

December 1, 2020

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

Re: Consent Application B11-2020P
282 Canboro Road, Pelham
Concession 8, Part of Lot 5, RP 59R-4807, Part 1
Roll No. 2732 020 010 14600

The subject parcel, shown as Part 3 on the attached sketch, is an interior parcel of land situated 26.21 m south of Canboro Road, lying east of Effingham Street, legally described above, in the Town of Pelham.

Application is made for consent to convey 1,034 m² of land (Part 3) to merge with the abutting property to the west (286 Canboro Road) for continued use of the existing single detached residential dwelling. 4,055 m² of land (Part 1) will be retained for continued use of the single detached residential dwelling known locally as 282 Canboro Road.

Applicable Planning Policies

Planning Act (Consolidated July 2016)

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

- a) The development's effect on provincial matters of interest;
- b) Whether the proposed subdivision is premature or in the public interest;
- c) Whether the plan conforms to the Official Plan and adjacent plans of subdivisions, if any
- d) The suitability of the land for such purposes;
- f) The dimensions and shapes of the proposed lots;
- h) Conservation of natural resources and flood control;
- i) The adequacy of utilities and municipal services;
- j) The adequacy of school sites

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

The proposed boundary adjustment seeks to sever the northwestern section of the 'U-shaped' subject lands (282 Canboro Road) to merge with the abutting lands to the west (286 Canboro Road).

Provincial Policy Statement (PPS) (2020)

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 Provincial Policy Statement (PPS) designates the subject land within the ‘Prime Agricultural Area’. ‘Prime Agricultural Areas’ are defined as including associated Canada Land Inventory Class 4-7 lands as well as ‘Prime Agricultural Lands’ (Class 1-3 lands).

Policy 1.1.4.1 states that healthy, viable *rural areas* should be supported by, among other things, promoting regeneration, promoting diversification of the economic base in *prime agricultural areas*, in accordance with policy 2.3 and conserving biodiversity.

Greenbelt Plan (2017)

The Greenbelt Plan designates the intersection of Effingham Street and Canboro Road as a ‘*Hamlet*’. Hamlets are also included within the definition for ‘*Settlement Areas*’ and are located within the Protected Countryside. However, the Ridgeville hamlet designation is symbolized only as ‘dot’ on Schedules 1 – 2 of this Plan, lacking a fixed boundary. The Upper Tier municipalities are responsible for approving *settlement area* boundaries. The Region is currently updating their Official Plan and will be approving a delineated boundary for the Village of Ridgeville. Town Planning staff are confident the subject parcels will be included within this forthcoming hamlet boundary as they currently maintain a rural-commercial zoning.

Policy 1.4.2 states that the policies of this Plan generally do not apply to Towns/Villages and Hamlets. Official Plans will continue to govern their land use based on policy direction of the Growth Plan.

Policy 4.6.1 e) states that lot creation is discouraged but minor lot adjustments or boundary additions may be permitted, provided they do not create a separate lot for a residential dwelling in *prime agricultural areas*, including *specialty crop areas*, and there is no increased fragmentation of a *key natural heritage feature* or *key hydrologic feature*.

The proposed boundary adjustment will not create any new lots. The mapped *critical fish habitat* will not be fragmented by the reconfigured lot line.

Growth Plan for the Greater Golden Horseshoe (2019)

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

The subject parcel is located within a ‘Prime Agricultural Area’, which is outside of an approved *settlement area*

according to the Growth Plan. Therefore, the natural heritage system policies of the Growth Plan apply (policy 4.2.2).

Policy 4.2.2.3 a) states that (among other things), within the *Natural Heritage System* new development or site alteration will demonstrate that there are no negative impacts on key natural heritage features, key hydrologic features or their functions.

Development is defined as the creation of a new lot, a change in land use, or the construction of buildings requiring approval under the *Planning Act*.

The proposed lot line does not fragment any *key natural heritage features* or *key hydrologic features*. In fact, the proposed reconfigured lot line actually distances itself from the regulated watercourse which has been mapped as a critical fish habitat.

Regional Official Plan (Consolidated August 2014)

The Regional Official Plan designates the subject land as ‘Unique Agricultural Area’ and ‘Greenbelt Natural Heritage System’.

Policy 5.B.8 (Unique Agricultural Areas Consents) restricts lot creation to maintain and protect agricultural resources of the Town, as well as prohibit further fragmentation of *key natural heritage features* or *key hydrological features*.

Regional staff are satisfied the proposed lots meet the 0.4 hectare size requirement for private sewage system purposes and avoid any fragmentation of *key natural heritage features* and meet the Regional lot creation criteria.

Pelham Official Plan (2014)

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

The local Official Plan designates the subject land as ‘Specialty Agricultural’ with a ‘Greenbelt Natural Heritage Overlay’ on Part 3 and most of Part 2 according to Schedule ‘A’.

Policy B2.2.5 restricts lot creation to maintain and protect agricultural resources of the Town, as well as prohibit further fragmentation of *key natural heritage features* or *key hydrological features*.

The proposed severance does not create any new lots within the *Specialty Agricultural* designation nor fragment any natural heritage features.

Any future commercial-rural zoned development on any of the subject properties will be subject to Site Plan Approval and require a Site Plan Agreement with the Town in accordance with the Site Plan Control By-law.

Policy D5.2.2 states that the conveyance of a boundary adjustment for the purpose of enlarging an existing lot

that does not provide a new building lot, may be permitted. The Committee of Adjustment shall be satisfied that the boundary adjustment will not affect the viability of the use of the properties affected as intended by this Plan.

The proposed severance would facilitate a boundary adjustment between two commercial rural zoned properties, which each both support a single detached residential dwelling. No new building lots would result from this boundary adjustment.

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

The subject land is currently zoned 'Commercial Rural' (CR) according to the Zoning By-law 1136(1987). The existing residential dwelling at 286 Canboro Road is considered *legal non-conforming* as it pre-dates the establishment of municipal zoning on the lands and is circa 1949. The building permit for the dwelling at 282 Canboro was issued prior to Zoning By-law 1136(1987).

Part 1 will continue to comply with the Zoning By-law with respect to the zone standards following the parcel reconfiguration. The minimum lot frontage is existing *legal non-complying* and the minimum lot area will exceed the 0.4 hectare requirement. There are no building setback implications for the existing dwelling, but Town Planning staff cannot confirm the same for the accessory building(s) to the west as they are missing on the Consent Sketch. Therefore, a condition of approval has been outlined to satisfy any potential zoning issues.

Parts 2 – 3 will continue to meet the applicable performance standards (minimum lot frontage / lot area), as well as not implicate the existing *legal non-conforming* single detached residential dwelling. The deficient lot frontage is similarly a *legal non-complying* situation pursuant to section 6.15 (e) of the By-law.

Any future development on either parts 1 or 2 will continue to need to comply with their respect zoning regulations and permitted uses.

Agency & Public Comments

On November 2, 2020, a notice of public hearing was circulated by the Secretary Treasurer of the Committee of Adjustment to applicable agencies, Town departments, and to all assessed property owners within 60 metres of the property's boundaries.

To date, the following comments have been received:

- Niagara Peninsula Conservation Authority (November 17, 2020)
 - Any works or site alteration within 15 m of the regulated watercourse traversing 286 Canboro Road will require NPCA approval.
 - No objections.
- Niagara Region Planning & Development Services (November 17, 2020)
 - Merging Part 3 with Part 2 will benefit the ability for the existing dwelling at 286 Canboro Road in the event the septic system needs to be replaced as the site is impacted by an NPCA regulated watercourse which restricts the development of a new septic system.

- Archaeological assessment will be required upon future development or site alteration requiring *Planning Act* approval.
 - No objections subject to Part 2 merging in title with Part 3.
- Building Department (November 20, 2020)
 - No comments.
- Public Works Department (November 19, 2020)
 - See conditions.
- Hydro One (November 7, 2020)
 - No concerns.
- Bell Canada (November 12, 2020)
 - No concerns.

Public comments were received from two neighbouring property owners, which are included on the Committee's Agenda and summarized below:

- Concern that the future use of the property will be commercial.
 - The subject properties are all zoned 'CR' (Commercial Rural) which permit a variety of commercial uses and accessory residential uses.

Planning Staff Comments

The proposed boundary adjustment seeks to sever the northwestern section of the 'U-shaped' subject lands (282 Canboro Road) to merge with the abutting lands to the west (286 Canboro Road).

A pre-consultation meeting was held with the applicant(s) of the property and staff from the Town and Niagara Region Planning & Development Services on September 3, 2020 to discuss the subject application.

The subject lands are located on the south side of Canboro Road, lying east of Effingham Street. The property is surrounded by:

- North → Rural residential dwellings
- East → Auto, truck and industrial repair shop / rural residential dwelling
- South → Agricultural / rural residential dwellings
- West → Bulk water filling station

Planning staff visited the site and reviewed aerial photography to better understand the local context. Planning staff have also reviewed the *Planning Justification Brief* prepared by Upper Canada Consultants, submitted with the application.

Planning staff is of the opinion that the proposal will improve the awkward existing lot geometry and parcel fabric by creating a more usable parcel of land at 286 Canboro Road either for the continued use of the *legal non-conforming* single detached dwelling, or for some alternative future use, should one be proposed. The remnant lands will also continue to comply with the minimum zoning standards and minimum size requirements for a private septic system.

Furthermore, the proposed consent avoids fragmenting any *key natural heritage features* by ensuring those ecologically sensitive features remain wholly intact by the lotting fabric.

It is noted that based on the information provided with the application, no change in use is proposed for either 282 or 286 Canboro Road and the application states that the proposed use is to remain as residential. If there is any future proposal for commercial or mixed-use commercial-residential development on either 282 Canboro Road or 286 Canboro Road by the current owner or future owner of either property, it will be subject to future *Planning Act* approvals such as a Site Plan Control application, at a minimum, pursuant to the Town's Site Plan Control By-law. However, at this time, it is noted that no change in land use is proposed.

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

Given this analysis, Planning staff recommend that consent file B11-2020P **be approved** subject to the following conditions:

THAT the applicant

- Merge Part 3 with Part 2 (286 Canboro Road).
- Provide a revised Consent Sketch illustrating all existing accessory structures, regardless of whether they are proposed to remain or be removed. If zoning compliance cannot be demonstrated, the Applicant shall either obtain and close Demolition Permit(s), as applicable for their removal, or obtain subsequent zoning approval for their continued existence, to the satisfaction of the Director of Community Planning & Development.
- Submit a comprehensive overall Lot Grading & Drainage Plan for all Parts demonstrating that drainage neither relies upon, nor negatively impacts adjacent properties, and that all drainage will be contained within their respective lots, to the satisfaction of the Director of Public Works, or designate.
- Confirm that no existing utilities cross the proposed lot line. In the event that services do cross, the applicant shall be responsible for the costs and responsibility of their relocation and/or removal.
- Provide the Secretary-Treasurer with a registerable legal description of the subject parcel, together with a copy of the deposited reference plan, if applicable, for use in the issuance of the Certificate of Consent.
- Provide the final certification fee of \$395, payable to the Treasurer, Town of Pelham, be submitted to the Secretary-Treasurer. All costs associated with fulfilling conditions of consent shall be borne by the applicant.

Prepared by,



Curtis Thompson, B.URPI
Planner

Approved by,



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