

December 1, 2021

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

**Re: Consent Application B33-2021P**  
**198 Canboro Road, Pelham**  
Part of Lot 3, Concession 8, being Part 1 on Plan 59R-4012 (Part 4 on Sketch)  
**Roll No. 2732 020 010 09801**

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The subject parcel, shown as Part 4 on the attached sketch, is an interior parcel of land situated 44.25m south of Canboro Road, lying west of Oakridge Boulevard, being Part of Lot 3, Concession 8, being Part 1 on Plan 59R-4012 in the Town of Pelham.

Application is made for consent to partial discharge of mortgage and consent to convey 1,562 square metres of land (Part 4), to be added to the abutting residential property to the west, being 204 Canboro Road (Part 8 on Sketch). Parts 1 is to be retained for the future construction of a single detached dwelling. Part 5, 6 and 7 are to be dedicated to the Town for road widening purposes. No new development is proposed with the lot addition.

Note: This application is being considered concurrently with Consent File B31/2021P, B32/2021P and Minor Variance Files A39/2021P, A40/2021P and A41/2021P.

### **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;
  - See PPS and Growth Plan analyses below.
- b) Whether the proposed subdivision is premature or in the public interest;
  - The lot creation is not premature and is able to uphold public interest as the retained lot would be of similar lot fabric as adjacent residential lots.
- c) Whether the plan conforms to the Official Plan and adjacent plans of subdivisions, if any
  - See Official Plan analysis below. The proposed lot should not compromise the existing subdivision parcel fabric as it does not hinder further surrounding

redevelopment opportunities.

- d) The suitability of the land for such purposes;
  - The lands (and neighbourhood) are predominantly lower to medium density residential with mostly ground-oriented development. The proposed consent would facilitate the construction of one additional single detached residential dwelling in the retained and merging lot.
- f) The dimensions and shapes of the proposed lots;
  - The retained lot dimensions and shape are consistent with existing neighbourhood development patterns and can comfortably site a new dwelling. The additional land proposed to be merged with the lot to the west will not adversely impact the new lot fabric.
- h) Conservation of natural resources and flood control;
  - No natural resources are impacted because of this redevelopment. An overall Lot Grading & Drainage Plan is required as a condition of this severance approval to avoid future localized drainage concerns under typical storm events.
- i) The adequacy of utilities and municipal services;
  - Available.
- j) The adequacy of school sites
  - Available nearby.
- k) The area of land, if any, exclusive of highways, to be dedicated for public use.
  - A 7.0 metre road widening will be conveyed to the Town of Pelham.
- l) The extent to which the plan's design optimizes the available supply, means of supplying, efficient use and conservation of energy.
  - The lots resulting from this development will be able to take advantage of the existing natural gas mains, hydro services, and municipal water and sanitary services available for domestic use providing for improved efficiencies of the existing means of supply. The proposed new dwelling must also be constructed to meet current energy efficient requirements under the Ontario Building Code.
- m) The interrelationship between the design of the plan of subdivision and site plan control matters relating to any development on the land, if the land is also located in within a site plan control area.
  - While the retained and merging lots are in an area designated for site plan control, the Town Site Plan Control By-law No. 1118 (1987) exempts single detached dwellings from site plan control.

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 lot boundary adjustment will facilitate the redevelopment of the subject land, the

severance is not premature, and does not compromise any future land use redevelopment considerations on adjacent lands or the remnant parcel. The proposed lot geometry of the retained is consistent with existing neighbourhood development practice considering the community at large, while the merging lot will maintain its current lot fabric. Neighbourhood commercial uses and public schools are also nearby.

#### 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.

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’ 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*.

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.

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 'Built-Up 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.G.8.1 states *Built-Up Areas* will be the focus of residential intensification and redevelopment.

The Regional Official Plan permits a full range of residential, commercial and industrial uses generally within the Urban Area, subject to the availability of adequate municipal services and infrastructure.

The subject property is impacted by the Region's Core Natural Heritage System (CNHS), consisting of Significant Woodland.

Policy 7.B.1.11 states that an Environmental Impact Study (EIS) is generally required in support of site alteration and/or development proposed within 50 m of Significant Woodland.

The proposed new lots are approximately 40 m from Significant Woodland. However, the feature will remain under single ownership. Due to the scope, nature and location of the consents, regional staff do not anticipate any impacts to the woodland. As such, an EIS is not required for this development.

Regional Staff note that any future Planning Act applications on 204 Canboro may require an EIS or Tree Preservation Plan. Additionally, the Significant Woodland is likely subject to the Regional Woodland Conservation By-law (By-law 20-79), and as such any proposed removals must be in conformity with the By-Law.

Policy 10.C.2.1.13 states that development and site alteration are not permitted on lands containing archaeological resources or areas of archaeological potential, unless significant archaeological resources have been conserved.

Based on the Ministry of Heritage, Sport, Tourism and Culture Industries' (MHSTCI) Criteria for Evaluating Archaeological Potential, the subject lands exhibit high potential for discovery of archeological resources due to their proximity (within 300 metres) to a watercourse, as well as their location along a historic transportation route (Canboro Road). In this regard, a Stage 1 and 2 Archeological Assessment, prepared by Detritus Consulting Ltd. (dated November 4, 2021), was submitted with the applications. The Stage 2 Assessment did not result in the identification of any archaeological resources, and further archaeological assessment was not recommended by the Licensed Archaeologist.

As of the date of this letter, acknowledgement from the MHSTCI confirming that all archaeological resource concerns have met licensing and resource conservation requirements has not been received. Accordingly, a condition requiring Ministry clearance is included in the Appendix.

Regional staff does not object to the proposed application as the development generally aligns with Provincial and Regional policies. The potential concern for deeply buried archaeological resources and adjacent natural heritage feature were also addressed. Site servicing drawings will need to be submitted and is requested as a condition of approval for this 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 'Urban Living Area / Built Boundary'.

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.

No Part IV designated heritage properties flank the subject lands and an archaeological clearance from the Ministry is required as a condition of approval.

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;
  - ✓ Complies.
- b) Will not cause a traffic hazard;
  - ✓ The proposed lot boundary adjustment will have no impact to traffic.
- c) Is in keeping with the intent of relevant provisions and performance standards of the Zoning By-law;
  - ✓ Lot frontage deficiency for the retained lots will be addressed through minor variance application, the lot to the west has no zoning deficiency.
- d) Can be serviced with an appropriate water supply and means of sewage disposal;
  - ✓ Complies. Water and sanitary service available from Canboro Road.
- 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 subject lands are surrounded by established residential development to the east and south, as well as an approved condo townhouse development to the immediate east. Part 1 of this subject lands are to be retained for residential use. The merger of Part 4 with Part 8 will not adversely impact on the developability of the retained Part 1. No development is proposed in the valleylands.
- g) Will not have a negative impact on the features and functions of any environmentally sensitive feature in the area;
  - ✓ No impact to the adjacent *significant woodland* as confirmed by regional staff.
- h) Conforms with Regional lot creation policy as articulated in the Regional Official Plan.
  - ✓ No objection from Region provided servicing drawings are submitted to the

Region prior to the site being serviced and ministry clearance for archaeological assessment.

- 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.

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 'Residential 1' (R1) according to the Zoning By-law. The permitted uses include:

- a) One single detached dwelling;
- b) Accessory uses;
- c) Home occupations.

3 concurrent minor variance applications have been submitted to address the following zoning deficiencies:

- Part 1 - File A39/2021P (Minimum lot frontage)
- Part 2 - File A40/2021P (Minimum lot frontage)
- Part 3 - File A41/2021P (Minimum lot frontage)

A reduction of 1.3 metres has been requested for all three parcels fronting onto Canboro Road to address to ensure zoning compliance with the default regulations for minimum lot frontage under the 'R1' zoning, which requires 19 metres.

The merging lot (204 Canboro) has no zoning deficiency and therefore no requirement for further application.

#### **Agency & Public Comments**



On November 9, 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:

- Hrdro One (November 22, 2021)
  - No concerns or comments.
- Building Department (November 23, 2021)
  - No comments.
- Niagara Region Planning & Development Services Department (November 23, 2021)
  - No objection subject to the requested conditions of approval:
    1. That the owner receive acceptance from the Ministry of Heritage, Sport, Tourism and Culture Industries (MHSTCI) for the archaeological assessment reports entitled Stage 1 and 2 Archeological Assessment, prepared by Detritus Consulting Ltd., dated November 4, 2021. If the Ministry requires further archaeological work to be completed prior to acknowledging these reports, these reports must also be submitted to and acknowledged by the Ministry, to the satisfaction of Niagara Region, prior to clearance of this condition. No demolition, grading or other soil disturbances shall take place on the subject property prior to the issuance of a letter from MHSTCI through Niagara Region, confirming that all archaeological resource concerns have met licensing and resource conservation requirements.
- Public Works Department (November 23, 2021)
  - Public Works Staff have the following comments:
    1. That the Applicant submit a comprehensive overall lot grading plan, to demonstrate that the drainage does not negatively impact nor rely on neighbouring properties, to the satisfaction of the Director of Public Works. Please note that there is a significant elevation change on the subject property from the north to the south. As such the developer should take careful consideration to drainage as this could potentially negatively impact development and surrounding properties.
    2. That the Applicant confirm no existing utilities cross the proposed new property line. Should any services cross this new property line, the Applicant will be responsible for the cost associated with their relocations and/or removal.
    3. That the applicant is required to gratuitously grant a 7.00 meter road widening across the frontage of the subject property to the Town of Pelham.



The requested widening is to be conveyed free and clear of any mortgages, liens or other encumbrances, and is to be described by Reference Plan. The widening portion of the plan will be the responsibility of the owner to order. The cost of providing this plan will be the full responsibility of the applicant. The applicant will arrange for the land surveyor for the property to submit the preliminary undeposited survey plan along with all related documents to Town of Pelham Public Works Staff for approval. Public Works Staff will advise the land surveyor of any required revisions to the plan. Once the plan is deposited and the transfer registered, the Town of Pelham will clear the applicable condition.

One (1) public comment was received from a neighbouring property owner, which is included on the Committee's Agenda and summarized below:

- Daniel Peat (November 30, 2021)
  - Traffic safety with two new driveways close to crest of the hill.
  - Piecemeal approach to planning process.
  - Proposed lot lines are not perpendicular to Canboro Road, driveways will either be not perpendicular to road, or lots will be crowded due to angular restrictions, so concerns with variance decreasing frontage are compounded.

### **Planning Staff Comments**

The subject application is made for consent to partial discharge of mortgage and consent to convey 1,562 square metres of land (Part 4), to be added to the abutting property to the west, being 204 Canboro Road (Part 8 on Sketch). Parts 1 is to be retained for the future construction of a single detached dwelling and Parts 5, 6, and 7 are to be dedicated to the Town for road widening purposes. Concurrent applications for consent for the creation of two residential lots for single detached residential use on Parts 2 and 3 are also being considered.

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 2, 2021 to discuss the subject applications. In addition to the Consent Sketch, a preliminary Grading Plan, a Stage 1 – 2 Archaeological Assessment and a Planning Justification Report were also provided in support of the proposed development.

The subject lands are located on the south side of Canboro Road, between Effingham Street and Haist Street and are surrounded by existing residential neighbourhood mostly consist of single detached residential dwellings.

Based on the analysis in the sections above, Planning staff is of the opinion that the proposal

applies current planning and development goals dealing with appropriate severance application. The remnant and merging lots will be able to comply with Zoning By-law regulations pending minor variance and should not negatively impact the surrounding neighbourhood with regards to traffic, privacy and storm water runoff subject to the satisfaction of the requested conditions.

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 B33-2021P **be approved** subject to the following conditions:

**THAT** the applicant

- That Part 4 merge in title with Part 8.
- Submit a comprehensive overall lot grading and drainage plan for all parcels to demonstrate that the drainage does not negatively impact nor rely on neighbouring properties, to the satisfaction of the Director of Public Works.
- Confirm that no existing utilities cross the proposed new property lines. Should any services cross this new property lines, the applicant will be responsible for costs associated with their relocation and/or removal.
- Graciously grant a 7.00 metre road widening across the frontage of the subject property to the Town of Pelham. The requested widening is to be conveyed free and clear of any mortgages, liens or other encumbrances, and is to be described by Reference Plan. The widening portion of the plan will be the responsibility of the owner to order. The cost of providing this plan will be the full responsibility of the applicant. The applicant will arrange for the land surveyor for the property to submit the preliminary undeposited survey plan along with all related documents to Town of Pelham Public Works Staff for approval. Public Works Staff will advise the land surveyor of any required revisions to the plan. Once the plan is deposited and the transfer registered, the Town of Pelham will clear the applicable condition.
- 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.
- Receive Final Certification of consent files B31/2021P and B32/2021P, from the Secretary-Treasurer, concurrently.

Prepared by,



Kenny Ng, B.ES  
Planner

Approved by,



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