

February 2, 2021

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

Re: Consent Application B2-2021P
160 Highway 20 East, Pelham
Part of Block 3, Plan 59M-432 and Parts 1, 8 – 11, 16 – 19 on RP 59R-16208
Roll No. 2732 030 020 04606

The subject parcel, shown as Part 2 on the attached sketch, has 28.89 m of frontage on the south side of Highway 20 East (Regional Road 20), lying east of Wellspring Way, legally described above, in the Town of Pelham.

Application is made for consent to partial mortgage discharge and to convey 3,084 m² of land (Part 2) for future residential use. While 1,616 m² of land (Part 3) is proposed to be conveyed perpetually as a reciprocal right-of-way (easement) for access purposes in favour of Part 2. Parts 1 and 3 will be retained for continued use of the commercial development (approved and under construction).

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 severance upholds provincial interest by making more efficient use of finite urban land by allowing the current landowner to dispose of land more suitable to a residential-based developer who may better provide housing opportunities. The severance is not premature because Council has already approved the commercial development (on Parts 1 & 3). Therefore, the ability to provide north-south transportation connections to the benefit of lands to the south and beyond cannot be realized. The proposed geometry of

Part 2 is appropriate to facilitate a variety of development options with adequate municipal services and public schools nearby. The proposed right-of-way for access purposes will reduce the amount of land wasted for vehicle movement if exclusive accesses were provided as an alternative.

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 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 development.

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

The proposed development seeks to convey a vacant plot of land east of the approved commercial development for future residential development. The easement component for access purposes reduces the amount of urban land waste by making more efficient use of an existing parking lot / driveway access that can also serve new development to the east, and improve vehicle circulation. This consent application is an acceptable form of *development* which should not adversely impact the provincial interests, public health, safety or the quality of the human environment. Planning staff are of the opinion the proposed severance is consistent with the PPS.

Growth Plan for the Greater Golden Horseshoe (2019)

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

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

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

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

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

The proposed lot creation will help facilitate the achieve of a *complete community* by helping to facilitate new residential housing opportunities under different ownership, as well as helping to achieve the Town's density targets. The proposed easement for driveway access will ensure enhanced east-west mobility is maintained perpetually, following the completion of both developments.

For these reasons, Town Planning staff are of the opinion the proposed development conforms to the Growth Plan.

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 existing commercial plaza (under construction) and the vacant lands directly to the east by helping to facilitate more of a mixed-use neighbourhood.

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 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 B1.7.3.1 (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 closely relate to this development) are:

- a) 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;
 - ✓ The proposed consent will help facilitate new residential development to the east, as well as avoiding a duplication of access driveways, thus, helping contribute towards the achievement of density targets and a *complete community*.
- 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 proposed easement for reciprocal rights-of-way for (driveway) access purposes in favour of Part 2 will specifically help ensure the lands remain interconnected for east-west vehicular movements, reducing circuitous driving behaviours. Traffic speeds are usually quite low in parking lots, so similar pedestrian movements are anticipated and desired.

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

- a) Fronts on and will be directly accessed by a public road;
 - ✓ Unchanged.

- b) Will not cause a traffic hazard;
 - ✓ The (under construction) drive aisle lane will connect Wellspring Way to Highway 20 East. It is illustrated as Part 3 on the Consent Sketch and has been approved by Town Council with support from Niagara Region who controls Highway 20. For the Committee's reference, the new driveway apron will be a 'right-in, right-out' configuration with a new central median in the Highway 20 East road allowance.
- c) Is in keeping with the intent of relevant provisions and performance standards of the Zoning By-law;
 - ✓ Complies
- d) Can be serviced with an appropriate water supply and means of sewage disposal;
 - ✓ Unchanged.
- e) Will not have a negative impact on the drainage patterns in the area;
 - ✓ No concern.
- f) Will not affect the developability of the remainder of the lands, if they are designated for development by this Plan;
 - ✓ The location and geometry of Part 2 is appropriate and easily capable of a variety of development scenarios.
- g) Will not have a negative impact on the features and functions of any environmentally sensitive feature in the area;
 - ✓ No issue.
- h) Conforms with Regional lot creation policy as articulated in the Regional Official Plan.
 - ✓ No issue from Region in accordance with Memorandum of Understanding.
- i) Complies with the appropriate Provincial Minimum Distance Separation Formulae, where applicable.
 - ✓ Not applicable.

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

The subject lands are zoned EF – MU2 (East Fonthill – Mixed Use 2) according to Schedule 'A5' of the Zoning By-law. The permitted uses include a variety of commercial, residential, institutional and public uses, with the benefit of more of a, *form-based* regulatory framework.

As a result, there are no prescriptive standards for minimum lot frontage or lot area. Therefore, the resulting parcel configuration will continue to comply with all applicable zoning regulations. Any proposed development on Part 2 will need to comply with any applicable provisions at that time.

Agency & Public Comments

On December 8, 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:

- Bell Canada (December 16, 2020)
 - No concerns.
- Hydro One (December 11, 2020)
 - No concerns.

- Building Department (January 20, 2021)
 - No comments.
- Public Works Department (December 18, 2020)
 - No comments.

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

Planning Staff Comments

A pre-consult meeting was held with the applicant(s) of the property and staff from the Town and Niagara Region Planning & Development Services on May 16, 2019 to discuss the development proposal. A *Planning Justification Brief* prepared by Upper Canada Consultants (dated November 6, 2020) accompanied the consent application.

The subject lands are located on the south side of Highway 20 East (RR 20), between Wellspring Way (to the west) & Rice Road (to the east). The property is surrounded by:

- North – Commercial / private parkland / residential uses
- East – Stormwater management facility
- South – Vacant land
- West – Various commercial uses

Planning staff are familiar with the site and have reviewed aerial photography to better understand the context. A portion of the vacant land to the south is undergoing a Site Plan Control application for a senior's residential apartment development, while the balance of those lands have no formal proposal. Parts 1 & 3 have received Site Plan Approval from Council, and entered into a Site Plan Agreement with the Town for the purposes of developing three (3) commercial buildings.

It is noted that the anticipated development of Part 2 will be subject to future *Planning Act* approvals such as a Site Plan Approval, pending a formal development proposal. This severance application will help prepare the lot for development, under different ownership. The proposed conveyance of an easement over Part 3 will ensure legal protections are forever registered in place on the existing commercial plaza lands, to the benefit of Part 2. This arrangement will allow for shared driveway and parking lot access, which is an objective of the East Fonthill Secondary Plan policies.

Planning staff is of the opinion that the proposal applies current planning and development goals dealing with appropriate lot creation, making more efficient use of the existing urban lands and infrastructure, where suitable to do so.

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 B2-2021P **be approved** subject to the following conditions:

THAT the applicant

- 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 \$399, 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