

**Community Planning and Development Department
Committee of Adjustment**

Tuesday, March 07, 2023

Consent Application: B3-2023P**Municipal Address: 1435 Station Street****Legal Description: Lot 4, Plan 717, Save and Except Part 1 on Reference
Plan 59R-16904 (Part 1 and 3 on Sketch)****Roll number: 2732 030 004 01900**

Location of Lands and Purpose of Application:

The subject parcel, shown as Parts 1 and 3 on the attached sketch, is an interior parcel of land situated approximately 60 metres east of Station Street, lying south of Highway 20 East, legally described above, in the Town of Pelham.

Application is made for partial discharge of mortgage and consent to convey 2,432.2 square metres (Part 3) of land, to be added to the abutting property to the south (Parts 4 and 5). The conveyance is intended to facilitate the future development of an additional phase of the Park Place West subdivision (Town File: 26T19-01-2022). A future Redline to Draft Plan Approval Application will be required to facilitate the inclusion of these lands within the Park Place West Subdivision. Part 1 is to be retained for continued residential use of the dwelling known municipally as 1435 Station Street. In addition, a concurrent Partial Discharge of Mortgage approval is required with this application.

Please note this application is being heard concurrently with application B2-2023P.

Applicable Planning Policies:

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;
 - Refer to PPS 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.
- 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;

- Refer to analysis in Planning Analysis sections below.
- f) The dimensions and shapes of the proposed lots;
 - The dimensions and shapes of the lots following the boundary adjustment are appropriate.
- h) Conservation of natural resources and flood control;
 - See planning analysis sections below.
- i) The adequacy of utilities and municipal services;
 - Servicing is available to adequately service the lands.
- j) The adequacy of school sites;
 - Available nearby. School Boards did not comment on application.

Section 53 (1) states a landowner 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 lands are within 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 considering 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 25% for all lands within Pelham’s *Urban Settlement Areas*. 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, however a boundary adjustment is not considered "development" under the PPS and therefore as there is no site alteration proposed, an archeological assessment is not required. The applicant is advised that any future *Planning Act* application involving the subject lands, i.e., draft plan of subdivision modification, may require the completion of an archaeological assessment.

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

Greenbelt Plan (2017)

The Greenbelt Plan designates the subject lands as 'Settlement Areas Outside the Greenbelt.' As such, the policies of the Greenbelt Plan do not apply to the subject lands.

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.

Niagara Region Official Plan (2022)

The Region of Niagara adopted a new Official Plan on June 23, 2022 and was approved by the MMAH on November 4, 2022. The subject lands are within the Built-Up Area of the Urban Area.

The ROP directs development to take place in urban areas to support intensified development where appropriate servicing and infrastructure exists. Provincial and Regional policy place an emphasis on intensification and infill to foster the development of complete communities, including a mix of diverse land uses and housing choices, expanding access to many forms of transportation, and providing spaces that are vibrant and resilient in design. The principal objective is to increase housing choice and housing affordability across the Region to meet future housing needs.

Policy Section 2.3.1 provides the policy direction with regards to a mix a housing options and specifically policy 2.3.1.1 states that the development of a range and mix of densities, lot and unit sizes, and housing types, including affordable and attainable housing, will be planned for throughout settlement areas to meet housing needs.

A full range of residential uses are permitted generally within the Urban Area designation, subject to adequate municipal servicing and infrastructure and other policies relative to land use compatibility and environmental conservation.

Regional staff did not object as the proposal does not conflict with Provincial or Regional interests and planning policy.

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.

There are two (2) land use designations associated with the lands. The remnant portion of the lands (Part 1) is designated Downtown Transitional Area and the lands to be severed (Part 3) are located within the East Fonthill Secondary Plan area and are designated Low Density Residential.

Lands designated Downtown Transition Area are located adjacent to the Downtown designation and are intended to be used for a mix of residential and commercial uses

within existing buildings or through redevelopment that is complementary to the Downtown. Residential uses are permitted in this designation. The remnant parcel will continue to contain an existing single detached dwelling on full municipal services. The East Fonthill Low Density designation permits single detached, semi-detached dwelling units and Townhouses. The severed lands will be merged with the adjacent Parts 4 and 5 and integrated as part of the Park Place West subdivision. The lands will be developed with permitted urban residential land uses, on full municipal services and will have frontage on a public roadway.

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;
 - ✓ Satisfied. Both the severed and retained parcels will have direct access from a public road.
- b) Will not cause a traffic hazard as a result of its location on a curve or a hill;
 - ✓ No traffic hazards are anticipated.
- c) Is in keeping with the intent of relevant provisions and performance standards of the Zoning By-law;
 - ✓ Satisfied to facilitate the boundary adjustment. A future zoning by-law amendment will be required as part of the modification of the draft plan of subdivision to facilitate future residential development of Part 3.
- d) Can be serviced with an appropriate water supply and means of sewage disposal;
 - ✓ Satisfied. Both the severed and retained lot will have an appropriate water supply and means of sewage disposal.
- e) Will not have a negative impact on the drainage patterns in the area;
 - ✓ A lot grading / drainage plan will be required as a condition of approval.
- f) Will not affect the develop ability of the remainder of the lands, if they are designated for development by this Plan;
 - ✓ Satisfied. The proposed consent will facilitate a future residential development.
- g) Will not have a negative impact on the features and functions of any environmentally sensitive feature in the area;
 - ✓ There are no environmental features identified on the subject lands.
- h) Conforms with Regional lot creation policy as articulated in the Regional Policy Plan; and,
 - ✓ Satisfied. Regional staff did not object as the proposal does not conflict with Provincial or Regional interests and planning policy.
- i) Complies with the appropriate provincial Minimum Distance Separation Formulae, where applicable.
 - ✓ Not applicable.

Policy D5.2.2 sets the policy basis for boundary adjustments. The policy states: 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 viability of the both the benefiting and retained lands will be maintained. The viability of the benefiting lands is enhanced through a larger lot area for future residential development.

Town Planning staff are of the opinion the proposed lot boundary adjustment conforms to the local Official Plan.

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

The subject lands have two (2) zones associated with them. The portion of the property which contains the existing single detached dwelling (Part 1) is zoned Residential 2 (R2). The rear of the site (Part 3) is zoned Agricultural (A). Both Parts will continue to comply with their respective zones.

Part 5 on the sketch, being the Park Place West subdivision lands, were recently amended to site specific Residential 2 (R2-344) and Residential Multiple (RM1-325) Zones. A Zoning By-law Amendment will be required for Part 3 to rezone the lands to an appropriate residential zone to permit its future development.

Agency and Public Comments:

On February 7th, 2023, 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
 - Building Department has no comment regarding this boundary adjustment.
- Public Works Department
 - Confirm that no existing utilities cross the proposed lot lines. Should any services cross these lot lines, the applicant shall be responsible for costs associated with their relocation and / or removal.
 - The Town will require a 5m wide storm sewer easement along the northern boundary line of 1435 Station Street (Part 3). This can be cleared during Draft of Subdivision Stage.
 - Provide a written acknowledgment that the Owner of Part 3 will be responsible for payment of the front-ending contribution, payable to the Town of Pelham, for the East Fonthill storm water management system oversizing. This apportionment will be in the amount of \$35,145 for 1435 Station Street.
- Hydro One
 - No comments or concerns.

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

Planning Staff Comments:

Application is made to consent to convey 2,432.2 square metres (Part 3) of land, to be added to the abutting property to the south (Parts 4 and 5).

A pre-consultation meeting was held with the applicant of the property and staff from the Town and Niagara Region Planning & Development Services on January 19th, 2023 to discuss the subject application. In addition, a consent sketch and planning justification brief was provided in support of the proposed development. Planning staff reviewed the planning justification brief and agreed with its conclusions.

Based on the analysis in the sections above, Planning staff are of the opinion that the proposed boundary lot adjustment is consistent with the PPS and conforms to Provincial, Regional, and local plans. The resulting parcels comply with application Zoning By-law Regulation and should not negatively impact the surrounding neighbourhood with respect to traffic, privacy, and stormwater management. The proposed boundary adjustment provides for land consolidation needed for future residential development that will be coordinated with the Park Place West subdivision to provide for a comprehensive planned development and, therefore it can be supported by Staff.

Planning Staff Recommendation:

Planning staff recommend that minor variance file B3/2023P **be approved** subject to the following condition(s):

THAT the applicant:

- That application for consent, file B3/2023P receive final certification of the Secretary-Treasurer concurrently with application B2/2023P or that the applicant provide the Secretary-Treasurer with sufficient evidence indicating that Part 4 (on sketch), B2/2023P be registered prior to Part 3 (on sketch), B3/2023P.
- Ensures Part 3 merges on title with Parts 4 & 5.
- That the Applicant confirm no existing utilities cross the proposed new property line. Should any services cross this new property the Applicant is responsible for their relocation and/or removal so that utilities do not cross the new property line.
- The Town will require a 5m wide storm sewer easement along the northern boundary line of 1435 Station Street (Part 3).
- Provide a written acknowledgment that the Owner of Part 3 will be responsible for payment of the front-ending contribution, payable to the Town of Pelham, for the East Fonthill storm water management system oversizing. This apportionment will be in the amount of \$35,145 for 1435 Station Street.

- 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 \$423 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:

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Recommended by:

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