

January 26, 2022

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

Re: Consent Application B4-2022P
1620 Haist Street, Pelham

Part Lots 2 & 3, Concession 7; Part Road Allowance Between Lots 2 & 3, Concession 7
(Closed by By-law 176) Being Part 1 on 59R-14351 (Part 1 on Sketch)

Roll No. 2732 020 010 00268

The subject parcel, shown as Part 1 on the attached sketch, has a frontage of 8m on the east side of Haist Street, lying between Lookout Street and Haist Street being Part Lots 2 & 3, Concession 7; Part Road Allowance between Lots 2 & 3, Concession 7 (Closed by By-law 176) Being Part 1 on 59R-14351 (Part 1 on Sketch) in the Town of Pelham.

Application is made for consent to convey 0.117 hectares of land (Part 1 on sketch), to be added to the abutting property to the north, being 1636 Haist Street (Part 2) on sketch, for residential use. Part 3 is to be retained for future residential use.

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.

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 ‘Prime Agricultural Area’ and more specifically within a ‘Specialty Crop Area’ according to the PPS. Policy 2.3.1 states that Prime agricultural areas shall be protected for long-term use for agriculture.

Policy 2.3.4.2 states that Lot adjustments in prime agricultural areas may be permitted for legal or technical reasons.

The proposed lot adjustment is of technical nature to facilitate a boundary adjustment.

Policy 2.6.2 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.

No further development or site alteration is proposed for both the retained and altered parcels, therefore Archaeological Assessment will not be required.

Niagara Escarpment Plan (2017)

The subject lands are situated within the ‘Niagara Escarpment Plan’ (NEP) area according to the Greenbelt Plan, where the policies of the NEP apply.

According to the NEP, the subject lands are designated within the ‘Escarpment Natural Area’. The subject lands are also identified as being part of the Provincial Natural Heritage System (PNHS) under the NEP.

Policy 1.3.4 states that provided no new building lot(s) is created, a severance may be permitted: for the purpose of correcting conveyances, provided the correction does not include the recreation of merged lots.

The NEP defines correcting a conveyance as the granting of a consent under the Planning Act for purposes, such as easements, correcting deeds, quit claims and minor boundary adjustments for legal or technical reasons that do not result in the creation of a new lot or the re-creation of a merged lot.

The subject application is made for a minor boundary adjustment for technical nature and therefore does not result in the creation of a new or the re-creation of a merged lot.

Niagara Escarpment Commission staff has reviewed the subject application and offered no objection to the proposed application.

Regional Official Plan (Consolidated August 2014)

The Regional Official Plan designates the subject land as 'Unique Agricultural Area'.

Policy 5.B.8 of the ROP states that within the NEP area, the lot creation policies of the NEP prevail unless the Regional Official Plans policies are more restrictive.

Policy 5.B.8 (c) states that In the Unique Agricultural Areas, consents to convey may be permitted in accordance with the provision that the consent requested is for minor boundary adjustments or easements, complies with other policies in this Plan and does not create a separate lot for a residential dwelling and there is no increased fragmentation of a key natural heritage feature or key hydrologic feature.

The subject lands are impacted by the Region's Core Natural Heritage System (CNHS), consisting of Significant Woodland. Consistent with ROP policy 7.B.1.11, an Environmental Impact Study (EIS) is generally required in support of site alteration and/or development proposed within 50 metres of Significant Woodland. The subject lands are also part of the Fonthill Kame Delta Provincially Significant Earth Science Area of Natural and Scientific Interest (ANSI).

The proposed boundary adjustment will not create a new lot, and will not result in increased fragmentation of the existing environmental features. The applicant and owner are advised that any proposed future development and/or alterations of the property (i.e. a future NEC development permit application) may be subject to additional environmental studies, and may be required through these studies to demonstrate no negative impact to the Significant

Woodland and/or Earth Science ANSI.

The proposed boundary adjustment conforms to consent and environmental policies as set out by the Niagara Escarpment and Regional Official Plan.

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 'Niagara Escarpment Plan Area'.

Schedule 'B' - Environmental Features of the Town of Pelham Official Plan indicates that the property is also designated as a *Provincial Earth Science Area of Natural and Scientific Interest (ANSI)*.

However, the policies in the Town Official Plan for the *Fonthill Kame-Delta Earth Science ANSI*, have been deferred and are not in force or effect. Therefore, Town Planning defer to Regional Planning staff to comment on their *Earth Science ANSI* designation policies found in Regional Official Plan policy 7.A.4.

Policy B3.1.1 states that many of the general policies of this Plan are intended to apply to the area of the Niagara Escarpment Plan. Notwithstanding, where there is a conflict with this Plan and the Niagara Escarpment Plan, the provisions of the Niagara Escarpment Plan prevail. Policies in this Plan that are more restrictive or rigorous than the Niagara Escarpment Plan would continue to apply in the consideration of development proposals.

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 severance conforms to the local Official Plan as the lot boundary adjustment is minor in nature, no new lots will be created and that the properties' existing use will be continued.

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

The provisions of the Town Zoning By-law are no longer in effect on the property as the lands are subject to NEC Development Permit Control which renders the Zoning By-law inoperable.

Agency & Public Comments

On December 24, 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:

- Hydro One (January 14, 2022)
 - No concerns or comments.
- Niagara Region Planning & Development Services Department (January 25, 2021)
 - No objection subject to satisfaction of any local considerations, as well as the requirements of Niagara Escarpment Commission staff, and provided that Part 1 is merged in title with Part 2 so that no new lot is created.

Several public comments were received from neighbouring property owners, which is included on the Committee's Agenda and summarized below:

- Public Comment (January 11, 2022)
 - No objection.
- Public Comment (January 11, 2022)
 - Support the application which can improve traffic safety.
- Public Comment (January 18 2022)
 - Would like to preserve nature and habitat of escarpment and avoid any further deforestation of escarpment.

Planning Staff Comments

The subject application is made for consent to convey 0.117 hectares of land (Part 1 on sketch), to be added to the abutting property to the north, being 1636 Haist Street (Part 2) on sketch, for residential use. Part 3 is to be retained for future residential use.

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, Septic System review and a Planning Justification Brief were also provided in support of the proposed development.

The subject lands are located on the west side of Haist Street, between Highway 20 West and

Metler Road and are surrounded by the following:

- North – Lookout Point Country Club
- East – Rural residential use
- South – Residential neighbourhood
- West – Rural residential use

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 consent development. The proposed lot boundary adjustment complies with applicable plans and regulations and should not negatively impact the surrounding neighbourhood with regards to traffic, privacy and storm water runoff.

The minor boundary adjustment will address the driveway encroachment and ensure that it is wholly contained on the applicant's lands as well as an encroachment of a gas line. It is noted that no trees will be removed and from the ground there will be no physical change contemplated by this boundary adjustment.

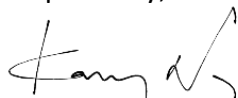
In Planning staff's opinion, the application is consistent with the PPS and conforms to Provincial, Regional, and local plans.

Given this analysis, Planning staff recommend that consent file B4-2022P **be approved** subject to the following conditions:

THAT the applicant

- Merge Part 1 with Part 2.
- 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 \$411, 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

Approved by,



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