



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

Tuesday, September 05, 2023

Consent Application: B14-2023P

Municipal Address: 1053 Pelham Street (Parts 5 and 6)

Legal Description: THOROLD PT TWP LOT 177 RP, 59R15938 PART 1

Roll number: 2732 030 019 05100

Location of Lands and Purpose of Application:

The subject parcel, shown as Parts 5 and 6 on the attached sketch, is an interior parcel situated 22.88m south of Homestead Boulevard, lying east of Pelham Street, being Lot 177, formerly Part of Thorold Township now Pelham, Part 2 on Reference Plan 59R-17702 in the Town of Pelham.

Application is made for consent to partial discharge of mortgage and consent to convey 168.3 square metres of land (Parts 5 and 6), to be added to the abutting property to the north (Part 4), for future development of a single detached dwelling. Parts 2 and 3 are to be retained for continued residential use.

This application is being considered concurrently with Consent File B13/2023P and Minor Variance Files A18/2023P and A19/2023P.

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 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 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 a minor variance is required for lot frontage.
- 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 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 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 1.1.3.4 states appropriate development standards should be promoted which facilitate intensification, redevelopment, and compact form, while avoiding or mitigating risks to public health and safety.

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 was previously conducted on the lands and has since received clearance from the Ministry.

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 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 (2022)

The Region of Niagara adopted a new Region Official Plan (ROP) 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. 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.

Section A2.3.2 Urban Character sets out the objectives for the urban character of the Town. Objectives include to respect the character of existing development and ensure that all applications for development are physically compatible with the character of the surrounding neighbourhood, and to maintain and enhance the character and stability of existing and well-established residential neighbourhoods by ensuring that development and redevelopment is compatible with the scale and density of existing development. The proposal is supported by the Town Official Plan policies that encourage infill within existing built-up areas. It is noted compatibility does not necessarily mean the same as, rather the ability to coexist together.

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 several 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 are within 100 metres of 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 22.26 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;
 - ✓ The proposal maintains the unit density and type of surrounding land uses.
- 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 Homestead Boulevard, consistent with the surrounding area.
- 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 Homestead Boulevard, 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 is anticipated 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 A19-2023P.
- d) Can be serviced with an appropriate water supply and means of sewage disposal;
 - ✓ Yes, municipal services exist and are available.
- 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;
 - ✓ Unchanged.
- g) Will not have a negative impact on the features and functions of any environmentally sensitive feature in the area;
 - ✓ No environmentally sensitive features 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.

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. 4481 (2022)

The subject lands are currently zoned Residential One (R1) according to the Town's Comprehensive Zoning By-law. Permitted uses in the R1 zone include single detached dwellings, accessory uses, and home occupations.

A minor variance application (A19-2023P) is being heard in conjunction with the proposed severance to address the deficient lot frontage. Please refer to minor variance report for a fulsome analysis.

Agency and Public Comments:

On August 9, 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
 - No comments.
- Public Works Department
 - Per Public Works comments on Consent Files B11/2022P and B12/2022P and Minor Variance File A15/2022P and A16/2022P, the applicant has satisfied the all the requirements to clear all the conditions with regards to the lot grading and drainage, that the storm water runoff will not negatively impact nor rely upon neighboring properties. However, this proposed application resurfaced the issues with the creation of Future Part 2 and Part 3.
 - Future Part 2 is to be individually serviced with its own sanitary and water connections. This work is to be done by the owner, at the owner's expense, and will require a Temporary Works Permit. Should there be an intention to sever the lot in the future, the sanitary and water

services for each unit will need to be contained in their respective lots. Should these services cross property lines, Public Works will not support the consent to sever.

- Applicant should confirm that no existing utilities shall cross property line, relocation shall be the applicant's responsibility.
- A Construction of new or modification of existing driveways requires a Driveway Entrance Permit. This permit is obtained through the Public Works Department. All associated costs with this permit are the responsibility of the owner.
- Tree preservation zone west of the driveway would require protection and preserved.

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

Planning Staff Comments:

Planning staff have reviewed the *Planning Justification Brief* submitted by Upper Canada Consultants, 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 June 1, 2023, to discuss the subject application.

As noted earlier in this report, the Province and the Region of Niagara through their new Official Plan have set density targets for the Town of 25% annually. This is to be achieved through a mix of new development on designated lands and through infill and intensification opportunities within the existing built area.

The proposal is supported by the Town Official Plan policies that encourage infill within existing built-up areas. This supports the long-term public interest by minimizing the impact of sprawl on agricultural lands while supporting re-investment in existing communities to maintain their stability and vibrancy, providing for an efficient use of infrastructure and land, and contributing to the development of compact communities that foster walkability and a sense of place. The proposal, if approved would permit the creation of an additional residential lot in a neighbourhood comprised of primarily single detached dwelling units. Staff do not anticipate any issues in terms of land use compatibility with the surrounding 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 A19-2023P 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 B14/2023P **be approved** subject to the following condition(s):

THAT the applicant:

- Undertake to merge Parts 5 and 6 merge on title with Part 4.
- Prepare easement documents and register the proposed drainage easement (Parts 3, 6, and 7) on title to the satisfaction of the Director of Public Works.
- The applicant submit an overall lot grading and drainage plan for Parts 1-6 to demonstrate that the drainage does not negatively impact nor rely on neighboring properties to the satisfaction of the Director of Public Works. Such grading plans shall include the requirement of new catch basin in Part 3 to the benefit of Part 2.
- 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 to the satisfaction of the Director of Public Works.
- That the applicant confirm that no existing utilities currently cross the proposed new property line to the satisfaction of the Director of Public Works. Should any services cross this new property line, the applicant will be responsible for costs associated with their relocation and/or removal.
- That all necessary zoning approvals (minor variance) be obtained for Part 4 to the satisfaction of the Director of Community Planning and Development.
- 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:

Andrew Edwards, BES
Planner

Recommended by:

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