



Community Planning and Development Department
Committee of Adjustment
Tuesday, November 01, 2022

Consent Application: B12-2022P

Municipal Address: 1053 Pelham Street, Pelham

Legal Description: Lot 177, Formerly Part of Thorold

Township now Pelham, Part 1 on Plan 59R-15938 (Part 2 on Sketch)

Roll number: 2732 030 019 05100

Location of Lands and Purpose of Application:

The subject parcel, shown as Part 2 on the attached sketch, is a parcel of land along Pelham Street, lying south of Homestead Boulevard, legally described above, in the Town of Pelham.

Application is made for consent to partial discharge of mortgage and consent to convey 606.5 square metres of land (Part 2) for future residential purposes (single detached dwelling). Part 1 is to be retained for continued residential use. The existing single detached dwelling is to be retained.

Note this application is being held in conjunction with application for consent B11-2022P, and minor variance applications A15-2022P and A16-2022P.

Applicable Planning Policies:

Planning Act (Consolidated April 2022)

Section 51(24) of the *Planning Act* 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 matters, including:

- a) The development's effect on provincial matters of interest;
 - See PSS and Growth Plan analysis in sections below.
- b) Whether the proposed subdivision is premature or in the public interest;
 - The application is not considered premature and is able to uphold public interest as it is within the Urban Area Boundary and is seen as an appropriate form of gentle intensification.
- c) Whether the plan conforms to the Official Plan and adjacent plans of subdivisions, if any;
 - See Official Plan discussion below.

- d) The suitability of the land for such purposes;
 - The lands and surrounding neighbourhood are predominately low density residential dwellings. The proposed consent would facilitate the construction of an additional single detached dwelling on the proposed lot.
- f) The dimensions and shapes of the proposed lots;
 - The proposed lot will have comparable dimensions and shape to the surrounding neighbourhood and will be able to comfortably site a new single detached dwelling. It is noted minor variances are required for lot frontage and lot area.
- h) Conservation of natural resources and flood control;
 - No natural resources or flood concerns have been identified. A lot grading and drainage plan is a requirement.
- i) The adequacy of utilities and municipal services;
 - The retained parcel is connected to municipal infrastructure and has access to the full range of public services. Utilities and municipal services are available to service the severed parcel.
- j) The adequacy of school sites;
 - Available nearby. School Boards did not comment on application.

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 application for consent seeks to partial discharge of mortgage and consent to convey 606.5 square metres of land (Part 2) for future residential development of a single detached dwelling.

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 lands are located in a “Settlement Area”, the Fonthill Urban Settlement Area, according to the PPS. Policy 1.1.3.1 states that settlement areas shall be the focus of growth and development.

Policy 1.1.3.3 states municipalities shall identify appropriate locations and promote opportunities for intensifications where this can be accommodated taking into

account existing building stock and the availability of suitable existing infrastructure and public service facilities.

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 Niagara Region Official Plan prescribes an annual residential intensification rate of at least 15% for all lands within Pelham's *Urban Settlement Areas*, this policy target is also reflected in the Pelham Official Plan. The proposed development will contribute to meeting this target.

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.

Infill development is an acceptable form of *intensification* so long as new development is compatible in nature, is compact, and avoids adverse impacts to provincial interest, public health, safety and the quality of the human environment. Planning staff are of the opinion the requested zoning relief is consistent with the PPS and promotes appropriate development standards that help facilitate compact form and *intensification*.

Policy 2.6.2 states that development and site alteration shall not be permitted on lands containing archaeological resources or archaeological potential unless the resources have been conserved. The Town's Heritage Master Plan identifies this area as having high archaeological resource potential. A stage 1-2 archaeological assessment and Ministry clearance letter will be a condition of approval.

Planning staff are of the opinion the requested application for consent is consistent with the PPS.

Greenbelt Plan (2017)

The lands are located outside of the Greenbelt Plan and thus the policies of the Greenbelt Plan do not apply.

Growth Plan for the Greater Golden Horseshoe (2020)

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 to 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 Growth Plan contains various guiding principles which are intended to guide decisions of how land is developed. The guiding principles include building compact,

vibrant, and complete communities, managing and encouraging development in appropriate locations, and optimizing the use of existing infrastructure. The subject lands are designated 'Delineated Built-Up Area' according to the Growth Plan.

Section 2.2.1 of the Growth Plan directs growth to settlement areas that have a delineated built boundary, have existing municipal services, and can support the achievement of complete communities. The Growth Plan states municipalities will support the achievement of complete communities by planning to accommodate forecasted growth, planning to achievement the minimum intensification and density targets of the Plan, considering the range and mix of housing options and densities of existing housing stock, and planning diversify overall housing stock.

The additional residential lot will help the Town to meet or exceed its *delineated built boundary* intensification targets. The proposed lot will help contribute towards the municipal property tax base which helps financially support the maintenance of linear infrastructure and *public service facilities*. The existing water and sanitary sewer mains already extend along the frontage of the subject lands but would be better utilized with additional building connections.

Planning staff are of the opinion the proposed application for consent conforms with the Growth Plan.

Niagara Region Official Plan (Consolidated, August 2014)

The Regional Official Plan (ROP) designates the subject lands as 'Designated Urban Area (Built-Up Area).'

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 Niagara Region Official Plan prescribes an annual residential intensification rate of at least 15% for all lands within Pelham's Urban Settlement Areas, this policy target is also reflected in the Pelham Official Plan.

Niagara Region Official Plan (2022)

The Region of Niagara adopted a new Official Plan on June 23, 2022 and it has been forwarded to the Province for review and approval, and approval is pending. Nevertheless, the new Region of Niagara Official Plan provides the policy guidance for future development across the Region.

The lands continue to be designated as Built-Up Area in the new Official Plan, however the intensification rates have changed from and the policy 2.2.2.5 now requires that across the Region 60% of all residential units occurring annually are to be in the Build-Up Areas and in Pelham, this translates into an annual intensification rate of 25% of new residential units are to be within the Built-Up Area.

Town of 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' on Schedule 'A1.'

Policy A2.2.2 Growth & Settlement – states that it is a goal of this Plan to encourage intensification and redevelopment within the *Urban Area* specifically in proximity to the Downtown.

Policy A2.5.2 Infrastructure – stated objectives of this Plan include maintaining existing infrastructure in a manner that is cost effective and contributes to the quality of life of citizens.

Policy B1.1.3 states that in considering residential intensification proposals, the following criteria are applicable:

- a) Schedules A1 and A2 to this Plan identify a number of areas that may be good candidates for residential intensification. This does not preclude consideration for other sites in the Urban Living Area designation provided these sites abut arterial or collector roads or are located on a local road on a site that is no further than 100 metres from an intersection with an arterial or collector road;
 - ✓ The Subject Lands have frontage along Pelham Street which is identified as an Arterial Road.
- b) Intensification and redevelopment proposals are encouraged to achieve a unit density and housing type that is in keeping with the character of the density of the neighbourhood where it is proposed. Within the identified intensification areas identified on Schedules A1 and A2 the implementing Zoning By-law may establish minimum and maximum densities of between 10 and 25 units per hectare;
 - ✓ The proposed density is approximately 16.5 units per hectare.
- c) Residential intensification and redevelopment proposals located on lands which abut local roads shall maintain the unit density and unit type of the surrounding neighbourhood, but may through a Zoning By-law Amendment, increase the unit density by up to 25% of the existing gross density of lands located within 300 metres of the site, provided the resultant development will be characterized by quality design and landscaping, suitable building setbacks, and further that parking areas and traffic movements will not negatively impact the surrounding neighbourhood from the perspectives of safety or neighbourhood character;

- ✓ Not applicable as the proposal abuts an arterial road and not a local road, therefore this policy does not apply to this proposal.
- d) Notwithstanding items (b) and (c), the creation of new freehold or vacant condominium infill lots through the consent process, for ground-oriented detached dwellings, may be permitted provided the proposed lot and unit type is similar to and compatible with the established character of the street or neighbourhood where it is proposed. The Zoning By-law shall establish minimum lot area and frontages and minimum and/or maximum densities which are considered appropriate within the Urban Living Area designation;
 - ✓ The proposed use is similar to the surrounding neighbourhood, being mostly comprised of single detached dwellings. The proposed dwellings will front and face Pelham Street, consistent with the other residential uses on the east side of Pelham Street.
- e) The creation of accessory apartments and in-law suites within residential neighbourhoods is considered to be an appropriate form of residential intensification. The establishment of accessory apartments shall occur in accordance with Policy B1.1.4 and Council may reduce the application fee for such amendments under the Town's Tariff of Fees By-law;
 - ✓ Second dwelling units are permitted in single detached dwellings subject to meeting the zoning by-law requirements for such uses.
- f) The provision of affordable housing in intensification areas will be encouraged; and,
 - ✓ The new lots will contribute to the housing stock across the Town.
- g) The Town will consider innovations for responsive processing of applications and amendments in the future including tools such as Conditional Zoning Amendments implementing a Development Permit system and the streamlining of processing concurrent development applications.
 - ✓ Not applicable.

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 that is maintained on a year round basis;
 - ✓ Access will be provided from Pelham Street, a public road.
- b) Will not cause a traffic hazard as a result of its location on a curve or a hill;
 - ✓ No traffic hazard will result from the proposed consent.
- c) Is in keeping with the intent of relevant provisions and performance standards of the Zoning By-law;
 - ✓ Yes, please refer to minor variance report for A16-2022P.
- d) Can be serviced with an appropriate water supply and means of sewage disposal;
 - ✓ Yes, municipal services exist on Pelham Street.
- e) Will not have a negative impact on the drainage patterns in the area;
 - ✓ A Lot Grading Plan will be required at the Building Permit stage demonstrating that drainage will be maintained on-site.
- f) Will not affect the develop ability of the remainder of the lands, if they are designated for development by this Plan;

- ✓ There is a concurrent consent application being considered at the same time.
- g) Will not have a negative impact on the features and functions of any environmentally sensitive feature in the area;
 - ✓ No environmentally sensitive feature are on the property.
- h) Conforms with Regional lot creation policy as articulated in the Regional Policy Plan; and,
 - ✓ Yes.
- i) Complies with the appropriate provincial Minimum Distance Separation Formulae, where applicable.
 - ✓ N/A.

In accordance with Provincial and Regional policy, the Town will accommodate a minimum of 15% of projected housing growth, or about 300 residential dwelling units, within the existing built boundaries of Fonthill and Fenwick (Policy B1.1.3).

Town Planning staff are of the opinion the proposed severance conforms to the local Official Plan as it helps enable intensification within an existing neighbourhood and does not conflict with any policies subject to the satisfaction of the conditions of approval.

Planning staff are of the opinion the application for consent conforms with the Town's Official Plan.

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

The subject lands are currently zoned Residential One (R1) according to Pelham Zoning By-law No. 1136 (1987), as amended. Permitted uses in the R1 zone include one single detached dwellings, accessory uses, and home occupations.

A minor variance application (A16-2022P) is being heard in conjunction with the proposed severance to address the deficient lot frontage and lot area of the severed lot (Part 2).

Agency and Public Comments:

On October 5, 2022 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 Division
 - Part 1 requires a building permit for the proposed demolition/moved accessory structure.
 - Parts 2 & 3 require building permits for the proposed buildings.
- Public Works Department
 - Servicing plan for the lot will be required.

- Please be advised that no sideyard walkways that impede sideyard swale should be permitted.
- Any future severance for Part 1, entrance is permitted only on Pelham Street.
- Street trees shall be planted in accordance with the Town's Tree Management Policy, S802-01.
- The applicant obtains a Driveway Entrance and Culvert Permit from the Public Works department for the construction of all new or modification of existing driveways or entrances. Installation and/or modification of all entrances shall be completed in accordance with Town Standards.
- Niagara Region Planning & Development Services
 - The subject lands are identified Settlement Area under the Provincial Policy Statement (PPS), within the Delineated Built-Up Area in A Place to Grow: Growth Plan for the Greater Golden Horseshoe (Growth Plan) and are designated Urban Area (Built-Up Area) in the Regional Official Plan (ROP).
 - The ROP, PPS and Growth Plan together direct development to take place in urban areas to support intensified development where appropriate servicing and infrastructure exists. Both Regional and Provincial policy place an emphasis on intensification and infill to foster the development of complete communities that have a mix of diverse land uses and housing choices, improve social equity and quality of life, expand access to multiple forms of transportation, and provide spaces that are vibrant and resilient in their design. A full range of residential, commercial and industrial uses are permitted generally within the Urban Area designation, subject to the availability of adequate municipal services and infrastructure and other policies relative to land use compatibility and environmental conservation.
 - Growth management policies state that until the Region completes the municipal comprehensive review, and it is approved and in effect, the annual minimum intensification target contained in the Regional Official Plan for the Delineated Built-Up Area (15%) will continue to apply. The proposal will contribute to Pelham's intensification target.
 - The PPS and ROP provide direction for the conservation of significant cultural heritage and archaeological resources. Specifically, the PPS and ROP state that development (including the construction of buildings and structures requiring approval under the Planning Act) 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 a review of available aerial imagery and the Province's Criteria for Evaluating Archaeological Potential, the site exhibits a high potential for the discovery of archaeological resources since the subject lands are located within 300 metres of a registered archaeological site.
 - Given that the Town of Pelham has Composite Archaeological Potential Mapping, Regional staff defer to the Town for requiring and/or scoping any archaeological studies for the proposed development.

- Should an assessment be required, Regional staff would look for the submission of a Stage 1-2 Archaeologic Assessment (and any subsequent assessments) and the associated acknowledgement letter(s) from the Ministry of Heritage, Sport, Tourism and Cultural Industries (MHSTCI) as a Condition of consent.
 - Regional staff have reviewed the submitted materials and acknowledge that the proposed dwellings will be required to connect to the Regional Sanitary Main. As such, the applicant is required to apply for a connection permit and to provide the following to the Region:
 - Letter from the Town requesting the connection
 - Plan and Profile drawings of the laterals and connection
 - Connections need to be made at a manhole. If a manhole is not in close proximity, a new dog house manhole will need to be installed as part of the service. Both laterals can be made to the same manhole.
 - Connection permit fee of \$1,250; if the services are applied for together, only one fee will be required
 - A condition for the required connection permit has been included in the Appendix.
- Niagara Region provides curbside waste and recycling collection for developments that meet the requirements of Niagara Region's Waste Collection Policy. The subject property is eligible to receive Regional curbside waste and recycling collection provided that the owner bring the waste and recycling to the curbside on the designated pick up day, and that the following limits are met:
 - Garbage: 2 bags/cans collected every-other-week;
 - Recycling: weekly blue/grey boxes or carts (unlimited);
 - Organics: weekly green bins or carts (unlimited).
 - Curbside Collection Only
- Based on the analysis and comments above, Regional staff offers no objection to the application, subject to the Conditions.
- The applicant is also advised that should deeply buried archaeological remains/resources be found on the property during construction activities, all activities impacting archaeological resources must cease immediately, notify the Archaeology Programs Unit of the Ministry of Heritage, Sport, Tourism and Culture Industries (416-212-8886) and a licensed archaeologist is required to carry out an archaeological assessment in accordance with the Ontario Heritage Act and the Standards and Guidelines for Consultant Archaeologists. Further, in the event that human remains are encountered during construction, all activities must cease immediately and the local police as well as the Cemeteries Regulation Unit of the Ministry of Government and Consumer Services (416-326-8800) must be contacted. In situations where human remains are associated with archaeological resources, MHSTCI should also be notified to ensure that the site is not subject to unlicensed alterations which would be a contravention of the *Ontario Heritage Act*.

Two (2) public comments have been received and are summarized as follows:

- David & Jan Wininger
 - Opposed to severing the adjacent land into 2 smaller lots for the purpose of construction of new homes. This will add congestion to the traffic in this area, especially Homestead Dr. We also object to the removal of the trees. Adding more houses in this small area will not enhance this immediate area aesthetically. We are opposed to changing the lot sizes for this purpose.
- Keith Lewis
 - Opposed to the severances; concerns with controlling/managing stormwater runoff and potential flooding impacts to neighbouring properties.

Planning Staff Comments:

Planning staff have reviewed the *Planning Justification Brief* submitted by Upper Canada Consultants dated September 29, 2022, as well as reviewed all agency and public correspondence submitted to date.

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 1, 2022 to discuss the subject application.

In response to the public comments received, Planning staff note that the creation of two additional lots with access from Pelham Street and relocating the driveway access of the existing dwelling to Homestead Boulevard will not significantly add to the traffic congestion of the area and these roads have the capacity to accommodate the additional traffic generated from this development. While some trees will need to be removed to accommodate the new house development on the proposed lot, a tree savings plan is required demonstrating tree savings measures for those trees that will be retained and boulevard street trees will also be required. Further lot grading and drainage plan will be required demonstrating how storm drainage will be managed and maintained on-site. Two additional single detached dwellings at this location on Pelham Street is consistent with the streetscape character of Pelham Street and will not adversely impact the character or aesthetics of this residential neighbourhood that is dominated by single detached residential uses.

Based on the analysis in the sections above, Planning staff are of the opinion that the proposed consent is consistent with the PPS, and confirms to Provincial, Regional and local Plans. The resulting parcel will comply with applicable Zoning By-law regulations upon the granting of concurrent minor variance application A16-2022P and are not anticipated to negatively impact the surrounding neighbourhood with respect to traffic, privacy, and stormwater management.

Planning Staff Recommendation:

Planning staff recommend that minor variance file B12/2022P **be approved** subject to the following condition(s):

THAT the applicant:

- That all necessary zoning approvals be obtained for Part 2.
- That application for consent, file B12/2022P receive final certification of the Secretary-Treasurer concurrently with application B11/2022P.
- That the applicant confirm that no existing utilities currently cross the proposed new property line. Should any services cross this new property line, the applicant will be responsible for costs associated with their relocation and/or removal.
- Town of Pelham Public Works Staff require that the applicant submit an overall lot grading and drainage plan to demonstrate that the drainage does not negatively impact nor rely on neighboring properties.
- That the applicant prepare and submit a Tree preservation plan (include trees on lot grading plan) to the satisfaction of the Director of Public Works.
- That the applicant prepare and submit a servicing plan illustrating that the lot is independently serviced and does not rely on neighbouring properties.
- The applicant obtains a Driveway Entrance and Culvert Permit from the Public Works department for the construction of all new or modification of existing driveways or entrances. Installation and/or modification of all entrances shall be completed in accordance with Town Standards.
- That the applicant prepare and submit a Stage 1-2 Archaeological Assessment and provide the Ministry clearance letter.
- The Owner will be required to apply for Regional connection permit(s) for the two sanitary sewer laterals required for the lots and prepare the required plan and profile design drawings for Regional approval.
- That the Secretary-Treasurer be provided with a registrable 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.
- That 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 and Submitted by:

Andrew Edwards, BES
Planner

Recommended by:

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