

September 1, 2021

Ms. Holly Willford, Secretary Treasurer  
Committee of Adjustment  
Town of Pelham  
Fonthill, ON L0S 1E0

**Re: Consent Application B25-2021P**  
**West Side of Rice Road (between RR20 and Shaw Avenue aka Meridian Way), Pelham**  
Part of Block 3, Plan 59M-432, designated as Parts 7 and 13 on 59R-16208 (Parts 3, 4, 5, 10, 13 and 14 on sketch)  
**Roll No. 2732 030 020 04606**

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The subject parcel, shown as Parts 5 and 10 (boundary adjustment) on the attached sketch, has a frontage of 17.15m on the west side of Rice Road, and Parts 3 and 10 (easement lands – right of way) is an interior parcel of land situated 123.24m west of Rice Road and Part 14 (easement land s- right of way) on sketch is an interior parcel of land situated approximately 123.24m west of Rice Road, all lying south of Highway 20, being Part of Block 3, Plan 59M-432, designated as Parts 7 and 13 on 59R-16208 (Parts 3, 4, 5, 10, 13 and 14 on sketch) in the Town of Pelham.

Application is made for consent to convey 2,266.2 square metres of land (Parts 5 and 10 on sketch), to be added to the abutting property to the south (Parts 6 and 7 on sketch), for future development.

Application is further made for consent to convey an easement in perpetuity over 277.9 square metres of land, being Parts 3 and 10 on sketch, to the benefit of Parts 1, 2, 11 and 12 on sketch for a right of way.

Application is further made for consent to convey an easement in perpetuity over 41.2 square meters of land, being Part 14 on sketch, to the benefit of Parts 1, 2, 5, 6, 7, 8, 9, 10, 11 and 12 on sketch for a right of way.

Application is further made for consent to convey an easement in perpetuity over 24.3 square meters of land, being Part 10 on sketch, to the benefit of Parts 3, 4, 13 and 14 on sketch for a private watermain. Parts 3, 4, 5, 10, 13 and 14 on sketch are to be retained for continued future commercial use.

Note: This application is being considered concurrently with Consent Files B26/2021P, B27/2021P and B28/2021P.

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## 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 applicant to dispose of vacant land for future development opportunities. The severance is not premature because a Site Plan application has already been approved for a senior's residential apartment building (Part 4 on sketch). The geometry of the proposed retained parcel (Part 5, 6, 7 and 10) is appropriate to facilitate a variety of development options with adequate municipal services and amenities nearby. The proposed right-of-way for access purposes will reduce the amount of land wasted for vehicle movement and can improve site circulation as a whole. While the proposed conveyance of land for private watermain will serve for private utilities use for the assisted living building.

### 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.

A Site Plan Control application for a 5-storey assisted living building on a portion of the subject land was approved by the Town and entered into a Site Plan Agreement with the Town. The proposed 5-storey assisted living building will be located within Part 7 of the Registered Plan 59R-16208 (Part 4 on consent sketch). The proposed assisted living building will only occupy the north east portion of Part 7 of the Registered Plan 59R-16208, leaving the south portion of the Part 7 of the Registered Plan 59R-16208 vacant (shown as Part 5 on the Sketch).

The consent application seeks to convey this vacant plot of land (part 5) which is not required for the proposed development, along with part 10, to merge with Part 6 of the Registered Plan 59R-16208 (part 6 and 7 on sketch) to the south for future developments.

In order to provide sufficient vehicular to the proposed assisted living building, a driveway is proposed to be located in the centre of the subject land over the existing Right-of-Way, Parts 13 and 14 of Registered Plan 59R-16208. The existing Right-of-Way was deemed not sufficient to accommodate the design standard of the proposed driveway, therefore, additional lands from Part 2, 3, 5, 6, and 7 of the Registered Plan 59R-16208 are requested to be included as part of the Right-of-Way. A private watermain was also proposed to facilitate the assisted living building.

The easement component for access purposes reduces the amount of urban land waste by making more efficient use of a proposed parking lot / driveway access that can also serve new development to the west, and improve site vehicular circulation. The conveyance of land for private utilities use can help service the occupants of the senior's apartment building.

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. In Planning staff's opinion, the proposed consent 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' and 'delineated built-up 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 2.2.1.2 states that 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 achieve the target of a complete community by helping to facilitate new development in the future where it is appropriate to do so, as well as helping to achieve the Town's density targets. The proposed easement for driveway access will ensure enhanced north-south mobility is maintained perpetually and the proposed private utilities use will provide the necessary services to the future occupants of the senior apartment building.

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 that 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.

The proposed boundary adjustment and right-of-way applications conform to the Regional Official Plan because the lands are located within the *built-up* area and will help facilitate the accessibility of an approved assisted living building and will not affect the future developability of the land.

Regional staff did not object, nor request to be circulated the proposed applications as the development does not conflict with Provincial and Regional interests and all concerns were addressed in the Site Plan Control application.

Town Planning staff are of the opinion the development makes effective use of the subject lands by helping to facilitate the approved commercial development and future mixed use development.

#### 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 '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 development to the south, as well as providing the necessary vehicular access to the site, 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 rights-of-way for (driveway) access purposes will help ensure the lands remain interconnected for north-south vehicular movements, reducing circuitous driving behaviours.

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 proposed right of way will help connect Meridian Way to Highway 20 East and no traffic hazard or congestion is anticipated by the proposal.
- 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;
  - ✓ Will be serviced by the proposed private watermain.
- 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 the retained parcel is appropriate and is 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.
- i) Complies with the appropriate Provincial Minimum Distance Separation Formulae, where applicable.
  - ✓ Not applicable.

Policy D5.2.2 states that a consent may be permitted for the purpose of correcting conveyances, enlarging existing lots or through acquisition by a public body, provided no new building lot is created. In reviewing an application for a boundary adjustment, 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 application is made for consent to sever Parts 5 and 10 to merge with Parts 6 and 7 for future development. Application is further made for consent to convey an easement in perpetuity over

Parts 3 and 10 for a right of way. Application is further made for consent to convey an easement in perpetuity over Part 14 for a right of way. Application is further made for consent to convey an easement in perpetuity over Part 10 for a private watermain. Parts 3, 4, 5, 10, 13 and 14 on sketch are to be retained for continued future commercial use.

Town Planning staff are of the opinion the proposed consent application conforms to the local Official Plan.

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

The subject land is currently zoned 'East Fonthill Mixed - Use 3' (EF-MU3) according to Schedule 'A5' of the Zoning By-law. The permitted uses include a variety of commercial, residential, institutional, public uses and private utilities 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 the retained parcel (Part 5, 6, 7 and 10) will need to comply with any applicable provisions at that time.

**Agency & Public Comments**

On August 4, 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:

- Building Department (August 12, 2021)
  - No comments.
- (August 10, 2021)
  - No comments.
- Niagara Region Planning and Development Services (August 5, 2021)
  - No comments.
- Hydro One (August 9, 2021)
  - No concerns or comments.
- Public Works Department (August 10, 2021)
  - No comments.
- Niagara Region Development Planning Services (August 5, 2021)
  - No comments.

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

### Planning Staff Comments

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 April 2, 2020 to discuss the subject application. In addition to the Consent Sketch, a Cover letter (Dated July 22, 2021) detailing the intention of the consents prepared by Design Plan Services Inc. on behalf of Better Life Retirement Residence Inc. was also submitted in support of the proposed development.

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 – Vacant land to be developed for commercial uses / public park
- East – SWM pond / farmland and residential uses
- South – Vacant land to be developed for mixed use development
- West – Various commercial uses and vacant land

It is noted that the anticipated development of the retained parcel (Part 5, 6, 7 and 10) will be subject to future Planning Act application and Town approval, pending a formal development proposal. This severance application will help prepare the lot for development and the proposed conveyance of an easement will ensure legal protections are forever registered in place, to the benefit of Part 1, 2, 5, 6, 7, 8, 9, 10, 11 and 12. This arrangement will allow for shared driveway and parking lot access, which is an objective of the East Fonthill Secondary Plan policies. The conveyance of land for the proposed private watermain will ensure legal protections are forever registered in place, to the benefit of Part 3, 4, 13 and 14 to provide the necessary service access to the approved development.

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.

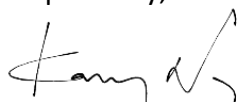
In Planning staff's opinion, the application is consistent with the PPS and conforms to Provincial, Regional, and local plans. Given this analysis, Planning staff recommend that consent file B25-2021P **be approved** subject to the following conditions:

**THAT** the applicant

- Merge Parts 5 and 10 with Parts 6 and 7.
- That application for consent, file B25/2021P receive final certification of the Secretary-Treasurer concurrently with applications B26/2021P, B27/2021P and B28/2021P.

- 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,



Kenny Ng, B.ES  
Planner



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

Approved by,