

March 2, 2021

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

Re: Consent Application B5-2021P
614 Metler Road, Pelham
Concession 6, Part of Lot 12
Roll No. 2732 010 008 15500

The subject parcel, shown as Part 1 on the attached sketch, has 30.75 m of frontage on the south side of Metler Road, lying west of Cream Street, legally described above, in the Town of Pelham.

Application is made for consent to convey 4,046.86 m² of land (Part 1) to create a new lot for single detached residential use. Part 2 (4,046.86 m²) will be retained for continued use of the existing single detached dwelling.

Note: This application is being considered concurrently with consent file: B6-2021P and minor variance files: A9-2021P – A11-2021P.

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

The balance of this *Recommendation Report* helps address the Provincial interests at play (Section 2 of the Act), and the land division criteria of (Ss. 51(24)) in more depth through the Provincial land use planning policy framework, the Niagara Region and Town of Pelham Official Plans. Furthermore, comments were solicited from agencies including the Niagara Peninsula Conservation Authority, Niagara Region, school boards and public utilities among others.

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.

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 a ‘Settlement Area’, more specifically a rural settlement area / hamlet. According to policy 1.1.4, *Rural Areas* may include rural settlement areas.

Policy 1.1.4.1 – states that healthy and viable *rural areas* should be supported by, among other things:

- a) Building upon rural character, and leveraging rural amenities and assets;
- c) Accommodating an appropriate range and mix of housing in rural *settlement areas*;
- d) Encouraging the conservation and *redevelopment* of existing rural housing stock on *rural lands*;
- e) Using rural *infrastructure* and *public service facilities* efficiently;

The existing zoning only permits one single detached dwelling, which limits the ability to provide a mix of housing stock. The proposed lot geometry is configured in a way that seeks to preserve the existing rural residential dwelling on Part 2.

Policy 1.1.4.3 states that the Town shall consider rural characteristics, the scale of development and the provision of appropriate service levels when directing development in rural *settlement areas*.

Policy 2.6.2 (Cultural Heritage & Archaeology) – states that *development* and *site alteration* shall not be permitted on lands containing *archaeological resources* or *areas of archaeological potential* unless *significant archaeological resources* have been conserved.

A *Stage 1 – 2 Archaeological Assessment* was conducted which concluded no significant archaeological resources were uncovered. Consequently, a Ministry clearance letter was provided with the application. Planning staff are of the opinion the proposed severance is consistent with the PPS and that the lot geometry successfully helps achieve the growth management objectives of North Pelham, respect the rural character and subject to conditions, adequately manages private water and sewage system services.

Greenbelt Plan (2017)

The subject lands are designated as a ‘Hamlet’ (*Settlement Area*) within the ‘Protected Countryside’ according to Schedule 1 of the Greenbelt Plan. Hamlets are substantially smaller than Towns / Villages and play a significantly lesser role in accommodating concentrations of residential, commercial, and non-agricultural development. Hamlets are not locations to which growth should be directed.

Policy 3.4.4 – states that Hamlets are subject to the Growth Plan policies and continue to be governed by official plans and are not subject to the policies of this Plan, save for a few key policies, (water resource system, parkland, open space and trails etc.). Limited growth is permitted through infill and *intensification* of Hamlets subject to appropriate private servicing.

The proposed consent is consistent with the policies of the Growth Plan (see below), and provide for limited residential infill development on private services.

Growth Plan (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 ‘Rural Settlement’ according to the Growth Plan. *Rural Settlements* are privately serviced areas, contain a limited amount of undeveloped lands that are designated for development and are subject to official plan policies that limit growth.

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

- b) Growth will be limited in *settlement areas* that:
 - i. Are *rural settlements*;
 - ii. Are not serviced by existing or planned *municipal water and wastewater systems*; or
 - iii. Are in the Greenbelt Area.

Policy 4.2.1– states that *Water resource systems* will be identified for the long-term protection of *key hydrologic features, key hydrologic areas*, and their functions.

Schedule ‘B1’ of the Town’s Official Plan identifies the subject lands as constituting a *highly vulnerable aquifer* and being located within the Fifteen Mile Creek subwatershed. As such, a number of land uses are prohibited.

According to the *Hydrogeological Assessment* and Regional staff, the proposed development appears capable of providing a sustainable level of private water and wastewater servicing subject to certain conditions of approval being fulfilled.

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 ‘Hamlet’ according to Schedules ‘A’ and ‘B’. Hamlets are low density settlement areas that play an important housing, social, cultural, and economic role for the people within the local community and in supporting the surrounding agricultural and rural areas.

Policy 4.H.3.1 states that proposed Hamlet development must still comply with the MDS formula requirements.

The proposed development is not located in proximity to existing livestock operations.

Policy 4.H.3.5 states that the minimum lot size for new lots in Hamlets should be 1 hectare unless a *Hydrogeological Assessment* determines that a smaller land area will adequately accommodate private water and sewage treatment facilities for long-term operation. In all cases, a minimum of 0.4 hectare (1 acre) of usable lot area for septic system purposes shall be provided.

The proposed lots exceed the minimum 0.4 ha usable lot area requirement. A *Hydrogeological Assessment* was prepared by Terra-Dynamics Consulting Inc. demonstrating that private services can adequately be accommodated without negative impacts underground or to neighbouring development, subject to recommended conditions.

Policy 10.C.2.1.13 states that *development* and *site alteration* shall only be permitted on lands containing *archaeological resources* or *areas of archaeological potential* if the significant *archaeological resources* have been *conserved* by removal and documentation, or by preservation on site.

Development, by definition, includes lot creation according to the PPS. A *Stage 1 – 2 Archaeological Assessment* was prepared by Detritus Consulting Ltd. and a clearance letter were received from the Ministry of Heritage, Sport, Tourism and Culture Industries. No further archaeological evaluation is recommended as no significant resources were uncovered.

Regional staff provided comments and offered no objections pending their recommended conditions of approval are satisfied.

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 'Rural Settlement' according to Schedule 'A', and 'Highly Vulnerable Aquifer' according to Schedule 'B1'. The North Pelham Hamlet is not a focus area for future growth in the Town but does have policies that support limited development.

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. Encouraging development that is adjacent to significant cultural heritage resources to be of an appropriate scale and character.

No Part IV designated heritage properties exist on, or surround the subject lands, save for the Comfort Maple Tree to the southwest. The Town's Heritage Master Plan identified the subject lands as having high potential for deeply buried archaeological resources. Therefore, a *Stage 1 – 2 Archaeological Assessment* was required by the Town and Region and one was prepared by Detritus Consulting Ltd. to address the policy requirements. No further archaeological evaluation were recommended as no significant resources were uncovered and a clearance letter was received from the Province to this effect.

Policy B2.4.3.1 (Preferred Means of Lot Creation) – states that further development in North Pelham will be limited to infilling of lots that will support land use that respects the existing character and built form of the Hamlet. Lot creation shall occur through the consent process. Proposed lot areas less than 1.0 hectare may be considered provided they are supported by a Hydrogeological Assessment and Private Servicing Study that confirms that a smaller lot will adequately accommodate private water and wastewater treatment facilities for long-term operation, consistent with Regional policy.

In support of this policy and the Regional Official Plan, a *Hydrogeological Assessment*, prepared by Terra-Dynamics Consulting Inc. was prepared in accordance with a Terms of Reference reviewed by Regional staff.

Policy B2.4.3.2 (Preferred Means of Servicing) – requires all development in North Pelham to be serviced by private water and sewage systems. No residential development over five (5) residential units shall be permitted unless supported by a *Functional Servicing Report* and a *Hydrogeological Assessment*.

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;
 - ✓ No concerns.
- c) Is in keeping with the intent of relevant provisions and performance standards of the Zoning By-law;
 - ✓ Zoning relief is required as a condition of approval and has been applied for under concurrent minor variance applications (files A9-2021P & A10-2021P).
- d) Can be serviced with an appropriate water supply and means of sewage disposal;
 - ✓ No concern subject to conditions.
- e) Will not have a negative impact on the drainage patterns in the area;
 - ✓ Demonstration required as a condition of approval.
- f) Will not affect the developability of the remainder of the lands, if they are designated for development by this Plan;
 - ✓ The concurrent severance application (B6-2021P), together with this application, represent the total cumulative developability for the original subject property generally, given the servicing and policy constraints affecting the lands. The lands to the south are also outside of the *Rural Settlement* hamlet boundary and are located within the Greenbelt Plan. Several key planning policies prohibit *settlement area* boundary expansions into the *Protected Countryside*.
- g) Will not have a negative impact on the features and functions of any environmentally sensitive feature in the area;
 - ✓ No issue as the proposed lot is outside of the regulated features of the NPCA and Niagara Region.
- h) Conforms with Regional lot creation policy as articulated in the Regional Official Plan.
 - ✓ No objection from Region subject to conditions.
- i) Complies with the appropriate Provincial Minimum Distance Separation Formulae, where applicable.
 - ✓ The proposed development is not located in proximity to an existing livestock operation.

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

The subject lands are currently zoned 'RV1' (Residential Village One) according to Schedule 'A1' of the Zoning By-law.

The proposed lots (Parts 1 – 3) do not comply with the section 9.2 b) ('RV1' zone) requirement for minimum lot frontage of 36 m. In addition, in an effort to satisfy both the minimum lot area provisions of the Zoning By-law and Niagara Region policies, and to preserve the existing dwelling on Part 2, zoning relief has been requested to permit a 1.5 m side yard setback, (file: A10-2021P). There does not appear to be any zoning issues associated with section 6.14 a) – Minimum Distance Separation requirements for new non-farm uses.

These zoning provision deficiencies, where they apply, are required to be addressed as a condition of severance approval.

Agency & Public Comments

On January 27, 2021, 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 (January 27, 2020)
 - No objections.
- Niagara Region Planning & Development Services (February 24, 2021)
 - See attached.
 - No objections to findings of *Hydrogeological Assessment*, the reduced lot sizes and the proposed lot provided the applicant enter into a *Development Agreement* registered on title with the Town addressing its recommendations. In addition, the standard archaeological warning clause be included.
 - Existing septic system serving 614 Metler Road will need to be replaced with a system that complies with the *Ontario Building Code* and is located wholly within the proposed lot lines of Part 2.
- Building Department (February 16, 2021)
 - No comments.
- Public Works Department (February 16, 2021)
 - See conditions.

Public comments were received from a neighbouring resident, which were related to the concurrent minor variance applications seeking reduced minimum lot frontages. Please refer to public correspondence under files A9 to A11-2021P.

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 September 3, 2020 to discuss the subject applications.

The subject lands are located on the south side of Metler Road, lying west of Cream Street and are surrounded by agricultural uses to south, a church to the east and rural residential dwellings elsewhere.

Planning staff reviewed aerial photography to better understand the surrounding context. The following supporting studies and reports were submitted with the applications:

- *Stage 1 – 2 Archaeological Assessment*, prepared by Detritus Consulting Ltd. (October 19, 2020)
- *Planning Justification Brief*, prepared by Upper Canada Consultants (Dec 2020)
- *Hydrogeological Assessment*, prepared by Terra-Dynamics Consulting Inc. (November 11, 2020)

The proposed lot geometry is logical overall notwithstanding a slight angle between Parts 2 – 3. This lot line intends to accommodate and preserve the existing dwelling while also maintaining adequate land area for septic system purposes.

Town Planning staff note that the existing dwelling on Part 2 has a front yard setback of 10 m from Metler Road, with a small covered verandah encroaching closer. Traditionally, buildings situated relatively close to Metler Road have helped to define the built heritage of North Pelham for many decades. Directly east of the subject lands are two (2) early 20th century red brick buildings, notably the First Presbyterian Church of North Pelham. Town Planning staff recommend the proposed dwellings on Parts 1 and 3 employ design characteristics that are architecturally respectful to the neighbourhood including these existing structures via new building's mass, proportion and scale. Specifically, the main front wall of these future dwellings should maintain a consistent front building alignment that enhances the Metler Road streetscape. The future dwellings are strongly discouraged not to provide any garage forward / dominant designs (i.e. 'snout houses'). Preserving the built heritage and rural character of North Pelham which is a policy objective of the Official Plan.

The recommendations of the *Hydrogeological Assessment* to install private sewage systems to the south of the new dwellings complement Planning staff's desire to employ relatively short front yard setbacks that maintain a consistent building alignment, orientation and streetscape along Metler Road. The *Development Agreement* condition stipulates design requirements to this effect.

The proposed development avoids harm to any *key natural heritage features* or sensitive ecological areas. Subject to conditions, the proposed development should not adversely impact neighbouring properties, the *highly vulnerable aquifer*, *key natural heritage features*, *key hydrologic / hydrogeological features* or the nearby specialty croplands.

Planning staff is of the opinion that, subject to conditions, the proposal applies current planning and development goals regarding the enablement of appropriate economic development on lands suitable to do so, being that of a designated *Rural Settlement* area.

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 B5-2021P **be approved** subject to the following conditions:

THAT the applicant

- Obtain approval for any deficient Zoning By-law regulations to the satisfaction of the Director of Community Planning & Development.
- Confirm that no existing utilities cross the proposed new lot line(s). Should any existing services conflict with the lot line, the applicant shall be responsible for costs associated with their relocation and / or removal.
- Enter into a *Development Agreement* with the Town that is registered on title, to the satisfaction of the Director of Community Planning & Development, addressing the following:
 - Implementation of recommendations from the *Hydrogeological Assessment* prepared by Terra-Dynamics Consulting Inc. (dated November 11, 2020), specifically:
 1. That all lots be equipped with sewage systems providing at least 50% nitrogen reduction of septic effluent Level IV / tertiary treatment;
 2. That future sewage disposal systems observe the required setbacks from the existing potable water supplies illustrated on Figure 4, unless these water supplies are decommissioned by an Ontario-licensed water well contractor; and
 3. That water be supplied by cisterns for each of the proposed lots. Otherwise, the construction of new groundwater supplies should require:
 - a) A water supply assessment completed in accordance with the Ministry of Environment, Conservation and Parks D-5-5 Guidelines for Private Wells: Water Supply Assessment;
 - b) Well construction within the Pre-Halton or Bedrock aquifers; and
 - c) That its location(s) comply with the *Ontario Building Code* setbacks.
 - That a new private sewage system be installed wholly on Part 2 meeting the above mentioned requirements to the satisfaction of the Region.
 - Submission and approval of a comprehensive overall Lot Grading & Drainage Plan for all parcels demonstrating that drainage does not negatively affect, nor rely on neighbouring properties, to the satisfaction of the Director of Public Works, or designate.
 - The Lot Grading & Drainage Plan shall provide building envelopes demonstrating consistent streetscape alignment along Metler Road with septic systems located south of the proposed dwelling footprints. The Site Plan and Grading Plan provided at the time of building permit shall not deviate from that approved under this Agreement, to the satisfaction of the Director of Community Planning & Development.
 - Standard archaeological warning clauses.
 - Obtain approval for a Driveway Entrance and Culvert Permit for the construction or modification of all new or existing driveway entrances. Installation of driveway entrances shall be in accordance with Town standards, to the satisfaction of the Director of Public Works and the applicant shall bear all costs associated with such. Any street trees needing to be removed shall be replaced with an approved large caliper tree in accordance with the Town's Street Tree Planting List.
- 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