

**COW-03/2020 - Immediately Following Council**

**Monday, March 23, 2020**

**Town of Pelham Municipal Office - Council Chambers**

**20 Pelham Town Square, Fonthill**

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**COMMITTEE REPORT**  
**COMMUNITY PLANNING & DEVELOPMENT DEPARTMENT**  
Monday, March 23, 2020

**Subject: Site Plan Approval Recommendation Report – Summersides Mews (SP-03-19) Part 5 on RP 59R-16105**

**Recommendation:**

**THAT Committee receive Report #2020-0036-Planning pertaining to Site Plan Control file SP-03-19 and recommend to Council:**

**THAT the By-law and Site Plan Agreement for Part 5 on RP 59R-16105 be approved by Council and the Mayor and Clerk be authorised to sign the Site Plan Agreement with the purchaser 2494557 Ontario Inc.**

**Background:**

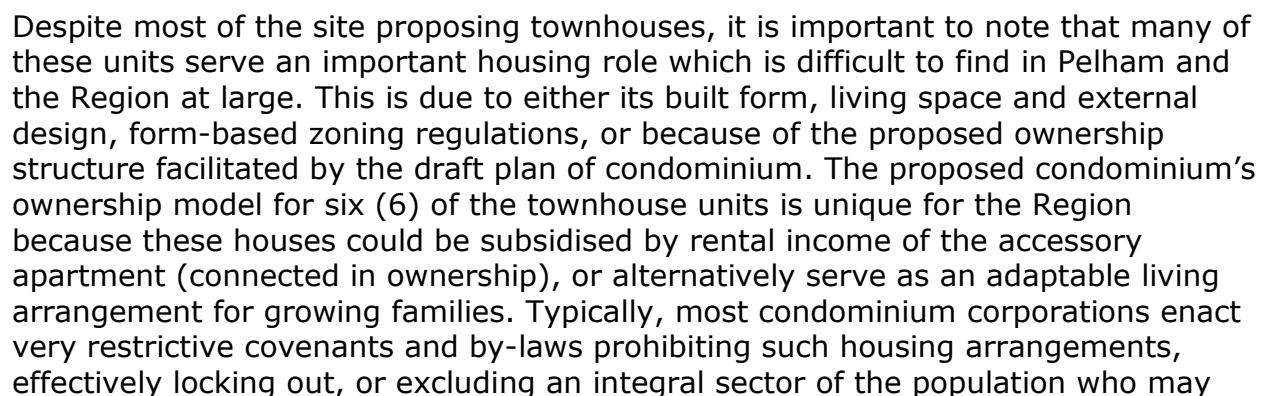
The purpose of this report is to provide Committee with information regarding an application for site plan control under Section 41 of the *Planning Act*, R.S.O. 1990, c. P. 13, for the lands described as Part 5 on RP 59R-16105, referred to as *Summersides Mews*. The subject lands are currently vacant and located on the northeast corner of the roundabout at Summersides Boulevard and Wellspring Way. The lands are surrounded by the Meridian Community Centre to the north, vacant land to the east and south, and a stormwater management pond to the west (Figure 1).

*Figure 1: Subject Lands*



- One five (5) unit, 3-storey apartment building (Block C);
- 36 townhouse dwellings
  - 12 of traditional style (Block A).
  - 6 of these function as second (accessory) dwelling units (Block E) connected in ownership with 6 of their more traditional, larger townhouse units (Block D).
  - 12 of these (referred to as *mews*, of British influence) represent 'above-the-garage' style living quarters (Block B).

- Figure 2: Proposed Site Plan





need to rely on that supplementary rental income to qualify for mortgage financing, (i.e. young families), or to accommodate a multi-generational family.

The applicant has advised that all of the proposed townhouse units have already been pre-sold. On the topic of affordability, although the mews (of Block B) do not meet the official criteria defined by the Province for the Region of Niagara, they have been priced at a considerably more affordable rate than other local (townhouse) comparables in Fonthill and could meet an housing affordability for Pelham versus the Region. Also, the accessory apartments proposed for Block E will likely function as rentals, and given their floor area, conceivably be listed at a more affordable price point than other local (apartment) comparables that have much larger floor areas.

The proposed Site Plan would provide an additional 17 layby parking stalls along Summersides Boulevard and Wellspring Way for public use, as well as install a new public walkway connecting the Meridian Community Centre (MCC) with Summersides Boulevard, just east of the roundabout. To facilitate vehicular access to the development, the Town would need to grant a right of way over the existing western and southern driveways to the MCC in favour of the subject lands for access purposes.

The Town has an accepted offer through a Purchase & Sale Agreement with the applicant/purchaser 2494557 Ontario Inc. The sale is conditional upon receiving Site Plan Approval and entering into a Site Plan Agreement with the purchaser, among other things. Should Council approve the Site Plan application, the sale of these lands will close shortly thereafter.

## **Analysis:**

### Planning Act

Section 2 of the *Planning Act* addresses matters of Provincial interest and requires municipal Councils to have regard to, among other matters:

- a) The protection of ecological systems, including natural areas;
- b) The protection of the agricultural resources of the Province;
- e) The supply, efficient use and conservation of energy and water;
- f) The efficient use of transportation, water, wastewater and waste management systems;
- g) The minimisation of waste;
- h) The orderly development of safe and healthy communities;
- j) The adequate provision of a full range of housing;
- l) The protection of the financial and economic well-being of the Province and its municipalities;
- n) The resolution of planning conflicts involving public and private interests;
- o) The protection of public health and safety;
- p) The appropriate location of growth and development;
- q) The promotion of development that is designed to be sustainable, support public transit and to be oriented to pedestrians;

- r) The promotion of built form that is well designed, encourages a sense of place, and provides for public spaces that are of high quality, safe, accessible, attractive and vibrant.
- s) The mitigation of greenhouse gas emissions and adaptation to a changing climate.

Section 3 of the *Act* requires that, in exercising any authority that affects a planning matter, decisions of Council “shall be consistent with the policy statements” and “shall conform to the Provincial plans that are in effect on that date, or shall not conflict with them, as the case may be.”

Section 41 (2) of the *Act* authorizes the council of a local municipality to designate areas within their jurisdiction under a ‘site plan control area’. Policy E1.4 of the Pelham Official Plan and By-law No. 1118 (1987) designates the entire Town as a site plan control area with certain exemptions. The proposed development is not exempt from site plan control.

Planning staff are of the opinion the proposed Site Plan meets, exceeds or does not conflict with any matter of Provincial interest identified in Section 2 of the *Act*. This is covered in more detail throughout the policy responses of this Report.

#### Provincial Policy Statement (2014)

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

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

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

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

The proposed Site Plan implements the current *form-based* Zoning code in effect on the subject lands, and complies with its regulations.

Policy 2.6.2 states that development and site alteration shall not be permitted on lands containing archaeological resources or archaeological potential unless the resources have been conserved. The Town’s Heritage Master Plan identifies this

area as having high archaeological resource potential, therefore an Assessment and Ministry Clearance was previously completed as part of the Village of East Fonthill Subdivision which created this block of developable land and the streets flanking it.

The proposed development seeks to increase the residential housing supply within the Urban Settlement Area of Fonthill, and more specifically within the East Fonthill Secondary Plan limits on designated Greenfield lands. Planning staff are of the opinion the Site Plan is consistent with the PPS and promotes appropriate development standards that help facilitate compact form while meeting *greenfield* density objectives, providing diversity in housing in an effort to accommodate a broader range of income levels and enhancing the urban character of the community.

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

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

The subject parcel is a designated greenfield *area* and is located within a 'Settlement Area' according to the Growth Plan. Designated greenfield *areas* are required to accommodate forecasted growth to this Plan's horizon. Guiding principles regarding how land is developed:

- Support the achievement of complete communities to meet people's needs through an entire lifetime.
  - ✓ The Block E townhouses function as accessory dwelling units to Block D. These second units are better suited, and more adaptable to changing family needs over a lifetime than a single unit property.
- Prioritize intensification and higher densities to make efficient use of land and infrastructure.
  - ✓ The proposed development conforms with the Greenfield designation growth projections and density policies.
- Support a range and mix of housing options, including second units and affordable housing, to serve all sizes, incomes, and ages of households.
  - ✓ Provided through four (4) different housing types.
- Provide for different approaches to manage growth that recognize the diversity of communities in the GGH.
  - ✓ Provided through four (4) different housing types.
- Integrate climate change considerations into planning and managing growth.
  - ✓ Compact urban form that accommodates a proportionately larger amount of housing / population in a complete community is superior in combatting negative impacts of climate change than low density sprawl alternatives in more rural areas.

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

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

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

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

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

Ground-oriented residential dwellings are the predominant housing type being proposed. However, the built form variety is more unique than what comes to mind in this area when ground-oriented dwellings are normally supplied. The proposed dwelling units are all permitted uses under the Zoning By-law and the variety proposed is considered desirable from a planning perspective as it helps provide more housing choice. The East Fonthill Secondary Plan Area yields a higher planned density threshold than the balance of built-up urban land found throughout Pelham. Dwelling unit types in this mixed-use area range from traditional townhomes, contemporary British inspired mews, detached second dwelling units (rentals) in the form of townhouses and garage apartments.

The subject lands are located around 1km from Downtown Fonthill, and less than 0.5km from grocery stores, other service commercial uses along Highway 20 east, trails and a future park. This places it within the realm of the desirable '10-minute' walking-shed neighbourhood. Two local elementary schools are also located nearby and the site is adjacent to the Meridian Community Centre (MCC).

The proposed Site Plan will help facilitate the construction of 41 residential dwelling units in a variety of housing types that are relatively compact, walkable in form and that help to support the existing municipal infrastructure within the East Fonthill neighbourhood. The proposal will also contribute towards the municipal property tax base which helps maintain linear infrastructure and public service facilities etc. Existing stormwater facilities, water and sanitary sewer mains front the subject lands.

Regional Official Plan (Consolidated August 2014)

The Regional Official Plan designates the subject land as 'Designated Greenfield Area' within the Urban Area Boundary.

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

Policy 4.C.5 states Designated Greenfield Areas will be planned as compact, complete communities by:

- a) Where permitted by scale, accommodating a range of land uses.
- b) Where limited by scale or configuration, making a significant contribution to the growth of the respective Urban Area.
- c) Providing opportunities for integrated, mixed land uses.
- e) Ensuring that Greenfield development is sequential, orderly and contiguous with existing built-up areas.

Town Planning staff are of the opinion the development makes effective use of the vacant lands situated in an evolving mixed-use neighbourhood by providing compact ground-oriented residential dwellings with a diverse range of housing types and tenures.

Policy 4.J.4 states the Region encourages private realm site design that addresses public safety, active transportation, landscaping, and human scale in buildings facing public space.

Policy 11.A.2 states the Region encourages the development of attractive, well designed residential construction that:

- c) Emphasizes the entrance.
- d) Is accessible to all persons.
- g) Provides an attractive, active transportation friendly streetscape.
- h) Contributes to a sense of safety within the public realm.
- j) Creates or enhances an aesthetically pleasing and functional neighbourhood.

The proposed development's site design positively reinforces the Summersides Boulevard and Wellspring Way streetscape using compact, front-facing built form with principle entrances at the sidewalk providing eyes-on-the-street. The active front façades enhance the pedestrian experience and comfort levels along both public streets, while the rear lane vehicle access otherwise eliminates unnecessary conflict points caused by vehicle driveways along the frontages. Therefore, Town Planning staff are of the opinion the development conforms to Regional policy.

Niagara Region staff do not object to the proposed Site Plan, subject to conditions (see appendix).

Pelham Official Plan (2014) & East Fonthill Site Master Plan

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



features. The East Fonthill Site Master Plan was implemented as a result of the Official Plan's Secondary Plan policies for East Fonthill. This subsidiary Site Master Plan applies to the Commercial / Employment Centre lands which are generally bounded by Highway 20 (north), Rice Road (east), Summersides Blvd (south) and lands just west of 130 Highway 20 East (west).

*Figure 3 – Site Master Plan Development Concept Plan*



The local Official Plan designates the subject land as 'Secondary Plan Area' within the Fonthill Settlement Area. More specifically, the East Fonthill Secondary Plan designates this parcel as EF – Mixed Use within the Commercial/Employment Centre. Policy B1.7.8.3 outlines the permitted uses and intentions of this designation. Permitted uses include apartments, townhouses, secondary suites, live-work units among many other uses.

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

No key natural heritage features (i.e. Significant Woodlands, Provincially Significant Wetlands or valleylands etc.) are located near the subject lands.

Policy A2.2.2 Growth & Settlement – states that it is a goal of this Plan to encourage residential development applications occurring in the urban areas where full municipal water services and sanitary sewers are available, to provide for affordable housing and diversity in housing in an effort to accommodate a broad range of income levels among other things.

The subject lands are situated around 1 km from Downtown Fonthill, (2) public elementary schools and even closer to other service / neighbourhood commercial uses, public trails, and a future park which positions it well within walking distance of many daily amenities, including the Community Centre.

Policy A2.3.2 Urban Character – stated objectives of this Plan include (among others):

- To enhance the urban areas as diverse, livable, safe, accessible and attractive communities.
- To ensure that new development areas are integrated into the fabric of the existing community in conformity with approved Secondary Plans.
- To encourage the development of neighbourhoods which are compact, pedestrian-friendly and provide a mix of housing types.
- To foster a sense of civic identity through a high standard of urban design in public and private development.

The proposed Site Plan would facilitate the construction of various ground-oriented residential dwellings in proximity to commercial, institutional and recreational uses. At this point, the neighbourhood character is undergoing major transformation in its role as a vacant designated greenfield area. Many neighbouring development applications are active and seeking to shape the future built form. The neighbourhood is envisioned as a walkable, mixed-use community according to the East Fonthill Secondary Plan and East Fonthill Site Master Plan.

The Summersides Mews development will help buffer the unsightly surface parking lot associated with the Meridian Community Centre (MCC) and it will also enhance the vehicle driveway entrances to the community centre parking lot. Town Planning staff are of the opinion the traditional row houses proposed along Summersides Blvd (Figure 4), the 3-storey apartment building at the roundabout (Figure 5), and the more contemporary townhouses along Wellspring Way positively reinforce the public streetscape and help shield the surface parking lot of the MCC (Figure 6).

*Figure 4: Proposed building Elevation of Block A townhouses fronting Summersides Boulevard*



*Figure 5: Proposed building Elevation of 3-storey Apartment building fronting roundabout*



*Figure 6: Proposed building Elevation of Block D townhouses fronting Wellspring Way*



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

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

The Summersides Mews development, seeks an urban character with more housing choices, appropriate for the East Fonthill landscape through the use of sensitive gradient building massing, consistent building alignments that reinforce the public realm and streetscape, as well as a congruent use of higher quality exterior cladding material such as brick veneer, front porches, balconies and proportionally symmetric window openings. The efficient use of the subject lands also helps maintain existing infrastructure by financially contributing to the general tax levy once construction concludes.

No Part IV designated heritage properties flank the subject lands and an archaeological clearance from the Ministry of Tourism, Culture & Sport has been receipted as part of the previous draft plan of subdivision known as the *Village of East Fonthill* (file # 26T19-010-14).

Policy B1.7.3.1 (East Fonthill) Development Objectives – states that the following private (and public) development objectives will be implemented by the

mechanisms in the Official Plan, the implementing Zoning and Site Plan Approvals. The East Fonthill development objectives (that relate to this development) are:

- a) To ensure that the community is developed with a compact urban form and at an appropriate scale that is pedestrian-oriented and fosters community interaction;
  - ✓ The Site Plan proposes ground-oriented, public street facing residences which are human-scaled, enhance the streetscape and are compact in built form.
- b) To ensure a well-designed, attractive, pedestrian-and bicycle-friendly community that includes an appropriate mixture of housing types, as well as locally focused retail/commercial uses and places of worship;
  - ✓ Several housing types, unit sizes and tenure are being provided which help cater to different age cohorts and income brackets.
- c) To create a sense of identity and continuity within the community through design treatments that residents and visitors can recognize as characteristic of the Secondary Plan Area;
  - ✓ The Commercial / Employment Centre of East Fonthill is still in its early days and is in the midst of realizing its character.
- d) To create a complete community with a safe, healthy and functional environment that can accommodate between 6,500 and 7,500 new residents and jobs combined;
- e) To require that both the intensification and greenfield components of the community achieve a minimum gross density of 50 persons and jobs combined per hectare;
  - ✓ Town staff have calculated the projected density of the subject lands at 83 residents & jobs / hectare and 58 dwelling units / hectare and note that these metrics comply with the required greenfield densities.
- f) To provide a land use and community structure that supports the existing historic downtown and associated Town Centre of Fonthill;
  - ✓ The subject land is within close proximity of Downtown Fonthill and the additional housing units will help support local business vitality.
- j) To design roads at a pedestrian scale that are also bicycle-friendly, with attractive public spaces, capable of performing a supporting role to the open space network;
  - ✓ The internal laneway is narrow and purposefully designed at a human-scale with careful urban design consideration to ensure an attractive streetscape both internally and along Wellspring Way and Summersides Boulevard. Furthermore, a north-south pedestrian walkway is being provided that better connects the MCC to Summersides Boulevard.
- k) To develop a land use pattern and transportation system that supports motorized vehicular traffic, transit, cyclists and pedestrians and provides alternate transportation routes to most destinations;
  - ✓ The development provides several sidewalk connections to improve pedestrian mobility and layby parking which also helps calm traffic speed and improve the pedestrian experience along the public sidewalks by providing an additional physical buffer between moving traffic and those walking.



- l) To provide a hierarchy of collector and local roads that is based on a connected modified grid network that accommodates all modes of travel and that reflects and responds to the natural features of the community;
- m) To ensure that all new development occurs on the basis of full urban water and sanitary sewer facilities, as well as adequate utility networks.

Policy B1.7.3.2 Affordable Housing – states that it is the Plan’s objective that a minimum of 25% of all new residential development within the East Fonthill Secondary Plan Area meet the Provincial definition for affordable housing. Affordable housing will also be encouraged to locate in proximity to community facilities and existing or potential public transit routes and active transportation routes. Affordable housing may be achieved by:

- i) Promoting higher density housing forms;
- ii) Building smaller units;
- iii) Applying government grants and/or subsidies, including land dedication;
- iv) Waiving or reducing municipal permit fees, development charges, or taxes; and
- v) Encouraging the development of accessory apartments.

The proposed Site Plan consists of medium density, ground-oriented residential building types. Even the 5-unit apartment building proposes direct (or exclusive) ground floor access for each individual apartment. The apartment building, and several townhouse units accommodate smaller floor areas which help to ensure purchase (or rental) costs do not become overly exclusive in price. No government grants or subsidies are part of this proposal, or the Town’s Agreement of Purchase & Sale with the applicant. Six (6) of the townhouse units are actually connected in ownership to six (6) larger townhouses and will function as detached accessory apartments.

Policy B1.7.4.3 General Site Development Criteria includes, among others:

- i) Buildings shall be street-front oriented and provide direct street access for pedestrians;
  - ✓ Provided.
- ii) Large scale automobile parking areas shall generally be sited to the side or rear of buildings, preferably below grade. The softening of the impact of large surface parking lots through building orientation, landscaping is required;
  - ✓ The proposed parking lot is softened through the use of decorative fencing (consistent with the balconies of the adjacent apartment building) and landscaping, (Figure 7).

*Figure 7: Parking lot rendering viewed from Wellspring Way*





- iv) With the exception of single detached, semi-detached and townhouse dwellings, all new development shall provide outdoor bicycle racks at their main entrance.
  - ✓ Outdoor bicycle parking is proposed just north of the apartment building, (on the right side of the image in Figure 6).
- v) Compatibility between different land uses and scales of buildings shall be achieved through appropriate siting, design and landscape treatment.
  - ✓ The subject lands are situated in a transitioning neighbourhood and are surrounded by open space to the west, the Community Centre to the north, vacant land to the east, and three future mid-rise apartment buildings to the south.
- vii) High quality landscape treatments shall be provided;
  - ✓ See Landscape Plan.
- viii) Building form and siting shall minimise the impacts of noise, wind and shadows on adjacent properties and shall enhance views of landmark buildings and all components of the Greenlands System;
  - ✓ The proposed development is compact overall, but is actually smaller in vertical scale & building mass than the MCC and the (future) mid-rise apartment buildings opposite Summersides Blvd.
- ix) High density development shall generally be adjacent to:
  - Arterial and/or Collector Main Streets;
  - Retail and service commercial uses;
  - Community facilities; and
  - Public open spaces.
  - ✓ The subject lands are flanked by all of the above and are within walking distance to commercial uses.
- x) Where a non-residential use abuts, or is proximate to a proposed residential land use, fencing, landscaping, berming or a combination of these will be utilised to ensure adequate screening between the uses.
  - ✓ See Landscape Plan.
- xi) Outdoor refuse collection areas, shall be unobtrusive, screened and generally located at the side or rear of buildings.
  - ✓ Waste collection will be provided internally via the laneway and the apartment building will utilise Molok bins instead of unsightly dumpsters.
- xiv) Common vehicular access and internal circulation including service lanes connecting abutting lands shall be provided wherever possible.
  - ✓ Shared vehicle access is being provided via two existing public driveways to the MCC, helping to reduce unnecessary conflict points from extra driveway ramps and wasteful pavement.

Policy B1.7.8.2 c) General Policies (for the Commercial / Employment Centre) – states that prior to considering an application for Site Plan Approval, Council shall be satisfied that:

- i) Adequate parking for automobiles and bicycles are provided on the site;
- ii) Buildings located at the intersection of any Collector Main Street are designed to provide a desirable gateway to the community;

- iii) New uses incorporate landscaping to enhance the site and surrounding areas;

Subsection d) states that based on the mixed use nature of this designation, typical parking requirements may be reduced and shared parking considered in recognition of the parking efficiencies offered by mixed use development forms. The minimum and maximum parking standards throughout this designation for residential uses are 1 to 1.25 spaces per unit.

The proposed Site Plan complies with the Official Plan's parking requirement, with 61 parking spots proposed on-site as well as another 17 layby parking stalls on the public streets.

The proposed Site Plan conforms with the Pelham Official Plan as it supports additional housing, a variety of housing types & tenures, environmental responsibility, good urban design, compact built form, enhances the grid network of streets & laneways and is a compatible form of residential development in a walkable area and is implements the vision of the Site Master Plan for this area.

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

The subject lands are zoned 'East Fonthill – Mixed Use 3' (EF-MU3) in accordance with Pelham Zoning By-law 1136 (1987), as amended by By-law No. 3543 (2014).

The proposed development complies with the Zoning By-law and were recently granted minor variance approval via the Committee of Adjustment for three (3) site-specific zoning requests related to design preferences (file: A3/2020P).

**Financial Considerations:**

The applicant (purchaser) is responsible for all costs (on-site & off-site) associated with the proposed development, which includes site servicing, landscaping, consulting & legal fees. The Site Plan Agreement also requires that the developer provide financial security to the Town in the event site works are not undertaken.

**Alternatives Reviewed:**

Council may choose to not approve the by-law to enter into a site plan agreement with the purchaser, however, this will also result in the Town not closing on the land sale pursuant to an Agreement of Purchase and Sale.

**Strategic Plan Relationship: Build Strong Communities and Cultural Assets**

The proposed development enhances the East Fonthill Mixed Use Centre by providing a variety of housing options, especially in close proximity to commercial, institutional & recreational uses, by efficiently using Greenfield designated urban land with careful consideration to good urban design practices and minimizing negative impacts associated with large surface parking lots. The proposed housing choices are relatively more affordable than local comparables and some do not have

sound comparables as the housing type/tenure is unique for the Region. Ultimately, Planning staff are of the opinion that the proposed development will positively contribute to building a more resilient, sustainable and strong community.

## **Consultation:**

### Agency & Public Comments

On May 2<sup>nd</sup> and September 25<sup>th</sup> 2019, a 'Request for Comments' was circulated to agencies directly affected by the proposed application including internal Town departments (i.e. Public Works, Fire, etc.) and external agencies (i.e. Niagara Region, Canada Post, Enbridge etc.). Revisions were made to the plans and reports to address both Town and agency comments.

See appendices for complete agency / staff comments. The most recent comments to date have been summarized below:

- Public Works Department (March 4, 2020; January 21, 2020; October 23, 2019; May 23, 2019)
  - No objection, subject to Site Plan Agreement clauses.
- Fire Department (January 20, 2020; December 16, 2019; September 30, 2019; June 3, 2019)
  - No objection, pending the laneway maintains a clear width of 6.5m utilising a consistent surface treatment.
- Building Department (May 27, 2019)
  - At the time of building permit, spatial separation between structures will be a consideration under section 9.10.14 of the *Ontario Building Code*.
- Niagara Region Planning & Development Services (March 2, 2020; October 8, 2019; May 24, 2019)
  - No objection, pending Regional conditions of approval are fulfilled.
- Bell Canada (May 10, 2019)
  - No objection, subject to Site Plan Agreement clauses.
- Canada Post (May 10, 2019)
  - No objection, subject to Site Plan Agreement clauses.
- Enbridge Gas (May 15, 2019)
  - No objection, subject to Site Plan Agreement clauses.

For Council's information, site plan control is not a public consultative process under the *Planning Act* as it is an agreement between the land owner and the Town; therefore, there are no public notice requirements. However, opportunity was provided for public comment at the minor variance approval stage, as well as prior to 2014 when the original site-specific zoning was contemplated.

### Planning Staff Comments

A pre-consult was held with the applicant(s) of the property and staff from the Town and Niagara Region Planning & Development Services on December 20, 2018 to discuss the development applications.

The subject lands are located on the northeast corner of the roundabout intersection of Summersides Boulevard and Wellspring Way. The lands are currently surrounded by the Meridian Community Centre to the north, vacant land to the east & south, and an open space stormwater management pond to the west.

A minor variance application (A3/2020P) was approved by the Town's Committee of Adjustment on January 28, 2020. The relief sought was for three (3) site-specific zoning regulations. One to reduce a parking lot setback from Wellspring Way, another to increase the front yard setback for certain townhouse units fronting Wellspring Way, and the last to reduce the minimum distance separating certain townhouse blocks from one another.

The proposed Site Plan complies with the EF-MU3 zoning provisions, as well as all other applicable zoning regulations under By-law No. 1136 (1987), as amended.

Previously, there was some discussion as to whether or not the development will provide enough off-street parking stalls. The proposed Site Plan fully complies with the minimum parking requirements. The EF-MU3 zoning also regulates the maximum amount of parking stalls that can be provided, in accordance with the local Official Plan designation policy (B1.7.8.2 d) i)). Overall, there are 41 compliant parking stalls provided on-site while there are an additional 20 on-site stalls which do not meet the dimension requirements of parking stalls abutting a wall. The shortfall is approximately 20-30 cm in width. These stalls are still functional and would meet the default dimension standards of parking stalls unobstructed by abutting vertical structures. Overall, the total effective parking provided on-site would be 61 stalls. An additional 17 layby (on-street) parking stalls along Wellspring Way and Summersides Boulevard would be provided. These on-street stalls will also help buffer the sidewalk from moving traffic, increasing pedestrian comfort and act as an additional traffic calming measure via peripheral edge friction.

Planning staff have reviewed the Urban Design Brief submitted by Better Neighbourhoods Development Consultants dated March 2019, and agree with its commentary. Town Engineering staff also reviewed a Functional Servicing Report and associated drawings prepared by the same consultant firm, dated December 2019.

Planning staff visit the area frequently and understand the local context well. At present, this quadrant of the East Fonthill Secondary Plan neighbourhood is not in the midst of any active construction projects, save for the River Estates Phase 1-2 subdivisions. However, there are several imminent developments pending. Two (2) of which have received Site Plan Approval and are building permit ready, one in particular is in close proximity just south, opposite Summersides Boulevard where three (3) mid-rise apartment buildings are ready for construction. The vacant lands to the east are currently owned by the Town.

A Draft Plan of Condominium application (26CD19-01-2020) has been received by the Town and is currently undergoing review with staff and commenting agencies.

Approval will be required by Town Council at a later date, and is independent of the Site Plan Approval.

This staff Recommendation Report consolidates and analyzes applicable planning policy, agency and staff comments as well as submitted applicant material for Council's consideration in rendering an informed decision.

In response to various agency comments received, Planning staff advises that all requested conditions will be included as conditions in the Site Plan Agreement, or have been complied with through the submitted design drawings.

The policy intent of the East Fonthill Secondary Plan and East Fonthill Site Master Plan continue to be conformed with as well as compliance to the *Ontario Building Code*.

Planning staff are of the opinion that the proposal applies current planning and development principles dealing with appropriate greenfield development, making efficient use of designated urban *area* lands, helping to ensure wise management of scarce land resources and environmental protection, providing a diverse range of housing options that better accommodate different personal income levels and improving the public realm through good urban design and architectural measures. The proposed development should not negatively impact the surrounding neighbourhood with regards to land use incompatibility, traffic, privacy and storm water runoff.

In Planning staff's opinion, the application is considered an innovative form of compact, walkable, urban development, represents good land use planning and is consistent with the PPS and conforms to Provincial, Regional, and local plans.

**Other Pertinent Reports/Attachments:**

- Appendix A:
  - RP 59R-16105
  - Site Plan
  - Landscape Plan
  - Elevation Plans
- Appendix B:
  - Agency Comments Consolidated

**Prepared and Recommended by:**

Barbara Wiens, MCIP, RPP  
Director of Community Planning and Development  
Curtis Thompson, B.URPI  
Planner

**Prepared and Submitted by:**

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



| INTEGRATION DATA   |            |              |
|--|------------|--------------|
| OBSERVED REFERENCE POINTS (ORPs): UTM ZONE 17, NAD83 (ORIGINAL).                                     |            |              |
| COORDINATES TO URBAN ACCURACY PER SECTION 14 (2) OF O.REG 216/10.                                    |            |              |
| POINT ID   | EASTING    | NORTHING     |
| ORP (A)  | 640 635.54 | 4 767 538.31 |
| ORP (B)  | 640 819.58 | 4 767 610.34 |
| ORP (C)  | 640 866.59 | 4 767 351.24 |
| COORDINATES CANNOT, IN THEMSELVES, BE USED TO RE-ESTABLISH CORNERS OR BOUNDARIES SHOWN ON THIS PLAN. |            |              |

| SCHEDULE |            |         |                        |             |
|----------|------------|---------|------------------------|-------------|
| PART     | BLOCK      | PLAN    | PIN                    | AREA        |
| 1        | ALL OF 4   | 59M-432 | ALL OF 64063-0275(LT)  | 2.396 Ha    |
| 2        |            |         |                        | 7745.0 sq.m |
| 3        |            |         |                        | 446.8 sq.m  |
| 4        |            |         |                        | 6534.2 sq.m |
| 5        |            |         |                        | 7019.5 sq.m |
| 6        |            |         |                        | 36.0 sq.m   |
| 7        |            |         |                        | 754.1 sq.m  |
| 8        |            |         |                        | 870.1 sq.m  |
| 9        | PART OF 14 |         | PART OF 64063-0285(LT) | 51.7 sq.m   |

I REQUIRE THIS PLAN TO BE DEPOSITED UNDER THE LAND TITLES ACT.

DATE March 15, 2018

Allan J. Heywood  
ALLAN J. HEYWOOD  
ONTARIO LAND SURVEYOR

PLAN 59R-16105

RECEIVED AND DEPOSITED

DATE March 15, 2018

Karin Little  
REPRESENTATIVE FOR THE LAND REGISTRAR FOR THE LAND TITLES DIVISION OF NIAGARA SOUTH (No 59)

PLAN OF SURVEY OF  
**BLOCK 4 & PART OF BLOCK 14**  
**REGISTERED PLAN 59M-432**  
**TOWN OF PELHAM**  
REGIONAL MUNICIPALITY OF NIAGARA

SCALE 1 : 1000  
20 0 20 40 60 metres

MATTHEWS, CAMERON, HEYWOOD - KERRY T. HOWE SURVEYING LTD.

**METRIC** DISTANCES AND/OR COORDINATES SHOWN ON THIS PLAN ARE IN METRES AND CAN BE CONVERTED TO FEET BY DIVIDING BY 0.3048.

#### NOTES

BEARINGS ARE UTM GRID, DERIVED FROM OBSERVED REFERENCE POINTS A AND B, BY REAL TIME NETWORK (RTN) OBSERVATIONS, UTM ZONE 17, NAD83 (ORIGINAL)

DISTANCES ARE GROUND AND CAN BE CONVERTED TO GRID BY MULTIPLYING BY THE COMBINED SCALE FACTOR OF 0.999827

ALL FOUND SURVEY MONUMENTS SET BY 744, OLS UNLESS NOTED OTHERWISE.

ALL SET SSIB AND PB MONUMENTS WERE USED DUE TO LACK OF OVERBURDEN AND/OR PROXIMITY OF UNDERGROUND UTILITIES IN ACCORDANCE WITH SECTION 11 (4) OF O.REG. 525/91.

#### LEGEND

|      |         |   |
|------|---------|---|
| ■    | DENOTES | SURVEY MONUMENT FOUND                                   |
| □    | DENOTES | SURVEY MONUMENT SET                                     |
| SIB  | DENOTES | STANDARD IRON BAR                                       |
| IB   | DENOTES | IRON BAR  |
| CP   | DENOTES | CONCRETE PIN AND WASHER                                 |
| WIT  | DENOTES | WITNESS   |
| MEAS | DENOTES | MEASURED  |
| 744  | DENOTES | MATTHEWS, CAMERON, HEYWOOD-KERRY T. HOWE SURVEYING LTD. |
| P1   | DENOTES | REGISTERED PLAN 59M-432                                 |
| P2   | DENOTES | PLAN 59R-15695  |
| P3   | DENOTES | REGISTERED PLAN 59M-434                                 |

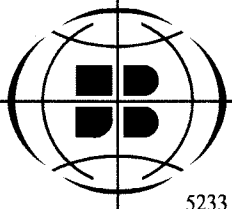
#### SURVEYOR'S CERTIFICATE

I CERTIFY THAT:

- THIS SURVEY AND PLAN ARE CORRECT AND IN ACCORDANCE WITH THE SURVEYS ACT, THE SURVEYORS ACT AND THE LAND TITLES ACT AND THE REGULATIONS MADE UNDER THEM.
- THE SURVEY WAS COMPLETED ON MARCH 7, 2018

MARCH 15, 2018  
DATE

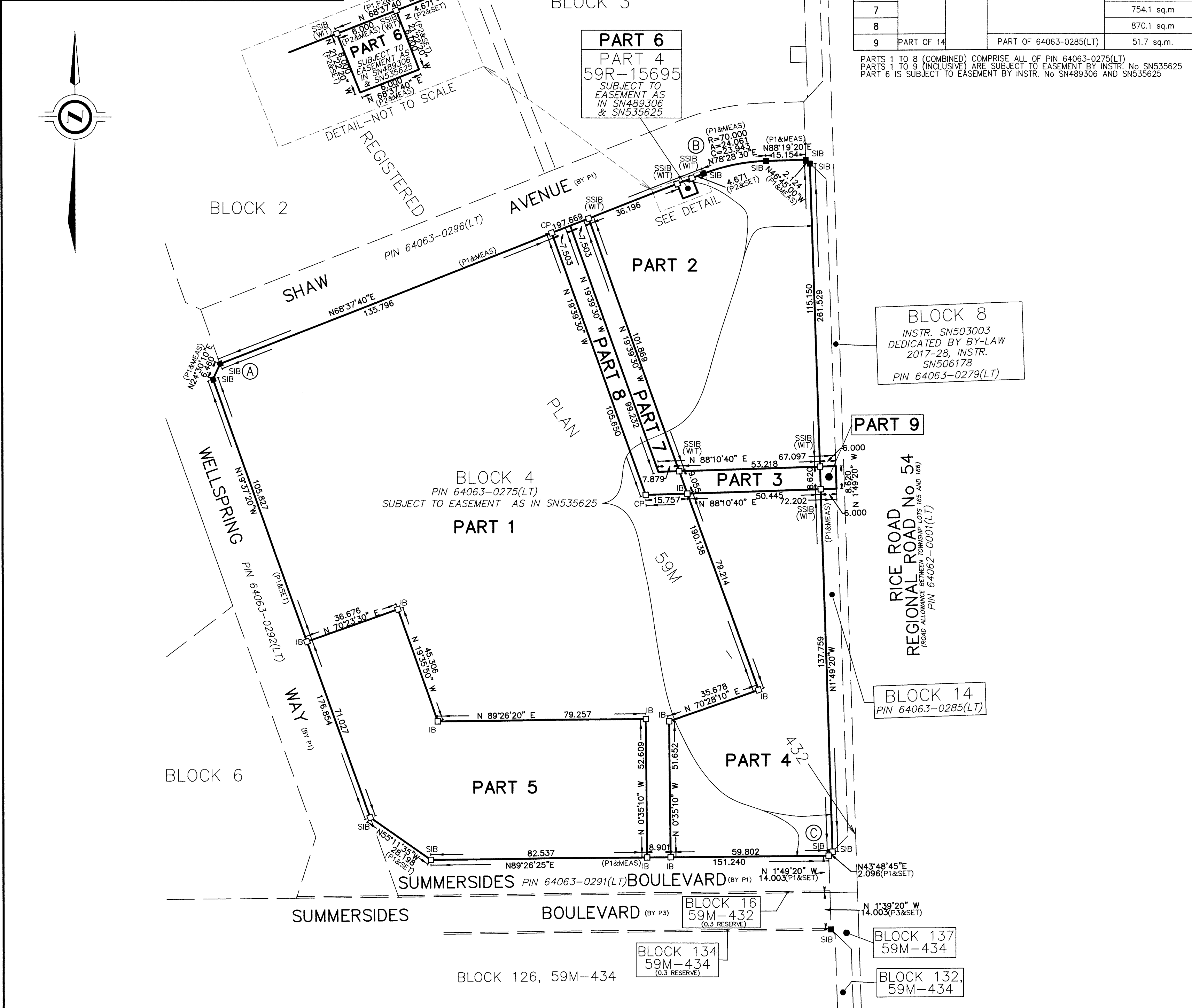
Allan J. Heywood  
ALLAN J. HEYWOOD  
ONTARIO LAND SURVEYOR



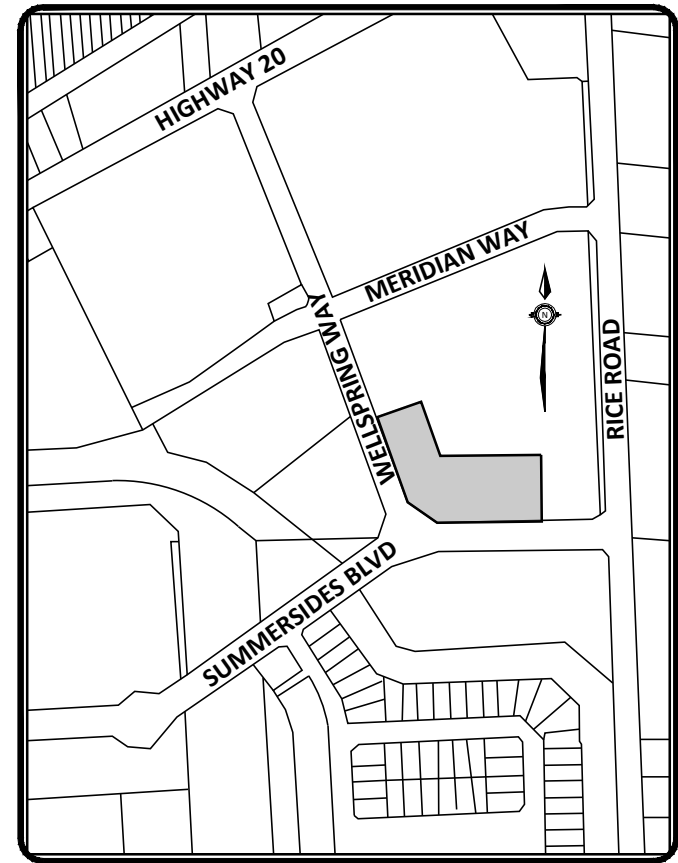
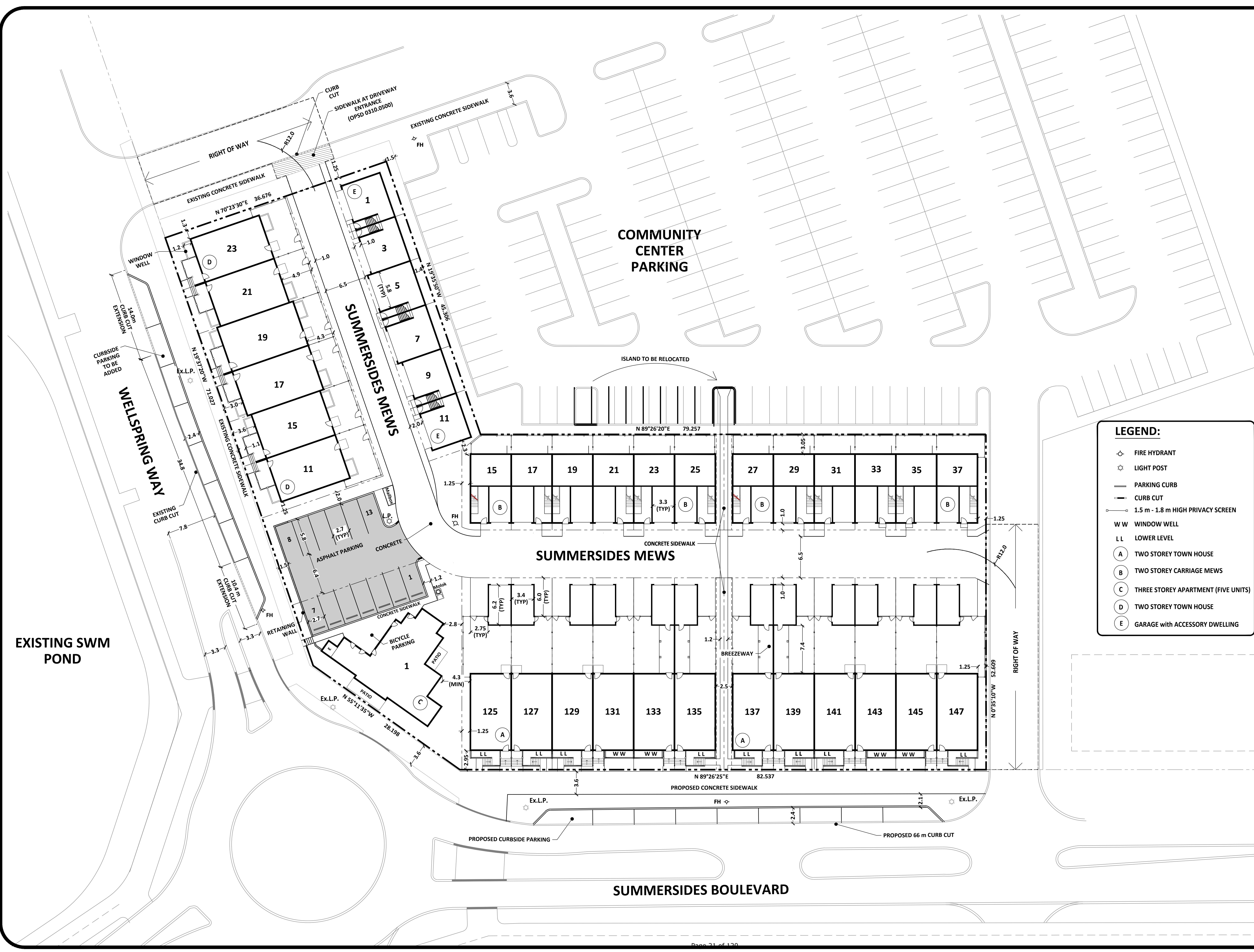
**MATTHEWS, CAMERON, HEYWOOD - KERRY T. HOWE**  
SURVEYING LIMITED  
A wholly owned subsidiary of J.D. Barnes Limited  
5233 STANLEY AVENUE, UNIT 1, NIAGARA FALLS, ON L2E 7C2  
T: (905) 358-3693 F: (905) 358-6224 www.jdbarnes.com

SURVEYING  
MAPPING  
GIS

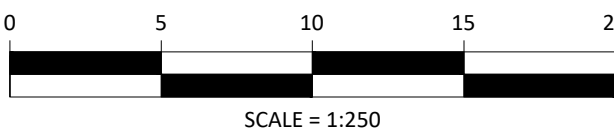
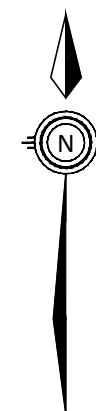
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FILE: G:\18-16-053\00\Drawing\18-16-053-00REF.dgn DATED: 03/07/2018







KEY MAP - NOT TO SCALE



SITE STATISTICS

|                    |                     |
|--------------------|---------------------|
| SITE AREA          | 7017 m <sup>2</sup> |
| BUILDING COVERAGE  | 46%                 |
| PAVEMENT COVERAGE  | 24%                 |
| LANDSCAPE COVERAGE | 30%                 |

PROPOSED DEVELOPMENT

|                      |    |
|----------------------|----|
| 2 STOREY TOWN HOUSES | 30 |
| 3 STOREY APARTMENT   | 1  |
| ACCESSORY DWELLINGS  | 6  |

PARKING

|                      |    |
|----------------------|----|
| GARAGE STALLS        | 33 |
| SURFACE STALLS       | 28 |
| TOTAL PARKING STALLS | 41 |
| PARKING PADS         | 20 |

**b** better  
neighbourhoods  
DEVELOPMENT CONSULTANTS  
190A Ontario Street, Ontario L2R 5K3  
Office: 905.684.8585 betterneighbourhoods.ca

PROJECT TITLE:

**SUMMERSIDES MEWS**  
Pelham, Ontario

DRAWING TITLE:

**SITE PLAN**

DATE OF ISSUE:

2020 01 20

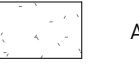
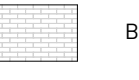

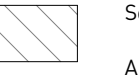
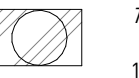
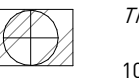
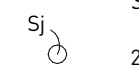



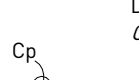
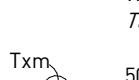
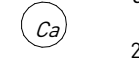




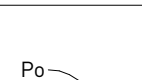

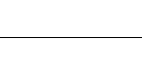




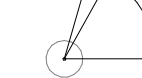
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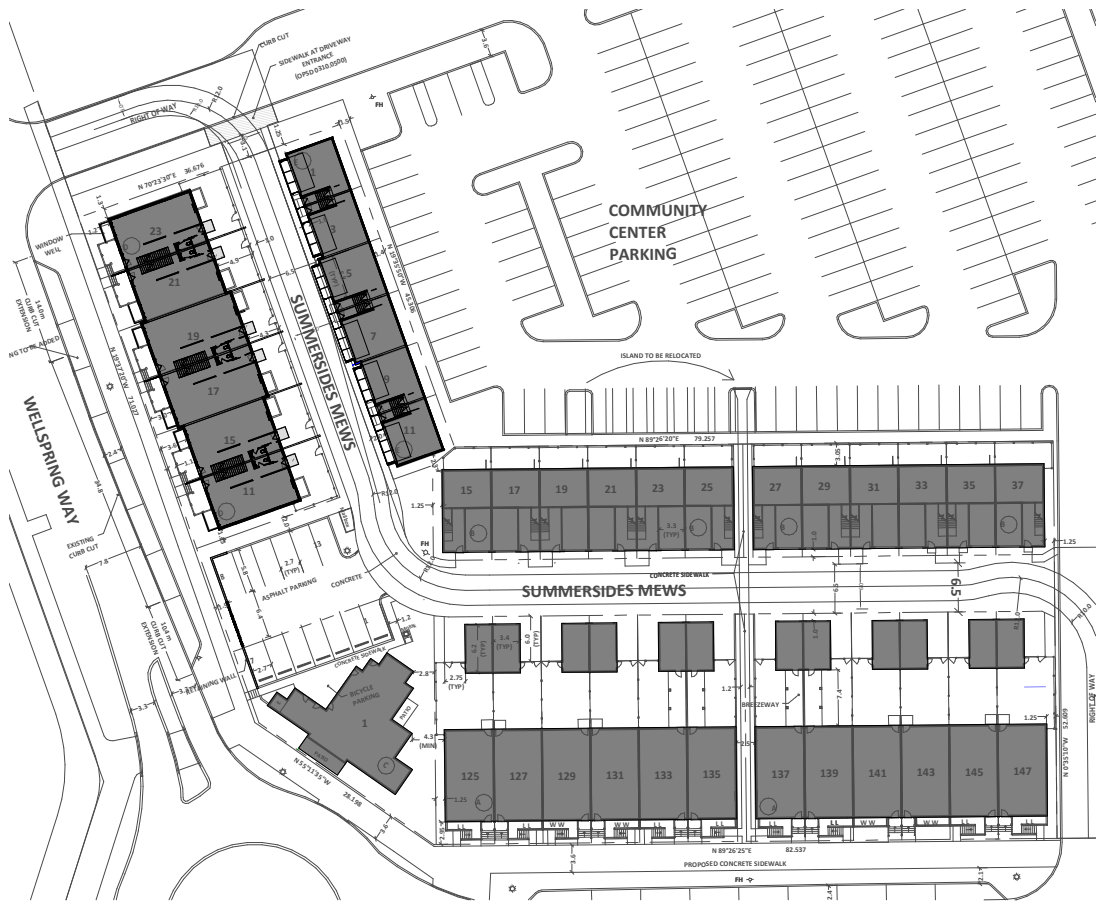
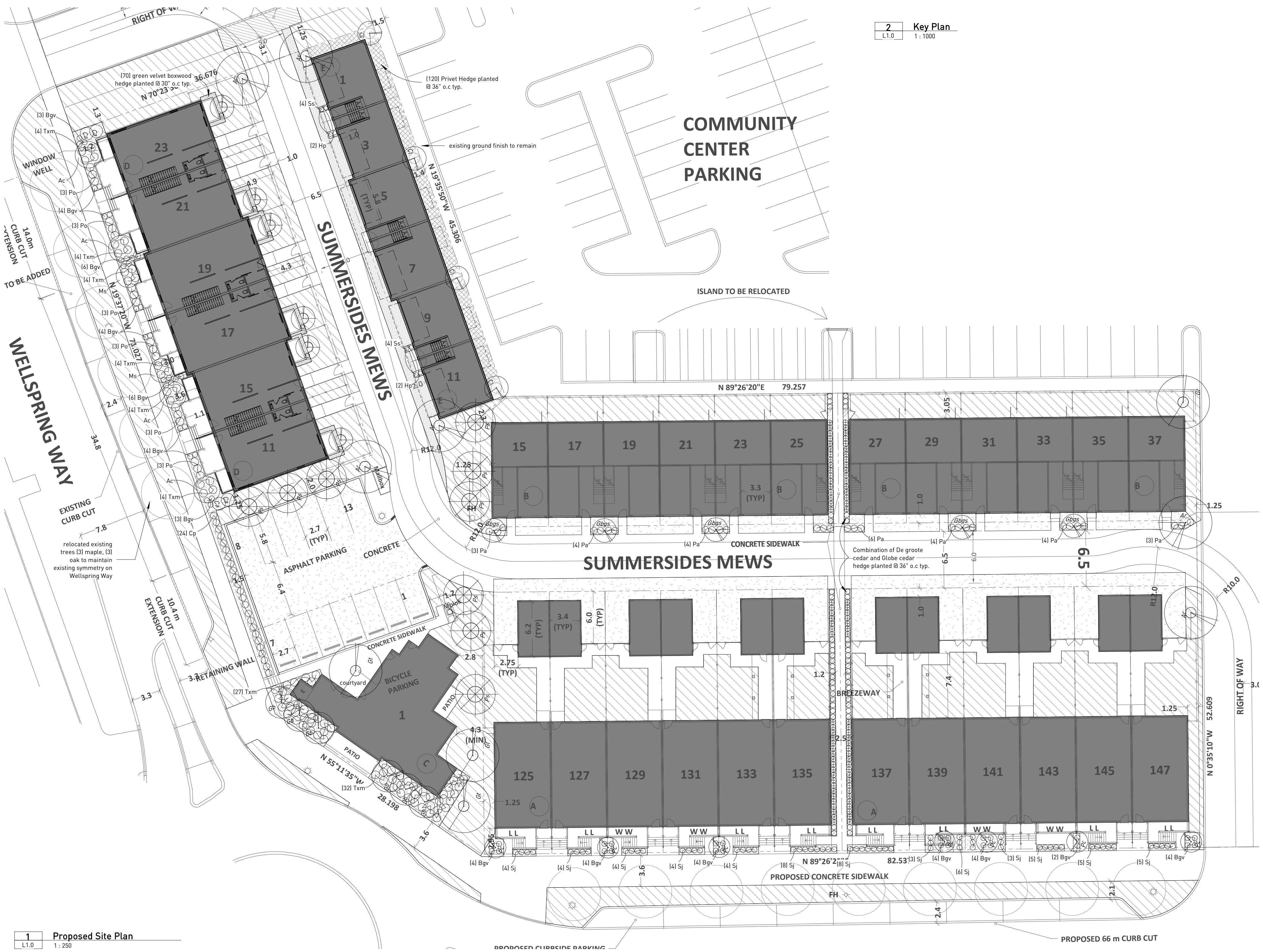
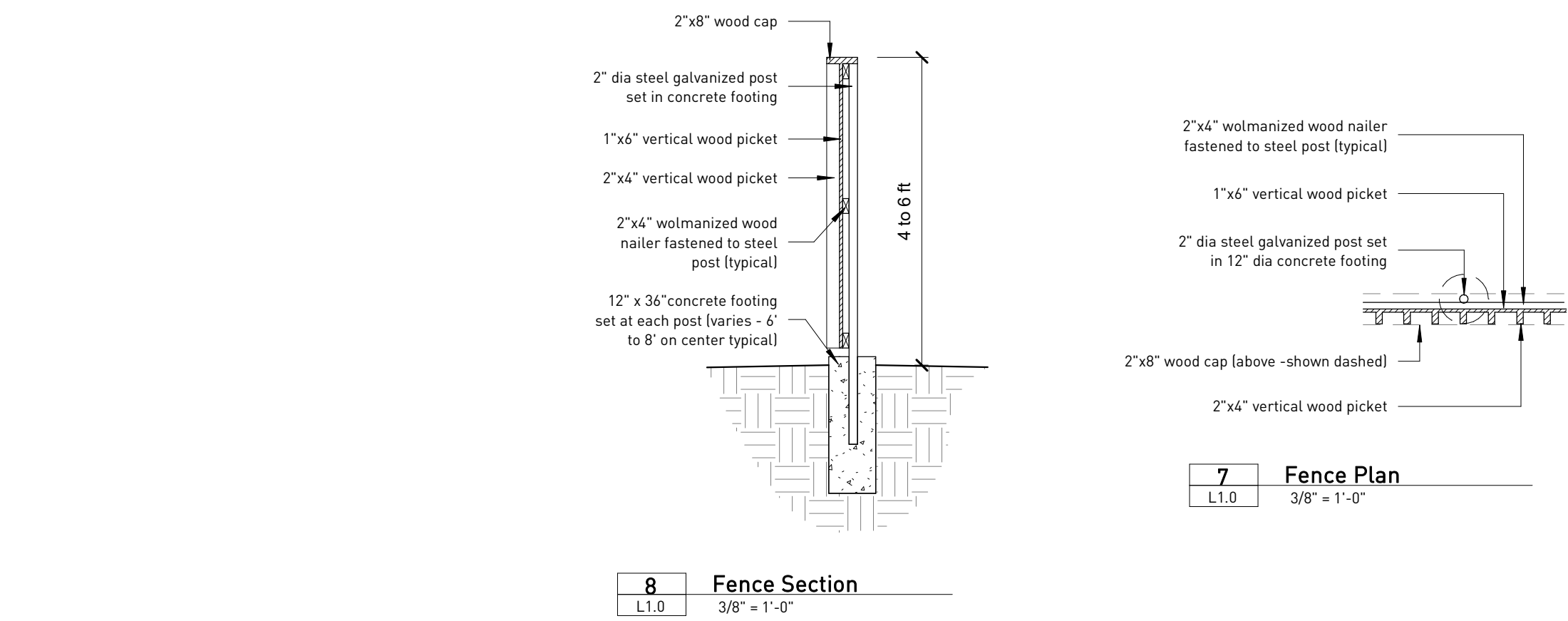
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|   |  |   |  |
|---|--|---|--|
|    | Asphalt  |  | Brick Pavers   |
|    | Green Velvet Boxwood as hedge<br>Quantity: 70  |  | Sod<br>Area: 18,197 sf   |
|    | Degroot's Spire Cedar<br><i>Thuja occidentalis</i><br>100 cm, 3 gal<br>hedge planted @ 36" o.c<br>Quantity: 52 |  | Globe Cedar/ <i>Arborvitae</i><br><i>Thuja occidentalis</i> 'Woodwardii'<br>100 cm, 3 gal<br>hedge planted @ 36" o.c<br>Quantity: 88 |
|    | Shirobana Spirea<br><i>Spiraea japonica</i> 'shirobana'<br>2 gal<br>Quantity: 63                               |  | Privet Hedge<br><i>Ligustrum</i><br>2 gal<br>planted @ 36" o.c<br>Quantity: 120  |
|    | Little Bunny Fountain Grass<br><i>Pennisetum alopecuroides</i> 'little bunny'<br>2 gal<br>Quantity: 28         |  | Autumn Blush Sedum<br><i>Sedum spectabile</i> 'autumn blush'<br>2 gal<br>Quantity: 8   |
|    | Dwarf Barberry<br><i>Crimson pygmy</i><br>2 gal<br>Quantity: 24  |  | Ward's Yew<br><i>Taxus x media</i> 'wardii'<br>50 cm, 2 gal<br>planted @ 36" o.c<br>Quantity: 83                                     |
|    | Silverleaf Dogwood<br><i>Cornus alba</i> 'elegantissima'<br>2 gal<br>Quantity: 4                               |  | Green Velvet Boxwood<br><i>Buxus</i> 'green velvet'<br>2 gal<br>Quantity: 56   |
|    | Star Magnolia<br><i>Magnolia stellata</i><br>150cm<br>Wire basket<br>Quantity: 2                               |  | Climbing Hydrangea<br><i>Hydrangea petiolaris</i><br>2 gal<br>Quantity: 4  |
|    | Service Berry<br><i>Amelanchier canadensis</i><br>150 cm<br>Wire basket<br>Quantity: 4                         |   |  |
|  | Darts Gold Ninebark<br><i>Physocarpus opulifolius</i> 'darts gold'<br>2 gal<br>Quantity: 18                    |   |  |
|  | Katsura Tree<br><i>Caraciphyllum japonicum</i><br>60 mm cal<br>Wire basket<br>Quantity: 10                     |   |  |
|  | Bradford Pear<br><i>Pyrus calleryana</i><br>60 mm cal<br>Wire basket<br>Quantity: 7                            |   |  |
|  | Ginkgo Goldspire<br><i>Ginkgo biloba</i> 'goldspire'<br>150 cm<br>Wire basket<br>Quantity: 9                   |   |  |
|  | Ginkgo<br><i>Ginkgo biloba</i><br>60 mm cal<br>Wire basket<br>Quantity: 6                                      |   |  |
|  | White Pine<br><i>Pinus strobus</i><br>150 cm<br>Wire basket<br>Quantity: 9                                     |   |  |
|  | Red Maple<br><i>Acer rubrum</i><br>60 mm cal<br>Wire basket<br>Quantity: 6                                     |   |  |
|  | Skyline Locust<br><i>Gleditsia tricanthos</i> 'skyline'<br>60 mm cal<br>Wire basket<br>Quantity: 4             |   |  |

**Planting Legend**  
1 : 250



**FORESTGREEN**

**FORESTGREEN CREATIONS INC.**  
DESIGN + BUILD

1422 Pelham Street  
Fonthill, Ontario  
L0S 1E0

T: 905 892 9727  
F: 905 892 4940  
E: todd@forestgreencreations.com

**PROJECT**

**Wellspring Way -  
Block D + E**  
Wellspring Way Dr

**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 SPA       | 09.24.2019 |
| 2 | Reissued for SPA     | 12.20.2019 |
|   |                      |            |
|   |                      |            |
|   |                      |            |

|             |                        |
|-------------|------------------------|
| DATE        | 12/23/2019 11:46:26 AM |
| SCALE       | As indicated           |
| DRAWN       | MAB                    |
| CHECKED     | TJB                    |
| PROJECT NO. | 18-026                 |

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

**QUALIFICATION INFORMATION**

Required unless design is exempt under 2.17.5.1 of the building code

Todd Barber 22666  
FULL NAME BCIN SIGNATURE

**REGISTRATION INFORMATION**

Required unless design is exempt under 2.17.5.1 of the building code

Forestgreen Creations Inc. 30817  
FULL NAME BCIN SIGNATURE

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**DRAWING** **DRAWING NO.**

Landscape Plan

**L1.0**





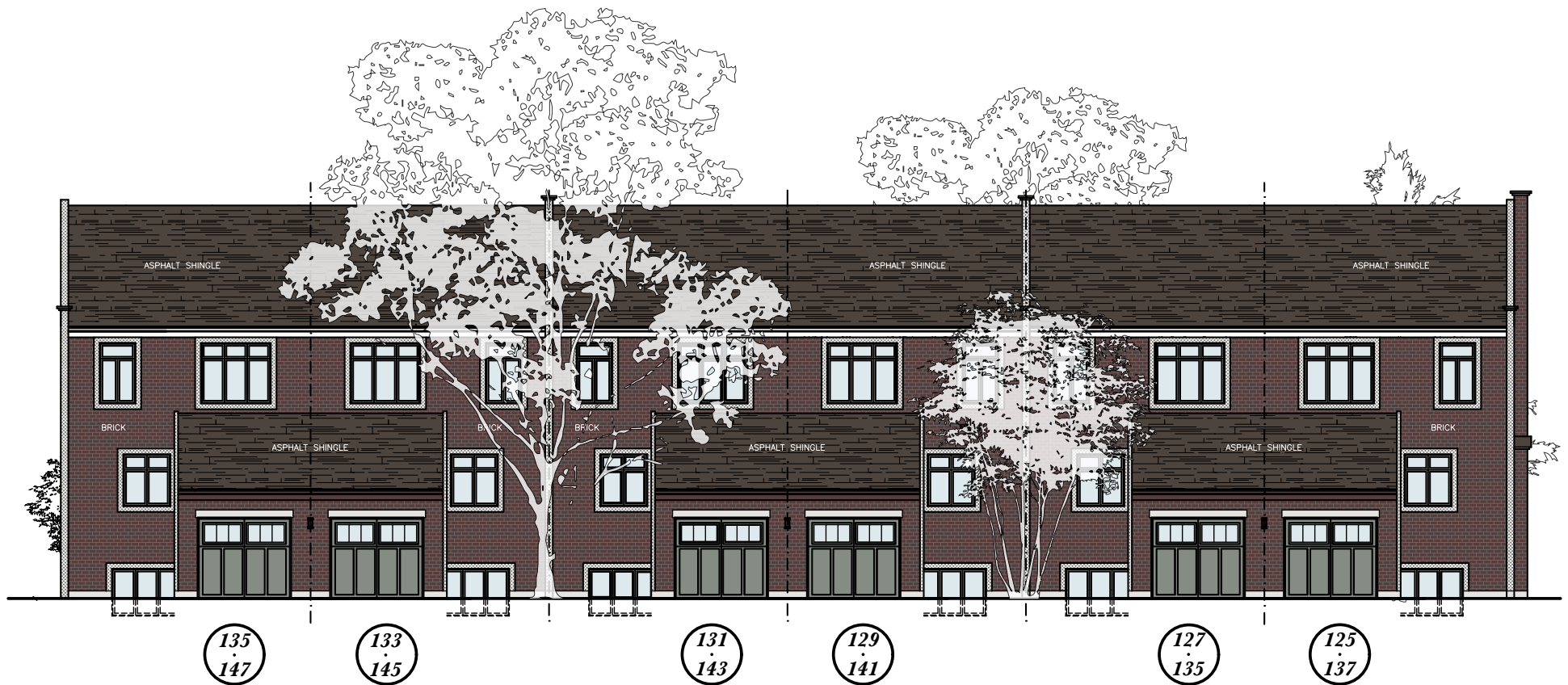
***SUMMERSIDES BOULEVARD  
SOUTH ELEVATION  
2019 12 19***



125

***SUMMERSIDES BOULEVARD  
NORTH ELEVATION  
2019 12 19***



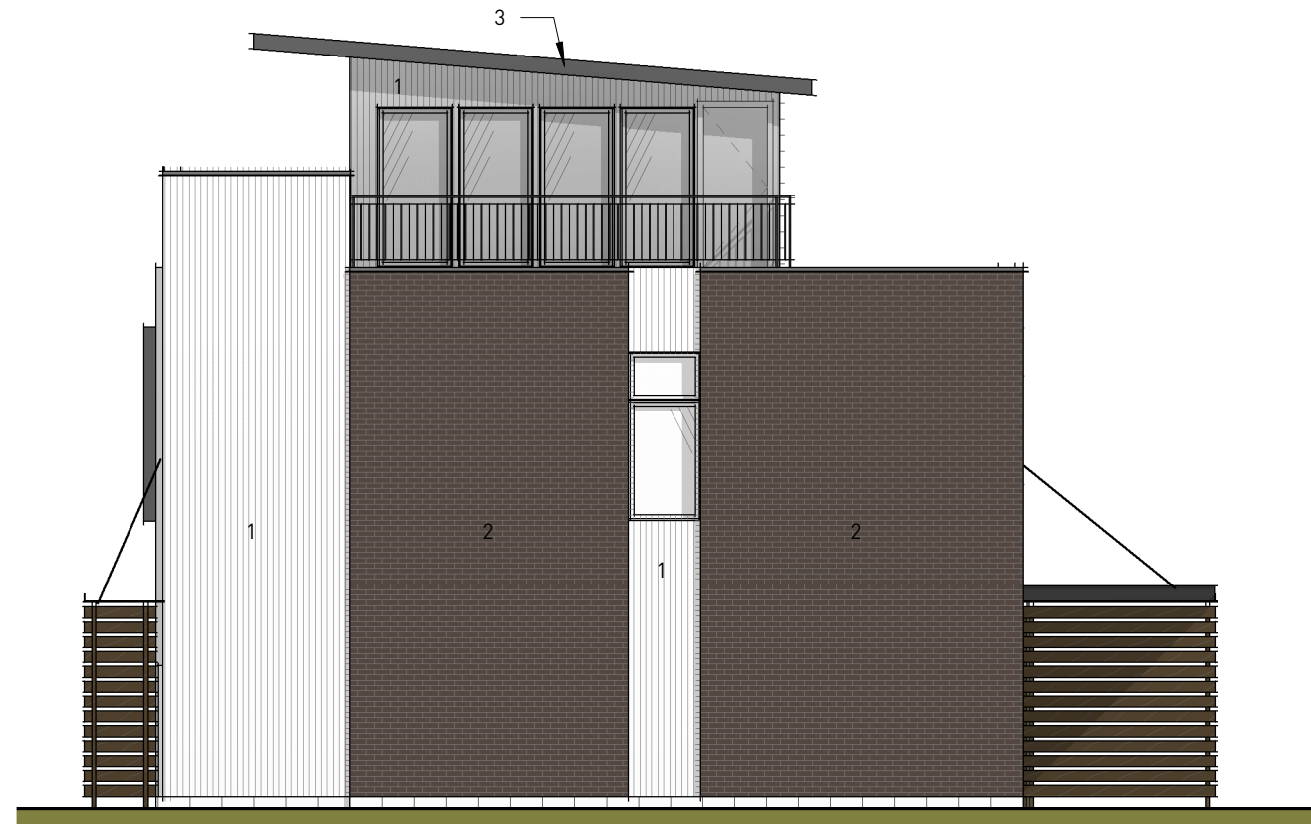


***SUMMERSIDES BOULEVARD  
NORTH ELEVATION  
2019 12 19***



147

***SUMMERSIDES BOULEVARD  
EAST ELEVATION  
2019 12 19***



**MEWS TOWNHOUSE  
EAST ELEVATION  
DEC.20.2019**

LEGEND  
1 - 7/8" CORRUGATED METAL SIDING  
2 - BRICK  
3 - 2 PLY MODIFIED BITUMEN ROOFING



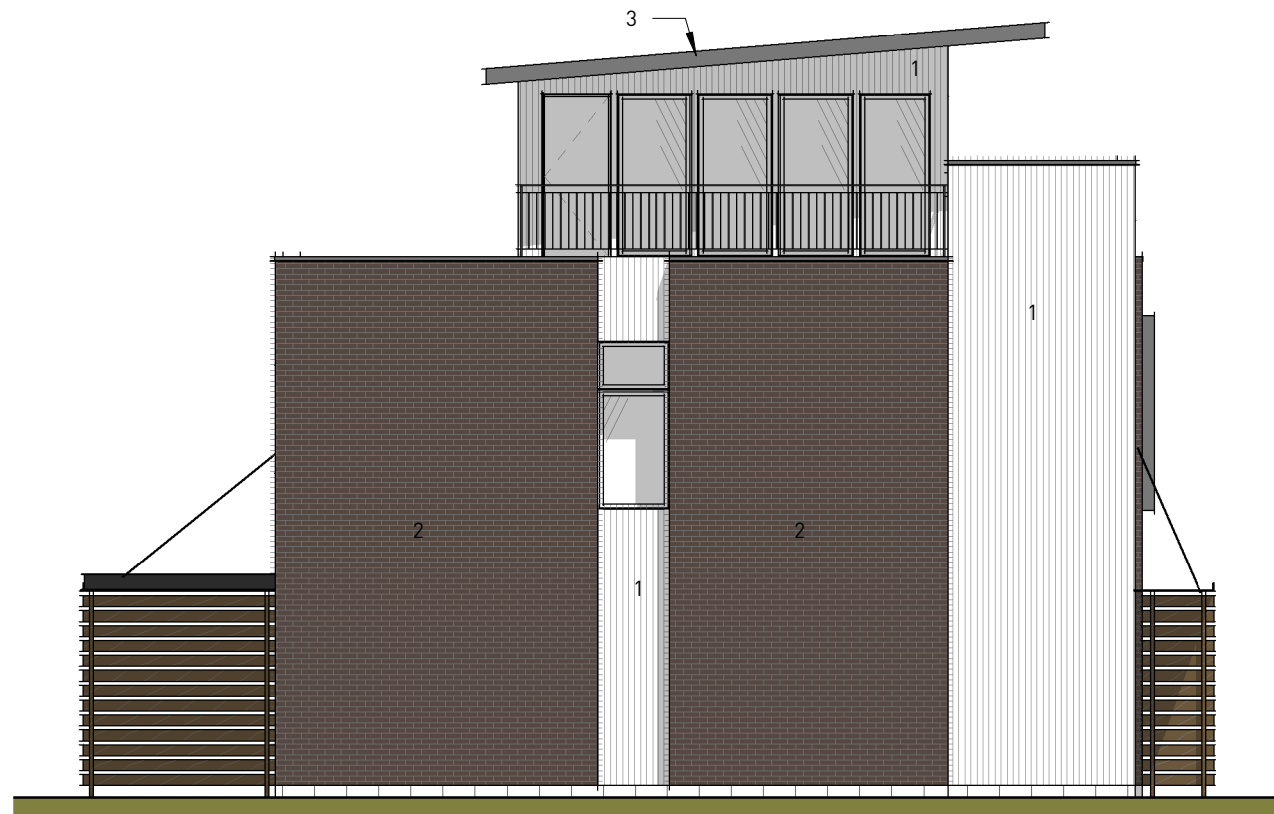
**MEWS TOWNHOUSE  
SOUTH ELEVATION  
DEC.20.2019**

LEGEND  
1 - 7/8" CORRUGATED METAL SIDING  
2 - BRICK  
3 - 2 PLY MODIFIED BITUMEN ROOFING



**MEWS TOWNHOUSE  
NORTH ELEVATION  
DEC.20.2019**

LEGEND  
1 - 7/8" CORRUGATED METAL SIDING  
2 - BRICK  
3 - 2 PLY MODIFIED BITUMEN ROOFING



**MEWS TOWNHOUSE  
WEST ELEVATION  
DEC.20.2019**

LEGEND  
1 - 7/8" CORRUGATED METAL SIDING  
2 - BRICK  
3 - 2 PLY MODIFIED BITUMEN ROOFING



**APARTMENT  
SOUTH ELEVATION  
DEC.20.2019**

LEGEND  
1. MASONRY  
2. ASPHALT SHINGLES





**APARTMENT  
WEST ELEVATION  
DEC.20.2019**

- LEGEND  
1. MASONRY  
2. ASPHALT SHINGLES  
3. DOWNLIGHTING





**APARTMENT  
NORTH ELEVATION  
DEC.20.2019**

LEGEND  
1. MASONRY  
2. ASPHALT SHINGLES  
3. DOWNLIGHTING



**APARTMENT  
EAST ELEVATION  
DEC.20.2019**

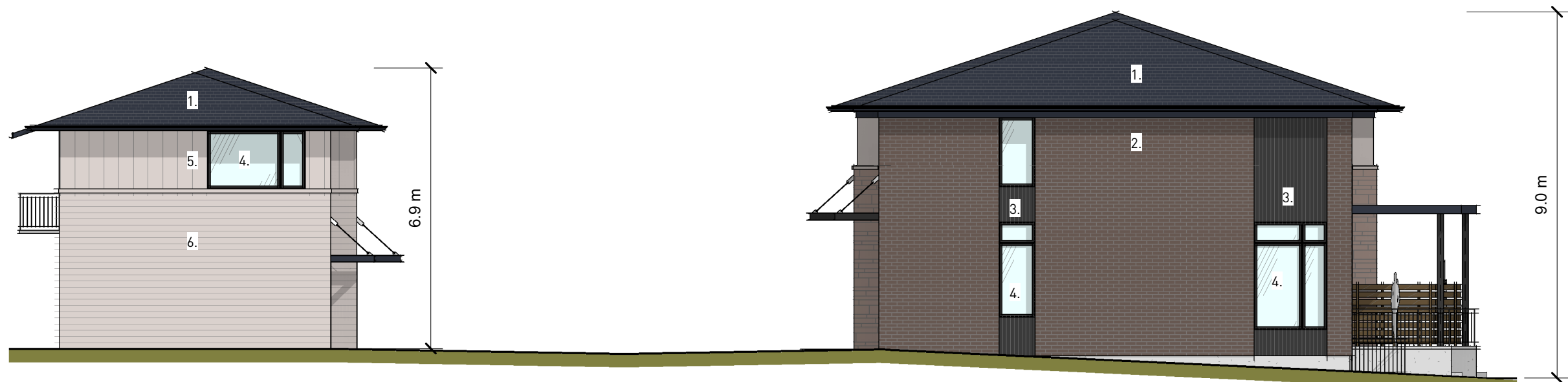
- LEGEND  
1. MASONRY  
2. ASPHALT SHINGLES  
3. DOWNLIGHTING



**BLOCK D  
WEST ELEVATION  
DEC.20.2019**

LEGEND

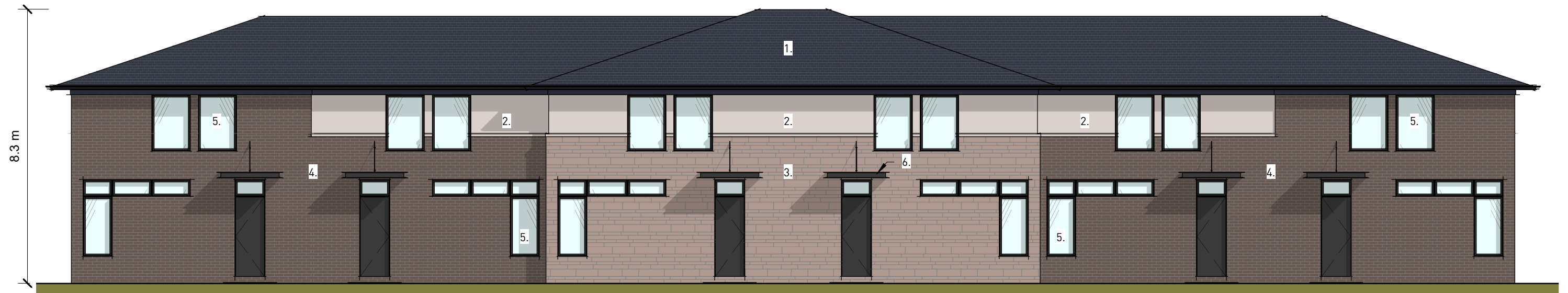
- 1. ASPHALT SHINGLES
- 2. STUCCO
- 3. MASONRY
- 4. BRICK
- 5. ALUMINUM SIDING
- 6. BLACK WINDOWS
- 7. BLACK STEEL I BEAM



**BLOCK D + E  
NORTH ELEVATION  
DEC.20.2019**

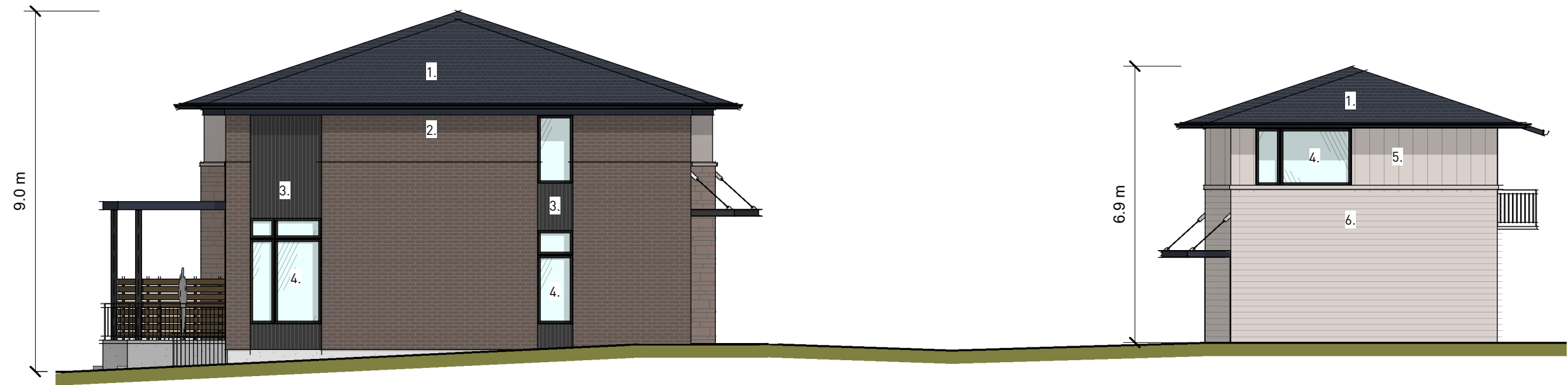
LEGEND

- 1. ASPHALT SHINGLES
- 2. BRICK
- 3. ALUMINUM SIDING
- 4. BLACK WINDOWS
- 5. HARDIE SIDING 1
- 6. HARDIE SIDING 2



**BLOCK D  
EAST ELEVATION  
DEC.20.2019**

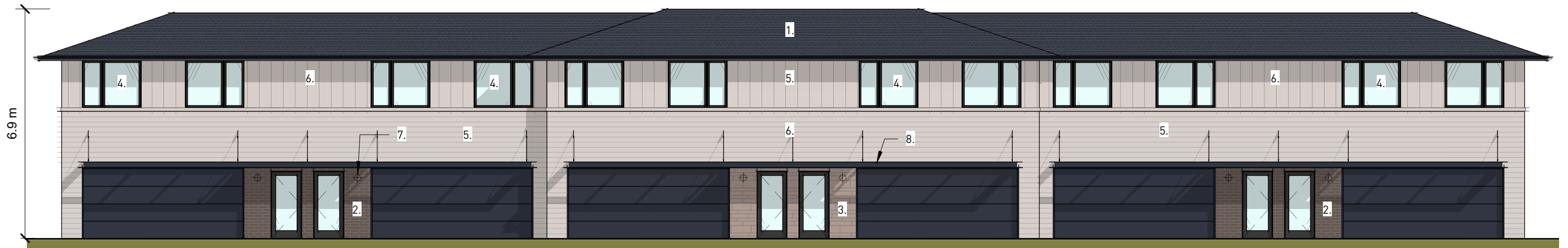
- LEGEND
- 1. ASPHALT SHINGLES
  - 2. STUCCO
  - 3. MASONRY
  - 4. BRICK
  - 5. BLACK WINDOWS
  - 6. CANOPY



**BLOCK D + E  
SOUTH ELEVATION  
DEC.20.2019**

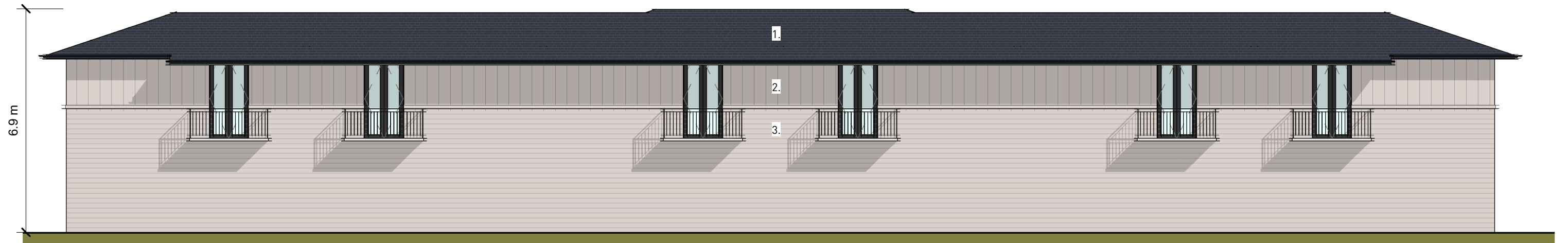
LEGEND

- 1. ASPHALT SHINGLES
- 2. BRICK
- 3. ALUMINUM SIDING
- 4. BLACK WINDOWS
- 5. HARDIE SIDING 1
- 6. HARDIE SIDING 2



**BLOCK E  
WEST ELEVATION  
DEC.20.2019**

- LEGEND**
- 1. ASPHALT SHINGLES
  - 2. BRICK
  - 3. MASONRY
  - 4. BLACK WINDOWS
  - 5. HARDIE SIDING 1
  - 6. HARDIE SIDING 2
  - 7. COACH STYLE LIGHT FOR ENTRANCE AND LANEWAY
  - 8. CANOPY



**BLOCK E  
EAST ELEVATION  
DEC.20.2019**

- LEGEND  
1. ASPHALT SHINGLES  
2. HARDIE SIDING 1  
3. HARDIE SIDING 2



## Curtis Thompson

---

**From:** Bob Lymburner  
**Sent:** January 20, 2020 3:13 PM  
**To:** Kahlin Holmes BNI  
**Cc:** Barbara Wiens; Shannon Larocque; Curtis Thompson  
**Subject:** RE: Summersides Mews - Submission #3 (SP-03-19)

Fire has no comments



**Bob Lymburner**

Fire Chief

Director of Fire and By-Law Services

Town of Pelham

T: 905-892-2607 x203 | E: blymburner@pelham.ca

177 Highway 20 West | PO Box 323 | Fonthill, ON | L0S 1E0

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**From:** Kahlin Holmes BNI [mailto:kahlin@betterneighbourhoods.ca]  
**Sent:** Monday, January 20, 2020 3:08 PM  
**To:** Curtis Thompson; Bob Lymburner  
**Subject:** Re: Summersides Mews - Submission #3 (SP-03-19)

Hi Curtis and Chief Bob,

Please see revised site plan attached.

Thank you,

Kahlin Holmes



---

**From:** Curtis Thompson <CThompson@pelham.ca>  
**Date:** Monday, January 13, 2020 at 10:38 AM  
**To:** Kahlin Holmes BNI <kahlin@betterneighbourhoods.ca>  
**Subject:** Summersides Mews - Submission #3 (SP-03-19)

Hi Kahlin,

I have not yet received Public Works revised comments (not due until Jan 20<sup>th</sup>) but wanted to forward along the Fire Chief's latest markup as soon as it arrived.

It appears a small part of the laneway didn't receive the consistent treatment. And the laneway entrances should note a 12 m centreline radii.

Please revise and resubmit at your earliest convenience.

Thanks,



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## Curtis Thompson

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**From:** Fricke, Britney <Britney.Fricke@niagararegion.ca>  
**Sent:** March 2, 2020 10:27 AM  
**To:** Curtis Thompson  
**Cc:** Ramundo, Matteo  
**Subject:** RE: Summersides Mews- Waste Collection/Easement

**Follow Up Flag:** Follow up  
**Flag Status:** Flagged

Sorry for the delay- no easement needed.

Britney

---

**From:** Curtis Thompson [mailto:CThompson@pelham.ca]  
**Sent:** Monday, March 02, 2020 9:36 AM  
**To:** Fricke, Britney <Britney.Fricke@niagararegion.ca>  
**Cc:** Ramundo, Matteo <Matteo.Ramundo@niagararegion.ca>  
**Subject:** RE: Summersides Mews- Waste Collection/Easement

**CAUTION:** This email originated from outside of the Niagara Region email system. Use caution when clicking links or opening attachments unless you recognize the sender and know the content is safe.

Hi Britney,

I'm wrapping up the staff report on this SPA tomorrow. At this point, (even with the same surface treatment), is the Region's easement requirement along the edges of the laneway still applicable?

Thanks,



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---

**From:** Curtis Thompson  
**Sent:** February 24, 2020 11:16 AM  
**To:** 'Fricke, Britney' <Britney.Fricke@niagararegion.ca>; Shannon Larocque <slarocque@pelham.ca>  
**Cc:** Ramundo, Matteo <Matteo.Ramundo@niagararegion.ca>  
**Subject:** RE: Summersides Mews- Waste Collection/Easement

Britney,

They amended the Site Plan (attached) to provide one treatment to keep the Fire Chief happy. Let me know how you'd like us to proceed.

Best,



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**From:** Fricke, Britney [<mailto:Britney.Fricke@niagararegion.ca>]  
**Sent:** February 11, 2020 10:30 AM  
**To:** Shannon Larocque <[SLarocque@pelham.ca](mailto:SLarocque@pelham.ca)>  
**Cc:** Ramundo, Matteo <[Matteo.Ramundo@niagararegion.ca](mailto:Matteo.Ramundo@niagararegion.ca)>; Curtis Thompson <[CThompson@pelham.ca](mailto:CThompson@pelham.ca)>  
**Subject:** Summersides Mews- Waste Collection/Easement

Hi Shannon,

I know this is Curtis's file, but I'm hoping you can investigate something for me or forward my email appropriately. We're reviewing the Draft Plan of Condo application for Summersides Mews. There was an outstanding Regional waste collection requirement from the site plan process for easements over the decorative pavement portion of the common element road area. The purpose of the easement was to have the decorative portions be free and clear of structures and cars so garbage trucks could access the full width for collection. The obstruction within the decorative pavement portions was also a concern of the Fire Chief, and there was some discussion about whether the entire common element road area would need to be paved as opposed to having an easement. Do you know where the Chief landed on this- easement or entirely paved?

We're trying to decide whether to let the site plan approval process play out and keep the easement requirement out of the draft plan conditions, whether to carry it over as a condition, or whether its redundant because of the paving requirement.

Give me a call if you want to chat.

Thanks,  
Britney

**Britney Fricke, MCIP, RPP**  
Development Planner  
Planning and Development Services Department  
Regional Municipality of Niagara  
1815 Sir Isaac Brock Way, PO Box 1042

Thorold, Ontario L2V 4T7  
Phone: 905-980-6000 ext. 3432  
Toll-free: 1-800-263-7215  
Fax: 905-687-8056  
[www.niagararegion.ca](http://www.niagararegion.ca)

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## Curtis Thompson

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**From:** Jason Marr  
**Sent:** March 4, 2020 9:35 AM  
**To:** Curtis Thompson  
**Cc:** Barbara Wiens  
**Subject:** RE: Summersides Mews - Primary Servicing

Engineering is okay with separating the water service at the property line and including a 50mm water meter at property line to meter the domestic service. The maintenance and upkeep of the water services on private property, including the hydrant will remain the responsibility of the developer.



### Jason Marr, P.Eng

Director of Public Works

Town of Pelham

T: 905-892-2607 x313 | E: [jmarr@pelham.ca](mailto:jmarr@pelham.ca)

20 Pelham Town Square | PO Box 400 | Fonthill, ON | L0S 1E0

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**From:** Curtis Thompson  
**Sent:** Monday, March 2, 2020 9:31 AM  
**To:** Jason Marr <[JMarr@pelham.ca](mailto:JMarr@pelham.ca)>  
**Cc:** Barbara Wiens <[BWiens@pelham.ca](mailto:BWiens@pelham.ca)>  
**Subject:** RE: Summersides Mews - Primary Servicing

Hi Jason,

I need to wrap up the staff *Recommendation Report* by tomorrow. Where are we at with the latest Site Servicing Plan on this development?

Thanks,



Curtis Thompson, B.Eng.  
Planner  
Community Planning &  
Development

e: [cthompson@pelham.ca](mailto:cthompson@pelham.ca)  
p: 905.892.2607 x324  
[pelham.ca](http://pelham.ca)

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

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**From:** Derek Young  
**Sent:** February 24, 2020 11:18 AM

**To:** Curtis Thompson <[CThompson@pelham.ca](mailto:CThompson@pelham.ca)>

**Cc:** Tolga Aydin <[TAydin@pelham.ca](mailto:TAydin@pelham.ca)>; Barbara Wiens <[BWiens@pelham.ca](mailto:BWiens@pelham.ca)>; Jason Marr <[JMarr@pelham.ca](mailto:JMarr@pelham.ca)>

**Subject:** Re: Summersides Mews - Primary Servicing

Hi, I wasn't included in the meeting, any approved changes need to be signed off by Jason, thanks.

Regards,

Derek

On Feb 24, 2020, at 10:05 AM, Curtis Thompson <[CThompson@pelham.ca](mailto:CThompson@pelham.ca)> wrote:

Hey guys,

I wasn't a part of this meeting, but I guess the Servicing Plan was revised? Can you please let me know if all is well?

Thanks,



## **Memorandum**

### **Public Works Department - Engineering**

**To:** Curtis Thompson, Planner

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

**From:** Tolga Aydin, Engineering Technologist

**Date:** January 21, 2020

**Subject:** Summersides Mews – **Third Submission**

The Public Works Department has reviewed the submitted documentation regarding the proposed development known as Summersides Mews. Please note the following notes and conditions provided.

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

- Functional Servicing and Grading Report, by Better Neighbourhoods Development Consultants, dated December 19, 2019
- Cost Estimates, by Better Neighbourhoods Development Consultants, dated December 19, 2019

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

- Site Plan, by Better Neighbourhoods Development Consultants, dated December 17, 2019
- Servicing Plan, by Better Neighbourhoods Development Consultants, dated December 19, 2019
- Grading Plan, by Better Neighbourhoods Development Consultants, dated December 19, 2019

From the Department of



Public Works has the following comments;

## **Engineering Reports**

Public Works has no comments.

## **Engineering Comments**

Public Works has no comments.

**SITE PLAN COMMENTS**

**Date:** May 27, 2019

**Re:** SP-03-19 - Summersides Mews

The building department offers the following comment,

- Spatial Separation between Buildings may be a consideration, as per 9.10.14. OBC

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

## **Curtis Thompson**

---

**From:** circulations@wsp.com  
**Sent:** May 10, 2019 8:28 AM  
**To:** Curtis Thompson  
**Subject:** Site Plan application (SP-03-19) - Wellspring Way and Summersides Blvd.

**2019-05-10**

**Curtis Thompson**

**Pelham**

, ,

Attention: Curtis Thompson

Re: Site Plan application (SP-03-19) - Wellspring Way and Summersides Blvd.; Your File No. SP-03-19

Our File No. 84624

Dear Sir/Madam,

We have reviewed the circulation regarding the above noted application.

The following paragraph is to be included as a condition of approval:

“The Owner shall indicate in the Agreement, in words satisfactory to Bell Canada, that it will grant to Bell Canada any easements that may be required, which may include a blanket easement, for communication/telecommunication infrastructure. In the event of any conflict with existing Bell Canada facilities or easements, the Owner shall be responsible for the relocation of such facilities or easements”.

We hereby advise the Developer to contact Bell Canada during detailed design to confirm the provision of communication/telecommunication infrastructure needed to service the development.

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

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

If the Developer elects not to pay for the above noted connection, then the Developer will be required to demonstrate to the satisfaction of the Municipality that sufficient alternative communication/telecommunication

will be provided to enable, at a minimum, the effective delivery of communication/telecommunication services for emergency management services (i.e., 911 Emergency Services).

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

Should you have any questions, please contact the undersigned.

Yours truly,

Meaghan Palynchuk  
Manager, Municipal Relations  
Access Network Provisioning, Ontario  
Phone: 905-540-7254  
Mobile: 289-527-3953  
Email: Meaghan.Palynchuk@bell.ca

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-LAEmI-hhHzdJzBITWfa4Hgs7pbKI

May 10, 2019

CURTIS THOMPSON  
TOWN OF PELHAM  
20 PELHAM TOWN SQUARE  
FONTHILL, ONTARIO, L0S 1E0

Re: **Summersides Mews - SP-03-19**

Dear Curtis,

This development will receive mail service to centralized mail facilities provided through our Community Mailbox program.

I will specify the conditions which I request to be added for Canada Post Corporation's purposes.

The owner shall complete to the satisfaction of the Director of Engineering of the town of Pelham and Canada Post:

- a) Include on all offers of purchase and sale, a statement that advises the prospective purchaser:
  - i) that the home/business mail delivery will be from a designated Centralized Mail Box.
  - ii) that the developers/owners be responsible for officially notifying the purchasers of the exact Centralized Mail Box locations prior to the closing of any home sales.
- b) The owner further agrees to:
  - i) work with Canada Post to determine and provide temporary suitable Centralized Mail Box locations which may be utilized by Canada Post until the curbs, boulevards and sidewalks are in place in the remainder of the development.

- ii) install a concrete pad in accordance with the requirements of and in locations to be approved by Canada Post to facilitate the placement of Community Mail Boxes
  - iii) identify the pads above on the engineering servicing drawings. Said pads are to be poured at the time of the sidewalk and/or curb installation within each phase of the plan of subdivision.
  - iv) determine the location of all centralized mail receiving facilities in co-operation with Canada Post and to indicate the location of the centralized mail facilities on appropriate maps, information boards and plans. Maps are also to be prominently displayed in the sales office(s) showing specific Centralized Mail Facility locations.
- c) Canada Post's multi-unit policy, which requires that the owner/developer provide the centralized mail facility (front loading lockbox assembly or rear-loading mailroom [mandatory for 100 units or more]), at their own expense, will be in effect for buildings and complexes with a common lobby, common indoor or sheltered space.

Should the description of the project change, I would appreciate an update in order to assess the impact of the change on mail service.

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

I appreciate the opportunity to comment on this project.

Regards,

*A. Carrigan*

Officer, Delivery Planning

(226) 268-5914

[Andrew.Carrigan@Canadapost.ca](mailto:Andrew.Carrigan@Canadapost.ca)

May 15, 2019

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

Dear Curtis,

Re: Site Plan Control Application  
Summersides Boulevard Inc.  
Wellspring Way & Summersides Boulevard  
Part 5 on 59R-16105, and Part of Block 4 on 59M  
Town of Pelham  
File No.: SP-03-19

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

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

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

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

Easement(s) are required to service this development and any future adjacent developments. The applicant will provide all easement(s) to Enbridge Gas Inc. at no cost.

In the event a pressure reducing regulator station is required, the applicant is to provide a 3 metre by 3 metre exclusive use location that cannot project into the municipal road allowance. The final size and location of the regulator station will be confirmed by Enbridge Gas Inc.'s Customer Connections department. For more details contact [CustomerConnectionsContactCentre@Enbridge.com](mailto:CustomerConnectionsContactCentre@Enbridge.com).



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

Sincerely,



**Alice Coleman**

Municipal Planning Coordinator  
Long Range Distribution Planning

---

**ENBRIDGE GAS INC.**

TEL: 416-495-5386

[MunicipalPlanning@enbridge.com](mailto:MunicipalPlanning@enbridge.com)

500 Consumers Rd, North York, ON, M2J 1P8

[enbridgegas.com](http://enbridgegas.com)

**Safety. Integrity. Respect**

## **Subject:** Public Parking in Fenwick

### **Recommendation:**

**THAT Committee receive Report #2020-0041 and recommend to Council:**

**THAT Staff include the preparation of a comprehensive Parking Study/Strategy in the 2021 Budget;**

**AND THAT Staff prepare the necessary by-law to establish a Parking Reserve Fund prior to 2021 budget;**

**AND THAT Staff prepare a report on cash-in-lieu of parking policy and appropriate fee structure.**

### **Background:**

On February 3, 2020 Council passed a motion directing Staff to investigate the possibility of obtaining lands for more parking within Fenwick and to report back to Council in March 2020. Council passed this motion in response to a Committee of Adjustment application at 795 Canboro Road in the downtown area of Fenwick that was seeking relief from the parking requirements of Zoning By-law 1136 (1987).

On February 24, 2020 Council also approved a new strategic priority of reviewing parking needs throughout the municipality. This report is provided to partially satisfy both of these requirements.

### **Analysis:**

When municipalities identify a need to acquire land for public parking purposes, typically a parking reserve fund exists which contains funds to be used to acquire lands and/or develop lands for public parking purposes. It is also the norm that a municipality would contribute money on an annual basis to that reserve fund as part of the annual budget approval process. In addition to putting money aside annually through the budget approval process, a municipality can also place revenues it receives from parking in the parking reserve and some municipalities

also establish a policy for cash-in-lieu of parking and monies that are collected through the cash-in-lieu of parking are also placed in the parking reserve fund. Once there is adequate money in a parking reserve fund, a municipality can purchase land for public parking purposes or develop land for public parking without a direct impact on the taxpayer.

Currently the Town of Pelham does not have a parking reserve fund. As such, the Town does not have money set aside specifically for land acquisition or the development of land for public parking purposes. Further, the approved 2020 Town budget does not include any monies for land acquisition or the development of land for public parking and there is no contingency fund for such purposes either. Consequently, at this time, the Town has no financial resources available for land acquisition purposes or to develop land for public parking purposes.

Other mechanisms available to a municipality to increase the supply of parking include increasing the supply of on-street parking by minimizing on-street parking restrictions, by providing maximum time limits on the existing supply of public parking, thereby encouraging more turnover of the existing parking spaces resulting in the freeing up of spaces for others to park, by instituting a fee for parking and providing for parking enforcement of time limits. Generally, people that pay for parking are more aware of their time limits for parking and the turnover of parking spaces is higher where there is a fee for parking freeing up parking spaces for others to park. Usually a municipality uses a number of different strategies to increase the supply of public parking so that it is a multi-faceted approach.

#### Parking Study/Strategy

Typically, a municipality undertakes a parking study and develops a parking strategy that includes analysis relating to parking supply, turnover of parking spaces, peak parking demands, etc., assesses revenue sources through various pay for parking strategies, evaluates ways to increase the supply of both on-street and off-street parking and on both public and private properties, identifies key properties that it may wish to acquire for parking purposes to increase the supply of public parking and provides for guidelines regarding parking enforcement. This parking study and strategy also provides the basis for understanding what the Town's role is in supplying public parking for the benefit of private interests and establishes a policy framework for making decisions on public parking supply.

The Town does not have a parking study/strategy and there has been no assessment completed to know if there is a parking shortage in Fenwick and if so, the extent or magnitude of that parking shortage. Therefore, at this time, there is no evaluated basis for the Town to consider acquiring land for public parking purposes. However, Council has heard from members of the community that there

is a need for additional public parking in Fenwick, in particular during evening dinner hours when the local restaurants are busy.

It is also a best practice that when a municipality acquires lands, an appraisal is conducted by a qualified appraiser and the municipality and the property owner negotiate a fair market value based on an appraisal. It is also the norm that the cost of the appraisal is borne by the purchaser.

In addition to the costs to acquire land for parking, there will also be costs associated with developing the land for parking including the design of the grading, drainage and storm water management, lighting, landscaping, etc. and the construction costs of underground and above ground works.

It is also noted that there has been no assessment conducted regarding what are the Town costs for operating and maintaining additional public parking areas or what the capacity is for Staff to take on the operation of additional parking areas.

#### Cash-in-Lieu of Parking

Section 40 of the *Planning Act*, RSO 1990, provides the authority for a municipality to enter into an agreement with a property owner or occupant where the owner or occupant of the property is required by By-law to provide and maintain parking facilities, and such agreement may exempt the owner or occupant, to the extent specified, from the requirement of providing or maintaining such parking facilities and the agreement shall provide for the payment of money to the municipality for the granting of the exemption to provide or maintain parking facilities; this is known as cash-in-lieu of providing parking. All monies received under such agreements are to be placed in a special account, i.e. parking reserve.

The Town Official Plan has a policy in the Downtown designation, which includes downtown Fonthill and Fenwick, that states "*where a new use cannot accommodate the Town's parking requirement, the Town may accept cash-in-lieu where it is demonstrated that the parking can be accommodated in an alternate location.*" Currently, the Town does not have any procedure for determining if cash-in-lieu of parking is appropriate, the criteria by which cash-in-lieu of parking is evaluated, and Pelham does not have a fee schedule for cash-in-lieu of parking. Also, according to the Town Official Plan policy accepting cash-in-lieu of parking is tied to demonstrating that parking can be provided in another location versus on the applicant's site. In the absence of having demonstrated that parking can be accommodated on an alternate location it could be argued that accepting cash-in-lieu of parking may be premature.

To implement the Official Plan policy with respect to cash-in-lieu of parking a location where parking could be provided as an alternate location to an applicant's property needs to be identified, a fee amount for the cash-in-lieu needs to be established and there should be some criteria for establishing that cash-in-lieu of parking value, i.e., full cost recovery vs. partial. A parking reserve fund should also be established so that fees collected as cash-in-lieu of parking are set aside specifically for the acquisition of land and development of land for public parking purposes. It is also recommended that a procedure be established that has criteria by which Staff would evaluate a request for cash-in-lieu of parking. The implementation of cash-in-lieu of parking could also be an item for consideration as part of a comprehensive parking study/strategy.

The Town Clerk has obtained information from other local municipalities in Niagara and it appears that only three have cash-in-lieu of parking available. The fees for charged for cash in lieu of parking range vastly from \$2,900 to \$50,000 per parking stall. Two require additional fees associated with entering into an Agreement, ranging from \$2,490 to \$3,000. One municipality does not require an additional fee for this purpose.

#### Conclusion

Should Council wish to undertake a parking study/strategy, it is recommended that this study be comprehensive and include Fonthill and Ridgeville as well as downtown Fenwick. Council has heard in the past from businesses in Ridgeville that additional parking is needed to serve the existing businesses and in downtown Fonthill some businesses have also expressed concerns with the availability of on-street public parking on Pelham Street and Pelham Town Square, and Council has identified a need to address parking at the Meridian Community Centre. It is recommended that a comprehensive public parking study/strategy for the Town be included for consideration in the 2021 budget. This comprehensive parking study/strategy would provide the context and guidance to Council with regards to future decision making as it relates to the supply of public parking based on an approved framework and/or policy.

In the short term it is recommended that Staff report back to Council on a cash-in-lieu of parking policy and appropriate fee.

#### **Financial Considerations:**

Currently the Town does not have any money in a reserve to acquire lands for public parking in Fenwick, or elsewhere in the Town. If the Town were to purchase property for parking, it would be expected to purchase lands at market rate. At this time, if Council were to consider purchasing land for public parking purposes, it

would have a direct impact on the tax rate and result in an increase in property taxes.

Further, there is no money in the 2020 budget to undertake a comprehensive parking study/strategy. It is recommended that this be included in the 2021 Budget for consideration and it is estimated that such a study would be in the range of \$50,000 - \$60,000.

**Alternatives Reviewed:**

An alternative could be that Council direct staff in a closed session, to initiate contact with one or more property owner(s) and negotiate the purchase of land in downtown Fenwick for public parking purposes on the understanding that currently there are no funds available or allocated for such a purchase. This alternative would require a separate resolution from Council to go into a closed session to obtain advice on the acquisition of property.

**Strategic Plan Relationship: Build Strong Communities and Cultural Assets**

The provision of appropriate public parking in the downtown areas supports the business communities and can contribute positively towards building a strong community provided the parking is appropriately located, designed and there is not an oversupply of parking.

**Consultation:**

The Senior Leadership Team was consulted on the preparation of this report.

**Other Pertinent Reports/Attachments:**

n/a

**Prepared and Recommended by:**

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

**Prepared and Submitted by:**

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

**Subject:** Administrative Monetary Penalty system

**Recommendation:**

**THAT Committee receive Report #2020-0022 and recommend to Council:**

**THAT the administrative monetary penalty bylaw be approved and staff be directed to prepare the necessary bylaw for council consideration on March 23, 2020**

**Background:**

**Administrative Penalties**

Through the enactment of By-law #3505(2014), the system for administrative penalties relating to stopping, standing and parking of vehicles was established. As a result, the Town of Pelham was successful in the implementation of the Administrative Municipal Penalty System (AMPS) for parking-related offences, wherein the system is administered by the municipality and replaces the former Provincial Offences Act (POA) Court system. The result achieved a more efficient and customer-focused process to adjudicate parking penalties and effectively removed the Prosecution of Part II Parking Citations from the Niagara Provincial Offences Courts, placing the responsibility for a review/screening forum at the municipal level. Implementation across Niagara municipalities took effect July 1, 2014.

Administrative penalties are a civil mechanism for promoting compliance with municipal by-laws. Administrative penalties can be imposed through administrative processes, rather than fines imposed in quasi-criminal court processes.

Currently parking offence penalties are issued by the municipality, and individuals receive a municipal penalty notice, rather than a POA Certificate of Offence. Any person wishing to dispute a penalty notice may request a review by a Screening Officer, and the decision of the Screening Officer can be subsequently appealed to a Hearing Officer. Schedule "D" of By-law #3505(2014) designates the Town Clerk as the Screening Officer, and provides for the Town Deputy Clerk to act in the same capacity.

It is up to the municipality to decide the by-laws for which to impose administrative penalties and to decide the amount of an administrative penalty that a person would be required to pay. However, the amount of an administrative penalty cannot be punitive in nature and cannot exceed the amount reasonably required to promote compliance with a by-law.

Administrative penalties are imposed without a court hearing. However, other protections are typically put in place to help ensure that the process for imposing a penalty is fair. It is up to municipalities to set up processes and procedures for an administrative penalty system, such as putting in place a review process for a person who has received an administrative penalty.

If a municipality requires a person to pay an administrative penalty for a by-law contravention, the person cannot be charged with a Provincial Offences violation for the same contravention.

Any administrative penalty imposed on a person constitutes a debt of that person to the municipality. An unpaid administrative penalty can be added to the tax roll for any property in the local municipality for which all of the owners are responsible for paying the administrative penalty and can be collected in the same manner as taxes.

### **Analysis:**

The Town of Pelham bylaw division has been engaged in writing and revising bylaws which give the municipality the ability to enforce and gain compliance, moving enforcement away from the POA courts supports the Region of Niagara's goal to reduce the number of POA offences clogging up its courts and costing the tax payers large sums of money. Using the AMP process to enforce and gain compliance will simplify and expedite this process.

### **Financial Considerations:**

Increasing the utilization of the AMP system will likely create revenues, which traditionally have been paid to the Region of Niagara. In the current system, the Region pays the Town of Pelham approximately 1% of its POA revenues. AMP charges which will be set at a fixed rate of 250.00 per charge for any offence established in by Town by-law. The one exception is the Town's Parking By-law 89-2000, which has lower fines for parking offences.

### **Alternatives Reviewed:**

Remain with the current POA system

### **Strategic Plan Relationship: Strong Organization**



A faster, more flexible and customer-focused adjudication process will be fostered through an augmented AMPS and review process.

**Consultation:**

Bylaw officers, CAO, Clerk, Ontario Association of Property Standards Officers.

**Other Pertinent Reports/Attachments:**

Various by-laws will be impacted by the changes to the AMPS program, each on a standalone basis.

**Prepared and Recommended by:**

Bob Lymburner, Fire Chief  
Nancy J. Bozzato, Town Clerk

**Prepared and Submitted by:**

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

THE CORPORATION OF THE  
TOWN OF PELHAM  
BY-LAW NO. 0000 (2020)

**Being a by-law to Establish an Administrative Monetary Penalty  
System for Non-Parking Related Offences and to amend all By-Law's  
referenced in Schedule A**

**WHEREAS** section 434.1(1) of the *Municipal Act, 2001*, S.O. 2001, c.25 as amended (Municipal Act, 2001) provides that, a municipality may require a person, subject to such conditions as the municipality considers appropriate, to pay an administrative penalty if the municipality is satisfied that the person has failed to comply with a by-law of the municipality passed under this Act; and

**WHEREAS** section 434.1(2) of the *Municipal Act, 2001*, provides that the purpose of a system of administrative penalties established by a municipality under this section shall be to assist the municipality in promoting compliance with its by-laws; and,

**WHEREAS** section 15.4.1 of the *Building Code Act, 1992* as amended, authorizes a municipality to pass a by-law that may require a person to pay an administrative penalty if the municipality is satisfied that the person has failed to comply with a by-law of the municipality passed under the *Building Code Act, 1992*, as amended or an order of an officer authorized under 15.2(2) or 15.3, 2017, c.34, Schedule 2, s.10 of the *Building Code Act, 1992*, as amended; and,

**WHEREAS** section 434.2(1) of the *Municipal Act, 2001*, provides that an administrative penalty imposed by a municipality on a person under section 434.1 constitutes a debt of the person to the municipality; and,

**WHEREAS** section 391(1) of the *Municipal Act, 2001*, provides that without limiting sections 9, 10, and 11, those sections authorize a Municipality to impose fees or charges on persons; and,

**WHEREAS** the Council of the Corporation of the Town of Pelham considers it desirable to enforce and seek compliance with the designated by-laws, or portions of those by-laws, through an administrative penalty system;

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

## **DEFINITIONS**

1. In this By-law:

- 1.1. "Administrative Penalty" means an administrative penalty established by a Designated By-law;
- 1.2. "By-law" means this by-law and any schedule to this by-law as they may from time to time be amended;
- 1.3. "Town" means The Corporation of the Town of Pelham;
- 1.4. "Council" means the Town's Council;
- 1.5. "Designated By-law" means each by-law that is designated by the Town as a by-law to which this By-law applies;

- 1.6. "Director" means the person, or his delegate, from time to time performing the functions of the Director of Fire and By-law Services.
- 1.7. "Fee – Appeal No-Show" means an administrative fee in respect of a Person's failure to appear at the time and place scheduled for a hearing before a Hearings Officer;
- 1.8. "Fee – Late Payment" means an administrative fee in respect of a Person's failure to pay an Administrative Penalty by the date on which it is due and payable;
- 1.9. "Fee – Review No-Show" means an administrative fee in respect of a Person's failure to appear at the time and place scheduled for a review by a Screening Officer;
- 1.10. "Hearings Officer" means each Hearing Officer(s) from time to time appointed by Town Council
- 1.11. "Officer" means each of
  - (a) the Director;
  - (b) a Municipal Law Enforcement Officer appointed by or under the authority of a Town by-law to enforce a Designated By-law; and
  - (c) a police officer employed by a municipal police force, by the Ontario Provincial Police or by the Royal Canadian Mounted Police; and
  - (d) An Animal Control Officer employed by any local or provincial S.P.C.A.
- 1.12. "Penalty Notice" means a notice given pursuant to sections 3 and 5;
- 1.13. "Penalty Notice Date" means the date specified on the Penalty Notice pursuant to subsection 5.1;
- 1.14. "Penalty Notice Number" means the number specified on the Penalty Notice pursuant to subsection 5.2;
- 1.15. "Person" includes an individual, partnership, association, firm or corporation;
- 1.16. "Screening Decision" means a decision made by a Screening Officer pursuant to subsection 7.6;
- 1.17. "Screening Decision Date" means the date on which a Screening Decision is made pursuant to subsection 7.6;
- 1.18. "Screening Officer" means each person from time to time performing the functions of a Screening Officer pursuant to this By-law and appointed by Town Council

### **Penalty Notice**

- 2. Each Person who contravenes a provision of a Designated By-law shall, when given a Penalty Notice in accordance with section 3, be liable to pay to the Town an Administrative Penalty in the amount specified by the Designated By-law, for each day or part of a day on which the contravention continues.
- 3. An Officer who has reason to believe that a Person has contravened any provision of a Designated By-law may give to the Person a Penalty Notice.

4. The Director may, before 4:30 pm of the tenth (10<sup>th</sup>) calendar day after the Penalty Notice Date, cancel the Administrative Penalty. If the 10<sup>th</sup> calendar day is a Statutory Holiday, then cancellation may occur on the 11<sup>th</sup> day.
5. The Penalty Notice shall be given to the Person within fourteen (14) calendar days of the infraction date and shall include the following information:
  - 5.1. the date the infraction occurred;
  - 5.2. the date the Penalty Notice was issued;
  - 5.3. a reference number that is unique to that Penalty Notice;
  - 5.4. particulars of the contravention;
  - 5.5. the amount of the Administrative Penalty;
  - 5.6. such information as the Director determines is appropriate respecting the process by which the person may exercise the Person's right to request a review of the Administrative Penalty; and
  - 5.7. a statement advising that an Administrative Penalty will, unless cancelled or reduced pursuant to the review and appeal processes, constitute a debt of the Person to the Town.
6. A Person who is given a Penalty Notice may request that the Administrative Penalty be reviewed by a Screening Officer pursuant to section 7.

#### **Review by Screening Officer**

7. The following applies to reviews of an Administrative Penalty by a Screening Officer:
  - 7.1. A Person's right to request a review expires if it has not been exercised in the manner prescribed in subsection 7.3 before 4:30 p.m. on the date on which the Administrative Penalty is due and payable.
  - 7.2. A Person's right to request an extension of the time to request a review expires if it has not been exercised in the manner prescribed in subsection 7.3 on or before 4:30 p.m. on the date on which the Administrative Penalty is due and payable; and
    - (a) the Person shall be deemed to have waived the right to request a review;
    - (b) the Administrative Penalty shall be deemed to be affirmed; and
    - (c) the Administrative Penalty shall not be subject to review, including review by any Court.
  - 7.3. A Person's rights to request a review and to request an extension of time to request a review are exercised by giving to the Town written notice of the request to review that includes:
    - (a) the Penalty Notice Number;
    - (b) the Person's mailing address and, if applicable, facsimile transmission number and/or e-mail address;

- (c) in the case of a request to extend the time to request a review, the reasons, if any, for having failed to exercise the right to request a review within the time limited by subsection 7.1;
- (d) particulars of all grounds upon which the request to review is based; and
- (e) the Person's election to
  - (i) meet with a Screening Officer for the review; or to
  - (ii) have the review undertaken by a Screening Officer in writing in respect of the particulars provided by the Person pursuant to paragraph 7.3(d).

7.4. Where the Person elects to meet with a Screening Officer pursuant to clause 7.3(e)(i), the Person shall be given notice of the date, time and place of the review.

7.5. Where the Person elects to meet with a Screening Officer pursuant to clause 7.3(e)(i) and the Person fails to appear at the time and place scheduled for a review or fails to remain at such place until the Screening Officer has made a Screening Decision respecting the Administrative Penalty the subject of the Person's request for the review,

- (a) the Person shall be deemed to have abandoned the request for the review;
- (b) the Administrative Penalty shall be deemed to be affirmed;
- (c) the Administrative Penalty shall not be subject to review, including review by any Court; and
- (d) the Person shall pay to the Town a "Fee - Review No-Show".

7.6. Subject to subsections 7.2 and 7.5, the Screening Officer may

- (a) extend the time to request a review; and may
- (b) cancel, reduce or extend the time for payment of the Administrative Penalty and any administrative fees respecting that Administrative Penalty where the Screening Officer is satisfied that doing so would maintain the general intent and purpose of the Designated By-law and that:
  - (i) there is reason to doubt that the person contravened the Designated By-law;
  - (ii) the person took all reasonable steps to prevent the contravention; or that
  - (iii) the cancellation, reduction or extension of the time for payment is necessary to relieve undue financial hardship.

7.7. The Screening Decision shall be given to the Person in writing.

7.8. The Person may appeal to a Hearings Officer against the Screening Decision pursuant to section 8.

### **Appeal to Hearings Officer**

8. The following applies to appeals to a Hearings Officer against Screening Decisions:

8.1. The right to appeal is limited to the following:

- (a) a Person who has been given a Screening Decision pursuant to subsection 7.7; and
  - (b) the Director.
- 8.2. A Person's right to appeal expires if it has not been exercised in the manner prescribed in subsection 8.4 before 4:30 p.m. on the due and payable date for the Administrative Penalty listed on the Screening Decision.
- 8.3. A Person's right to request an extension of the time to appeal expires if it has not been exercised in the manner prescribed in subsection 8.4 before 4:30 p.m. on the due and payable date for the Administrative Penalty listed on the Screening Decision
- (a) the Person shall be deemed to have waived the right to appeal;
  - (b) the Screening Decision and the Administrative Penalty as it may have been affected by the Screening Decision shall be deemed to be affirmed; and
  - (c) the Screening Decision and the Administrative Penalty as it may have been affected by the Screening Decision shall not be subject to review, including review by any Court.
- 8.4. A right to appeal or request an extension of time to appeal is exercised by giving to the Town written notice of the request that includes:
- (a) the Penalty Notice Number;
  - (b) the Person's mailing address and, if applicable, facsimile transmission number and e-mail address;
  - (c) in the case of a request to extend the time to appeal, the reasons, if any, for having failed to exercise the right to appeal within the time limited by subsection 8.2; and
  - (d) particulars of all grounds upon which the appeal is made.
- 8.5. The Person shall be given no fewer than seven (7) days' notice of the date, time and place of the hearing of the appeal.
- 8.6. Where the Person fails to appear at the time and place scheduled for a hearing of the appeal:
- (a) the Person shall be deemed to have abandoned the appeal;
  - (b) the Screening Decision and the Administrative Penalty as it may have been affected by the Screening Decision shall be deemed to be affirmed;
  - (c) the Screening Decision and the Administrative Penalty as it may have been affected by the Screening Decision shall not be subject to review, including review by any Court; and
  - (d) the Person shall pay to the Town a "Fee - Appeal No-Show".
- 8.7. A Hearings Officer shall not make any decision respecting an appeal unless the Hearings Officer has given each of the Person, the Director and the Officer who gave the Penalty Notice an opportunity to be heard at the time and place scheduled for the hearing of the appeal.
- 8.8. Subject to subsections 8.3, 8.6 and 8.7, a Hearings Officer may

- (a) extend the time to request an appeal; and may
- (b) make any decision that the Screening Officer could have made pursuant to this By-law.

8.9. The decision of a Hearings Officer is final and not subject to review including review by any Court.

### **Notice**

9. Subject to section 11, any notice or document respecting this By-law may be given in writing in any of the following ways and is effective:
- 9.1. when a copy is placed on or affixed in any manner to a Person's vehicle;
  - 9.2. when a copy is delivered to the Person to whom it is addressed;
  - 9.3. on the fifth (5th) day after a copy is sent by registered mail or by regular letter mail to the Person's last known address;
  - 9.4. upon the conclusion of the transmission of a copy by facsimile transmission to the Person's last known facsimile transmission number; or
  - 9.5. upon the sending of the notice or document or a copy thereof by e-mail transmission to the Person's last known e-mail address.
10. For the purpose of section 9, a Person's last known address, last known facsimile transmission number and last known e-mail address are deemed to include those provided by the Person pursuant to paragraphs 7.3(b) and 8.4(b) and/or any contact information the Town of Pelham may have on record for that person.
11. Any notice or document respecting this By-law to be given to the Town shall be in writing, shall be given in any of the following ways and is effective:
- 11.1. when a copy is delivered to the Town of Pelham Public Reception Desk, Lower Level Town Hall, 20 Pelham Town Square, Fonthill, Ontario L0S 1E0
  - 11.2. on the fifth (5th) day after a copy is sent by registered mail or by regular letter mail to "Administrative Penalties, Att: Town Clerk, Town of Pelham, P.O. Box 400, 20 Pelham Town Square, Fonthill, ON, L0S 1E0
  - 11.3. upon the conclusion of the transmission of a copy by facsimile transmission to 905-892-5055; or
  - 11.4. upon the sending of the notice or document or a copy thereof by e-mail transmission to "[AMPappeals@pelham.ca](mailto:AMPappeals@pelham.ca)".

### **Financial Administration**

12. No Officer who gives a Penalty Notice may accept payment of the Administrative Penalty respecting that Penalty Notice.
13. An Administrative Penalty that is affirmed or reduced or in respect of which the time for payment has been extended pursuant to this By-law is due and payable and constitutes a debt to the Town of each Person to whom or to which the Penalty Notice was given.
14. Where a Person has paid an Administrative Penalty or an administrative fee that is then cancelled or reduced pursuant to this By-law, the Town shall refund the original amount cancelled or reduced.

15. Where an Administrative Penalty or any administrative fees respecting that Administrative Penalty are not paid within fifteen (15) days after the date that they become due and payable, each Person to whom the Penalty Notice was given shall pay to the Town a Fee - Late Payment.
16. An Administrative Penalty imposed on a person constitutes a debt of the person to the municipality as per section 434.2(1) of the *Municipal Act, 2001*.
17. If an Administrative Penalty imposed on a person is not paid within 15 days after the day that it becomes due and payable, the Town of Pelham Treasurer may add the Administrative Penalty to the tax roll for any property in the local municipality for which all of the owners are responsible for paying the Administrative Penalty, and collect it in the same manner as municipal taxes as per section 434.2(2) of the *Municipal Act, 2001*.
18. **Fees**
  - 18.1 "Fee - Late Payment" means a fee of \$50.00 to be added to the original Administrative Penalty Notice for failing to pay to the Town the amount of the Administrative Penalty within fifteen (15) days after the date of issue.
  - 18.2 "Fee - Review No-Show" means a fee of \$50.00 to be added to the original Administrative Penalty Notice should a person fail to attend a review for an Administrative Penalty by a Screening Officer.
  - 18.3 "Fee – Appeal No-Show" means a fee of \$150.00 to be added to the original Administrative Penalty Notice should a person fail to attend a Hearing for an Administrative Penalty by a Hearings Officer.

### **Complaints and Comments**

19. Complaints and comments respecting the administration of the Town's system of administrative penalties may be given to the Director of Fire and By-law Services. The Director shall consider each such complaint or comment in relation to the Director's consideration of opportunities for improvements to the Town's system of administrative penalties.

### **General**

20. Town Council may appoint Screening Officers, such individuals and on such terms as Town Council considers appropriate.
21. Council for the Town of Pelham hereby appoints the Town Clerk as the Screening Officer to conduct the Review Process as more particularly outlined in Part 7 of this By-law, and further, to appoint the Town Deputy Clerk to act in the same capacity as the Town Clerk in his/her absence.
22. Nothing in this By-law limits the Town's right to enforce a Designated By-law by all legal means.
23. It is Council's opinion that the delegations in this By-law to the Director, the Town Clerk, to Hearings Officers and to Screening Officers are of a minor nature. In forming this opinion, Council has had regard to the number of people, the size of geographic area and the time period affected by the exercise of each delegated power.



24. The short title of this By-law is the “Administrative Penalty Process By-law”.

**COMMENCEMENT**

25. This By-law shall be effective as of the date it is passed by Council.

READ, ENACTED, SIGNED AND SEALED THIS \_\_\_\_ DAY OF \_\_\_\_\_, 2020

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Mayor, Marvin Junkin

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Nancy J. Bozzato, Town Clerk

DRAFT

SCHEDULE A TO BY-LAW #####(2020) – Administrative Monetary Penalty System for Non-Parking Related Offences

Pursuant to By-law #####(2020), the following By-laws, or as may be amended from time to time, are included in the Non-Parking Related Offences, and/or are hereby amended:

1. **Fence By-law 4157 (2019)** is amended by inserting the following sections:

**21.1 Administrative Penalty**

21.2 Administrative Penalty Process By-law 0000(2020) applies to each administrative penalty issued pursuant to this By-law.

21.3 Each person who contravenes any provision of this By-law shall, upon issuance of a penalty notice in accordance with Administrative Penalty Process By-law 0000(2020), be liable to pay to the Town an administrative penalty in the amount of \$250.00 for each day on which the contravention occurs or continues.

2. **Noise By-law 3130 (2010)** is amended by inserting the following sections:

**11.1 Administrative Penalty**

11.2 Administrative Penalty Process By-law 0000(2020) applies to each administrative penalty issued pursuant to this By-law.

11.3 Each person who contravenes any provision of this By-law, shall, upon issuance of a penalty notice in accordance with Administrative Penalty Process By-law 0000(2020), be liable to pay to the Town an administrative penalty in the amount of \$250.00 for each day on which the contravention occurs or continues.

3. **Parks and Facilities By-law 1608 (1993)** is amended by inserting the following sections:

**12.1 Administrative Penalty**

12.1 Administrative Penalty Process By-law 0000(2020) applies to each administrative penalty issued pursuant to this By-law.

12.2 Each person who contravenes any provision of this By-law, shall, upon issuance of a penalty notice in accordance with Administrative Penalty Process By-law 0000(2020), be liable to pay to the Town an administrative penalty in the amount of \$250.00 for each day on which the contravention occurs or continues.

4. **Prohibit Possession of Liquor in Recreational Areas By-law 1583 (1993)** is amended by inserting the following sections:

#### 4. OFFENCES

- 4.1 Any person who contravenes this by-law is guilty of an offence and on conviction is liable to a penalty as prescribed by the Provincial Offences Act

#### 5. ADMINISTRATIVE PENALTY

- 5.1 Administrative Penalty Process By-law 0000-(2020) applies to each administrative penalty issued pursuant to this By-law.
- 5.2 Each person who contravenes any provision of this By-law shall upon issuance of a penalty notice in accordance with Administrative Penalty Process By-law 0000-(2020), be liable to pay to the Town an administrative penalty in the amount of \$250.00 for each day on which the contravention occurs or continues.

**5. Pool By-law 3389 (2013)** is amended by inserting the following sections:

##### 6.4 Administrative Penalty

- 6.5 Administrative Penalty Process By-law 0000-(2020) applies to each Administrative Penalty issued pursuant to this By-law.
- 6.6 Each Person who contravenes any provision of this By-law shall, upon issuance of a penalty notice in accordance with Administrative Penalty Process By-law 0000-(2020), be liable to pay to the Town an administrative penalty in the amount of \$250.00 for each day on which the contravention occurs or continues.

**6. Deposit Snow and Ice on Highway By-law 3013 (2008)** is amended by inserting the following sections:

- (8) a. Administrative Penalty Process By-law 0000(2020) applies to each administrative penalty issued pursuant to this By-law.
- b. Each person who contravenes any provision of this By-law shall, upon issuance of a penalty notice in accordance with Administrative Penalty Process By-law 0000(2020), be liable to pay to the Town an administrative penalty in the amount of \$250.00 for each day on which the contravention occurs or continues.

**7. Exotic Pet By-law 3348 (2013)** is amended by inserting the following sections:

##### 10.9 Administrative Penalty

- a) Administrative Penalty Process By-law 0000(2020) applies to each administrative penalty issued pursuant to this By-law.
- b) Each person who contravenes any provision of this By-law shall, upon issuance of a penalty notice in accordance with Administrative Penalty Process By-law 0000(2020), be liable to pay to the

Town an administrative penalty in the amount of \$250.00 for each day on which the contravention occurs or continues.

**8. Dogs which are an Annoyance or Nuisance By-law 1450 (1992)** is amended by inserting the following sections:

**(2.1) Administrative Penalty**

- a) Administrative Penalty Process By-law **0000(2020)** applies to each administrative penalty issued pursuant to this By-law.
- b) Each person who contravenes any provision of this By-law shall, upon issuance of a penalty notice in accordance with Administrative Penalty Process By-law **0000(2020)**, be liable to pay to the Town an administrative penalty in the amount of \$250.00 for each day on which the contravention occurs or continues.

**9. Animals at Large By-law 2174 (2000)** is amended by inserting the following sections:

- 4. b) Administrative Penalty Process By-law **0000(2020)** applies to each administrative penalty issued pursuant to this By-law
- c) Each person who contravenes any provision of this By-law shall, upon issuance of a penalty notice in accordance with Administrative Penalty Process By-law **0000(2020)**, be liable to pay to the Town an administrative penalty in the amount of \$250.00 for each day on which the contravention occurs or continues.

**10. Skateboarding By-law 3424 (2013)** is amended by inserting the following sections:

- 7.2 a) Administrative Penalty Process By-law **0000(2020)** applies to each administrative penalty issued pursuant to this By-law
- b) Each person who contravenes any provision of this By-law shall, upon issuance of a penalty notice in accordance with Administrative Penalty Process By-law **0000(2020)**, be liable to pay to the Town an administrative penalty in the amount of \$250.00 for each day on which the contravention occurs or continues.

**11. Property Standards By-law 2025 (1998)** is amended by inserting the following sections:

- 6.2 a) Administrative Penalty Process By-law **0000(2020)** applies to each administrative penalty issued pursuant to this By-law.
- b) Each person who contravenes any provision of this By-law shall, upon issuance of a penalty notice in accordance with Administrative Penalty Process By-law **0000(2020)** is liable to pay to the Town an administrative penalty in the amount of \$250.00 for each day on which the contravention occurs or continues.

**12. Sign By-law 0000 (2020)** is amended by inserting the following sections:

**3.12.12 Administrative Penalty**

- (a) Administrative Penalty Process By-law 0000(2020) applies to each administrative penalty issued pursuant to this By-law.
- (b) Each person who contravenes any provision of this By-law shall, upon issuance of a penalty notice in accordance with Administrative Penalty Process By-law 0000(2020) is liable to pay to the Town an administrative penalty in the amount of \$250.00 for each day on which the contravention occurs or continues.

**13. Licensing By-law 3186 (2011)** is amended by inserting the following sections:

**13.1 Administrative Penalty**

- (a) Administrative Penalty Process By-law 0000(2020) applies to each administrative penalty issued pursuant to this By-law.
- (b) Each person who contravenes any provision of this By-law shall, upon issuance of a penalty notice in accordance with Administrative Penalty Process By-law 0000(2020) is liable to pay to the Town an administrative penalty in the amount of \$250.00 for each day on which the contravention occurs or continues.

**14. Fireworks By-law 2951 (2008)** is amended by inserting the following sections:

**10.2 Administrative Penalty**

- (a) Administrative Penalty Process By-law 0000(2020) applies to each administrative penalty issued pursuant to this By-law.
- (b) Each person who contravenes any provision of this By-law shall, upon issuance of a penalty notice in accordance with Administrative Penalty Process By-law 0000(2020) is liable to pay to the Town an administrative penalty in the amount of \$250.00 for each day on which the contravention occurs or continues.

**15. Environmental By-law 3357 (2013)** is amended by inserting the following sections:

**23. Administrative Penalty**

- (a) Administrative Penalty Process By-law 0000(2020) applies to each administrative penalty issued pursuant to this By-law.
- (b) Each person who contravenes any provision of this By-law shall, upon issuance of a penalty notice in accordance with Administrative Penalty Process By-law 0000(2020) is liable to pay to the

Town an administrative penalty in the amount of \$250.00 for each day on which the contravention occurs or continues.

**16. Open Air Burning By-law 0000 (2020)**

DRAFT

**Subject:** Environmental protection bylaw amendment  
2020

**Recommendation:**

**THAT Committee receive Report #2020-0025 and recommend to Council:**

**THAT council approves the amendment to the environmental protection bylaw 3357 (2013) at the March 23<sup>rd</sup>, 2020 regular meeting of council.**

**Background:**

In 2013 staff developed an environmental protection bylaw to address the movement of fill within the Town of Pelham. Bylaw 3357 (2013) was approved by council and has been in effect since 2013.

**Analysis:**

Due to the amount of development within the Town, staff has been tasked with processing a high number of fill applications. Anyone applying to bring in fill is required to complete an application which details the original location of the fill and the final destination. In some cases bylaw requires soil test documents to confirm the cleanliness of the fill as well as a site visit from an officer. Bylaw has discovered that fill from outside the region is extremely difficult to control and to verify its cleanliness, this amendment will prevent any fill from outside the region of Niagara to be brought into the Town of Pelham.

**Financial Considerations:**

There are no direct costs associated with this report.

**Alternatives Reviewed:**

None

**Strategic Plan Relationship: Grow Revenue - Promote Cultural Assets and Protect Environment**

Ensuring that only clean, local fill enters. The Town will reduce or eliminate potential environmental contamination.

**Consultation:**

Bylaw officers, Director of Public works.

**Other Pertinent Reports/Attachments:**

None

**Prepared and Recommended by:**

Bob Lymburner, Fire Chief

**Prepared and Submitted by:**

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



THE CORPORATION OF THE  
TOWN OF PELHAM  
BY-LAW 0000 (2020)

**Being a By-law to amend Environmental Protection By-law 3357  
(2013) to prohibiting or regulating the placing or dumping of fill  
within Pelham.**

**WHEREAS** it deemed necessary and desirable to amend By-law 3357(2013), in reference to prohibiting the dumping of any fill within Pelham where the origin site is outside of the Niagara Region or is undetermined.

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

(1) THAT Environmental Protection By-law 3357 (2013) be amended by adding the following to Section 5:

“a. No person shall import, or otherwise bring, any fill into the Town where the origin of the material is located outside of the geographic area of the Niagara Region or where the origin of the material is undetermined;”

READ, ENACTED, SIGNED AND SEALED THIS \_\_\_\_ DAY OF

\_\_\_\_\_, 2020

\_\_\_\_\_  
Mayor, Marvin Junkin

\_\_\_\_\_  
Nancy J. Bozzato, Town Clerk

**Subject:** Open air burn bylaw 2020

**Recommendation:**

**THAT Committee receive Report #2020-0020 and recommend to Council:**

**THAT the Town of Pelham open air burn bylaw 2020 be approved and staff be directed to prepare the necessary bylaw for council consideration on March 23, 2020**

**Background:**

The current open air burn bylaw #3160-2010 has been reviewed by staff and identified the need to update the bylaw to meet current standards and regulations.

**Analysis:**

The new bylaw being presented for Council's consideration has the following changes:

1. Section 1.1 (j) definition has been changed.
2. Section 2.3 has been added
3. Section 2.4 (a) wording changed
4. Section 2.6 barbeques section has been expanded
5. Section 3.7 new
6. Section 4.1 language changed
7. Section 4.4 removed. Bylaw will also be adding this bylaw to the Towns AMP program for enforcement purposes.

**Financial Considerations:**

There are no direct costs associated with this report.

**Alternatives Reviewed:**

The proposed changes reflect an increase in fire safety and enforcement to which there are no alternatives.

**Strategic Plan Relationship: Risk Management**

This by-law is fundamentally for public health and safety. The modernization amendments address gaps and reflect current best practice.

**Consultation:**

Fire Prevention Officer, Bylaw Officer, CAO

**Other Pertinent Reports/Attachments:**

None.

**Prepared and Recommended by:**

Bob Lymburner, Fire Chief

**Prepared and Submitted by:**

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

THE CORPORATION OF THE TOWN OF PELHAM  
BY-LAW# 0000 (2019)

**Being a By-law to regulate Open Air Burning in the Town of Pelham, and to Repeal and Replace By-law # 3160(2010).**

WHEREAS Section 7.1(1) of the *Fire Protection & Prevention Act, 1997, S.O. 1997, c. 4*, provides that the council of a municipality may pass By-laws regulating fire prevention, including the prevention of the spreading of fires; regulating the setting of open air fires, including establishing the times during which open air fires may be set and designating public and private roads as fire routes along which no parking of vehicles shall be permitted and providing for the removal and impounding of any vehicle parked or left along any of the fire routes at the expense of the owner of the vehicle;

AND WHEREAS Section 7.1(3) of the *Fire Protection & Prevention Act, 1997, S.O. 1997, c. 4*, states that a By-law passed under Section 7.1 (1) may deal with different areas of the municipality differently;

AND WHEREAS Section 7.1(4) of the *Fire Protection & Prevention Act, 1997, S.O. 1997, c. 4* provides that a municipality may appoint an officer to enter upon land and into structures at any reasonable time to inspect the land and structures to determine whether By-laws enacted in accordance with this section are being complied with;

AND WHEREAS Section 13(1.1) of the *Fire Protection & Prevention Act, 1997, S.O. 1997, c. 4* provides that a firefighter or such other person as may be authorized by the fire chief may, without a warrant, enter on lands or premises on which a fire is occurring, or that are adjacent to those lands or premises, for the purposes of pulling down or removing buildings, structures or things on or attached to the lands or premises on which a fire is occurring or that are adjacent to those lands or premises if, in the opinion of the fire chief, it is necessary to do so to prevent the spread of the fire;

AND WHEREAS Sections 390 to 400 of the *Municipal Act, S.O. 2001, c. 25* provides that despite any Act, a municipality and a local board may pass By-laws imposing fees or charges on any class of persons:

- (A) for services or activities provided or done by or on behalf of it;
- (B) for costs payable by it for services or activities provided or done by or on behalf of any other municipality or local board; and,
- (C) for the use of its property including property under its control;

AND WHEREAS Section 398(1) of the *Municipal Act 2001, S.O. 2001, c. 25*, provides that fees and charges imposed by a municipality constitute a debt of the person to the municipality;

AND WHEREAS Section 398(2) provides that the treasurer of a local municipality may add fees and charges imposed by the municipality to the tax roll for any property for which all of the owners are responsible for paying the fees and charges, and collect them in the same manner as municipal taxes;

AND WHEREAS Section 2.6.3.4 of the Ontario Fire Code provides that Open Air Burning shall not be permitted unless approved, or unless such burning consists of a small confined fire, supervised at all times, and used to cook food on a grill or a Barbecue;

AND WHEREAS it is deemed desirable to regulate Open Air Burning in the Town of Pelham;

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

**PART 1 - DEFINITIONS AND ADMINISTRATION:**

**1.1 Definitions:**

For the purposes of this By-law:

- (A) "Applicant" shall mean the person, organization, company or group that makes

application to the Fire Chief for permission to hold an Open Air Burning and includes such persons who contact the Fire Chief with notification of an intention to hold an Open Air Burning of brush in the rural area;

- (B) "Barbecue" appliances include a hibachi, a permanent structure designed and intended solely for the cooking of food in the open air and other similar devices designed and intended solely for the cooking of food in the open air, but does not include devices predominantly designed for personal warmth, fire burn areas or camp fires;
- (C) "Open Air Burning" shall mean a fire in any open place, yard, field or area which is not contained or enclosed by a building or structure, and includes agricultural fires, chimineas, and campfires;
- (D) "Open Burning Device" shall mean a commercially manufactured or homemade device for the purpose of containing a recreational fire;
- (E) "Town" shall mean The Corporation of the Town of Pelham;
- (F) "Fire Chief" shall mean the Fire Chief for the Town of Pelham Fire Department or designate;
- (G) "Rural Area" shall mean all areas outside the urban boundaries as defined in the Town's Official Plan.
- (H) "Recreational Open Air Burning" shall mean a small contained fire used for recreational purposes in accordance with the provisions of Section 2.3 herein;
- (I) "Non-Recreational Open Air Burning" shall mean any Open Air Burning that is not a recreational Open Air Burning.
- (J) "Clean, dry seasoned wood" shall mean wood that has been seasoned by stacking and storing to reduce its moisture content.

1.2 Administration:  
The Fire Chief or his designate shall administer this By-law.

1.3 Fire Services - Exempt:  
The Town of Pelham Fire Department shall be exempt from the provisions of this by-law with respect to Open Air Burning set for the purposes of educating and training individuals.

## PART 2 - GENERAL PROVISIONS:

2.1 Short Title:  
The short title of this By-law shall be "THE OPEN AIR BURNING BY-LAW".

2.2 Open Air Burning - Regulations:  
Subject to Sections 2.2 and 2.3 herein, no person shall conduct or permit to be conducted, an Open Air Burning within the boundaries of the Town of Pelham unless permission has first been granted by the Fire Chief or designate.

2.3 Non-recreational Open Air Burning shall be prohibited in the urban areas of the Town of Pelham as defined by the Town's Official Plan.

2.4 The use of flying lantern, sky lanterns or traditional Chinese style lanterns shall be prohibited in all areas of the Town of Pelham.

2.5 Exception – Open Air-Burning

Notwithstanding Section 2.1 herein, permission to conduct recreational open-air burning associated with the use of open burning devices or fire burn areas specifically designed for Open Air Burnings may be granted by obtaining written permission from the Fire Chief or designate for a given calendar year. If written permission is being obtained for the first time, an inspection will be conducted by the Fire Chief or designate to ensure the regulations detailed in this Section have been

complied with. The following regulations shall be complied with before recreational Open Air Burning is attempted:

- (A) Open Air Burning shall be confined to open burning devices or to a fire burn area with a burn area no larger than two (2) feet (61cm) by two (2) feet (61cm) by two (2) feet (61cm) or 8 cubic feet (0.26 cubic metres) in size.  
Open burning devices shall be:
  - (i) designed of a non-combustible material;
  - (ii) of a size not larger than described in Section 2.3 herein; and,
  - (iii) shall be installed in accordance with the manufacturer's recommendation.
- (B) Steps shall be taken to ensure that adjacent properties and individuals are protected from any fire hazard and are not adversely affected by the products of combustion.
- (C) No materials other than commercially produced charcoal, briquettes or clean, dry seasoned wood, but not including painted wood, pressure treated wood or creosote treated wood, may be burned;
- (D) The dimensions of the wood being burnt shall not be greater than the size of the open burning device or fire burn area and shall be totally confined within the open burning device or fire burn areas at all times;
- (E) An Open Air Burning shall be confined to a location that provides for a minimum distance of 13 feet (4m) in all directions from adjacent properties;
- (F) Open Air Burnings shall be confined to an area that is a minimum of 10 feet (3m) from combustible structures or objects;
- (G) An effective extinguishing agent of sufficient size and with the capability of extinguishing the fire shall be immediately available for use;
- (H) Open Air Burnings shall be attended, controlled and supervised at all times and shall be completely extinguished before the open air burn site is vacated;
- (I) Open Air Burnings shall not be permitted when the wind speed exceeds 20 km per hour or during rainy or foggy weather or at times when a smog alert has been declared by the Ontario Ministry of the Environment, Conservation Parks, or any successor and relevant Ministry;
- (J) Open Air Burning may be permitted on Town property in appliances approved and provided by the Town when first authorized, in writing, by the Fire Chief;
- (K) A campfire in a campground approved pursuant to the Town of Pelham Comprehensive Zoning By-law #1136 (1987), as amended, is permitted.
- (L) Open Air Burning shall only be permitted between the hours of 1200 hrs. and 2400 hrs.
- (M) An Open Air Burning permit shall be secured, the fee for which shall be in accordance with the Town of Pelham Fee for Services By-law.
- (N) An "open air burn ban" has not been declared by the Fire Chief

## 2.6 Response to Complaints:

- (A) Should the Pelham Fire Department be dispatched to a complaint regarding public safety due to a fire hazard created by a recreational Open Air Burning, or upon notification of a prohibited Open Air Burning not authorized under this by-law, the Fire Chief can order the landowner or occupant to immediately extinguish the fire.
- (B) Should the Pelham Fire Department rescind a recreational open burning permit, it shall be rescinded from the time of the incident for one (1) calendar year from that date, after which the resident may then apply for a new permit

renewal.

- (C) Should any landowner or occupant fail to extinguish a recreational Open Air Burning, or a prohibited Open Air Burning when ordered to do so by the Fire Chief, the Fire Chief may take action to have the fire extinguished, and the person who owns or occupies the land on which the recreational Open Air Burning or prohibited open air burning is located shall be responsible for any and all costs incurred by the Town of Pelham Fire Department in its efforts to extinguish the fire.

2.7 Exception - Barbecues:

Despite Section 2.1 herein, permission is not required from the Fire Chief for the use of Barbecues to cook food, provided the following regulations are complied with:

- (A) The Barbecue shall be placed on non-flammable material and not be located or placed on a porch or verandah of a building, inside any garage, tent, vehicle or structure, in or near dry vegetation that is conducive to the development or spread of fire or explosion;
- (B) The Barbecue shall be supervised at all times;
- (C) The fuel used shall be clean dry natural wood or a commercially produced fuel for the purpose of cooking such as charcoal or briquette, natural gas or propane.
- (D) The Barbecue shall not be placed on a balcony unless the following are complied with:
  - 1) The barbeque is propane-fired, electric, or infrared,
  - 2) The propane cylinder used does not exceed a net weight of greater than 1.02 pounds (465 grams),
  - 3) The propane cylinder must be stored outdoors,
  - 4) A maximum of one propane cylinder may be stored outdoors at any given time provided it is securely attached to the Barbecue,
  - 5) The Barbecue must be clear of all combustible materials,
  - 6) No walls or closures have been erected on the balcony, and
  - 7) The barbeque must be at least 3ft (1m) horizontally from any building opening, and 10ft (3m) from a building air intake.

PART 3 - SPECIAL REGULATIONS FOR RURAL AREA NON-RECREATIONAL OPEN AIR BURNING:

3.1 Permit - Non-Recreational Open Air Burning:

- (A) Any person intending to conduct a Non-Recreational Open Air Burning shall make application at least 24 hours prior to the proposed date of the non-recreational open air burning on either verbal or written permission from the Fire Chief and shall comply with Section 3.2 herein and the Fire Chief shall have the authority to issue such permit.
- (B) The Fire Chief may issue a permission to allow a non-recreational Open Air Burning to re-occur over an extended period of time.

3.2 Regulations - Non-Recreational Open Air Burning:

The following regulations shall apply to non-recreational Open Air Burnings in any rural area:

- (A) Any person conducting a rural non-recreational Open Air Burning shall have the authorization to conduct this activity, verifiable by the Fire Chief;
- (B) No person or persons shall light or cause to be kindled any non- recreational open air burning in a rural area before sunrise or after sunset;
- (C) No materials other than dry clean brush or other clean dry natural vegetation may be burned;
- (D) Non-recreational Open Air Burnings shall be attended, controlled and supervised at all times and shall be completely extinguished before the burn site is vacated;

- (E) Non-recreational Open Air Burnings are not permitted during rainy or foggy weather or on smog alert days as declared by the Ministry of the Environment, Climate Change and Parks or any successor and relevant Ministry;
  - (F) Non-recreational Open Air Burnings are not permitted when the wind speed exceeds 20 km per hour;
  - (G) A non-recreational Open Air Burning shall be confined to an area which is at least 200 feet (60m) from any building, highway, road or wooded area and shall be clear of any overhead objects (i.e. wires);
  - (H) The burn area shall be of a manageable size not exceeding 10 feet by 10 feet (3m by 3m);
  - (I) Steps shall be taken to ensure that smoke caused by a non-recreational open air burning does not have a negative impact on the visibility of motorists using highways in the vicinity of the non-recreational Open Air Burning or upon the owner(s) or occupant(s) of the surrounding properties.
- 3.3 Permission - Open Air Burning - Telephone Notification - Non-Recreational Open Air Burning:  
Upon receipt of a permit, as described in Section 3.1 of this By-law, no person shall conduct or permit to be conducted a non-recreational Open Air Burning in the rural area without first notifying the Pelham Fire Department in person or by telephone and complying with the provisions of Section 3.1 and Section 3.2 of the By-law.
- 3.4 Notification at Conclusion of Burning - Rural Area:  
Any person who has given notification pursuant to Section 3.3 above, shall notify the Pelham Fire Department in person or by telephone at the conclusion of the non-recreational Open Air Burning.
- 3.5 Notification to Extinguish:  
Any person conducting a non-recreational Open Air Burning in any rural area shall immediately extinguish the fire upon notification by the Fire Chief, that in the Fire Chief's opinion:
- (A) The said fire presents a fire hazard; or,
  - (B) The fire is having a negative impact on persons using a highway adjacent to the burn site; or,
  - (C) The regulations of this By-law are being contravened; or,
  - (D) Any combination of these matters exists or applies.
- 3.6 Failure to Extinguish - Liable for Costs:  
Should any landowner or occupant fail to extinguish a prohibited Open Air Burning in a rural area when ordered to do so by the Fire Chief, the Fire Chief may take action to have the fire extinguished. The person who owns or occupies the land on which the Open Air Burning is located shall be responsible for any and all costs incurred by the Town of Pelham Fire Department in its efforts to extinguish the fire.
- 3.7 An Emergency Response resulting from an authorized burn by an owner or occupant is subject to charges under the Town of Pelham Fees and Charges Schedule.

#### PART 4 - ENFORCEMENT:

- 4.1 Regulation - Offence  
The set fines, charges or fees for an offence under this By-law are set out in "User Fees and Charges" regulated by the Town of Pelham as appointed by Council.



- 4.2 Prohibited Open Air Burning - Repeated:  
Should any landowner or occupant repeat the offence of conducting a prohibited Open Air Burning, the person who owns or occupies the land on which the Open Air Burning is located, shall be responsible for any and all costs incurred by the Town of Pelham Fire Department in responding to the prohibited Open Air Burning.
- 4.3 Causing False Response:  
Should it be determined that the landowner or occupant of adjacent property(s) falsely notified the Pelham Fire Department of an Open Air Burning contrary to Sections 2.1, 3.1 and 3.2, the person who owns or occupies the property in which the false call originated, shall be responsible for any and all costs incurred by the Pelham Fire Department response.
- 4.4 Default – Collection of Costs  
The Town shall have the right to collect any unpaid costs as authorized by this by-law by adding such charges to the tax roll where they may be collected in like manner as municipal taxes, all of which is in accordance with Section 427 of the *Municipal Act 2001*, S.O. 2001, c.25, as amended.

PART 5- ENACTMENT:

- 5.1 Severability:  
If any section or sections of this By-law or parts thereof shall be found by any court to be beyond the power of Municipal Council of the Town of Pelham to enact, such section or sections or parts thereof shall be deemed to be severable and all other sections or parts of this By-law shall be deemed to be separate and independent therefrom and shall continue in full force and effect unless and until similarly found and this By-law shall be enacted as such.
- 5.2 Clerk's Authority:  
In the event the Ministry of the Attorney General directs or recommends housekeeping modifications or corrections to this By-law or its schedules then pursuant to the provisions of Section 227 of the *Municipal Act 2001*, the Clerk of the Town of Pelham is hereby authorized to effect any such modifications or corrections of a numerical, semantically, grammatical or descriptive nature or kind.
- 5.3 Effective Date:  
This By-law shall come into force and effect on its final passage thereof.
- 5.4 Repeal:  
That By-law# 3160 (2010) be and is hereby repealed.

READ A FIRST, SECOND AND THIRD TIME  
AND FINALLY PASSED BY COUNCIL THIS  
\_\_\_\_ DAY OF \_\_\_\_\_ 2020 A.D.

\_\_\_\_\_  
Marvin Junkin, Mayor

\_\_\_\_\_  
Town Clerk, Nancy J. Bozzato

**Subject:** Management Options for the Reconstruction and Roadway Improvements of Sulphur Springs Road between Luffman Drive and Orchard Hill Road

**Recommendation:**

**THAT Committee of the Whole receive Report #2020-0024 for information;**

**AND THAT Committee recommend that Council approve the award of an engineering assignment to complete a Municipal Class Environmental Assessment Study to determine the preferred alternative with respect to rehabilitation options, and complete the detailed design and preparation of tender documents to CIMA+ in the amount of \$129,878 (plus HST).**

**Background:**

Sulphur Springs Drive has been eroding at two locations since it was first reported in February 2016. Site 1 is located 200 meters north of Luffman Drive, and Site 2 is located 200 meters south of Orchard Hill Drive (please see Appendix A for Site Location Map). Since then, conditions have deteriorated and the road has been closed from accepting local traffic from Effingham Street.

Water's Edge Environmental Solutions Team were retained to complete a feasibility study and prepare a report with recommended rehabilitation solutions for both sites.

In the report received from Water's Edge the recommendation was to complete the restoration of both sites using an engineered reinforced slope. The scope of work for both sites included removal and replacement of the existing roadway and creek bank and reinstatement with a new two lane roadway and stabilizing the banks of the creek using steep bank grades so the roadway remained on its existing footprint. The rehabilitation involved the reconstruction of the creek banks using layers of geo-grid to provide stability, along with a 1:1 mechanically engineered slope. In addition, in order to mitigate negative impacts against species at risk it was contemplated to place riverstone at the toe of the slope to provide additional

stability while enhancing fish habitat.

The rehabilitation options provided for Site 1 and Site 2 were the preferred reinstatement techniques following consultations and discussions with both the design consultant and Trout Unlimited. The approach was considered as a soft approach which will be environmentally sustainable and provide an engineered solution that will not negatively impact the 12 Mile Creek.

Because there are residents located between the two failure sites it was contemplated that both sites would need to be restored using a staged approach. Site 1 would need to be completed before Site 2 to ensure road access to the existing properties being removed during construction.

The cost to complete the rehabilitation work at both sites was estimated at \$500,000. The approved budget in 2019 was \$250,000. Based on the recommendations in the feasibility report prepared by Water's Edge the budget was increased by \$300,000 in 2020 for a total project budget of \$550,000 (excluding applicable taxes).

In a report to Council on July 15<sup>th</sup>, 2019, (Report 2019-0031), staff recommended proceeding with the rehabilitation of both sites and restoring the roadway to its original condition. At this meeting Council directed Staff to look into the possibility of permanently closing Sulphur Springs Drive at Site 1. In order to permanently close the roadway, the Town of Pelham will need to follow the requirements under the *Ontario Environmental Assessment Act*. The purpose of the Act is to provide for the protection, conservation and wise management of the environment. In applying the requirements under the EA Act to undertakings, the EA Act identifies two types of environmental assessment planning and approval processes: Individual Environmental Assessments and Class Environmental Assessments. The Class EA establishes a process whereby municipal projects can be planned, designed, constructed, operated, maintained, rehabilitated and retired without having to obtain project-specific approval under the EA Act. (See Appendix B – Municipal Class EA Planning and Design Process Flow Chart).

### **Analysis:**

Following-up on the request of Council, Staff prepared a Request for Proposal (RFP) for an engineering assignment to complete a Class EA study on Sulphur Springs Drive. In addition, the terms of reference in the RFP included the development of the preferred solution, completing the detailed design for the rehabilitation project, obtaining the necessary permits from approval and review agencies (such as the NPCA, NEC, MOE, and the DFO) and to prepare the tender documents and assist in

the tendering phase.

The Town received one (1) submission with respect to the above RFP from CIMA+ (Canada Inc.) located in Burlington, Ontario. The cost to complete the Municipal Class EA, complete the detailed design based on the preferred alternative, and obtain the necessary permits and approvals from the approval and review agencies is estimated at \$129,878 (excluding applicable taxes).

CIMA+ has identified the requirements to complete additional studies in order to successfully complete a restoration project at one or both sites such as a Natural Heritage Assessment, a DFO review, a Species at Risk Assessment, a Tree Inventory, Archaeological Investigation, a Cultural Heritage, Air Quality, Noise and Vibration Assessment. These additional studies were not completed by the previous consultant as part of the feasibility study. It is recommended that these actions be completed in order to successfully complete the Municipal Class EA process and to obtain the necessary permits and approvals for the successful rehabilitation of Sulphur Spring Drive based on the preferred alternative.

Due to the sensitivity with respect to the 12 Mile Creek the timing for construction can only occur (in-water) between July 1<sup>st</sup> and September 15<sup>th</sup>. In the consultant's proposal they have provided a schedule to complete the Municipal Class EA, complete the detailed design based on the preferred alternative, and obtain the necessary permits and approvals from the review agencies. It is expected that the Municipal Class EA will take approximately 6 months to complete. Further, it is expected that the permits required to complete the preferred rehabilitation from the various review and approval agencies will not be obtained in time to permit construction in 2020.

As a result, the rehabilitation of the roadway will most likely be deferred until July 1<sup>st</sup> of 2021. As a precautionary measure CIMA+ is prepared to work with Town Staff to ensure that the roadway remains open to the public and emergency services until such time that the preferred alternative is implemented.

Staff have reviewed the submission by CIMA+ and recommend awarding the assignment to complete the Municipal Class EA process, complete the detailed design, obtain the necessary permits and approvals from the review agencies and assist Town Staff with the tendering of a rehabilitation project based on the preferred alternative.

## **Financial Considerations:**

The current approved project budget for the rehabilitation of Sulphur Spring Drive is \$550,000. The engineering assignment to complete a Municipal Class EA, perform the studies and investigations required to receive approvals from the applicable review and approval agencies, complete the detailed design based on the preferred alternative and to assist the town in the preparation of contract documents for public tendering is \$129,878 (excluding applicable taxes).

In addition, the Town may be required to complete additional geotechnical work including advancing additional boreholes at Site 2 as this exercise was not completed as part of the original assignment awarded to Water's Edge. It is estimated that the additional geotechnical work would be approximately \$15,000 to complete.

There are sufficient funds available in the 2020 Capital budget to award the above assignment to CIMA+ and complete the above works in preparation of a 2021 rehabilitation project.

The remaining budget to be carried forward in 2021 (following the engineering assignment awarded to CIMA+ and the additional geotechnical investigations) will be approximately \$405,122. Staff will prepare a follow-up report to Council with estimated costs for construction based on the result of the Municipal Class EA process and the development of the preferred alternative. If there are insufficient funds available to complete the rehabilitation works in 2021, with the available budget carried forward, a recommendation will be made to increase the project budget as part of the 2021 capital budget request.

## **Alternatives Reviewed:**

Council may choose not to approve the works, and Sulphur Springs Drive would remain closed to through traffic. The condition of the roadway will continue to be monitored by Public Works Staff.

## **Strategic Plan Relationship: Risk Management**

Providing an environmentally friendly engineering solution to address the roadway failure on Sulphur Spring Drive will ensure that the risk associated with negatively impacting the 12 Mile Creek and the risk associated with not providing safe access to private properties is minimized.

**Consultation:**

Town of Pelham Engineering Staff have consulted with representatives from CIMA+ to discuss the details of their proposal.

**Other Pertinent Reports/Attachments:**

Appendix A – Site Location Map

Appendix B – Municipal Class EA Planning and Design Process Flow Chart

**Prepared and Recommended by:**

Jason Marr, P. Eng.  
Director of Public Works

Derek Young  
Manager of Engineering

**Prepared and Submitted by:**

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

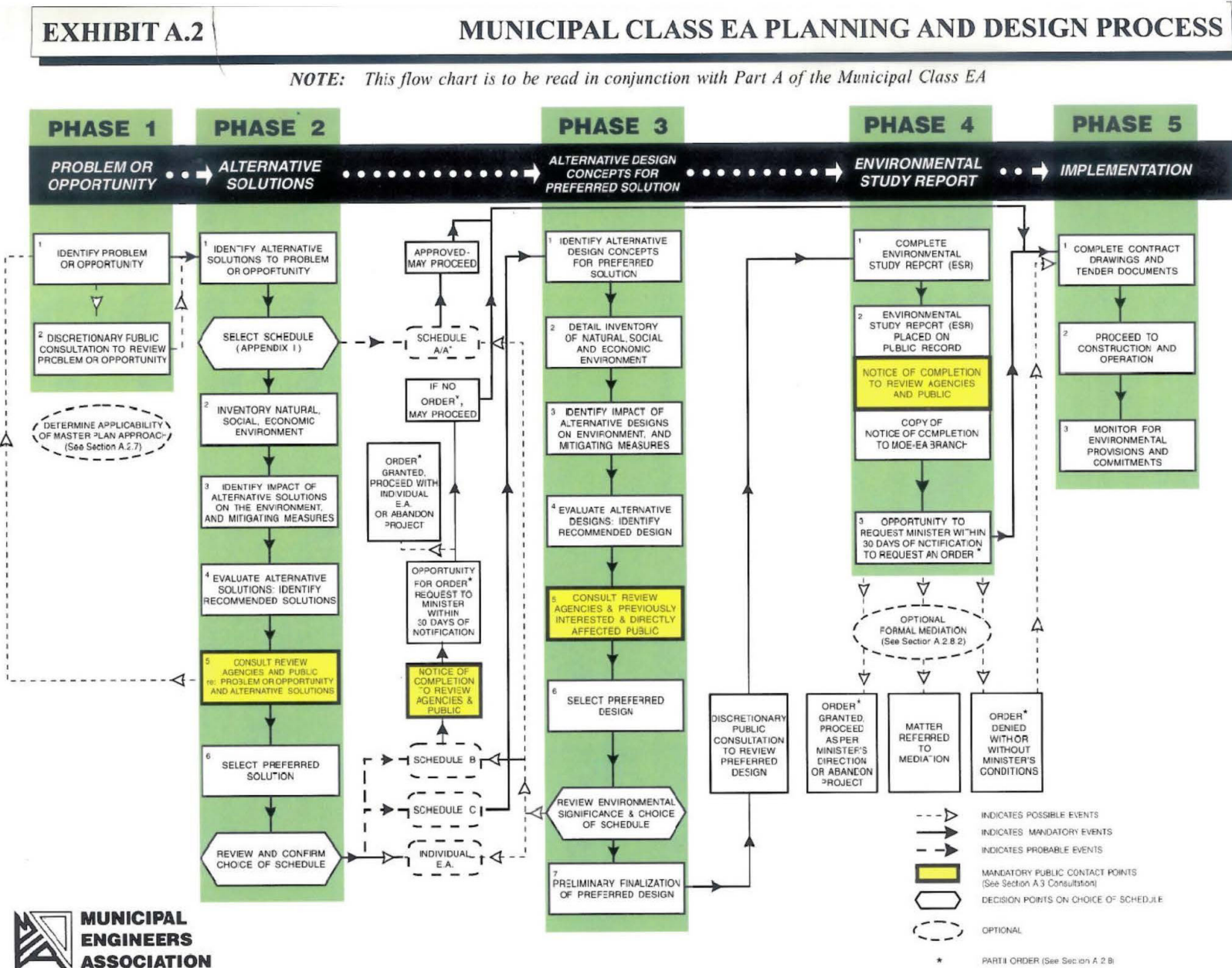
## APPENDIX A – Sulphur Spring Drive Location Map





# "APPENDIX B - Municipal Class EA Planning and Design Process Flow Chart"

Figure 1-2: Overview of the Municipal Class Environmental Assessment Process



**Subject:** Pelham Summerfest 2020

**Recommendation:**

**THAT COMMITTEE receive Report #2020-0037 - Recreation and recommend to Council:**

**THAT the Clerk be authorized to make application for a Special Occasion Permit for Pelham Summerfest on Thursday, July 16, 2020, Friday, July 17, 2020, Saturday, July 18, 2020 and Sunday, July 19, 2020; and**

**THAT the Mayor and Clerk be authorized to enter into agreements with the five licensed establishments located within the Summerfest festival area that have requested they be included in the Festival Licensing pursuant to the Town's application for a Special Occasion Permit, those establishments being: Root and Bone, 1856 Social (Operating As HillFire SMK & BBQ), The Butcher and Banker Fonthill, Kame & Kettle Beer Works and Gelato Village; and**

**THAT the Town of Pelham offer no objection to the request from Root and Bone, 1856 Social, The Butcher and Banker Fonthill and Gelato Village for their respective applications for a Temporary Extension to their existing Liquor Sales Licence from the Alcohol and Gaming Commission of Ontario during Pelham Summerfest, subject to the following condition:**

**THAT the selling and serving of liquor to the approved outdoor area shall occur only between the hours of 4:00 pm and 11:00 pm on Friday, July 17, 2020, all patios must be cleared of patrons by 12 midnight; and between 11:00 am and midnight on Saturday, July 18, 2020 and the outdoor area shall be cleared of patrons by 1:00 am on Sunday, July 19, 2020.**

**THAT Council authorize a variance to the Town of Pelham By-law No. 3130(2010), being a by-law to regulate and control noise for the purpose of facilitating the Summerfest musical venues being**

**conducted as part of the event from 4:00 pm Friday, July 17, 2020 until 1:00 am on Sunday, July 19, 2019; and**

**THAT Council authorize the following road closures:**

**Pelham Town Square from the rear entrance to the Fonthill Plaza to 60 m west from 4:00 pm Thursday, July 16, 2020 to 10:00 pm of the same day;**

**Pelham Town Square entrance off Pelham Street from 7:00 am Friday, July 17, 2020 to noon, Monday, July 20, 2020;**

**Pelham Street from Regional Road #20 (Hwy 20) to the south property line of 1419 Pelham Street from 7:00 am Friday, July 17, 2020 to 12:00 pm on Sunday, July 19, 2020;**

**Pelham Street from the south property line of 1419 Pelham Street to College Street from 7:00 am Saturday, July 18, 2020 to 6:00 pm on the same day;**

**Pelham Town Square from 150 m west of Station Street to its termination at the Fonthill Plaza entrance from 7:00 am Sunday, July 19, 2020 to 5:00 pm of the same day.**

#### **Background:**

Summerfest has been held annually on the third weekend in July since 2011. This 4 day celebration has become Pelham's signature event and has been recognized as one of the Top 100 Festivals or Events in Ontario since 2015. It has become a homecoming of sorts, seeing many former residents return, families reunite and guests and new residents introduced to our great community.

Summerfest 2020 marks the 10<sup>th</sup> year and will take place from Thursday, July 16 until Sunday, July 19, 2020, following the same award-winning line up as past years with some new and expanded elements for this year.

One of the main changes for 2020 is the relocation of the main stage on Pelham Street. In past years, the stage has been located partially on private property and partial on the boulevard in front of 1440 Pelham Street.

In an effort to ease the congestion that occurs in the area in front of the stage and bar and to improve the customer experience, the Committee plans to relocate the stage to the north end of the festival area on Pelham Street. The natural slope of this location will elevate the stage making it visible further south along the road and the sound will carry down the roadway, thus spreading out the crowd.

## **Authorizations and Designations:**

### **Special Occasion Permit, Festival Licensing and Agreements with Licensed Establishments**

On behalf of the festival, the Town will make application for a Special Occasion Permit with festival licensing from the Alcohol and Gaming Commission of Ontario (AGCO). In order to do so, the event must be designated as "Municipally Significant". This designation was approved in Report #2019-0121. Festival licensing permits patrons to move freely between areas with a single serving of alcohol. The festival area will be fenced with monitored access points.

In accordance with AGCO regulations, the Town of Pelham must enter into an agreement with those licensed establishments located within the festival area who wish to participate in the festival licensing to ensure that there is no unreasonable risk of non-compliance with the Act and Regulations. Root & Bone, 1856 Social (operating as Hillfire SMK & BBQ), The Butcher and Banker Fonthill and Gelato Village have indicated that they wish to participate and will request an outdoor patio with liquor licence extensions. Kame & Kettle Beer Works have also indicated their wish to participate in festival licensing. Their participation will be limited to their existing licensed area and will not include a patio on Pelham Street. The agreements include specifics regarding hours of operation, controlled entrances/exits, patio aesthetics, decorative fencing, etc. The goal is to establish and maintain a family friendly atmosphere. Certificates of Insurance naming the Town of Pelham as an additional insured must be supplied by all participating establishments.

### **Authorized Variance to By-law No. 3130 (2010)**

The Summerfest Committee is requesting a variance to the Town of Pelham By-law No. 3130 (2010), being a by-law to regulate and control noise for the purpose of facilitating the Summerfest musical venues being conducted as part of the event from 4 pm until 11 pm on Friday, July 17 and from 10 am until midnight on Saturday, July 18, 2020.

### **Road Closures**

The following road closures are requested:

Pelham Town Square from the rear entrance to the Fonthill Plaza to 60 m west from 4:00 pm Thursday, July 16, 2020 to 10:00 pm of the same day;

Pelham Town Square entrance off Pelham Street from 7:00 am Friday, July 17, 2020 to noon, Monday, July 20, 2020;

Pelham Street from Regional Road #20 (Hwy 20) to the south property line of 1419 Pelham Street from 7:00 am Friday, July 17, 2020 to 12:00 pm on Sunday, July 19, 2020;

Pelham Street from the south property line of 1419 Pelham Street to College Street from 7:00 am Saturday, July 18, 2020 to 6:00 pm on the same day;

Pelham Town Square from 150 m west of Station Street to its termination at the Fonthill Plaza entrance from 7:00 am Sunday, July 19, 2020 to 5:00 pm of the same day

### **Analysis:**

Staff will continue to monitor public health information with respect to the coronavirus. At this time no health authority is advising cancellation of public events such as Summerfest. Although large indoor conferences, sporting and/or concert events are being cancelled or postponed, at the time of writing Staff members are not aware of any outdoor event restrictions or cancellations. Based on current information staff will continue working in the belief the event will occur.

### **Financial Considerations:**

The 2020 Budget estimates \$125,000 in Revenue and expenditures of \$140,000. The Town's contribution would be \$15,000.

### **Alternatives Reviewed:**

No other alternatives were reviewed.

### **Strategic Plan Relationship: Build Strong Communities and Cultural Assets**

Pelham Summerfest provides a great opportunity for residents, friends and neighbours to get together in a public setting to enjoy many different activities and events. It has become somewhat of a homecoming event with many adult children of current residents make a point of coming home for the Summerfest weekend to see family and catch up with friends. New residents are able to experience the community, find out about cultural assets and local businesses and meet other residents.

Summerfest focuses on sourcing vendors, entertainers, supplies and materials locally.

**Consultation:**

Summerfest Committee;

Senior Leadership Team;

Publics Works – Ryan Cook; Bob Goodfield;

Region of Niagara – Frank Tassone (Engineering); Dragan Mrkela (Transportation Planning)

**Other Pertinent Reports/Attachments:**

2020 Road Closures 4 days

Butcher and Banker – Festival Licensing Agreement 2020

Gelato Village – Festival Licensing Agreement 2020

1856 Social – Festival Licensing Agreement 2020

Kame and Kettle – Festival Licensing Agreement 2020

Root and Bone – Festival Licensing Agreement 2020

Draft Authorizing By-law

**Prepared and Recommended by:**

Sally Jaeger, Special Events and Festivals Programmer

Vickie vanRavenswaay, CRFP

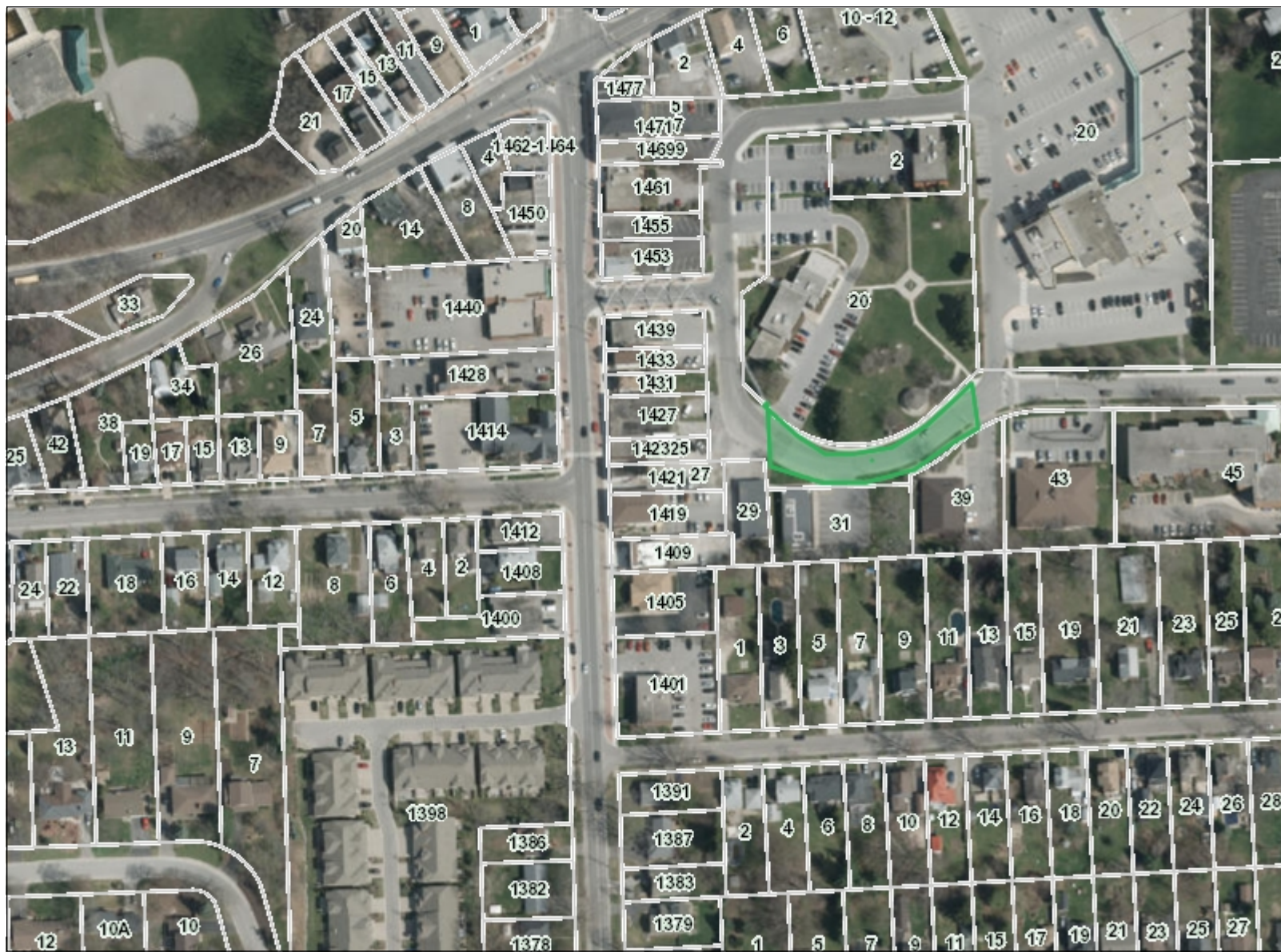
Director of Recreation, Culture and Wellness

**Prepared and Submitted by:**

David Cribbs, BA, MA, JD, MPA


Chief Administrative Officer





## Legend

-  Parcel Fabric
-  Address Points

 Thursday 4 pm - 10 pm

127.0 0 63.50 127.0 Meters

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Notes





- ☐ Parcel Fabric  
Address Points

Friday 7am - Sunday 12 pm



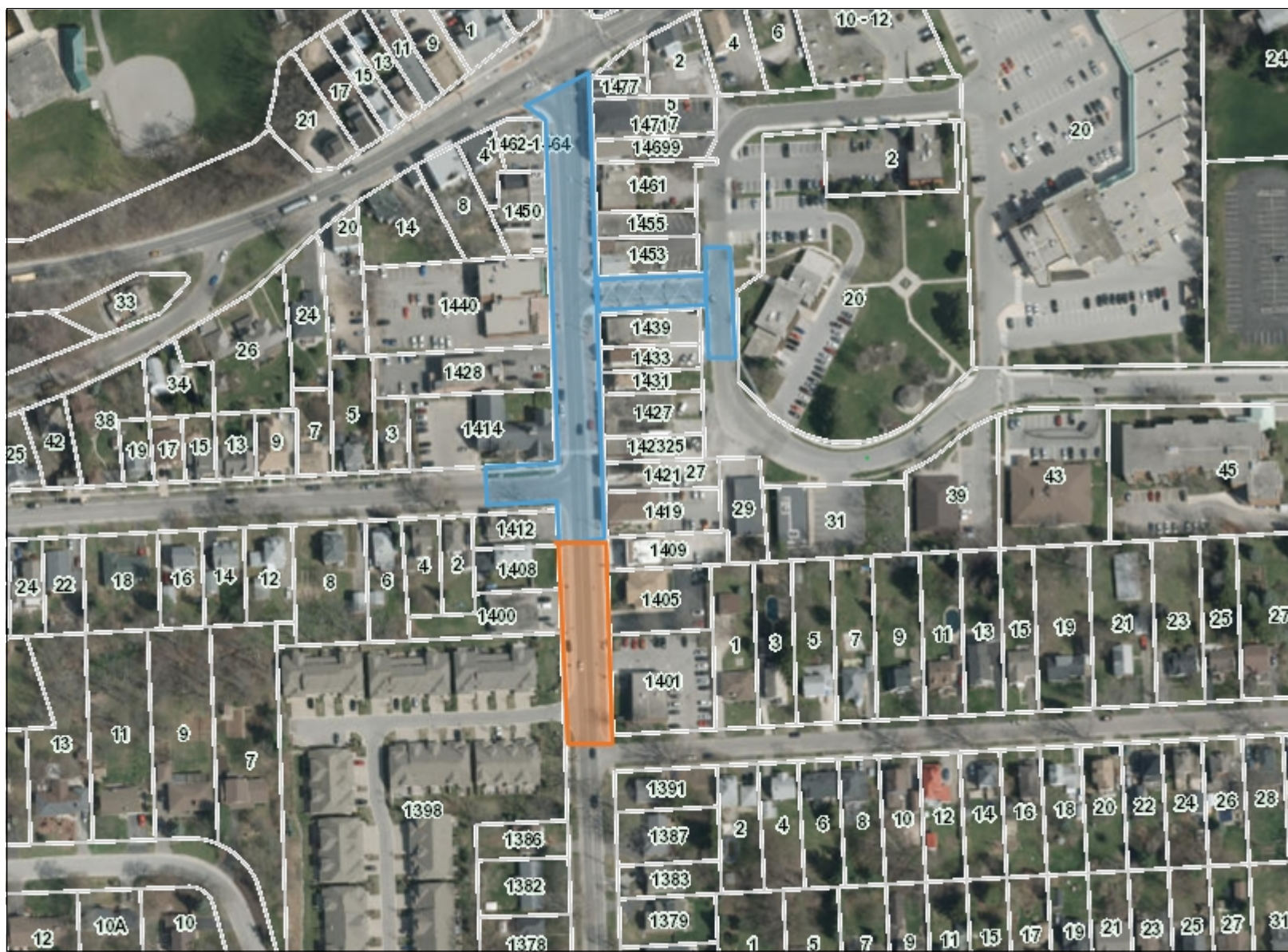
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## Notes





## Legend

- Parcel Fabric
- Address Points

Friday 7am to Sunday 12 pm

Saturday 7 am to 6 pm

127.0 0 63.50 127.0 Meters

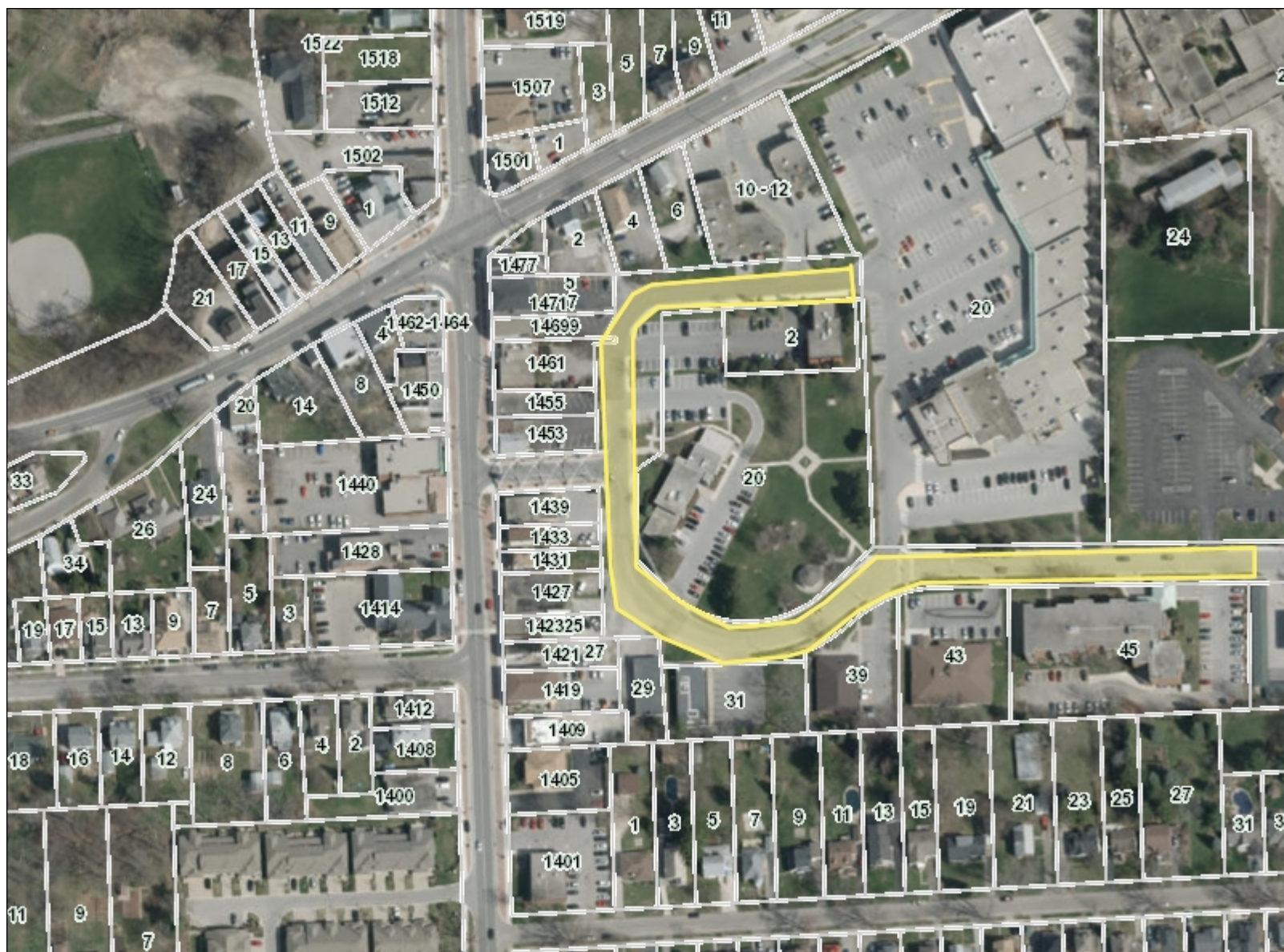
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## Notes





## Legend

- Parcel Fabric
- Address Points

Sunday 7 am to 5 pm

127.0 0 63.50 127.0 Meters

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Notes

**THIS AGREEMENT made in triplicate, this 6<sup>th</sup> day of April, 2020**

**Between**

**THE BUTCHER AND BANKER FONTHILL INC.**  
(Hereinafter referred to as “Butcher & Banker”)

of the FIRST PART

- and -

**THE CORPORATION OF THE TOWN OF PELHAM**  
(Hereinafter referred to as the “Town”)

of the SECOND PART

**WHEREAS** the Town is the holder of the Special Occasion Permit for a Festival known as Pelham Summerfest, to be held on Thursday, July 16 to Sunday, July 19, 2020;

**AND WHEREAS** Pelham Summerfest will include a Street Festival on Friday July 17, 2020 between the hours of 4:00pm to 11:00 pm and Saturday, July 18, 2020 between the hours of 10:00 am and 12:00 midnight, being an outdoor public event, Pelham Street will be closed from Highway 20 to College Street and Pelham Town Square entrance;

**AND WHEREAS** according to the regulations of the Alcohol and Gaming Commission of Ontario, a Public Event Special Occasion Permit holder and a liquor sales licensee may jointly participate in an outdoor Public Event that allows patrons to carry a single serving of liquor between the licensed area and the area covered by the Special Occasion Permit;

**AND WHEREAS** the Street Festival known as Pelham Summerfest is an outdoor event where the boundaries of the permitted area include one or more liquor sales licensed establishments, as depicted on Schedule A attached hereto;

**AND WHEREAS** Pelham Summerfest has been designated a “municipally significant” Festival by a resolution of municipal Council;

**NOW THEREFORE THIS AGREEMENT WITNESSETH THAT** in consideration of the mutual covenants herein contained, the parties hereto covenant, promise and agrees as follows:

1. The boundaries of the Licensed Festival Area will be confined by barricades and fencing.
2. There will be four monitored entrance/exit points to the designated Festival Area. These areas will be manned by Security Officers. At these points, bag checks will be performed and access denied to patrons beginning to show signs of intoxication.
3. The Festival Committee will hire 2 Niagara Regional Police Officers, 2 Auxiliary Officers and 12 Security Guards (total of 16), on Friday, July 17 from 4:00 pm to midnight and 10:00 am Saturday, July 18 till 1:00 am Sunday, July 19, to monitor the four entrances/exits and for crowd monitoring. Crowd monitoring will include, but not be limited to, identifying and removing patrons beginning to show signs of intoxication and ensuring alcohol is not passed to minors.
4. Alcohol will not be allowed to enter into businesses not covered by this agreement. This will be posted and monitored accordingly.
5. All servers are Smart Serve Certified and, as such, will verify age and identity of patrons purchasing alcohol, monitor and ensure alcohol is not passed to minors, refuse service to

patrons beginning to show signs of intoxication. Security officers or Niagara Regional Police may be called upon to remove patrons beginning to show signs of intoxication.

6. Wristbanding will be in effect. The Town shall ensure that a wristband is placed on all patrons 19 and over and shall not allow service of liquor to any patron who is not wearing a wristband. Wristbanding does not replace the regulatory requirement to request ID of an apparent minor before liquor is sold or supplied. All servers will verify age and identity of patrons as required. Butcher & Banker shall ensure that any patron exiting to the Festival area carrying a single serving of alcohol is wearing a wristband.
7. Butcher & Banker will obtain a Temporary Extension to their existing Liquor Sales License from the Alcohol and Gaming Commission of Ontario and provide confirmation of such extension to the Town at least two (2) weeks prior to the Festival.
8. A MINIMUM price of \$7.00 per serving of beer (12 oz), cider (12 oz) or wine (5 oz) shall be charged by the Town and all licensed establishments participating in the Festival Licensing.
9. Outdoor patio capacity will be limited to available seating only and will be monitored accordingly by patio licensees.
10. The beer and wine pavilion will be operated in accordance with the Town of Pelham Municipal Alcohol Management Policy. (attached)
11. Butcher & Banker will ensure their Outdoor Patio will be consistent with the Summerfest goal to emphasize a “Family Atmosphere” Festival and ensure the Festival area is aesthetically pleasing as per the Summerfest Outdoor Patio Criteria.
12. The Liquor Sales License Holder, Butcher & Banker, and the Public Event Special Occasion Permit Holder, the Town, agree to ensure there is no unreasonable risk to public safety or the public interest and no unreasonable risk of non-compliance with the Liquor License Act (LLA) and its regulations.
13. Butcher & Banker will provide the Town of Pelham, at least two (2) weeks prior to the Festival, a certificate of Commercial General Liability insurance, of not less than \$2,000,000, confirming an alcohol endorsement or coverage and adding the Town of Pelham as an Additional Insured with 30 days’ notice of cancellation, termination or non-renewal.
14. Butcher & Banker will ensure that no glass bottles will be served to patrons exiting to the Festival area and that all alcoholic beverages will be served in cans or plastic beverage containers.
15. Butcher & Banker will ensure that all entrances and exits to their facility, situated at 1440 Pelham Street, are monitored during all hours of the Festival to ensure patrons are complying with the regulations of the Alcohol and Gaming Commission of Ontario.

The Town of Pelham, establishment owners, liquor servers, all staff, event Committee and event security will all monitor alcohol within the event and licensed establishments to ensure a safe and responsible liquor controlled event.

**IN WITNESS WHEREOF** the parties hereto have hereunto affixed their respective corporate seals duly attested to by their proper officers authorized in that regard.

**SIGNED, SEALED AND DELIVERED**

|                    |  |
|--------------------|--|
| In the presence of | )THE CORPORATION OF THE TOWN OF PELHAM |
|                    | ) _____)                               |
|                    | ) MAYOR MARVIN JUNKIN                  |
|                    | ) _____                                |
|                    | ) CLERK NANCY J. BOZZATO               |
|                    | )                                      |
|                    | ) BUTCHER & BANKER                     |
| _____              | ) _____                                |
| Witness            | ) TROY THOMSON                         |

**THIS AGREEMENT made in triplicate, this 6<sup>th</sup> day of April, 2020**

**Between**

**GELATO INNOVATION INC.**

(Hereinafter referred to as “Gelato Village”)

of the FIRST PART

- and -

**THE CORPORATION OF THE TOWN OF PELHAM**

(Hereinafter referred to as the “Town”)

of the SECOND PART

**WHEREAS** the Town is the holder of the Special Occasion Permit for a Festival known as Pelham Summerfest, to be held on Thursday, July 16 to Sunday, July 19, 2020;

**AND WHEREAS** Pelham Summerfest will include a Street Festival on Friday July 17, 2020 between the hours of 4:00pm to 11:00 pm and Saturday, July 18, 2020 between the hours of 10:00 am and 12:00 midnight, being an outdoor public event, Pelham Street will be closed from Highway 20 to College Street and Pelham Town Square entrance;

**AND WHEREAS** according to the regulations of the Alcohol and Gaming Commission of Ontario, a Public Event Special Occasion Permit holder and a liquor sales licensee may jointly participate in an outdoor Public Event that allows patrons to carry a single serving of liquor between the licensed area and the area covered by the Special Occasion Permit;

**AND WHEREAS** the Street Festival known as Pelham Summerfest is an outdoor event where the boundaries of the permitted area include one or more liquor sales licensed establishments, as depicted on Schedule A attached hereto;

**AND WHEREAS** Pelham Summerfest has been designated a “municipally significant” Festival by a resolution of municipal Council;

**NOW THEREFORE THIS AGREEMENT WITNESSETH THAT** in consideration of the mutual covenants herein contained, the parties hereto covenant, promise and agrees as follows:

1. The boundaries of the Licensed Festival Area will be confined by barricades and fencing.
2. There will be four monitored entrance/exit points to the designated Festival Area. These areas will be manned by Security Officers. At these points, bag checks will be performed and access denied to patrons beginning to show signs of intoxication.
3. The Festival Committee will hire 2 Niagara Regional Police Officers, 2 Auxiliary Officers and 12 Security Guards (total of 16), on Friday, July 17 from 4:00 pm to midnight and 10:00 am Saturday, July 18 till 1:00 am Sunday, July 19, to monitor the four entrances/exits and for crowd monitoring. Crowd monitoring will include, but not be limited to, identifying and removing patrons beginning to show signs of intoxication and ensuring alcohol is not passed to minors.
4. Alcohol will not be allowed to enter into businesses not covered by this agreement. This will be posted and monitored accordingly.



5. All servers are Smart Serve Certified and, as such, will verify age and identity of patrons purchasing alcohol, monitor to ensure alcohol is not passed to minors, refuse service to patrons beginning to show signs of intoxication. Security officers or Niagara Regional Police may be called upon to remove patrons beginning to show signs of intoxication.
6. Wristbanding will be in effect. The Town shall ensure that a wristband is placed on all patrons 19 and over and shall not allow service of liquor to any patron who is not wearing a wristband. Wristbanding does not replace the regulatory requirement to request ID of an apparent minor before liquor is sold or supplied. All servers will verify age and identity of patrons as required. Gelato Village shall ensure that any patron exiting to the Festival area carrying a single serving of alcohol is wearing a wristband.
7. Gelato Village will obtain a Temporary Extension to their existing Liquor Sales License from the Alcohol and Gaming Commission of Ontario and provide confirmation of such extension to the Town at least two (2) weeks prior to the Festival.
8. A MINIMUM price of \$7.00 per serving of beer (12 oz), cider (12 oz) or wine (5 oz) shall be charged by the Town and all licensed establishments participating in the Festival Licensing.
9. Outdoor patio capacity will be limited to available seating only and will be monitored accordingly by patio licensees.
10. The beer and wine pavilion will be operated in accordance with the Town of Pelham Municipal Alcohol Management Policy. (attached)
11. Gelato Village will ensure their Outdoor Patio will be consistent with the Summerfest goal to emphasize a “Family Atmosphere” Festival and ensure the Festival area is aesthetically pleasing as per the Summerfest Outdoor Patio Criteria.
12. The Liquor Sales License Holder, Gelato Village, and the Public Event Special Occasion Permit Holder, the Town, agree to ensure there is no unreasonable risk to public safety or the public interest and no unreasonable risk of non-compliance with the Liquor License Act (LLA) and its regulations.
13. Gelato Village will provide the Town of Pelham, at least two (2) weeks prior to the Festival, a certificate of Commercial General Liability insurance, of not less than \$2,000,000, confirming an alcohol endorsement or coverage and adding the Town of Pelham as an Additional Insured with 30 days’ notice of cancellation, termination or non-renewal.
14. Gelato Village will ensure that no glass bottles will be served to patrons exiting to the Festival area and that all alcoholic beverages will be served in cans or plastic beverage containers.
15. Gelato Village will ensure that all entrances and exits to their facility, situated at 1419 Pelham Street, are monitored during all hours of the Festival to ensure patrons are complying with the regulations of the Alcohol and Gaming Commission of Ontario.

The Town of Pelham, establishment owners, liquor servers, all staff, event Committee and event security will all monitor alcohol within the event and licensed establishments to ensure a safe and responsible liquor controlled event.

**IN WITNESS WHEREOF** the parties hereto have hereunto affixed their respective corporate seals duly attested to by their proper officers authorized in that regard.

**SIGNED, SEALED AND DELIVERED**

|                    |  |
|--------------------|--|
| In the presence of | )THE CORPORATION OF THE TOWN OF PELHAM |
|                    | ) _____)                               |
|                    | ) MAYOR MARVIN JUNKIN                  |
|                    | ) _____                                |
|                    | ) CLERK NANCY J. BOZZATO               |
|                    | )                                      |
|                    | ) GELATO INNOVATION INC.               |
|                    | ) _____                                |
| _____<br>Witness   | ) ROCCO SPANO                          |

**THIS AGREEMENT made in triplicate, this 6<sup>th</sup> day of April, 2020**

**Between**

**1856 SOCIAL LTD (O/A HILLFIRE SMK & BBQ)**  
(Hereinafter referred to as "1856 Social")

of the FIRST PART

- and -

**THE CORPORATION OF THE TOWN OF PELHAM**  
(Hereinafter referred to as the "Town")

of the SECOND PART

**WHEREAS** the Town is the holder of the Special Occasion Permit for a Festival known as Pelham Summerfest, to be held on Thursday, July 16 to Sunday, July 19, 2020;

**AND WHEREAS** Pelham Summerfest will include a Street Festival on Friday July 17, 2020 between the hours of 4:00pm to 11:00 pm and Saturday, July 18, 2020 between the hours of 10:00 am and 12:00 midnight, being an outdoor public event, Pelham Street will be closed from Highway 20 to College Street and Pelham Town Square entrance;

**AND WHEREAS** according to the regulations of the Alcohol and Gaming Commission of Ontario, a Public Event Special Occasion Permit holder and a liquor sales licensee may jointly participate in an outdoor Public Event that allows patrons to carry a single serving of liquor between the licensed area and the area covered by the Special Occasion Permit;

**AND WHEREAS** the Street Festival known as Pelham Summerfest is an outdoor event where the boundaries of the permitted area include one or more liquor sales licensed establishments, as depicted on Schedule A attached hereto;

**AND WHEREAS** Pelham Summerfest has been designated a "municipally significant" Festival by a resolution of municipal Council;

**NOW THEREFORE THIS AGREEMENT WITNESSETH THAT** in consideration of the mutual covenants herein contained, the parties hereto covenant, promise and agrees as follows:

1. The boundaries of the Licensed Festival Area will be confined by barricades and fencing.
2. There will be four monitored entrance/exit points to the designated Festival Area. These areas will be manned by Security Officers. At these points, bag checks will be performed and access denied to patrons beginning to show signs of intoxication.
3. The Festival Committee will hire 2 Niagara Regional Police Officers, 2 Auxiliary Officers and 12 Security Guards (total of 16), on Friday, July 17 from 4:00 pm to midnight and 10:00 am Saturday, July 18 till 1:00 am Sunday, July 19, to monitor the four entrances/exits and for crowd monitoring. Crowd monitoring will include, but not be limited to, identifying and removing patrons beginning to show signs of intoxication and ensuring alcohol is not passed to minors.
4. Alcohol will not be allowed to enter into businesses not covered by this agreement. This will be posted and monitored accordingly.

5. All servers are Smart Serve Certified and, as such, will verify age and identity of patrons purchasing alcohol, monitor to ensure alcohol is not passed to minors, refuse service to patrons beginning to show signs of intoxication. Security officers or Niagara Regional Police may be called upon to remove patrons beginning to show signs of intoxication.
6. Wristbanding will be in effect. The Town shall ensure that a wristband is placed on all patrons 19 and over and shall not allow service of liquor to any patron who is not wearing a wristband. Wristbanding does not replace the regulatory requirement to request ID of an apparent minor before liquor is sold or supplied. All servers will verify age and identity of patrons as required. 1856 Social shall ensure that any patron exiting to the Festival area carrying a single serving of alcohol is wearing a wristband.
7. 1856 Social will obtain a Temporary Extension to their existing Liquor Sales License from the Alcohol and Gaming Commission of Ontario and provide confirmation of such extension to the Town at least two (2) weeks prior to the Festival.
8. A MINIMUM price of \$7.00 per serving of beer (12 oz), cider (12 oz) or wine (5 oz) shall be charged by the Town and all licensed establishments participating in the Festival Licensing.
9. Outdoor patio capacity will be limited to available seating only and will be monitored accordingly by patio licensees.
10. The beer and wine pavilion will be operated in accordance with the Town of Pelham Municipal Alcohol Management Policy. (attached)
11. 1856 Social will ensure their Outdoor Patio will be consistent with the Summerfest goal to emphasize a "Family Atmosphere" Festival and ensure the Festival area is aesthetically pleasing as per the Summerfest Outdoor Patio Criteria.
12. The Liquor Sales License Holder, 1856 Social, and the Public Event Special Occasion Permit Holder, the Town, agree to ensure there is no unreasonable risk to public safety or the public interest and no unreasonable risk of non-compliance with the Liquor License Act (LLA) and its regulations.
13. 1856 Social will provide the Town of Pelham, at least two (2) weeks prior to the Festival, a certificate of Commercial General Liability insurance, of not less than \$2,000,000, confirming an alcohol endorsement or coverage and adding the Town of Pelham as an Additional Insured with 30 days' notice of cancellation, termination or non-renewal.
14. 1856 Social will ensure that no glass bottles will be served to patrons exiting to the Festival area and that all alcoholic beverages will be served in cans or plastic beverage containers.
15. 1856 Social will ensure that all entrances and exits to their facility, situated at 1455 Pelham Street, are monitored during all hours of the Festival to ensure patrons are complying with the regulations of the Alcohol and Gaming Commission of Ontario.

The Town of Pelham, establishment owners, liquor servers, all staff, event Committee and event security will all monitor alcohol within the event and licensed establishments to ensure a safe and responsible liquor controlled environment.

**IN WITNESS WHEREOF** the parties hereto have hereunto affixed their respective corporate seals duly attested to by their proper officers authorized in that regard.

**SIGNED, SEALED AND DELIVERED**

|                    |  |
|--------------------|--|
| In the presence of | )THE CORPORATION OF THE TOWN OF PELHAM |
|                    | ) _____)                               |
|                    | ) MAYOR MARVIN JUNKIN                  |
|                    | ) _____                                |
|                    | ) CLERK NANCY J. BOZZATO               |
|                    | )                                      |
|                    | ) 1856 SOCIAL LTD                      |
| _____              | ) _____                                |
| Witness            | ) MATT SPEIGHT                         |

**THIS AGREEMENT made in triplicate, this 6<sup>th</sup> day of April, 2020**

**Between**

**Kame & Kettle Beer Works Inc.**  
(Hereinafter referred to as “Kame & Kettle”)

of the FIRST PART

- and -

**THE CORPORATION OF THE TOWN OF PELHAM**  
(Hereinafter referred to as the “Town”)

of the SECOND PART

**WHEREAS** the Town is the holder of the Special Occasion Permit for a Festival known as Pelham Summerfest, to be held on Thursday, July 16 to Sunday, July 19, 2020;

**AND WHEREAS** Pelham Summerfest will include a Street Festival on Friday July 17, 2020 between the hours of 4:00pm to 11:00 pm and Saturday, July 18, 2020 between the hours of 10:00 am and 12:00 midnight, being an outdoor public event, Pelham Street will be closed from Highway 20 to College Street and Pelham Town Square entrance;

**AND WHEREAS** according to the regulations of the Alcohol and Gaming Commission of Ontario, a Public Event Special Occasion Permit holder and a Manufacturer's Limited Sales licensee may jointly participate in an outdoor Public Event that allows patrons to carry a single serving of liquor between the licensed area and the area covered by the Special Occasion Permit;

**AND WHEREAS** the Street Festival known as Pelham Summerfest is an outdoor event where the boundaries of the permitted area include one or more liquor sales licensed establishments, as depicted on Schedule A attached hereto;

**AND WHEREAS** Pelham Summerfest has been designated a “municipally significant” Festival by a resolution of municipal Council;

**NOW THEREFORE THIS AGREEMENT WITNESSETH THAT** in consideration of the mutual covenants herein contained, the parties hereto covenant, promise and agrees as follows:

1. The boundaries of the Licensed Festival Area will be confined by barricades and fencing.
2. There will be four monitored entrance/exit points to the designated Festival Area. These areas will be manned by Security Officers. At these points, bag checks will be performed and access denied to patrons beginning to show signs of intoxication.
3. The Festival Committee will hire 2 Niagara Regional Police Officers, 2 Auxiliary Officers and 12 Security Guards (total of 16), on Friday, July 17 from 4:00 pm to midnight and 10:00 am Saturday, July 18 till 1:00 am Sunday, July 19, to monitor the four entrances/exits and for crowd monitoring. Crowd monitoring will include, but not be limited to, identifying and removing patrons beginning to show signs of intoxication and ensuring alcohol is not passed to minors.
4. Alcohol will not be allowed to enter into businesses not covered by this agreement. This will be posted and monitored accordingly.

5. All servers are Smart Serve Certified and, as such, will verify age and identity of patrons purchasing alcohol, monitor to ensure alcohol is not passed to minors, refuse service to patrons beginning to show signs of intoxication. Security officers or Niagara Regional Police may be called upon to remove patrons beginning to show signs of intoxication.
6. Wristbanding will be in effect. The Town shall ensure that a wristband is placed on all patrons 19 and over and shall not allow service of liquor to any patron who is not wearing a wristband. Wristbanding does not replace the regulatory requirement to request ID of an apparent minor before liquor is sold or supplied. All servers will verify age and identity of patrons as required. Kame & Kettle shall ensure that any patron exiting to the Festival area carrying a single serving of alcohol is wearing a wristband.
7. A MINIMUM price of \$7.00 per serving of beer (12 oz), cider (12 oz) or wine (5 oz) shall be charged by the Town and all licensed establishments participating in the Festival Licensing.
8. The Summerfest beer and wine pavilion will be operated in accordance with the Town of Pelham Municipal Alcohol Management Policy. (attached)
9. The Manufacturer's Limited Liquor Sales License holder, Kame & Kettle, and the Public Event Special Occasion Permit Holder, the Town, agree to ensure there is no unreasonable risk to public safety or the public interest and no unreasonable risk of non-compliance with the Liquor License Act (LLA) and its regulations.
10. Kame & Kettle will provide the Town of Pelham, at least two (2) weeks prior to the Festival, a certificate of Commercial General Liability insurance, of not less than \$2,000,000, confirming an alcohol endorsement or coverage and adding the Town of Pelham as an Additional Insured with 30 days' notice of cancellation, termination or non-renewal.
11. Kame & Kettle will ensure that no glass bottles will be served to patrons exiting to the Festival area and that all alcoholic beverages will be served in cans or plastic beverage containers.
12. Kame & Kettle will ensure that all entrances and exits to their facility, situated at 25 Pelham Town Square, are monitored during all hours of the Festival to ensure patrons are complying with the regulations of the Alcohol and Gaming Commission of Ontario.

The Town of Pelham, establishment owners, liquor servers, all staff, event Committee and event security will all monitor alcohol within the event and licensed establishments to ensure a safe and responsible liquor controlled event.

**IN WITNESS WHEREOF** the parties hereto have hereunto affixed their respective corporate seals duly attested to by their proper officers authorized in that regard.

**SIGNED, SEALED AND DELIVERED**

In the presence of      Page 115 of 120      THE CORPORATION OF THE TOWN OF PELHAM



) \_\_\_\_\_)

) MAYOR MARVIN JUNKIN

) \_\_\_\_\_

) CLERK NANCY J. BOZZATO

)

) Kame & Kettle Beer Works Inc.

) \_\_\_\_\_

\_\_\_\_\_  
Witness

) TODD BARBER

**THIS AGREEMENT made in triplicate, this 6<sup>th</sup> day of April, 2020**

**Between**

**ROOT AND BONE**

(Hereinafter referred to as “Root and Bone”)

of the FIRST PART

- and -

**THE CORPORATION OF THE TOWN OF PELHAM**

(Hereinafter referred to as the “Town”)

of the SECOND PART

**WHEREAS** the Town is the holder of the Special Occasion Permit for a Festival known as Pelham Summerfest, to be held on Thursday, July 16 to Sunday, July 19, 2020;

**AND WHEREAS** Pelham Summerfest will include a Street Festival on Friday July 17, 2020 between the hours of 4:00pm to 11:00 pm and Saturday, July 18, 2020 between the hours of 10:00 am and 12:00 midnight, being an outdoor public event, Pelham Street will be closed from Highway 20 to College Street and Pelham Town Square entrance;

**AND WHEREAS** according to the regulations of the Alcohol and Gaming Commission of Ontario, a Public Event Special Occasion Permit holder and a liquor sales licensee may jointly participate in an outdoor Public Event that allows patrons to carry a single serving of liquor between the licensed area and the area covered by the Special Occasion Permit;

**AND WHEREAS** the Street Festival known as Pelham Summerfest is an outdoor event where the boundaries of the permitted area include one or more liquor sales licensed establishments, as depicted on Schedule A attached hereto;

**AND WHEREAS** Pelham Summerfest has been designated a “municipally significant” Festival by a resolution of municipal Council;

**NOW THEREFORE THIS AGREEMENT WITNESSETH THAT** in consideration of the mutual covenants herein contained, the parties hereto covenant, promise and agrees as follows:

1. The boundaries of the Licensed Festival Area will be confined by barricades and fencing.
2. There will be four monitored entrance/exit points to the designated Festival Area. These areas will be manned by Security Officers. At these points, bag checks will be performed and access denied to patrons beginning to show signs of intoxication.
3. The Festival Committee will hire 2 Niagara Regional Police Officers, 2 Auxiliary Officers and 12 Security Guards (total of 16), on Friday, July 17 from 4:00 pm to midnight and 10:00 am Saturday, July 18 till 1:00 am Sunday, July 19, to monitor the four entrances/exits and for crowd monitoring. Crowd monitoring will include, but not be limited to, identifying and removing patrons beginning to show signs of intoxication and ensuring alcohol is not passed to minors.
4. Alcohol will not be allowed to enter into businesses not covered by this agreement. This will be posted and monitored accordingly.
5. All servers are Smart Serve Certified and, as such, will verify age and identity of patrons purchasing alcohol, monitor and ensure alcohol is not passed to minors, refuse service to

patrons beginning to show signs of intoxication. Security officers or Niagara Regional Police may be called upon to remove patrons beginning to show signs of intoxication.

6. Wristbanding will be in effect. The Town shall ensure that a wristband is placed on all patrons 19 and over and shall not allow service of liquor to any patron who is not wearing a wristband. Wristbanding does not replace the regulatory requirement to request ID of an apparent minor before liquor is sold or supplied. All servers will verify age and identity of patrons as required. Root and Bone shall ensure that any patron exiting to the Festival area carrying a single serving of alcohol is wearing a wristband.
7. Root and Bone will obtain a Temporary Extension to their existing Liquor Sales License from the Alcohol and Gaming Commission of Ontario and provide confirmation of such extension to the Town at least two (2) weeks prior to the Festival.
8. A MINIMUM price of \$7.00 per serving of beer (12 oz), cider (12 oz) or wine (5 oz) shall be charged by the Town and all licensed establishments participating in the Festival Licensing.
9. Outdoor patio capacity will be limited to available seating only and will be monitored accordingly by patio licensees.
10. The beer and wine pavilion will be operated in accordance with the Town of Pelham Municipal Alcohol Management Policy. (attached)
11. Root and Bone will ensure their Outdoor Patio will be consistent with the Summerfest goal to emphasize a “Family Atmosphere” Festival and ensure the Festival area is aesthetically pleasing as per the Summerfest Outdoor Patio Criteria.
12. The Liquor Sales License Holder, Root and Bone, and the Public Event Special Occasion Permit Holder, the Town, agree to ensure there is no unreasonable risk to public safety or the public interest and no unreasonable risk of non-compliance with the Liquor License Act (LLA) and its regulations.
13. Root and Bone will provide the Town of Pelham, at least two (2) weeks prior to the Festival, a certificate of Commercial General Liability insurance, of not less than \$2,000,000, confirming an alcohol endorsement or coverage and adding the Town of Pelham as an Additional Insured with 30 days’ notice of cancellation, termination or non-renewal.
14. Root and Bone will ensure that no glass bottles will be served to patrons exiting to the Festival area and that all alcoholic beverages will be served in cans or plastic beverage containers.
15. Root and Bone will ensure that all entrances and exits to their facility, situated at 1469 Pelham Street, are monitored during all hours of the Festival to ensure patrons are complying with the regulations of the Alcohol and Gaming Commission of Ontario.

The Town of Pelham, establishment owners, liquor servers, all staff, event Committee and event security will all monitor alcohol within the event and licensed establishments to ensure a safe and responsible liquor controlled event.

**IN WITNESS WHEREOF** the parties hereto have hereunto affixed their respective corporate seals duly attested to by their proper officers authorized in that regard.

**SIGNED, SEALED AND DELIVERED**

|                    |                                       |
|--------------------|---------------------------------------|
| In the presence of | )THE CORPORATIONOF THE TOWN OF PELHAM |
|                    | ) _____)                              |
|                    | ) MAYOR MARVIN JUNKIN                 |
|                    | ) _____                               |
|                    | ) CLERK NANCY J. BOZZATO              |
|                    | )                                     |
|                    | ) ROOT AND BONE                       |
| _____              | ) _____                               |
| Witness            | ) RAYMOND TAYLOR                      |

THE CORPORATION OF THE  
T O W N   O F   P E L H A M  
BY-LAW # 40XX (2020)

Being a by-law to authorize the Mayor & Clerk to enter into Agreements with five (5) establishments licensed by the Alcohol and Gaming Commission of Ontario that are situate within the Summerfest licensed area, those establishments being namely The Butcher and Banker Fonthill Inc., Root and Bone, 1856 Social Ltd. (O/A HillFire SMK & BBQ), Gelato Village and Kame and Kettle Beer Works for the purposes of obtaining a Special Occasion Permit for the Summerfest event to be held on Friday, July 17 and Saturday, July 18, 2020, and to Repeal By-law 4095(2019).

**WHEREAS** the Council of the Corporation of the Town of Pelham deems it desirable to enter into agreements with the five (5) licensed establishments within the Summerfest licensed area to facilitate an application for a Special Occasion Permit, in accordance with the Regulations of the Alcohol and Gaming Commission of Ontario, for Festival Licensing during the Summerfest event to be held on Friday, July 17, 2020 between 4:00 pm and 11:00 pm, all patios must be cleared of patrons by 12 midnight; and between 11:00 am and midnight on Saturday, July 18, 2020 and the outdoor area shall be cleared of patrons by 1:00 am on Sunday, July 19, 2020.

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

1. **THAT** the Agreements between The Butcher and Banker Fonthill Inc., Root and Bone, 1856 Social Ltd. (O/A HillFire SMK & BBQ), Gelato Village and Kame and Kettle Beer Works be and the same are hereby approved; and
2. **THAT** the Mayor and Clerk be and each of them are hereby authorized and instructed on behalf of the Corporation of the Town of Pelham to execute the said Agreements and the Clerk is hereby authorized to affix the Corporate Seal thereto; and
3. **THAT** By-law 4095(2019), being By-law to authorize special occasion permit agreements for former Summerfest events be and is hereby repealed.

ENACTED, SIGNED AND SEALED THIS  
XX<sup>th</sup> DAY OF APRIL, 2020 A.D.

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MAYOR MARVIN JUNKIN

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CLERK NANCY J. BOZZATO