or requirement of this Agreement, or upon the Developer becoming insolvent or making an assignment for the benefit of creditors, the Town, at its option, may declare that the Developer is in default.

39.2 Notice of such default ("Notice of Default") shall be given by the Town and if the Developer does not remedy such default within such time as provided in the notice, the Town may declare that the Developer is in final default under this Agreement and shall then forthwith give notice of final default ("Notice of Final Default") thereof to the Developer.

39.3 Upon Notice of Default having been given, the Town may require all work by the Developer, their servants, agents, independent contractors, and sub-

contractors to cease (other than any work necessary to remedy such default) until such default has been remedied and in the event of final default, may require all work as aforesaid to cease.

39.4 Upon Notice of Final Default having been given to the Developer, the Town may, at its option, adopt or pursue any or all of the following remedies, but shall not be bound to do so:

a) enter upon the Lands shown on the Plan of Subdivision by its servants, agents and contractors and complete any work, services repairs or maintenance wholly or in part required herein to be done by the Developer and collect the cost thereof from the Developer and/or enforce any security available to it;

b) make any payment which ought to have been made by the Developer and upon demand collect the amount thereof from the Developer and/or enforce any security available to it;

c) retain any sum of money heretofore paid by the Developer to the Town for any purpose and apply the same in payment or part payment for any work which the Town may undertake;

d) assume any work or services at its option, whether the same are completed or not, and thereafter the Developer shall have no claim or title hereto or remuneration therefore;

e) bring action to compel specific performance of all or any part of this Agreement or for damages;

f) add any costs incurred by the Town to the tax collector's roll for the Lands and collect such costs by action or in like manner as municipal real property taxes; or,

g) exercise any other remedy granted to the Town under the terms of this Agreement or available to the Town in law.

39.5 Developer shall be deemed to be in Final Default if:

a) the Town receives written notice from the Bank of its intension to not renew the Letter of Credit;

b) the Developer has not made provision for renewal at least thirty (30) days prior to the date of maturity of any Letter of Credit posted;

c) the Town receives written notice from the insurance company or the Developer’s agent that any insurance policy filed by the Developer with the Town is being altered, cancelled, or allowed to lapse;

d) the Developer has not made provision for renewal at least thirty (20) days prior to the date of expiry of any insurance policy, Performance and Maintenance Bond, or Labour and Material Payment Bond;

e) upon sale of the Lands the new Developer has not delivered to the Town, replacement security deposits; or,

f) the Developer fails to increase security as required by the provisions of this Agreement.

40. INDEMNIFICATION

Until the Town passes a By-law assuming the Streets shown on the Plan, the Developer, on behalf of itself, its successors and assigns, including its successors in title of the Lands in the Plans of Subdivision, hereby releases and discharges and indemnifies the Town from and against all actions, causes of action, suits, claims and demands whatsoever which may arise by reason of:

a) any alteration of the existing grade or level of any Street or Streets on

the Plan to bring the said grade or level in conformity with the grade or level required by the Director of Public Works; and,

b) any damage to the Lands abutting on any Street or Streets shown on the Plan or to any Building erected thereon arising from or in consequence of any such alteration of grade or level; and,

c) any damages or injuries (including death) to persons or damage to property occurring or arising on any Street or Streets on the Plan however caused.

41. COVENANTS THAT RUN WITH THE LAND

The Developer and the Town acknowledge and agree that it is their intent that all the terms, conditions and covenants contained herein shall be covenants that run with the land and that the burden of such covenants shall be binding upon the Developer, their successors and assigns, and successors in title, from time to time, of the Lands described in Schedule "A" of this Agreement and any part or parts thereof and that the benefits of the said covenants shall enure to the Town, its successors and assigns in title of all roads, Streets and public lands forming part of or abutting on the Lands described in Schedule "A".

42. NOTICE

All notices required or permitted to be given by one party to the other shall be given in writing either by prepaid registered mail or delivered personally addressed, in the case of the Town to:

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

and in the case of the Developer to:

Hert Inc.
Attn: Richard DeKorte
273 Welland Road
Pelham, ON L0S 1C0

or at such other addresses as may be given by either of them to the other in writing from time to time, and such notices shall be deemed to have been received, if mailed, on the third day following that on which it was so mailed and if delivered, on the day of such delivery.

43. SCHEDULES

The Schedules annexed hereto, being Schedules “A” to “I” inclusive, are a part of this Agreement. All Schedules are to be interpreted as if the contents thereof were included in the Agreement.

44. SPECIAL PROVISIONS

The Developer shall undertake and complete all other special provisions to this Agreement, as outlined in Schedule "H" which forms part of this Agreement.

45. NUMBER AND GENDER

In this Agreement, unless there is something in the subject-matter or context inconsistent therewith:

a) Words in the singular number include the plural and such words shall be construed as if the plural had been used;

b) Words in the plural include the singular and such words shall be construed as if the singular had been used; and,

c) Words importing the use of any gender shall include all genders where the

context or party referred to so requires, and the rest of the sentence shall be construed as if the necessary grammatical and terminological changes had been made.

46. BINDING EFFECT

This Agreement and everything herein contained shall enure to the benefit of and be binding upon the successors and assigns of the Parties hereto and upon those persons and/or corporations hereafter acquiring title to all or any part of the Lands.

IN WITNESS WHEREOF THE Parties hereto have executed this Agreement as of the date and year first above written.

SIGNED, SEALED AND DELIVERED IN THE PRESENCE OF:

) **HERT INC.**
)
)
) Print Name: _____
)
)
) Signature:_____
)
) ☐ I have authority to bind the Corporation.
)
)
) **THE CORPORATION OF THE TOWN OF**
) **PELHAM**
)
)
) _____
) Marvin Junkin, Mayor
)
)
) _____
) Nancy J. Bozzato, Clerk

S C H E D U L E "A"

LEGAL DESCRIPTION

64067-0297 (LT)

Part of Lot 171, Geographic Township of Thorold; Town of Pelham, Regional Municipality of Niagara; All of Blocks 39 and 40, Part of Block 41 (Street Widening) and part of Lymburner Street are Subject to Easement as in SN522825; Part of Lymburner Street and Part of Block 36 are Subject to Easement as in SN560564 and SN560567; Part of Block 36 is Subject to Easement as in SN5600568; Parts 1-28 and Blocks 29-38 on Plan 59M- \.

S C H E D U L E "B"

LANDS CONVEYED FOR PUBLIC PURPOSES

All references to Blocks and Lots relate to 59M-_____.

The Developer shall convey free and clear of all encumbrances and at its own expense the following lands to The Corporation of the Town of Pelham:

1. Block 37 for environmental protection purposes.
2. Blocks 39 and 40 for park purposes as 6.0 m wide trail blocks.
3. Block 42 for 0.3 metre reserve.

The Developer shall convey free and clear of all encumbrances and at its own expense the following lands to The Corporation of the Regional Municipality of Niagara:

1. Block 41 for 3.0 metre road widening of Regional Road 54 (Rice Road).

S C H E D U L E "C"

REQUIRED MUNICIPAL EASEMENTS

All references to Parts, Blocks, and Lots relate to 59R- _____.

The Developer shall convey free and clear of all encumbrances and at its own expense, an easement to The Corporation of the Town of Pelham; over, under and through:

1. Part 1, part of Lot 2, for storm water purposes
2. Part 2, part of Lot 3, for storm water purposes
3. Part 3, part of Lot 7, for storm water purposes
4. Part 4, part of Lot 8, for storm water purposes
5. Part 5, part of Lot 10, for storm water purposes
6. Part 6, part of Lot 11, for storm water purposes
7. Part 7, part of Block 29, for storm water purposes
8. Part 8, part of Block 30, for storm water purposes
9. Part 9, part of Block 30, for storm water purposes
10. Part 10, part of Block 31, for storm water purposes
11. Part 11, part of Lot 22, for storm water purposes
12. Part 12, part of Lot 21, for storm water purposes
13. Part 13, part of Block 37, for storm water purposes

S C H E D U L E "D"

REQUIRED UTILITY EASEMENTS

All references to Parts, Blocks, and Lots relate to 59R- _____.

The Developer shall convey free and clear of all encumbrances and at its own expense, an easement to _N/A___; over, under and through:

S C H E D U L E "E"

LIST OF APPROVED DRAWINGS

1. General Notes and Details Plan, prepared by Upper Canada Consultants, dated January 10, 2020, revised January 10, 2020, as Drawing No. 0478-GND, or the latest revision thereof.

2. Saffron Meadows General Servicing Plan 1, prepared by Upper Canada Consultants, dated January 10, 2020, revised January 10, 2020, as Drawing No. 0478-GSP1, or the latest revision thereof.

3. Saffron Meadows General Servicing Plan 2, prepared by Upper Canada Consultants, dated January 10, 2020, revised January 10, 2020, as Drawing No. 0478-GSP2, or the latest revision thereof.

4. Saffron Meadows, Walker Rd from Rice Rd to 0+200 Plan and Profile, prepared by Upper Canada Consultants, dated January 10, 2020, revised January 10, 2020, as Drawing No. 0478-PP1, or the latest revision thereof.

5. Saffron Meadows, Swan Ave from Walker Road to Myrtle Street Plan and Profile, prepared by Upper Canada Consultants, dated January 10, 2020, revised January 10, 2020, as Drawing No. 0478-PP2, or the latest revision thereof.

6. Saffron Meadows, Swan Ave from Myrtle Street to 0+420 Plan and Profile, prepared by Upper Canada Consultants, dated January 10, 2020, revised January 10, 2020, as Drawing No. 0478-PP3, or the latest revision thereof.

7. Saffron Meadows, Lymburner Street from Swan Ave to Acacia Road Plan and Profile, prepared by Upper Canada Consultants, dated January 10, 2020, revised January 10, 2020, as Drawing No. 0478-PP4, or the latest revision thereof.

8. Saffron Meadows, Acacia Road from Lymburner Street to 0+400 Plan and Profile, prepared by Upper Canada Consultants, dated January 10, 2020, revised January 10, 2020, as Drawing No. 0478-PP5, or the latest revision thereof.

9. Saffron Meadows, Myrtle Street from Rice Road to Swan Ave Plan and Profile, prepared by Upper Canada Consultants, dated January 10, 2020, revised January 10, 2020, as Drawing No. 0478-PP6, or the latest revision thereof.

10. Saffron Meadows, South Stormwater Management Facility from 0+000 to 0+240 Plan and Profile, prepared by Upper Canada Consultants, dated January 10, 2020, revised January 10, 2020, as Drawing No. 0478-PP7, or the latest revision thereof.

11. Saffron Meadows, North Stormwater Management Facility from)+000 to 0+160 Plan and Profile, prepared by Upper Canada Consultants, dated January 10, 2020, revised January 10, 2020, as Drawing No. 0478-PP8, or the latest revision thereof.

12. Saffron Meadows, Storm Sewer from Walker Rd to Lymburner St to Myrtle St Plan and Profile, prepared by Upper Canada Consultants, dated January 10, 2020, revised January 10, 2020, as Drawing No. 0478-PP9, or the latest revision thereof.

13. Saffron Meadows, Grading Plan 1, prepared by Upper Canada Consultants, dated January 10, 2020, revised January 10, 2020, as Drawing No. 0478-GP1, or the latest revision thereof.

14. Saffron Meadows, Grading Plan 2, prepared by Upper Canada Consultants, dated January 10, 2020, revised January 10, 2020, as Drawing No. 0478-GP2, or the latest revision thereof.

15. Saffron Meadows, Streetscape Plan 1, prepared by Upper Canada Consultants,

dated January 10, 2020, revised January 10, 2020, as Drawing No. 0478-SS1, or the latest revision thereof.

16. Saffron Meadows, Streetscape Plan 2, prepared by Upper Canada Consultants, dated January 10, 2020, revised January 10, 2020, as Drawing No. 0478-SS2, or the latest revision thereof.

17. Saffron Meadows, Linepainting Plan, prepared by Upper Canada Consultants, dated January 10, 2020, revised January 10, 2020, as Drawing No. 0478-LP, or the latest revision thereof.

18. Saffron Meadows, Sanitary Drainage Area Plan, prepared by Upper Canada Consultants, dated January 10, 2020, revised January 10, 2020, as Drawing No. 0478-SANDA, or the latest revision thereof.

19. Saffron Meadows, Storm Drainage Area Plan, prepared by Upper Canada Consultants, dated January 10, 2020, revised January 10, 2020, as Drawing No. 0478-STMDA, or the latest revision thereof.

20. Saffron Meadows, Phase 1 and 2 Streetlighting System, prepared by RTG Systems Inc., dated August 11, 2017 and revised to January 8, 2020, as Drawing No. SL-1, or the latest revision thereof.

21. Saffron Meadows, Block 85 Open Space Edge Management Plan Edge Planting Plan, dated December 2018 and revised to December 20, 2018, as Drawing L-2, or the latest revision thereof.

22. Saffron Meadows, Block 85 Open Space Edge Management Plan Planting Details, dated December 2018 and revised to December 20, 2018, as Drawing L-3, or the latest revision thereof.

S C H E D U L E "F"

FINANCIAL OBLIGATIONS AND COST OF CONSTRUCTION

PRIMARY SERVICES				
General grading			$121 180.00	
Sanitary system			$176 031.25	
Water system			$193 735.00	
Storm system			$334 219.85	
Block #37 Tree Protection and Removal Plan			$7 509.00	
Block #37 Edge Planting Plan			$7 467.00	
Preliminary Roads			$348 395.00	
Street lights			$104 585.00	
Subtotal for Primary Security Purposes			**$1 293 122.10**	
Contingencies (5%)			$64 656.11	
Engineering (10%)			$129 312.21	
Subtotal Primary Servicing, Engineering and Contingency			**$1 487 090.42**	
TOTAL PRIMARY SERVICES COST			**$1 487 090.42**	
Letter of Credit for Primary Services (20%)			**$297 418.08**	(1)
SECONDARY SERVICES				
Hot mix asphalt including clearing and sweeping, flushing, removal of filets, padding and adjustments of manholes, water valves and appurtenances			$64 450.00	
Concrete sidewalk including wheelchair ramps			$110 500.00	
Tactile warning strips			$6 300.00	
Asphalt driveway aprons			$76 800.00	
Topsoil and sod boulevards			$35 200.00	
Tree planting	6	Each $350	$23 800.00	
Curb and Gutter at catchbasins or double catchbasins			$3 000.00	
Multi-use pathway fronting Rice Road			$48 000.00	
Line painting			$7 500.00	
Galvanized steel woodlot information sign			$300.00	
Subtotal for Secondary Security Purposes			**$376 850.00**	
Contingencies (5%)			$18 842.50	
Engineering (10%)			$37 685.00	
Subtotal Secondary Servicing, Engineering and Contingency			**$433 377.50**	
TOTAL SECONDARY SERVICES COST			**$433 377.50**	
Letter of Credit for Secondary Services (120%)			**$520 053.00**	(2)
Parkland Dedication (2.57% of Value of Phase 2 Land)			$224 529.22	(3)
TOWN FEES				
Town Administration Fee- Subdivision Agreement Fee			$76 654.38	(4)
Singer's Drain Allotment	5.33 ha	$1 200 /ha	$6 396.00	(5)
Street Signs	6	each $500	$3 000.00	(6)
Traffic Signs- stop signs	3	each $500	$1 500.00	(7)
Boulevard Trees- Rice Road	33	each $500	$16 500.00	(8)
SUMMARY			$104 050.38	
LETTER OF CREDIT REQUIRED (1)+ (2) + (3)			**$ 1 042 000.30**	
CASH PAYMENT REQUIRED (4) + (5) + (6) + (7) + (8)			**$104 050. 38**	

S C H E D U L E "G"

SPECIAL PROVISIONS

1. All references to Lots and Blocks in this Agreement are to be the Plan of Subdivision (59M - __) and all references to Easements in this Agreement are to be the Compiled Easement Plan (59R-). _____

2. Prior to registration of this Agreement by the Town, the Developer shall file with the Director of Community Planning and Development, an Ontario Land Surveyor's Certificate verifying all Lots as laid out on the Proposed Plan of Subdivision meet or exceed the minimum Lot area and Lot frontage provisions of the Town's Zoning By-law.

3. The Developer acknowledges and agrees to insert into all offers and agreements of purchase and sale the following clause:

   "All Works within the Subdivision, including but not limited to storm sewers, sanitary sewers, watermain, roads, curbs and gutters, street lighting and drainage works and swales, are contracted by the Developer. The Developer is obligated to maintain the Works in accordance with the Agreement and Plans registered on title."

4. The Developer acknowledges and agrees to insert into all offers and agreements of purchase and sale the following clause:

   "The lands in the Subdivision are subject to the payment of development charges which are payable prior to the issuance of a building permit."

5. The Developer acknowledges and agrees to insert into all offers and agreements of purchase and sale the following clause:

   "All building roof downspouts and sump pump discharge within this subdivision shall discharge only to ground surface via splash pads to either side or rear yards, with no direct connection to the storm sewer or discharge directed to the driveway or roadway."

6. The Developer acknowledges and agrees to insert into all offers and agreements of purchase and sale the following clause:

   "Public sidewalk construction at the Developer's expense shall be in accordance with the terms of the Subdivision Agreement and the approved plans on file at the Town."

7. The Developer acknowledges and agrees that all offers and agreements of purchase and sale the following clause:

   "The Developer shall be responsible for installing paved driveway aprons (maximum 6.0m wide) from curb to the property line or from the curb to the sidewalk within municipal road allowances."

8. The following warning clause regarding all the lots within the subdivision shall hereby be registered on title to the lands:

   "All persons intending to acquire an interest in the real property by purchase or lease on this development are advised of the presence of a storm water management facility which will be subject to storm water flows and periodic flooding due to seasonal rainfall and snowmelt. Portion of these lands may be impacted by fast flowing water, ponding, insect and animal habitat and odours associated with their designed use."

9. The Developer shall co-ordinate the preparation of an overall utility distribution plan and make arrangements to the satisfaction of all affected authorities for the provision of underground utility services internal and external to this development.

10. The Developer shall enter into any agreement as required by utility companies for installation of services, including street lighting, all in accordance with the standards of the Town of Pelham. All utilities servicing the subdivision shall be underground. Upon installation and acceptance by the Town, streetlights and streetlight electrical supply system will be added to the Town's inventory.

11. The Developer will consult with Canada Post to determine suitable permanent locations for the Community Mail Boxes. The developer will then indicate these locations on the appropriate servicing plans.

12. The Developer agrees, prior to offering any units for sale, to display a map on the wall of the sales office in a place readily accessible to potential home owners that indicates the location of all Community Mail Boxes within the development, as approved by Canada Post, and the location of sidewalks and land uses within the subdivision.

13. The Developer agrees to include in all offers of purchase and sale a statement which advises the purchaser that mail will be delivered via Community Mail Box. The developer also agrees to note the locations of all Community Mail Boxes within the development, and to notify affected home owners of any established easements granted to Canada Post to permit access to the Community Mail Box.

14. The Developer will provide a suitable and safe temporary site for a Community Mail Box until curbs, sidewalks and final grading are completed at the permanent Community Mail Box locations. Canada Post will provide mail delivery to new residents as soon as the homes are occupied.

15. The Developer agrees to provide the following for each Community Mail Box site and to include these requirements on the appropriate servicing plans:

    a) A concrete pad(s) (consult Canada Post for detailed specifications); and,

    b) Any required curb depressions for wheelchair access, with an opening of at least two metres (consult Canada Post for detailed specifications).

16. The Developer agrees that sidewalks will be constructed along all collector streets to facilitate student travel to the school/bus stop locations.

17. The Developer agrees to provide a 3.5 metre cycle track on one side of Walker Road to the satisfaction of the Director of Public Works.

18. The Developer shall obtain a Work Permit from the Ministry of Environment, Conservation and Parks prior to beginning any work.

19. The Developer shall acknowledge that vegetation removal associated with clearing, site access and staging should occur outside the key breeding bird period identified by Environment Canada for migratory birds to ensure compliance with the Migratory Birds Convention Act (MBCA), 1994 and Migratory Bird Regulations (MBR). Vegetation removal should be undertaken outside the breeding season for migratory birds (March 15 and August 31). For any proposed clearing of vegetation within this timeframe a nest survey should be completed by a qualified avian biologist prior to commencement of works to identify and locate active nests of species covered by the MBCA.

This should include the development of a mitigation plan to address any potential impacts on migratory birds and their active nests.

20. Prior to final approval for registration of this plan, the Developer shall submit the design drawings (with calculations) for the sanitary and storm drainage systems required to service this development and obtain Environmental Compliance Approval from the Ministry of Environment and Climate Change under the Transfer of Review Program to the satisfaction of the Niagara Region Planning and Development Services Department. (Note: Any new storm sewer outlet to a creek or storm water management scheme designed for quantity control/quality improvement will require the direct approval of the Ministry of the Environment and Climate Change – Approvals Branch, Toronto Office).

21. The Developer shall dedicate Block 37, free and clear of mortgages, liens and other encumbrances, as open space (environmental protection) and agrees to pay for all associated costs related to the Town of Pelham, to the satisfaction of the Director of Community Planning and Development.

22. The Developer shall place a sign along the perimeter of Block 37 that notes the woodlot is a Significant Natural Area and the cutting of vegetation is prohibited and pets are not allowed, as required by the Environmental Impact Study prepared by Beacon Environmental and dated May 2013 as required to demonstrate conformity with Policy 7.B.1.11 of the Regional Official Plan.

23. The Developer shall provide a 1.5 metre high chain link fencing the boundary of Block 37 and Lot 12 and Block 38.

24. The Developer agrees to implement the approved Woodland Edge Management Plan prepared by Beacon Environmental (Project No: 212096.1, Sheet No: L-1, dated December 2018).

25. The Developer shall show sediment control and limit of work fencing on the Grading Plan along the boundary of Block 37 and Lot 12 and Block 38 and no grading shall occur beyond this point. Limit of work fencing must be maintained during the development process and all silt fencing shall be removed once work is completed and all exposed soils are revegetated or otherwise stabilized.

26. The Developer shall obtain, through an application by the Town, approval from the Niagara Region for any connections to the Region's trunk sanitary sewer within Regional Road 54 (Rice Road).

27. The Developer shall provide a written acknowledgement to the Niagara Region Planning and Development Services Department stating that draft approval of this subdivision does not include a commitment of servicing allocation by the Niagara Region as servicing allocation will not be assigned until the plan is registered and that any pre-servicing will be at the sole risk and responsibility of the owner.

28. The Developer shall provide a written undertaking to the Niagara Region Planning and Development Services Department stating that all Offers and Agreements of Purchase and Sale or Lease, which may be negotiated prior to registration of this subdivision, shall contain a clause indicating that servicing allocation for the subdivision will not be assigned until the plan is registered, and a similar clause be inserted in the subdivision agreement between the owner and the Town.

29. The Developer shall dedicate, free and clear of mortgages, liens and other encumbrances, and agrees to pay for all associated costs related to a 3 metre road widening (Block 41) to the Niagara Region along Regional Road 54 (Rice Road) abutting the subdivision, to the satisfaction of the Niagara Region Planning and Development Services Department.

30. The Developer shall dedicate, free and clear of mortgages, liens and other encumbrances, and agrees to pay for all associated costs related to minimum 4.5 metre daylighting triangles to the Niagara Region at the intersection of Walker Road with Regional Road 54 (Rice Road) to the satisfaction of the Niagara Region Planning and Development Services Department.

31. The Developer shall convey free and clear of all encumbrances and at its own expense, easements to the Niagara Region, over, under and through, Parts 7, 8 and 14 on plan 59R-16039, for temporary waste collection access purposes".

32. Prior to any construction taking place within the Regional road allowance, the Developer shall obtain a Regional Construction Encroachment and/or Entrance Permit.

33. The subdivision agreement between the Developer and the Town contain a provision whereby the Developer agrees to obtain a certificate from an Ontario Land Surveyor stating that all existing and new survey evidence is in place at the completion of the development.

34. The following warning clause shall be included in the subdivision agreement and inserted in all Offers and Agreements of Purchase and Sale or Lease for Lots 18 and 19 and the east townhouse units on Blocks 31, 32, 36 and 38:

    "Purchasers/Tenants are advised that despite the inclusion of noise control features in the development and within the building units, sound levels due to increasing road uses may occasionally interfere with some activities of the dwelling occupants as the sound levels exceed the noise criteria of the Municipality and the Ministry of Environment."

35. The subdivision agreement contain provisions whereby the owner agrees to implement the ventilation recommendations contained in the Noise Feasibility Study prepared by HCG Engineering (dated June 13, 2014) for the Saffron Meadows draft plan of subdivision for the provision of forced air ventilation systems with ductwork sized for the future installation of central air conditioning by the occupant for Lots 18 and 19 and the east townhouse units on Blocks 31, 32, 36 and 38.

36. The subdivision agreement between the Developer and the Town contain the following clause:

    "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 and Sport (London: 519-675-7742) and Mayer Heritage Consultants Inc. [Developer's archaeology consultant] shall be notified immediately. In the event that human remains are encountered during construction, the owner should immediately notify the police or coroner, the Register of Cemeteries of the Ministry of Small Business and Consumer Services (Toronto: 416-326-8392), the Ministry of Tourism, Culture and Sport and Mayer Heritage Consultants Inc. [Developer's archaeology consultant]."

38. The following warning clause shall be included in the subdivision agreement and inserted in all Offers and Agreements of Purchase and Sale/Lease for each dwelling unit:

    "The lands in the plan of subdivision may be exposed to noise, odour and dust from nearby agricultural operations and agricultural-related traffic that may occasionally interfere with some activities of the owners who may occupy these lands."

39. The road design of the subdivision and any potential staging/phasing of the plan shall ensure through access or turnaround areas in accordance with

Regional waste collection policy to the satisfaction of the Niagara Region Planning and Development Services Department.

40. The Developer agrees to pay its allotment for the Singer's Drain improvements at a rate of $1 200 /ha for a total payment of $6 396.00.

S C H E D U L E "H"

BUILDING RESTRICTIONS

(To be included in all Deeds)

The Developer shall cause to be Registered against all Lots in the Subdivision the transfer restrictions and restrictive covenants outlined below.

According to the nature of the annexed instrument, the words "Vendor", "Purchaser" and "Land" shall be have the following meaning:

(a) "VENDOR" means and includes also a grantor, transferor or seller and the heirs, successors and assigns of the Vendor.

(b) "PURCHASER" means and includes also a grantee, transferee or buyer and the heirs, successors and assigns of the Purchaser.

(c) "LAND" means and includes the land intended to be sold, conveyed or transferred by such instrument.

The Purchaser shall, in respect of the herein described land, adhere to and comply with the Lot grading plan attached to the subdivider's agreement registered in the Land Titles Office for Niagara South and, in particular, shall do nothing to interfere with or impede the drainage patterns shown thereon. All grade elevation shown on the said Lot grading plan shall be maintained after construction of any building or structure upon the herein described land in accordance with the Town's Lot Grading Control Policy. In the event that the Purchaser fails to maintain such elevations, or to maintain the proper grades and levels herein referred to, or in the event that the Purchaser impedes any drainage system or pattern on the herein described Lands or neighbouring lands, the Purchaser shall be responsible for the immediate rectification and alteration of the land to conform with the drainage system or patterns laid out in the subdivider's agreement for any consequential damages, costs, expenses or other loss caused by the failure to maintain such grades or drainage patterns.

The Purchaser shall, in the event of requiring a different driveway entrance from that installed by the Vendor, relocate services/utilities at purchaser's expense, cut and reconstruct the concrete curb where necessary on the roadway adjacent to the land herein described. He/she shall install, keep and maintain his driveway entrance or entrances from the travelled portion of the roadway to the Lot line in good condition until the concrete sidewalk, concrete curbs and/or asphalt roadways for the said Subdivision are constructed.

The Purchaser shall, within nine (9) months of being able to occupy the home in accordance with the *Ontario Building Code* and to the satisfaction of the Chief Building Official, pave or cause to be paved the driveway upon the Lot. Paving shall consist of a hard surface such as asphalt, concrete, paving stones, paving bricks or other similar materials. Crushed brick is not a suitable alternative.

The Purchaser shall, within twelve (12) months of being able to occupy the home in accordance with the *Ontario Building Code* and to the satisfaction of the Chief Building Official, sod/hydroseed the lot.

The Purchaser shall maintain the road allowance between the Lot line and the curb nearest thereto in good condition and free from weeds and shall cut the grass thereon at frequent intervals.

The Purchaser will not remove any topsoil or strip the Lot of vegetation prior to commencing construction of a home on the Lot. Only then will the Purchaser strip and excavate to the limit approved by the Town.

S C H E D U L E "H"

BUILDING RESTRICTIONS

(To be included in all Deeds)
(Continued)

The Purchaser shall not occupy the dwelling on the Lot concerned until the Chief Building Official for the Town has certified that such of the following services, as are applicable to the property, have been installed and are operating adequately to serve the dwelling, or in the case of telephone services, are at least available to houses within the Plan: hydro, gas, water services, sanitary sewers and telephone.

The Purchaser shall not impede by the placing of fill, Buildings or other structures or Works any natural watercourse, swale, ditch, etc. which exists on the property.

The Purchaser shall not discharge by direct connection to a sanitary or storm sewer any discharge from eavestroughing, downspouts or swimming pools.

The Purchaser shall not erect any free standing tower, radio antenna, communication tower or similar structure.

THE CORPORATION OF THE
T O W N O F P E L H A M
BY-LAW # 4199 (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;

“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 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 installed by the Town of Pelham, Region of Niagara or any Public Utility or Government agency.

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, distrain 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 DIRECTOR OF FIRE & BY-LAW may order the SIGN OWNER to comply with subsection 4.1.7 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 4.1.8 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) 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 4.1.7, 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 SIGNS 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) No PERSON shall ERECT a READ-O-GRAPH MOBILE SIGN which:

e) Exceeds 2.4m (7.8ft) in HEIGHT of SIGN;

f) Exceeds 4.6M2 (50.0 sq. ft.) in area per side or visible face;

g) Has more than two sides or visible faces

h) No PERSON shall ERECT a READ-O-GRAPH MOBILE SIGN on residential lands except a TEMPORARY SPECIAL EVENT SIGN.

i) 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.

j) 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.

k) 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.

l) No PERSON shall ERECT a READ-O-GRAPH MOBILE SIGN in or on a required parking space on a PROPERTY.

m) 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.

n) 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.

o) 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.

p) 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:

(h) 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 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 a width of WALL SIGN which exceeds 80% of the linear measurement of the width of the front BUILDING WALL or in the case of a multi-unit BUILDING the width of the individual Business front BUILDING WALL, and a height which exceeds 25% of the linear measurement of the height of the front BUILDING WALL or in the case of a multi-unit BUILDING, the height of

the individual Business front BUILDING WALL.

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) A WALL SIGN on the rear facing BUILDING WALL of a BUILDING or an individual unit in a multi-unit BUILDING, will only be permitted if the rear facing wall of the BUILDING or individual unit abuts a highway and conforms to the size parameters as set out in Section 15(f).

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 20 - COMMENCEMENT

This By-law shall come into force and effect on the day it is passed.

PASSED in Open COUNCIL on (insert date)

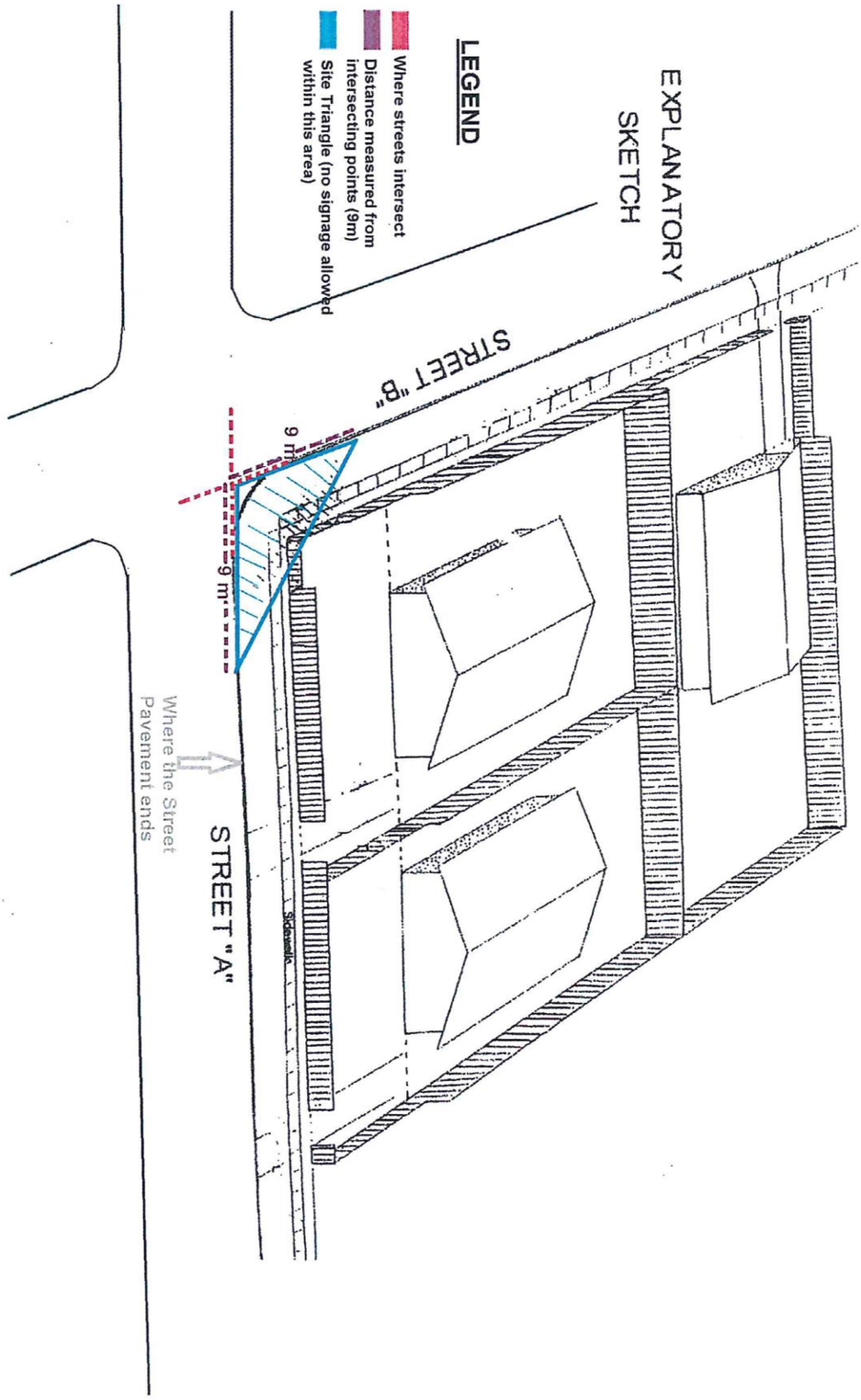
ENACTED AND PASSED THIS
3rd DAY OF FEBRUARY, 2020

_____
MAYOR MARVIN JUNKIN

_____
TOWN CLERK NANCY J. BOZZATO

By-Law Services (2013)

EXPLANATORY SKETCH OF SITE TRIANGLE



THE CORPORATION OF THE
T O W N O F P E L H A M
BY-LAW # 4200 (2020)

Being a by-law authorizing the borrowing of money to meet current expenditures of the Council of the Corporation of the Town of Pelham;

And to repeal and replace By-law #4122(2019), being a by-law authorizing borrowing.

WHEREAS the *Municipal Act, S.O. 2001,* Chapter M.25, Section 407 provides authority for a municipality to authorize the Head of Council and the Treasurer to borrow from time to time, such sums as the Council considers necessary to meet, until the taxes are collected and other revenues are received, the current expenditures of the Municipality for the year;

AND WHEREAS the total amount which may be borrowed from all sources at any one time to meet the current expenditures of the Municipality, except with approval of the Ontario Municipal Board, is limited by Section 407 of the *Municipal Act;*

NOW THEREFORE the Council of the Town of Pelham hereby enacts as follows:

1. The Head and the Treasurer are authorized on behalf of the Municipality to borrow from time to time from **Canadian Imperial Bank of Commerce** ("CIBC") a sum or sums as may be necessary to meet, until taxes are collected and other revenues are received, the current expenditures of the Municipality for the Current year not exceeding in the aggregate $7,000,000 pursuant to subsection 407 of the Act, and to execute any documents that are required in connection with the borrowing of the above sum, plus interest, at a rate to be agreed upon from time to time with CIBC, in addition to any reasonable charges of CIBC associated with this borrowing.

2. The Total amount which may be borrowed at any one time under this by-law plus any outstanding amounts of principal borrowed and accrued interest under Section 407 together with the total of any similar borrowings that have not been repaid, shall not exceed from January 1st to September 30th of the current year, 50 percent of the total estimated revenues of the Municipality as set out in the budget adopted for the current year, and from October 1st to December 31st of the current year, 25 percent of the total of the estimated revenues of the Municipality as set out in the budget adopted for the current year, or $7,000,000 whichever is less.

3. All sums borrowed pursuant to this by-law, as well as all other sums borrowed pursuant to the Act in this year and in previous years from CIBC for any purpose will, with interest thereon, be a charge upon the whole of the revenues of the Municipality for the current year and for all preceding years as and when this revenue is received.

4. The Treasurer shall, at a time when any amount is borrowed under this by-law, ensure that the lender is or has been furnished with a certified copy of this by-law, if applicable, and a statement showing the nature and amount of the estimated revenues for the current year and also showing the total of any other amounts borrowed from any and all sources under authority of Section 407 of the *Municipal Act* that have not been repaid.

5. For the purposes of this by-law the estimated revenues referred to herein do not include revenues derivable or derived from: a) any borrowing, including through any issue of debentures; b) a surplus, including arrears of taxes, fees or charges; or c) a transfer from the capital fund, reserve funds or reserves.

6. If the budget for the current year has not been adopted at the time an amount is borrowed under this by-law, the statement furnished under section 4 shall show the nature and amount of the estimated revenues of the Municipality as set forth in the budget adopted for the previous year and the nature and amount of the revenues received for and on account of the current year.

7. The Treasurer is authorized and directed to apply in payment of all sums borrowed plus interest, all of the moneys collected or received on account in respect of taxes levied for the current year and preceding years or from any other source which may lawfully be applied for this purpose.

8. Schedule “A” attached to, and forming part of this by-law estimates the municipality’s gross revenue for 2020, and shall be updated by the Treasurer annually upon adoption of the operating budget.

9. This by-law shall come into force and effect on February 3, 2020.

ENACTED AND PASSED THIS
3rd DAY OF FEBRUARY, 2020

_____
MAYOR MARVIN JUNKIN

_____
TOWN CLERK NANCY J. BOZZATO

The Corporation of the Town of Pelham
Schedule "A" to By-law XXXX-2020
Estimated Gross Revenues for Borrowing By-law
(Based on 2020 Operating Budget)

Property Taxes		$14,946,487
Payments in Lieu of Taxes		300,471
User Fees		
	General Administration	27,250
	Fire	35,450
	Building	600,500
	By-law	10,300
	Public Works Operations	20,000
	Facilities	735,342
	Cemetery	31,100
	Recreation	300,290
	Planning	146,840
	Water & Wastewater	5,090,945
Grants		414,488
Miscellaneous/Other Revenue		390,050
		$23,049,513
25% of Budgeted Gross Revenue		**$5,762,378**
50% of Budgeted Gross Revenue		**$11,524,757**

THE CORPORATION OF THE
T O W N O F P E L H A M
BY-LAW #4201(2020)

Being a by-law to adopt, ratify and confirm the actions of the Council at its regular meeting held on the 3rd day of February 2020.

WHEREAS Section 5 (3) of the Municipal Act, S.O. 2001, Chapter M.25, as amended, provides that, except if otherwise authorized, the powers of Council shall be exercised by by-law;

AND WHEREAS it is deemed desirable and expedient that the actions of the Council as herein set forth be adopted, ratified and confirmed by by-law;

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

(1) (a) The actions of the Council at its meeting held on the 3rd day of February, 2020, including all resolutions or motions approved, are hereby adopted, ratified and confirmed as if they were expressly embodied in this by-law.

(b) The above-mentioned actions shall not include:

(I) any actions required by law to be taken by resolution, or

(II) any actions for which prior Ontario Municipal Board approval is required, until such approval is obtained.

(2) The Mayor and proper officials of the Corporation of the Town of Pelham are hereby authorized and directed to do all things necessary to give effect to the above-mentioned actions and to obtain approvals where required.

(3) Unless otherwise provided, the Mayor and Clerk are hereby authorized and directed to execute and the Clerk to affix the seal of the Corporation of the Town of Pelham to all documents necessary to give effect to the above-mentioned actions.

(4) THAT this by-law shall come into force on the day upon which it is passed.

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

_____
MAYOR MARVIN JUNKIN

_____
TOWN CLERK, NANCY J. BOZZATO