

## REGULAR COUNCIL AGENDA

**C-16/2023**

**Wednesday, September 6, 2023**

**9:00 AM**

**Town of Pelham Municipal Office - Council Chambers**

**20 Pelham Town Square, Fonthill**

The Town of Pelham is holding hybrid meetings of Council and Committee in accordance with Procedure By-law 4507(2022). Public access to meetings will be provided in-person at the location indicated on the agenda, via Livestream: [www.youtube.com/townofpelham/live](http://www.youtube.com/townofpelham/live) and subsequent publication to the Town's website at [www.pelham.ca](http://www.pelham.ca).

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### Pages

- 1. Call to Order and Declaration of Quorum**
- 2. National Anthem**
- 3. Land Recognition Statement**

We begin this meeting by acknowledging the land on which we gather is the traditional territory of the Haudenosaunee and Anishinaabe peoples, many of whom continue to live and work here today. This territory is covered by the Upper Canada Treaties and is within the land protected by the Dish With One Spoon Wampum agreement. Today this gathering place is home to many First Nations, Metis, and Inuit peoples and acknowledging reminds us that our great standard of living is directly related to the resources and friendship of Indigenous people.

- 4. Approval of the Agenda**
- 5. Disclosure of Pecuniary Interests and General Nature Thereof**

<b>6.</b>	<b>Hearing of Presentation, Delegations, Regional Report</b>	
<b>6.1</b>	<b>Delegations</b>	
<b>6.1.1</b>	<b>Tim Nohara - Status of Work of the Cannabis Control Committee and Next Steps for Redecan Community Liaison Committee</b>	<b>6 - 10</b>
<b>7.</b>	<b>Resolution to Move In Camera</b>	
	BE IT RESOLVED THAT the next portion of the meeting be closed to the public in order to consider a matter under Section 239 (2) of the <i>Municipal Act</i> , as follows:	
	(f) advice that is subject to solicitor-client privilege, including communications necessary for that purpose - 1 item (Redecan Compliance)	
<b>8.</b>	<b>Rise from In Camera</b>	
<b>9.</b>	<b>Staff Report For Action</b>	
<b>9.1</b>	<b>Status of Work of the Cannabis Control Committee and Implications of Proceeding with Redecan Cannabis Liaison Committee, 2023-0202-Planning</b>	<b>11 - 72</b>
<b>10.</b>	<b>Adoption of Council Minutes</b>	
<b>10.1</b>	<b>C-15/2023 - Regular Council Meeting - August 16, 2023</b>	<b>73 - 82</b>
<b>11.</b>	<b>Request(s) to Lift Consent Agenda Item(s) for Separate Consideration</b>	
<b>12.</b>	<b>Consent Agenda Items to be Considered in Block</b>	
<b>12.1</b>	<b>Presentation of Recommendations Arising from Committee of Council, for Council Approval</b>	<b>83 - 83</b>
	1. PCOW-07/2023 - Public Meeting under the Planning Act - August 9, 2023	
<b>12.2</b>	<b>Minutes Approval - Committee of Council</b>	
<b>12.2.1</b>	<b>PCOW-07/2023 - Public Meeting under the Planning</b>	<b>84 - 87</b>

**Act - August 9, 2023**

**12.3 Staff Reports of a Routine Nature for Information or Action**

**12.3.1 Donation of Rotary Arches, 2023-0197-Town Solicitor 88 - 95**

**12.3.2 June 2023 Financial Report, 2023-0175-Corporate Services 96 - 108**

**12.4 Regional Municipality of Niagara Correspondence for Information or Action**

**12.4.1 Notice of Study Completion - Pelham Elevated Tank Municipal Class Environmental Assessment and Enhanced Conceptual Design 109 - 111**

**12.5 Information Correspondence**

**12.5.1 Letter from the Lincoln Pelham Public Library re: Feasibility/Planning Study 112 - 112**

**12.6 Advisory Committee Minutes for Information**

**12.6.1 Committee of Adjustment Meeting Minutes - June 5, 2023 113 - 122**

**13. Consent Agenda Item(s) Lifted for Separate Consideration, if any**

**14. Resolution to Move In Camera**

BE IT RESOLVED THAT the next portion of the meeting be closed to the public in order to consider a matter under Section 239 (2) of the *Municipal Act*, as follows:

(b) - personal matters about an identifiable individual, including municipal employees - 2 items (Consideration of Appointments to Advisory Committees)

(d) labour relations or employee negotiations - 1 item (CUPE 1287)

**15. Rise From In Camera**

**16. Appointments to Advisory Committees**

## **17. Presentation and Consideration of Reports**

### **17.1 Members of Council Reports**

<b>17.1.1</b>	<b>Councillor Olson - Presentation and Update on Niagara Regional Transit</b>	<b>123 - 132</b>
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### **17.2 Staff Reports Requiring Action**

<b>17.2.1</b>	<b>Proposed Increase to Public Works Staffing Compliment, 2023-0163-Public Works</b>	<b>133 - 199</b>
<b>17.2.2</b>	<b>2023 Sidewalk Cutting Pilot Program , 2023-0178-Public Works</b>	<b>200 - 202</b>
<b>17.2.3</b>	<b>Planning Services Agreement with the Region of Niagara, 2023-0196-Planning</b>	<b>203 - 226</b>
<b>17.2.4</b>	<b>Recommendation Report - Application for Zoning By-law Amendment - 1039 Church Street, 2023-0186-Planning</b>	<b>227 - 250</b>
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<b>17.2.6</b>	<b>Council Vacancy Policy, 2023-0188-Clerks</b>	<b>282 - 292</b>

## **18. Unfinished Business**

## **19. New Business**

## **20. Presentation and Consideration of By-Laws 293 - 319**

1. By-law 48-2023 - Being a By-law to regulate signs in the Town of Pelham and to repeal By-law No. 4199(2020)

2. By-law 49-2023 - Being a by-law to amend By-law 29-2023, confirming various appointments to Advisory Committees of the Town of Pelham for the 2022-2026 Term of Council and to appoint and appoint Member(s) to the Pelham Active Transportation Committee.

## **21. Motions and Notices of Motion**



**21.1 Deputy Mayor Wink Motion re: Speed on Haist Street**

Mover: Deputy Mayor Wink

Seconder: Councillor Eckhardt

WHEREAS Council for the Town of Pelham is committed to the safety of the community;

AND WHEREAS Council for the Town of Pelham is concerned the narrow roadway, hidden driveways, reduced visibility due to hills and speed of vehicular traffic on Haist Street has the capacity to create a potential safety hazard to walkers, cyclists, and children;

AND WHEREAS Council for the Town of Pelham desires to mitigate this potential hazard by regulating the speed of vehicular traffic on Haist Street, particularly north of Brewerton Boulevard, and to consider various potential traffic calming methods for this purpose;

NOW THEREFORE BE IT RESOLVED THAT Council for the Town of Pelham direct staff to investigate the installation of speed signage and a possible speed reduction from 50 km/h to 40 km/h with flashing lights to regulate and reduce the speed of vehicular traffic on Haist Street, particularly between Brewerton Boulevard and Metler Road;

AND THAT Council direct staff to report back by October 18, 2023.

**22. Confirming By-Law**

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**23. Adjournment**

Please fill out and return no later than 12 p.m. noon ten (10) days prior to the Meeting you wish to appear. Completed forms, including presentation materials are to be submitted to the Clerk's department and can be dropped off or emailed to [clerks@pelham.ca](mailto:clerks@pelham.ca)

Name or Organization or Firm: Tim J. Nohara	
Name and Title of Presenter(s): Tim J. Nohara, former Cannabis Control Committee Chair, Town of Pelham	
Address: P.O. Box 366, Fonthill, ON, L0S 1E0	
Telephone: 905-892-0998	Email: tnohara@accipiterradar.com

Date of Meeting Requested: Wednesday 6 September 2023

How will you attend Council? ☒ In-person ☐ Electronically  
 \*The delegate shall notify the Clerk at least five (5) business Days in advance.

Subject matter to be discussed:	Staff Report for & next steps for Redecan Community Liaison Committee
If not for information, identify the desired action requested:	Report to the Ontario Land Tribunal (OLT) that Redecan is in breach of the Minutes of Settlement and seek the OLT's assistance as offered in paragraph [93] of the Order issued by the OLT on August 23, 2022.

**Have you previously spoken on this issue?** ☐ Yes ☒ No  
 If a group or individual has previously appeared as a delegate, a further delegation from the same group or individual on the same topic will not be permitted, unless there is significant new information to be brought forward.

**Do you have presentation material or speaking notes?** ☒ Yes ☐ No  
 Delegations are required to provide the Clerk's department presentation materials for publication in Council's agenda package. Materials must be provided no later than 12 p.m. noon ten (10) days prior to the Meeting.

I have read and understand the Delegation Protocol attached to this form and understand that the information contained on this form, including any attachments submitted, will become public documents and listed on the Town's meeting agenda and posted to the Town's website. I also understand that as a participant of this meeting, I will be recorded and further understand that this recording will be posted to the Town of Pelham's YouTube Channel.

Tim J. Nohara  
 Signature

26 August 2023  
 Date

### **Delegation Protocols**

The Clerk shall list a maximum of four (4) delegations per meeting. Delegations will be considered on a first come first serve basis, unless prioritized otherwise at the discretion of the Clerk, in consultation with the Chief Administrative Officer.

The purpose of the delegation process is to allow residents to make their views known to Council, based on the requirements of the Town of Pelham Procedural By-law. The views of interested citizens are valued and input is welcome, along with comments and constructive suggestions. Council must consider a large number of issues and concerns at any given time, thus the following protocol is observed:

1. The delegate shall arrive to the meeting by 8:45 am.
2. A presentation by a delegate, who is a member of the public, shall be a maximum of five (5) minutes (whether the Delegation consists of an individual or a group). A presentation by a delegate, who is a member of Town or Regional staff, shall be a maximum of twenty (20) minutes.
3. Where the delegate is a group of persons, a primary speaker is to be assigned to address Council.
4. Discussion topics, other than the subject matter of the written request to appear as a delegation, will not be permitted. Subsequent delegations on the same topic, without significant new information, will not be permitted.
5. A delegate shall not speak disrespectfully, use offensive language and/or disobey the rules of procedure or a decision of the Chair. Remarks or questions concerning topics identified within Section 28.7 of the Procedural By-law shall be immediately ruled out of order. A subsequent offense during the same presentation will result in the speaker forfeiting their right to speak. The Chair reserves the right to immediately end the delegation if the remarks are considered severe.
6. Upon completion of remarks, the speaker(s) will remain in position to allow for any questions from Members. Members may ask questions for clarification purposes. After completion of any questions, the speaker will be asked to be seated or will be placed into the waiting room of the Zoom meeting.
7. Delegations will not be permitted on items that will be the subject of an upcoming or closed public meeting pursuant to the *Planning Act*, unless exceptional circumstances apply, which have been reviewed and approved by Council. Persons should present their concerns and opinions at the scheduled Public Meeting where their comments can be considered along with other submissions.

1. Good morning Mr. Mayor, Councillors, and residents who are with us today. I am Tim Nohara, the Chair of the former Cannabis Control Committee. I came before you on June 7, 2023 and asked Council to receive the Cannabis Control Committee's Closing Memo and to implement the Redecan Community Liaison Committee agreed to by the last Council, the Town, Redecan and the Ontario Land Tribunal in accordance with Minutes of Settlement between Redecan and the Town.

The Redecan Community Liaison Committee is the answer we negotiated to protect residents who continue to struggle with adverse impacts from odour released from Redecan. It relies on substantiated complaints of adverse impacts under the Ontario Environmental Protection Act; and does not involve the use of the 6-odour-unit Nasal Ranger test that our bylaw team continues to use without success.

2. In response to my request to Council, Council received our Closing Memo and passed a motion instructing staff to prepare a Report on the status of the work done by the Cannabis Control Committee and the implications and costing of proceeding with the establishment of the Redecan Community Liaison Committee. The staff Report is provided in this Agenda package and is before you this morning.
3. The staff Report provides details on the Town's costs for its part in the Redecan Community Liaison Committee. These costs are for the work of our odour professional, Mr. Phil Girard, P.Eng, which are about \$25,000 per year; and which is in line with what I reported to you during my delegation of June 7<sup>th</sup>. This is good news.
4. The staff Report also notes that the Odorous Industries Nuisance By-law remains before the courts as both Redecan and CannTrust filed applications to the Ontario Superior Court to quash By-law 4202(2020) being the Odorous Industries Nuisance By-law in March of 2021 and April of 2021 respectively. To date, there has been no progress with regards to these applications to quash our Odorous Industries Nuisance By-law.
5. The staff Report also indicates that Redecan has not complied with four requests from the Town's external legal counsel to provide the initial documents required by the Minutes of Settlement, namely, a description of the current odour control and management systems being employed by Redecan at their Foss Road site, a site plan drawing showing the location of existing buildings, building heights and emission sources including identification, and a Contingency Odour Management Plan to the Town's satisfaction. The staff Report also notes that the Tribunal's interim order indicated that it may be spoken to should there be difficulty in obtaining these documents.
6. In light of this, I urge Council to instruct our external counsel Aird & Berlis to report Redecan's noncompliance with the Minutes of Settlement to the Ontario Land Tribunal and seek their assistance as offered in Paragraph [93] of the Tribunal Interim Order.

7. If Redecan continues to breach our Minutes of Settlement following the assistance of the Tribunal, then I recommend that Council instruct Aird & Berlis to work with the Tribunal to delete paragraphs 7 and 8 of the Schedule 2 Zoning Bylaw Amendment contained in the Interim Order approved on August 23, 2022, which would have granted Redecan special site-specific approvals.
8. Finally, I recommend Council to instruct Aird & Berlis to seek dismissal of Redecan's and CannTrust's action to quash our Odorous Industries Nuisance Bylaw as this action has no merit, and the parties have failed to advance this action which is blocking our ability to use the Odorous Industries Nuisance Bylaw against them.

#### Adverse Impacts and Substantiated Complaints under the Minutes of Settlement

Speaking before you today, I wish to clear up a misunderstanding propagated by staff who seem to believe that using a Nasal Ranger and measuring 6 odour units at the Redecan property line is the basis for substantiating a complaint. This is not the case.

The following information comes directly from my written correspondence with Mr. Phil Girard, P.Eng, our odour expert and advisor, including for the Redecan Community Liaison Committee defined by the Minutes of Settlement which he helped us negotiate with Redecan. Mr. Girard has given me permission to include his expert information which is provided below<sup>1</sup>.

*Specific to this case, "Adverse Impact" means odour from Redecan is impacting a sensitive receptor (i.e. school, house, apartment, daycare, etc.) such that the odour is causing one of more of:*

- (a) impairment of the quality of the natural environment for any use that can be made of it,*
- (b) injury or damage to property or to plant or animal life,*
- (c) harm or material discomfort to any person,*
- (d) an adverse effect on the health of any person,*
- (e) impairment of the safety of any person,*
- (f) rendering any property or plant or animal life unfit for human use,*
- (g) loss of enjoyment of normal use of property, and*
- (h) interference with the normal conduct of business;*

*This definition comes from the Ontario Environmental Protection Act "Adverse Effect".*

*Adverse impact is subjective but based on my experience, you can easily tell when someone is honestly being negatively impacted. You can hear it in their voice and sense their desperation. You need to be a little careful that the people that you send out to*

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<sup>1</sup> Correspondence August 22-24, 2023 between Tim Nohara and Phil Girard in preparation for this delegation

*validate the claim are sympathetic (and not nose dead). If you send out an employee who doesn't want to be there, they may easily dismiss the odour, the impact, and the problem. It's one thing to be exposed for a few minutes. It's different to have to live with a smell that invades and permeates your property and house and belongings.*

***"Substantiated Complaint"** is defined in the Minutes of Settlement and means odour from the Redecan Site is adversely impacting a sensitive receptor located downwind of the Redecan Site. Substantiated complaints are to be validated by Redecan, Pelham and/or an agent acting on behalf of one or more of them.*

*If there are 5 or more substantiated complaints in a 90 day rolling period, then the Substantiated Complaint Trigger is met and other things are triggered.*

***There is NO NASAL RANGER INVOLVED. There is no measured threshold requirement.***

*You need to talk to the complainant. If the odour is not present when you arrive, find out the details – when does it usually happen, how often, wind direction, etc. Ideally the odour will be there when you arrive but may not be. Maybe a return visit or two will be needed. I think reasonableness comes into it. Can you confirm that odour from the source is regularly impacting the neighbourhood and this receptor? If I were on call, I would immediately try and get out to the site and confirm the odour impact while it is happening, but that is not always possible. If I missed an episode, I would provide the complainant with my phone number and ask them to call me when it happens again (hopefully during a steady wind). If we can get the community regularly reporting complaints (presuming there is regular impact) then that establishes a history of impact and helps establish impairment of quality of the natural environment and loss of enjoyment of use of property.*

*In my opinion, for the best chance of this program succeeding and because by-law has many other things to do, the complaints should go to the Town and their agent (simultaneously), and let the agent do the complaint investigation. Just remember, this doesn't have to be an expensive proposition because 5 substantiated complaints sets things in motion. No complaints, no expense. My 2 cents worth.*

**Subject:** Status of Work of the Cannabis Control Committee and Implications of Proceeding with Redecan Cannabis Liaison Committee

**Recommendation:**

**BE IT RESOLVED THAT Council receive Report #2023-0201 Status of Work of the Cannabis Control Committee and Implications of Proceeding with Redecan Cannabis Liaison Committee, for information;**

**AND THAT Staff be directed to include for consideration in the 2024 budget an allocation of \$25,000 for professional odour consulting services associated with the establishment of the Redecan Cannabis Liaison Committee beginning in 2024;**

**AND THAT the Redecan Cannabis Liaison Committee be considered as a Working Group in accordance with the Town committee structure;**

**AND THAT the upon the 2024 budget approval for professional odour consulting services, staff be directed to advertise for resident volunteers, retain the services of a qualified professional engineer to represent the Town on this Committee, obtain an appointee from Redecan to be a member of the Committee and the Redecan Liaison Committee is established and operational.**

**Background:**

On June 7<sup>th</sup>, 2023, Council passed a resolution requesting staff prepare a report on the status of the work done by the Cannabis Control Committee and implications and costing of proceeding with the establishment of the Redecan Cannabis Liaison Committee in response from a delegation Council received at that time. The Cannabis Control Committee was an advisory committee under the last term of Council whose mandate was to provide advice to Council on mitigating adverse land use impacts of cannabis production facilities in the Town of Pelham as well as provide an opportunity to improve relations with cannabis producers.

On August 22, 2022, the Chair of the Cannabis Control Committee presented to a Council a Closing Memo and Recommendations regarding the work completed by the Cannabis Control Committee along with certain recommendations. Council received the Cannabis Control Committee's Closing Memo and Recommendations for information. Council did not direct staff to implement the recommendations of the Cannabis Control Committee. The Cannabis Control Committee is no longer active as an advisory committee of Council under this term of Council.

## **Analysis:**

### **Status of Work by the Cannabis Control Committee**

During its term, the Cannabis Control Committee conducted research and provided advice to Council with regards to the development and adoption of an Odorous Industries Nuisance By-law, and cannabis related Official Plan and Zoning By-law Amendments. Each of these instruments resulted in legal action against the Town.

The Odorous Industries Nuisance By-law remains before the courts as both Redecan and CannTrust filed applications to the Ontario Superior Court to quash By-law 4202(2020) being the Odorous Industries Nuisance By-law in March of 2021 and April of 2021 respectively. To date, there has been no progress with regards to the applications to quash the Odorous Industries Nuisance By-law.

The cannabis related Official Plan and Zoning By-law Amendments were appealed in August 2020 by the Redecan, CannTrust (now Phoena Holdings Inc.) and Woodstock Biomed to the Local Planning Appeal Tribunal (LPAT), now known as the Ontario Land Tribunal (OLT).

Between January 24-27, 2022, and July 25, 2022, the Tribunal convened a hearing to hear the appeals on the cannabis related Official Plan and Zoning By-law Amendments. On July 13, 2022, the Town and Redecan agreed to Minutes of Settlement as it relates to the Redecan appeal of the cannabis related Official Plan and Zoning By-law Amendments (See Appendix A). The negotiation of the Minutes of Settlement between the Town and Redecan did not involve the Cannabis Control Committee, but rather were the result of direct discussions and negotiations between the Town and Redecan through the Town's external legal counsel and based on the advice of the Town planning consultant and odour consultant retained to defend the Town in these matters.

On August 23, 2022, the Tribunal issued an interim order dismissing the appeal of Woodstock Biomed, acknowledging the withdrawal of the appeals of CannTrust (now Phoena Holdings Inc.), and granted the appeals of Redecan in part, approving the Official Plan Amendment 9 as revised and presented to the Tribunal and Zoning By-law Amendment 4252(2020) as revised and presented at the Tribunal (See



Appendix B). The approval of the Official Plan Amendment 9 and Zoning By-law Amendment 4252(2020) as it relates to the Redecan site were based on the executed Minutes of Settlement between the Town and Redecan. The approval of the Official Plan Amendment as revised was immediate and it is in effect. In rendering its interim order, the Tribunal indicated that the final order approving the portion of the Zoning By-law Amendment 4252(2020) containing the site-specific provisions for Redecan is being withheld until the Tribunal receives confirmation from the Town in writing that Redecan has provided the following information to the Town satisfaction:

- a description of the current odour control and management systems being employed by Redecan at their Foss Road site;
- a site plan drawing showing the location of existing buildings, building heights and emission sources including identification; and
- a Contingency Odour Management Plan.

It is noted that these items are also included in the Minutes of Settlement between the Town and Redecan.

To date, the Town has not received the above documentation as specified in the Tribunal's decision and the Minutes of Settlement. Town external legal counsel reached out to legal counsel for Redecan in November 2022, June 2023, July 2023, and August 2023 inquiring as to the status of these outstanding matters. Town external legal counsel has been advised that new management exists at Redecan and its legal counsel is seeking directions from the new management team. Town staff continue to work with external legal counsel to obtain this documentation, however as of writing this report the documentation has not been provided to the Town. In its interim order the Tribunal has indicated that it may be spoken to should there be difficulty implementing the above matters.

### **Minutes of Settlement**

The executed Minutes of Settlement between Redecan and the Town provides for an odour management protocol for the Redecan site and the establishment of a Cannabis Liaison Committee by the Town. The Town agrees that it shall not use any material or information received from Redecan for the purposes of enforcement of the Odorous Industries Nuisance By-law.

In addition to providing the Town with a description of its current odour control and management systems, site plan drawing and contingency odour management plan, the Minutes of Settlement provide that Redecan and the Town will undertake certain measures when odour complaints are received. The Minutes of Settlement define 'substantiated complaint' and 'substantiated complaint trigger'. A 'substantiated complaint' is defined as odour from the Redecan site adversely

impacting a sensitive receptor located downwind from its site and are to be validated by Redecan, Pelham and/or an agent acting on behalf of one or more of them. This definition requires that there is an adverse impact on a sensitive receptor, i.e., residential, institutional, park use and it must be confirmed that odour is adverse. This means that a complaint received from someone driving by the Redecan site and smelling cannabis is not a substantiated complaint, for example. The test is not just whether there is an odour, but also that there must be an adverse impact. Substantiated complaints are to be validated by Redecan, Pelham and/or an agent acting on behalf of one or more of them. The process is that when the Town receives an odour complaint, and when possible, By-law staff attend to the Redecan site and obtain odour sampling utilizing the Nasal Ranger field olfactometer at the property line to confirm if there is odour and if odour meets the threshold for an adverse impact, i.e., a reading higher than 6 on the field olfactometer. If possible, By-law staff also attend to the complainant's property to confirm odour at the complainant's property. When odour complaints are received on weekends for example, it is not possible to Town By-law staff to validate or substantiate the odour is from Redecan or the odour at the complaint's property.

A 'substantiated complaint trigger' is comprised of 5 or more substantiated complaints from 5 different complainants over a rolling 90-day period that have been reported in writing to Pelham and/or Redecan in respect of the Redecan site. To date, the requirements of a substantiated complaint trigger have not been met, i.e., 5 or more substantiated complaints from 5 different complainants over a 90-day period.

The Minutes of Settlement provide that within 5 days of the substantiated complaint trigger being met, Redecan is to provide certain data files to the Town and the Cannabis Liaison Committee and within 30 days of the substantiated complaint trigger additional information is to be provided to the Town and the Cannabis Liaison Committee. Following receipt of this required information, then the Cannabis Liaison Committee is to meet and Redecan is to present its findings and their proposed solution in accordance with the contingency odour management plan. The Cannabis Liaison Committee will then issue a report to Pelham after the meeting advising of the solution, implementation timelines and any proposals to ensure a substantiated complaint is not received.

The Cannabis Liaison Committee is to be comprised of at least one appointee from Redecan, landowners from within 1 kilometre distance from the Redecan site and at least one appointee from the Town of Pelham who is a qualified professional engineer with experience in the measurement and quantifying of air contaminant and odour emissions. The Minutes of Settlement do not specify the number of residents that may be appointed to the Cannabis Liaison Committee. The Committee is to meet quarterly unless determined otherwise by the Committee,

and minutes of the meetings are to be provided within 3 business days following the meeting.

In addition, the Minutes of Settlement provide that Redecan is to develop an odour complaint recording, investigation and reporting program and this program is to be shared with the Town. The Town agrees to provide to Redecan in writing the record of any odour complaints received by Pelham as they relate to the Redecan site, including the approximate distance and directional parameters associated with the complaint. Conversely, Redecan also agrees to provide the Town in writing any odour complaints it receives regarding their site. Redecan also agrees to prepare and submit to the Town and the Cannabis Liaison Committee a written report documenting its investigation into the cause of the complaint and proposed solution within 5 business days of receiving a complaint.

### **Establishing the Redecan Cannabis Liaison Committee**

The Redecan Cannabis Liaison Committee would be considered a Volunteer Working Group committee under the Town's committee structure. Terms of reference for Working Groups are required to be prepared by the lead department and approved by the CAO. The Town would advertise for resident volunteers who reside within 1km of the Redecan property to sit on the Committee. In addition, the Minutes of Settlement require the participation of Redecan on the Committee with at least one appointee and at least one appointee from the Town of Pelham who is a qualified engineer with experience in odour measurement and quantifying of air contaminant and odour emissions. It is anticipated that Town staff would also participate on this Committee, including By-law Enforcement staff.

Staff obtained a quote from PG Compliance Management Inc., the consultant retained by the Town to provide advice and evidence at the Tribunal hearing associated with the appeals of the cannabis related Official Plan and Zoning By-law amendment including advice to legal counsel in the development of the Minutes of Settlement and the consultant that provided advice on the preparation of the Odorous Industries Nuisance By-law. PG Compliance Management Inc. has established the following budget for the remainder of 2023 and 2024 to undertake the consultancy work in accordance with the requirements of the Minutes of Settlement as follows:

<b>Task</b>	<b>2023</b>	<b>2024</b>
Review Current Odour Control, Site Plan and Contingency Odour Management Plan	\$3,500	\$3,500
Attend Community Liaison Committee Meetings	\$4,500	\$6,000
Review Complaint Program, Complaints, Comment on Redecan's Investigation Report	\$3,750	\$3,750

<b>Task</b>	<b>2023</b>	<b>2024</b>
Substantiated Complaint Trigger – Review Technical Reports, Modelling, and Mitigation Plan	\$12,500	\$10,000
Total	\$24,250	\$23,250

PG Compliance notes that some of the budget amounts are speculative and are dependent on the number and frequency of odour complaints and if substantiated complaint trigger is not met, then the scope of the work associated with the Minutes of Settlement is not required. Conversely, if the many odour complaints are received, the substantiated complaint trigger is met and more than one odour contingency odour management plan is prepared, additional budget may be required to fulfill the additional scope of work. Additional scope of work will be charged at a rate of \$250/hour.

It is noted that the above costs do not include staff time required to administer the Committee, attend meetings, provide advice, etc.

### **Woodstock Biomed and Phoena Holdings Inc. Properties**

It is noted that the Minutes of Settlement do not provide for the establishment of a Cannabis Liaison Committee for either the Woodstock Biomed site on Foss Road or the Phoena Holdings Inc. site on Balfour Street. The owners of these two properties did not agree to the Minutes of Settlement when it was being negotiated and are not party to the Minutes of Settlement. It is noted however, that both the Woodstock Biomed and Phoena Holdings properties are currently both for listed sale.

### **Odour Monitoring and Sampling**

By-law Enforcement staff continue to conduct random odour sampling at the Redecan property line and until recently at the Phoena property line as well and have not received any readings on the field olfactometer higher than 5 at either location. A reading higher than 6 would indicate an adverse impact and possibility of laying a charge. For example, as of August 20<sup>th</sup> By-law Enforcement staff conducted over 230 random odour tests in 2023 which resulted in 8 ambient odour detections and 7 odour detections with the field olfactometer. None of these odour detections met the threshold that would have resulted in a violation of the Odorous Industries Nuisance By-law, i.e., the level of odour for an adverse impact.

By-law Enforcement staff also continue to respond to odour complaints when they are received. If possible, By-law Enforcement staff attend to a sensitive receptor site when an odour complaint is received to determine if there is any ambient odour and make notes of air temperature, wind direction, time of day, etc. In each case

when they have attended to the site of a sensitive receptor, there has been no ambient odour detected by By-law Enforcement staff.

In addition, the field olfactometer is calibrated regularly and By-law Enforcement staff maintain their accreditation for odour sampling to ensure the accuracy of the field olfactometer and by staff undertaking the sampling is maintained. The use of the field olfactometer is an accepted industry instrument for measuring odour and was endorsed by the PG Compliance Management Inc. and the Cannabis Control Committee for use by staff.

It is important to note that odour sampling by By-law Enforcement staff does need to continue to be undertaken at the property line of the commercial cannabis producers. Odour sampling only at a sensitive receptor is not a conclusive determinant for proving odour is from the commercial cannabis producer as there is no possible way to definitively state that odour a sensitive receptor is receiving is from a commercial cannabis producer (without testing at the property line) and not from another intervening property given that cannabis can legally be grown on any private residential property for personal recreational use (maximum of 4 plants/residence), by individuals older than 18 of age who have a medical licence/registration to grow cannabis for personal medical use authorized by a medical professional and by designated growers growing cannabis for others for personal medical use. These other types of cannabis production do occur throughout the Town without notification being given to the Town and there is odour associated with each of these other types of cannabis production as well, which could be the source of odour for a complainant that By-law Enforcement staff cannot address.

In addition, cannabis can be smoked legally by anyone 19 years of age or older on private properties in the Town, which also produces an odour. By-law staff have received odour complaints from residents due to a neighbour smoking cannabis which By-law Enforcement staff also cannot address.

Finally, cannabis can also be grown legally in micro grow operations, these types of operations do require a licence from the federal government to grow cannabis legally.

Cannabis odour that residents are experiencing in the Town is potentially from any number of sources, not just commercial producers.

### **Financial Considerations:**

The financial considerations with respect to implementing the Redecan Cannabis Liaison Committee are discussed above in this report. It is noted that these costs are not accounted for in the Town 2023 budget. It is recommended that funding of

\$25,000 for professional odour consulting services associated with the establishment of the Redecan Cannabis Liaison Committee be included in the 2024 budget for Council consideration as part the 2024 budget approval process. Alternatively, should Council wish to proceed with the establishment of a Redecan Cannabis Liaison Committee in 2023 it would require to be funded by a negative budget variance of \$25,000 that would be funded by other budget savings in year. At this point in time, it is too soon to determine what the year-end results will be for 2023 to know if there is any budget savings. If there is not a surplus, then the funds would have to be covered from the Working Funds Reserve.

### **Alternatives Reviewed:**

n/a

### **Strategic Plan Relationship: Enhancing Capacity and Future Readiness**

Meeting the needs of Pelham residents is important to protect against potential adverse impacts from cannabis odour. The executed Minutes of Settlement provide a mechanism to do so, however it is also important to note that the Town has not received a substantiated complaint to date and the substantiated complaint trigger has also not been met to date. Anecdotally, staff are aware that the commercial cannabis producers have made significant improvements to mitigating the impacts of odour since these facilities were first established and By-law Enforcement staff dialogue with the commercial cannabis producers regularly.

### **Conclusion:**

It is recommended that the establishment of the Redecan Cannabis Liaison Committee be considered as a Working Group in accordance with the approved Town committee structure.

Staff also recommend that the Committee be established through the approval of the 2024 Budget given that the Town is required to retain the services of a qualified professional engineer with experience in the measurement and quantifying of air contaminant and odour emissions to be a representative of the Town on this Committee and there is no approved budget for this service in 2023. It is also recommended that upon budget approval, staff undertake the work required to establish the Committee to get it operational, i.e., advertise for volunteers, obtain approval of the terms of reference, appoint resident members to the Committee, identify Redecan membership, etc.

In the meantime, By-law Enforcement staff will continue with the odour monitoring and sampling as that is useful information to understand trends and By-law Enforcement staff will continue to respond to odour complaints and report on odour

complaints received through their quarterly reports. Planning staff will also continue to engage with external legal counsel to utilize appropriate efforts to obtain the required documentation from Redecan in accordance with the OLT interim order and Minutes of Settlement.

**Consultation:**

The Town CAO, Town Solicitor, Fire Chief and Director of Fire and By-law Services, Senior By-law Enforcement Officer, Director of Corporate Services and Treasurer were consulted in the preparation of this report.

**Other Pertinent Reports/Attachments:**

Appendix A - Executed Minutes of Settlement between Redecan and the Town.

Appendix B - OLT Interim Order dated August 23, 2023.

**Prepared and Recommended by:**

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

**Prepared and Submitted by:**

David Cribbs, BA, MA, JD, MPA  
Chief Administrative Officer

**ONTARIO LAND TRIBUNAL**

**PROCEEDING COMMENCED UNDER** subsection 17(24) of the *Planning Act*, R.S.O. 1990, c.P.13, as amended

Appellant: CannTrust Inc.  
Appellant: REDECAN & REDECAN PHARM  
Appellant: Woodstock Biomed Inc.  
Subject: Proposed Official Plan Amendment No. 09  
Municipality: Town of Pelham  
OLT Case No.: PL200426  
OLT File No.: PL200426  
OLT Case Name: Woodstock Biomed Inc. v. Pelham (Town)

**PROCEEDING COMMENCED UNDER** subsection 34(19) of the *Planning Act*, R.S.O. 1990, c.P.13, as amended

Appellant: CannTrust Inc.  
Appellant: REDECAN & REDECAN PHARM  
Appellant: Woodstock Biomed Inc.  
Subject: By-law No. BL 4252(2020)  
Municipality: Town of Pelham  
OLT Case No.: PL200426  
OLT File No.: PL200427  
OLT Case Name: Woodstock Biomed Inc. v. Pelham (Town)

**MINUTES OF SETTLEMENT**

**RECITALS:**

***Parties***

- A. The parties to these Minutes of Settlement are the Town of Pelham ("Pelham") and Redecan & Redecan Pharm (together, "Redecan"), (hereinafter collectively referred to as the "Parties").

***Redecan***

- B. Redecan operates a facility at 182 Foss Road in Pelham. The facility was approved by Health Canada for a licence to cultivate and process cannabis on September 29, 2017.
- C. Redecan acquired the adjacent property at 158 Foss Road. Parcels 158 and 182 have since merged in title (collectively hereinafter referred to as the "Redecan Site").



### **Pelham**

- D. In October 2018, Pelham passed an Interim Control By-law (4046-2018) (the "ICBL") that restricted the use of all land within the municipality for any cannabis-related land uses for a period of one year.
- E. In September 2019, Pelham extended the ICBL for an additional 9 months.
- F. On July 13, 2020, Pelham adopted Official Plan Amendment No. 9 ("OPA 9") and Zoning By-law Amendment No. 4252-2020 ("ZBA 4252"). These amendments regulate new and expanded indoor cannabis and industrial hemp cultivation within Pelham's *Good General Agriculture*, *Specialty Agriculture* and *Industrial* designations.

### **Appeals**

- G. CannTrust Inc. and Redecan, as well as one other landowner (the "Third Appellant"), appealed OPA 9 and ZBA 4252 to the Ontario Land Tribunal (the "OLT").
- H. By operation of the above-noted appeals, the ICBL remains in effect.
- I. A hearing in respect of the above-noted appeals commenced on January 24, 2022.
- J. Prior to the commencement of the hearing, Pelham revised OPA 9. These revisions were deemed satisfactory to Redecan, subject to the Parties being able to create mutually agreeable site-specific zoning regulations and permissions for the Redecan Site.
- K. Based on the above-described preliminary agreement, Redecan stood down its case before the OLT. The hearing proceeded with Pelham calling evidence-in-chief in support and only the Third Appellant calling its case in response. This evidence concluded on January 27, 2022. The hearing will resume on July 25, 2022 for five (5) days.

### **Settlement**

- L. The Parties have continued their discussions toward site-specific permissions and regulations for the Redecan Site. These discussions have resulted in agreed-upon revisions to ZBA 4252 to create the desired site-specific zoning exceptions.
- M. In order to address public interest in the approvals contemplated by these Minutes of Settlement, the Parties have also created an Odour Management Protocol applicable to the Redecan Site. The Parties are relying, in part, upon this Odour Management Protocol in order to settle the within appeals.
- N. The Parties now wish to document their agreement.

**THE PARTIES HEREBY AGREE AS FOLLOWS:**

1. The Parties acknowledge and confirm that the above recitals are true and correct.

***Section A - Settlement of OLT Appeals***

2. Redecan shall support the OLT's approval of the version of OPA 9 marked as Exhibit 11 in the hearing (the "Settled OPA").
3. Redecan shall support the OLT's approval of the version of ZBA 4252 attached hereto as Schedule "A" (the "Settled ZBA").
4. For greater clarity, it shall be Pelham's obligation to present evidence to the OLT in support of the Settled OPA and the Settled ZBA. Redecan shall consent to this evidence and shall inform the OLT at the relevant time that the approval of the Settled OPA and the Settled ZBA would dispose of all issues raised by Redecan in its appeals.
5. To document the settlement reached by the Parties, a copy of these Minutes of Settlement shall be filed with the OLT. Pelham shall request that the OLT include in its disposition that the Parties have entered into these Minutes of Settlement and are relying upon compliance with these Minutes of Settlement as justifying their settlement.
6. Redecan acknowledges that should it fail to reasonably cooperate and comply with these Minutes of Settlement, Pelham shall be at liberty to seek a review (in whole or in part) of the OLT's Decision and Order in this matter pursuant to section 23 of the *Ontario Land Tribunal Act, 2021* and Rule 25 of the OLT's *Rules of Practice and Procedure*. Redecan shall be at liberty to respond to any such review request in accordance with the applicable rules and directions of the OLT.

***Section B – Odorous Industries Nuisance By-law***

7. The Parties acknowledge that these Minutes of Settlement are being entered into without prejudice to any rights, obligations, arguments or potential enforcement under, or challenges to, Town of Pelham By-Law No. 4202(2020), being the Odorous Industries Nuisance By-law (the "OINB").
8. Pelham agrees that it shall not use any information or material obtained from Redecan pursuant to these Minutes of Settlement for purposes of enforcement under the OINB.
9. Redecan acknowledges that its current and future operations on the Redecan Site will be required to comply with the OINB if the current challenges to the OINB are dismissed or abandoned or if the OINB is upheld by the Ontario Courts in its current or in a modified form.

### ***Section C – Interpretation & Application Post-Settlement***

10. At the request of Redecan, Pelham hereby provides the following acknowledgments:
  - (a) Upon the release of a Final Order in accordance with Section D of these Minutes of Settlement, the Settled ZBA will come into force and will be deemed to conform with the Pelham Official Plan as modified by OPA 9.
  - (b) The amendments to Section E1.4 (Site Plan Control) as proposed in section 7 to OPA 9 will not apply to site plan control applications filed for the Redecan Site provided that the development contemplated by any such application does not require a further amendment to the in-force Pelham Official Plan or Zoning By-law as of the date of the site plan control application.

### ***Section D – Release of Final Order***

11. The Parties agree that the OLT's Final Order approving the portion of the Settlement ZBA containing the site-specific exceptions for the Redecan Site shall be withheld until Pelham advises the OLT in writing that the requirements of this Section D have been satisfied (the "Pelham Letter").
12. Redecan shall provide the following to the satisfaction of Pelham in respect of the Redecan Site before Pelham will issue the Pelham Letter:
  - (a) a description of the current odour control and management systems being employed;
  - (b) a site plan drawing showing the location of existing buildings, building heights and emission sources including IDs (identification); and
  - (c) a Contingency Odour Management Plan.

### ***Section E - Definitions***

13. For purposes of the balance of these Minutes of Settlement:

"Substantiated Complaint" means odour from the Redecan Site is adversely impacting a sensitive receptor located downwind of the Redecan Site. Substantiated complaints are to be validated by Redecan, Pelham and/or an agent acting on behalf of one or more of them.

"Substantiated Complaint Trigger" means a total of five (5) or more Substantiated Complaints from five (5) different complainants over a rolling ninety (90) day period have been reported in writing to Pelham and/or Redecan in respect of the Redecan Site.

"Contingency Odour Management Plan" shall include but not be limited to a description of the proposed odour controls, containment and management systems that will be employed, with implementation timelines and anticipated reduction in off-property odour, in the event that the Substantiated Complaint Trigger is met.

## **Section F – Ongoing Commitment to Odour Management**

### *Community Liaison Committee*

14. Pelham shall form a Community Liaison Committee (“CLC”) for the Redecan Site. This CLC shall be created by Pelham circulating appropriate invite notices to all landowners within a one (1) kilometre distance of the Redecan Site. Redecan shall be given a reasonable opportunity to review and have input on the contents of such invite notices.
15. The CLC shall have at least one appointee from Redecan who will act as the liaison between the CLC and the cannabis facility.
16. The CLC shall have at least one appointee from Pelham who will be a qualified professional engineer with experience in the measurement and quantifying of air contaminant and odour emissions. A copy of such engineer’s curriculum vitae shall be provided to Redecan prior to the engineer’s appointment.
17. The CLC shall meet quarterly unless determined otherwise by the CLC and the Parties acting reasonably.
18. Minutes of each CLC meeting shall be provided to each of the Parties within three (3) business days of the conclusion of the relevant meeting.

### *Complaint Tracking*

- ADP  
Redecan
19. ✓ shall develop an odour complaint recording, investigation and reporting program for its cannabis facilities. These programs shall be shared with Pelham.
  20. Pelham agrees to immediately provide to Redecan a written record (which may include an e-mail) of any odour complaint received by Pelham pertaining to the Redecan Site. Whenever possible, such record shall include information sufficient to determine approximate distance and directional parameters associated with the complaint, but in all cases such disclosure shall be subject to the requirements of the *Municipal Freedom of Information and Protection of Privacy Act*.
  21. Redecan agrees to immediately provide to Pelham a written record (which may include an e-mail) of any odour complaint received by Redecan pertaining to the Redecan Site
  22. Upon receipt of any complaint, Redecan shall prepare and submit to each of Pelham and the relevant CLC a written report (which may include an e-mail) documenting its investigation into the cause of the complaint and their proposed solution, if any. These written reports shall be provided within five (5) business days of receiving a complaint.

### *Actions on Substantiated Complaint Trigger*

23. Within five (5) days of the Substantiated Complaint Trigger being met, Redecan shall provide the following data/files to Pelham and the relevant CLC:
- (a) Baseline Source Summary Table: a listing all of original emission sources in operation at the facility during the period that the Substantiated Complaint Trigger was met, including emission source identification numbers ("IDs"), odour emission rates, exhaust parameters (flow rate, dimensions, release height above grade. etc.);
  - (b) Baseline Emission Summary Table: showing the aggregate maximum off-property odour sensitive receptor impact before abatement;
  - (c) Baseline AERMOD Atmospheric Dispersion Modeling Files (electronic copy): showing the predicted odour impacts before abatement extending at least five (5) kilometres out from the Redecan Site; and
  - (d) Baseline Odour Concentration Maps: showing the location of the relevant facility, the location of existing sensitive receptors in the surrounding community and the odour concentration lines (isopleths) before additional odour controls are in place.
24. Within thirty (30) days of the Substantiated Complaint Trigger being met, Redecan shall provide the following data/files to Pelham and the relevant CLC:
- (a) Abated Source Summary Table: a listing all of the emission sources in operation at the facility including emission source identification numbers ("IDs"), odour emission rates, exhaust parameters (flow rate, dimensions, release height above grade. etc.);
  - (b) Abated Emission Summary Table: showing the aggregate maximum off-property odour sensitive receptor impact with proposed odour controls in place;
  - (c) Abated AERMOD Atmospheric Dispersion Modeling Files (electronic copy): showing the predicted abated odour impacts extending at least five (5) kilometres out from the Redecan Site; and
  - (d) Odour Concentration Maps: showing the location of the relevant facility, the location of existing sensitive receptors in the surrounding community and the odour concentration lines (isopleths) before and after the odour controls are in place.
25. Upon receipt of the disclosure contemplated by sections 23 and 24, a meeting of the CLC shall be convened. During this meeting, Redecan shall present its findings and shall propose a solution in accordance with its Contingency Odour Management Plan. The CLC shall thereafter issue a written report to Pelham advising on the solution, implementation timelines and any proposals to ensure a further Substantiated Complaint is not received.

**Section G - General**

26. These Minutes of Settlement shall inure to the benefit of and shall be binding upon the Parties and shall be binding upon their successors in title, agents and assigns.
27. The Parties shall be responsible for their own costs throughout. There shall be no claim for costs, losses or damages of any kind whatsoever by any Party arising out of matters covered by these Minutes of Settlement, save and except for any breach of the terms and conditions of these Minutes of Settlement once executed.
28. The Parties acknowledge and confirm that these Minutes of Settlement may be executed in counterparts, each of which when executed and delivered shall be deemed to be an original, and such counterparts together shall constitute one and the same Minutes of Settlement. For the purposes of these Minutes of Settlement, the electronic delivery of a scanned copy of these Minutes of Settlement shall be deemed to be valid execution and delivery of these Minutes of Settlement.
29. The Parties acknowledge and agree that nothing in these Minutes of Settlement binds or fetters the discretion of Pelham in respect of its authority under Ontario law. The Parties further acknowledge and agree that should Pelham not approve these Minutes of Settlement by July 24, 2022, these Minutes of Settlement shall be rendered null and void, unless the Parties agree to an extension in writing, with all Parties acting reasonably.

DATED THIS 13th DAY OF JULY, 2022



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Patrick J. Harrington

of counsel to the Township of Pelham., on  
behalf of my client and with no personal  
liability whatsoever

DATED THIS 21<sup>st</sup> DAY OF JULY, 2022



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Andrew D. Pelletier

of counsel to Redecan & Redecan Pharm, on  
behalf of my clients and with no personal  
liability whatsoever

## Schedule “A”

### THE CORPORATION OF THE TOWN OF PELHAM By-law Number XXXX (2022)

Being a By-law passed pursuant to the provisions of  
Section 34 of *The Planning Act*, R.S.O. 1990, c.P.13, as amended to  
amend the Town of Pelham Zoning By-law No. 1136 (1987), as  
otherwise amended.

**Whereas** the Council of the Corporation of the Town of Pelham has initiated an application to amend By-Law No. 1136 (1987) otherwise known as the Zoning By-Law, insofar as is necessary to establish provisions that apply to cannabis-related uses and industrial hemp-related uses in the Town of Pelham;

**And Whereas** the Council of the Corporation of the Town of Pelham conducted a public hearing in regard to this application, as required by subsection 34(12) of the Planning Act, R.S. O. 1990, c.P.13, as amended;

**And Whereas** the Council of the Corporation of the Town of Pelham deems it advisable to amend Zoning By-law 1136 (1987), as otherwise amended, with respect to the above described lands, and under the provisions of the Planning Act has the authority to do so;

**Now therefore** the Council of the Corporation of the Town of Pelham enacts as follows:

1. **That** Section 3.0 of this By-law No. 1136 (1987), as amended, is further amended to add the new zones and symbols as follows:

Zone	Symbol
Agricultural - Cannabis	A – CAN
General Industrial - Cannabis	M2 – CAN

## Schedule “A”

2. **THAT** By-law 1136 (1987), as amended, is hereby amended by the addition of definitions in Section 5.0, as follows:

- i) "Cannabis-related use - indoor" means those activities authorized in accordance with the Federal Cannabis Regulation SOR-2018-144 as amended that are carried out within an enclosed building or structure.
- ii) "Cannabis-related use - outdoor" means those activities authorized in accordance with the Federal Cannabis Regulation SOR-2018-144 as amended that only involve the growing and harvesting of cannabis outdoors.
- iii) "Industrial hemp-related use - indoor" means those activities authorized in accordance with the Federal Industrial Hemp Regulation SOR-2018-145 as amended that are carried out within an enclosed building or structure.
- iv) "Industrial hemp-related use - outdoor" means those activities authorized in accordance with the Federal Industrial Hemp Regulation SOR-2018-145 as amended that only involve the growing and harvesting of hemp outdoors.
- v) “Sensitive land use” means school, day care, playground, sporting venue, park, recreational area, residence, place of worship, community centre or any other place where people regularly gather or sleep.

3. **THAT** By-law 1136 (1987), as amended, is amended by the addition of parking requirements in Section 6.16 (a), as follows:

"Cannabis-related uses - indoor and industrial hemp-related uses - indoor - 1 parking space per 100 m<sup>2</sup> (1076.39 ft<sup>2</sup>) of gross floor area"



## **Schedule “A”**

4. **THAT** By-law 1136 (1987), as amended, is hereby amended by the addition of a new subsection 7.2 (h):

"(h) Minimum setback for a cannabis-related use - outdoor and an industrial hemp-related use - outdoor from a sensitive land use - 300 metres (984 feet)."

5. **THAT** By-law 1136 (1987), as amended, is hereby amended by the addition of a new Section 7A - Agricultural - Cannabis A-CAN Zone:

### **"SECTION 7A – AGRICULTURAL CANNABIS - A-CAN ZONE**

Subject to the general provisions of Section 6 and all other applicable requirements of this By-law, the provisions of this section shall apply throughout the Agricultural Cannabis Zone.

#### **7A.1 PERMITTED USES**

- (a) Cannabis-related Use - indoor
- (b) Industrial Hemp-related Use - indoor

#### **7A.2 REGULATIONS FOR PERMITTED USES IN SUBSECTION 7A.1**

- (a) A retail store is not permitted as an accessory use to any of the permitted uses listed in Subsection 7A.1.
- (b) Minimum Lot Frontage for micro-processing and micro-cultivation as defined by the Federal Cannabis Regulation SOR-2018-144 - 100 metres.
- (c) Minimum Lot Frontage for standard processing and standard cultivation as defined by the Federal Cannabis Regulation SOR-2018-144 - 200 metres.
- (d) Minimum Lot Frontage for industrial hemp-related uses as defined by the Federal Industrial Hemp Regulation SOR-2018-145 - 200 metres.

## **Schedule “A”**

- (e) Minimum Lot Area for micro-processing and micro-cultivation as defined by the Federal Cannabis Regulation SOR-2018-144 - 3 hectares.
- (f) Minimum Lot Area for standard processing and standard cultivation as defined by the Federal Cannabis Regulation SOR-2018-144 - 10 hectares.
- (g) Minimum Lot Area for industrial hemp-related uses as defined by the Federal Industrial Hemp Regulation SOR-2018-145 - 10 hectares.
- (h) Maximum Lot Coverage - 30 percent.
- (i) Minimum Front Yard for micro-processing and micro-cultivation as defined by the Federal Cannabis Regulation SOR-2018-144 - 20 metres.
- (j) Minimum Front Yard for standard processing and standard cultivation as defined by the Federal Cannabis Regulation SOR-2018-144 - 80 metres.
- (k) Minimum Front Yard for industrial hemp-related uses as defined by the Federal Industrial Hemp Regulation SOR-2018-145 - 80 metres.
- (l) Minimum Side Yard or Rear Yard for micro-processing and micro cultivation uses as defined by the Federal Cannabis Regulation SOR-2018-144 - 15 metres, except where ventilating fans in a wall exhaust into the respective side or rear yard, the minimum yards shall be 25 metres.
- (m) Minimum Side Yard or Rear Yard for standard processing and standard cultivation uses as defined by the Federal Cannabis Regulation SOR-2018-144 - 40 metres, except where ventilating fans in a wall exhaust into the respective side or rear yard, the minimum yards shall be 60 metres.

## **Schedule “A”**

- (n) Minimum Side Yard or Rear Yard for industrial hemp-related uses as defined by the Federal Industrial Hemp Regulation SOR-2018-145 - 40 metres, except where ventilating fans in a wall exhaust into the respective side or rear yard, the minimum yards shall be 60 metres.
- (o) Minimum Exterior Side Yard for micro-processing and micro-cultivation as defined by the Federal Cannabis Regulation SOR-2018-144 - 20.5 metres.
- (p) Minimum Exterior Side Yard for standard processing and standard cultivation as defined by the Federal Cannabis Regulation SOR-2018-144 - 80 metres.
- (q) Minimum Exterior Side Yard for industrial hemp-related uses as defined by the Federal Industrial Hemp Regulation SOR-2018-145 - 80 metres.
- (r) No storage area shall be permitted within 30 metres of a street or the lot line of an adjacent lot with a residential use.

6. **THAT** By-law 1136 (1987), as amended, is hereby amended by the addition of a new Section 23A - General Industrial - Cannabis M2-CAN Zone

### **SECTION 23A – GENERAL INDUSTRIAL - M2-CAN ZONE**

Subject to the general provisions of Section 6 and all other applicable requirements of this By-law, the provisions of this section shall apply throughout the General Industrial Cannabis Zone.

#### **23A.1 PERMITTED USES**

- (a) Cannabis-related Use - Indoor
- (b) Industrial Hemp-related Use - Indoor

## **Schedule “A”**

### **23A.2 REGULATIONS FOR PERMITTED USES IN SUBSECTION 23A.1**

- (a) A retail store is not permitted as an accessory use to any of the permitted uses listed in Subsection 23A.1.
- (b) The provisions of Subsection 22.2 shall apply to all permitted uses within the General Industrial Cannabis M2-CAN Zone

**7. THAT** Schedule ‘A’ to Zoning By-law No. 1136 (1987), as amended, is hereby amended by changing the zoning of lands known municipally as 182 Foss Road and shown on Schedule 'A' attached hereto and forming part of this By-law, from the Agricultural (A) Zone to the Agricultural ‘A-CAN-319’ Zone.

**8. THAT** By-law 1136 (1987), as amended, is hereby amended by the addition of a new Section A-CAN-319 (182 Foss Road) to Section 30 as set out below:

A-CAN-319 Notwithstanding the regulations of the Agricultural Cannabis (A-CAN) zone, the following site-specific regulations also apply:

- a) Maximum gross floor area of greenhouses associated with cannabis-related use - indoor - 31,600 m<sup>2</sup>
- b) Minimum Front Yard for standard processing and standard cultivation as defined by the Federal Cannabis Regulation SOR-2018-144 - 70 metres.
- c) Minimum Side Yard or Rear Yard for standard processing and standard cultivation as defined by the Federal Cannabis Regulation SOR-2018-144 - 37 metres

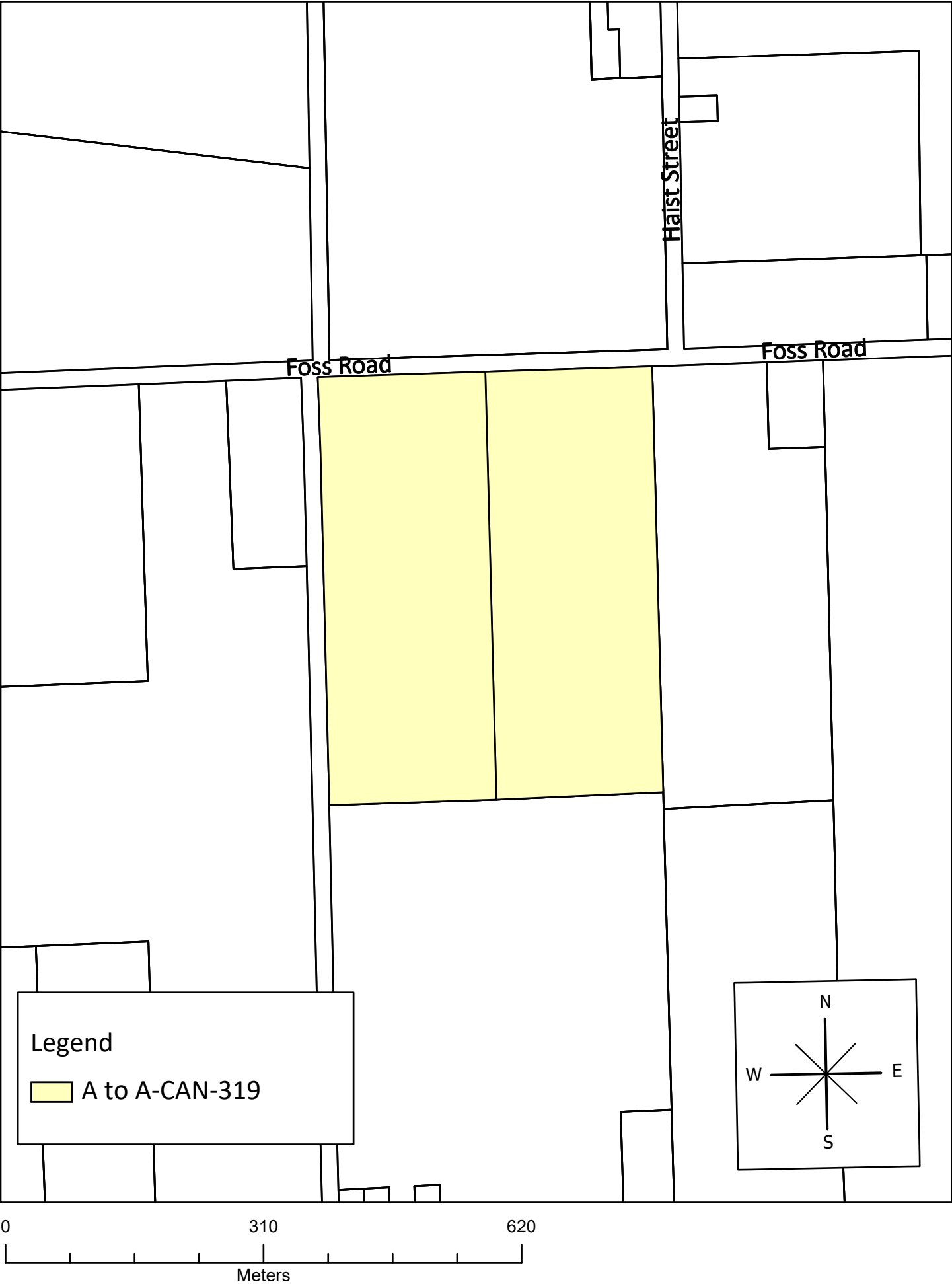
## Schedule “A”

- d) Parking spaces for all uses - 1 parking space per 80 m<sup>2</sup> of gross floor area to a maximum of 469 total parking spaces
- e) An office building that is accessory to the cannabis related use - indoor is permitted provided it has a gross floor area of less than 1,000 square metres
- f) A warehouse is permitted provided that it
  - (i) has a gross floor area of less than 11,200 square metres;
  - (ii) is accessory to the cannabis related use - indoor use that is permitted on the site; and
  - (iii) is not used for cultivation associated with any cannabis-related or hemp-related uses.

By-law approved by the Ontario Land Tribunal this \_\_\_\_\_ day of \_\_\_\_\_, 2022.

49313437.1

Schedule 'A'



This is Schedule 'A' to By-law No. \_\_\_\_\_ (2022) approved by the Ontario Land Tribunal the \_\_\_\_\_ day of \_\_\_\_\_, 2022.

## APPENDIX B

### Ontario Land Tribunal Tribunal ontarien de l'aménagement du territoire



**ISSUE DATE:** August 23, 2022

**CASE NO(S).:** OLT-22-001930  
(Formerly) PL200426

**PROCEEDING COMMENCED UNDER** subsection 17(24) of the *Planning Act*, R.S.O. 1990, c. P.13, as amended

Appellant:	CannTrust Inc.
Appellant:	Redecan & Redecan Pharm
Appellant:	Woodstock Biomed Inc.
Subject:	Proposed Official Plan Amendment No. OPA 09
Municipality:	Town of Pelham
OLT Case No.:	OLT-22-001930
Legacy Case No.:	PL200426
OLT Lead Case No.:	OLT-22-001930
Legacy Lead Case No.:	PL200426
OLT Case Name:	Woodstock Biomed Inc. v. Pelham (Town)

**PROCEEDING COMMENCED UNDER** subsection 34(19) of the *Planning Act*, R.S.O. 1990, c. P.13, as amended

Appellant:	CannTrust Inc.
Appellant:	Redecan & Redecan Pharm
Appellant:	Woodstock Biomed Inc.
Subject:	By-law No. BL 4252(2020)
Municipality:	Town of Pelham
OLT Case No.:	OLT-22-001931
Legacy Case No.:	PL200427
OLT Lead Case No.:	OLT-22-001930
Legacy Lead Case No.:	PL200426

**Heard:** January 24 to 27 and July 25, 2022 by video hearing

**APPEARANCES:****Parties**

Phoena Inc. (CannTrust Inc.)  
("Phoena")

Redecan & Redecan Pharm  
("Redecan")

Woodstock Biomed Inc.  
("Woodstock")

Town of Pelham ("Town")

**Counsel**

Sara J. Premi  
Danielle Thomas (observing)

Andrew D. Pelletier  
Brian Duxbury

Mark Russell

Patrick Harrington  
Laura Dean

**DECISION DELIVERED BY T. PREVEDEL AND INTERIM ORDER OF THE TRIBUNAL**

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**INTRODUCTION**

[1] The Town adopted Official Plan Amendment No. 9 ("OPA"), dated April 7, 2020 (By-Law No. 4251(2020)), to establish a Cannabis Overlay designation that would apply to the Good General Agricultural designation and the Industrial designation as identified on Schedule A: Land Use Plan of the Town's Official Plan.

[2] A Zoning By-Law Amendment ("ZBLA") No. 4252 (2020) was enacted at the same time to implement the OPA.

[3] The matters before the Tribunal are multiple appeals under s. 17(24) and s. 34(19) of the *Planning Act* filed against the above OPA and ZBLA.

**ADMINISTRATIVE MATTERS**

[4] Prior to the Hearing, the Parties, on consent, requested an extension of five days to the total Hearing time allotted. This was not possible, due to scheduling restrictions,



and it was agreed, on consent, to commence the Hearing as scheduled and discuss the potential for a second phase.

[5] At the outset of the Hearing, Patrick Harrington, the Town's counsel, advised the Tribunal that two of the Appellants, namely Phoena and Redecan, were currently in active discussions with the Town towards a potential settlement agreement, which would be presented to Town Council during the month of February. He asked the Tribunal to schedule a second phase to the Hearing sometime after February 2022.

[6] Mr. Harrington proposed that the Town call its evidence-in-chief first, followed by Woodstock, and that Redecan and Phoena stand down until the second phase of the Hearing. He opined that the second phase could potentially be a settlement hearing. Counsel for Redecan and Phoena were in agreement with Mr. Harrington's approach to Phase 1 of this Hearing.

[7] Mr. Russell, counsel for Woodstock, expressed his concern with respect to this proposal, as he felt that this went against paragraph 20 of the Procedural Order and could potentially prejudice his client as he had no expert on odour issues and was relying on his cross-examination of Brian Sulley, Redecan's odour expert, which would now be excluded from Phase 1 of the Hearing.

[8] The Tribunal ruled that the Hearing would proceed as scheduled, for the sake of efficient use of resources, as per Mr. Harrington's suggestion. Mr. Russell was reassured that his client would not be prejudiced and that the Tribunal would take this matter into account during the upcoming proceedings to ensure fairness and transparency.

[9] The second phase of this Hearing was scheduled for July 25, 2022 for a five-day period and details were issued to all Parties by the Case Coordinator.

## **THE PHASE 1 HEARING**

[10] The Hearing of Phase 1 of this Appeal took place over the course of four days. The conduct of the Hearing was governed by a Procedural Order issued on October 20, 2021.

[11] This Phase of the Hearing was focussed on the Town's evidence-in-chief with respect to the OPA and the ZBLA and Woodstock's issues as they relate to the Town's OPA and ZBLA.

[12] The Tribunal heard from four (4) expert witnesses, on behalf of the Parties. All expert witnesses were qualified to provide expert evidence in their respective fields. The Tribunal also heard from one witness that provided insight on the operations of Woodstock.

### **Town's Witnesses**

- Nick McDonald – land use planning
- Philip Girard – environmental odour

### **Woodstock's Witnesses**

- Kevin Bechard – land use planning
- Sean Colville – agrologist
- Paul Gri – land use and operations, Woodstock BioMed.

## **BACKGROUND AND CHRONOLOGICAL CONTEXT**

[13] Mr. McDonald provided the Tribunal with a thorough and comprehensive overview of the background and chronological context leading up to the passing of the OPA, the ZBLA and the subsequent appeals.

[14] He stated that in early 2018, the Town began receiving complaints from residents regarding the impacts they were experiencing from the operation of the existing cannabis facilities in the municipality.

[15] The following is a chronology of key dates and events as presented by Mr. McDonald:

- On October 15, 2018, Town Council passed Interim Control By-law No. 4046-2018 ("ICBL") that applied to all lands within the municipality, except those under the Development Permit Control Area of the Niagara Escarpment Commission. The ICBL had the effect of restricting the use of all land within the municipality for any cannabis-related land uses for a period of one year.
- In the spring of 2019, Council formed an advisory committee known as the Cannabis Control Committee ("CCC") to provide advice to Council on opportunities to mitigate against adverse land use impacts of cannabis production facilities and cannabis-related uses in the Town. As part of their updates to Council, the CCC prepared a number of Draft Recommendation Reports.
- As a result of a statutory Public Meeting held on September 10, 2019 to discuss planning controls to regulate cannabis-related uses, staff prepared a recommendation report which was considered by Council at a Special Meeting held on September 23, 2019. The Recommendation Report noted that additional time was warranted to make modifications and improvements to several of the draft land use planning policies, regulations and procedures which had been prepared by Town staff. Accordingly, the Recommendation Report recommended that Council consider approval of a by-law to extend the ICBL.
- On September 23, 2019, Town Council passed By-Law No. 4159 (2019) to extend the ICBL for an additional nine (9) months to July 15, 2020. During this time, it was intended that the Town would continue its efforts to

develop an approach to regulating cannabis. At a regular meeting of Council held on February 18, 2020, Community Planning & Development staff presented the Cannabis Land Use Report, dated February 2020. The staff report accompanying the Cannabis Land Use Report indicated that the Cannabis Land Use Report served as the statutorily required review and study of land use impacts and it recommended proposed policy changes and a regulatory framework for cannabis production and related land uses in the Town.

- At a regular meeting of Council held on March 23, 2020, the CCC presented a 3<sup>rd</sup> Draft Recommendation Report on Managing Cannabis Nuisances in the Town (referred to hereinafter as the “CCC Cannabis Report”). The CCC Cannabis Report covered similar topic areas as the staff Cannabis Land Use Report, and included a review of regulatory considerations, public concerns, and a brief overview of the planning context. Other sections of the CCC Cannabis Report also spoke to the Odorous Industries Nuisance By-law (adopted by Council on March 23, 2020), and potential future Noise Nuisance and Light Nuisance By-laws. The primary focus of the CCC Cannabis Report was how the adverse effects of odour from cannabis facilities could be dealt with by the Town.

[16] Mr. McDonald told the Tribunal that, according to the staff Cannabis Land Use Report, there are approximately 1,674 sensitive receptors in the Town’s agricultural areas.

[17] Based on the above chronology, Mr. McDonald advised that he was retained in January 2020 to provide professional planning advice on the planning approach and planning instruments to regulate cannabis within the community.

[18] Mr. McDonald told the Tribunal that a draft OPA and ZBLA dated April 7, 2020 was then posted on the Town’s website and notices were sent out in an appropriate

manner. The Town received 44 comments from the public, comments from the Niagara Escarpment Commission, Niagara Region ("Region") and the cannabis industry, namely Phoenia, Woodstock and Redecan.

[19] In response to feedback and comments received, Mr. McDonald advised the Tribunal that an Addendum Report was prepared dated June 22, 2020 (and revised July 5, 2020) which proposed changes to the OPA and the ZBLA dated June 19, 2020.

[20] After meeting with Town staff, the CCC and the Region, minor editorial revisions were made and a final version of the OPA and the ZBA was posted on July 5, 2020.

[21] Mr. McDonald further advised the Tribunal that the final versions of the planning documents were supported by the Region and therefore exempted from the Region's approval.

## **OVERVIEW OF THE THREE APPELLANTS**

### **1. Redecan**

[22] Redecan first received licensing approval from Health Canada on June 25, 2014, for a medical cannabis production facility to grow cannabis located at 1760 Effingham Road in the Town. The facility is currently in operation and compliant with the requirements of Health Canada, and has carried on business as a federally licensed cannabis cultivator and processor.

[23] Redecan received a second licensing approval from Health Canada on September 29, 2017 for a second farm at 182 Foss Road in the Town. The facility is currently in operation and compliant with the requirements of Health Canada and has carried on business as a federally licensed cannabis cultivator and processor continuously and uninterrupted since receiving licensing approval.

[24] Currently, Redecan employs approximately 500 people; with approximately 250 employees working in Redecan's Pelham facility.

## **2. Phoena (formerly Canntrust)**

[25] Phoena is a federally regulated licensed producer of medical and recreational cannabis, with a head office in the City of Vaughan. Phoena has been in existence since 2013, initially delivering standardized cannabis products to physicians to provide accurate dosage to patients.

[26] All of Phoena's Pelham lands are found outside the urban boundary in the agricultural area.

[27] In 2017, Phoena acquired a greenhouse facility at 1396 Balfour Street in the Town that had previously been used for the cultivation of ornamental flowers. The facility was approved for a licence for processing and cultivation through Health Canada on October 6, 2017. As part of the approval and licensing process, notification was provided to the local municipality, local fire officials and local law enforcement.

[28] On October 10, 2018, the Appellant acquired the adjacent property at 1350 Balfour Street for a planned expansion of its agricultural operations. Parcels 1350 and 1396 have since merged in title.

[29] The licensed Pelham facility constitutes a 450,000 square foot hydroponic perpetual harvest facility and is the first of its kind in Canada, producing 100% pesticide-free cannabis.

[30] In 2019, the Town issued a Building Permit for the construction of an additional 39,760 square metres of greenhouse space. Phoena has applied for and been issued related building permits as Accessory Building(s) to Farm Use. While construction has yet to begin, the Town has renewed these permits on an annual basis.

### 3. Woodstock

[31] The Subject Property is municipally known as 770 Foss Road and is bounded by Foss Road to the north, Church Street to the west, Sumbler Road to the south and a railway to the east in the Town (the "Subject Property"). The Subject Property is irregular in shape, is approximately 12.4 hectares in size and maintains approximately 6.1 metres of frontage along Foss Road per the Survey Sketch prepared by P.D. Reitsma Surveying (2005) Ltd. and dated August 18, 2006.

[32] Access is provided via a private road from Foss Road.

[33] The Subject Property is currently occupied by a greenhouse which was formerly utilized to grow cucumbers. The existing production facility has an approximate ground floor area of 2.42 hectares. A future expansion is contemplated on the Subject Property.

[34] The Subject Property is located within an agricultural area as described below:

- North: A greenhouse is located immediately to the north of the existing facility. A low-rise residential neighbourhood comprised of single detached houses is located on the north side of Foss Road and extending west of Church Street.
- South: The Property has frontage on Sumbler Road to the south, but with a generous setback, containing a portion of a wooded area. A few single detached houses are located along Sumbler Road. There are a number of farms located on the south side of Sumbler Road, opposite of the Property's rear lot line.
- East: A railway is located immediately to the east of the Property. Various farm lots are located east of the railway.

- West: Residential lots containing single detached houses are located along the east side of Church Street.

[35] The Subject Property is located approximately 3.1 kilometres and 4.7 kilometres from the existing Redecan and Phoena Inc. cannabis production facilities which located at 182 Foss Road and 1396 Balfour Street in the Town, respectively, as measured from the current building footprints.

## **OVERVIEW OF THE OFFICIAL PLAN AMENDMENT**

[36] Mr. McDonald told the Tribunal that, as noted in the final version of the OPA dated July 5, 2020, the purpose of the OPA is to establish permissions for indoor cannabis and industrial hemp cultivation and processing in the Town's agricultural area, subject to a zoning by-law amendment, and to establish the criteria to be relied upon when considering applications for these uses. Establishing the need for a zoning by-law amendment is a key foundational component of the OPA, since it triggers a process whereby studies can be asked for and reviewed in an open and transparent process involving members of the public and other stakeholders.

[37] He opined that the OPA recognizes that, because of the type of product being grown in these indoor facilities and the character of the odour, the potential for adverse effects from odour is significant and that as a first principle, the avoidance of adverse effects is preferred. However, if avoidance is not possible, adverse effects are to be minimized and appropriately mitigated. Determining how the avoidance of adverse effects can be achieved is a key element of the planning process established by the OPA.

[38] In his written and oral testimony, Mr. McDonald told the Tribunal that the OPA also recognizes that the cultivation of cannabis is an agricultural use and is permitted in agricultural areas by the Provincial Policy Statement ("PPS"). However, in the absence of Provincial standards on the adverse effects of odour from indoor cannabis and industrial hemp cultivation facilities, the OPA also recognizes that there is a need to



control the siting of such uses in relation to sensitive uses as a result of the known adverse effects from the cultivation of cannabis.

[39] He advised the Tribunal that the OPA identifies required studies to support the establishment of an indoor cannabis and industrial hemp cultivation facility. These studies include, but are not limited to, an Air Quality Study, a Contingency Odour Mitigation Plan, a Light Mitigation Plan and a Traffic Impact Study. The results of these studies will guide the establishment of minimum setbacks and a maximum size of the facility.

[40] Mr. McDonald opined that, given the known adverse effects from these facilities in the Town, the OPA is an appropriate response to community concerns about this type of use, represents good planning and is in the public interest. He further opined that the OPA conforms with and is consistent with Provincial plans and policies and conforms to the Town's Official Plan ("OP") and the Region's OP. In this regard, the Region agrees by virtue of exempting the OPA from its approval.

## **OVERVIEW OF THE ZONING BY-LAW AMENDMENT**

[41] Mr. McDonald provided an overview of the proposed ZBLA. He explained that the purpose of the ZBLA is to create two new zones that would only be applied in the future to new indoor cannabis and industrial hemp facilities, subject to Council approval in accordance with the process and criteria established by the OPA.

[42] He further explained that these new zones would not be applied to those properties on which there were legally established cannabis operations when the ICBL was passed (Phoena and Redecan), meaning these operations would become legal non-conforming uses in accordance with the *Planning Act* once and if the ZBLA is approved. The Woodstock property was not the site of a legally established cannabis operation at the time the ICBL was passed. The new zones would also not be applied

to lands that are subject to Development Control pursuant to the Niagara Escarpment Plan, such as the lands owned by Redecan at 1760 Effingham Street.

[43] Under cross examination, Mr. McDonald remained steadfast in his professional opinion that the three key studies identified in the OPA, namely the Air Quality Study, the Light Mitigation Study and the Traffic Impact Study should be undertaken at the ZBLA stage in order to determine feasibility. To undertake these key studies at the Site Plan stage assumes that the use is already permitted.

### **EVIDENCE OF PHILIP GIRARD REGARDING ODOUR CONTROL AND MITIGATION**

[44] Mr. Girard advised the Tribunal that he has been providing advice to the Town and its CCC, as an odour consultant, since June 2019 and has provided guidance and input into the OPA and the ZBLA, which are the subject of this Hearing.

[45] Mr. Girard provided the Tribunal with a thorough and comprehensive overview with respect to air quality controls, atmospheric dispersion modelling and general industry best practices with respect to odour control and odour mitigation plans.

[46] Mr. Girard reminded the Tribunal that the Town and its residents have experienced odour problems related to the existing cannabis facilities. He further stated that the community has clearly and emphatically provided input to the planning process as a result of historical concerns.

[47] He explained that the use of atmospheric dispersion modelling would identify releases in advance, thus allowing Town staff to work with the proponent in assessing risk. This would be a useful tool for the Town to have at its disposal.

[48] Mr. Girard also explained that there are no provincial permitting requirements for cannabis facilities, therefore the Town needs to develop its own assessment tools.

[49] Mr. Girard told the Tribunal that this approach to cannabis facilities is not unique to the Town and explained that this approach has also been adopted by many other municipalities in the immediate area in response to resident concerns.

## **THE WOODSTOCK APPEAL**

[50] Mr. Bechard advised that Woodstock are predominantly within the Prime Agricultural Area, with a small portion of the noted private road being within Settlement Areas.

[51] By way of chronological context, he explained that Leviathan Cannabis Group, the parent company of Woodstock, submitted an application in December 2018 to amend the ICBL and permit a cannabis production facility consisting of: a retrofitted 8,361.3 square metre greenhouse for the purpose of cannabis cultivation, a retrofitted 2,787.1 square metre headhouse with a 929 square metre addition for the purpose of cannabis harvesting and utility infrastructure, and a 464.5 square metre office accessory to the cannabis production facility.

[52] He further advised that Town Planning Staff prepared a Recommendation Report regarding the proposed amendment dated April 15, 2019, which recommended its approval to Council. The Report also recommended that the proposed facility be subject to Site Plan Control and that the Site Plan Control By-Law No. 1118 (1987) be amended to require greenhouses to be subject to Site Plan Control. Staff believed the compatibility concerns expressed by residents, including those at the February 25, 2019 public meeting, could be addressed satisfactorily through a Site Plan Agreement requiring measures such as odour and light mitigation plans. The Region Planning Staff had previously noted no objections to the proposed amendment or to the Town's opinion that the compatibility concerns could be addressed through a Site Plan Agreement in its commenting letter dated January 31, 2019.

[53] The proposed amendment to the ICBL was not passed by Council. The By-Law was later extended until July 15, 2020. OPA No. 9 and ZBLA 4252 were enacted on July 13, 2020 to establish permissions and provisions for indoor cannabis and industrial hemp cultivation.

[54] At the beginning of his oral testimony, Mr. Bechard stated that the outstanding issues were fewer than before as a result of the recent revisions identified by Mr. McDonald to the OPA during his oral testimony. He also stated that the Cannabis Land Use Report prepared by staff was thorough and well prepared.

[55] Mr. Bechard told the Tribunal that Woodstock has been engaged with the Town for the past four years, but it fails to be recognized as an existing cannabis facility in the same fashion as Redecan and Phoena.

[56] Mr. Bechard also reminded the Tribunal that no industry representatives were appointed to the CCC, despite the staff recommendation as to the proposed make-up of this body.

[57] Under cross-examination, Mr. Bechard admitted that there was no application filed by Woodstock for a cannabis operation at the time that the ICBL was enacted by Council.

[58] He also agreed, under cross-examination, that the revised OPA is a good planning instrument and can be approved. As mentioned earlier, his only concern was that Woodstock should be included as a site-specific exception.

## **THE PHASE 2 HEARING**

[59] The Hearing of Phase 2 of this Appeal took place on July 25, 2022.

[60] In advance of this Hearing, the Tribunal was advised by correspondence dated July 22, 2022, that Phoena was formerly withdrawing its appeal of the OPA 9 and the ZBLA.

[61] The Tribunal was also advised, on July 15, 2022, that the Town had reached a settlement with Redecan and Redecan Pharm on a set of site-specific zoning exceptions.

[62] Fully executed Minutes of Settlement (“MOS”) between the Town and Redecan were submitted to the Tribunal’s Case Coordinator in advance of the Hearing.

### **THE REDECAN SETTLEMENT**

[63] Mr. Harrington submitted that the MOS primarily deal with Redecan’s ongoing commitment to odour management, complaint tracking and associated actions for mitigation of substantiated odour complaints.

[64] Messrs. McDonald and Girard were called as a panel to provide the Tribunal with an overview of the proposed settlement.

[65] Mr. McDonald made reference to his previous planning evidence and spoke to the planning merits of the Redecan-related portions of the ZBLA.

[66] He explained that the last section of the revised ZBLA provides for a site-specific regulation for the provision of an office building and warehouse with an associated standard for parking spaces that has been agreed to by Redecan.

[67] Mr. McDonald concluded by opining that, in his professional opinion, the ZBLA, as amended, conforms with the Town’s OP and the OPA, conforms to the Region’s OP, conforms to the PPS, represents good planning and is in the public interest.

[68] Mr. Girard made reference to his previous comprehensive evidence with respect to odour control and mitigation and took the Tribunal through the relevant sections of the MOS, which provided a roadmap and action plan for odour mitigation.

[69] He explained that a Community Liaison Committee (“CLC”) would be created for the Redecan site, consisting of invited landowners within a one-kilometre perimeter of the site, as well as a representative from Redecan to act as liaison and an appointee from the Town, who will be a qualified professional engineer with experience in the measurement and quantifying of air contaminant and odour emissions.

[70] He advised that the CLC will meet quarterly unless otherwise determined by the CLC and the Parties acting reasonably, and Minutes of each CLC meeting shall be distributed to each of the Parties and the attendees.

[71] Mr. Girard concluded that the MOS represented a solid foundation for the ongoing commitment to odour management by Redecan and was satisfied, in his professional opinion, that the Town and Redecan had bargained in good faith.

## **ANALYSYS AND FINDINGS**

### **1. The Redecan Settlement**

[72] The Tribunal has had the benefit of a thorough and comprehensive overview of the proposed OPA and ZBLA, both orally and in written submissions, by the Town’s expert witnesses during Phase 1 of this Hearing.

[73] After careful consideration of the earlier evidence presented, and the more recent overview of the MOS and the revised ZBLA, the Tribunal finds that the proposed settlement between the Town and Redecan conforms to the PPS, conforms to the Town’s OP and the OPA, conforms to the Region’s OP, represents good planning and is in the public interest.

## 2. The Woodstock Appeal

[74] Woodstock is predominantly within the Prime Agricultural Area.

[75] Mr. Russell re-iterated that an application was made by his clients in December 2018 to amend the ICBL and permit a cannabis production facility.

[76] Mr. Russell further explained that Town Planning Staff prepared a report to Council on April 15, 2019, recommending its approval, subject to Site Plan Control. However, this was not passed by Council.

[77] Mr. Russell insisted that the Woodstock facility should be recognized as an existing cannabis facility in the same fashion as Redecan and Phoena. This was supported by the testimony provided to the Tribunal by Mr. Bechard, Woodstock's expert witness, during Phase 1 of this Hearing.

[78] He explained that Town staff had originally been supportive of Woodstock's request, and, on the basis of this support, Woodstock had retained experts and expended significant time and resources to move the process forward.

[79] Mr. Russell made reference to a case law, *Richmond Hill (Town) v. Miller Paving Ltd.* 1978 CarswellOnt 741, where a municipality passed a by-law restricting certain uses in the midst of an ongoing approval process by the proponent. In particular, he pointed to paragraphs 13 and 14 of this prior decision, where it was deemed that "intention" is a factor to be taken into consideration.

[80] Notwithstanding the above, the Tribunal notes that Woodstock's expert witness, Mr. Bechard, agreed under cross-examination that the revised OPA is a good planning instrument and can be approved. His only concern was that Woodstock should be included as a site-specific exception.

[81] The Tribunal notes that the OPA and the ZBLA, as presented during the four days of the Phase 1 Hearing, was a product of thorough analysis, studies and public input. The OPA and the ZBLA was not opposed by the major players, and it was approved by Town Council.

[82] Mr. Russell admitted that the exception to the ICBL requested by his client was denied by Council, and that Woodstock has never formally filed an application. This was also confirmed during Mr. Bechard's testimony.

[83] In this instance, the task of the Tribunal is to rule on the merits of the OPA and the ZBLA, as well as the proposed settlement between the Town and Redecan. The determination of whether Woodstock is a legal non-conforming use is not within authority of the Tribunal to determine.

[84] The Tribunal finds that Woodstock still has the opportunity to initiate an approval process with the Town, which would result in reports to Council and a public process guided by the OPA. The Tribunal feels that the process described above is the appropriate vehicle to pursue approvals through the "front door".

[85] On the basis of the written and oral testimony considered during the course of this two-phase Hearing, the Tribunal finds that the appeal by Woodstock is not justifiable and should be denied.

### **INTERIM ORDER**

[86] The Tribunal Orders that the appeal against Official Plan Amendment No. 9 by Woodstock BioMed Inc. is dismissed.

[87] The Tribunal Orders that the appeal against the proposed Zoning By-Law Amendment No. 4252 by Woodstock BioMed Inc. is dismissed.



[88] The Tribunal confirms the withdrawal of the appeal by Phoena Inc. (formerly CannTrust Inc.) as of July 22, 2022.

[89] The Tribunal grants in part the appeals filed by Redecan & Redecan Pharm and approves the following:

- (a) the version of Official Plan Amendment No. 9 attached as Schedule 1 to this Decision; and
- (b) the version of Zoning By-Law Amendment No. 4252 (2020) attached as Schedule 2 to this Decision.

[90] The Tribunal confirms that the approval of Official Plan Amendment No. 9 and Zoning By-Law Amendment No. 4252 (2020) as it relates to the Redecan Site is based on the duly executed Minutes of Settlement between the Town of Pelham and Redecan & Redecan Pharm.

[91] The Tribunal Orders that Official Plan Amendment No. 9 shall come into immediate force and effect within the Town of Pelham.

[92] The Tribunal's Final Order approving the portion of the Settlement Zoning By-Law Amendment containing the site-specific exceptions for the Redecan Site, attached as Schedule 2 to this Decision, shall be withheld until the Town of Pelham advises the Tribunal in writing that the requirements of Section "D" of the Minutes of Settlement have been satisfied, as follows:

- Redecan & Redecan Pharm shall provide the following to the satisfaction of the Town of Pelham in respect of the Redecan Site before the Town of Pelham will issue its letter authorizing release of the Final Order:
  - (a) a description of the current odour control and management systems being employed;

- (b) a site plan drawing showing the location of existing buildings, building heights and emission sources including identification; and
- (c) a Contingency Odour Management Plan.

[93] In the event that there are any difficulties implementing the above, the Tribunal may be spoken to.

*"T. Prevedel"*

T. PREVEDEL  
MEMBER

**Ontario Land Tribunal**

Website: [www.olt.gov.on.ca](http://www.olt.gov.on.ca) Telephone: 416-212-6349 Toll Free: 1-866-448-2248

The Conservation Review Board, the Environmental Review Tribunal, the Local Planning Appeal Tribunal and the Mining and Lands Tribunal are amalgamated and continued as the Ontario Land Tribunal ("Tribunal"). Any reference to the preceding tribunals or the former Ontario Municipal Board is deemed to be a reference to the Tribunal.

**OLT-22-001930 – Schedule 1**

**AMENDMENT NO. 09**

**TO THE OFFICIAL PLAN (2014)**

**FOR THE**

**CORPORATION FOR THE TOWN OF PELHAM**

**CONTENTS****PART “A” – THE PREAMBLE**

Section 1: Title and Components

Section 2: Purpose of this Amendment

Section 3: Location of the Amendment

Section 4: Basis of the Amendment

**PART “B” – THE AMENDMENT**

Introductory Statement

Details of the Amendment

## **PART “A” – THE PREAMBLE**

### **SECTION 1 – TITLE AND COMPONENTS**

This document was approved in accordance with sections 17 and 21 of the *Planning Act*, R.S.O. 1990, c.P.13, as amended and shall be known as Amendment No. 09 to the Official Plan adopted by By-law No. 3259 (2012) and confirmed by the Ontario Municipal Board decision of July 18, 2014, for the Town of Pelham Planning Area.

Part “A”, the Preamble, does not constitute part of this Amendment.

Part “B”, the Amendment, consisting of the following text constitutes Amendment No. 09 to the Official Plan adopted by By-law 3259 (2012) and confirmed by the Ontario Municipal Board decision of July 18, 2014 for the Town of Pelham Planning Area.

### **SECTION 2 – PURPOSE OF THIS AMENDMENT**

The purpose of the Amendment is to establish permissions for indoor cannabis and industrial hemp cultivation in the agricultural area, subject to a zoning by-law amendment, and to establish the criteria to be relied upon when considering such applications. These criteria would also be relied upon when an application to expand a legal non-conforming indoor cannabis cultivation facility is submitted. This Amendment does not deal with the outdoor cultivation of cannabis or industrial hemp as this is already permitted in the agricultural area.

### **SECTION 3 – LOCATION OF THE AMENDMENT**

This Amendment applies to the Good General Agricultural, Specialty Agricultural and Industrial designations and the Niagara Escarpment Plan Area as identified on Schedule A: Town of Pelham Land Use Plan.

### **SECTION 4 – BASIS OF THE AMENDMENT**

On April 13, 2017, the Government of Canada introduced Bill C-45 (the *Cannabis Act*) in the House of Commons. Based in large part on the advice provided by the Task Force on Cannabis Legalization and Regulation, Bill C-45 proposed to create the foundation for a comprehensive national framework to provide restricted access to regulated cannabis, and to control its production, distribution, sale, importation, exportation, and possession. Following parliamentary review, the *Cannabis Act* received royal assent on June 21, 2018 and it became law on October 17, 2018.

The Federal Cannabis Regulation SOR-2018-144 and the Federal Industrial Hemp Regulation SOR-2018-145 also came into effect on October 17, 2018. These two regulations implement the *Cannabis Act*.

The indoor cultivation of cannabis and industrial hemp is anticipated to occur within greenhouse or industrial type buildings that can in some cases be larger than other similar buildings used for other purposes. As a consequence of the type of product being grown in these indoor facilities and the character of the odour, the potential for adverse effects from odour is significant.

As a first principle the avoidance of adverse effects is preferred, however, if avoidance is not possible, adverse effects shall be minimized and appropriately mitigated. In order to minimize and mitigate adverse effects, it is anticipated that new indoor cannabis and industrial hemp cultivation facilities will be required to be set back an appropriate distance from sensitive uses and from each other to minimize and mitigate against potential adverse effects. In this regard, appropriate setbacks will be dictated by process specific odour emission rates and the effectiveness of the proposed odour controls.

This Amendment recognizes that the cultivation of cannabis is an agricultural use and is permitted in agricultural areas by the Provincial Policy Statement (2020), which indicates that all types, sizes and intensities of agricultural uses and normal farm practices shall be promoted and protected in accordance with Provincial standards. However, in the absence of Provincial standards on the adverse effects of odour from indoor cannabis and industrial hemp cultivation facilities, this Amendment also recognizes that there is a need to control the siting of such uses in relation to sensitive uses as a result of the known adverse effects from the cultivation of cannabis.

There is already a precedent for the establishment of setbacks from sensitive uses for odour reasons in agricultural areas in the form of the Minimum Distance Separation (MDS) guidelines established by the Province. The MDS guidelines are intended to provide the minimum distance separation between proposed new development and any existing livestock barns, manure storages and/or anaerobic digesters (MDS1) and provide the minimum distance separation between proposed new, expanding or remodelled livestock barns, manure storages and/or anaerobic digesters and existing or approved development (MDS2). Compliance with the MDS guidelines is also required by the Provincial Policy Statement (2020) when new land uses including the creation of lots or expanding livestock facilities are proposed.

The application of the MDS2 guidelines result in the establishment of setbacks that are intended to minimize the impacts of odour from livestock barns, manure storages and/or anaerobic digesters and have the effect of restricting the location of these facilities.

However, the MDS2 guidelines do not apply to cannabis and in the absence of Provincial guidance on this matter, it is up to local municipalities to establish a policy framework to avoid adverse effects, and if avoidance is not possible, to minimize and mitigate adverse effects through setbacks for indoor cannabis and industrial hemp cultivation from sensitive uses.

In this regard, the purpose of this Amendment is to establish the study requirements to determine whether the avoidance of adverse effects is possible and if not, how adverse effects can be minimized and appropriately mitigated through the use of setbacks and other measures on a case-by-case basis. Given the known adverse effects from these facilities in the Town, this Amendment is an appropriate response to community concerns about this type of use, represents good planning and is in the public interest.

Given the above, this Amendment does the following:

1. This Amendment identifies the studies that are required to support the establishment of an indoor cannabis and industrial hemp cultivation facility to ensure that all potential adverse effects are studied in advance.

In this regard, required studies include an Air Quality Study, Contingency Odour Mitigation Plan, Light Mitigation Plan, Contingency Light Mitigation Plan and Traffic Impact Study. These studies would be in addition to all other required studies typically submitted as part of an application for re-zoning or which may be required to support an application to expand a legal non-conforming indoor cannabis cultivation facility.

The results of these studies are intended to establish the minimum setback from sensitive land uses to be included, if necessary, in the required site-specific zoning by-law amendment and may establish a maximum size for the facility, if it has been determined that the siting of the facility can be supported. These studies may also establish minimum separation distances between a proposed facility and any existing indoor cannabis or industrial hemp cultivation facilities, as required, to mitigate adverse effects.

A supporting zoning by-law amendment has been prepared to implement this Amendment.

## **PART B – THE AMENDMENT**

All of this Part of the document entitled Part B - The Amendment consisting of the following text constitutes Amendment No. 09 to the Official Plan of the Town of Pelham.

### **Details of the Amendment**

The Town of Pelham Official Plan is hereby amended as follows:

1. That Section B2.1.2 (**Permitted Uses - Good General Agricultural Designation**) be amended to include a new sub-section l) as follows:
  - l) Indoor cannabis and industrial hemp cultivation in accordance with Section B2.1.5.
2. That Section B2.1 – (Good General Agricultural Designation), be amended by including a new Section B2.1.5 and re-numbering the remaining sections accordingly:

#### **B2.1.5 Indoor Cannabis and Industrial Hemp Cultivation**

##### **B2.1.5.1 Development Criteria**

- a) Indoor cannabis and industrial hemp cultivation facilities that are authorized by the Federal Government may be permitted in the Good General Agricultural designation subject to the passage of an amendment to the implementing zoning by-law and will, if approved through such a process, be subject to Site Plan Control in accordance with Section E1.4 of this Plan. Prior to considering the approval of a zoning by-law amendment or an application to expand a legal non-conforming indoor cannabis facility, Council or the Committee of Adjustment (as the case may be) shall be satisfied that:
  - i) The proposed greenhouse or other type of building will be designed and sited to blend in with surrounding land uses such that the existing agricultural and rural character of the area is maintained;
  - ii) The adverse effects of the noise, dust, odour and light from the proposed facility on sensitive land uses in the area can be avoided and if avoidance is not possible, minimized and appropriately mitigated, as demonstrated by the required studies identified in Section B2.1.5.2 of this Plan;
  - iii) Sensitive surface water features and sensitive ground water features in the area will be protected, improved or restored with consideration given to the taking of water and the generation of effluent;



- ) Adequate parking facilities are available on the lot for the proposed facility and the traffic generated by the proposed facility can be accommodated on area roads;
- i) The proposed facility can be serviced with an appropriate water supply and an appropriate means of sewage disposal;
- ii) Stormwater management needs can be met on site;
- iii) The waste generated from the facility can be appropriately managed; and
- iv) The proposed setback, as determined by the required studies in Section B2.1.5.2 of this Plan, from sensitive land uses in the area is appropriate to avoid, and if avoidance is not possible, minimize and appropriately mitigate any adverse effects.
- b) In addition to sub-section a), and if a component(s) of the proposed facility includes value-added components that would make this component of the facility an agricultural-related use, it must be demonstrated that this component of the facility:
  - i) Shall be compatible with and shall not hinder surrounding agricultural operations;
  - ii) Is directly related to farm operations in the area;
  - iii) Supports agriculture;
  - iv) Benefits from being in close proximity to farm operations; and,
  - v) Provides direct products and/or services to farm operations as a primary activity.

In order to assist with the consideration of a proposed agricultural-related use involving cannabis or industrial hemp, regard should be had to the Guidelines on Permitted Uses in Ontario's Prime Agricultural Area. An Amendment to this Plan is not required for a proposed agricultural-related use involving cannabis or industrial hemp.

### **B2.1.5.2 Specific Required Studies**

The studies listed in this Section shall be required to satisfy the development criteria set out in Section B2.1.5.1 a) of this Plan and peer reviews of these studies may be carried out by the Town at no cost to the Town. The studies listed in this section would be in addition to any of the other studies required by Section E3 of this Plan.

a) Air Quality Study

- i) At no cost to the Town, the proponent will submit an Air Quality Study (AQS) that is prepared by a Licensed Engineering Practitioner (which means that they must be licensed by Professional Engineers Ontario). The AQS will document the emission sources at the facility and quantify the emission rates of air contaminants including odour, chemicals and particulate matter.
- ii) The AQS shall detail the proposed air filtration and odour control systems and other mitigation measures that will be used to manage odour. The AQS shall include atmospheric dispersion modelling predictions that show odour and contaminant concentration predictions along the property line and extend outward 5 kilometres from the facility into the surrounding community. The AQS shall include a review of the impacts of other cannabis and industrial hemp facilities within the area to determine the extent of the potential cumulative adverse effects.
- iii) In addition to sub-section ii) above, and to minimize the likelihood of adverse effects, the AQS should target a sensitive receptor impact of two odour units, however the Town will consider other odour impact predictions. An electronic copy of the atmospheric dispersion model files used in the AQS shall be included with the submission.
- iv) In addition to the above, the proponent of the proposed facility will submit a Contingency Odour Mitigation Plan, prepared by a Licensed Engineering Practitioner that considers additional air filtration systems or other mitigation measures for use in the event of substantiated future complaints after the use has been established. Agreement on the appropriate triggers for additional mitigation will be made in advance.

b) Light Mitigation Plan

- i) At no cost to the Town, the proponent will submit a Light Mitigation Plan, prepared by a Licensed Engineering Practitioner that fully describes the proposed light mitigation measures and demonstrates that the proposed facility will not cause light pollution, including sky glow or light trespass, onto neighbouring properties.
- ii) In addition to sub-section i), the proponent will also submit a Contingency Light Pollution Mitigation Plan, prepared by a Licensed Engineering Practitioner that considers additional mitigation measures and implementation timelines for use in the event of substantiated future complaints after the use has been established. Agreement on the appropriate triggers for additional mitigation will be made in advance.

c) Traffic Impact Study

- i) At no cost to the Town, the proponent will submit a Traffic Impact Study, to the satisfaction of the Town and/or the Region that demonstrates that the proposed facility will not cause any traffic hazards or an unacceptable level of congestion on roads in the area.

#### **B2.1.5.3 Scope of Required Studies**

In accordance with Section E3.1 of this Plan, the Town will determine what supporting information (i.e. reports and studies) are required as part of the complete application submission involving a re-zoning and inform the proponent of these requirements, following the holding of a pre-consultation meeting. If an application is proposed to be submitted to the Committee of Adjustment to expand a legal non-conforming indoor cannabis cultivation facility, the proponent is encouraged to consult with the Town to determine study requirements.

#### **B2.1.5.4 Need for Setbacks**

- a) In recognition of the known adverse effects of odour, the avoidance of adverse effects shall be a first principle. If adverse effects cannot be avoided, the minimization and mitigation of adverse effects has to be considered. One of the ways to avoid, minimize and mitigate adverse effects is through the separation of incompatible uses through the use of setbacks.

- b) The setbacks that are derived as a result of the review of an application to amend the zoning by-law or to expand a legal non-conforming indoor cannabis cultivation facility will depend on:
  - i) Whether the facility is a greenhouse or an industrial-type building and if a greenhouse is proposed, whether the proposed greenhouse is purpose built for cannabis or industrial hemp or already exists;
  - ii) The size and scale of the proposed facility;
  - iii) The proximity and number of sensitive uses in the area including the potential for additional sensitive uses on vacant lots that are zoned to permit a sensitive use;
  - iv) The location of the proposed facility in relation to prevailing winds;
  - v) The nature of the adverse effects that exist at the time in relation to existing indoor cannabis cultivation facilities; and
  - vi) The impact of topography on the dispersion of odour.

#### **B2.1.5.5 Implementing Zoning By-law**

Only lands that have satisfied the requirements of this Section of the Plan shall be placed in a zone that permits indoor cannabis and industrial hemp cultivation facilities in the implementing Zoning By-law.

- 3. That Section B2.2.2 (**Permitted Uses - Specialty Agricultural Designation**) be amended to include a new sub-section k) as follows:
  - k) Indoor cannabis and industrial hemp cultivation in accordance with Section B2.2.9.
- 3. That Section B2.2 – (**Specialty Agricultural Designation**), be amended by including a new Section B2.2.9 and re-numbering the remaining sections accordingly:

#### **B2.2.9 Indoor Cannabis and Industrial Hemp Cultivation**

Indoor cannabis and industrial hemp cultivation facilities that are authorized by the Federal Government may be permitted in the Specialty Agricultural designation subject to the passage of an amendment to the implementing zoning by-law or an application to expand a legal non-conforming indoor cannabis facility, in accordance with Section B2.1.5 of this Plan and will, if approved through such a process, be subject to Site Plan Control in accordance with Section E1.4 of this Plan.

Given the rolling topography of this area and the resultant creation of numerous microclimates, it is anticipated that it will be more difficult to avoid adverse effects in this area when compared to the Good General Agricultural designation if an indoor cannabis or industrial hemp cultivation facility was proposed.

Only lands that have satisfied the requirements of Section B2.1.5 of the Plan shall be placed in a zone that permits indoor cannabis and industrial hemp cultivation facilities in the implementing Zoning By-law.

4. That Section B2.3.2 (**Permitted Uses - Industrial Designation**) be amended to include a new sub-section k) as follows:

k) Indoor cannabis and industrial hemp cultivation in accordance with Section B2.1.5.

5. That Section B3.1.1 (**Conflict and Conformity - Niagara Escarpment Plan Area**) be amended to include a new fourth paragraph as follows:

Section B2.1.5 of this Plan shall apply to the consideration of a Development Permit application to establish a new indoor cannabis or industrial hemp cultivation facility.

6. That Section E1.4 (**Site Plan Control**), be amended by including a new paragraph at the end of the section as follows:

It is the intent of this Plan that Site Plan Approval will be required for all proposed indoor cannabis and industrial hemp cultivation facilities that may be permitted in accordance with Policies B2.1.5, B2.2.9 or B2.3.2 k) to the maximum extent afforded under the *Planning Act*, in order to proactively mitigate adverse effects where possible and to maximize compatibility with land uses in the area.

Any construction of a building or structure associated with a proposed indoor cannabis or industrial hemp cultivation facility is subject to the Ontario Building Code and will require the submission of Mechanical and Electrical Design Specifications and Drawings for review prior to the issuance of a building permit. Final as-built drawings will also be required. These specifications and drawings include those associated with air/odour filtration systems and equipment for light pollution mitigation.

**OLT-22-001930 – Schedule 2**

**THE CORPORATION OF THE  
TOWN OF PELHAM  
By-law Number XXXX (2022)**

**Being a By-law passed pursuant to the provisions of  
Section 34 of The Planning Act, R.S.O. 1990, c.P.13, as amended to  
amend the Town of Pelham Zoning By-law No. 1136 (1987), as  
otherwise amended.**

**Whereas** the Council of the Corporation of the Town of Pelham has initiated an application to amend By-Law No. 1136 (1987) otherwise known as the Zoning By-Law, insofar as is necessary to establish provisions that apply to cannabis-related uses and industrial hemp-related uses in the Town of Pelham;

**And Whereas** the Council of the Corporation of the Town of Pelham conducted a public hearing in regard to this application, as required by subsection 34(12) of the Planning Act, R.S. O. 1990, c.P.13, as amended;

**And Whereas** the Council of the Corporation of the Town of Pelham deems it advisable to amend Zoning By-law 1136 (1987), as otherwise amended, with respect to the above described lands, and under the provisions of the Planning Act has the authority to do so;

**Now therefore** the Council of the Corporation of the Town of Pelham enacts as follows:

1. **That** Section 3.0 of this By-law No. 1136 (1987), as amended, is further amended to add the new zones and symbols as follows:

<b>Zone</b>	<b>Symbol</b>
Agricultural - Cannabis	A – CAN
General Industrial - Cannabis	M2 – CAN

2. **THAT** By-law 1136 (1987), as amended, is hereby amended by the addition of definitions in Section 5.0, as follows:
- i) "Cannabis-related use - indoor" means those activities authorized in accordance with the Federal Cannabis Regulation SOR-2018-144 as amended that are carried out within an enclosed building or structure.
  - ii) "Cannabis-related use - outdoor" means those activities authorized in accordance with the Federal Cannabis Regulation SOR-2018-144 as amended that only involve the growing and harvesting of cannabis outdoors.
  - iii) "Industrial hemp-related use - indoor" means those activities authorized in accordance with the Federal Industrial Hemp Regulation SOR-2018-145 as amended that are carried out within an enclosed building or structure.
  - iv) "Industrial hemp-related use - outdoor" means those activities authorized in accordance with the Federal Industrial Hemp Regulation SOR-2018-145 as amended that only involve the growing and harvesting of hemp outdoors.
  - v) "Sensitive land use" means school, day care, playground, sporting venue, park, recreational area, residence, place of worship, community centre or any other place where people regularly gather or sleep.
3. **THAT** By-law 1136 (1987), as amended, is amended by the addition of parking requirements in Section 6.16 (a), as follows:
- "Cannabis-related uses - indoor and industrial hemp-related uses - indoor - 1 parking space per 100 m<sup>2</sup> (1076.39 ft<sup>2</sup>) of gross floor area"
4. **THAT** By-law 1136 (1987), as amended, is hereby amended by the addition of a new subsection 7.2 (h):
- "(h) Minimum setback for a cannabis-related use - outdoor and an industrial hemp-related use - outdoor from a sensitive land use - 300 metres (984 feet)."

5. **THAT** By-law 1136 (1987), as amended, is hereby amended by the addition of a new Section 7A - Agricultural - Cannabis A-CAN Zone:

**"SECTION 7A – AGRICULTURAL CANNABIS - A-CAN ZONE**

Subject to the general provisions of Section 6 and all other applicable requirements of this By-law, the provisions of this section shall apply throughout the Agricultural Cannabis Zone.

**7A.1 PERMITTED USES**

- (a) Cannabis-related Use - indoor
- (b) Industrial Hemp-related Use - indoor

**7A.2 REGULATIONS FOR PERMITTED USES IN SUBSECTION 7A.1**

- (a) A retail store is not permitted as an accessory use to any of the permitted uses listed in Subsection 7A.1.
- (b) Minimum Lot Frontage for micro-processing and micro-cultivation as defined by the Federal Cannabis Regulation SOR-2018-144 - 100 metres.
- (c) Minimum Lot Frontage for standard processing and standard cultivation as defined by the Federal Cannabis Regulation SOR-2018-144 - 200 metres.
- (d) Minimum Lot Frontage for industrial hemp-related uses as defined by the Federal Industrial Hemp Regulation SOR-2018-145 - 200 metres.
- (e) Minimum Lot Area for micro-processing and micro-cultivation as defined by the Federal Cannabis Regulation SOR-2018-144 - 3 hectares.
- (f) Minimum Lot Area for standard processing and standard cultivation as defined by the Federal Cannabis Regulation SOR-2018-144 - 10 hectares.



- (g) Minimum Lot Area for industrial hemp-related uses as defined by the Federal Industrial Hemp Regulation SOR-2018-145 - 10 hectares.
- (h) Maximum Lot Coverage - 30 percent.
- (i) Minimum Front Yard for micro-processing and micro-cultivation as defined by the Federal Cannabis Regulation SOR-2018-144 - 20 metres.
- (j) Minimum Front Yard for standard processing and standard cultivation as defined by the Federal Cannabis Regulation SOR-2018-144 - 80 metres.
- (k) Minimum Front Yard for industrial hemp-related uses as defined by the Federal Industrial Hemp Regulation SOR-2018-145 - 80 metres.
- (l) Minimum Side Yard or Rear Yard for micro-processing and micro cultivation uses as defined by the Federal Cannabis Regulation SOR-2018-144 - 15 metres, except where ventilating fans in a wall exhaust into the respective side or rear yard, the minimum yards shall be 25 metres.
- (m) Minimum Side Yard or Rear Yard for standard processing and standard cultivation uses as defined by the Federal Cannabis Regulation SOR-2018-144 - 40 metres, except where ventilating fans in a wall exhaust into the respective side or rear yard, the minimum yards shall be 60 metres.
- (n) Minimum Side Yard or Rear Yard for industrial hemp-related uses as defined by the Federal Industrial Hemp Regulation SOR-2018-145 - 40 metres, except where ventilating fans in a wall exhaust into the respective side or rear yard, the minimum yards shall be 60 metres.
- (o) Minimum Exterior Side Yard for micro-processing and micro-cultivation as defined by the Federal Cannabis Regulation SOR-2018-144 - 20.5 metres.

- (p) Minimum Exterior Side Yard for standard processing and standard cultivation as defined by the Federal Cannabis Regulation SOR-2018-144 - 80 metres.
- (q) Minimum Exterior Side Yard for industrial hemp-related uses as defined by the Federal Industrial Hemp Regulation SOR-2018-145 - 80 metres.
- (r) No storage area shall be permitted within 30 metres of a street or the lot line of an adjacent lot with a residential use.

6. **THAT** By-law 1136 (1987), as amended, is hereby amended by the addition of a new Section 23A - General Industrial - Cannabis M2-CAN Zone

### **SECTION 23A – GENERAL INDUSTRIAL - M2-CAN ZONE**

Subject to the general provisions of Section 6 and all other applicable requirements of this By-law, the provisions of this section shall apply throughout the General Industrial Cannabis Zone.

#### **23A.1 PERMITTED USES**

- (a) Cannabis-related Use - Indoor
- (b) Industrial Hemp-related Use - Indoor

#### **23A.2 REGULATIONS FOR PERMITTED USES IN SUBSECTION 23A.1**

- (a) A retail store is not permitted as an accessory use to any of the permitted uses listed in Subsection 23A.1.
- (b) The provisions of Subsection 22.2 shall apply to all permitted uses within the General Industrial Cannabis M2-CAN Zone

7. **THAT** Schedule 'A' to Zoning By-law No. 1136 (1987), as amended, is hereby amended by changing the zoning of lands known municipally as 182 Foss Road and shown on Schedule 'A' attached hereto and forming part of this By-law, from the Agricultural (A) Zone to the Agricultural 'A-CAN-319' Zone.
8. **THAT** By-law 1136 (1987), as amended, is hereby amended by the

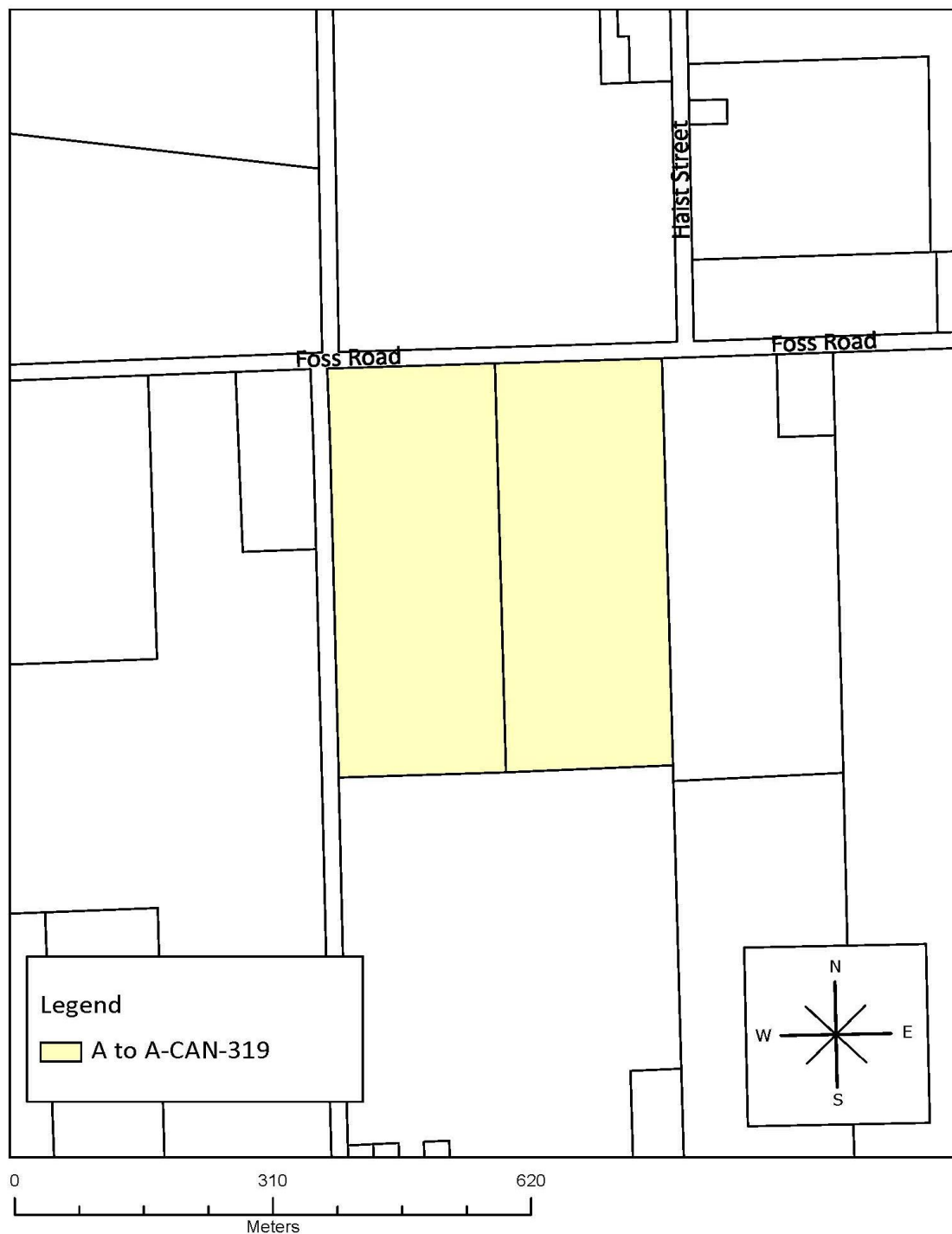
addition of a new Section A-CAN-319 (182 Foss Road) to Section 30 as set out below:

A-CAN-319 Notwithstanding the regulations of the Agricultural Cannabis (A-CAN) zone, the following site-specific regulations also apply:

- a) Maximum gross floor area of greenhouses associated with cannabis-related use - indoor - 31,600 m<sup>2</sup>
- b) Minimum Front Yard for standard processing and standard cultivation as defined by the Federal Cannabis Regulation SOR-2018-144 - 70 metres.
- c) Minimum Side Yard or Rear Yard for standard processing and standard cultivation as defined by the Federal Cannabis Regulation SOR-2018 -144 - 37 metres
- d) Parking spaces for all uses - 1 parking space per 80 m<sup>2</sup> of gross floor area to a maximum of 469 total parking spaces
- e) An office building that is accessory to the cannabis related use - indoor is permitted provided it has a gross floor area of less than 1,000 square metres
- f) A warehouse is permitted provided that it
  - (i) has a gross floor area of less than 11,200 square metres;
  - (ii) is accessory to the cannabis related use - indoor use that is permitted on the site; and
  - (iii) is not used for cultivation associated with any cannabis-related or hemp-related uses.

By-law approved by the Ontario Land Tribunal this \_\_\_\_\_ day of \_\_\_\_\_, 2022.

## Schedule 'A'



This is Schedule 'A' to By-law No. \_\_\_\_\_ (2022) approved by the Ontario Land Tribunal the \_\_\_\_\_ day of \_\_\_\_\_, 2022.

## **REGULAR COUNCIL MINUTES**

**Meeting #:** C-15/2023  
**Date:** Wednesday, August 16, 2023  
**Time:** 9:00 AM  
**Location:** Meridian Community Centre - Accursi A and B  
100 Meridian Way  
Fonthill, ON  
L0S 1E6

**Members Present:** Mayor Marvin Junkin – Via Zoom  
Councillor Bob Hildebrandt  
Councillor Wayne Olson  
Councillor John Wink- Chaired  
Councillor Shellee Niznik  
Councillor Brian Eckhardt

**Regrets:** Councillor Kevin Ker

**Staff Present:** David Cribbs  
Bob Lymburner  
Jason Marr  
Jennifer Stirton  
Vickie vanRavenswaay  
Barbara Wiens  
Sarah Leach, Deputy Clerk  
Brianna Langohr  
William Tigert  
Usama Seraj

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### **1. Call to Order and Declaration of Quorum**

Noting that a quorum was present, the Deputy Mayor called the meeting to order at approximately 9:00 am.

### **2. National Anthem**

### **3. Land Recognition Statement**

The Councillor Eckhardt read the land acknowledgement into the record.

### **4. Approval of the Agenda**

BE IT RESOLVED THAT the agenda for the August 16, 2023 Regular meeting of Council be adopted, as circulated.

**Amendment:**

**Moved By** Councillor Shellee Niznik

**Seconded By** Councillor Brian Eckhardt

**THAT the agenda be amended to:**

- **Include a notice of motion by Deputy Mayor Wink;**
- **Include an item of new business by Councillor Niznik;**
- **Add a closed-session item under section 239(2)(f) (f) advice that is subject to solicitor-client privilege, including communications necessary for that purpose;**
- **Re-order the agenda to move item 12 New Business, following the in-camera session.**

**Carried**

**Moved By** Councillor Shellee Niznik

**Seconded By** Councillor Brian Eckhardt

**BE IT RESOLVED THAT the agenda for the August 16, 2023 Regular meeting of Council be adopted, as amended.**

**Carried**

**5. Disclosure of Pecuniary Interests and General Nature Thereof**

There were no pecuniary interests disclosed by any of the members present.

**6. Adoption of Council Minutes**

**Moved By** Councillor Bob Hildebrandt

**Seconded By** Councillor Brian Eckhardt

**BE IT RESOLVED THAT the following minutes be adopted as printed, circulated and read:**

**1. C-14/2023 - Regular Council Meeting - July 26, 2023**

**Carried**

**7. Delegation by Pelham Panthers Junior Hockey Club**

**Moved By** Councillor Wayne Olson

**Seconded By** Councillor Bob Hildebrandt

**BE IT RESOLVED THAT the Rules of Procedure as contained in the Town of Pelham Procedural By-law, be suspended as they**

**pertain to Delegations and Presentations and that the Delegation by Tim Toffolo of the Pelham Panthers Junior Hockey Club be permitted, requiring a 2/3 majority vote.**

**Carried**

Tim Toffolo provided a brief overview of the Pelham Panther Junior Hockey Club in Pelham. Various Members of Council thanked Mr. Toffolo for his attendance and presentation.

**8. Request(s) to Lift Consent Agenda Item(s) for Separate Consideration**

**9. Consent Agenda Items to be Considered in Block**

**Moved By** Councillor Shellee Niznik

**Seconded By** Councillor Wayne Olson

**9.1 Staff Reports of a Routine Nature for Information or Action**

**9.1.1 Consolidated Linear Infrastructure Environmental Compliance Approval Information, 2023-0174-Public Works**

**BE IT RESOLVED THAT Council receive Report #2023-0174 – Consolidated Linear Infrastructure Environmental Compliance Approval, for information;**

**9.2 Action Correspondence of a Routine Nature**

**9.2.1 Niagara Escarpment Biosphere Network - Request for Endorsement**

**WHEREAS the Niagara Escarpment, from Queenston in the south to Tobermory in the north, has been recognized by the United Nations Educational, Scientific and Cultural Organization (UNESCO) as a World Biosphere since 1990;**

**AND WHEREAS the Niagara Escarpment Biosphere (NEB) provides a range of very positive returns to Ontarians, including but not limited to promoting biodiversity of both flora and fauna, open landscape, productive agriculture and agri-tourism, traditional Indigenous knowledge and cultural history, eco-system services, a living laboratory for learning, carbon sequestration, climate change mitigation and adaptation;**

**AND WHEREAS the NEB is integral to the protection and enhancement agenda for the Great Lakes, especially since several of Ontario's major riverine systems have their headwaters within the NEB that**

**in turn feed into each of Lake Huron, Lake Erie, Lake Ontario and Georgian Bay;**

**AND WHEREAS oversight of the NEB has successfully transitioned from the Ontario governmental agency, the Niagara Escarpment Commission to a citizen-centred, not-for-profit organization, namely the Niagara Escarpment Biosphere Network (NEBN);**

**AND WHEREAS the NEBN has been established as a Co-Leadership model between Indigenous and Non-indigenous leaders, with a key objective of establishing the future direction of the NEBN as a model of delivering on the worthy goals of Canada's Truth and Reconciliation Commission as well as a demonstrated commitment to the United Nation's Declaration on the Rights of Indigenous Peoples;**

**AND WHEREAS the NEBN has made and continues to demonstrate its commitment to partner engagement and collaboration across many sectors and interests, including municipal, environmental, tourism, educational, youth, economic, research, and more;**

**AND WHEREAS Town of Pelham Council has demonstrated its commitment to the integrity of the NEB through policy and action over many decades;**

**AND WHEREAS the NEBN is seeking continuation of the official UNESCO Biosphere designation for the NEB, with the support of those who call the NEB home for work, play and study;**

**NOW THEREFORE BE IT RESOLVED THAT the Town of Pelham Council strongly supports the continuation of the UNESCO Biosphere designation for the Niagara Escarpment and for the oversight model that has been established with the NEBN.**

**10. Consent Agenda Item(s) Lifted for Separate Consideration, if any**

**11. Presentation and Consideration of Reports**

**11.1 Staff Reports Requiring Action**

**11.1.1 Compensation Policy Updated to Include Living Wage Clause, 2023-0142-Chief Administrator Officer**

**Moved By** Councillor Bob Hildebrandt

**Seconded By** Councillor Brian Eckhardt

**BE IT RESOLVED THAT Council receive Report #2023-0142, for information;**



**AND THAT Council approve the Non-Compensation Policy S600-30, as amended.**

**11.1.2 Professional Training and Education Financial Assistance Policy, 2023-0123-Chief Administrator Officer**

**Moved By** Councillor Brian Eckhardt

**Seconded By** Councillor Wayne Olson

**BE IT RESOLVED THAT Council receive Report #2023-0123, for information;**

**AND THAT Council approve the Professional Training and Education Financial Assistance Policy S600-18, as amended.**

**Carried**

**11.1.3 Policy for Donations to the Town of Pelham, 2023-0185-Town Solicitor**

**Moved By** Councillor Shellee Niznik

**Seconded By** Councillor Bob Hildebrandt

**BE IT RESOLVED THAT Council receive Report #2023-0185 Proposed Policy for Donations to the Town of Pelham, for information;**

**AND THAT Council approve proposed Policy No. S400-11 – Donations to the Town of Pelham.**

**Carried**

**11.1.4 Proposed Replacement of Town of Pelham Sign By-law, 2023-0177-Town Solicitor**

**Moved By** Councillor Shellee Niznik

**Seconded By** Councillor Brian Eckhardt

**BE IT RESOLVED THAT Council receive Report # 2023-0177 – Proposed Replacement of Town of Pelham Sign By-law, for information;**

**AND THAT Council approve, in principle, the proposed sign regulation by-law as presented;**

**AND THAT Council direct that the proposed by-law be presented to Council for consideration at the next regular meeting of Council.**

**Carried**

**11.1.5 Wellington Heights Pedestrian Crossing, 2023-0182-Public Works**

BE IT RESOLVED THAT Council receive Report #2023-0182 - Wellington Heights Pedestrian Crossing, for information;

AND THAT Council directs staff to not proceed with the installation of a LEVEL 2 – Type B PXO crossing on Canboro Road at Wellington Heights School as approved in the 2023 Capital Budget under project RD 10-23;

AND THAT Council directs staff to proceed with repainting the existing line markings and installing removable bollards along the road centerline within the crosswalk excluding the winter months November to March with project costs charged to RD 10-23.

**Amendment:**

**Moved By** Councillor Wayne Olson

**Seconded By** Councillor Bob Hildebrandt

**THAT the motion be amended to strike paragraph 3 and replace it with the following:**

**AND THAT Council directs staff to proceed with repainting the existing line markings and install removable bollards along the road centerline within the cross walk excluding the winter months November to March;**

**AND install a digitized speed sign for westbound traffic on Canboro Road between Sandra Drive and the Pedestrian crossing approaching the pedestrian crossing with project costs being charged to RD 10-23.**

**Carried**

**Motion as Amended:**

**Moved By** Councillor Wayne Olson

**Seconded By** Councillor Bob Hildebrandt

**BE IT RESOLVED THAT Council receive Report #2023-0182 - Wellington Heights Pedestrian Crossing, for information;**

**AND THAT Council directs staff to not proceed with the installation of a LEVEL 2 – Type B PXO crossing on Canboro Road at Wellington Heights School as approved in the 2023 Capital Budget under project RD 10-23;**

**AND THAT Council directs staff to proceed with repainting the existing line markings and install removable bollards along the road centerline within the cross walk excluding the winter months November to March;**

**AND install a digitized speed sign for westbound traffic on Canboro Road between Sandra Drive and the Pedestrian crossing approaching the pedestrian crossing with project costs being charged to RD 10-23.**

**Carried**

**11.1.6 Station Street Watermain Replacement Project, 2023-0183-Public Works**

**Moved By** Councillor Shellee Niznik

**Seconded By** Councillor Bob Hildebrandt

**BE IT RESOLVED THAT Council receive Report #2023-0183 - Station Street Watermain Replacement Project, for information;**

**AND THAT Council approve the award of the Station Street Watermain Replacement Project to Demar Construction Inc. in the amount of \$356,694, plus applicable taxes of \$6,278, for a total project cost of \$362,972;**

**AND THAT Council approve a budget increase of \$187,972 for project WTR 04-21, funded through the reallocation of funds from project WTR 03-21.**

**Carried**

**11.1.7 MCC - Draft Licence Agreements - Pelham Panther Hockey Club Limited, Pelham Junior Hockey Club, 2023-0184-Recreation**

Item 11.1.7 was considered following the delegation by the Pelham Panthers Junior Hockey Club.

**Moved By** Councillor Brian Eckhardt  
**Seconded By** Councillor Wayne Olson

**BE IT RESOLVED THAT Council receive Report #2023-0183 MCC – Draft Licence Agreements – Pelham Panther Hockey Club Limited and Pelham Junior Hockey Club, for information;**

**AND THAT Council authorizes and directs staff to enter into a licence agreement with Pelham Panthers Hockey Club Limited, which agreement shall be in a form satisfactory to the Town Solicitor and substantially the same as the draft licence agreement attached hereto;**

**AND THAT Council authorizes and directs staff to enter into a licence agreement with Pelham Junior Hockey Club for concession and vending machine operations at the Meridian Community Centre, which agreement shall be in a form satisfactory to the Town Solicitor and substantially the same as the draft agreement attached hereto;**

**AND THAT if either of Pelham Panthers Hockey Club Limited or Pelham Junior Hockey Club requests substantive revisions to the draft agreements attached hereto, that Council approves a sixty (60) day extension of the existing licence agreement to permit finalization of the draft agreements and Council approval of same.**

**Carried**

**12. Unfinished Business**

**13. Motions and Notices of Motion**

Deputy Mayor Wink presented a notice of motion regarding traffic on North Haist Street to be considered September 6, 2023.

**14. Resolution to Move In Camera**

**Moved By** Councillor Brian Eckhardt  
**Seconded By** Councillor Shellee Niznik

**BE IT RESOLVED THAT the next portion of the meeting be closed to the public in order to consider a matter under Section 239 (2) of the *Municipal Act*, as follows:**

**(b) - personal matters about an identifiable individual, including municipal employees - 1 item (Consideration of Appointments to Advisory Committees)**

**(d) labour relations or employee negotiations - 1 item (CUPE 1287)**

**(f) advice that is subject to solicitor-client privilege, including communications necessary for that purpose.**

**Carried**

**15. Rise From In Camera**

**Moved By** Councillor Shellee Niznik

**Seconded By** Councillor Wayne Olson

**BE IT RESOLVED THAT Council adjourn the In Camera Session and that Council do now Rise with Report**

**AND THAT the Chief Administrative Officer be and is hereby authorized to undertake the directions provided during the In Camera meeting of August 16, 2023.**

**Carried**

**16. Appointment(s) to Advisory Committees**

**Moved By** Councillor Brian Eckhardt

**Seconded By** Councillor Bob Hildebrandt

**BE IT RESOLVED THAT Council appoint the following individual to the Pelham Active Transportation Committee:**

**1. Adam Carter**

**AND THAT Council direct the Town Clerk to prepare and present the necessary appointment by-law at the following Regular Meeting of Council.**

**Carried**

**17. New Business**

**Moved By** Councillor Shellee Niznik

**Seconded By** Councillor Bob Hildebrandt

**BE IT RESOLVED THAT the Rules of Procedure as contained in the Town of Pelham Procedural By-law, be suspended as they pertain to notice of New Business requiring a 2/3 majority vote;**

**AND THAT Council discuss and proceed to file an appeal to the Ontario Land Tribunal regarding the August 8, 2023, Committee of Adjustment decision to grant Minor Variance File A16/2023P.**

**Defeated**

**18. Confirming By-Law**

**Moved By** Councillor Bob Hildebrandt  
**Seconded By** Councillor Brian Eckhardt

**BE IT RESOLVED THAT the following By-law be read a first, second and third time and passed:**

**Being a By-law No. 47-2023 to Adopt, Ratify and Confirm the proceedings of Council of the Town of Pelham at its Regular Meeting held on the 16th day of August, 2023.**

**Carried**

**19. Adjournment**

**Moved By** Councillor Shellee Niznik  
**Seconded By** Councillor Wayne Olson

**BE IT RESOLVED THAT this Regular Meeting of Council be adjourned until the next regular meeting scheduled for September 6, 2023 at 9:00 am.**

**Carried**

---

Deputy Mayor: John Wink

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Town Clerk: William Tigert

# Recommendations of the Public Meeting under the *Planning Act* held August 9, 2023 – PCOW-07/2023

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BE IT RESOLVED THAT COUNCIL HEREBY approves the following Recommendations Resulting from the Public Meeting under the *Planning Act* meeting of August 9, 2023:

- 1. THAT the agenda for the August 9, 2023, Public Meeting Under the Planning Act, Special Meeting of Committee of the Whole, be adopted as circulated.**
- 2. THAT Committee receive Report #2023-176 for information as it pertains to File Nos. AM-06-2023;**

**AND THAT Committee direct Planning staff to prepare the Recommendation Report on this topic for Council's consideration.**

- 3. THAT Committee receive the applicant's presentation for information.**
- 4. THAT Committee receive the verbal presentations made by the public;**

**AND THAT Committee receive the email correspondence to the clerks@pelham.ca email address.**

- 5. THAT this Special Committee of the Whole, Public Meeting Under the Planning Act, be adjourned.**

**Committee of the Whole Meeting**  
**Public Meeting under the Planning Act**  
**Minutes**

Meeting #: PCOW-07/2023  
Date: Wednesday, August 9, 2023  
Time: 5:30 PM  
Location: Meridian Community Centre - Accursi A and B  
100 Meridian Way  
Fonthill, ON  
L0S 1E6

Members Present: Councillor Wayne Olson, Councillor John Wink,  
Councillor Kevin Ker, Councillor Brian Eckhardt,  
Councillor Shellee Niznik

Staff Present: Barbara Wiens, Shannon Larocque, Sarah Leach

**1. Call to Order and Declaration of Quorum**

Noting that a quorum was present, the Deputy Mayor called the meeting to order at approximately 5:30 pm.

**2. Land Recognition Statement**

Deputy Mayor Wink read the land acknowledgement into the record.

**3. Adoption of Agenda**

**Moved By** Councillor Brian Eckhardt

**THAT the agenda for the August 9, 2023, Public Meeting Under the Planning Act, Special Meeting of Committee of the Whole, be adopted as circulated.**

**Carried**

**4. Disclosure of Pecuniary Interest and General Nature Thereof**

There were no pecuniary interests disclosed by any of the members present.

**5. Planning Act Application: AM-06-2023 1039 Church Street**

The Deputy Clerk read into the record the Notice Requirements regarding this application.

**5.1 Planning Report and Presentation**

Shannon Larocque, Senior Planner, provided an overview of the application before Council. A copy is available through the Clerk.



### **5.1.1 Information Report - Application for Zoning By-law Amendment - 1039 Church Street, 2023-0176- Planning**

## **5.2 Applicant's Presentation**

The Agent, Susan Smyth, provided a short presentation to further explain the application. A copy is available through the Clerk. The Applicant, Lucas Lucchetta was present via Zoom.

A Member of Council expressed concern regarding water run-off and lighting. Ms. Smyth indicated that a lighting plan would be submitted as part of the site plan process. She further indicated a functional servicing study and preliminary storm water management plan has been submitted, with a detailed design to follow. Ms. Smyth assured that final approval from Public Works would not be provided unless drainage requirements are met.

A Member of Council asked if there is a percentage of accessible units in the development. Ms. Smyth confirmed, noting Building Code requirements.

A Member of Council inquired about garbage pick-up, noting that the Niagara Region will not collect curbside garbage at this location. Ms. Smyth responded that garbage will likely be collected through private pick-up organized by the condominium.

A Member of Council expressed disappointment in the absence of an elevator. The Member asked if a drop-off location exists as the parking area is far from the entrances. Ms. Smyth indicated there are two parking areas, one that is closer to the entrance than the other.

A Member of Council asked if the applicant would consider installing a molok system for garbage collection. Ms. Smyth assured consideration of the option.

A Member of Council inquired about the proposed privacy fencing. Ms. Smyth responded that apart from the environmental corridor, there will be privacy fencing with the opportunity to include landscape features.

A Member of Council asked if the street is wide enough to accommodate 2-way traffic. Ms. Smyth confirmed.

A Member of Council stated that several trees have been removed, with little opportunity for tree planting on the subject lot. The Member asked if the applicant is willing to plant trees elsewhere in the community to compensate. Ms. Smyth indicated a tree planting plan will be provided at site plan stage which involves the restoration of trees to the satisfaction of the Town and Niagara Region.

A Member of Council asked if it would be possible to add another accessible parking space. Ms. Smyth expressed confidence the request could be accommodated. The Member further expressed concern regarding accessibility and sidewalk access. Ms. Smyth

indicated there will be sidewalk continuation, markings to cross the private road and tactile plates to meet accessibility requirements.

### **5.3 Public Input**

Mr. Larry Lethby expressed concern with the grading, noting the proposed grading is higher than neighbouring properties. Ms. Smyth indicated that further information will be provided during detailed design and vowed to provide the individual with information following the meeting to ease concerns.

Mr. Adam Arbour expressed concern about the reduction in frontage. Mr. Arbour further expressed concern about traffic on Church Street and asked if a traffic study was considered. Ms. Barb Wiens, Director of Community Planning and Development, stated that Public Works had not requested a traffic impact study and indicated that she will advise Public Works of the request. Mr. Arbour additionally expressed concern regarding the fit of the proposal in the surrounding neighbourhood. A Member of Council concurred with Mr. Arbour's concern regarding traffic on Church Street and agreed it should be looked at in more detail.

Mr. Marcel Mooren expressed concern the proposal would exacerbate water issues in the area. Ms. Wiens indicated that improvements are occurring in the area to address the concerns.

Ms. Leach checked the [clerk@pelham.ca](mailto:clerk@pelham.ca) email address and read into the record email correspondence from Natalie Narbutt. Ms. Narbutt's email identified concerns related to traffic, pollution, noise, elevation, tree removal and privacy. A copy of Ms. Narbutt's correspondence is on file with the Clerk.

Ms. Leach indicated she checked the [clerks@pelham.ca](mailto:clerks@pelham.ca) email address at 6:19 pm and confirmed no further e-mails have been received with regard to the subject application. Ms. Leach indicated the public comment portion of the application could be closed. The Committee agreed to close the public portion of the meeting and move to Committee input.

### **5.4 Committee Input**

A Member of Council asked if the parking lot and roadways will be urbanized to handle water run-off. Ms. Wiens stated the preliminary conceptual site servicing plan indicates that on-site water storage will exist on the property. She further stated that Public Works will conduct a more thorough review at the site plan stage.

A Member of Council asked if a detailed report from Public Works addressing drainage in the surrounding area could accompany the recommendation report. Ms. Wiens confirmed that additional information will be provided to address what is contemplated for at the site and in the surrounding watershed area.

### **5.5 Presentation of Resolutions**

**Moved By** Councillor Kevin Ker

**THAT Committee receive Report #2023-176 for information as it pertains to File No. AM-06-2023;**

**AND THAT Committee direct Planning staff to prepare the Recommendation Report on this topic for Council’s consideration.**

**Carried**

**Moved By** Councillor Shellee Niznik

**THAT Committee receive the applicant’s presentation for information.**

**Carried**

**Moved By** Councillor Brian Eckhardt

**THAT Committee receive the verbal presentations made by the public;**

**AND THAT Committee receive the email correspondence to the [clerks@pelham.ca](mailto:clerks@pelham.ca) email address.**

**Carried**

**6. Adjournment**

The meeting was adjourned at 6:27 pm.

**Moved By** Councillor Kevin Ker

**THAT this Special Committee of the Whole, Public Meeting Under the Planning Act, be adjourned.**

**Carried**

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Deputy Mayor: John Wink

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Deputy Clerk: Sarah Leach

**Subject:** Donation of Rotary/Pelham Summerfest Arches to Town of Pelham

**Recommendation:**

**BE IT RESOLVED THAT Council receive Report #2023-0197 Town Solicitor, Donation of Rotary/Pelham Summerfest Arches to Town of Pelham, for information.**

**Background:**

In December 2021, Council approved construction of the Rotary/Pelham Summerfest Arches. The Rotary Club of Fonthill led the initiative and the Arches were constructed at Pelham Town Square, which is municipal property. The Rotary Club now wishes to formally donate ownership of the Arches to the Town pursuant to Policy No. S400-11, Donations to the Town of Pelham, which was approved by Council on August 16, 2023. The policy requires a written agreement transferring ownership of the donation. The Rotary Club and the Town have signed a donation agreement, which is attached.

**Analysis:**

The Arches are situated on municipal property and are therefore the responsibility of the Town. Transferring ownership of the Arches by way of a donation documented in a formal agreement ensures that there is no uncertainty about the Town's future authority to manage a structure located on Town land. The agreement confirms that the Rotary Club has transferred all rights and interests it may have in the Arches to the Town and that the Town accepts the Arches as its property. The agreement sets out the rights and responsibilities of both parties and confirms the arrangements between the Rotary Club and the Town.

**Financial Considerations:**

The Town has the budget capacity to maintain and manage the Arches. There are no other financial considerations arising from accepting the donation.

**Alternatives Reviewed:**

There are no viable alternatives to formalizing the donation of the Arches in a written agreement as the Town must have clear ownership of structures on municipal land.

**Strategic Plan Relationship: Community Development and Growth**

The Arches are a local landmark that celebrate collaboration with community groups and local businesses and that serve aesthetic and practical functions at Town events.

**Consultation:**

The Rotary Club of Fonthill and senior staff were consulted in preparing the donation agreement.

**Other Pertinent Reports/Attachments:**

Donation agreement between The Rotary Club of Fonthill and The Corporation of the Town of Pelham.

**Prepared and Recommended by:**

Jennifer Stirton, BSc(Hons), LL.B.  
Town Solicitor

**Approved and Submitted by:**

David Cribbs, BA, MA, JD, MPA  
Chief Administrative Officer

**THIS AGREEMENT** made on the 23 day of August, 2023 ("the Agreement").

**B E T W E E N:**

THE ROTARY CLUB OF FONTHILL

("the Donor")

- and -

THE CORPORATION OF THE TOWN OF PELHAM

("the Town")

**WHEREAS** the Town is the owner of lands municipally known as Pelham Town Square in the Town of Pelham ("the Lands"); and

**WHEREAS** the Donor is a community organization that proposed and led an initiative to construct a structure known as the Rotary/Pelham Summerfest Arches on the Lands ("the Arches"); and

**WHEREAS** on December 20, 2021, Council approved construction of the Arches; and

**WHEREAS** the Donor obtained the plans, permits and funding required to construct the Arches; and

**WHEREAS** the Arches have been constructed on the Lands; and

**WHEREAS** the Donor desires to donate the Arches to the Town, and the Town desires to accept the donation, on the terms and conditions set out in this Agreement; and

**WHEREAS** the Donor is a corporation incorporated pursuant to the laws of Ontario and has properly authorized entering into this Agreement;

**NOW THEREFORE, IN CONSIDERATION** of the mutual covenants and agreements contained in this Agreement and for other good and valuable consideration, the receipt and sufficiency of which is acknowledged, the Donor and the Town (each "a party" and collectively "the parties") agree as follows:

## **1. DONATION AND TRANSFER OF RIGHTS**

- 1.1. The Donor hereby gives, conveys, transfers and assigns to the Town all rights, title and interest that the Donor has or may have acquired in and to the Arches to become the sole and exclusive property of the Town ("the Donation").
- 1.2. The Town hereby accepts the Donation.

## **2. TERMS AND CONDITIONS**

- 2.1. The parties acknowledge and agree that the Donation does not give rise to any partnership, joint venture or agency relationship between them. Neither party shall hold itself out as a representative of the other party in any circumstance.
- 2.2. The parties also acknowledge and agree that the Donation is made absolutely and unconditionally and that the Town shall have sole and exclusive ownership and control over the Donation.
- 2.3. The parties further acknowledge and agree that the Donor shall not obtain any benefit of commercial value whatsoever by making the Donation and that the Town shall not be obligated to endorse, recommend or otherwise promote the Donor or any related party by accepting the Donation.
- 2.4. Notwithstanding subsection 2.3, the Town may make such acknowledgement(s) of the Donation and/or the Donor as it considers appropriate, provided that any such acknowledgment does not confer a commercial benefit on the Donor and is consistent with the expressed wishes of the Donor.

## **3. REPRESENTATIONS OF THE DONOR**

- 3.1. The Donor represents, warrants and covenants to the Town as follows:
  - i. it is a not-for-profit corporation duly incorporated pursuant to the laws of Ontario;
  - ii. it has all authority necessary to make the Donation;
  - iii. it has all authority necessary to execute this Agreement and such other documents as may be necessary to perform its obligations under this Agreement;
  - iv. making the Donation and executing this Agreement or other required documents does not conflict with, breach or constitute a default under any other contract or agreement to which the Donor is a party;
  - v. making the Donation and executing this Agreement or other necessary documents does not contravene any applicable legislation, regulation or order to which the Donor is subject; and
  - vi. all action required under this Agreement and/or to make the Donation has been or will be taken in good faith and with reasonable promptness by the Donor and its representatives and agents.

#### **4. REPRESENTATIONS OF THE TOWN**

4.1. The Town represents, warrants and covenants to the Donor as follows:

- i. it is a municipal corporation created pursuant to the laws of Ontario;
- ii. it has all authority necessary to accept the Donation;
- iii. it has all authority necessary to execute this Agreement and such other documents as may be necessary to perform its obligations under this Agreement;
- iv. accepting the Donation and executing this Agreement or other required documents does not conflict with, breach or constitute a default under any other contract or agreement to which the Town is a party;
- v. accepting the Donation and executing this Agreement or other required documents does not contravene any applicable legislation, regulation or order to which the Town is subject; and
- vi. all action required under this Agreement and/or to accept the Donation has been or will be taken in good faith and with reasonable promptness by the Town and its representatives and agents.

#### **5. LIABILITY AND INDEMNITY**

5.1. The Donor and the Town shall each fully indemnify and hold harmless the other from and against all claims, demands, losses, liabilities, penalties and damages of any kind that either party may suffer or incur in respect of or in connection with a breach by the other party of any of its obligations under this Agreement or any intentional or wrongful act or omission of the other party or anyone for whom it is in law responsible.

#### **6. NOTICE**

6.1. All communications required under or contemplated by this Agreement shall be considered to have been sufficiently given if delivered by hand, sent by registered mail or sent by email to the party to which such notice is directed as set forth below:

If to the Donor:                   THE ROTARY CLUB OF FONTHILL  
P.O. Box 635  
Fonthill ON L0S 1E0  
Attention:   Carolyn Mullin, President  
                  [cjmfonthill@gmail.com](mailto:cjmfonthill@gmail.com)

If to the Town:                   The Corporation of the Town of Pelham  
P.O. Box 400  
20 Pelham Town Square  
Fonthill ON L0S 1E0  
Attention:   Jennifer Stirton, Town Solicitor  
                  [jstirton@pelham.ca](mailto:jstirton@pelham.ca)



or such other address of which either party has notified the other, in writing, and any such notice mailed or delivered shall be deemed sufficient under the terms of this Agreement.

- 6.2. Notices delivered or sent by registered mail are deemed to be effective on the date of receipt. Notices sent by email are deemed to be effective on the day the email is sent or, if sent after 4:00 p.m., on the following day.


## **7. GENERAL**

- 7.1. This Agreement constitutes the entire agreement between the parties relating to matters set out herein. There are no representations, promises, covenants or other terms relating to the subject matter of this Agreement and this Agreement supersedes any prior discussions, understandings or agreements between the parties in relation to its subject matter.
- 7.2. The invalidity or unenforceability of any particular term of this Agreement shall not limit the validity or enforceability of the remaining terms, each of which is distinct and severable from all other terms of this Agreement.
- 7.3. Waiver by a party of any provision of this Agreement shall not constitute a waiver in any other instance and any such waiver must be made in writing. Any delay or failure on the part of either party to enforce any right, power or remedy conferred by this Agreement shall not constitute a waiver and shall not operate as a bar to that party exercising or enforcing such right, power or remedy at any subsequent time.
- 7.4. This Agreement shall be binding upon and enure to the benefit of the parties and their respective successors and permitted assigns.
- 7.5. This Agreement shall be governed by and construed in accordance with the law of the Province of Ontario and laws of Canada applicable therein.
- 7.6. This Agreement may be signed in counterpart, each of which is an original and all of which together constitute a single document. Counterparts may be executed in original or electronic form and may be exchanged by way of mail or PDF file delivered by email or facsimile transmission.

**[signature page follows]**

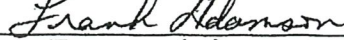
**IN WITNESS WHEREOF** the parties have executed this Agreement by their authorized representatives and agree to be bound thereby as of the date set out above.

**THE ROTARY CLUB OF FONTHILL**

By: 

Name: Carolyn Mullin

Title: President, Rotary Club of Fonthill

By: 

Name: Frank Adamson

Title: Chair, Raise the Arches Committee

I/We have authority to bind the Corporation.

Date: August 20, 2023

**THE CORPORATION OF THE TOWN OF  
PELHAM**

By: 

Name: David Cribbs

Title: Chief Administrative Officer

By: \_\_\_\_\_

Name:

Title:

I/We have authority to bind the Corporation.

Date: August 23, 2023



**Subject:** June 2023 Financial Reports**Recommendation:**

**BE IT RESOLVED THAT Council receive Report #2023-0175-Corporate Services, June 2023 Financial Reports, for information.**

**Background:**

The Corporate Services Department has prepared the attached financial reports, as at June 30, 2023, for the information of Council. The MCC reports also include non-financial indicators such as hydro usage.

**Analysis:**

Appendix 1 to this report summarizes operating revenues compared to budget as at June 30, 2023, with approximately 50% of the year lapsed. Total revenues were at approximately 51% of budget. Six months of water and wastewater had been billed and are at 49% of budget because consumption tends to be higher in July and August.

Appendix 2 to this report summarizes operating expenditures compared to budget at June 30, 2023. Total expenses were at approximately 48% of budget and appeared to be on track.

Appendix 3 summarizes the revenues and expenditures related to the MCC at June 30, 2023. MCC revenues were at 61% of budget. Senior Active Living Centre grant funds have been received, MCC expenses were at 50% of budget, which tend to be lower in the first two quarters of the year since Recreation, and Wellness programming occurs mostly in the third quarter.

Appendix 4 to this report includes the 2023 capital report at June 30, 2023. Most capital projects are proceeding, totaling \$23,363,789 million, and of those, 53% of the budget had been spent or committed.

**Financial Considerations:**

There are no specific financial considerations with respect to this report as it is for information purposes.

**Alternatives Reviewed:**

Not applicable.

**Strategic Plan Relationship: Strong Organization**

By reviewing the monthly financial reports, Council can remain informed about whether there are any significant budget variances that would impact year-end financial results.

**Consultation:** N/A

**Other Pertinent Reports/Attachments:**

Appendix 1 – Monthly Revenue Report as at June 30, 2023

Appendix 2 – Monthly Expenditure Report as at June 30, 2023

Appendix 3 – Meridian Community Centre Report as at June 30, 2023

Appendix 4 – Capital Projects – 2nd Quarter Reporting as at June 30, 2023

**Prepared and Recommended by:**

Jonathan Witzke, BBA, PCP  
Staff Accountant and Payroll Clerk

Usama Seraj, B. Com, CPA, CMA  
Manager Financial Services/Deputy Treasurer

Teresa Quinlin-Murphy, FCPA, FCA, MBA  
Director of Corporate Services/Treasurer

**Prepared and Submitted by:**

David Cribbs, BA, MA, JD, MPA  
Chief Administrative Officer

Appendix 1  
Monthly Revenue Report at June 30, 2023 (50% of time lapsed)

	Notes	2023			2022	
		Budget	Actual at Jun 30	Actual as a % of Budget	Budget	Actual at Dec 31
<b>Taxation</b>						
General Tax Levy		\$ 17,786,836	\$ 8,893,418	50 %	\$ 16,578,640	\$ 16,578,644
Payments in Lieu		350,471	175,236	50 %	300,471	304,501
<b>Total Taxation</b>		18,137,307	9,068,654	50 %	16,879,111	16,883,145
<b>Finance Department</b>						
Penalties and Interest	(1)	278,000	214,678	77 %	270,000	380,139
Supplemental Taxation Revenues	(2)	200,000	10,627	5 %	180,000	300,370
Transfer from Building Department		184,832	92,416	50 %	184,832	184,832
Grants	(3)	78,500	49,030	62 %	84,400	93,333
Miscellaneous	(4)	62,000	58,601	95 %	33,000	70,127
Investment Income	(5)	10,000	546,893	5,469 %	10,000	420,845
Transfer from Working Funds and HR Capacity Building Reserve		160,000	80,000	50 %	227,000	232,000
<b>Total Finance Department</b>		973,332	1,052,245	108 %	989,232	1,681,646
<b>Administration and Clerk's</b>						
Committee of Adjustment	(6)	34,500	25,796	75 %	44,500	42,754
Clerk's Miscellaneous	(7)	16,750	12,250	73 %	14,250	20,388
<b>Total Administration and Clerk's</b>		51,250	38,046	74 %	58,750	63,142
<b>Fire and By-law Services</b>						
Fire Department Revenues		41,286	23,092	56 %	40,786	42,609
By-law and Parking Enforcement	(8)	22,300	15,563	70 %	21,300	28,835
Provincial Offences Act Revenue		-	-	- %	30,000	(6,677)
<b>Total Fire and By-law Services</b>		63,586	38,655	61 %	92,086	64,767
<b>Public Works</b>						
Non-recreation Facilities and Beautification	(9)	10,000	100	1 %	10,000	43,729
Aggregate Resource Grant	(10)	40,000	-	- %	40,000	33,106
Transfer from Reserve - Roads		-	-	- %	-	164,370
Miscellaneous		23,000	13,798	60 %	23,000	26,995
Fonthill/Hillside Cemeteries		91,500	53,391	58 %	81,500	121,742
<b>Total Public Works</b>		164,500	67,289	41 %	154,500	389,942
<b>Recreation, Culture and Wellness</b>						
Recreation and Wellness	(11)	440,150	251,860	57 %	331,850	487,322
Special Events and Festivals	(12)	156,270	58,800	38 %	147,770	167,831
Culture and Community Enhancement	(12)	71,500	19,019	27 %	73,500	112,998
Public Transit		130,000	38,707	30 %	130,000	130,035
MCC Facility	(13)	845,000	500,508	59 %	693,242	886,777
<b>Total Recreation, Culture and Wellness</b>		1,642,920	868,894	53 %	1,376,362	1,784,963
<b>Community Planning and Development</b>						
Building Department Revenues	(14)	749,909	268,667	36 %	650,500	1,000,222
Planning Fees	(15)	170,000	54,323	32 %	170,340	464,360
Municipal Drainage	(16)	8,000	8,414	105 %	4,000	-
<b>Total Community Planning and Development</b>		927,909	331,404	36 %	824,840	1,464,582
<b>Water and Wastewater</b>						
Water Revenues		3,763,086	1,847,868	49 %	3,598,480	3,468,099
Wastewater Revenues		2,996,458	1,470,641	49 %	2,732,861	2,730,965
<b>Total Water and Wastewater</b>		6,759,544	3,318,509	49 %	6,331,341	6,199,064
<b>GRAND TOTAL</b>		\$ 28,720,348	\$ 14,783,696	51 %	\$ 26,706,222	\$ 28,531,251

Appendix 1  
Monthly Revenue Report at June 30, 2023 (50% of time lapsed)

Explanatory Notes:

- (1) Higher penalty and interest revenue due to higher balance on taxes receivable in 2023.
- (2) The majority of supplemental revenue is collected June through November.  
  
Supplementary/omitted taxes result from an addition, renovation, construction or class change that occurred on a property that was not previously recorded on the assessment roll. When supplementary/omitted assessment is added to the roll, additional property taxes can be collected for the current year, and if applicable, for any part of all of the two previous years as described in Section 34 of the Assessment Act.
- (3) OMPF payment for Q1 & Q2; OCIF grant funding will be applied to the Asset Management/GIS Analyst position commencing in June.
- (4) Fees charged for mortgage company administration and ownership changes have been higher than anticipated. Additional one-time revenue from tax sale proceedings was recognized in 2023.
- (5) Interest will be allocated to non-discretionary and obligatory reserves at year end. With significant improvement in interest rates and higher cashflows due to timing of capital expenditure, investment income is expected to exceed budget for the year.
- (6) Committee of Adjustment revenue fluctuates from year to year depending on applications received.
- (7) Revenue from business licenses and affidavits has exceeded budget for 2023 due to increases activity. Affidavits request demand will continue to remain high due to a reduction in services offered at local Service Ontario.
- (8) Parking fines have exceeded budget for the year, while pool and sign permits revenue is approximately 50% of budget.
- (9) Revenue is primarily related to Old Pelham Town Hall rental revenue, and is expected to be higher in Q3-Q4.
- (10) Aggregate resource grant is received in September.
- (11) Swim, Youth and Recreation and Wellness programs are on track to surpass budget for 2023. Expenditures are also expected to increase due to higher activity.
- (12) Special events and recreation culture activity such as Summerfest and Thursday night experience (Chill on the Hill) occur between Q2 and Q3.
- (13) Increase in activity revenue is offset by increase in expenditures.
- (14) Slowdown in economic activity, higher interest rates, and increased developer cost has resulted in a slow down of building construction activity. Any shortfall in revenue is transferred from Building reserve.
- (15) Slowdown in economic and building activity has led to lower than anticipated planning revenues in first half of 2023.
- (16) OMAFRA grant paid for the year.

Appendix 2  
Monthly Expenditure Report at June 30, 2023 (50% of time lapsed)

	Notes	2023			2022	
		Budget	Actual at Jun 30	Actual as a % of Budget	Budget	Actual at Dec 31
<b>Administration Services</b>						
Members of Council		\$ 284,315	\$ 142,044	50 %	\$ 281,440	\$ 242,842
CAO's Office		491,396	248,149	50 %	355,955	377,372
Human Resources		180,868	68,929	38 %	135,003	138,069
Marketing and Communication		180,252	81,625	45 %	139,680	133,205
<b>Total Administration Services</b>		1,136,831	540,747	48 %	912,078	891,488
<b>Clerk's Department</b>						
Clerk's Department and COA		444,946	218,442	49 %	387,006	382,197
<b>Corporate Services</b>						
Finance Department		994,302	545,613	55 %	936,155	1,748,471
Shared Administrative Overhead	(1)	856,747	252,364	29 %	924,343	736,996
Shared Information Technology	(2)	707,930	421,341	60 %	653,121	666,938
<b>Total Corporate Services</b>		2,558,979	1,219,318	48 %	2,513,619	3,152,405
<b>Fire and By-law Services</b>						
Fire Services	(3)	1,869,044	696,056	37 %	1,689,899	1,764,169
By-law and Parking Enforcement		219,072	100,270	46 %	206,530	198,855
Health and Safety		8,130	1,748	22 %	8,130	3,487
Crossing Guards		70,314	37,698	54 %	52,021	57,216
Animal Control		39,000	19,500	50 %	39,000	39,000
<b>Total Fire and By-law Services</b>		2,205,560	855,272	39 %	1,995,580	2,062,727
<b>Public Works</b>						
General Administration		1,260,216	708,549	56 %	1,247,506	1,226,701
Roadway Maintenance	(4)	5,182,943	2,689,730	52 %	4,724,863	4,937,523
Non-recreation Facilities and Beautification		2,918,958	1,272,752	44 %	2,584,507	2,821,628
Street Lighting	(5)	194,000	119,350	62 %	260,000	288,678
Fonthill and Hillside Cemeteries		159,851	77,986	49 %	145,102	182,367
Niagara Central Airport	(6)	27,621	27,768	101 %	27,621	25,854
<b>Total Public Works</b>		9,743,589	4,896,135	50 %	8,989,599	9,482,751
<b>Recreation, Culture and Wellness</b>						
General Administration		378,910	204,694	54 %	289,477	311,699
Recreation and Wellness	(7)	500,922	188,056	38 %	452,507	542,219
Special Events and Festivals	(8)	312,416	56,712	18 %	293,114	320,373
Culture and Community Enhancement	(8)	185,157	59,460	32 %	182,163	249,345
Public Transit		142,360	65,789	46 %	309,137	304,361
MCC Facility	(9)	2,026,538	1,050,040	52 %	1,837,582	2,029,891
Libraries		865,962	432,981	50 %	894,707	894,707
<b>Total Recreation, Culture and Wellness</b>		4,412,265	2,057,732	47 %	4,258,687	4,652,595
<b>Community Planning and Development</b>						
Building Department		749,908	337,671	45 %	650,500	1,000,222
Planning and Zoning		671,997	312,621	47 %	632,637	639,707
Municipal Drainage		36,730	16,777	46 %	35,174	68,095
<b>Total Community Planning and Development</b>		1,458,635	667,069	46 %	1,318,311	1,708,024
<b>Water and Wastewater</b>						
Water		3,763,086	1,830,270	49 %	3,598,480	3,468,100
Wastewater		2,996,457	1,498,160	50 %	2,732,861	2,730,964
<b>Total Water and Wastewater</b>		6,759,543	3,328,430	49 %	6,331,341	6,199,064
<b>GRAND TOTAL</b>		\$ 28,720,349	\$ 13,783,145	48 %	\$ 26,706,222	\$ 28,531,251



## Appendix 2

### Monthly Expenditure Report at June 30, 2023 (50% of time lapsed)

#### Explanatory Notes:

- (1) External legal fees are lower than anticipated. Insurance cost will be expensed in Q3.
- (2) Some software licenses and support fees have been paid for the full year.
- (3) Volunteer firefighter stipends are paid in November.
- (4) Contract services for Winter Control is at 85% of budget for the year and any shortfall at year-end is taken from the Winter maintenance Reserve.
- (5) Hydro costs are anticipated to be lower in Q3-Q4 as Phase 2 of LED street light conversions continue in 2023.
- (6) Contribution to the airport paid for the year.
- (7) Many of the Recreation and Wellness Camps and Swim activities occur in Q3..
- (8) Special events and festivals activity primarily occurs in Q3.
- (9) Increase in expenses is offset by additional in revenues.

Meridian Community Centre  
Appendix 3  
Actual Results to Budget at June 30, 2023 (50% of time lapsed)

	Notes		2023			Actual 2023					
			Budget	Actual YTD Total	Actual as a % of Budget	Jan	Feb	Mar	Apr	May	Jun
<b>MCC Revenues</b>											
Arena Revenues	(1)		\$ 648,000	\$ 327,193	50 %	\$ 84,287	\$ 69,449	\$ 63,463	\$ 35,903	\$ 35,650	\$ 38,439
Multi-Purpose Space Revenues	(1)		149,000	141,230	95 %	31,656	23,993	27,762	25,359	14,586	17,875
Gymnasium Revenues	(1)		90,000	53,423	59 %	9,069	8,302	8,162	10,645	12,250	4,997
Programming Revenues	(2)		135,000	23,784	18 %	7,996	720	12,398	-	730	1,940
Grants - Other	(3)		42,700	55,088	129 %	10,675	-	-	25,000	19,413	-
Other Rev. - Miscellaneous	(4)		60,550	88,721	147 %	21,493	17,817	8,288	9,422	14,842	16,858
Other Revenues - Advertising			50,000	25,683	51 %	9,633	4,000	250	10,350	1,450	-
<b>Total Revenues</b>		(a)	1,175,250	715,122	61 %	174,809	124,281	120,323	116,679	98,921	80,109
<b>MCC Expenditures</b>											
Salaries and Benefits			1,686,250	768,890	46 %	90,838	126,789	128,577	118,750	121,439	182,499
Professional Development			12,000	14,005	117 %	1,423	9,422	90	-	2,996	75
Associations and Memberships			5,000	3,235	65 %	598	1,959	450	229	-	-
Travel			3,600	2,121	59 %	-	-	35	11	2,075	-
Hydro			371,000	149,617	40 %	24,566	22,885	25,671	24,943	22,582	28,970
Natural Gas	(5)		90,000	51,794	58 %	14,096	12,541	10,383	6,145	5,182	3,447
Water	(6)		45,000	36,130	80 %	-	13,638	-	11,385	-	11,107
Telephone			11,000	4,210	38 %	707	706	675	707	707	706
Materials and Supplies	(7)		83,850	102,697	122 %	15,926	17,197	17,441	27,688	9,729	14,716
Furniture and Equipment			6,000	2,415	40 %	-	-	-	-	2,415	-
Materials and Supplies - Janitorial			50,000	16,367	33 %	2,912	2,804	2,054	2,987	2,454	3,156
Fuel			6,000	4,736	79 %	893	1,035	1,056	430	539	784
Internet			13,300	6,087	46 %	1,037	1,037	1,037	1,037	1,037	903
Insurance			62,189	-	- %	-	-	-	-	-	-
Contract Services - Other	(8)		164,450	148,591	90 %	18,781	31,846	20,588	15,483	50,326	11,567
Repairs and Maintenance			29,500	8,661	29 %	-	2,635	236	3,691	2,099	-
<b>Total Expenditures before Debt and Other</b>		(b)	2,639,139	1,319,556	50 %	171,777	244,494	208,293	213,486	223,580	257,930
<b>Net Surplus (Deficit) before Debt and Other</b>		(c)= (a) - (b)	(1,463,889)	(604,434)	41 %	3,032	(120,213)	(87,970)	(96,807)	(124,659)	(177,821)
<b>MCC Debt Activity</b>											
Tax Levy Debenture Interest	(9)		(269,087)	(12,990)	5 %	123,845	-	(3,299)	-	(131,837)	(1,699)
Tax Levy Debenture Principal	(9)		(265,604)	(128,007)	48 %	(3,889)	(3,889)	(3,889)	(3,889)	(108,562)	(3,889)
Development Charge Revenue	(10)		629,936	317,023	50 %	317,023	-	-	-	-	-
Development Charge Debenture Interest	(10)		(351,383)	(174,374)	50 %	(174,374)	-	-	-	-	-
Development Charge Debenture Principal	(10)		(278,553)	(142,649)	51 %	(142,649)	-	-	-	-	-
Donation Revenue Applied to Debenture	(11)		209,015	-	- %	-	-	-	-	-	-
Donation Pledge Debenture Interest	(11)		(64,055)	-	- %	-	-	-	-	-	-
Donation Pledge Debenture Principal	(11)		(144,960)	-	- %	-	-	-	-	-	-
<b>Pre-MCC RCW and Facility Net Costs</b>			989,512	504,648	51 %	84,108	84,108	84,108	84,108	84,108	84,108
<b>Net Debt and Other Items</b>		(d)	454,821	363,651	80 %	204,064	80,219	76,920	80,219	(156,291)	78,520
<b>NET SURPLUS (DEFICIT)</b>		(e)= (c) + (d)	\$(1,009,068)	\$ (240,783)	24 %	\$ 207,096	\$ (39,994)	\$ (11,050)	\$ (16,588)	\$(280,950)	\$ (99,301)

Meridian Community Centre

Appendix 3

Actual Results to Budget at June 30, 2023 (50% of time lapsed)

Explanatory Notes:

- (1) Increased Recreation activity in Q1-Q2 of 2023 has led to higher arena and multi-purpose space rental revenues.
- (2) The majority of camp revenue is earned in Q3.
- (3) Grant Revenue is higher due to unbudgeted New Horizon Seniors Grant (\$25K).
- (4) Miscellaneous revenue includes cost recoveries, equipment rentals, event revenue, donations, serverly sales, and other items that are individually too small to classify separately. Significant increase in concession sales.
- (5) Higher natural gas usage and rates.
- (6) Water is billed bi-monthly and usage was higher in 2023.
- (7) Increased cost of serverly supplies offset by increased revenues.
- (8) Additional cost incurred for programming which is offset by higher programming revenues.
- (9) Tax levy debenture payments for the MCC are due in June and December and are paid before the end of the previous month. CIBC loan payments occur throughout the year.
- (10) Development charge debenture payments for the MCC occur in January and July.
- (11) MCC Donation debenture payments occur in April and October.

Town of Pelham			Appendix 4								
2023 projects including carryforward projects		Year	Cost Centre	Expenditures						Status	
				Original Budget	Revised Budget	2023 Approved Budget and Carryforward Amounts to 2023	Actual 2023	Committed	2023 Total to date (Actual & Committed)		Total to date as a % of Revised Carry Forward
July 10, 2023											
INFORMATION TECHNOLOGY											
IT 04-19	Backup Generator for IT Server Room (Town Hall)	2019	100165	46,000		30,912	-	-	-	0%	Funds have been approved for automation projects
IT 04-21	MFA (Multi Factor Authentication) or 2FA Software.	2021	100247	3,500		3,500	-	-	-	0%	On-going.
IT 05-21	Winfluid Server and Software Upgrade.	2021	100248	9,000		4,248	-	4,620	4,620	109%	In progress.
IT 02-22	Server Replacement	2022	100184	16,000		11,533	-	-	-	0.00	Completed.
IT 04-22	Innovation Technology	2022	100186	40,000		40,000	-	-	-	0%	In progress.
IT 01-23	Annual Equipment PSAB adds/replacement	2023	100189	33,000		33,000	15,864	-	15,864	48%	In progress.
IT 02-23	Innovation Technology	2023	100190	50,000		50,000	-	-	-	0%	In progress.
IT 03-23	e-Permitting	2023	100191	30,000		30,000	-	-	-	0%	In progress.
IT 04-23	Claims and Risk Management Solution	2023	100192	12,500		12,500	-	-	-	0%	Not started.
IT 05-23	Asset Management Solutions Module	2023	100256	140,000		140,000	-	-	-	0%	In progress.
IT 06-23	FOI Request Management System	2023	100260	4,000		4,000	-	-	-	0%	Not started.
IT 07-23	QA and AODA Website Solution	2023	100261	6,000		6,000	-	-	-	0%	In progress.
IT 08-23	GHD Form Builder	2023	100262	8,500		8,500	8,650	-	8,650	102%	Completed.
Total Information Technology				398,500	-	374,193	24,514	4,620	29,134	8%	
FIRE & BY-LAW SERVICES											
FD 02-22	Rescue 2	2022	200125	600,000		600,000	610,494	64	610,558	102%	Completed. Delivered on June 14, 2023.
FD 01-23	Pumper 3	2023	200126	900,000	922,314	922,314	-	906,375	906,375	0%	Council approved March 22, 2023. Delivery date Q2 2024.
FD 02-23	Station 3 Utility response vehicle	2023	200127	100,000		100,000	-	-	-	0%	RFP will be part of the Niagara Region fleet purchase.
FD 03-23	Hurst Jaws Station 2	2023	200128	150,000		150,000	124,620	13,603	138,223	0%	In progress.
FD 04-23	Digital Pager Upgrade - Year 2	2023	200155	40,000		40,000	45,588	-	45,588	0%	Completed.
Total Fire & By-Law Services				1,790,000	922,314	1,812,314	780,703	920,042	1,700,745	94%	
ROADS											
RD 10-19	Stormwater Facility Maintenance	2019	300469	30,000		15,423	-	-	-	0%	In progress. Link with 2021 and 2022.
RD 07-20	Effingham Storm Design - Hwy 20 to Canboro	2020	300496	50,000		50,000	-	50,000	50,000	100%	In Progress.
RD 14-20	Station Street Storm Pond	2020	300503	300,000		283,139	-	119,466	119,466	42%	In progress.
RD 02-21	Concrete Repair & Replacement Program.	2021	300586	80,000		17,670	-	17,670	17,670	100%	Completed.
RD 03-21	Culvert Replacement Program.	2021	300587	60,000		60,000	-	60,000	60,000	100%	In progress.
RD 04-21	Engineering.	2021	300590	25,000		12,990	5,607	7,469	13,076	101%	In progress.
RD 09-21	Stormwater Facility Maintenance Repairs.	2021	300597	20,000		19,501	-	510	510	3%	RD 10-19 linked to it
RD 11-21	Easement for Station Street storm outlet (previously RD 08-17).	2021	300601	35,000		35,000	-	-	-	0%	On-going resident issue.
RD 01-22	Bridge Design (Cream Street, Roland Road) - Constructing in 2023 and 2024	2022	300606	75,000		65,399	16,774	47,245	64,019	98%	In progress.
RD 19-21	Erosion Mitigation Project Storm Pond Outlet Hwy 20 & Rice Road	2021	350001	70,000	90,400	90,400	8,002	70,000	78,002	86%	In progress. (Council Approval June 7, 2023)
RD 05-22	Culvert Replacement Program	2022	300616	60,000		60,000	11,620	48,400	60,020	100%	In progress.
RD 06-22	Design - Quaker Rd: Pelham St to Line Ave	2022	300617	50,000		42,872	-	34,612	34,612	81%	In progress.
RD 07-22	Engineering	2022	300618	30,000		8,125	-	5,931	5,931	73%	In progress
RD 10-22	Stormwater Facility Maintenance	2022	300626	25,000		23,840	2,610	1,295	3,905	16%	linked to RD 10-19
RD 11-22	Road Reconstruction - 22R01 - Pelham St: John Street to Spruceside Crescent (Sth Entr.)	2022	300629	4,706,517	1,246,673	1,246,673	445,952	1,410,277	1,856,229	149%	In progress.
RD 12-22	Design - 22R03 - Canboro: Haist St to Highway 20	2022	300637	150,000		147,688	7,400	106,897	114,297	77%	In progress.
RD 15-22	LED Streetlight Replacement Year 1	2022	300599	250,000		10,106	44,806	-	44,806	443%	Completed.
RD 01-23	Pavement Condition Assessment	2023	300591	30,000		30,000	9,901	18,070	27,971	0%	In progress.
RD 02-23	Cream Street Bridge Replacement	2023	300595	750,000	1,081,616	1,081,616	3,000	1,005,870	1,008,870	0%	In progress. (Council approved June 21, 2023)
RD 03-23	Design - Pancake: Pelham St to Haist St	2023	300613	300,000		300,000	-	79,545	79,545	0%	In progress.

Town of Pelham				Appendix 4							
2023 projects including carryforward projects		Year	Cost Centre	Expenditures							Status
				Original Budget	Revised Budget	2023 Approved Budget and Carryforward Amounts to 2023	Actual 2023	Committed	2023 Total to date (Actual & Committed)	Total to date as a % of Revised Carry Forward	
July 10, 2023											
RD 04-23	LED Streetlight Replacement Year 2	2023	300631	700,000		700,000	14,792	706,043	720,835	0%	In progress.
RD 05-23	Concrete Repair & Replacement Program.	2023	300633	110,000		110,000	-	-	-	0%	In tender stage.
RD 06-23	Culvert Replacement Program	2023	300636	60,000	15,019	15,019	-	15,019	15,019	0%	Linked to RD 05-22 (Council approved June 21, 2023)
RD 07-23	Engineering	2023	300639	35,000		35,000	3,867	-	3,867	0%	on-going
RD 08-23	Road Base and Surface Repair Program	2023	300641	200,000		200,000	-	-	-	0%	In tender stage.
RD 09-23	Road Rehabilitation	2023	300643	1,000,000	1,118,667	1,118,667	-	-	-	0%	In tender stage. (Council approved July 26, 2023).
RD 10-23	Sign Retro-Reflectivity Assessment	2023	300648	25,000		25,000	-	-	-	0%	Obtaining quotes.
RD 11-23	Stormwater Facility Maintenance	2023	300650	100,000		100,000	-	91,738	91,738	0%	linked to RD 10-19
RD 14-23	Design for Road Rehabilitation	2023	301024	85,000		85,000	-	26,093	26,093	0%	In progress.
RD 15-23	Summersides Blvd secondary servicing	2023	301063	263,200		263,200	-	-	-	0%	Not started.
RD 16-23	Bridge Design - Constructing 2024 and 2025	2023	301074	75,000	(75,000)	-	-	-	-	0%	Redirected budget to Cream Street. (Council Approved June 21, 2023).
RD 17-23	Road/Slope Failure Investigation- Sulphur Springs	2023	301075	250,000		250,000	-	-	-	0%	RFP stage
RD 18-23	Construction - Additional Parking- Ridgeville	2023	301076	50,000		50,000	-	-	-	0%	Linked to RD 08-23
RD 19-23	Parking Lots at Emerald Trails	2023	301078	75,000		75,000	-	-	-	0%	contribution to developer once they constructed the parking lot
RD 20-23	Wellington Height School crossing	2023	301079	50,000		50,000	1,425	-	1,425	0%	In progress.
RD 21-23	Pelham St Phase 4	2023	300649		3,516,976	3,516,976	-	-	-	0%	In progress. (Council approved June 7, 2023).
Total Roads				10,174,717	6,994,351	10,194,304	575,757	3,922,149	4,497,905	44%	
FACILITIES											
FAC 02-21	Centennial Park Electrical Upgrades (Switch Gear inside).		300509	10,000		934	-	-	-	0%	Completed.
FAC 08-21	Fire Station #1 Design Consultant.	2021	300523	50,000		42,419	-	9,275	9,275	22%	In progress.
FAC 03-22	Model Railway Building - Exterior Window Replacement	2022	301090	12,000		12,000	-	-	-	0%	Not started
FAC 04-22	Town Hall - Fire Protection System	2022	301089	20,000		20,000	8,296	14,697	22,993	115%	Completed.
FAC 07-22	Community Event Space for Peace Park	2022	301105	1,824,000		897,245	1,202,048	20,327	1,222,375	136%	Completed .
FAC 01-23	Concrete & Asphalt Repairs - Various Facilities	2023	300529	50,000		50,000	11,680	-	11,680	0%	In progress.
FAC 02-23	Town Hall - Asphalt Parking Lot repaving	2023	301100	34,000		34,000	-	-	-	0%	linked with RD 08-23
FAC 03-23	Operations Centre - Replace Furnace & HVAC	2023	301102	12,000		12,000	7,428	1,967	9,396	0%	Completed.
FAC 04-23	Rental Table & Chair Replacement	2023	301104	10,000		10,000	-	-	-	0%	In progress
FAC 05-23	Fonthill Library - Architectural design	2023	301174	200,000		200,000	-	-	-	0%	RFP stage.
FAC 06-23	Centennial Park Concession Design and Construction	2023	301176	185,000	250,000	250,000	15,390	24,676	40,066	0%	In progress.
Total Facilities				2,407,000	250,000	1,528,598	1,244,843	70,942	1,315,785	86%	
CEMETERIES											
CEM 01-23	Fonthill and Hillside Cemetery	2023	400025	12,000		12,000	7,123	-	7,123	0%	Completed.
Total Cemeteries				12,000	-	12,000	7,123	-	7,123	59%	
FLEET											
VEH 07-21	Purchase one-tonne truck.	2021	300989	90,000		90,000	-	-	-	0%	RFP with Niagara Region- tender will go out in October
VEH 01-22	Electric Vehicle - Building Department (Replaces Unit 101 - 2009 Ford Ranger)	2022	300876	55,000		54,550	42,657	-	42,657	78%	Complete.

Town of Pelham		Appendix 4									
2023 projects including carryforward projects		Year	Cost Centre	Expenditures							Status
				Original Budget	Revised Budget	2023 Approved Budget and Carryforward Amounts to 2023	Actual 2023	Committed	2023 Total to date (Actual & Committed)	Total to date as a % of Revised Carry Forward	
July 10, 2023											
VEH 02-22	Work Truck (Replaces Truck 129 - 2008 Dodge 1500) - deferred from 2020	2022	300882	55,000		55,000	56,763	-	56,763	103%	Complete.
VEH 06-22	Crew-Cab Truck with Landscape box (Replaces unit 132 - 2009 Dodge 2500)	2022	300888	75,000		75,000	59,944	7,593	67,537	90%	Complete.
VEH 07-22	Baseball Diamond Grooming Tractor (Replaces unit 518 2001 Kubota B7500 & unit 525 2013 Kubota B2920	2022	300892	48,000		48,000	-	48,560	48,560	101%	Complete.
VEH 01-23	Small SUV By-Law (Replaces Unit 104-2009 Ford Ranger)	2023	300875	55,000		55,000	42,548	-	42,548	0%	Complete.
VEH 02-23	1-ton truck with landscape box (replaces unit 303)	2023	300877	80,000		80,000	-	-	-	0%	RFP with Niagara Region-tender will go out in October
VEH 03-23	Utility Van Water (Replaces 2009 Dodge Sprinter)	2023	300878	80,000		80,000	-	-	-	0%	RFP with Niagara Region-tender will go out in October
VEH 04-23	Backhoe (Replaces unit 519 - 2003 Case 580 Super M)	2023	300889	240,000		240,000	-	235,590	235,590	0%	Awarded. Delivery date Sept 2023.
VEH 05-23	Combination Snow Plow & Spreader (Replaces Truck 4)	2023	300890	350,000		350,000	-	-	-	0%	Awarded. Delivery date May 2024.
VEH 06-23	2018 Lease Payments-Heavy Duty Work Truck with Landscape)	2023	300893	28,740		28,740	16,455	16,170	32,625	0%	On-going.
VEH 07-23	Seasonal rental of summer fleet (4 seasonal vehicles)	2023	300894	32,000		32,000	7,225	8,640	15,866	0%	On-going.
VEH 08-23	(2) Tractors w/plow & spreader (replaced Truck 422) Lease	2023	300895	25,550		25,550	11,321	4,450	15,771	0%	Leased
VEH 09-23	Electric Vehicle Charging Stations	2023	301080	195,000		195,000	-	-	-	0%	RFP stage.
Total Fleet				1,409,290	-	1,408,840	236,913	321,003	557,916	40%	
HEALTH SERVICES											
Total Health Services				\$ -		\$ -	\$ -	\$ -	\$ -		
WASTEWATER											
WST 01-19	Design - Church Street Upgrade - connected to WST 05-20 and CC 700182 (2022 Project for \$1.5M to do the Church Street work)	2019	700162	60,000		10,577	-	8,702	8,702	82%	Completed.
WST 05-20	Church St Sanitary Upgrades - Permits and Reports - connected to WST 01-19 and CC 700182 (2022 Project for \$2.5M to do the Church Street work	2020	700174	50,000		7,129	-	-	-	0%	In progress.
WST 03-21	Sanitary I/I Study Program - Planned Replacements and Rehabilitation.	2021	700180	100,000		51,377	21,295	6,292	27,586	54%	In progress.
WST 01-22	Church Street Upgrade existing sewer from 250 to 350mm diameter	2022	700182	2,500,000		2,491,054	-	2,511,769	2,511,769	101%	In progress. Linked to WST 05-23
WST 02-22	Sanitary I/I Study Program - Planned Replacements and Rehabilitation	2022	700186	60,500		50,324	-	39,500	39,500	78%	In progress
WST 03-22	Sanitary Sewer Inspection, CCTV and Flushing Program	2022	700189	115,000		93,927	6,299	70,208	76,507	81%	In progress
WST 04-22	Sanitary Sewer Capital Construction Repairs	2022	700192	140,000		108,663	27,338	3,770	31,108	29%	On-going
WST 02-23	Sanitary I/I Study Program - Planned Replacements	2023	700194	70,000		70,000	-	-	-	0%	Not started.
WST 03-23	Sanitary Sewer Inspection, CCTV and Flushing Program	2023	700199	115,000		115,000	-	-	-	0%	In progress. Linked to WST 03-22
WST 04-23	Sanitary Sewer Capital Construction Repairs	2023	700200	140,000		140,000	-	-	-	0%	On-going as needed.
WST 05-23	Church Street Sanitary Upgrades	2023	700347	1,500,000		1,500,000	42,067	148,007	190,074	0%	In progress. linked with WST 01-22.
Total Wastewater				4,850,500	-	4,638,051	96,998	2,788,247	2,885,246	62%	
WATER											
WTR 01-18	Backflow Prevention Program	2018	700158	50,000		36,015	-	-	-	0%	In progress. On-going program.
WTR 04-21	Station St: Hurricane Rd to Hwy 20, Watermain Replacement.	2021	700277	175,000		164,213	-	-	-	0%	Tender stage

Town of Pelham				Appendix 4							
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July 10, 2023											
WTR 05-21	Neptune Software Upgrade.	2021	700352	14,000		14,000	-	-	-	0%	In progress.
WTR 02-22	Water System Repair Equipment	2022	700284	30,000		22,861	-	-	-	0%	On-going.
WTR 03-22	Design: Canboro Road, Haist St to Highway 20, Watermain Replacement	2022	700354	100,000		81,436	8,865	64,104	72,969	90%	In progress.
WTR 04-22	Design: Watermain Replacement - Daleview, Strathcona, Moote, Pinecrest, Hwy. 20	2022	700366	100,000		81,297	12,614	38,144	50,758	62%	In progress.
WTR 02-23	Water System Repair Equipment	2023	700287	30,000		30,000	6,547	-	6,547	22%	On-going.
WTR 03-23	Water Rate Study	2023	700289	20,000		20,000	-	-	-	0%	Not Started.
WTR 04-23	Pelham St Watermain replacement phase 4	2023	700286		1,129,358	1,129,358	-	-	-	0%	(B1-2) Council approved on April 5, 2023. In progress.
Total Water				519,000	1,129,358	1,579,180	28,027	102,248	130,274	8%	
PARK FACILITIES											
PRK 01-21	MSSP- Splash Pad	2021	500188	491,815		381,460	407,598	2,414	410,012	107%	Complete.
PRK 07-21	Centennial Park Diamond 3 Lighting.	2021	500198	145,000		144,695	-	144,695	144,695	100%	In Progress. Work to start in October. Linked with PRK 06-23
PRK 01-22	Update Parks & Recreation Master Plan	2022	500200	120,000		70,302	68,247	-	68,247	97%	Complete.
PRK 03-22	Centennial Park Soccer Field #2 Lighting	2022	500203	220,000		219,695	223,694	24,425	248,119	113%	In progress.
PRK 05-22	General Park Furniture (Benches/Picnic Tables/Receptacles)	2022	500206	10,000		7,638	-	-	-	0%	In Progress
PRK 07-22	Park Entry Sign Replacements (6)	2022	500222	30,000		30,000	-	-	-	0%	Tender stage.
PRK 08-22	Centennial Park Diamond 2 - Foul Ball Netting	2022	500298	25,000		4,699	-	-	-	0%	Complete.
PRK 01-23	Ball Diamond Upgrades - Bulk Clay	2023	500210	5,000		5,000	4,084	-	4,084	0%	Complete.
PRK 02-23	General Park Furniture (Benches/Picnic Tables/Receptacles)	2023	500217	20,000		20,000	-	5,000	5,000	0%	On-going.
PRK 03-23	Playground Turf Repair	2023	500218	5,000		5,000	-	-	-	0%	On-going.
PRK 05-23	Park Entry Sign Replacements (6)	2023	500317	30,000		30,000	-	-	-	0%	Linked with PRK 07-22
PRK 06-23	Centennial Park Diamond 3 Lighting.	2023	500324	155,000		155,000	-	76,796	76,796	0%	In progress. Linked with PRK 07-21
Total Park Facilities				1,256,815	-	1,073,489	703,623	253,330	956,953	89%	
COMMUNITY PLANNING & DEVELOPMENT											
PLN 01-19	Complete East Fenwick SP	2019	600117	20,000		13,731	-	13,731	13,731	100%	In progress. Received Environment Impact Study. Linked with PLN 05-21.
PLN 01-20	Community Benefits Charge Strategy	2020	600119	40,000		40,000	-	-	-	0%	Part of the 2023 DC Study. Watson will need to determine if the CBC study is the right strategy for the Town. If not, the Town will need to update the Parkland Dedication By-law.
PLN 05-21	East Fenwick Secondary Plan.	2021	600142	10,000		10,000	-	-	-	0%	In progress. Linked with PLN 01-19.
PLN 01-22	Official Plan Review and Update	2022	600123	225,000		225,000	35,494	29,727	65,221	29%	In Progress
PLN 01-23	Development Charge Background	2023	600124	40,000		40,000	11,142	20,402	31,544	0%	In Progress.
PLN 02-23	Natural Heritage Inventory and Management Plan	2023	600147	100,000		100,000	12,920	87,303	100,223	0%	In Progress.
PLN 03-23	Secondary Plan for South Fonthill	2023	600148	150,000		150,000	-	-	-	0%	Not started.
PLN 04-23	Ward Boundary & Council composition review	2023	600149	51,000		51,000	-	-	-	0%	Not started.
Total Community Planning & Development				636,000	-	629,731	59,557	151,164	210,720	33%	
LIB 01-22	Computer Services Development	2022	500280	10,000		3,630	-	-	-	0%	In progress
LIB 01-23	Computer Services Development	2023	500281	10,000		10,000	-	-	-	0%	In progress
Total Library				20,000	-	13,630	-	-	-	0%	

Town of Pelham												Appendix 4
2023 projects including carryforward projects		Year	Cost Centre	Expenditures							Status	
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July 10, 2023												
MUNICIPAL DRAINAGE												
DRN 01-21	Ridgeville and Nunn Municipal Drains Update to Assessment Schedule.	2021	600140	50,000		24,830	-	25,000	25,000	101%	Keenan Drain to be completed in Q3 2023.	
DRN 01-22	Drainage Study for Webber Rd and Farr Rd	2022	600146	50,000		34,629	40,556	-	40,556	117%	Completed.	
DRN 01-23	Replace Road Culvert	2023	600133	40,000		40,000	-	-	-	0%	On-going as needed.	
Total Municipal Drainage				140,000	-	99,459	40,556	25,000	65,556	66%		
Total Projects for 2023				23,613,822	9,296,023	23,363,789	3,798,613	8,558,745	12,357,358	53%		
DEFERRED OR CANCELLED PROJECTS												
RD 12-20	Stormsewer Extension - Along Quaker	2020	300501	200,000		200,000	-	-	-	0%	C/F 2024 Part of Niagara Region project	
RD 15-20	Foss Resurfacing (linked to WST 06-20)	2020	300504	500,000		500,000	-	-	-	0%	C/F 2024	
RD 13-23	Road Reconstruction - Quaker Rd	2023	300683	2,100,000	(2,100,000)	-	-	-	-	0%	(BT-2) Council approved on April 5, 2023. Deferred to 2024.	
WST 04-18	Foss Road Upgrade existing sewer from 350 to 450mm diameter	2018	700156	592,800		527,523	-	-	-	0%	In progress. Detailed design assignment currently being completed. Project delayed due to CP Rail. Linked to WST 07-23. 2024 Project	
WST 06-20	Foss Rd - Sanitary Sewer Installation (linked to RD 15-20)	2020	700175	800,000		800,000	-	-	-	0%	C/F 2024	
WST 01-23	Sewage Pumping Station Northwest Fenwick	2023	700185	600,000		600,000	-	-	-	0%	Deferred to 2024	
WST 06-23	Quaker Road Sanitary Replacement	2023	700357	1,050,000	(1,050,000)	-	-	-	-	0%	(BT-2) Council approved on April 5, 2023. Deferred to 2024.	
WST 07-23	Foss Rd Sanitary Sewer Design & Excess Soil management	2023	700359	300,000		300,000	-	-	-	0%	Deferred to 2024	
WTR 03-21	Clare Avenue Watermain Replacement - development driven.	2021	700276	250,000		217,059	1,217	46,534	47,751	22%	In progress. Deferred to 2024 with Quaker Rd.	
WTR 01-23	Quaker Rd: Pelham St to Line Ave., Watermain replacement	2023	700272	800,000	(800,000)	-	-	-	-	0%	(BT-2) Council approved on April 5, 2023. Deferred to 2024.	
RD 12-23	Canboro Road Cycling Initiative (Red Circled)	2023	300669	843,750	(843,750)	-					(BT-2) Council approved on April 5, 2023 to move funds to other projects. Grant not approved.	
PRK 04-23	Redevelopment of Peace Park (Red Circled)	2023	500266	200,000		200,000	-	-	-	0%	Red circled - grant not approved	
LIB 02-23	Library Bookmobile (Red Circled)	2023	500304	58,500		58,500	-	-	-	0%	Red Circled- grant not approved	
Total Deferred or Cancelled Projects				8,295,050	(4,793,750)	3,403,082	1,217	46,534	47,751	1%		
Grand Total				\$ 31,908,872	\$ 4,502,273	\$ 26,766,871	\$ 3,799,830	\$ 8,605,279	\$ 12,405,109	46%		



August 15, 2023

Mr. William Tigert  
Acting Town Clerk  
Town of Pelham  
Pelham Town Hall  
20 Pelham Town Square  
P.O. Box 400  
Fonthill, ON L0S 1E0


Dear Mr. Tigert:

**Advertisement for the Notice of Study Completion  
Pelham Elevated Tank Municipal Class Environmental  
Assessment and Enhanced Conceptual Design  
Our File: O.01.06 99 20000619**

Attached please find a copy of our Notice of Completion advertisement and the Schedule 'B' Environmental Assessment Study for the above-noted project. The notice and report have been posted on the Region's website (<https://www.niagararegion.ca/projects/pelham-elevated-tank/>), and will be advertised in the Voice of Pelham on Wednesday, August 16, 2023, Niagara This Week, Zone 3 on Thursday, August 17, 2023 and the Tribune on Saturday, August 19, 2023. In accordance with Ontario's Environmental Assessment Act, we ask that the Project File Report be available for review and public comment for a period of 30 calendar days from August 16 to September 15, 2023.

If you have any questions, please contact the undersigned.

Yours truly



Gord Bell, C. Tech  
Senior Project Manager, Engineering  
Water & Wastewater Services  
[gordon.bell@niagararegion.ca](mailto:gordon.bell@niagararegion.ca)

GB/at

(#L:\ENVIRONMENTAL CENTRE\ENGINEERING\O.01 - CAPITAL PROJECTS\06 20000619 - New Pelham Elevated Tank\1.  
Project Management\1. Correspondence\Letters\2023\2023\_08\_15-Pelham\_Clerk\_Notice-Completion-PNO.Ad.Ltr.docx)

Attach.

cc: Jason Marr, Director of Public Works, Town of Pelham  
Barb Wiens, Director Community Planning & Development, Town of Pelham  
Bob Lymburner, Fire Chief, Town of Pelham  
Dan Carnegie, Acting Commissioner of Public Works



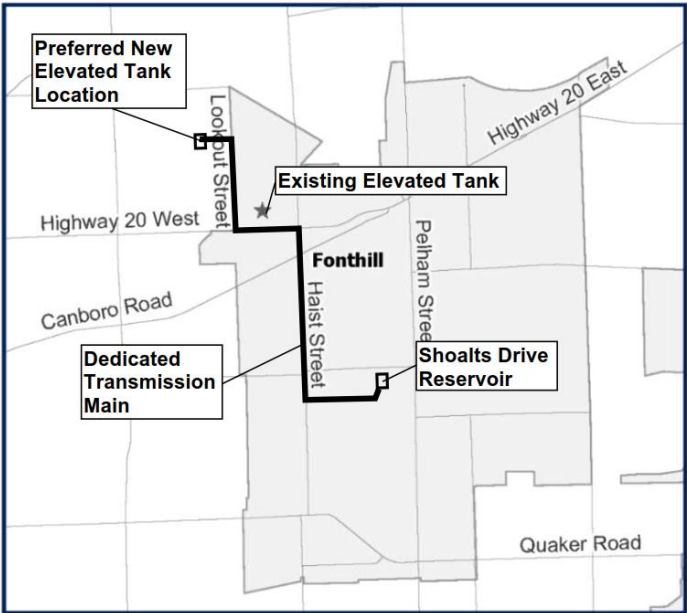
# Notice of Study Completion

## Pelham Elevated Tank Municipal Class Environmental Assessment and Enhanced Conceptual Design

### Town of Pelham

Niagara Region has completed a Class Environmental Assessment (EA) for a new Pelham Elevated Water Storage Tank and transmission system upgrades. This project is part of the recommended improvements from the Water and Wastewater Master Servicing Plan to the Pelham Service Area of the Welland Water System. The purpose of the study is to address adequate storage, pressure, and capacity to support growth.

The recommendation from this Municipal Class EA is to construct a new elevated tank on the property south of the Lookout Point Country Club golf driving range, with an access road from Lookout Street, a new dedicated transmission main from the Shoalts Drive Reservoir, a new outlet watermain connected to local distribution, and the demolition of the existing Pelham elevated tank and booster pumping station. The study was undertaken as a Schedule 'B' in accordance with the requirements of the Municipal Class Environmental Assessment (October 2000, as amended in 2007, 2011 and 2015), which is an approved process under the Ontario Environmental Assessment Act.



The Class EA Project File Report documenting the planning and decision-making process followed during the Class EA study has been prepared. By this notice, the Project File Report is being placed on the public record for a 30-day review period. The report is available online for public review at the link below.

[niagararegion.ca/projects/pelham-elevated-tank/](https://niagararegion.ca/projects/pelham-elevated-tank/)

It will also be made available for public review starting Aug. 16, 2023 and ending Sept. 15, 2023 at the following locations during normal business hours:

**Office of the Regional Clerk**  
Niagara Region  
1815 Sir Isaac Brock Way, PO Box 1042  
Thorold, ON, L2V 4T7  
905 980-6000 ext. 3222  
Toll-free: 1-800-263-7215  
Monday - Friday: 8:30 a.m. – 4:30 p.m.

**Clerk's Department**  
Pelham Town Hall  
20 Pelham Town Square  
P.O. Box 400  
Fonthill, ON, L0S 1E0  
905-892-2607  
Monday - Friday: 8:30 a.m. – 4:30 p.m.

Written comments on this Project File should be submitted to:

**Gordon Bell, C.Tech**  
Senior Project Manager  
Water and Wastewater Engineering  
Public Works, Niagara Region  
3501 Schmon Pkwy., PO Box 1042  
Thorold, ON, L2V 4T7  
905-980-6000 ext. 3645  
Toll-free: 1-800-263-7215  
[newpelhamelevatedtank@niagararegion.ca](mailto:newpelhamelevatedtank@niagararegion.ca)

**Rika Law, P.Eng., PMP®**  
Project Manager and Associate  
R.V. Anderson Associates Limited  
43 Church St., Suite 104  
St. Catharines, ON, L2R 7E1  
905-685-5049 ext. 1209  
Fax: 905-685-9894  
[rlaw@rvanderson.com](mailto:rlaw@rvanderson.com)

In addition, a request may be made to the Ministry of the Environment, Conservation and Parks for an order requiring a higher level of study (i.e., requiring an individual/comprehensive EA approval before being able to proceed), or that conditions be imposed (e.g., require further studies), only on the grounds that the requested order may prevent, mitigate or remedy adverse impacts on constitutionally protected Aboriginal and treaty rights. Requests on other grounds will not be considered. Requests should include the requester contact information and full name for the ministry.

Requests should specify what kind of order is being requested (request for additional conditions or a request for an individual/comprehensive environmental assessment), how an order may prevent, mitigate or remedy those potential adverse impacts, and any information in support of the statements in the request. This will ensure that the ministry is able to efficiently begin reviewing the request.

The request should be sent in writing or by email to the contacts listed below. Requests should also be sent to the Project Team.

**Minister of the Environment,  
Conservation and Parks**  
777 Bay St., 5th Floor  
Toronto, ON, M7A 2J3  
minister.mecp@ontario.ca

**Director, Environmental Assessment  
Branch**  
135 St. Clair Ave. W, 7th Floor  
Toronto, ON, M4V 1P5  
EABDirector@ontario.ca

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Personal information collected or submitted in writing will be collected, used and disclosed by members of Regional Council and Regional staff in accordance with the **Municipal Freedom of Information and Protection of Privacy Act (MFIPPA)**. The written submissions including names, contact information and reports of the public meeting will be made available. Questions should be referred to the Privacy Office at 905-980-6000 ext. 3779 or [FOI@niagararegion.ca](mailto:FOI@niagararegion.ca).

If you require any accommodations for a disability in order to attend and participate in meetings or events, please let us know in advance so that arrangements can be made in a timely manner. Please contact the **Accessibility Advisory Coordinator** at 905-980-6000 ext. 3252 or [accessibility@niagararegion.ca](mailto:accessibility@niagararegion.ca).

This notice was first issued on Aug. 16, 2023.



25 August 2023

Dear Mayor Junkin and Members of Town of Pelham Council,

As you are aware, Lincoln Pelham Public Library has been making plans for renovations to two of its branches. Both the MK Rittenhouse and the Fonthill branch are in the improvement planning stages.

To that end, we have enlisted the services of the Armstrong Group to assist us with a Feasibility/Planning study that will culminate in a report for the Library Board and a capital campaign to begin early in 2024.

Armstrong representatives will conduct interviews in Lincoln and Pelham this fall to gauge support for the renovation project, and we wanted to ensure you were aware of these activities before our commencement.

We appreciate the support of the Councils of Lincoln and Pelham as we plan for our library improvements. Please direct any questions that may arise to LPPL (Lincoln Pelham Public Library) CEO (Chief Executive Officer) Julie Andrews, [jandrews@lppl.ca](mailto:jandrews@lppl.ca).

Thanks again for your continued support.

Sincerely,

Donna Burton

LPPL Library Board Chair

**Committee of Adjustment**  
**Minutes**

**Meeting #:** CofA 06/2023  
**Date:** Monday, June 5, 2023  
**Time:** 4:00 pm  
**Location:** Meridian Community Centre - Accursi A and B  
100 Meridian Way  
Fonthill, ON  
L0S 1E6

Members Present      Brenda Stan  
Isaiah Banach  
John Cappa

Members Absent      Colin McCann  
Don Rodbard

Staff Present      Sarah Leach  
Andrew Edwards  
Gimuel Ledesma  
Barbara Wiens

**1. Attendance**

Applicants, Agents and viewing members of the public via hybrid in-person and live-stream through the Town of Pelham YouTube Channel.

**2. Call to Order, Declaration of Quorum and Introduction of Committee and Staff**

Noting that a quorum was present, Chair Banach called the meeting to order at approximately 4:00 pm. The Chair read the opening remarks to inform those present on the meeting protocols and he introduced the hearing panel and members of staff present.

**3. Land Recognition Statement**

Ms. Sarah Leach, Secretary-Treasurer, recited the land recognition statement.

**4. Approval of Agenda**

**Moved By** John Cappa

**Seconded By** Brenda Stan

**THAT the agenda for the June 5, 2023 Committee of Adjustment meeting be adopted, as circulated.**

**Carried**

**5. Disclosure of Pecuniary Interest and General Nature Thereof**

There were no pecuniary interests disclosed by any of the members present.

**6. Requests for Withdrawal or Adjournment**

Ms. Sarah Leach, Secretary-Treasurer stated no requests for withdrawal or adjournment have been made.

**7. Applications for Minor Variance**

None.

**8. Applications for Consent**

**8.1 Consent Cancellation - B3/2015P - 1161 Pelham Street**

**Moved By** Brenda Stan

**Seconded By** John Cappa

**THAT the Committee of Adjustment grant the cancellation of Consent File B3/2015P - 1161 Pelham Street.**

**Carried**

**8.2 B7/2023P - 1440 Pelham Street**

**Purpose of the Application**

Application is made for consent to convey an easement in perpetuity over Part 1 on Reference Plan 59R-17025, to the benefit of Bell Canada for use of the existing underground conduit and cables to service 1450 Pelham Street. Part 1 on Reference Plan 59R-16172 and Part 1 on Reference

Plan 59R-17025 are to be retained for continued commercial use of the commercial building known municipally as 1440 Pelham Street.

### **Representation**

The Agent, Robert Di Lallo was present.

### **Correspondence Received**

1. Town of Pelham Planning
2. Town of Pelham Public Works
3. Town of Pelham Building
4. Hydro One

### **Applicants Comments**

Mr. Di Lallo expressed support for the Staff recommendation report.

### **Public Comments**

Ms. Leach, Secretary Treasurer indicated she checked the [clerks@pelham.ca](mailto:clerks@pelham.ca) email address at 4:08 pm and confirmed no e-mails have been received with regard to the subject application. Ms. Leach indicated the public comment portion of the application could be closed. The Committee agreed to close the public portion of the meeting and deliberate.

**Moved By** John Cappa

**Seconded By** Brenda Stan

**THAT the public portion of the meeting be closed.**

**Carried**

### **Member Comments**

The Members offered no comments or concerns.

**Moved By** John Cappa

**Seconded By** Brenda Stan

**Application B7/2023P made for consent to convey an easement in perpetuity over Part 1 on Reference Plan 59R-17025, to the benefit of Bell Canada for use of the existing underground conduit and cables to service 1450 Pelham Street. Part 1 on Reference Plan 59R-16172 and Part 1 on Reference Plan 59R-17025 are to be retained for**



continued commercial use of the commercial building known municipally as 1440 Pelham Street; is hereby: **GRANTED**;

The above decision is subject to the following conditions:

To the Satisfaction of the Secretary-Treasurer

1. 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.
2. 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.

This decision is based on the following reasons:

1. The application conforms to the policies of the Town of Pelham Official Plan, Regional Policy Plan and Provincial Policy Statement, and complies with the Town's Zoning By-law.
2. This Decision is rendered having regard to the provisions of Sections 51(24) and 51(25) of the Planning Act, R.S.O., as amended.
3. The Committee of Adjustment considered all written and oral submissions and finds that, subject to the conditions of provisional consent, this application meets Planning Act criteria, is consistent with the Provincial Policy Statement and complies with the Growth Plan, the Niagara Region Official Plan and the Town Official Plan.

**Carried**

### **8.3 B10/2022P - 105 Welland Road**

#### **Purpose of the Application**

Application is made for consent to partial discharge of mortgage and consent to convey 3893.15 square metres of land (Part 2), for future



residential development. Part 1 is to be retained for continued institutional use of Concordia Lutheran Church.

### **Representation**

The Agent, William Heikoop of Upper Canada Consultants and Rocco Vacca of Sullivan Mahoney LLP were present.

### **Correspondence Received**

1. Town of Pelham Planning
2. Town of Pelham Public Works
3. Town of Pelham Building
4. Hydro One
5. Brad Whitelaw
6. Georgio Panici
7. Karen Goldhawk
8. Heather Carter
9. Lori Bonito
10. Ruth Dallas
11. Kathleen Doyle
12. Terry Harford
13. John Guzzi
14. Karen Lynne
15. Murray and Helen Downie
16. Marilyn Rogge
17. Ron & Melanie Patterson
18. Nancy Ostrander
19. Natalie Diduch
20. Darlene and Terry Proveau
21. John Caron
22. Roman Shapoval
23. Chris Fisher

### **Applicants Comments**

Mr. Vacca expressed support of the staff recommendation report and associated conditions. Mr. Vacca clarified that the only matter before the Committee of Adjustment (the “Committee”) for consideration is the lot creation. He stated most public comments were relevant to the associated zoning by-law amendment application, not before the Committee.

Mr. Heikoop provided a short presentation to further explain the application. A copy is available through the Secretary-Treasurer.

## **Public Comments**

Brad Whitelaw indicated he was representing numerous residents. Mr. Whitelaw stated the application does not conform to various sections of the Town of Pelham's Official Plan. He expressed concern regarding traffic and safety and indicated the proposal would exacerbate the existing issue. Mr. Whitelaw suggested the proposal is not in keeping with the intent and performance standards of the Zoning By-law. Mr. Whitelaw further suggested that an increase in storm water runoff would negatively affect drainage in the area. He stated the Town needs to upgrade existing stormwater management infrastructure. Mr. Whitelaw indicated the proposal does not protect or enhance the existing urban area.

A Member asked for the condition of drainage currently. Mr. Whitelaw indicated that any change from the existing parking lot would exacerbate drainage issues.

Natalie Diduch attested to the traffic concerns and identified an existing blind curve. Ms. Diduch indicated that surrounding businesses have already increased traffic and speed.

Dana Goldhawk indicated his lot on Woodside Square has an existing drainage issue. Mr. Goldhawk stated it is unsafe to pull out of Woodside Square. He expressed concern that the proposed development would exacerbate traffic issues.

Heather Carter supported the traffic concern and identified this location as the gateway to south Fonthill. Ms. Carter agreed the proposal would exacerbate existing traffic issues. Ms. Carter stated that this area of transition needs to be carefully considered.

Chris Fisher supported the traffic concern and indicated that both his vehicles had been involved in collisions throughout his residency in this area. Mr. Fisher requested the installation of sidewalks if there is to be development in the neighbourhood.

Mr. Vacca indicated a traffic impact study has been submitted, reviewed, and accepted. He further indicated that a stormwater management plan needs to be approved prior to development. Mr. Vacca indicated that through planning processes to come, identified issues will be eliminated. Mr. Vacca stated that issues related to zoning, the official plan, and character are not relevant to the severance.

Mr. Heikoop provided a brief history on the pending zoning by-law amendment application. He stated the existing zoning is Institutional and indicated the zoning by-law amendment application was submitted prior to the adoption of the new comprehensive zoning by-law. Mr. Heikoop stated the new zoning by-law now allows for an apartment dwelling within in this zone.

A Member asked if consideration was given to a second ingress/egress on Pelham Street. Mr. Heikoop responded that the second property would not have frontage on Pelham Street. He indicated that generally driveways are discouraged on high order roads.

Murray Downie indicated the traffic impact study did not consider increased traffic resulting from surrounding development outside of Welland Road. Mr. Downie expressed concern that increased traffic is a safety hazard.

Ms. Diduch requested a copy of the traffic impact study.

Ruth Dallas questioned the process of requesting relief from a by-law.

The Chair clarified the intent of the application before the Committee for consideration and differentiated the process of a severance and zoning by-law amendment.

Ms. Dallas expressed disagreement with the proposed building height. A Member responded with further clarification that much of the concerns expressed are not for the Committee to consider and will be addressed through separate planning processes. The Member explained that land subdivision is a common process for evolution.

Mr. Vacca reiterated that the zoning by-law amendment was submitted under the old zoning by-law and suspected that the proposal will be amended to retain the current zoning. Mr. Vacca confirmed the traffic impact study analyzes traffic and safety. Mr. Vacca further confirmed that no development can proceed without drainage being addressed.

Ms. Leach, Secretary Treasurer indicated she checked the [clerks@pelham.ca](mailto:clerks@pelham.ca) email address and confirmed no e-mails have been received with regard to the subject application. Ms. Leach indicated the public comment portion of the application could be closed. The Committee agreed to close the public portion of the meeting and deliberate.

**Moved By** John Cappa

**Seconded By** Brenda Stan

**THAT the public portion of the meeting be closed.**

**Carried**

**Member Comments**

The Chair thanked the gallery for their respectful, thoughtful comments. The Chair assured the development still has many steps to go. The Chair stated the subdivision of land makes sense for future use and satisfies with *Planning Act* tests. He concluded by advising that many of the issues raised will be addressed in future planning processes. A Member concurred with the comments of the Chair.

**Moved By** Brenda Stan

**Seconded By** John Cappa

**Application B10/2022P made for consent to partial discharge of mortgage and consent to convey 3893.15 square metres of land (Part 2), for future residential development. Part 1 is to be retained for continued institutional use of Concordia Lutheran Church, is hereby: GRANTED;**

**The above decision is subject to the following conditions:**

**To the Satisfaction of the Director of Public Works**

- 1. Obtain approval for a Driveway Entrance Permit, as applicable, through the Public Works department, to Town standards. The applicant shall bear all costs associated with these works.**
- 2. Confirm that no existing utilities cross the proposed new property line. Should any services cross the new property line, the applicant shall be responsible for costs associated with their relocation and/or removal.**
- 3. Install sanitary and water service connections for Part 2 at the owner's expense. The applicant shall obtain a Temporary Works Permit through the Public Works department prior to commencing work.**

**To the Satisfaction of the Director of Community Planning & Development**

1. **Sign the Town of Pelham's standard "Memorandum of Understanding" explaining that development charges and cash-in-lieu of the dedication of land for park purposes are required prior to the issuance of a Building Permit.**
2. **Obtain site plan approval for the relocated parking and entrance, grading and drainage and landscaping improvements/requirements on Part 1.**
3. **Conduct a Stage 1-2 Archaeological Assessment prepared by a licensed archaeologist and receive clearance from the Ministry of Heritage, Sport, Tourism & Culture. At a minimum, the Assessment must cover the building envelope of the proposed lot eligible for disturbance and be accepted by the Ministry prior to clearance of this condition. The licensed archaeologist may recommend further archaeological analysis or preservation steps be taken. No demolition, grading or other soil disturbances shall take place on the subject land prior to the issuance of a Ministry letter confirming that all archaeological resource concerns have been mitigated and meet licensing and resource conservation requirements.**

**To the Satisfaction of the Secretary-Treasurer**

1. **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.**
2. **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.**

**This decision is based on the following reasons:**

1. **The application conforms to the policies of the Town of Pelham Official Plan, Regional Policy Plan and Provincial Policy Statement, and complies with the Town's Zoning By-law.**
2. **This Decision is rendered having regard to the provisions of Sections 51(24) and 51(25) of the Planning Act, R.S.O., as amended.**

3. **The Committee of Adjustment considered all written and oral submissions and finds that, subject to the conditions of provisional consent, this application meets Planning Act criteria, is consistent with the Provincial Policy Statement and complies with the Growth Plan, the Niagara Region Official Plan and the Town Official Plan.**

**Carried**

**9. Minutes for Approval**

**Moved By** Isaiah Banach

**Seconded By** Brenda Stan

**THAT the Committee of Adjustment minutes dated March 6, 2023, and May 1, 2023, be approved.**

**Carried**

**10. Adjournment**

The meeting adjourned at 5:25 pm.

**Moved By** John Cappa

**Seconded By** Brenda Stan

**BE IT RESOLVED THAT this Meeting of the Committee of Adjustment be adjourned until the next regular meeting scheduled for July 4, 2023, at 4:00 pm.**

**Carried**

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Isaiah Banach, Chair

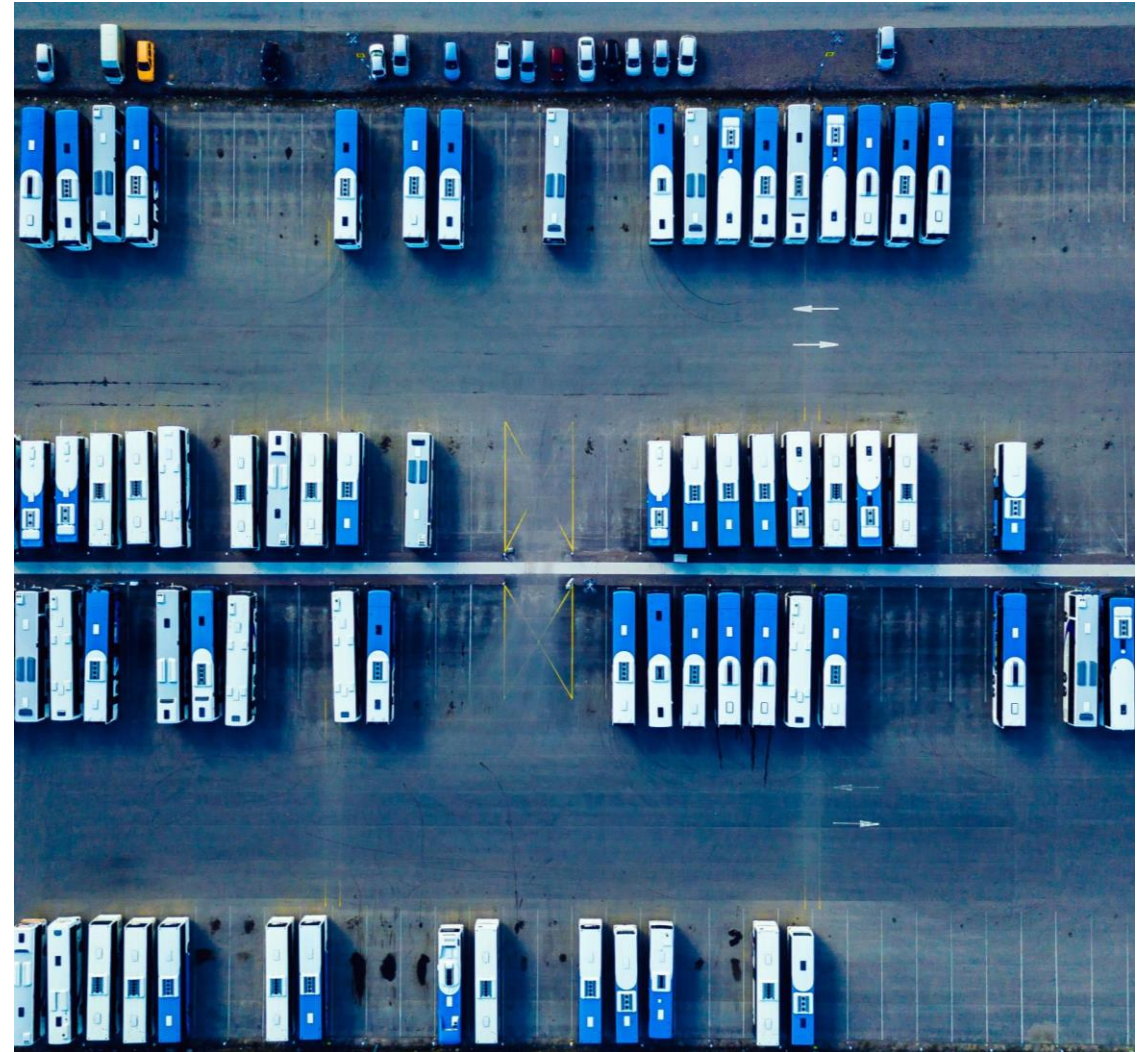
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Sarah Leach, Secretary-Treasurer

# Niagara Regional Transit

*The First Six Months*

September 6, 2023



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## Perspective

- 50 years since we started to talk
- 20 years of work
- We've been here for 6 months
- Change and movement has been challenging





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## Links Outside Pelham

- Region of 600,000 residents
- 13,000,00 visitors to reach 20,000,000 in 10 years
- GO Transit is the obvious answer
- NRT will revitalize the St. Catharines and Niagara Falls station and the construct the new Grimsby station



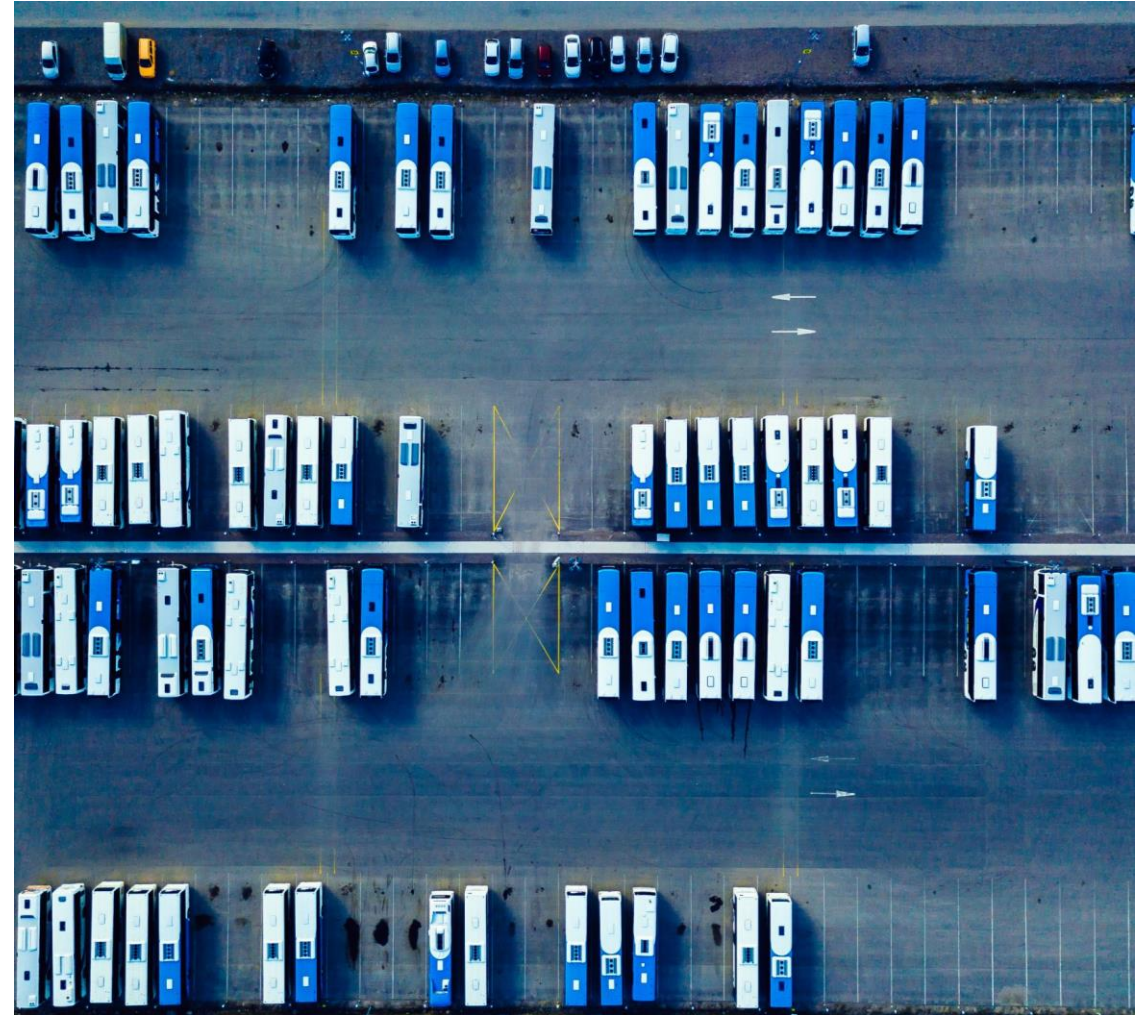


## Currently

- 420 employees
- Multiple bargaining units
- Dorchester hub
- Niagara College Agreement

# The Fleet

- 168 Buses
- Average age of the fleet is 8 years
- Desirable fleet age is 6
- Absolute retirement is 12
- Most recent purchase was 8 conventional diesel buses







---

## Costs are Increasing

- Cost of a bus is around \$1 million plus \$250,000 in technology
- An electric bus costs about \$1.5 million plus \$250,000
- The capital budget for vehicles is \$159 million over 10 years

## Ten Year Forecasts

- Gross Capital Replacement Equipment \$159M
- Less Investing in Canada Infrastructure Program (ICIP) \$82M
- Strategic Investment \$47M with Facility Investments TBD
- Total NTC Net Capital Forecast \$125M
- Unfunded replacements 19 conventional diesel buses, 54 hybrid buses, 6 60 foot buses and 8 specialized buses



# The Operating Budget

- The annual budget is \$56 million
- Ridership has returned to 128% of pre pandemic levels
- June view forecast is a surplus of \$1 M
- Received our first financial statements in August
- Next critical financial step will be the budget process which starts this month





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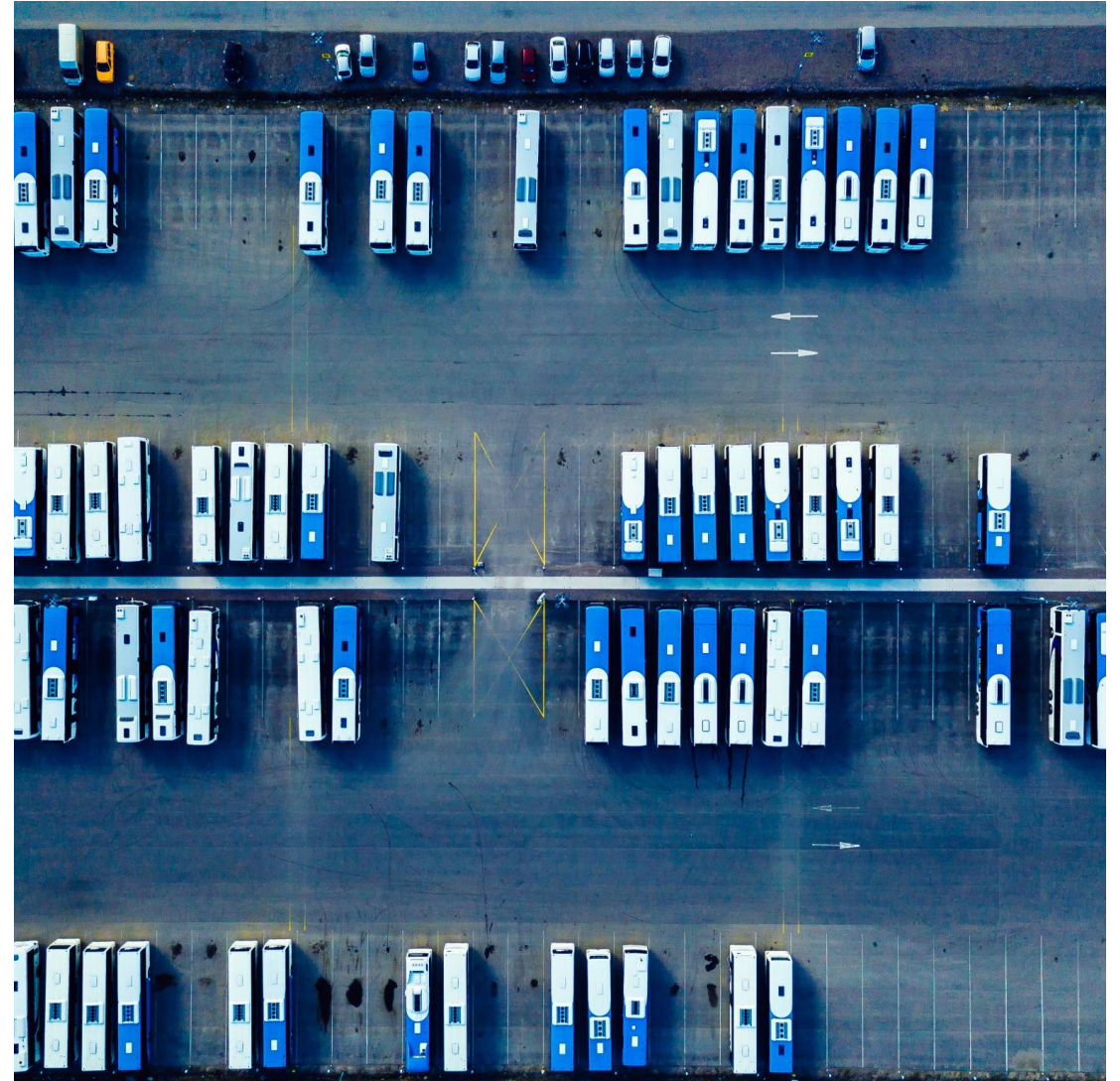
# Technology

- Greener buses
- 75% of buses do not have cameras
- Pay with your phone
- Always playing catch-up with technology
- Infrastructure needs to handle new electric buses or hydrogen buses



# 2023 Immediate Needs

- Leadership
- Merge and Consolidate
- Improve Service Reliability
- Restore Ridership
- Strategic Plan





**Subject:** Proposed Increase to Public Works Staffing Compliment

**Recommendation:**

**BE IT RESOLVED THAT Council receive Report #2023-0163 – Proposed Increase to Public Works Staffing Compliment, for information;**

**AND THAT Council approve the establishment and hiring of one full-time roads division operator with a target goal of starting this position in January 2024, as outlined in this report;**

**AND THAT Council approve the increase in hours for the Maintenance Assistant from a part-time 24 hours per week position to a full-time position working 40 hours per week starting this January 2024 and dependent upon satisfactory negotiation with CUPE Local 1287 regarding work schedule;**

**AND THAT Council refer the proposed Beautification arborist position, to the 2025 budget deliberations;**

**AND THAT Council refer the proposed water/wastewater and engineering position to the 2026 budget deliberations.**

**Background:**

The Town of Pelham is home to a network of roads, trails, parks and community infrastructure. The Public Works Department is responsible for this network's maintenance, operation and renewal.

In the last thirty years, the Town of Pelham Public Works department's environment has changed significantly, while the number of front-line staff, equipment or facility space which serves to support this environment has not kept pace.

The pressures that have influenced the department's ability to function are largely external. These include population growth and expansion of infrastructure through development, demographic change, changes in Federal and Provincial legislation, organization of labour, and the public's demand for new services as well as a greater public expectation of the quality of the services delivered.

In response to the previous Council's strategic priority in 2020 of completing an operational review of Public Works to address these issues, staff initiated an RFP for a consulting firm to undertake said study. The contract was awarded to KPMG in the fall of 2020 and the final report was presented to Council in February 2021 through Public Works Report #2021-0023.

KPMG's scope of work was to assist in the development of a plan to address the needs of the department related to staffing, facilities, and operational resources in response to growth, as well as comparative analysis with other local area municipalities (Thorold, Niagara-on-the-Lake, Port Colborne). This report serves to inform Council of the immediate need to increase the number of front-line staff so that the department may continue to provide services and maintain community infrastructure at the current level. While this report is related to staff, the need for increased space at the Operations Centre (675 Tice Road) remains to be addressed and will be the focus of future reports.

### **Analysis:**

The level of staffing within the Public Works Department should not be considered a new problem, but one that has been growing in step with the Town's size and population. Since 1990 the population of Pelham has grown 27%, from 13,328 to 18,192 in 2023. As reported in the 1990 Financial Information Return (FIR), the total number of full-time positions (FTEs) in the Town of Pelham was thirty-seven, twelve of which were in Public Works, representing 32% of the municipal workforce.

The number of full-time employees in the Town of Pelham as reported in the 2022 FIR was seventy-seven, eighteen of which were in Public Works, representing 23% of the municipal workforce. The increase in full-time Public Works staff from 1990 is associated with new positions such as the fleet technician, tradesperson, water/wastewater operators as well as additional engineering technicians in response to post-Walkerton drinking water legislation, and requirements for Road Patrolling under the Minimum Maintenance Standards under the *Municipal Act, 2001*.

During the period between 2008 and 2023, the Public Works Department was reorganized several times to meet the needs of the community while staffing levels remained mostly static. In 2008 the number of front-line FTEs responsible for performing the labour portion of the department was eleven. In 2023, after fifteen years of growth, the number of front-line FTEs responsible for the maintenance and operation of the Town's transportation system (including winter weather response), sidewalks and trails, water/wastewater infrastructure, storm sewer systems, forestry, cemeteries, playgrounds, parks, and horticultural beds increased modestly to 12. It is also important to note that there were ten reported seasonal employees in the 2008 FIR, currently in 2023 there are nine.

The KPMG Operational review of the Public Works concluded that in 2020, the department was stretched to meet the current service levels and further growth would strain the department's resources including staff, operations yard space, and equipment.

Results of the comparative analysis indicated that:

(1) the Town of Pelham Public Works Department has the lowest operating expense of the comparators of similar size;

(2) the Town of Pelham Public Works Department employs the fewest number of full-time employees (FTEs); and

(3) the Town of Pelham Operations Yard (Tice Road Facility) is the smallest facility amongst the comparator group.

While other departments within the Town of Pelham have expanded to meet the needs of the community, while operating within their changing legislative frameworks, Public Works has been asked repeatedly to find efficiencies and to do more with less. According to KPMG's analysis, the department as a whole has been successful in doing so from a cost-per-service perspective, however, given the quantity and ferocity of calls received daily by the department it is hard to believe that the public is in agreement.

The KPMG Operational Review provides the predictive analysis of growth to occur in East Fonthill and Fenwick. The result of their analysis indicates that between 2021 and 2031 the Town will see an increase in population of 9,500 humans, 3,800 dwellings, 50 lane km of roadway, 50 km of sidewalk, 2.5 km of trails, 4,028 trees and other growth-related to parks, woodlots, and open spaces.

KMPG then modeled the current output of existing staff in comparison to the quantity of infrastructure maintained at a defined level of service. When the results of the predictive analysis were added to the output model it concluded that an additional five FTEs would be required by the year 2025 to support the growth and maintain the same service levels as provided by the department at the time of the study including one roads FTE, one beautification FTE, one water/wastewater FTE, and two engineering FTEs. To date one FTE has been added to the engineering team.

While the KPMG report serves to provide a plan to address future maintenance and operations in support of growth it does not delve into existing challenges faced daily by the department to provide basic services to the Town. Since 1990 the Town has added 43 km of two-lane highway, with the same approximate quantities in the sidewalk, drinking water, sewer, storm sewer infrastructure, as well as parks, trails and other infrastructure that is included with this type of growth. Prior to 2011, the

Town of Pelham owned and operated seven combination snowplow/spreader units. The municipality also utilized a private contractor to plow a winter maintenance route in the North Pelham area after the Niagara Region transferred the ownership of Canboro Road, Sixteen Road and Effingham to the Town.

After Council's decision in 2011 to eliminate the use of a private contractor in order to approve the additional capital expense of replacing a single axle combination snowplow/spreader with a tandem axle snowplow, and a 2016 decision to disallow the replacement of a 2003 combination snowplow/spreader unit for budgetary savings, winter maintenance route times increased from a four hour per route cycle to six hours as staff absorbed the increase in kilometers maintained.

The maintenance required by new development in terms of linear infrastructure (water, sewer, storm sewer, curb, sidewalk, road surface) is not generally felt for the relative operational life of those assets, however, the requirement to provide winter maintenance is immediate. Further additions to the road network will result in an increase to route cycle times which will inevitably lead to delays in clearing snow, citizen frustration, and an inability to meet the timelines for addressing winter weather conditions under the Minimum Maintenance Standards of Ontario, as well as the Town of Pelham Winter Operations Policy S802-04.

### **Staffing Recommendations**

The Public Works Department have reviewed the operational review completed by KPMG, as well as departmental procedures, workload, staff output and have incorporated the recommendations proposed by the operational review into an overall strategy for staffing the department adequately to address gaps in service and future growth.

For the purpose of this report, the key KPMG recommendations are to increase staff within Public Works by five full-time positions by the year 2025 including one roads FTE, one beautification FTE, one water/wastewater FTE, and two engineering FTEs. One engineering FTE was hired in 2022 so the proposal put forth by Public Works in this report is to hire four full-time FTEs between 2024 and 2026. To meet the department's immediate need to address gaps in roads and winter operations, staff recommend the hiring of one roads operator as well as increasing the part-time maintenance assistant to a full-time position.

The increase in frontline staff will provide more options to provide coverage during the day and through the overnight hours, when due to the Hours of Service regulations under the *Highway Traffic Act*, the existing staff who participated in winter maintenance activities during the day are no longer eligible to drive.

However, the proposed increase in staff will not reduce the plow route cycle times or significantly increase the level of service related to winter operations. To address moderate-to-heavy snow accumulation in accordance with the Minimum Maintenance Standards requires ten to thirteen hours of operational time for ten of the eleven current fulltime staff. This assumes that all fleet is operational, and no other work in water/wastewater, cemeteries, facilities, or forestry is required at that time. Route cycle times will only be reduced with the increase in equipment currently scheduled for 2025, being a development charge funded combination snowplow/spreader unit, that has been deferred for nearly a decade.

### **Financial Considerations:**

The total cost of first two recommendations for 2024 is \$122,750, including benefits. This includes \$85,472 (including benefits) for an additional Road Operator and \$37,277 (including benefits) to bring the Maintenance Assistant from 24hours a week to full-time status.

### **Alternatives Reviewed:**

After years of absorbing the increases to infrastructure there are no further substantive efficiencies within the existing staff to be found. To maintain the current service levels it is necessary to increase the staffing levels in Public Works. These requests are supported by the KPMG study conducted in 2020.

### **Strategic Plan Relationship: Enhancing Capacity and Future Readiness**

Adding the new positions presented in this report would enhance the departments ability to meet current service levels.

### **Consultation:**

Consultation was undertaken with the Director of Corporate Services and Treasurer and the Manager of People Services in the preparation of this report.

### **Other Pertinent Reports/Attachments:**

KPMG Public Works Operational Review Final Report

Public Works Report #2021-0023

### **Prepared and Recommended by:**

Ryan Cook, Dipl.M.M., CRS  
Manager of Public Works

Jason Marr, P. Eng.

Director of Public Works

**Prepared and Submitted by:**

David Cribbs, BA, MA, JD, MPA  
Chief Administrative Officer



# The Town of Pelham

## Public Works Operational Review

### Final Report

January 21<sup>st</sup>, 2020



# Disclaimer

This report has been prepared by KPMG LLP (“KPMG”) for the Town of Pelham (“the Client”) pursuant to the terms of our engagement agreement with Client dated September 1, 2020 (the “Engagement Agreement”). KPMG neither warrants nor represents that the information contained in this report is accurate, complete, sufficient or appropriate for use by any person or entity other than Client or for any purpose other than set out in the Engagement Agreement. This report may not be relied upon by any person or entity other than Client, and KPMG hereby expressly disclaims any and all responsibility or liability to any person or entity other than Client in connection with their use of this report.

We had access to information up to January 21, 2021 in order to arrive at our observations but, should additional documentation or other information become available which impacts upon the observations reached in our report, we will reserve the right, if we consider it necessary, to amend our report accordingly. This report and the observations and recommendations expressed herein are valid only in the context of the whole report. Selected observations and recommendations should not be examined outside of the context of the report in its entirety.

Our observations and full report are confidential and are intended for the use of the Client. Our review was limited to, and our recommendations are based on, the procedures conducted. The scope of our engagement was, by design, limited and therefore the observations and recommendations should be considered in the context of the procedures performed. In this capacity, we are not acting as external auditors nor value for money auditors and, accordingly, our work does not constitute an audit, examination, value for money, attestation, or specified procedures engagement in the nature of that conducted by external auditors on financial statements or other information and does not result in the expression of an opinion.

Pursuant to the terms of our engagement, it is understood and agreed that all decisions in connection with the implementation of advice and recommendations as provided by KPMG during the course of this engagement shall be the responsibility of, and made by, the Town of Pelham. KPMG has not and will not perform management functions or make management decisions for the Town of Pelham.

KPMG has no present or contemplated interest in the Town of Pelham, nor are we an insider or associate of the client. Accordingly, we believe we are independent of the Town of Pelham and are acting objectively.



# Table of Contents

The contacts at KPMG in connection with this report are:

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Partner

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# Project Overview

Town of Pelham  
Public Works Operational Review  
Final Report

## Introduction

This final report was prepared to present observations and evidence to form a potential case for change arising from research, analysis and consultation with staff from the Town of Pelham (the “Town” or “Pelham”). This report will provide the foundation for possible opportunities to ensure the Town has sufficient resources and facilities to efficiently meet service level expectations of the Town’s infrastructure both currently and into the future.

## Setting the Stage

The Town of Pelham is located at the centre of the Niagara Region boarding St. Catharine's (north), Thorold and Welland (east), Wainfleet (south) and West Lincoln (west). The Town’s population is currently 17,100 residents that are located within urban and rural areas encompassing 126.43 square kilometres.

The Town’s Public Works department contains four main business units: 1. Roads, 2. Winter Control, 3. Beautification, and 4. Water/Wastewater. The department is led by the Director, Public Works with a Manager, Public Works. The Public Works department is operated out of the Tice Road Operations Centre where equipment, supplies and materials are stored. In addition, the Director, Public Works manages the Operations department, a team comprised of engineers, out of Town Hall. The department is responsible for planning, designing, supervising and maintaining the Town’s infrastructure and related capital assets.

Over the next decade, the Town will experience significant growth due to the development of East Fonthill and East Fenwick and the surrounding area. Currently, the Town is able to meet its expected level of service given its current resource structure; however, the anticipated growth will strain the Town’s resources – particularly during the next five years – including yard space, staffing and capital assets such as vehicles and equipment. The current Public Works yard has been stretched to its limit which only increases the challenge of acquiring and storing new assets to keep up with growing service level expectations. The Town desires a plan to ensure it has sufficient resources and facilities to meet service level expectations of the Town’s infrastructure both currently and into the future, efficiently and at the lowest life-cycle cost.

## Executive Summary

Over the next decade, the Town of Pelham's population will increase by 9,120 residents, an increase of 58%, with the completion of the East Fonthill and East Fenwick residential developments. This is significant growth for a town with a population of 17,110<sup>1</sup>. Based on interviews, the Town's Public Works department is stretched to meet service levels, and significant population growth will begin to strain the department's resources including yard space, staffing, and capital assets. Notably, the current yard (~2 acres) is exceeding its storage capacity, is smaller relative to municipalities of similar size, and has no indoor storage for snow plows.

The Public Works department engaged KPMG to address this challenge. KPMG created a model to forecast future service levels from 2021-2041. Based on the model, it is expected that the Engineering and Public Works Operations departments will require the following additional resources:

- Approximately 0.40 acres of space for the Public Works yard and employee space between now and 2041;
- 5 additional FTEs by 2025 (2 for Engineering; 3 for Public Works Operations);
- \$635K for additional vehicles, equipment and machinery; and
- \$1.1M of additional operating budget between now and 2025

Near-term site expansion raises the question of what long-term needs also need to be considered. With this in mind, KPMG also considered the possibility of constructing a new facility (Option #2) that would meet medium and long-term staff needs, allow for optimal indoor equipment storage, and consider the possibility that future material supply may require on-site storage for a year's worth of ice-control material. A new facility of this nature would require approximately 4 acres of space to meet growing service levels, with an estimated building cost of ~\$2.6M (Class 5 estimate, ROM).

KPMG considered the risks, challenges and benefits of Options #1 and #2. With this analysis, the Town is better equipped to address growing service levels and to make the best choice for the future as it continues to grow.

*Source: 2016 Canadian Census*

## Project Objectives

KPMG was engaged by the Town of Pelham (“the Town”) to assist in the development of a plan to use the existing Operational Facility and Patrol Yard (Tice Road Facility) to optimally support current and future operational needs for the Town’s Public Works Division including the Operational, Engineering and Facility departments. The overall objective of the engagement was to provide a plan to ensure that the Town has sufficient resources and facilities that will efficiently meet service level expectations of the Town’s infrastructure both currently and into the future at the lowest life-cycle cost. The project had three secondary objectives:

### 1. Conduct Current State Review

We conducted a review to assess current operations and facilities at each of the division’s locations. The objective was to identify what the existing space and amenities can accommodate at current industry standards and what gaps (if any) exist.

### 2. Anticipate Projected Future Workload

We reviewed current workload and support staffing, equipment, supplies, and materials to help us summarize the plan with an anticipation of future resources needed to maintain the Town’s infrastructure including, but not limited to, roads, bridges, culverts, water-wastewater infrastructure, facilities and parks and cemeteries.

### 3. Provide Facility and Resource Optimization Plan

We prepared a plan that identified current risks (if any) with the current facility and overall operations. It also included recommendations to optimize operations (winter and summer) and associated changes needed at the operations centre and office locations.

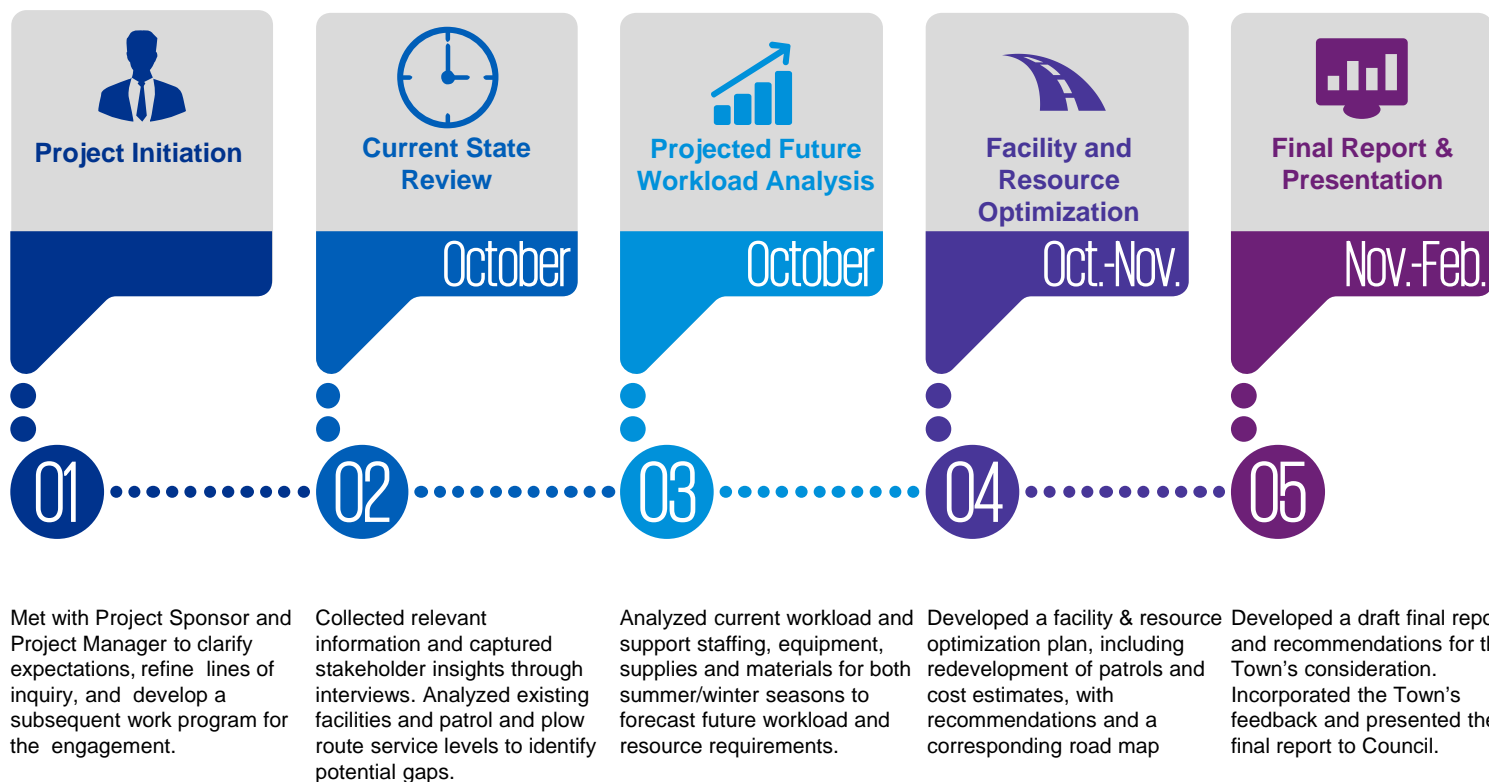
## Project Principles

- The knowledge and expertise of Town staff was fully engaged and built upon, to arrive at recommended actions through a transparent, participative and inclusive process facilitated by KPMG.
- The operational review process was conducted in a way that engages Town employees.
- The aim was to, wherever possible, transfer knowledge and necessary “tools” to Town staff to enable them to better develop their own solutions to operational and process issues and challenges over time.
- The framework and approach was based on leading practices from municipal or other levels of government experience and/or private sector.
- Lastly, this was not an audit. This was a review to develop a plan that will position the Town’s Public Works department for success today and well into the future.

# Introduction and Context

## Work Plan

This engagement commenced in the fall of 2020 and will be completed when the draft final report is presented to Town Council in February 1, 2021. The diagram below depicts the key phases as outlined in the Project Charter.





# Environmental Scan

Town of Pelham  
Public Works Operational Review  
Final Report

# Current State Public Works



Source: Google Maps (Tice Road Facility)

Indoor Unheated Storage 302 sq. m.	Outdoor Parking Space (Employees) 449 sq. m.	Outdoor Open Storage (Materials) – 607 sq. m.	Outdoor Parking Space 106 sq. m.
Indoor Garage Bay 183 sq. m.	Yellow: Outdoor Covered (Materials) – 313 sq. m.	Outdoor Open Storage 775 sq. m.	Employee Space 321 sq. m.

## Pelham Public Works

The Town's Public Works Division is currently responsible to support activities related to Operations, Beautification, Roads, Winter Control, Water/Wastewater, Engineering, Fleet and Facilities. All activities are operated from the Town of Pelham Patrol Yard (Tice Road Facility) except the Engineering Department, located at Town Hall. The Tice Road Facility is approximately 8,130 square metres (2 acres) and contains various heated/unheated indoor storage space, outdoor storage space, and open space. The Town stores approximately 52 pieces of equipment (i.e., trucks, snow plows, mowers, etc.) at the facility with up to 32 employees onsite during the summer months. The Engineering department currently uses 1 pick-up truck and a compact SUV which are parked at Town Hall.

KPMG analyzed the current operations at the facility and completed a facility tour to identify what the existing space and amenities can accommodate at the current service level. KPMG used the following key metrics a part of this analysis:

- Current service levels and inventory of equipment
- Total space (sq.m) per piece of equipment
- Total space (sq.m) per employee
- Required equipment to meet service levels

Based on this analysis, KPMG identified gaps with respect to current facility capacity, equipment and staffing.

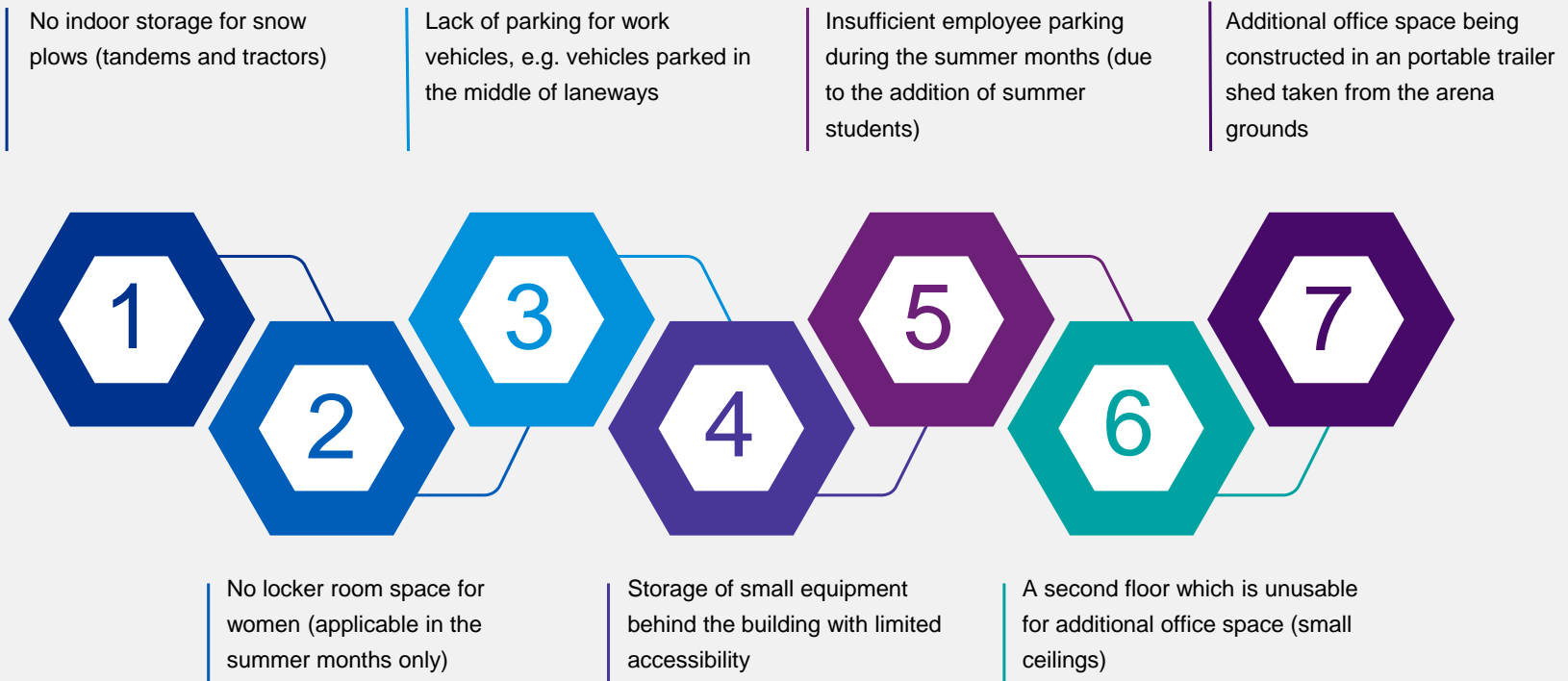
## The Tice Road Facility



# Challenges with the Current Yard

## Limitations and Challenges

KPMG visited the yard at 675 Tice Road in order to assess current space available, the property line, and limitations with the yard. KPMG observed that the yard is 'filled to the brim': vehicles are being parking in laneways; materials and small equipment are being stored behind the facility with limited accessibility; and an old portable trailer, placed immediately beside the property line, is being repurposed for office space. KPMG observed the following key challenges based on observation and discussion with Town staff:



# Environmental Scan

## Current State Public Works

### Departmental Breakdown

The Town also provided KPMG with its Operating Budget, activity working days and number of staff for each Public Works department. The below summarizes the current state for each department:

	Roads	Winter Control	Beautification	Water / Wastewater	Engineering
2020 Operating Budget	\$3.0M	\$595K	\$867K	\$5.1M	\$1.3M
Total Equipment Working Days	810 Working Days	Approximately 20 Winter Events	4,208 Working Days <sup>1</sup>	418 Working Days	1,040 Working Days (labour hours)
Staffing	1 Supervisor + 5 FTEs	3 Supervisors + 12 FTEs	1 Supervisor + 5 FTEs	1 Supervisor + 3 FTEs	1 Manager + 3 <sup>2</sup> FTEs

Source – Multiple Departments (CC) Summary Report – 2020-21 Budgets

1-- hours include seasonal/student staff

2 – one contract position will end in Q1 2021



# Comparator Analysis

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# Comparator Analysis – Community Details

For the purposes of the project, KPMG selected three communities to compare with the Town of Pelham based on the size of municipality.

Municipality	Population <sup>1</sup>	Households <sup>1</sup>	Area in Square KMs <sup>2</sup>
1. Town of Pelham	17,110	7,104	126.43
2. City of Thorold	18,801	8,498	82.99
3. Niagara-on-the-lake	17,511	7,026	132.81
4. Port Colborne	18,306	10,304	121.96

<sup>1</sup> Source - Financial Information Returns, Schedule 2 (2019)

<sup>2</sup> Source - Statistics Canada census profile, 2016 census data

The primary purpose of the comparative analysis is to understand the performance of comparator municipalities' Public Works functions in order to identify opportunities to improve the Town's service delivery. Specifically, the comparator analysis analyzed:

- Public Works operating expenses
- Number of Public Works FTE's against total operating expenses
- Public Works facility size against total operating expenses.

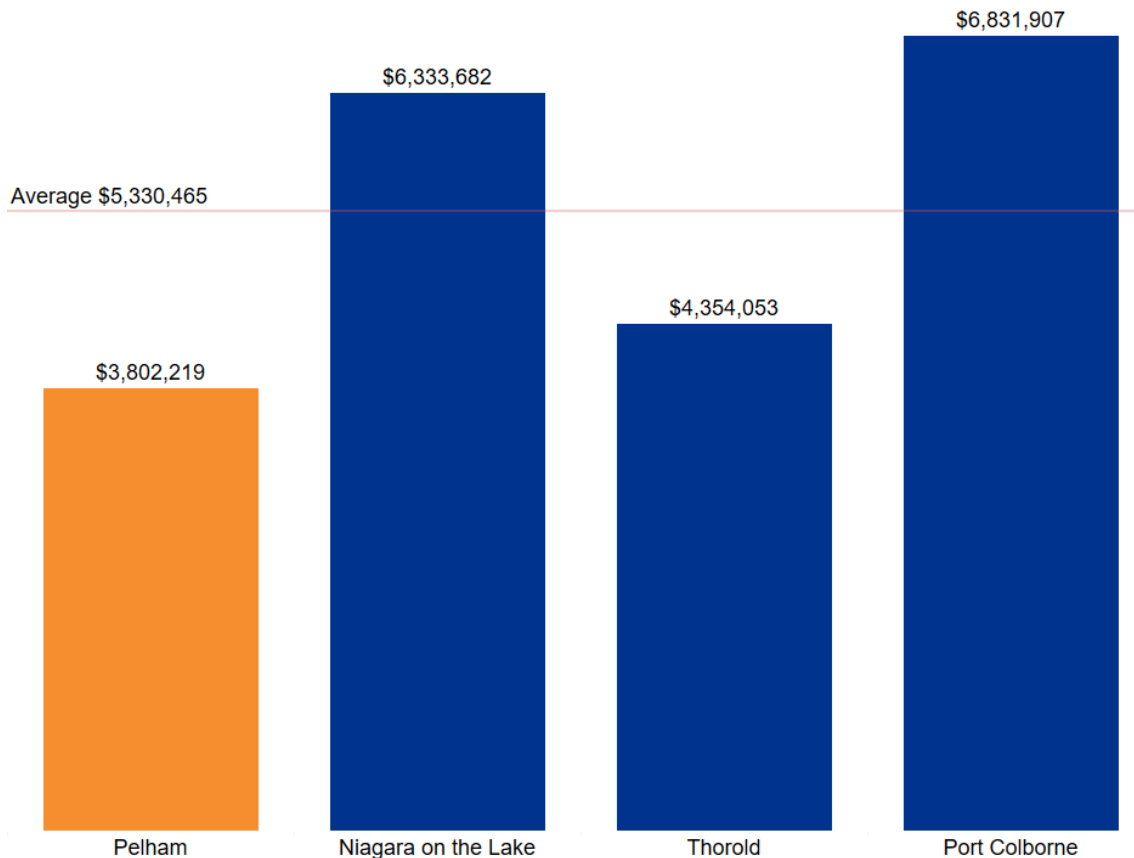
*Note: We obtained the information summarized in the following pages from financial information returns (FIRs) submitted to the Province of Ontario. We have not reviewed a draft of this data summary with the benchmarked comparators for the purpose of confirming the factual accuracy of the information presented.*

## Comparator Analysis

# 2019 Public Works Expense

The Town of Pelham has the lowest Public Works operating expense among the comparator group. Its total expenditures are \$1.5M less than the average among the comparator group.

### Public Works Expense



Source – KPMG analysis of 2019 FIR, Schedule 40, Transportation Services (lines 611-698), Environmental Services (lines 811 -898), and Parks (line 1610). Port Colborne's 2019 FIR was not available for the analysis, therefore data highlighted was sourced from the 2018 FIR.

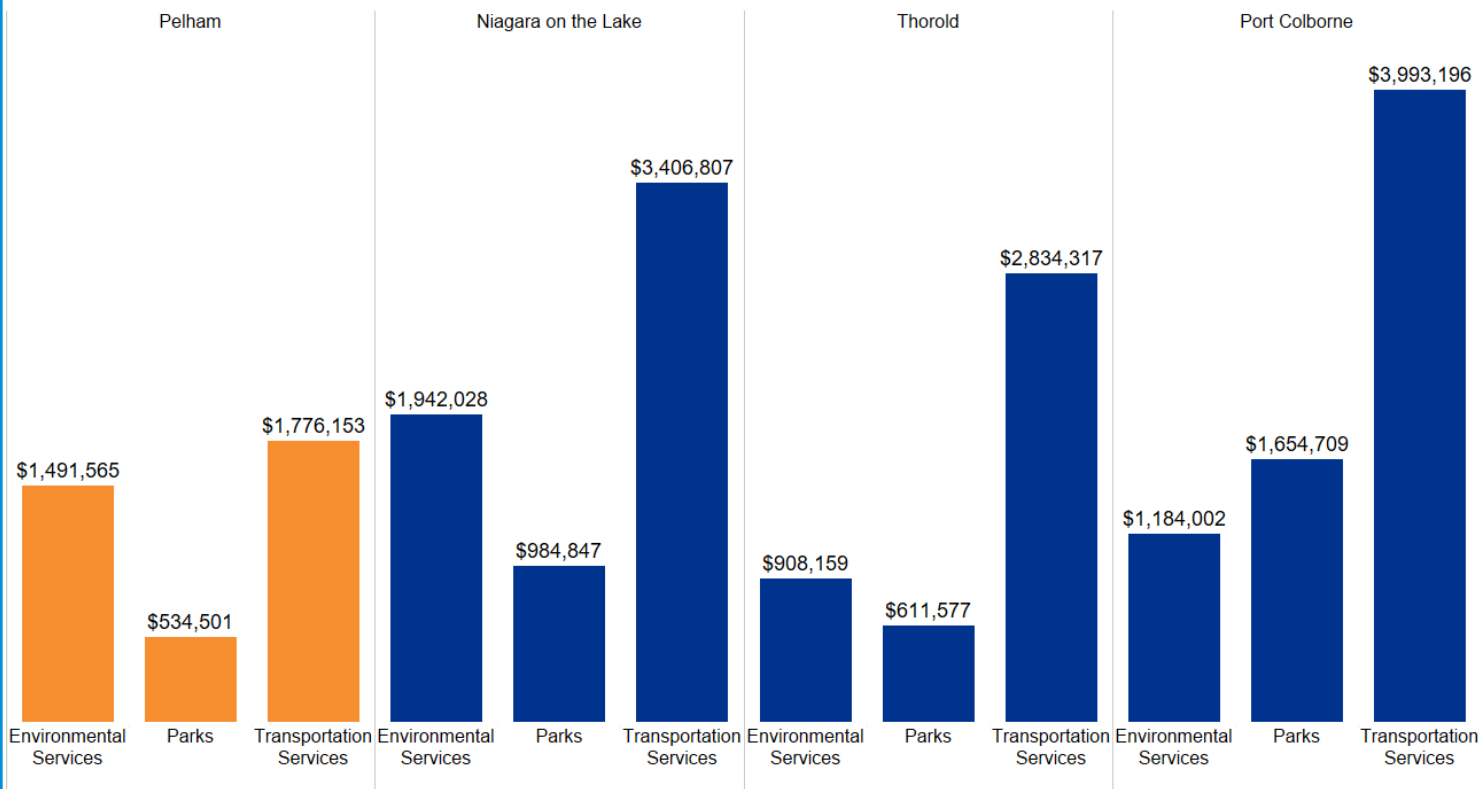
# Comparator Analysis

## Public Works Expense by Department

The Town of Pelham has the lowest expense in all Public Works departments with the exception of Environmental Services.

It should be noted that the identified departments are displayed as per the FIR and may not reflect actual departments within the Public Works function.

**PW Expense by Department**



Source – KPMG analysis of 2019 FIR, Schedule 40, Transportation Services (lines 611-698), Environmental Services (lines 811 -898), and Parks (line 1610). Port Colborne's 2019 FIR was not available for the analysis, therefore data highlighted was sourced from the 2018 FIR.

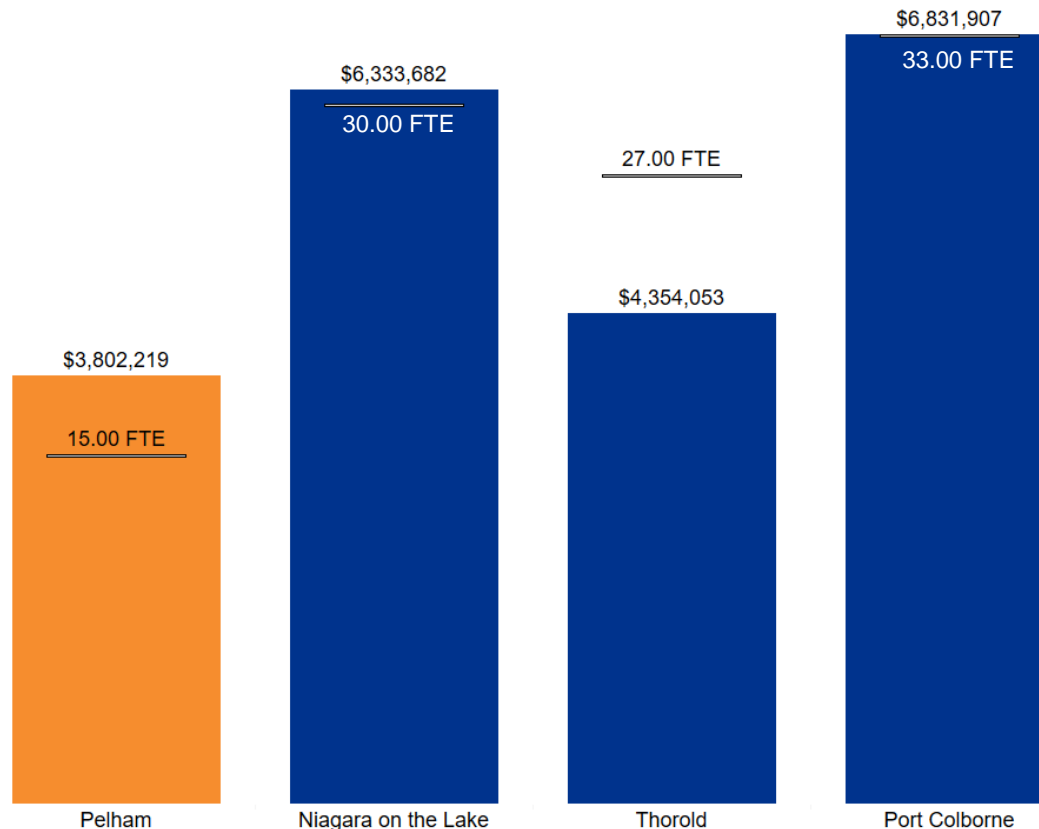
## Comparator Analysis

# Public Works Expense vs. FTE

The Town's Public Works department employs the fewest number of FTEs relative to its budget among the comparator group. The Town employs one (1) FTE for every \$253K of budget whereas Niagara-on-the-Lake, Thorold and Port Colborne employ 1 FTE for every \$211K, \$161K, and \$207K respectively.

Given the expected growth of the Town over the next 5 years, there is a risk that Public Works will be unable to maintain the required level of service with the current staffing complement.

### Public Works Expense vs FTE



Source – KPMG analysis of 2019 FIR, Schedule 40, Transportation Services (lines 611-698), Environmental Services (lines 811 -898), and Parks (line 1610) and Schedule 80A line 225. Port Colborne's 2019 FIR was not available for the analysis, therefore data highlighted was sourced from the 2018 FIR.

# Comparator Analysis

## Public Works Facility Size

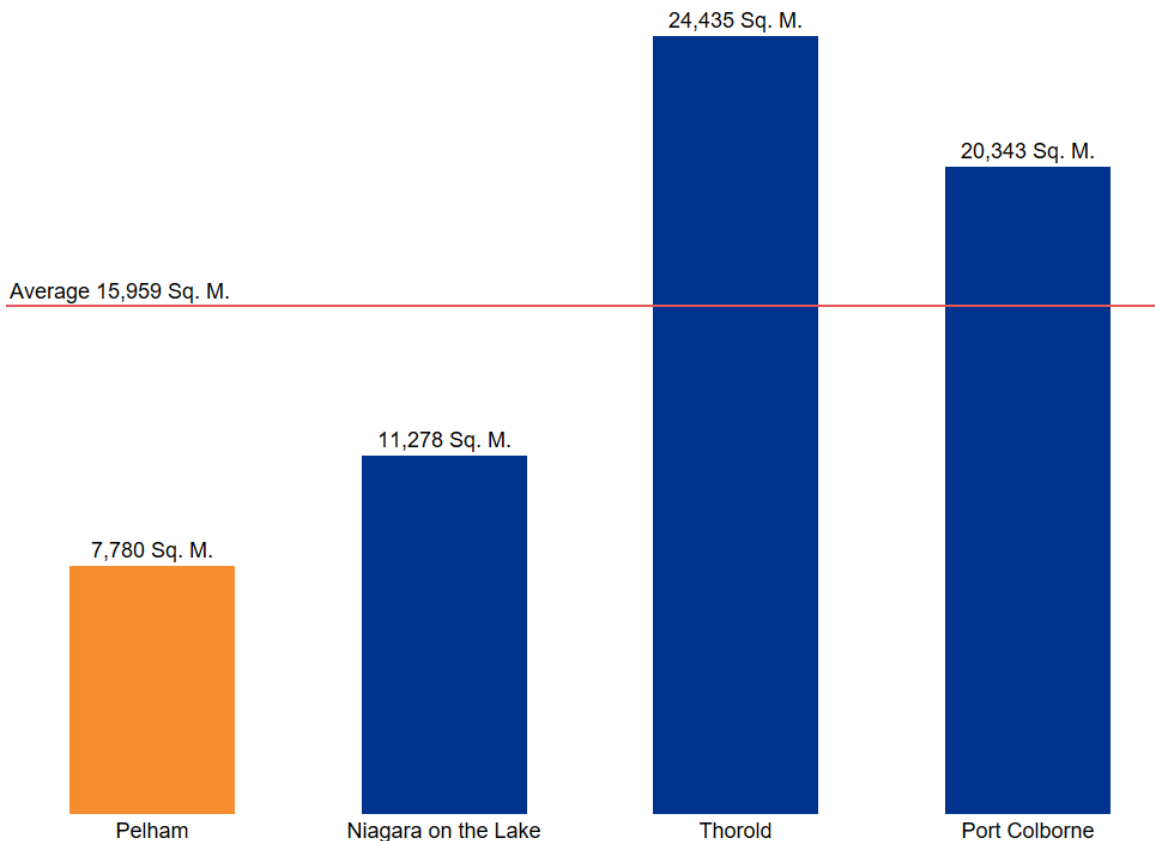
The Town's Public Works facility (Tice Road) is the smallest Public Works facility among the comparator group. The facility measures 7,780 square metres or 1.9 acres, whereas Niagara-on-the-Lake, Thorold, and Port Colborne facilities are 2.8 acres, 6 acres, and 5 acres respectively.

Based on our current state facility assessment (slide 26), the Town requires an additional 184 sq.m. of space to store its current equipment inventory.

In addition, the Town has the second highest Public Works expense per sq. m .

Mun.	Expense per Sq. M
Pelham	\$488.71
NOTL	\$561.60
Thorold	\$178.19
Port Colborne	\$335.84

### PW Facility Size



Source - Facility size via mapdevelopers.com





# Public Works Optimization: The Methodology

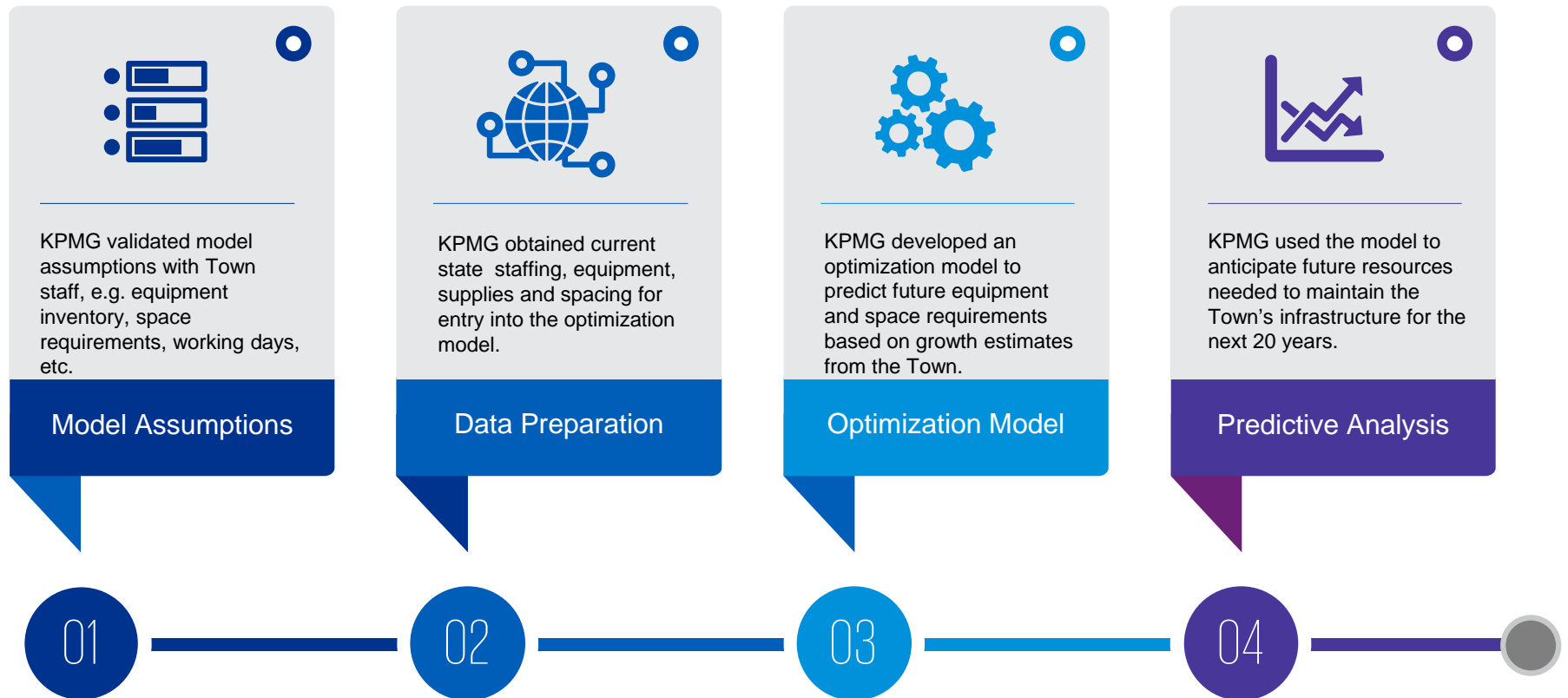
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# Public Works Optimization Methodology

KPMG developed a operations optimization model using a 4-phased methodology in order help the Town anticipate future resources needed to maintain the Town's infrastructure and service levels.



# Public Works Optimization Methodology

## Model Assumptions

KPMG validated the following model assumptions with staff before proceeding to build the optimization model.

*Model Assumptions for Activities and Yard Spacing*

	Current	Future
Standard work hours per day	8	8
Annual summer maintenance days	130	130
Indoor spacing factor	30%	30%
Outdoor spacing factor	40%	40%
Indoor spacing factor for lunch room, and employee spaces	15%	15%
Parking spacing factor	62%	62%
Population	17,110	27,280 (2041)
Materials to Equipment Factor <sup>1</sup>	N/A	5%



### Spacing Factors

KPMG forecast the Town's space requirements based on adding up the individual areas required to store each piece of equipment. What is not included in this step is accounting for the accessibility of the equipment once stored. This requires the addition of an additional factor - the 'spacing factor' – thereby increasing the space requirements.

Without a spacing factor, the modelling would assume that every piece of equipment is packed tightly together. In reality, space is required between pieces of equipment, for access passageways for people and equipment (e.g. a forklift), to prevent damage, and for safety. A spacing factor of 40% therefore means an additional 40% of space is required for access above the footprint of the piece of equipment.

1- Where space is required for additional equipment, KPMG budgeted additional space of 5% for corresponding materials.

## Public Works Optimization Methodology

# Data Preparation

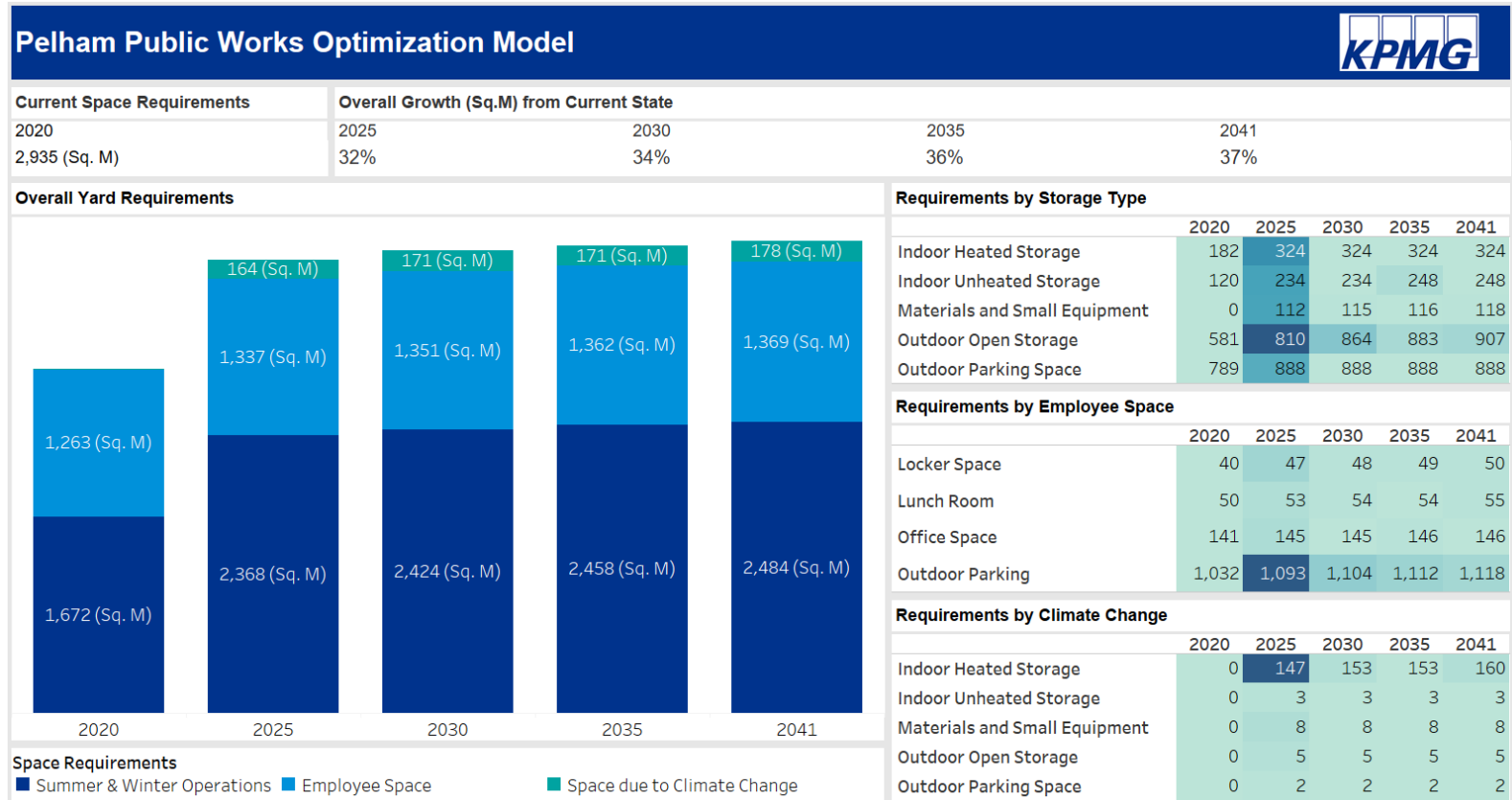
KPMG received the Town's Public Works maintenance standards and operations policies, department activity lists, department budgets, inventory register, facility floor plans, and East Fonthill and East Fenwick demonstrative plans in order to gather the following data inputs for entry into the optimization model:



# Public Works Optimization Methodology

## Optimization Model

KPMG developed an optimization model in MS Excel in order to forecast yard space, FTEs and budget required to meet anticipated growth in the Town. The model is both versatile and user-friendly. Assumptions are stored in a central location and can be easily adjusted, as necessary, to re-calculate the impact on yard space, FTEs, and budget required. The Township will take ownership of the model as part of the final deliverable, and can use it to perform further optimization as required. The below visualizes the excel model outputs using Tableau:



Note: The visualization above is dashboard view of the outputs derived from the MS Excel model. The final MS Excel model will be provided to the Town at the end of the project. KPMG does not take responsibility for the quality of the outputs should the Town make changes to the final model. Quality control on a go-forward basis would be the responsibility of the municipality.

# Public Works Optimization Methodology

## Predictive Analysis

KPMG used the following growth data, based on the Town's planning documents, to forecast growth in infrastructure and service levels for the East Fenwick and East Fonthill residential developments between 2021 and 2031. Growth in assets and service levels thereafter was modelled using a growth rate of 0.8% where applicable. The following two slides show growth data broken down by each residential development.

*Growth Data (2021 to 2031)*

	Growth		Growth
Population	9,120	Street Lights	312
Dwellings	3,800	Catch Basins	664
Road Lane KMs	49.4	Hydrants	166
Sidewalk KMs	49.4	Lot Trees	4,028
Park Area (sq. KM)	0.15	Watermain Pipe KMs	25
Garden Beds	12	Watermain Valves	366
Sports Fields	1	Manholes	249
Playgrounds and Hard Courts	6	Storm Water Ponds	6
Trail KMs	2.5	Storm Water Pipe KMs	25
Intersection	100	Mortality	53
Signs	51	Wastewater Pipe KMs	25

# Public Works Optimization Methodology

## Predictive Analysis: East Fonthill

KPMG held consultations with the Town's Planning department to understand growth in the East Fonthill residential neighbourhood, and analyzed the *East Fonthill Secondary Plan* to obtain growth data, presented below. KPMG used this data to predict growth in Public Works service levels between 2020 and 2025 (construction will be complete in 2025). Growth in assets and service levels after 2025 was modelled using a growth rate of 0.8% where applicable.

*East Fonthill Growth Data (2021 to 2025)*

	Growth		Growth
Population	7,200	Street Lights	228
Dwellings	3,000	Catch Basins	485
Road Lane KMs	36	Hydrants	121
Sidewalk KMs	36	Lot Trees	3,180
Park Area (sq. KM)	0.1	Watermain Pipe KMs	18
Garden Beds	8	Watermain Valves	255
Sports Fields	1	Manholes	182
Playgrounds and Hard Courts	4	Storm Water Ponds	6
Trail KMs	2.5	Storm Water Pipe KMs	18
Intersections	67	Mortality	42
Signs	34	Wastewater Pipe KMs	18

# Predictive Analysis: East Fenwick

KPMG also the following growth data, contained within the Town's draft development plan, to forecast growth in infrastructure and service levels for the East Fenwick residential development between 2022 and 2031 (the construction period). Growth in assets and service levels thereafter was modelled using a growth rate of 0.8% where applicable.

*East Fenwick Growth Data (2022 to 2031)*

	Growth		Growth
Population	1,920	Street Lights	84
Dwellings	800	Catch Basins	179
Road Lane KMs	13.4	Hydrants	45
Sidewalk KMs	13.4	Lot Trees	848
Park Area (sq. KM)	0.05	Watermain Pipe KMs	7
Garden Beds	4	Watermain Valves	111
Sports Fields	-	Manholes	67
Playgrounds and Hard Courts	2	Storm Water Ponds	-
Trail KMs	0	Storm Water Pipe KMs	7
Intersection	33	Mortality	11
Signs	17	Wastewater Pipe KMs	7





# Current State Results

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# Calculating Space Requirements - An Illustrative Example

## Estimating Yard Space

In order to calculate yard space requirements, KPMG hosted workshops with Town staff in order to determine the number of working days per service, the equipment required to provide it, and the number of working days per summer season. KPMG used these inputs, along with standard storage specifications for each piece of equipment, to calculate total space requirements. A theoretical example is provided below. This example calculates both current and future space requirements assuming a 40% increase in service (working days).

*An Example: Current/Forecasted Yard Space Requirements*

	Ref.	Current	Growth	Forecast
Working Days	(A)	130	40%	182
Working Days per Summer Season	(B)	130	-	130
Pieces of Equipment Required	(C) = A / B	1	-	1.4
Space per Equipment (sq. m.)	(D)	15	-	15
Total Space Required	(E) = C x D	15	-	21

Current State Results

# Current Public Works Operations

Current State Results

During Phase II of the Operational Review, KPMG analyzed the current state of the Pelham Public Works department in order to identify gaps with respect to current facility capacity and equipment. The current gaps reflect the short-term needs of the Public Works department prior to factoring in the anticipated growth. The below summarizes the current Public Works operational gaps:

	Current State	Gap Analysis
Equipment	<ul style="list-style-type: none"><li>The Town's current summer equipment inventory is 55 pieces of equipment stored at the Public Works Facility (Tice Road).</li></ul>	<ul style="list-style-type: none"><li>Based on the current required working days for each Public Works activity, the Town is short the following pieces of equipment:<ul style="list-style-type: none"><li>One pick-up truck</li><li>One tractor</li><li>Two mowers</li></ul></li><li>Our interviews and analysis suggest that additional equipment will make the crews more efficient.</li></ul>
Facility Capabilities	<ul style="list-style-type: none"><li>The Town's current Public Works Facility has 443 sq. m. of storage capacity.</li></ul>	<ul style="list-style-type: none"><li>Based on leading practice for equipment storage, the Town requires 639 sq. m. to store its current equipment inventory.</li></ul>



Short **4** pieces of equipment



Short **184 sq. m.** of facility space

# Anticipated Projected Future Workload

## Anticipated Projected Future Workload

Based on our current state review, KPMG applied anticipated future growth rates to Public Works activities to anticipate workload according to the following categories:

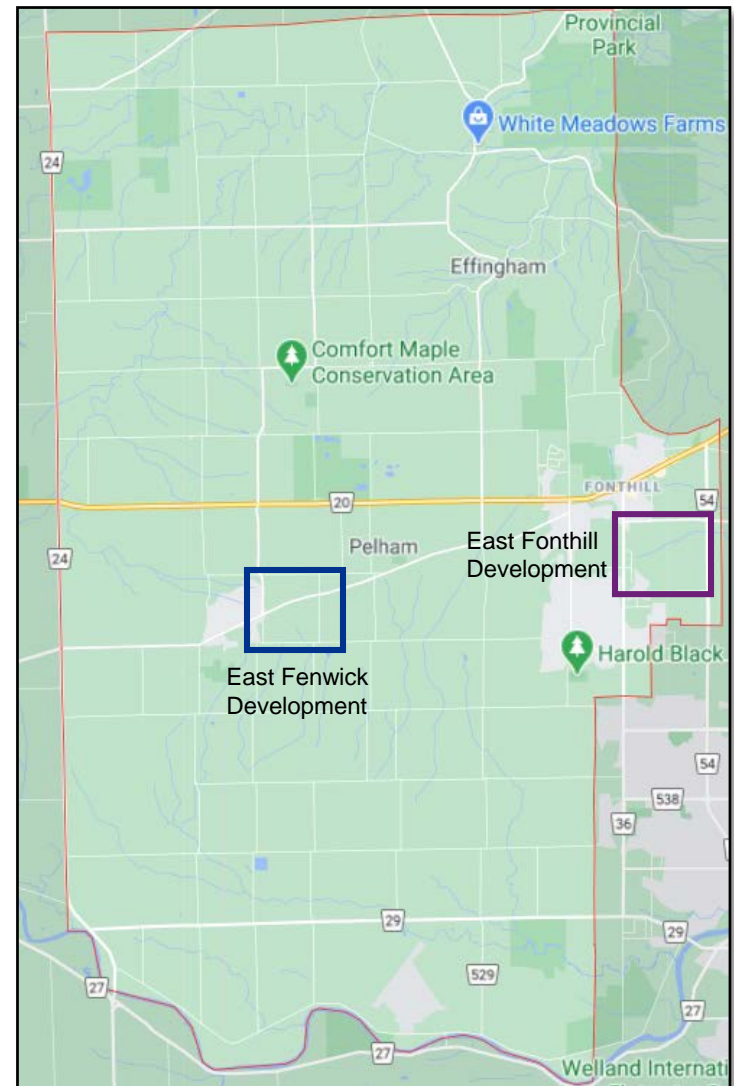
- 1-5 year needs and opportunities
- 6-10 year needs and opportunities
- 11-20 year needs and opportunities
- 21+ year projections

To predict future growth, KPMG identified key drivers that will impact the service level requirements of the Public Works Division. Specifically, KPMG analyzed major on-going and planned development within the Town:

1. East Fonthill development plan
2. East Fenwick development plan

The development plans indicate that the Town will see a combined population increase of 9,500 residents, 3,800 dwellings, 50 lane KMs, 50 sidewalk KMs, 2.5 trail KMs, 4,028 trees and other growth. The Town estimates that both developments will be complete in the next 10 years. It was noted that growth beyond the 10 year period remains skeptical due to boundary limitations, and as such KPMG applied a historical growth rate of 0.8%<sup>1</sup> to periods beyond 10 years.

**Source:**  
Google Maps



# Factors Contributing to Growth of the Yard

## Factors Contributing to Growth

Our model considers numerous factors that will contribute to the growth of the Public Works department. Based on discussions with management, the key drivers for growth over the next 10 years will be the East Fonthill and East Fenwick residential developments. The following outlines the key expected growth factors:





# Future State: An Overview

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# Overall Growth in Yard Space Requirements

Based on bottoms up modelling and requirements of the Town's services, analysis suggests that the Town will require approximately 1,016 square metres of additional yard space by 2025, an increase of 33%. The projected growth in yard space for the next twenty (20) years is shown below.

*Projected Yard Space Requirements by Year (sq. m.)*

	Current Space	2025	2030	2035	2041
Summer & Winter Operations	1,672	2,368	2,424	2,458	2,484
Employee Space	1,263	1,365	1,377	1,386	1,393
Space due to Climate Change	-	164	171	171	178
<b>Total</b>	<b>2,935</b>	<b>3,898</b>	<b>3,973</b>	<b>4,016</b>	<b>4,056</b>
<b>Growth</b>		33%	35%	37%	38%

Notes:

- 1- Yard space requirements include spacing factors.
- 2- Growth in summer operations space also includes space for materials and small equipment

# Overall Growth in Yard Space Requirements

There are two potential drivers for increased yard space. The first is Town growth and corresponding increase in service levels (detailed below).

The second stems from the potential need for a new facility, both to address staff accommodation shortages and to improve operational efficiency by storing more equipment indoors. This second driver is addressed on slide 45.

According to the forecast, growth in yard space<sup>1</sup> storage is expected to increase by approximately:

- +33% from 2020 to 2025
- +2% each 5 years from 2025 to 2035
- +1% from 2035 to 2040

**Overall, the Town will require an additional 0.40 acres.** The diagram at right shows this growth in space relative to the current public works yard, which measures 8,093 square metres (approximately 2 acres). The majority of this growth in required space is expected between 2020 and 2025 due to substantial growth in East Fonthill. Growth rates for all services are listed in Appendix A.

Additional yard space will not only provide adequate storage for all vehicles and equipment but reduce Health & Safety Risk at the yard. As can be seen in the aerial image, work vehicles and trailers are being parked in undesirable locations such as laneways which increase this risk.

Additional space will also be required should the Town follow the path of other jurisdictions in storing snow plows in indoor heated bays, or if future material availability requires the Town to store a season's worth of ice management material on site.

## Notes:

1- includes equipment storage, employee space and additional space due to climate change



*Growth in Yard Space Requirements relative to the Current Yard*





# Top Drivers of Foreasted Growth

Our model indicates that the Town of Pelham's population will increase by 47% between 2020 and 2025 (~8,000 new residents). The table below highlights the corresponding growth in inventory, yard space and services for the period of 2020 to 2025.

*Forecasted Growth in Inventory, Yard Space and Service by Vehicle Type (2020 to 2025)*

	Current Inventory	Forecasted Inventory	Forecasted Growth in Space	Forecasted Growth in Service	Related Activities
Pickup Trucks and Trailers	<ul style="list-style-type: none"> <li>• 5 owned trucks</li> <li>• 4 rental trucks</li> <li>• 4 trailers</li> </ul>	<ul style="list-style-type: none"> <li>• 7 owned trucks</li> <li>• 5 rental trucks</li> <li>• 7 trailers</li> </ul>	177 sq. m.	<ul style="list-style-type: none"> <li>• 6 playgrounds &amp; hard courts</li> <li>• 1 sports field</li> <li>• 2.5 trail kms</li> </ul>	<ul style="list-style-type: none"> <li>• Brush cutting</li> <li>• Line trimming</li> <li>• Mowing sports fields</li> <li>• Turf maintenance</li> </ul>
1 Ton Dumps and Chipper Boxes	<ul style="list-style-type: none"> <li>• 4 1-ton dumps</li> <li>• 1 chipper</li> </ul>	<ul style="list-style-type: none"> <li>• 5 1-ton dumps</li> <li>• 2 chippers</li> </ul>	55 sq. m.	<ul style="list-style-type: none"> <li>• 4,028 additional trees</li> <li>• Increased block pruning with maturing trees</li> <li>• 50 lane kms</li> </ul>	<ul style="list-style-type: none"> <li>• Tree Planting</li> <li>• Tree Inventory &amp; Inspections</li> <li>• Service responses</li> <li>• Road inspection and maintenance</li> </ul>
Water Vans and Trucks	<ul style="list-style-type: none"> <li>• 1 water truck</li> <li>• 1 water vans</li> </ul>	<ul style="list-style-type: none"> <li>• 2 water trucks</li> <li>• 2 water vans</li> </ul>	107 sq. m.	<ul style="list-style-type: none"> <li>• 366 watermain valves</li> <li>• 166 fire hydrants</li> <li>• 12 residential gardens</li> </ul>	<ul style="list-style-type: none"> <li>• Watermain valve inspections</li> <li>• Fire Hydrant painting, inspections &amp; repairs</li> <li>• Planting, weeding, trimming, &amp; watering of gardens and hedges</li> </ul>
Tractors and Mowers	<ul style="list-style-type: none"> <li>• 4 tractors</li> <li>• 5 mowers</li> </ul>	<ul style="list-style-type: none"> <li>• 5 tractors</li> <li>• 7 mowers</li> </ul>	52 sq. m.	<ul style="list-style-type: none"> <li>• 6 playgrounds &amp; hard courts</li> <li>• 1 sports field</li> <li>• 2.5 trail kms</li> </ul>	<ul style="list-style-type: none"> <li>• Brush cutting</li> <li>• Line trimming</li> <li>• Mowing sports fields</li> <li>• Turf maintenance</li> </ul>



# Future State: Detailed Projections

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# Forecasted Yard Space Requirements

KPMG forecasted the growth in yard space from 2021 to 2041. Based on KPMG's modelling, the facility will require approximately 696 square metres of additional yard space by 2025 in order to meet increased service levels associated with the East Fonthill and East Fenwick<sup>1</sup> developments. This increase pertains only to service equipment (trucks, trailers, chippers, tractors etc.) with a 5% allowance for materials and small equipment. Additional space is required for employee space including parking, lunch rooms and other related spaces (see next slide).

*Forecasted Yard Space Requirements (sq. m.)*

	Current Space	2025	2030	2035	2041
Indoor Heated Storage	182	324	324	324	324
Indoor Unheated Storage	120	234	234	248	248
Outdoor Open Storage	581	810	864	883	907
Outdoor Parking Space	789	888	888	888	888
Materials and Equipment	-	112	115	116	118
<b>Total</b>	<b>1,672</b>	<b>2,368</b>	<b>2,424</b>	<b>2,458</b>	<b>2,484</b>

1- Growth from 2020 to 2025 includes only a portion of the East Fenwick development, which spans 2022 to 2031.

# Forecasted Employee Space Requirements

KPMG also forecasted the growth in employee space from 2021 to 2041. The model anticipates approximately 155 square metres of additional employee space by 2025. This figure is dependent upon an increase of 5.0 FTEs during the same period.

*Forecasted Employee Space Requirements (sq. m.)*

	Current Space	2025	2030	2035	2041
Outdoor Parking	1,032	1,159	1,173	1,183	1,191
Lunch Room	50	57	58	58	59
Locker Room	40	54	56	57	58
Office Space	141	149	149	150	151
<b>Total</b>	<b>1,263</b>	<b>1,418</b>	<b>1,436</b>	<b>1,448</b>	<b>1,458</b>

Notes:

1- Additional space would be required if the FTEs were split between multiple summer student positions.

## Forecasting Methodology

In order to forecast employee space requirements, KPMG made the following assumptions:

- Each parking space requires 16.72 square metres of space
- Only 61% parking lot space is used for parking; the remaining 39% is used for laneways
- Each additional employee requires 1 square metre of space in the lunch room and in his or her work space
- Each additional Public Works Operations employee requires 2 square metres of space in the locker room

# Forecasted Budget Requirements for Public Works

KPMG forecasted budget growth for the Public Works department from 2021 to 2041. The model indicates that the department will require approximately \$1.1M in additional budget to provide the same service level to the Town in 2025 (current dollars). These calculations are based on the Town's 2020 budgets, and include estimates for capital expenditures (based upon depreciation). Of note, the department will need to create an additional snow plow route with the addition of 50 road lane KMs, predominantly located in the East Fonthill development.

*Public Works: Forecasted Budget Requirements from 2025-2041 (millions, current dollars)*

	Operating Budget <sup>1,2,3</sup>	2025	2030	2035	2041
Beautification	0.9	1.1	1.2	1.2	1.2
Roads	3.2	3.3	3.3	3.3	3.3
Water / Wastewater	5.1	5.3	5.3	5.3	5.3
Facilities	1.4	1.6	1.7	1.7	1.7
Fleet	0.6	0.8	0.8	0.8	0.8
Engineering	1.3	1.5	1.5	1.6	1.6
Winter Control	0.6	0.6	0.6	0.7	0.7
<b>Total</b>	<b>13.2</b>	<b>14.3</b>	<b>14.4</b>	<b>14.5</b>	<b>14.6</b>

**Notes:**

- 1- Budget figures include operating and capital expenditures
- 2- Capital expenditures are based on 2019 depreciation figures, not anticipated cash outlays
- 3- Figures exclude revenues, transfers and third-party contracts
- 4- Budget growth is commensurate with growth in service level by activity (working days)

## Forecasting Methodology

In order to forecast budget requirements, KPMG applied the growth in working days to the current 2020 operating budget plus depreciation for related capital equipment<sup>1</sup>.

The growth in working days was calculated using the Town's demonstration plans.

For example, the 2025 budget for fire hydrant inspections will increase by 24% compared to 2020 (the East Fonthill development will add 139 fire hydrants to the Town's existing 588, an increase of 24%).

## Future State: Projections

# Forecasted Capital Outlays

KPMG also forecasted capital outlays to purchase additional vehicles and equipment from 2021 to 2041. The model indicates that Public Works will require approximately \$636K to provide the same level of service for the Town between 2021 and 2025.

*Forecasted Capital Outlays (2020-2041)<sup>1</sup>*

	2021-2025	2026-2030	2031-2035	2036-2041
Pickup Trucks	248,360	-	-	-
Mowers	15,338	-	7,669	-
Trailers	15,600	-	-	-
Chippers	26,500	-	-	26,500
Tractors	19,100	-	19,100	-
Water Trucks	101,800	-	-	-
Landscape Trucks	80,970	80,970	-	-
Chipper Boxes	63,090	-	-	-
Asphalt Trailers	64,935	-	-	-
<b>Total</b>	<b>635,693</b>	<b>80,970</b>	<b>26,769</b>	<b>26,500</b>

Notes:

1- Prices exclude sales taxes.



# Forecasted Staffing Requirements

KPMG also forecasted the growth in FTEs from 2021 to 2041. The forecast anticipates 5.0 additional FTEs by 2025 (or roughly 10 summer students). This figure is broken down by department in the table below. This growth is mainly attributable to the increase in park space, sports fields, playgrounds, hard courts, trail kilometres, hydrants, watermains and road kilometres within the new residential developments. The forecast also includes additional Engineering staff for modelling, design and other operational activities.

*Forecasted Staffing Requirements (FTEs)*

	Current FTEs	2025	2030	2035	2041
Beautification	4	5	5	5	6
Roads	5	6	6	6	6
Water / Wastewater	3	4	5	5	5
Engineering	3	5	5	5	5
<b>Total</b>	<b>15</b>	<b>20</b>	<b>20</b>	<b>21</b>	<b>21</b>

## Forecasting Methodology

In order to forecast FTE requirements, KPMG made the following assumptions:

- 95% of all budget growth pertained to operating expenditures
- 70% of operating budget growth was attributable to salaries, wages and benefits
- The average salary and benefits per FTE was \$103,000



# Future State: Climate Change Impacts

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# Forecasted Yard Space Requirements

KPMG also forecasted the growth in service levels attributable to climate change. In collaboration with staff, KPMG identified that increased rainfall and higher summer temperatures would lead to increased winter events, ice damage to trees, road washouts and watering/irrigation during the summer months. Climate change assumptions for this analysis are listed in Appendix A. The model also indicates that the Town will incur an additional \$13K in sand-salt per year to address the increase in winter ice events (assuming an increase from 1 to 3 winter ice events per year).

*Climate Change: Projected Yard Space Requirements (sq. m.)<sup>1</sup>*

	Current Space	2025	2030	2035	2041
Indoor Heated Storage	-	147	153	153	160
Indoor Unheated Storage	-	3	3	3	3
Outdoor Open Storage	-	5	5	5	5
Outdoor Parking Space	-	2	2	2	2
Materials and Equipment		8	8	8	8
<b>Total</b>	<b>-</b>	<b>165</b>	<b>171</b>	<b>171</b>	<b>178</b>

**Incremental sand-salt budget per year**

**\$13,000<sup>2</sup>**

Notes:

1- spacing factors have been applied for these figures

2- [ current sand-salt budget (\$130K) / the number of winter events per year (20) ] \* 2 additional winter events



# Risks and Challenges

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## Risks and Challenges

# Comparison of Scenarios

The Town can consider the following options, along with their respective advantages and challenges, in order to increase space requirements for the Public Works Yard and the Engineering department.

	Advantages	Challenges and Risks
Option 1: Expand Current Site at Tice Road	<p>Expanding the current site has many advantages including:</p> <ul style="list-style-type: none"> <li>The Town can conveniently add more storage space beside the current facility with little impact to current operations</li> <li>Close proximity to Fonthill (8 minute drive) and East Fenwick (5 minute drive)</li> <li>Close proximity to current sand-salt provider, Lafarge, situated on Tice Road</li> <li>No need to re-locate all vehicles, equipment, and materials to a new yard</li> </ul>	<p>Expanding the current site will:</p> <ul style="list-style-type: none"> <li>Require a willing sale from the adjacent property owner to the West of the current facility, or an expropriation of land by the municipality</li> <li>Force the Town to build around the current indoor facility as opposed to being able to build from scratch should it purchase and develop a parcel of land</li> </ul>
Option 2: Purchase Land and Develop a New Facility	<p>Purchasing a developing a parcel of land has numerous advantages such as:</p> <ul style="list-style-type: none"> <li>The ability to design a new, purpose-built facility according to long-term plans and forecasts</li> <li>The storage of snow plows in indoor heated bays</li> <li>Does not require expropriation of land</li> <li>Would allow the Engineering and Public Works Operations teams to work in the same facility</li> </ul>	<p>There are also challenges and risks with this option including:</p> <ul style="list-style-type: none"> <li>Public consultation and buy-in would be required</li> <li>The challenge of finding a centralized location</li> <li>High sale price due to rising price inflation in the area</li> <li>Uncertainty regarding the timing of purchase and sale</li> <li>Costs and time to examine the site prior to construction and to built the new facility</li> </ul>
Other Considerations	<ul style="list-style-type: none"> <li>The Town can also consider leasing a portion of the Region's current Public Works yard; however, it would not be able to accommodate the entirety of the Town's operation due to size limitations. The Town would need to consider a 'split-operations' model wherein its operations would be divided between multiple sites. In addition, the Region's current yard is on the border of Pelham and not in a centralized location which would increase travel time and the cost of gas.</li> </ul>	

# Option 1: Expanding the Current Site at Tice Road

Based on KPMG's forecast, the Town will require an additional 965 square metres (0.23 acres) of space by 2025 and an additional 156 square metres of space between 2026 and 2041 – for a total of 0.28 acres. Compared to the current site, this additional requirements are shown by their relative size in the image at right. Additional space is required for access laneway bringing **total required space to 0.40 acres**.

These expansion assumptions rely on storing equipment in the same manner it is stored now, primarily with the snow plows being stored outside. Indoor storage has numerous benefits including increased longevity of the plows, fewer repairs and lower maintenance costs.

In our experience, both across Ontario and in other provinces, it is typical of municipal, county and provincial level public works and transportation departments to aim to store their equipment inside.

The Town of Scugog is a helpful case study. Compared to Pelham, Scugog has a population approximately 25% higher, an area almost 4x higher, but a similar urban/rural mix. Scugog's facilities only allow half of its plow fleet to be stored indoors. Scugog's operations team notes that this results in the outdoor fleet having more maintenance issues, more equipment that won't start, pre-shift safety checks being more difficult outdoors due to snow/ice buildup and dim outdoor light, and the outdoor vehicles leaving the yard upwards of 30 minutes later than the indoor vehicles.

The space requirements for an expanded indoor facility are detailed more on the following slide, but are over and above what it highlighted here.

*Growth in Yard Space Requirements relative to the Current Yard*



## Risks and Challenges

# Option 2: Purchase Land and Develop a New Facility

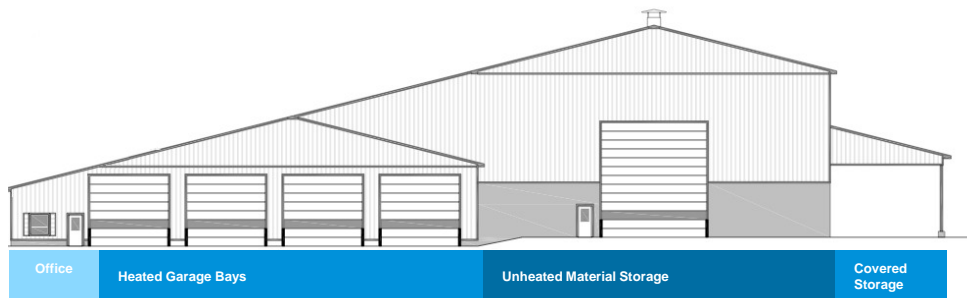
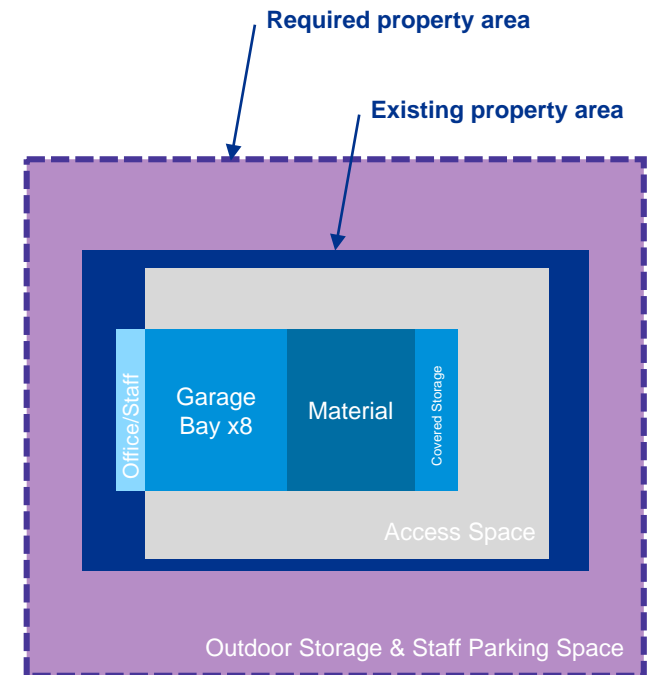
The Town could develop a new yard by purchasing vacant land in Pelham. In addition to the potential need to store more equipment indoors, it is likely that in the 20 year time horizon, a diminished local availability of sand could force the Town to maintain storage for a season's worth of salt and sand.

These two demands would significantly increase the need for a new facility, and new land could furnish sufficient space to construct heated bays, more indoor and covered storage, a large material shed, and employee spaces including offices, a lunch room, and locker rooms for men and women. During the site visit, KPMG noted little indoor storage compared to outdoor storage, and no separate locker rooms for women (relevant during summer months), and a shortage of space for the Engineering department at City Hall.

Based on KPMG's analysis and the comparable facilities of other jurisdictions, the Town would require a total of eight (8) indoor heated bays (seven (7) for plows and one (1) for maintenance/spare). The maintenance/spare bay could house a water truck to prevent freezing in the winter, a current practice. The Town could also construct a sand-salt storage which is connected to the bays for convenience. An example of such as facility, with 4 bays, is shown below. As a single structure, its overlay on the existing yard site is shown at right, which would result in a space need close to double the size of the existing property.

The Town's current yard measures 2 acres. Based on KPMG's forecast, the Town will at minimum require a total of 2.40 acres by 2041, or closer to 4 acres if a new facility were to be developed.

*Note: The Town could also build this type of facility on its existing site (Option 1) although it would need to demolish or retrofit the existing buildings.*



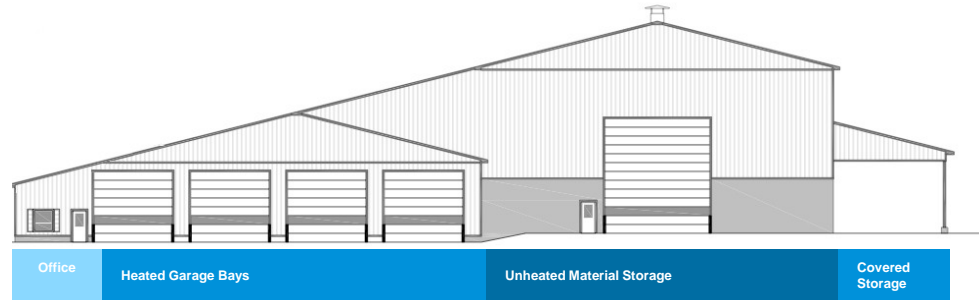
*Sample Public Works Facility with Bays attached to Sand-Salt Storage (Front)*

# Estimated Construction Costs to Develop a New Facility

Using high-level typical cost/sq ft. estimates from other municipalities for the construction of similar facilities, the total construction cost for a facility as shown at right could be approximately \$2.6M<sup>1</sup>. (See Table 1).

These projections assume that Engineering and Operations staff would both have office space in the new facility. Currently, the Engineering department, located at Town Hall, is separate from the Public Works Operations team.

In addition to alleviating space constraints at other Town properties, co-location or hotelling allows greater interaction and collaboration between those that are constantly in the field and those in the office. These interactions would allow more opportunities for engineering staff to understand issues in the field as they are identified and could allow greater collaboration between staff to the benefit of service delivery.



*Sample Public Works Facility with Bays attached to Sand-Salt Storage (Front)*

*Table 1: Construction Costs to Develop the Facility Pictured Above*

Space Type	Cost / sq. Foot	Sq. Feet Required	Total Cost <sup>1</sup>
Unheated Space	\$65	~9,600	\$624,000
Heated Space	\$90	12,600	\$1,134,000
Office Space	\$190	3,300	\$627,000
Outdoor Covered Space	\$40	3,100	\$124,000
Fueling Station & Septic			\$100,000
<b>Total</b>		<b>28,600</b>	<b>\$2,609,000<sup>1</sup></b>

Notes:

1- According to AACE, these numbers are class 5 estimates, assuming 0-2% design. Typically we would expect a 30% design definition to support a business case.



# Appendix A

Town of Pelham  
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# Climate Change Assumptions

KPMG made the following assumptions to forecast growth in space and budget attributable to climate change. \

*Forecast Assumptions for Climate Change*

	Current	Future
Tree Service Request due to Ice Damage	700	3% increase every year
Road Washouts		1 washout every 5 years
Summer Watering / Irrigation	2 days per week	3 days per week



# Forecast Assumptions by Sub-Service

	Sub-Activity	2025	2030	2035	2041
Bush Cutting Trail Sides	All Brush Cutting Trail Sides / Right of Ways	8%	8%	8%	8%
Cemetery	Burials / Creamations	46%	52%	55%	59%
Cemetery	Turf Mowing	27%	36%	36%	36%
Contracted Grass Cutting	All Forestry	0%	0%	0%	0%
Forestry	All Forestry	15%	17%	18%	19%
General Maintenance	Litter / Receptacle Service	0%	0%	0%	0%
General Maintenance	Repairs to Benches, Picnic Tables, Fencing, Graffiti, Litter	0%	0%	0%	0%
General Maintenance	Winter Turf Damage	2%	3%	3%	3%
General System Maintenance	Hydrant Inspection	24%	28%	30%	32%
General System Maintenance	Hydrant Painting	6%	8%	10%	12%
General System Maintenance	Hydrant Repairs	1%	2%	2%	2%
General System Maintenance	Metre Reading	47%	52%	56%	60%

# Forecast Assumptions by Sub-Service

	Sub-Activity	2025	2030	2035	2041
General System Maintenance	Metre Repair	1%	2%	2%	2%
General System Maintenance	Water Shut-off Repair	1%	2%	2%	2%
General System Maintenance	Watermain Valve Exercise	6%	7%	8%	9%
General System Maintenance	Watermain Valve Repair	1%	2%	2%	2%
Horticulture	All Horticulture Activities	17%	19%	20%	21%
Line Trimming	All Line Trimming	8%	8%	8%	8%
Playgrounds & Hard Courts	Equipment Inspections (CSA)	14%	14%	15%	15%
Playgrounds & Hard Courts	Equipment Repair	1%	2%	2%	2%
Road Maintenance	Catch basin / Maintenance Hole Repair	1%	2%	2%	2%
Road Maintenance	Catch Basin Clearing	47%	54%	58%	62%
Road Maintenance	Culvert Flushing	2%	3%	3%	3%
Road Maintenance <sup>1</sup>	New Driveway Culvert Installation <sup>1</sup>	0%	0%	0%	0%

1- installations would only be required for rural lot developments, not urban development such as East Fonthill and East Fenwick, according to interviews with Town staff.

# Forecast Assumptions by Sub-Service

	Sub-Activity	2025	2030	2035	2041
Road Maintenance	Pothole Repair	7%	8%	9%	10%
Road Maintenance <sup>1</sup>	Road Crossing Culvert Inspection/ Replacement <sup>1</sup>	0%	0%	0%	0%
Road Maintenance	Road Patrolling	7%	8%	9%	10%
Road Maintenance	Shoulder Drop-offs / Washouts	0%	0%	0%	0%
Road Maintenance	Sign Repair	1%	2%	2%	2%
Road Maintenance	Street Light Inspections	2%	3%	3%	3%
Road Maintenance	Winter Damage Repairs	7%	8%	9%	10%
Sidewalk Maintenance	Sidewalk Inspections	2%	3%	3%	3%
Sidewalk Maintenance	Sidewalk Repairs / Grinding	2%	3%	3%	3%
Sports fields (Soccer / Baseball)	Inspection	14%	14%	15%	15%
Sports fields (Soccer / Baseball)	Sports Fields - Grass	14%	14%	15%	15%

1- installations would only be required for rural lot developments, not urban development such as East Fonhill and East Fenwick, according to interviews with Town staff.

# Forecast Assumptions by Sub-Service

	Sub-Activity	2025	2030	2035	2041
Trails	Trail Washout	2%	3%	3%	3%
Turf Maintenance	All Turf Maintenance	27%	36%	46%	49%
Turf Maintenance	All Turf Maintenance	27%	36%	46%	49%
Wastewater System Maintenance	Sanitary Sewer CCTV/Flushing	0%	0%	0%	0%
Wastewater System Maintenance	Sanitary Sewer Flushing	2%	3%	3%	3%
Wastewater System Maintenance	Sanitary Sewer Repair	2%	3%	3%	3%
Wastewater System Maintenance	Sewer Lateral Clearing / Cameraing	0%	0%	0%	0%
Water Quality	Sampling, Monitoring, Flushing, Complaints	0%	0%	0%	0%

1- additional sampling and monitoring would not be required according to interviews with Town staff.

# Forecast Assumptions by Sub-Service

	Sub-Activity	2025	2030	2035	2041
Winter Control	Winter Maintenance	7%	8%	9%	10%
Operations	Engineering	47%	52%	56%	59%



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**Subject:** Public Works Operational Review**Recommendation:**

**BE IT RESOLVED THAT Council receive Report # 2021-0023 for information.**

**Background:**

In the fall of 2020 Council included the operational review of the Public Works as one of its strategic priorities. Staff initiated an RFP for a consulting firm to undertake this study, which was funded through a provincial grant. The overall objective of the engagement was to provide a plan to ensure that the Town has sufficient resources and facilities that will efficiently meet service level expectations of the Town's infrastructure both currently and into the future at the lowest life-cycle cost. The assignment was awarded to KPMG in the fall of 2020 and was funded through the Municipal Modernization Program Grant issued by the Province of Ontario.

The Town's current population is 17,100 residents (based on the 2019 Financial Information Return FIR) that are located within urban and rural areas encompassing 126.43 square kilometres.

The Town's Public Works department contains four main business units:

1. Roads;
2. Winter Control;
3. Beautification; and
4. Water/Wastewater.

The department is led by the Director, Public Works with a Manager, Public Works. The Public Works department is operated out of the Tice Road Operations Centre where equipment, supplies and materials are stored. In addition, the Director, Public Works manages the Engineering Department, a team comprised of engineers, out of Town Hall. The department is responsible for planning reviews, designing, supervising and maintaining the Town's infrastructure and related capital assets.

Over the next decade, the Town will experience significant growth due to the development of East Fonthill and East Fenwick and the surrounding area(s). Currently, the Town is able to meet its expected level of service given its current resource structure; however, the anticipated growth will strain the Town's resources – particularly during the next five years – including yard space, staffing and capital assets such as vehicles and equipment. The current Public Works yard has been stretched to its limit which only increases the challenge of acquiring and storing new assets to keep up with growing service level expectations. The Town will need a plan to ensure it has sufficient resources and facilities to meet service level expectations of the Town's infrastructure both currently and into the future, efficiently and at the lowest life-cycle cost.

KPMG's scope of work was to assist in the development of a plan to use the existing Operational Facility and Patrol Yard (Tice Road Facility) to optimally support current and future operational needs for the Town's Public Works Division including the Operational, Engineering and Facility departments. The project had three secondary objectives:

1. *Conduct Current State Review* in which a review was conducted to assess current operations and facilities at each of the division's locations. The objective was to identify what the existing space and amenities can accommodate at current industry standards and what gaps (if any) existed.
2. *Anticipate Projected Future Workload* in which a review was completed assessing current workload and support staff, equipment, supplies, and materials while anticipating future resources needed to maintain the Town's infrastructure including, but not limited to, roads, bridges, culverts, water-wastewater infrastructure, facilities and parks and cemeteries.
3. *Provide Facility and Resource Optimization Plan* to identify risks with the current facility and overall operations including recommendations to optimize operations (winter and summer) and associated changes needed at the operations centre and office locations.



## **Analysis:**

Within the Provincial and Regional growth estimates, the Town of Pelham will see a population increase of 9,120 residents, an increase of 53%, and the addition of approximately 3800 dwellings with the completion of the East Fonthill and East Fenwick residential developments. This growth will result in the addition of 50 lane km of roads, 50 km of municipal sidewalks, 2.5 km of pedestrian trails, and approximately 4000 municipal boulevard trees. KPMG has reported that the Town's Public Works department is stretched to meet the current service levels with the current infrastructure it has to maintain, and significant growth will begin to strain the department's resources including yard space, staffing, and capital assets. Notably, the current yard (~2 acres) is exceeding its storage capacity, is smaller relative to municipalities of similar size, and has no indoor storage for snow plows.

KPMG conducted a comparative analysis with other local area municipalities of similar size. The primary purpose of the comparative analysis was to understand the performance of comparator municipalities' Public Works functions in order to identify opportunities to improve the Town's service delivery. Specifically, the comparator analysis analyzed: (1) Public Works operating expenses; (2) Number of Public Works FTE's against total operating expenses; and (3) Public Works facility size against total operating expenses.

The results of the analysis indicated the following in relation to the comparator group: (1) the Town of Pelham has the lowest operating expense; (2) the Town of Pelham employs the fewest number of full time employees (FTE's); and (3) the Town of Pelham's Public Works yard (Tice Road Facility) is the smallest facility with respect to available space.

KPMG created a model to forecast future service levels from 2021-2041. Based on the model, it is expected that the Engineering and Public Works Operations departments will require the following additional resources: (1) Approximately 0.40 acres of space for the Public Works yard and employee space between now and 2041; (2) 5 additional FTEs by 2025 (2 for Engineering; 3 for Public Works Operations); (3) \$635K for additional vehicles, equipment and machinery; and (4) \$1.1M of additional operating budget between now and 2025.

Near-term site expansion raises the question of what long-term needs also

need to be considered. With this in mind, KPMG also considered the possibility of constructing a new facility that would meet medium and long-term staff needs, allow for optimal indoor equipment storage, and consider the possibility that future material supply may require on-site storage for a year's worth of ice-control material. A new facility of this nature would require approximately 4 acres of space to meet growing service levels, with an estimated building cost of approximately \$2.6M (Class 5 estimate, ROM).

KPMG's report entitled "Public Works Operational Review", dated January 11<sup>th</sup> is included in Appendix A of this report for review and consideration. With this analysis completed, the Town is better equipped to address growing service levels and to make the best choice for the future as it continues to grow.

#### **Financial Considerations:**

There are no immediate financial considerations for this report as it is for information purposes only.

#### **Alternatives Reviewed:**

There were no alternatives reviewed as this report is being presented to Council for information purposes only.

#### **Strategic Plan Relationship: Strong Organization**

Developing a sustainable plan for Public Works to accommodate the expected growth over the next 20 years will ensure that the department is able to provide the expected level of service to the residents of the Town of Pelham.

#### **Other Pertinent Reports/Attachments:**

Appendix A – Public Works Operational Review, KPMG, January 11<sup>th</sup>, 2020

#### **Consultation:**

Consultation was completed with KPMG in the preparation of this report.

#### **Legal Consultation, If Applicable:**

There was no legal consultation completed in the preparation of this report.

**Prepared and Recommended by:**

Jason Marr, P. Eng.,  
Director of Public Works

**Approved and Submitted by:**

David Cribbs, BA, MA, JD, MPA  
Chief Administrative Officer

**Subject:** 2023 Sidewalk Cutting Pilot Program**Recommendation:**

**BE IT RESOLVED THAT Council receive Report #2023-0178-2023 Sidewalk Cutting Pilot Program, for information.**

**AND THAT Council approves retaining Safe Sidewalks Canada as a sole source contract in the amount of \$20,000 (plus applicable taxes) in accordance with the Town's procurement policy S402-00.**

**AND THAT Council approves the cost for the Sidewalk Cutting Pilot Program to be funded through the capital account for the 2023 Concrete Repair and Replacement Program.**

**Background:**

As a part of the minimum maintenance standards required for all municipalities staff conducts an inspection of all sidewalks across the Town each year to identify any trip hazards greater than 2cm in height. Traditionally the town would have public works staff grind the sidewalk trip hazards after they have been identified but in the last two years due to workload, staff has found it challenging to grind the trip hazards in a reasonable timeframe. Staff would like to retain Safe Sidewalks Canada to complete a pilot program with a set budget to evaluate the effectiveness of their patented repair technique. This pilot program would also identify any cost-saving opportunities for future years as well as remove liability and reduce claims received by the town from tripping incidents.

**Analysis:**

Public Works has received a proposal from Safe Sidewalks Canada (SSC) a company that specializes in the use of a patented dry saw-cutting technique to remove trip edges from concrete sidewalks quickly and efficiently. SSC involves no heavy equipment, and each trip edge removal technician is equipped with a compact, mobile cart, which the technician utilizes as he/she repairs each trip edge. The saw includes a shroud that is connected to a vacuum on the technician's cart which minimizes the dust from the repair work. One technician can remove 25-40 trip edges a day, with minimal disturbance to businesses, homeowners, or other public venues.

Other companies that offer sidewalk trip hazard repair use different methods such as grinding, wet saw cutting, or removing and replacing which all either leave the sidewalk closed for an extended period of time, require reinstatements, produce excessive noise and dust, and create a mess in general. Safe Sidewalks Canada approach provides a quick gradual sloped repair that is flush with the adjoining panel with minimal disturbance to the surrounding area.

Public works staff have identified nearly 200 locations across town that would qualify for this type of repair. Using the safe sidewalks technique would make it possible to have the current backlog of repairs completed in about a week's time and minimize the number of claims to the town due to sidewalk tripping incidents.

Staff would like to retain Safe Sidewalks Canada as a sole source for a pilot program. While it is appreciated that Council is generally not supportive of sole sourcing with respect to purchasing, in this instance staff support this protocol because of the experimental nature and the sole proprietorship of the technology. The pilot program, if approved by Council, will allow staff to evaluate the effectiveness of this technique and determine if this approach would be suitable for use on a larger scale in future years.

#### **Financial Considerations:**

In the 2023 capital budget Council approved a budget of \$110,000 for the concrete repair and replacement program as well as \$50,000 for the facilities' concrete and asphalt repair program. These two programs are typically tendered together giving a total budget of \$160,000 for sidewalk, curb, and asphalt repairs. The project had a low bid of \$114,000 for all identified replacement locations leaving \$46,000 in the combined budget. The proposal received from Safe Sidewalk Canada gives an estimated price between \$23,000 and \$32,200 to address 200 trip hazards across town. Completing this work will reduce the potential for claims from sidewalk-related tripping incidents. Public works staff proposes that \$20,000 of the surplus budget be used for trip hazard removals using Safe Sidewalks Canada as a sole source vendor in accordance with the Town's purchasing policy S402-00.

#### **Alternatives Reviewed:**

There are alternative methods of removing trip hazards other than dry saw cutting such as grinding/milling, wet saw cutting, and removal and replacement.

Grinding/milling is a very loud and messy method of removing trip hazards. Often grinders are unable to reach the edges of the sidewalk or grind the sidewalk level with the next concrete panel so even after you've paid for the repair, the liability remains.

Wet saw cutting is another alternative where like Safe Sidewalks Canada's approach, saws are used to cut the sidewalk panels. The distinction between Safe Sidewalk's approach and wet saw cutting is the mess associated with water being used in wet cutting. The mix of water and dust from the concrete creates a slurry that makes a mess on lawns, driveways, vehicles, or anything around the saw as it's cutting.

Removal and replacement is by far the most expensive and create the most inconvenience to pedestrians out of all the methods. The process involves removing the existing panel, excavating the area, placing gravel, pouring the new panel, letting the concrete cure, then reinstating the surrounding area. This option leaves the sidewalk closed for an extended period of time, costs much more, and causes the most complaints out of any of the different methods.

### **Strategic Plan Relationship: Enhancing Capacity and Future Readiness**

The use of this new trip hazard removal method, if demonstrated to be effective, could significantly reduce the number of concrete sidewalk replacements in future years. Instead of replacing the full sidewalk panels, the contractor can simply cut the panel flush to the adjoining panel reducing the amount of concrete waste as well as saving money on replacements.

### **Consultation:**

A consultation was undertaken with the Town Solicitor and Manager of Financial Services regarding the financial and budgetary considerations for this report.

### **Other Pertinent Reports/Attachments:**

None.

### **Prepared and Recommended by:**

Nicholas Palomba  
Engineering Technologist

Jason Marr, P. Eng.  
Director of Public Works

### **Prepared and Submitted by:**

David Cribbs, BA, MA, JD, MPA  
Chief Administrative Officer

**Subject:** Planning Services Agreement with the Region of Niagara

**Recommendation:**

**BE IT RESOLVED THAT Council receive Report #2023-0196 Planning Services Agreement with the Region of Niagara, for information;**

**AND THAT Council approve the Planning Services Agreement with the Region of Niagara and the Clerk be directed to sign the Agreement on behalf of the Town.**

**Background:**

In October 2022, the provincial government released the omnibus Bill 23 *More Homes Built Faster Act*, which proposed several changes to the *Planning Act*, along with changes to other legislation as well. One fundamental change proposed to the *Planning Act* was the removal of planning authority from certain upper tier municipalities, including the Region of Niagara. Bill 23 received royal assent on November 28, 2022. The provision regarding the change to upper tier municipalities to upper tier municipalities without planning authority is still waiting to be proclaimed and the Minister has indicated that it is to come into effect in the winter of 2024.

Through December 2022 – March 2023 the CAO and Director met with area CAOs and Planning Directors with Regional CAO and Regional Commissioner of Growth Strategy and Economic Development to discuss implications of this change in planning authority and the downloading of what has traditionally been regional planning authority and functions to lower tier municipalities. The Region retained a facilitator to assist with the discussions between the Region and area municipalities to develop a new model for the delivery of planning services function that supports the changes to provincial legislation, expected growth needs across the Region and an improved customer-centred service approach.

The outcome of these facilitated sessions led to the creation of new Planning Services Agreement between the Region and area municipalities. Each Planning Services Agreement is tailored to the needs of each area municipality recognizing

that the needs from one municipality to another differ. The new Planning Services Agreement will also replace the current approved Memorandum of Understanding between the Region of Niagara, area municipalities and the Niagara Peninsula Conservation Authority.

### **Analysis:**

The pending elimination of planning authority from the Region of Niagara means that the land use planning functions that the Region performs will be downloaded to the lower tier municipalities, increasing their responsibilities and functions. The amendments to the *Planning Act* also provide for the ability for upper-tier municipalities to provide advice and assistance to a lower-tier municipality if agreed upon by the Council of lower tier municipality.

Early in the discussions with area CAOs and Planning Directors it was agreed that sharing of services with the Region of Niagara was the most efficient and effective way of maintaining a consistent delivery of the planning function across Niagara. The alternative of each municipality hiring additional staff to take on 'regional' responsibilities was not seen as fiscally responsible and would lead to municipalities 'poaching' staff from one another given the shortage of professional planners, as well as the likelihood of resulting wage inflation. It was determined that the best approach would be to share the resources of the Regional planners with the area municipalities on a fee-for-service basis recognizing that each municipality may have differing needs, i.e., the larger municipalities with greater staff resources have a greater ability to absorb some of the Regional planning responsibilities while the smaller municipalities with fewer staff are less able to do so.

The fee-for-service approach is based on the current system where the development application fees that the Region collects cover the staff time to undertake the development planning review function. This same approach would be employed in the proposed Planning Services Agreement whereby the use of the Regional planning staff to continue to undertake the development review function that they did on behalf of the Region would now be the responsibility the lower-tier municipality. Henceforth these services will be covered by the fees collected by Pelham on development applications, thereby ensuring that there is no impact on the ratepayer.

The customer-centred model proposes a 'one-stop' model for the planning review function. While Regional planning staff will continue to provide part of the planning review function, they will be undertaking that role on behalf of the area municipality and formal comments will appear as Town comments and not Regional comments. Regional Planning staff will also be able to work directly from the local municipality's office which should assist with the 'one-stop' model. In essence the



Regional Planner will be working on contract for the area municipality, but continue to be paid by the Region of Niagara.

Appendix A of the Agreement details the timeframes to which the Region has committed in terms of providing comments on applications. Appendix B outlines the fees that are currently charged for the various applications along with other general planning services that the Region has historically undertaken. The fees for development application review are based on the application fees in accordance with the Region's Fees and Charges By-law. The general planning services fee is based on an hourly rate of \$85.00.

The Planning Services Agreement allows for Pelham to be able to purchase additional planning expertise from the Region of Niagara on an hourly basis (\$85.00/hour) when needed or on a project basis. Those services are identified in Appendix C of the Agreement. Purchasing this service on a fee basis is also seen as a cost savings measure versus retaining additional planning staff or consulting services to undertake this function.

The Agreement will take effect 90 days following proclamation of the Region of Niagara becoming an upper tier municipality without planning authority and expire 90 days following the next municipal election. These timeframes allow for effective transition of the downloading of responsibilities to the area municipalities and time following a municipal election to bring a new agreement to a new Council. The Agreement also provides that 12 months prior to the expiry of the Agreement, good faith negotiations between the Region and the Town would commence to either extend or amend the Agreement as needed.

The Agreement also provides that:

- the Region will invoice the Town monthly for the services it provides to the Town;
- The fees charged by the Region will be adjusted annually in accordance with the Consumer Price Index or adjustments identified in the Region's Fees and Charges By-law;
- At the end of the first year of the term of the Agreement, the parties will conduct a review of the fees charged by the Region to determine if any of the fees require adjustment;
- In the event of a dispute, a dispute resolution mechanism has been determined.

Also, it is important to note that when the Region of Niagara becomes an upper tier municipality without planning authority, the Regional Official Plan as it relates to the Town of Pelham will be assumed by the Town of Pelham until such time as the Town has updated its Official Plan to comply with the Region Official Plan.

## Conclusion

The Region of Niagara and the Town of Pelham have a good working relationship with respect to the delivery of the land use planning function which is based on the success of the existing Memorandum of Understanding between the Town and the Region. When issues arise, staff work through the issues together with the Region to amicably resolve the matter. The Planning Services Agreement builds on the success of the Memorandum of Understanding, and it is anticipated that those good relationships would continue with the implementation of the new Planning Services Agreement. It is recommended that Council approve the new Planning Services Agreement with the Region of Niagara.

## **Financial Considerations:**

The development review function as it relates to planning and development applications will be revenue neutral for the Town. For other services beyond the development review function the fees for services will be based on an hourly rate of \$85.00 which would be less expensive than hiring additional staff or retaining consulting services to undertake the additional work because of the downloading of responsibilities to the Town from Bill 23. It is anticipated that \$7,500 will be allocated in the 2024 Budget for Contracted Services in the Planning Services Budget to cover these costs if needed.

## **Alternatives Reviewed:**

The alternative is to not approve the Planning Services Agreement and for the Town to retain additional staff or consulting services to undertake the functions that the Region of Niagara would continue to do under the Agreement.

## **Strategic Plan Relationship: Enhancing Capacity and Future Readiness**

The Planning Services Agreement provides the ability for the Town to enhance its planning capacity without significant financial impact to the taxpayer. Utilizing existing Regional human resources also sets the Town up to seamlessly undertake these new responsibilities in an efficient and effective manner.

## **Consultation:**

The CAO, the Town Solicitor, Region of Niagara and area municipalities were all consulted in the drafting of the Planning Services Agreement.

## **Other Pertinent Reports/Attachments:**

Implications of Bill 23, 2023-0017 Planning Report

**Prepared and Recommended by:**

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

**Prepared and Submitted by:**

David Cribbs, BA, MA, JD, MPA  
Chief Administrative Officer

## PLANNING SERVICES AGREEMENT

BETWEEN:

### THE REGIONAL MUNICIPALITY OF NIAGARA

(hereinafter called the “Region”)

-and-

### THE CORPORATION OF THE TOWN \_\_\_\_\_

(hereinafter called the “Town”)

(Change to “City” or “Township” throughout as appropriate)

(hereinafter together referred to as the “Parties” and individually as a “Party”)

**WHEREAS** the Region is an upper-tier municipality established pursuant to the provisions of the *Municipal Act, 2001*, S.O. 2001, c. 25 (“*Municipal Act, 2001*”);

**AND WHEREAS** the Town is a lower-tier local municipality within the Region and incorporated pursuant to the provisions of the *Municipal Act, 2001*;

**AND WHEREAS** pursuant to subsection 15(2) of the *Planning Act*, R.S.O. 1990, c. P.13 (“*Planning Act*”) the Council of an upper-tier municipality, on such conditions as may be agreed upon with the Council of a lower-tier municipality, may provide advice and assistance to the lower-tier municipality in respect of planning matters generally;

**AND WHEREAS** the Region and the Town desire to enter into an agreement whereby the Region shall provide advice and assistance to the Town in respect of planning matters;

**AND WHEREAS** the Region and Town desire to deliver timely and streamlined planning services to the public, based upon a mutual understanding of their respective roles and responsibilities, and seek to collaborate without duplication of service in order to achieve efficient and cost effective resourcing;

**AND WHEREAS** the Region desires to provide planning services to its lower-tier municipalities which exhibit equity as between the lower-tier municipalities, recognizing that each lower-tier municipality has different circumstances and different resource needs resulting in allocations of Regional resources that will aim to be fair but which may be different for each lower-tier municipality;

**AND WHEREAS** the Region and the Town acknowledge that entering into a Planning Services Agreement will facilitate the ability of the Region to continue providing planning services, data collection and data analysis, mapping services and growth management analysis and advice, for use by the Region and its lower-tier municipalities;

**AND WHEREAS** the Region and the Town desire to enter into this Planning Services Agreement (“Agreement”);

**NOW THEREFORE THIS AGREEMENT WITNESSES** that in consideration of the mutual covenants herein contained and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Region and the Town agree as follows:

## **1. PURPOSE AND SCOPE**

- 1.1. This Agreement sets out the advice, assistance and services to be provided by the Region to the Town in respect of planning matters so as to promote the delivery of efficient and effective municipal planning services using a “one-window” approach.
- 1.2. The Parties acknowledge and agree that notwithstanding any other provision of this Agreement, the planning services provided by the Region under this Agreement shall be provided on an as-needed basis in accordance with the Town’s planning needs and the volume of development applications received and that this Agreement does not guarantee a minimum or any number of service requests by the Town.
- 1.3. The Parties further acknowledge and agree that in furtherance of the “one-window” approach to providing municipal planning services, Region planning staff may on occasion use Town resources such as office space, communications equipment and letterhead, to provide services under this Agreement. However, this Agreement does not and shall not be taken to create an employment relationship between any member of Region planning staff and the Town.
- 1.4. The Parties further acknowledge and agree that this Agreement shall encompass, address and govern all planning services provided by or exchanged between the Region and the Town but shall not encompass, address or govern other service relationships between the Region and the Town, including but not limited to all non-planning services.

## **2. TERM**

- 2.1. This Agreement shall be subject to approval by the Council of the Region and the Council of the Town and upon such approvals, shall be deemed effective on the date that is ninety (90) days following the proclamation of amendments to the *Planning Act* pursuant to which the Region becomes an upper-tier municipality without planning responsibilities and shall, unless terminated earlier in accordance with this Agreement, expire on the date that is ninety (90) days following the next regular municipal election (“the Term”).
- 2.2. At least twelve (12) months prior to the expiry of the Term, staff of the Parties shall enter into good faith negotiations to extend or amend this Agreement on such terms and conditions as may be agreed to by the Parties and approved by their respective Councils.

- 2.3. The terms and conditions of this Agreement shall apply to all services requested, commenced and/or provided prior to the end of the Term, including during the negotiation period prescribed by paragraph 2.2. In the event that the Parties have agreed to extend or amend this Agreement but have not sought Council approval by the end of the Term, the terms and conditions of this Agreement shall continue to apply until Council has considered the proposed extension or amendment of this Agreement, provided that this occurs within nine (9) months of the end of the Term, failing which this Agreement shall expire.

### **3. PLANNING SERVICES PROVIDED BY THE REGION**

- 3.1. The Region shall provide to the Town the planning services set out in Appendix “A”, which is appended hereto and forms part of this Agreement and shall adhere to all timeframes for service delivery set out therein.
- 3.2. The Town shall circulate all pre-consultation applications to the Region where the application identifies a service to be provided by the Region in accordance with Appendix “A”. Where the Region is able to provide the services identified in the pre-consultation application, the Town shall not receive such services from any other source.
- 3.3. The Region may decline a request to provide Services in Appendix “C” where providing the Services would require efforts beyond current capacity including Services requested by other municipalities which;
1. require more time than the Region’s representatives can reasonably commit,
  2. lead to or constitute a conflict of interest, or
  3. prevent the Region or its representatives from meeting any other duties.
- 3.4. The Region shall charge fees in accordance with the Region’s Fees and Charges By-law for the planning services provided to the Town under paragraph 3.1, which shall be the same rate as is charged by the Region to all of its local municipalities for the services set out in Appendix “A”.
- 3.5. The Region shall provide to the Town the planning services set out in Appendix “B”, which is appended hereto and forms part of this Agreement, upon receipt of a written request by the Town, and shall adhere to all timeframes for service delivery set out therein.
- 3.6. The Region shall charge fees in accordance with the Region’s Fees and Charges By-law for the planning services provided to the Town under paragraph 3.4, which shall be based upon the rates set out in Appendix “B”, and which shall be funded by the fee(s) for the development application to which the services relate.
- 3.7. The Region shall provide to the Town the planning services set out in Appendix “C”, which is appended to and forms part of this Agreement, upon the exchange of a written service request from the Town and a written service and budget proposal

from the Region, which shall be agreed to by the Parties before the services are provided.

- 3.8. The Region shall charge fees in accordance with Region's Fees and Charges By-law for the planning services provided to the Town under paragraph 3.6, which shall be based upon the hourly rates set out in Appendix "C", and which shall be funded as budgeted for by the Town.
- 3.9. The fees required to be paid by the Town to the Region under this Agreement, shall be collected by the Town and remitted to the Region. The fees shall be invoiced by the Region to the Town on a monthly basis.
- 3.10. Notwithstanding paragraph 3.8, the Region shall be responsible for and reimburse the Town for any fees required to be refunded under sections 34(10.12) and 41 (11.1) of the *Planning Act* if the Region does not meet the timelines set out in Appendix "A" or any timelines applicable to the services set out in Appendix "B" or Appendix "C", irrespective of the reason(s) for non-compliance.
- 3.11. The Town shall be responsible for and indemnify the Region, if necessary, for any fees required to be refunded by the Region under sections 34(10.12) and 41(11.1) of the *Planning Act* if the Town does not meet the timelines as set out in Appendix "A" or Appendix "C", irrespective of the reason(s) for non-compliance.
- 3.12. Notwithstanding the foregoing, the Parties may mutually agree to waive reimbursement or indemnification of fees refunded under paragraphs 3.9 and/or 3.10.
- 3.13. The Region will provide planning advice and opinions as necessary and participate in any proceeding including proceedings before the Ontario Land Tribunal in accordance with the provisions and rates set out in this Agreement in accordance with the Region's Fees and Charges By-law.
- 3.14. The fees charged by the Region under this Agreement may be increased and adjusted annually in accordance with the Consumer Price Index or any applicable fee increases, or adjustments identified in the Region's Fees and Charges By-law.
- 3.15. The Town will pay all of the Region's invoices issued under this Agreement within thirty (30) days of the invoice date. Should the Town fail to make payment or portion thereof on invoices issued under this Agreement, the Town shall pay to the Region interest due on the amount in default at the rate of fifteen (15) per cent per annum, accrued monthly, from the due date of the invoice until the payment is made.
- 3.16. The fees charged by the Region under this Agreement shall be paid in full by the Town in accordance with the terms of this Agreement and shall not be credited to or set off against any other amounts owing or payable by the Parties pursuant to any other agreement or arrangement between them.

- 3.17. At the end of the first year of the Term, the Parties shall conduct a review of fees charged by the Region under this Agreement and shall determine if any fees require adjustment for one (1) or more subsequent years of the Term.
- 3.18. Planning services provided by the Region under this Agreement shall comply with all applicable professional and industry standards.
- 3.19. At the end of each year of the Term, the Parties may, at the request of either Party, conduct a joint review of all services provided by the Region under this Agreement in the preceding year. The purpose of the review shall be to assess and determine if the timelines, service requirements and levels of service prescribed by this Agreement have been met. For greater certainty, any such review shall not encompass, address or alter the nature of services to be provided by the Region under this Agreement in subsequent years of the Term.

#### **4. CONFLICT**

- 4.1. In the event of a conflict between the Region and the Town as to the interpretation of a Provincial Plan, Provincial Policy and/or an Official Plan Policy, planning staff of the Region and the Town shall work together to resolve the interpretation issue and if such issue is not resolved, the Town, as the approval authority, shall make a final determination in respect of the conflict.
- 4.2. Either Party may decline to request or provide planning services in relation to a specific matter if there is an actual or perceived conflict between the interests of the Region and the interests of the Town in relation to that matter arising under this Agreement. The Chief Administrative Officer of the Region and the Chief Administrative Officer of the Town shall have authority to determine if there is an actual or perceived conflict of interest and, where a Party identifies an actual or perceived conflict of interest, it shall immediately notify the other Party of same.

#### **5. INSURANCE AND INDEMNITY**

- 5.1. During the Term, the Region shall obtain and maintain in full force and effect a policy of errors and omissions insurance with limits of not less than two million dollars (\$2,000,000.00). The policy shall provide for no less than thirty (30) days' notice of cancellation or non-renewal and shall name the Town as an additional insured but only with respect to this Agreement.
- 5.2. During the Term, the Town shall obtain and maintain in full force and effect a policy of errors and omissions insurance with limits of not less than two million dollars (\$2,000,000.00). The policy shall provide for no less than thirty (30) days' notice of cancellation or non-renewal and shall name the Region as an additional insured but only with respect to this Agreement.
- 5.3. The Region and the Town shall each indemnify and save harmless the other from claims of any kind arising from or in any way related to this Agreement.



## 6. DISPUTE RESOLUTION

- 6.1. In the event that a dispute arises as to the interpretation, application and/or execution of this Agreement, including but not limited to any Party's rights or obligations under this Agreement and/or an allegation of default or breach, the Party that disputes the other Party's position or conduct shall provide written notice of the dispute.
- 6.2. Where a notice of dispute is received in accordance with paragraph 6.1, the Parties' planning staff shall use best efforts to resolve the dispute for a period of thirty (30) days from the date on which the notice is delivered. The Parties may extend the negotiation period if they agree that a reasonable extension is likely to resolve the dispute.
- 6.3. In the event that the Parties' planning staff fail to resolve the dispute, the Parties' Chief Administrative Officers shall use best efforts to resolve the dispute for a period of thirty (30) days from the date on which the discussions commence. The Parties may extend the negotiation period if they agree that a reasonable extension is likely to resolve the dispute.
- 6.4. In the event that the Parties fail to resolve a dispute under paragraphs 6.2 or 6.3, the parties shall refer the matter to non-binding mediation by a mediator agreed on by the Parties. If mediation fails to resolve the dispute, the Parties shall refer the matter to arbitration by an arbitrator agreed on by the Parties and shall proceed in accordance with the provisions of the *Arbitration Act, 1991*, S.O. 1991, c. 17, without any right of appeal.
- 6.5. Each Party shall bear its own costs associated with the determination of disputes arising under this Agreement, including but not limited to legal, mediation and arbitration costs.

## 7. EVENTS OF DEFAULT AND TERMINATION

- 7.1. Any of the following circumstances constitutes a default under this Agreement:
  - (a) if a Party fails to make any payment required under this Agreement and such failure continues for a period of one hundred and eighty (180) days after written notice thereof has been given by the other Party pursuant to the provisions of this Agreement; and/or
  - (b) other than a default under (a) above, if a Party is in default under any of the provisions of this Agreement and such default continues for a period of fourteen (14) days after written notice thereof has been given by the other Party.
- 7.2. Upon an event of default set out in paragraph 7.1, either Party may terminate this Agreement on sixty (60) days' written notice to the other Party.
- 7.3. Notwithstanding sections 7.1 and 7.2, either Party may terminate this Agreement without cause, upon eighteen (18) months' notice.

## 8. NOTICE

- 8.1. Any and all information, records, notices, approvals, waivers, agreements, extensions or other communications pursuant to this Agreement given by the Region or the Town shall be in writing unless the Parties agree otherwise in writing.
- 8.2. Any notices required to be given pursuant to this Agreement shall be delivered by personal delivery, regular or prepaid first class mail, or email and addressed to the Party to whom it is given as follows:

If to the Region: THE REGIONAL MUNICIPALITY OF NIAGARA  
1815 Sir Isaac Brock Way  
P.O. Box 1042  
Thorold ON L2V 4T7  
Attention: INSERT NAME AND EMAIL ADDRESS

If to the Town(ship): THE CORPORATION OF THE TOWN(SHIP) OF NAME  
INSERT ADDRESS  
INSERT ADDRESS  
INSERT ADDRESS  
Attention: INSERT NAME AND EMAIL ADDRESS

or such other address or email address of which either Party has notified the other, in writing, and any such notice shall be deemed sufficient under this Agreement.

- 8.3. Any notice given pursuant to this Agreement shall be deemed to have been given to and received by the Party to whom it is addressed as follows:
- (a) where personally delivered, on the date of delivery;
  - (b) where sent by regular or prepaid first class mail, on the fifth (5<sup>th</sup>) day after mailing; or
  - (c) where sent by email, on the date of email transmission, unless the email was sent after 4:00 p.m., in which case notice is deemed to have been given and received on the next business day.

## 9. GOOD FAITH

- 9.1. The Town and the Region, including their planning staff and any other employees, officers, representatives and agents shall at all times act honestly, in good faith and with all due diligence and dispatch in taking all actions and in making all decisions pertaining to the implementation and administration of this Agreement.
- 9.2. The Town and the Region, including their planning staff and any other employees, officers, representatives and agents shall make their best and timely efforts upon the reasonable request of the other Party to make, do, execute or cause to be made, done or executed all such further and other lawful acts, deeds, things, devices and

assurances whatsoever necessary to give effect to this Agreement and the terms and conditions contained herein.

## **10. AMENDMENTS**

- 10.1. This Agreement may be amended by mutual agreement of the Parties at any time during the Term. Any changes, alterations or amendments to this Agreement shall be made in writing and signed by one or more persons authorized as representatives of the Region and the Town and who can bind the respective Parties, and shall be appended to this Agreement.
- 10.2. Without limiting the generality of the foregoing, the Parties may amend this Agreement at any time during the Term to add as Appendix “D” a list of further services as special projects that the Region may provide, subject to capacity, to the Town and for which the Region shall charge fees in accordance with its Fees and Charges By-law. Services provided pursuant to Appendix “D” shall be subject to section 3 of this Agreement.
- 10.3. For greater certainty, the Parties are authorized to amend this Agreement in accordance with paragraphs 10.1 and 10.2 without requiring the approval of their respective Councils provided that the amendments are minor in nature, are mutually agreed to by the Parties and do not impact or change the purpose or intent of this Agreement.

## **11. GENERAL**

- 11.1. In this Agreement, words importing a singular number shall include the plural and vice versa, words importing the any gender shall include all genders and words importing persons shall include firms and corporations and vice versa.
- 11.2. Unless the context otherwise requires, the words “Region” and “Town” wherever used in this Agreement shall be construed to include and to mean the successors and/or assigns of the Region and the Town respectively.
- 11.3. This Agreement shall be governed, construed and enforced according to the laws of the Province of Ontario and the laws of Canada applicable therein.
- 11.4. In the event that any of term, condition or provision contained in this Agreement is determined by a court or tribunal of competent jurisdiction to be invalid, unlawful or unenforceable to any extent, such term, condition or provision shall be severed from the remaining terms, conditions and provisions of this Agreement, which shall continue to be valid and enforceable to the fullest extent permitted by law.
- 11.5. No waiver of any provision of this Agreement shall be deemed to constitute a waiver of any other provisions, whether or not similar, nor shall such waiver constitute a continuing waiver unless otherwise expressly provided.

- 11.6. Moreover, any delay or failure on the part of a Party to exercise or enforce any right, power or remedy conferred by this Agreement shall not constitute a waiver of same and shall not constitute a waiver of any rights, powers or remedies with respect to any subsequent default or breach.
- 11.7. The Parties acknowledge and agree that nothing in this Agreement shall be deemed to fetter or interfere with either Party's responsibilities and rights as municipal bodies.
- 11.8. This Agreement constitutes the entire agreement between the Parties relating to the matters set out herein. There are no representations, promises, covenants or other terms relating to the content of this Agreement and this Agreement supersedes any prior discussions, understandings or agreements between the Parties in relation to its subject matter.
- 11.9. This Agreement may be signed in counterpart, each of which is an original and all of which together constitute a single document. Counterparts may be executed in original or electronic form and may be exchanged by way of mail or PDF file delivered by email.

**[signature page follows]**

**IN WITNESS WHEREOF**, the Region has on the \_\_\_\_ day of \_\_\_\_\_, 2023  
executed this Agreement.

THE REGIONAL MUNICIPALITY OF NIAGARA

Per: \_\_\_\_\_

Name:

Title:

I have the authority to bind the Regional Corporation

**IN WITNESS WHEREOF**, the Town(ship) has on the \_\_\_\_ day of \_\_\_\_\_, 2023  
executed this Agreement.

THE CORPORATION OF THE TOWN(SHIP) OF

Per: \_\_\_\_\_

Name:

Title:

I have the authority to bind the Corporation

**APPENDIX “A” Town of Pelham**  
**Planning Services and Timeframes Provided by the Region**  
**at Same Rate for All Local Municipalities**

Development Planning Service Review to be provided for planning applications include:

- Land Use Compatibility
- Environmental Review
- Record of Site Condition
- Gas and Petroleum Resources
- Screening to address Water Protection
- Urban Design (along regional roads or site plan)

Process Type	Pre-Consultation Timeframes	Complete Application Timeframes
<b>Site specific Regional Official Plan Amendment</b>	<p>Region to receive required information/plans a min. of <b>10 calendar days</b> prior to pre-consultation.</p> <p>Region to provide comments <b>12 calendar days</b></p> <p>After Pre-Consultation meeting.</p> <p>Any peer reviews to be identified at pre-consultation meeting.</p> <p>Recommend meetings in advance of pre-con for complex applications</p> <p>Area Municipality provide Pre-Consultation notes to applicant within 14 calendar days</p>	<p>Region to provide comments within 20 calendar days</p>

<b>Process Type</b>	<b>Pre-Consultation Timeframes</b>	<b>Complete Application Timeframes</b>
<b>Secondary Plan (Local Official Plan Amendment)</b>	<i>Same as above</i>	As determined in consultation with the area municipality
<b>Complete Application Review</b>	N/A	Region to provide comments within 20 calendar days
<b>Other Comprehensive Local Official Plan Amendment</b>	Same as above	As determined in consultation with the area municipality
<b>Site specific Local Official Plan Amendment</b>	Same as above	Region to provide comments within 20 calendar days
<b>Combined OPA/Zoning Amendment</b>	Same as above	Region comments within 20calendar days
<b>Comprehensive zoning by-law (initiated by area municipality)</b>	Same as above	As determined in consultation with the area municipality
<b>Site specific zoning by-law amendment (including Holding Provision)</b>	Same as above	Region to provide comments within 20 calendar days
<b>Draft plans of subdivision or condominium</b>	Same as above	Region to provide comments within 35 calendar days
<b>Modifications to Draft Approved Subdivision and Condominium</b>	Same as above	Region to provide comments within 35 calendar days

<b>Process Type</b>	<b>Pre-Consultation Timeframes</b>	<b>Complete Application Timeframes</b>
<b>Consent</b>	Same as above	Region to provide comments within 10 calendar days in urban areas and within 14 calendar days in rural areas (on private services).
<b>Minor Variance</b>	Same as above	Region to provide comments within 10 calendar days.
<b>Site Plan</b>	Same as above	Region to provide comments within 14 calendar days
<b>Extension of draft Approval</b>	Same as above	Region to provide comments within 10 calendar days
<b>Clearance of Conditions</b>	Same as above	Region to provide comments within 15 calendar days
<b>Niagara Escarpment Development Permit</b>	Same as above	Region to provide comments within 30 calendar days
<b>Niagara Escarpment Plan Amendment</b>	Same as above	Region to provide comments within 60 calendar days



## APPENDIX “B”

### Planning Services Provided by the Region Upon Request Fee for Service Funded by Development Applications

#### Appendix B- Niagara Region Planning Fee for Service

<b>Development Planning Review Service:</b>  Includes Provincial Policy and Regional review for the below listed applications. Depending on then nature of the application the review will include <i>Land Use Compatibility</i> <sup>1</sup> , <i>Archaeological assessment, Employment Land Conversion, Former Landfill Sites, Gas and Petroleum Resources, Screening to address Source Water Protection</i>  <i>*development planning fee only includes planning review</i>	
Service	Fee
<b>Official Plan Amendments</b>	
Regional Official Plan Amendment Review	\$11,205
Regional Official Plan Amendment Application Fee - Urban Boundary Expansion	\$11,205
ROPA to establish or expand and a pit or quarry	\$114,100
Major Official Plan Amendment Review ( <i>3 or more types of Provincial/Regional policy review</i> )	\$4,775
Minor Official Plan Review ( <i>2 or less types of Provincial/Regional policy review</i> )	\$2,450
<b>Subdivision, Vacant Land or Common Element Condominium Base Fee:</b>	
Draft Plan Review Base Fee (Fee is based on the entire area of the subdivision and consists of a base fee and per hectare fee)	\$1,790
Draft Plan Per Hectare Fee (Fee is based on the entire area of the subdivision and consists of a base fee and per hectare fee)	\$790
Revision to Submission by Applicant (Prior to Draft Approval)	\$1,925

<sup>1</sup> Peer Reviews will not be a fee for service but will be required to be paid for by the applicant when required for a development application. Peer Reviews will be identified during pre-con including cost estimate.

Modification of Draft Plan Approval	\$1,925
Extension of Draft Plan Approval	\$1,395
Extension of Draft Plan Approval (Approved prior to 2006)	\$2,775
Clearance of Draft Plan Conditions (per phase)	\$1,925
<b>Standard Condominium Base Fee</b>	
Standard Condominium – Draft Plan Review	\$1,775
Revisions to Submission by Applicant (Prior to Approval)	\$1,245
Modification of Standard Draft Plan of Condominium Approval	\$1,245
Extension of Standard Draft Plan of Condominium Approval	\$890
Extension of Standard Draft Plan of Condominium Approval (Approved prior to 2006)	\$890
Clearance of Conditions (Standard Plan of Condominium)	\$1,600
<b>Zoning By-law Fees</b>	
Major Zoning By-law Amendment Review	\$2,500
Minor Zoning By-law Amendment Review	\$1,395
Agricultural Purposes Only (APO) zoning amendment	\$1,090
Revision to Submission by Applicant (Major) (Prior to Approval)	\$1,075
Removal of holding symbol	\$895
<b>Consent Fees</b>	
Consent Review- Urban	\$510
Consent Review – Rural/ Outside Urban	\$835

Final certification fee (active consent files still remaining under the authority of the Region will be subject to Final Certification Fee, payable upon request for final certification, prior to registration.)	\$740
<b>Site Plan Fees</b>	
Major Site Plan	\$1,345
Revision to Submission by Applicant (Prior to approval)	\$780
Clearance of Site Plan Conditions	\$995
<b>Minor Variance</b>	
Minor Variance	\$760
<b>Niagara Escarpment Plan Applications</b>	
Development Permit Review	\$2,225
Minor Development Permit Review (no provincial/regional interests- pools sheds, etc)	\$830
<b>Environmental Site Assessments (brownfields) Request to Use Non-potable Water Site Condition Standards</b>	
Response to request	\$410
Response to Request- Update Letterer	\$150
<b>Secondary Plans</b>	
Secondary Plans (privately initiated)	\$6,935
<b>Pre-Consultations</b>	
Pre-Consultation Review	\$500
<b>Special Studies</b>	
<b>1. Environmental Review</b>	
Major EIS Review (2 or more features)	\$3,000
Minor EIS Review (1 feature)	\$1,500
EIS TOR Review	\$535
EIS Second Submission and greater (Addendum) Review	Half of Original Fee
EIS Draft Review	\$535
Review of Restoration Plan	\$760
Review of Tree Preservation Plan	\$380

Review of Monitoring Plan	\$975
<b>2. Urban Design</b>	
Major Urban Design Review	\$1,000
Minor Urban Design Review	\$300
<b>3. General Planning Services</b>	
Growth Management <sup>2</sup> <ul style="list-style-type: none"> <li>- Localized review of infrastructure capacity</li> <li>- Detailed evaluation of urban boundary expansion areas, review of population and employment forecasts and distribution, staging of development, cross boundary matters</li> </ul>	Fee for service based on agreed upon terms
District Plans/ Secondary Plans/ Master Plans	Fee for service based on agreed upon terms (\$85.00 per hour)
Duty to Consult with Indigenous Nations <ul style="list-style-type: none"> <li>- Manage relationships, provide consultation</li> </ul>	Fee for service based on agreed upon terms (\$85.00)
Natural Heritage System Mapping Maintenance <sup>3</sup>	Fee for service based on agreed upon terms (\$85.00)
GIS support and other mapping	Fee for service based on agreed upon terms (\$85.00)
Ontario Land Tribunal Support	Fee for service based on agreed upon terms (\$85.00)

<sup>2</sup> The Region will continue to provide Growth Management at a regional infrastructure, housing supply activity, employment activity

<sup>3</sup> The EIS review fee captures maintenance of the Regional Natural Heritage System Map, for those municipalities not utilizing environmental planning review function and will require maintenance, it will be a fee for service

## APPENDIX “C”

### **Planning Services Provided by the Region Upon Request**

#### **Fee for Service Funded as Budgeted for by the Town**

Special Projects to be based on a rate per hour. (\$ 85.00)

Special Project Service List Include the following, based on available staffing capacity:

- **Growth Management**
  - Population and employment forecasts and distribution
  - Planning/Infrastructure/Finance integration
  - Infrastructure Staging
  - Adequate and sustainable financing
- **Special Projects**
  - Secondary Plans
  - Watershed planning
  - Archaeology
  - GIS support
- **Sustainability Initiatives**
- **Secondment Requests**

## **APPENDIX “D”**

### **MOU- Engineering Services (to be developed and updated)**



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**Subject: Recommendation Report – Application for Zoning By-law  
Amendment – 1039 Church Street**

**Recommendation:**

**BE IT RESOLVED THAT Council receive Report #2023-186,  
Recommendation Report – Application for Zoning By-law Amendment  
– 1039 Church Street, for information;**

**AND THAT Council directs Planning staff to prepare the necessary  
Zoning By-law amendment for Council consideration at the next  
Regular Meeting of Council.**

**Executive Summary:**

The purpose of this report is to provide Council with a recommendation regarding the application to amend the Zoning By-law for the property known as 1039 Church Street.

**Location:**

The property is municipally known as 1039 Church Street and known legally as Parts 2, 3 and 5, Plan 16 and Part 1, RP 59R-4712 in the Town of Pelham, Regional Municipality of Niagara. The property is located on the east side of Church Street south of Canboro Road (Figure 1). Surrounding land uses include single detached residential uses and the former Fenwick Firehall to the north (future mixed-use building), a watercourse and woodland to the east, single detached residential uses to the south and single detached residential uses and the Fenwick United Church to the west.

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*Figure 1: Property Location*



### **Project Description and Purpose:**

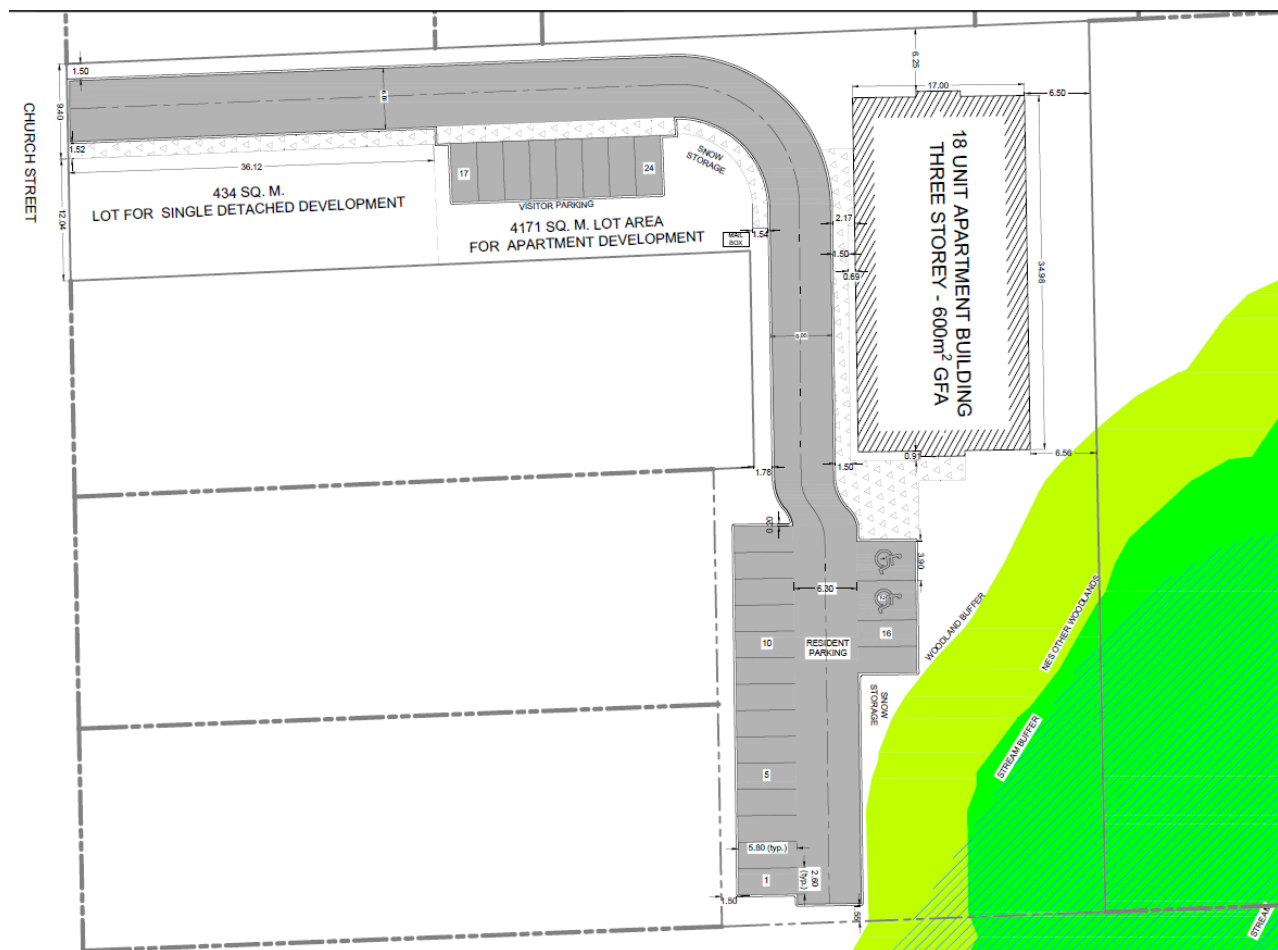
The requested zoning by-law amendment would allow for the development of a single detached dwelling along the Church Street frontage, a 3 storey, 18-unit apartment dwelling to the rear of the site and recognize the location of the woodland and the associated buffer as shown on the conceptual site plan (Figure 2).



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*Figure 2: Conceptual Site Plan*



The site plan shows a private driveway to access the apartment dwelling along with 26 parking spaces including two accessible spaces. The applicant has provided preliminary building elevations (Figure 3) as part of the application. The proposed apartment dwelling will consist of six units per floor with majority dedicated for two-bedroom dwelling units with some single-bedroom dwelling units that include barrier-free accommodations. The unit sizes will range from 875 – 970 square feet for a two-bedroom unit and between 730 – 800 square feet for a one-bedroom unit.

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*Figure 3: Preliminary Building Elevation (North-west)*



If the zoning by-law amendment application is approved by Council, approval of a consent application will be required to create the lot for future single detached dwelling as well as site plan approval to review detailed site engineering design for the apartment dwelling site. Should the developer wish to construct the apartment dwelling as a condominium, approval of a draft plan of condominium will also be required once the apartment building is constructed.

### **Policy Review:**

#### *Planning Act, 1990*

Section 3 of the *Planning Act* requires that, in exercising any authority that affects a planning matter, planning authorities, i.e., decisions of Council, "shall be consistent with the policy statements" issued under the Act and "shall conform with the provincial plans that are in effect on that date, or shall not conflict with them, as the case may be".

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Section 34 of the Act allows for consideration of amendments to the zoning by-law.

*Provincial Policy Statement, 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 in a ‘Settlement Area’ according to the PPS. Policy 1.1.3.1 states that settlement areas shall be the focus of growth and their vitality and regeneration shall be promoted.

Policy 1.1.3.2 states that land use patterns within settlement areas shall be based on a range of densities and mix of land uses that efficiently use land and resources, are appropriate for and efficiently use infrastructure and public service facilities, minimize negative impacts to air quality and climate change and promote energy efficiency, prepare for the impacts of a changing climate, support active transportation and are transit and freight supportive.

Policy 1.1.3.3 provides for the promotion of intensification and redevelopment accommodating a significant supply and range of housing options where it can be accommodated considering the building stock, availability of existing and planned infrastructure and public service facilities required to accommodate the needs of the development.

The requested zoning by-law amendment will allow for appropriate intensification and the addition of apartment dwellings adding to the range of housing options in the Town. The development can be accommodated by existing and planned infrastructure and public service facilities. The proposed development density will efficiently use land and infrastructure, be constructed in accordance with the energy

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efficiency requirements in the Ontario Building Code and encourage active transportation being located close to sidewalks and cycling infrastructure and is walkable to the downtown core of Fenwick.

*Greenbelt Plan, 2017*

The subject parcel is in an identified settlement area that is outside of the Greenbelt Plan Area; therefore, the policies of the Greenbelt Plan do not apply.

*Niagara Escarpment Plan, 2017*

The subject parcel is not located in the Niagara Escarpment Plan Area; therefore, the Niagara Escarpment Plan policies do not apply.

*Growth Plan for the Greater Golden Horseshoe, 2020*

The subject parcel is identified as being within a Delineated Built-up Area according to the Growth Plan for the Greater Golden Horseshoe, 2020. The Growth Plan policies aim to build stronger, prosperous communities by directing growth to built-up areas, promoting transit-supportive densities and a healthy mix of residential and employment land uses, preserving employment areas, planning for community infrastructure, and supporting the conservation and protection of natural systems, prime agricultural areas, and cultural heritage.

Policy 2.2.2.1(a) requires a minimum of 50 percent of all new residential development to occur within the delineated built-up area.

Policy 2.2.2.3(b) encourages intensification generally throughout the built-up area and investment in services that will support intensification.

The requested zoning by-law amendment will contribute toward the minimum 50 percent target for new residential development and result in intensification in the delineated built-up area.

*Niagara Region Official Plan, 2022*

The lands are designated as Built-Up Area in the Niagara Region Official Plan.

Policy 2.2.2.5 requires that across the Region 60% of all residential units occurring annually are to be in the Built-Up Areas of the Region and in Pelham, this translates

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into an annual intensification rate of at least 25% of new residential units. The objective of intensification is to increase housing choice and housing affordability across the Region to meet future housing needs while at the same time making efficient use of infrastructure, community services and urban lands.

Policy 2.2.1.1 states that development in urban areas will integrate land use planning and infrastructure planning to responsibly manage forecasted growth and to support:

- a) the intensification targets in Table 2-2 and density targets outlined in this Plan (note: Pelham's intensification target is 25%);
- b) a compact built form, a vibrant public realm, and a mix of land uses, including residential uses, employment uses, recreational uses, and public service facilities, to support the creation of complete communities;
- c) a diverse range and mix of housing types, unit sizes, and densities to accommodate current and future market-based and affordable housing needs.

Policy 2.3.1 provides the 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 throughout settlement areas to meet housing needs at all stages of life.

Policy 2.3.1.4 also provides that new residential development and residential intensification are encouraged to be planned and designed to mitigate and adapt to the impacts of climate change by:

- a) facilitating compact built form; and
- b) incorporating sustainable housing construction materials or practices, green infrastructure, energy

The requested zoning by-law amendment will contribute toward the mix of housing types in the built-up area of the Town. The building will consist of one- and two-bedroom units of various sizes and density of 44 units per hectare. Apartment dwellings meet housing needs at different stages of life and income levels than single detached and townhouse dwellings. The site layout and building design represent a compact built form and will be constructed to meet the energy

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efficiency requirements of the Ontario Building Code. Housing construction materials are not known at this time. The potential for low impact development techniques and green infrastructure can be considered through a future site plan approval application, should the zoning by-law amendment be approved.

While the application is not proposing to provide affordable rental or ownership housing at this time, it will increase the supply of available apartment units in the Town which would be at a different price point than single detached and townhouse units. Having a variety of housing options at different price levels could potentially contribute to lower house prices depending on demand for housing. Housing costs are market driven and dependent on several factors, i.e., land costs, labour costs, material costs, etc. and the Town cannot regulate the price of housing. There may be incentives available through the Region should the developer wish to incorporate some affordable housing into the building, however that is dependent on Regional criteria and funding allocations from upper tier levels of government.

*Town of Pelham Official Plan, 2014*

The lands are designated Urban Living Area/Built Boundary in the Town's Official Plan. The permitted uses in this designation are a full range of residential uses including single detached dwellings.

Policy B1.1.3 requires the Town to accommodate at least 15% of projected housing growth within the existing built boundaries of Fonthill and Fenwick (note: this is now superseded by the approved intensification target in the Region of Niagara Official Plan of 25%).

Further, Policy B1.1.3 (a) permits and encourages intensification on sites abutting arterial and collector roads. Church Street is identified as a collector road according to Schedule C to the Town of Pelham Official Plan.

Policy B1.1.3 (b) states that residential intensification and redevelopment proposals are encouraged to achieve a unit density and housing type in keeping with the character of the density of the neighbourhood where it is proposed;

As discussed under the staff comments section in this report below, the neighbourhood contains mixed uses. The property to the north (Former Fenwick Firehall) has been approved for a mixed-use commercial and residential



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development and the property to west contains an institutional use. The other surrounding residential uses are primarily single detached dwellings. While the requested unit density is higher and the housing type is different than what currently exists, the character of the density of the neighbourhood can be maintained through careful site layout and building design which will allow the apartment dwelling to exist compatibly with the existing single detached dwellings. The building has been located on the property furthest away from the existing dwellings and the proposed building height is only one metre higher (13.0 metres) than the permitted height for a single detached dwelling (12.0 metres). The location of the apartment building will primarily abut the future mixed-use development to the north and the rear portion of 786 Welland Road to the east which contains the watercourse and woodland vegetation. As a result, it is Planning staff's opinion that the requested zoning by-law amendment conforms to Policy B1.1.3(b).

Policy B1.1.3(f) encourages affordable housing in intensification areas. While this Policy encourages affordable housing, it does not mandate it. Planning staff always encourage development proponents to include affordable housing in their development proposals, however, developer driven housing projects are market housing projects.

The application will increase the supply of apartment dwellings in Fenwick adding to the available housing options at different price points than what typically exist for single detached and townhouse dwelling units.

Policy B1.1.5 requires that in considering a Zoning By-law Amendment to permit an apartment development, Council shall be satisfied that the proposal:

- a) Respects the character of adjacent residential neighbourhoods, in terms of height, bulk and massing;
- b) Can be easily integrated with surrounding land uses;
- c) Will not cause or create traffic hazards or an unacceptable level of congestion on surrounding roads; and,
- d) Is located on a site that has adequate land area to incorporate required parking, recreational facilities, landscaping and buffering on-site.

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As noted, the apartment dwelling is proposed to be three storeys in height or 13.0 metres. The building has been positioned away from the single detached residential uses in the northeast portion of the property and will have minimal impact on the proposed single detached dwelling along the Church Street frontage. The preliminary building elevations show dormers and symmetrical openings which is typical of the built form in the adjacent residential neighbourhood. Roofline modulation and variations in materials have been included to break up the building massing. The apartment building siting and design will ensure that the use can be easily integrated with surrounding land uses.

The proposed apartment dwelling will contain 18 units which is not expected to generate large volumes of traffic. Church Street is a collector road which can accommodate a higher volume of vehicles. Concerns were raised regarding the location of the proposed private driveway in relation to the driveway for the existing church which is also used as a Montessori school. The proposed driveway is north of the existing church driveway. The Montessori school generates traffic for a short period of time in the morning and late afternoon through the week. The church primarily generates traffic on Sunday mornings. Planning staff consulted with Town Public Works staff regarding these concerns and were advised that the additional traffic generated by the 18 apartment units and the driveway location in relation to the existing intersection and driveways is not expected to cause undue traffic congestion or sight line issues and the surrounding road network has capacity to accommodate the additional traffic. Should additional units be proposed on the site in future, a Traffic Impact Study would be required by Public Works staff as part of the Planning Act approvals. However, it was not considered necessary for the current application given the number of units proposed.

The conceptual site plan demonstrates that the site has adequate land area for parking, recreation, landscaping, and buffering. The site is L-shaped and is constrained by the buffer requirements of the adjacent woodland and Coyle Creek. The plan shows that development can be located outside of the buffer with restoration and plantings included in the buffer. The landscaping details will form part of a future site plan application. The plan demonstrates that the required vehicle and bicycle parking can be provided along with an area for snow storage during snow events. There will also be some landscaped areas and walkways that will allow opportunities for passive outdoor recreation. The details of these spaces



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(outdoor seating, etc.) will be determined through a future site plan approval application. Centennial Park is an approximately 6-minute walk from this property and connected through the future on-site private sidewalk and existing public sidewalk on Church Street. As a result, the amount of amenity space on site is appropriate for the usability of the site by future residents. In addition, there is space available to install fencing, landscaping and retaining walls as needed to act as a buffer to adjacent residential uses.

As a result of this analysis, it is Planning staff's opinion that the application conforms to the requirements of Policy B1.1.5.

### *Town of Pelham Zoning By-law 4481 (2022)*

The property is zoned Residential One (R1). The R1 zone permits a single detached dwelling; semi-detached dwelling; bed and breakfast establishment; home occupation; second dwelling units; and uses, buildings and structures accessory to the foregoing uses.

The requested zoning change would rezone a portion of the property to a site-specific Residential Multiple Two (RM2) and Environmental Protection One (EP1). The Residential Multiple Two (RM2) zone would permit the apartment dwelling use subject to specific regulations. The Environmental Protection One (EP1) zone would recognize the location of the woodland and associated buffer.

The site-specific regulations being requested for the Residential Multiple Two zone are detailed in Table 1:

6.5.2 Zone Regulation	Standard RM2 zone	Requested RM2 zone
Minimum Lot Frontage	30.0 m	9.4 m
Minimum Lot Area	150 m <sup>2</sup> per unit	232 m <sup>2</sup> per unit
Minimum Front Yard	3.0 m	78 m
Maximum Front Yard	6.0 m	78 m
Minimum Rear Yard	12.0 m	6.5 m
Maximum Building Height	15.0 m	13.0 m – no change
Maximum Lot Coverage	50%	14% - no change
Landscape Strip	1.5 metre where abutting R1, R2 or R3 zone	No change
3.15 Landscape Strip	Standard Regulation	Requested Regulation
(a) Minimum Landscape	3 m	1.5 m

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Strip with Rear Yard Swale		
4.1.4.8 Parking Area Location on Lot	Standard Regulation	Requested Regulation
Parking Area Location on Lot	3.0 m to any side lot line	1.5 m to side lot line

The application also requests a reduction to the lot frontage to 12.0 metres from the standard 15.0 metres for the future single detached lot which will be the subject of a future application for consent. This was described by the agent for the applicant at the public meeting. The request for reduced lot frontage for the future lot is considered reasonable. 12.0 metres is the minimum lot area required in the R2 (Residential Two) zone and the construction of a single detached dwelling lot with this frontage functions and can be accommodated without hardship. The lot size (434 m<sup>2</sup>) will comply with the R1 regulations (420 m<sup>2</sup>). Planning staff note that the frontage is smaller than the existing residential lots on Church Street, however it can be integrated into the existing streetscape on Church Street. The siting of a single detached dwelling along the east side of Church Street is consistent with what currently exists, will assist in blending the apartment dwelling into the existing neighbourhood and act as an additional buffer. It is worth noting that the lot fabric on Church Street and Welland Road is varied with irregular, wide, deep, shallow, and L-shaped parcels. There is also a lot fronting on Welland Road (810) in the vicinity with a 12 metre frontage which has been successfully incorporated into the neighbourhood between lots with larger frontages.

The driveway to the apartment dwelling will be located along the north side of the future lot. As noted earlier in the report, the subject property is constrained by its irregular shape and the presence of the woodland, Coyle Creek, and associated buffers. The apartment building is proposed to be situated in the northeast corner of the property away from the existing single detached residential uses. The changes to the front yard setbacks recognize the proposed building location.

The reduced lot frontage is reasonable as it will accommodate the private driveway, fencing, walkway and landscaping.

The rear yard is the east lot line. The reduction to the rear yard is considered reasonable as it operates similarly to a side yard due to the building location and lot

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shape. This area will be used for a retaining wall and landscaping space. The southern portion of the property directly abutting this area is vacant and therefore no impacts to privacy are expected.

The reduction to the setback of the parking area is limited to the parking area that will be located behind 1027 and 1031 Church Street. The visitor parking area will meet the zoning requirements. The elevation of 1027 and 1031 Church Street is roughly a metre lower than the subject property and both currently contain a wooden retaining wall at the rear due to the grade difference. A wooden privacy fence with no gaps between the boards and landscaping will be required along the parking area to ensure that there are no negative impacts to 1027 and 1031 Church Street due to headlights from vehicles or relating to privacy. Generally, a standard 1.8 metre high fence will cover the headlights. Should the final grading show that a 1.8 metre fence is not sufficient, the applicant should seek approval of a variance for a higher fence in this location. A swale will also be provided to ensure that drainage does not impact these properties.

Given the analysis above, it is Planning staff's opinion that the requested site-specific zoning is appropriate and will not result in negative impacts to adjacent property owners subject to future site plan approval requirements for landscaping, fencing, etc.

**Submitted Reports:**

*Planning Justification and Impact Analysis Report Addendum prepared by Quartek Group Inc. dated June 2023*

The report concludes that the proposed development represents an appropriate land use for the following reasons:

1. It conforms to the policies for intensification and the efficient use of land and existing infrastructure within the urban area, as well as policies for encouraging infill residential development that provides an alternative housing as contained in the Provincial Policy Statement, Growth Plan for the Greater Golden Horseshoe, Niagara Region Official Plan, and the Town's Official Plan.

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2. The proposed development will assist the Town to reach their density intensification target and offering higher density housing for the Fenwick Settlement Area.
3. The proposed development will maintain the community identity through appropriate use of setbacks and preservation of natural heritage features.
4. The proposed development will contribute to long-term sustainability by developing near existing commercial and retail services in Fenwick with pedestrian connections.
5. The proposed development can efficiently connect to the existing infrastructure (water, sanitary and storm sewers) thereby contributing to environmental sustainability.
6. The proposed development will implement the principles of urban design and represents good land use planning.

*Background Environmental Study Report prepared by 8Trees Inc. dated April 2023*

The report characterizes the woodland and watercourse on the adjacent property and makes recommendations for how development should occur to avoid negative impacts to these features. The recommendations include a restoration plan and maintenance of a buffer which will be requirements for a future site plan approval application. These areas will also be rezoned to Environmental Protection One through this application to ensure their long-term protection.

*Stage 1-2 Archaeological Assessment prepared by Detritus Consulting Ltd. dated May 2018*

*Ministry of Tourism, Culture and Sport Archaeology (MTCS) acknowledgement letter dated July 5, 2019*

The assessment found no archaeological resources and no further investigation was recommended. The MRCS provided their acknowledgement letter of the assessment and warning clauses will be included in a future site plan agreement per Regional comments.



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*Phase II Environmental Site Assessment (ESA) prepared by Wood Environment & Infrastructure Solutions dated March 26, 2019*

Based on the findings of the Phase II ESA conducted, no further investigations were recommended for the Site.

*Functional Servicing Report prepared by Quartek Group Inc. dated April 2023*

The report provides initial calculations for required water and sanitary servicing for the development and concludes that existing services are adequate to service the proposed development.

*Stormwater Management Report prepared by Quartek Group Inc. dated April 2023*

The report proposes to store the stormwater from the site in a chamber beneath the parking lot until it is released at a slow rate to the watercourse. An oil-grit separator is proposed to ensure the water is clean prior to discharge. Detailed design of the stormwater system will be subject to site plan approval.

*Conceptual Site Servicing and Grading Plan prepared by Quartek Group Inc. dated April 2023*

The conceptual site servicing and grading plan shows preliminary location and type of services, swales and stormwater management infrastructure. Detailed site engineering design is considered at the site plan approval stage, however the conceptual site design submitted with the zoning amendment application indicates that appropriate site grading and drainage can be accommodated.

Full copies of the reports are available on the Town of Pelham website at [www.engagingpelham.ca/1039ChurchStreet](http://www.engagingpelham.ca/1039ChurchStreet)

**Agency Comments:**

The applications were circulated to commenting agencies and Town Departments. The following comments have been received:

*Niagara Region Growth Strategy & Economic Development*

No objection to the application. Conditions of approval will be recommended when the future Site Plan application is circulated for Regional review and approval.

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*Niagara Peninsula Conservation Authority*

The NPCA has no comments for this application other than that a Work Permit will be required if there are any stormwater outlets discharging into the adjacent watercourse.

*Town Public Works*

Provided technical comments for future servicing and consent application approvals.

*Fire & Emergency Services*

No concerns. Fire route will be required to extend to last parking stall.

The Town of Pelham Municipal Engineering Design Manual 7.4 Single Access Routes requires that a development which has only one roadway as an access point and exceeds 90 m in length shall have all units in the development sprinklered as per NFPA 13, designs shall meet or exceed this standard and shall be approved by the Chief Fire Official.

*Enbridge Gas*

No objection.

**Public Comments:**

On July 21, 2023, a public meeting notice was circulated to all property owners within 120 metres of the property's boundaries. In addition, a public notice sign was posted facing Church Street. A public meeting was held on August 9, 2023. The following comments were received at the time of writing of this report:

*Natalie Narbutt*

Has concerns about traffic including location of driveway across from church/school driveway, 100m from tight intersection, noise from traffic, pollution from runoff of driveway and parking area, vehicle use will happen on three sides of 1037 Church Street. Also concerned about the elevation difference between back of 1037 Church property and proposed building site leading to pollution concerns from traffic

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runoff/salt from snow removal; that proposed retaining walls will damage additional mature trees which provide privacy; on page 15 of the planning justification report addendum, it says lots 6 and 7 (1031 church, and 1027 church) currently contain an existing mature tree line to supplement the visual impact of the new proposed building. This tree line does not exist; Opposed to requested reduction to build roads closer to our property than existing guidelines allow for; the proposed minimum rear yard variance of 5m (less than half of the required 12 metres) will infringe on enjoyment of our property and cause privacy concerns.

*Larry Lethby*

Concerned with the grading, noting the proposed grading is higher than neighbouring properties.

*Adam Arbour*

Concerned about the reduction in frontage, traffic on Church Street and the fit of the proposal in the surrounding neighbourhood.

Marcel Mooren

Concerned that the proposal would exacerbate water issues in the area.

**Staff Comments:**

Resident concerns respecting traffic/driveway locations and fit with the neighbourhood have been discussed above as part of the analysis of Official Plan Policy B1.1.5. The appropriateness of the reduced lot frontage was analyzed along with the other requested site-specific regulations under Zoning By-law 4481(2022) above.

In response to the request from a member of Council and resident concerns respecting flooding and water issues, Town Public Works staff provided a memo (Appendix B) detailing the work planned in the area to manage existing stormwater as well as any additional flows resulting from new development. Through the approval of this development, along with other developments already approved, improvements to the storm flows will be realized. It is anticipated that the amount of stormwater that this area receives will decrease as these projects are completed and contained within storm sewer systems.

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A member of Council brought up concerns about lighting of the driveway and parking area. A photometric and lighting plan will be required at the time of site plan approval to ensure no light trespass onto neighbouring properties. A clause will also be included in the future site plan agreement requiring that all lighting is directed down and away from adjacent properties.

Residents expressed concerns about the grading of the property given that it is higher than neighbouring properties. The conceptual grading plan shows a combination of retaining walls where the grade differs significantly from adjoining properties. Further, there are existing retaining walls on adjacent properties. The final grading design for the development will be provided as part of the future site plan approval application. Town Public Works staff will review the plan to ensure that adjacent property owners are not adversely impacted. Based on the review of the conceptual plan, Public Works staff is satisfied that the site can be graded appropriately and stormwater managed on-site without adverse impact on adjacent properties.

A resident had concerns about the potential for pollution and runoff from the driveway and parking area. The preliminary site servicing shows an oil/grit separator for water in the parking that will remove contaminants prior to releasing the water. Further, the final lot grading plan will have to demonstrate that drainage from the site does not impact adjacent properties and will be managed on-site. The driveway and parking area will have underground storm system to collect and retain the stormwater.

A resident raised concern about the reduction to the minimum rear yard and the parking area setbacks. Planning staff note that the rear yard is from the east lot line abutting the vacant portion of a property. The resident is located on the west side of the property (1037 Church Street) where there is not requested reduction. Further, the parking area setback which is requested to be reduced does not abut the resident's property. Privacy fencing and landscaping will be provided to maintain privacy and provide a visual buffer. There will be no impacts to the resident due to the requested reductions. Further discussion of the site-specific regulations being requested is included under Zoning By-law 4481(2022) above.

The resident of 1037 Church Street expressed concerns about cars travelling around their property on three sides because of this development. The future single



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detached lot will abut the resident's dwelling to the north. The visitor parking spaces, landscape buffer and privacy fencing will abut the rear yard on the north side and a fence, landscape and driveway will separate the future apartment dwelling from the resident's rear lot line. The volume of vehicles using the driveway is not expected to be consistently high or loud and the potential impacts of the driveway can be mitigated through landscaping and fencing measures.

In addition to this analysis, the agent for the applicant, Quartek Group, provided a written response to comments and feedback received at the public meeting (Appendix A).

Following review and consideration of the application material, comments and information provided, it is Planning staff's opinion that the application conforms to Provincial, Regional and Local Official Plan(s) and policies and should be supported. The proposed development provides for an efficient use of underutilized urban land in Fenwick and can be suitably integrated with the surrounding area and land uses without adverse land use impacts. Infrastructure is available to service the development and there is sufficient capacity in the systems, i.e., storm, sanitary, water and roads, to support the development.

**Alternatives:**

Council could choose not to approve the zoning amendment application.

Council could choose to approve the zoning amendment application with modifications.

**Attachments:**

Appendix A Letter from Quartek dated August 17, 2023

Appendix B Memo from Derek Young, Manager of Engineering re: Stormwater Management

**Prepared and Recommended by:**

Shannon Larocque, MCIP, RPP  
Senior Planner



**Community Planning & Development Department  
Planning Application Report**

September 6, 2023

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

**Reviewed and Submitted by:**

David Cribbs, BA, MA, JD, MPA  
Chief Administrative Officer

August 17, 2023

Town of Pelham  
20 Pelham Square  
Fonthill, ON L0S 1E0

**Attention: Ms. Shannon Larocque**

Dear Ms. Larocque:

**RE: Planning Opinion Letter in response to public comments at Public Meeting  
for 1039 Church Street, Town of Pelham**

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Quartek Group has provided the following remarks to address prevalent comments and concerns raised at the public meeting on August 9<sup>th</sup>, 2023:

**In regards to the grading plan and the diversion of storm water**, the difference in elevations between our parking lot pavement and the adjacent property lines for 1031 Church Street are planned to range between 0.75 – 1.2 metres. The properties to the west of the main parking area feature an existing swale that passes through the back of those properties and drains into a stream to the southeast.

While we won't be able to redirect all the water that currently finds its way into the swale on the adjacent properties, the grading design of the proposed parking surface / roadway is self-contained in terms of drainage. The parking lot will cut into some of the higher land that currently drains towards the adjacent properties, and all of the water that ends up in our proposed road / parking lot will be drained via storm sewers to the stream that is south of our development.

The preliminary design proposes a retaining wall located in the Northeast corner of the site and extending 32 metres along the eastern property line. Properties to the east of our development are slightly elevated compared to our development, with the difference ranging between 0.3 – 0.9 metres. The proposed building and retaining wall at the east property lines is not expected to affect current drainage patterns.

**In regards to a traffic study**, Church Street is a collector road for the Town and is designed to accommodate an influx of traffic. The proposed development is expected to add 18 to 24 vehicles in-and-out of the site throughout varying times throughout the day. In our experience, a traffic study is triggered when there are 50 or more units in a development. Granted there will be more traffic concentrated in the area, the number of vehicles for this site will not create a significant queuing effect at the intersection.

On behalf of our client, Quartek Group have requested the Town's engineering group provide a response to address the Councillor's and public concerns for traffic. Specifically, we would like to address whether there are future plans for improvement to Church Street particularly at the intersection of Canboro and Welland Road and that a traffic study is not required.

**In regards to tree preservation,** upon the previous site visit and constraints analysis there were wooded areas at the southeast of the site that required protection. The development offers a buffer towards the wooded area and the easterly retaining wall does not extended far enough south to impede the woodlands. There are trees that have been removed from the site, many of which were assessed by our biologist prior to removal or had been deemed dead ash trees. A restoration/tree-planting plan will be provided at the time of site plan & draft plan of condominium by our subconsultant to offset some tree and shrub losses within the development.

**In regards to accessibility,** Quartek's architectural group is exploring the possibility for an elevator at the north of the building. Addition of an elevator would slightly affect the size of units or the building footprint, but is not expected to affect the number of units. Quartek Group is in agreement that the addition of an elevator would be a positive for the project.

Furthermore, Quartek Group is exploring the possibility of converting another parking space into an accessible space. Sidewalks throughout the site will be extended to ensure they can connect via a road crossing.

**In regards to privacy,** the building itself fulfills the minimum setbacks for the side yards and front yard towards any existing dwelling lots. Many of the neighbourhood dwellings are two-storeys in height, and thus a three-storey apartment dwelling is not expected to be a major height increase. The rear yard setback where relief is being requested is towards a lot that is currently vacant and planned for future development. As stated in the meeting, privacy fencing and landscaping will be provided as additional screening towards adjacent properties and will be further detailed in the landscaping plan.

**In regards to the proposed severed lot,** Quartek Group shares the public concern for maintaining community image. The proposed severed lot along Church Street aims to mitigate concerns by providing an opportunity to develop a housing type that is more consistent with the low-density housing type that currently exists along Church Street. Furthermore, the opportunity to provide a low-density development at the street face will create screening for the apartment dwelling towards the public realm.

We are excited to move forward with a development that provides new housing within the community while maintaining the safety and neighbourhood identity. We hope that this letter is able to address the comments / concerns raised during the public meeting.

Yours very truly,



Eric Potts  
Junior Planner

## Memo

**To: Shannon Larocque, Senior Planner**

**From: Derek Young, Manager of Engineering**

**Date: August 8<sup>th</sup>, 2023**

**RE: 1039 Church Street Development PIC concerns/questions**

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At the Public Meeting for 1039 Church Street, both Council and residents brought up several concerns/questions regarding drainage in the area around 1039 Church Street. Council has requested more info from Public Works about the drainage plans/work under way to resolve the issues.

The following are extracts from the Stormwater Management Reports submitted as a requirement of Site Plan, that outline how the development is going to control and store the Stormwater on the site prior to discharge to the storm sewer or the existing watercourse.

### **788-792 Welland Road**

As part of the site development for the proposed residential and commercial development, the storm water management plan for the proposed development includes the requirement to control stormwater flows from this site up to the 5 year design storm event, where the controls are to limit future stormwater flows to existing conditions levels, and improve stormwater quality levels to MOECC Normal Protection (70% TSS removal) levels before discharging from the site.

To limit future stormwater flows to existing levels, a control is placed on the outlet from the site, where the control would include an orifice and site stormwater storage. To improve stormwater quality, typically a stormwater oil/grit separator provides the required TSS (Total Suspended Solids) removal for this type of development.

**1105 Baxter Hall**

Policies of the Town of Pelham, Regional Municipality of Niagara (Region), and Ministry of the Environment and Climate Change (MOECC) require new developments to provide stormwater quantity protection and control future stormwater peak flows to existing levels. In order to control development stormwater flows to existing levels, stormwater flows (up to the 100 year storm event) from the entirety of the subject lands shall be conveyed to a series of underground storm water detention chambers located under the proposed parking lot. Peak stormwater flows from the site will then be limited through a control structure and conveyed to the existing storm sewers located on Welland Road.

**1039 Church Street**

Stormwater management will be required to ensure post-development flows be controlled to pre-development flow levels for all storms (5-year up to and including 100-year storm) prior to discharge off the site. The underground sewer system is designed to handle 1:5 year event. The additional runoff will be stored on site by underground storage chambers.

**Welland Road Urbanization**

The design for the urbanization of Welland Road from Canboro Road to Balfour Street, which includes new sidewalks, catch basins, storm sewers, sanitary sewer and watermain replacement, is currently in the Capital Budget Forecast for 2025 with construction forecast for 2026.

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**Subject: Recommendation Report – Applications for Official Plan and  
Zoning By-law Amendment – 550 Webber Road**

**Recommendation:**

**BE IT RESOLVED THAT Council receive Report #2023-203,  
Recommendation Report – Application for Official Plan and Zoning  
By-law Amendment – 550 Webber Road, for information;**

**AND THAT Council directs Planning staff to prepare the necessary  
Zoning By-law amendment for Council consideration at the next  
Regular Meeting of Council.**

**Executive Summary:**

The purpose of this report is to provide Council with a recommendation regarding the applications to amend the Official Plan and Zoning By-law for the property known as 550 Webber Road to permit an institutional use of the lands.

**Location:**

The property is municipally known as 550 Webber Road and legally described as Part of Lot 11, Concession 14 in the Town of Pelham, Regional Municipality of Niagara. It is located on the south side of Webber Road east of Cream Street.

*Figure 1: Property Location*



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The property was previously used as a dwelling, and the office and contractor's yard for Tucker Homes and was recently purchased by Welland Brethren in Christ Church. The lands contain an existing 1-storey metal clad building and a 2-storey concrete block and vinyl clad dwelling. The property also contains Provincially Significant Wetland and Significant Woodland features. The surrounding land uses include vacant land to the east (Provincially Significant Wetland and Significant Woodland), agricultural uses to the south and rural residential uses to the west and north.

**Project Description and Purpose:**

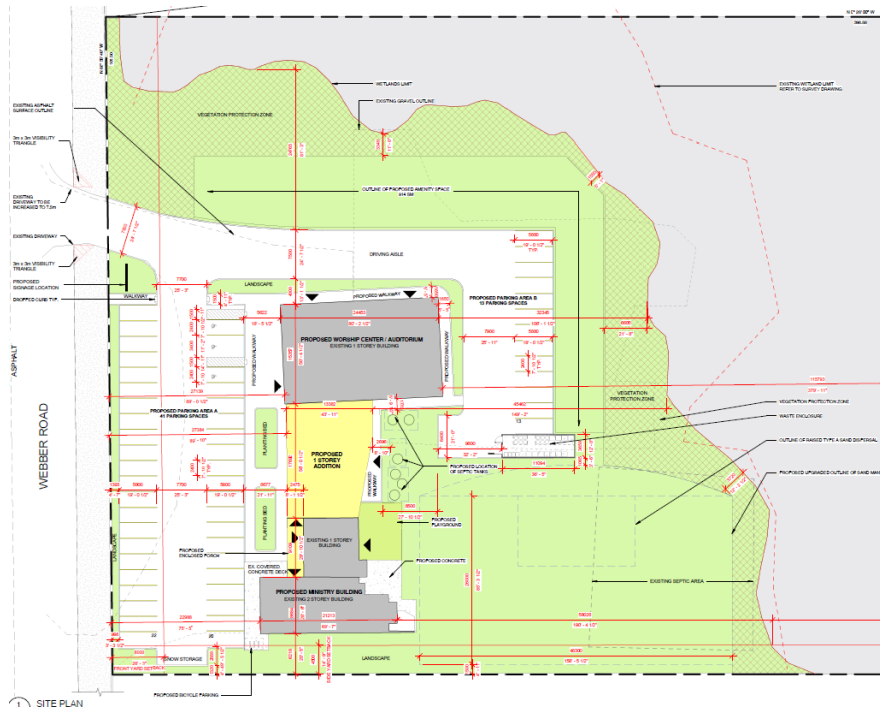
Through these applications, the Welland Brethren in Christ Church is planning to relocate to the subject property. The existing one-storey building (easternmost building) is proposed to be adaptively re-used as an auditorium, accommodating approximately 136 people. The existing two-storey building will provide childcare, Sunday school and youth meeting spaces at the ground level. The second floor of this building will contain offices and spaces for podcast and other productions. A building addition is being proposed to link the two existing buildings, which will contain spaces such as cafeteria, open hall, and washroom facilities. The parking lot and septic system will also be expanded to accommodate the change in use. (Figure 2).

*Figure 2: Site Plan*



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Should the applications be approved, site plan approval will be required to deal with technical site design prior to obtaining a building permit.

### Policy Review:

#### *Planning Act, 1990*

Section 3 of the *Planning Act* requires that, in exercising any authority that affects a planning matter, planning authorities, i.e., decisions of Council, "shall be consistent with the policy statements" issued under the Act and "shall conform with the provincial plans that are in effect on that date, or shall not conflict with them, as the case may be".

Section 22 of the Act allows for consideration of amendments to the Official Plan.

Section 34 of the Act allows for consideration of amendments to the zoning by-law.

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*Provincial Policy Statement, 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 property is within the Prime Agricultural Area under the Provincial Policy Statement, 2020. Policy 2.3.6.1 indicates that Planning authorities may only permit non-agricultural uses in prime agricultural areas for:

- a) extraction of minerals, petroleum resources and mineral aggregate resources; or
- b) limited non-residential uses, provided that all of the following are demonstrated:
  - 1. the land does not comprise a specialty crop area;
  - 2. the proposed use complies with the minimum distance separation formulae;
  - 3. there is an identified need within the planning horizon provided for in policy 1.1.2 for additional land to accommodate the proposed use; and
  - 4. alternative locations have been evaluated, and
    - i. there are no reasonable alternative locations which avoid prime agricultural areas; and
    - ii. there are no reasonable alternative locations in prime agricultural areas with lower priority agricultural lands.

Impacts from any new or expanding non-agricultural uses on surrounding

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agricultural operations and lands are to be mitigated to the extent feasible (Policy 2.3.6.2).

With respect to these policies, the property is not in a specialty crop area. There are no nearby livestock facilities. The church sought alternative locations in urban areas for several years and was unsuccessful in finding a property that could accommodate the needs of the congregation. The subject property has not been in agricultural production for many years, but has been used as a contractor's yard, office and accessory dwelling unit. The potential for agricultural production on the property is limited due to the presence of the woodland and Provincially Significant Wetland. The applicant provided an Agricultural Impact Analysis which concluded that there would be no direct impacts to surrounding farming operations because of the proposed applications. Recommended mitigation measures included prohibiting parking on the shoulders of Webber Road so as not to impede farm vehicles and compliance with Ministry of Environment Conservation and Parks (MECP) requirements during construction. Parking areas are being provided on-site to avoid parking on Webber Road. Should parking on the shoulder become an issue in the future, the Region could consider prohibiting parking in this location. At this time, the Region is requesting the mitigation measures to be included as clauses in the future site plan agreement. The applicant is required by law to adhere to MECP requirements during construction.

Policy 2.2.1 states that natural features and areas will be protected for the long-term. The diversity and connectivity of natural features in an area, and the long-term ecological function and biodiversity of natural heritage systems, should be maintained, restored or, where possible, improved, recognizing linkages between and among natural heritage features and areas, surface water features and ground water features (Policy 2.1.2). Development and site alteration shall not be permitted in:

- a) significant wetlands in Ecoregions 5E, 6E and 7E1 (Policy 2.1.4(a)).

Further Policy 2.1.5 (b) states that development and site alteration shall not be permitted in significant woodlands in Ecoregions 6E and 7E (Policy 2.1.5(b)) unless it is demonstrated that there will be no negative impacts on the natural features and ecological function.

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No development is proposed within the significant wetland or woodland. The Environmental Impact Study indicates that there will be no negative impacts on the natural heritage features or their ecological function as a result of the applications. The study has been reviewed by Regional Environmental and Niagara Peninsula Conservation Authority staff and has been accepted subject to mitigation measures that will be required through the future site plan approval application.

Policy 1.6.9.1 requires that planning for land uses in the vicinity of airports, rail facilities and marine facilities shall be undertaken so that: a) their long-term operation and economic role is protected; and b) airports, rail facilities and marine facilities and sensitive land uses are appropriately designed, buffered and/or separated from each other, in accordance with policy 1.2.6.

While the conversion of the existing contractor's yard and office with accessory apartment to a church is a more sensitive use, the property boundary is located approximately 570 metres from the airport property and even further from the active operation and the portion of property containing the church use. The church is willing to accept the addition of a warning clause in the future site plan agreement with respect to noise impacts generated by current and future airport operations. It is recommended that such a warning clause be included in a future site plan agreement.

1.6.9.2 requires that airports shall be protected from incompatible land uses and development by: a) prohibiting new residential development and other sensitive land uses in areas near airports above 30 NEF/NEP; b) considering redevelopment of existing residential uses and other sensitive land uses or infilling of residential and other sensitive land uses in areas above 30 NEF/NEP only if it has been demonstrated that there will be no negative impacts on the long-term function of the airport; and c) discouraging land uses which may cause a potential aviation safety hazard.

With respect to this policy, Planning staff note that the Dorothy Rungeling Niagara District Airport is not an airport above 30 NEP/NEP. Further, the church will not cause a potential aviation safety hazard as all structures will be below the height required by Navigation Canada.

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Based on the analysis detailed in this section, the applications conform to the Provincial Policy Statement.

*Greenbelt Plan, 2017*

The subject parcel is located outside of the Greenbelt Plan Area. Therefore, the policies of the Greenbelt Plan do not apply.

*Niagara Escarpment Plan, 2017*

The subject parcel is not located in the Niagara Escarpment Plan Area. Therefore, the Niagara Escarpment Plan policies do not apply.

*Growth Plan for the Greater Golden Horseshoe, 2020*

The subject parcel is identified as being within the Prime Agricultural Area according to the Growth Plan for the Greater Golden Horseshoe, 2020. The Growth Plan policies aim to build stronger, prosperous communities by directing growth to built-up areas, promoting transit-supportive densities and a healthy mix of residential and employment land uses, preserving employment areas, planning for community infrastructure, and supporting the conservation and protection of natural systems, prime agricultural areas, and cultural heritage.

Policy 4.2.6.3 states that where agricultural uses and non-agricultural uses interface outside of settlement areas, land use compatibility will be achieved by avoiding or where avoidance is not possible, minimizing and mitigating adverse impacts on the Agricultural System. Where mitigation is required, measures should be incorporated as part of the non-agricultural uses, as appropriate, within the area being developed. Where appropriate, this should be based on an agricultural impact assessment.

As discussed above, an agricultural impact assessment was provided which concluded there would be no direct impacts to the agricultural system. Recommended mitigation measures for indirect impacts are expected to be adhered to. Conformity with the natural heritage policies is also achieved as no impact to

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the features are anticipated and discussed in the Environmental Impact Study. As a result, the applications conform to the requirements of Policy 4.2.6.3 and the Growth Plan for the Greater Golden Horseshoe subject to requirements of the future site plan agreement.

*Niagara Region Official Plan, 2022*

The lands are also designated as Prime Agricultural Area with a Natural Environment System Overlay in the new Niagara Region Official Plan. Schedule C1 shows a Provincially Significant Wetland and a Significant Woodland on the property.

Non-agricultural uses should not be located in prime agricultural areas (4.1.3.1).

The continued operation of legally established uses, such as residential, commercial, employment, agricultural, and institutional uses (4.1.10.1) is permitted.

Policy 4.1.10.2 permits expansions to existing buildings and structures, accessory structures and existing uses, as well as conversions or redevelopment of legally existing uses that bring the use more into conformity with this Plan, are permitted subject to demonstration of the following:

- a) new municipal services are not required;
- b) the proposal does not expand into key natural heritage features and key hydrologic features, unless there is no other alternative in which case any
- c) expansion shall be limited in scope and kept within close geographical proximity to the existing structure;
- d) if applicable, the proposed new use complies with the Specialty Crop Guidelines, as amended from time to time;
- e) for conversions or redevelopments only, the completion of an agricultural impact assessment by a qualified professional;
- f) the proposal does not result in the intrusion of new incompatible uses; and
- g) the proposed use is in accordance with the minimum distance separation formulae.

As noted, the property is currently zoned for and has been used as a contractor's

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establishment and accessory dwelling unit. No new municipal services are required for the church use. The proposal will not expand into key natural heritage features or hydrologic features. The building addition will be limited in scope and within close proximity to the existing structures. An agricultural impact assessment has been completed by a qualified professional. The proposal does not result in intrusion of new incompatible uses and there are no livestock facilities in close proximity to the site. As a result, conversions and redevelopment of the legally established use is permitted.

Development and site alteration are not permitted in provincially significant wetlands or significant woodlands (3.1.9.6.1). No development or site alteration is proposed as part of the applications.

Based on this analysis, it is Planning staff's opinion that the applications conform to the policies of the Niagara Region Official Plan.

*Town of Pelham Official Plan, 2014*

The lands are designated Good General Agricultural, Environmental Protection One and Environmental Protection Two. Official Plan Schedule B – Town of Pelham Environmental Features shows the property as containing the Welland Airport Woodlot and a Provincially Significant Wetland.

Policy B2.1.2 indicates that the principal use of land in the Good General Agricultural designation shall be agriculture with additional uses permitted that are secondary or agriculture related. Those permitted uses include:

- single detached dwellings accessory to a farm business or on a vacant lot of record;
- accessory residential uses on farm properties subject to Policy B2.1.3.5 of this Plan;
- bed and breakfast establishments subject to Policy B2.1.3.6 of this Plan;
- home occupations and home industries subject to Policy B2.1.3.7 of this Plan;
- forestry and other resource management uses;
- retail commercial uses on farm properties subject to Policy B2.1.3.8 of this Plan;



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- passive recreational uses, such as walking trails and nature interpretation centres on lands owned by a public authority;
- agricultural-related exhibitions and tourism establishments subject to Policy B2.1.3.9 of this Plan;
- wineries subject to Policy B2.1.3.11;
- mineral aggregate operations in accordance with Policy B2.5.3.3; and,
- wayside pits and quarries and portable asphalt plants for road works in the area in accordance with Policy B2.5.3.10.

The requested Official Plan amendment would redesignate a portion of the property to a site-specific Good General Agricultural which would allow a place of worship as a permitted use.

Policy B2.1.3.10 indicates that non-agricultural uses, other than those listed in Section B2.1.2, are not permitted within the Good General Agricultural designation as such uses can have adverse impacts on both agricultural and natural resources. Where non-agricultural uses are proposed within the Good General Agricultural designation, such applications shall be reviewed in the context of both a local Official Plan Amendment and Regional Policy Plan Amendment subject to the following criteria:

- a) A demonstrated need for additional land to be designated within the municipality and the desirability of the proposed use to the community within the planning horizon provided for in this Plan;
- b) There are no reasonable alternatives to accommodate the proposed use in urban areas and rural areas;
- c) There are no reasonable alternative locations to accommodate the proposed land use on land within the Good General Agricultural designation with lower priority for protection;
- d) Consideration that the proposed non-agricultural use is compatible with and will not impact the normal operation of surrounding agricultural uses;
- e) Conformity with policies contained in Section B3 Natural Heritage Designations, Part C Environment and Groundwater Management Policies and Section B2.5 Mineral Aggregate Resource Area of this Plan;
- f) Confirmation that a suitable private water supply and private sewage services can be provided for the proposed use; and,
- g) Compliance with other policies contained in the Town's Official Plan.



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As noted earlier in this report, the church sought alternative locations in urban and rural areas for several years and was unsuccessful in finding a property that could accommodate the needs of the congregation. The subject property has not been in agricultural production for many years but has been used for a contractor's yard, office, and accessory dwelling unit. The potential for agricultural production on the property is limited due to the presence of the woodland and Provincially Significant Wetland. As a result, the lands can be considered a lower priority for protection for agricultural purposes. The applicant provided an Agricultural Impact Analysis which concluded that there would be no direct impacts to surrounding farming operations as a result of the proposed applications. The recommended mitigation measures for indirect impacts are expected to be adhered to and will be included clauses in a future site plan agreement. The applications will conform with Natural Heritage, Environment and Groundwater Management and Mineral Aggregate Resource Area policies. Private water supply and sewage systems can be provided for the proposed use. The applications will conform to other policies in the Town's Official Plan subject to the site specific Official Plan amendment which will add a place of worship as a permitted use on the subject property.

Policy B3.2.4.3 states that no development or site alteration shall be permitted on adjacent lands to Environmental Protection One lands unless an Environmental Impact Study (EIS) demonstrates that there will be no negative impact on the feature or its ecological functions. The Region in consultation with the Town and the NPCA shall approve any EIS prepared to address impacts on development or site alteration within adjacent lands. The requirements for an EIS are contained in Section C7 of this Plan. In conjunction with the pre-consultation and/or review of a proposal for development or site alteration within the Environmental Protection One designation the NPCA shall confirm if a work permit in accordance with Ontario Regulation 155/06 is required.

New development and site alteration may be permitted in the Environmental Protection Two designation provided it has been demonstrated through an Environmental Impact Study (EIS) that there will be no negative impact to the natural heritage feature or its ecological functions. An EIS submitted in accordance with this Section of the Official Plan shall be approved by the Region in consultation with the Town and NPCA. Where development or site alteration is proposed in

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proximity to lands in the Environmental Protection Two designation, efforts should be made, to maintain and where possible enhance linkages amongst lands designated Environmental Protection One, Environmental Protection Two, or Environmental Protection Three (B3.3.4.1).

The applicant provided an Environmental Impact Study (EIS) which confirms that development will be located outside of the natural heritage features and that there will be no negative impacts subject to the recommended mitigation measures. The EIS has been reviewed by Regional Environmental and Niagara Peninsula Conservation Authority staff and accepted subject to requested conditions that will be implemented through the future site plan agreement. No changes are proposed to the Environmental Protection One or Environmental Protection Two designations. Only the area where the proposed church will be located and the associated parking and septic system are to be located will be subject to the site-specific Official Plan amendment.

The requested Official Plan amendment is consistent with Provincial Plans and Policies and conforms to all other applicable policies of the Niagara Region and Town Official Plans.

*Town of Pelham Zoning By-law 4481 (2022)*

The property is zoned Rural Employment-72 (RE-72) and Environmental Protection One (EP1).

The RE-72 zone stated that notwithstanding the provisions of the Rural Employment Zone, one dwelling unit internal to the existing building shall be permitted accessory to the uses permitted within the Rural Employment zone.

Permitted uses in the Rural Employment zone are agricultural-related use; agricultural use that does not involve the keeping of livestock; building supply and service establishment; commercial self-storage; construction trade and retail establishment; contractor's establishment; custom workshop; farm supply and service establishment; fuel storage tank establishment; kennel; manufacturing, assembly, processing and fabrication establishment; vehicle service and repair shop; vehicle body shop; veterinarian's clinic; warehouse; wholesaling establishment; and uses, buildings and structures accessory to the foregoing uses.

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The EP1 zone permits conservation uses and flood control; existing uses; linear infrastructure; passive recreational trails and facilities; and wildlife management uses.

The requested zoning by-law amendment would rezone the property to a site-specific Rural Employment, Rural Employment-72 (M1-72) and Environmental Protection One (EP1) zone. The site-specific Rural Employment zone would permit the use of the property for a place of worship.

The applicant was originally requesting site-specific regulations to eliminate the requirement for bicycle parking, reduce the number of accessible parking spaces and locate the parking area closer to the road. In response to Council comments at the public meeting, the applicant has since revised the plan to provide an additional accessible parking space, to provide the required bicycle parking and to locate the parking area in compliance with the required front yard setback. As a result, the only site-specific regulation requested (width of parking space) is detailed in Table 1.

*Table 1: Site-Specific Regulation Requested*

Zoning Regulation	Required	Requested
4.1.3(a) Number of Barrier Free Parking Spaces	3 (1 Type A and 2 Type B)	No change
Number of Bicycle Parking Spaces	Short-term: 3 + 0.25/100m <sup>2</sup> GFA = 13  Long-term: 0.1/100m <sup>2</sup> GFA = 1	No change
4.1.4.1 Width of Parking Spaces	2.6 m	2.4 m
4.1.4.8 Parking Area Location on Lot	0.9 m to street line	No change

It has been demonstrated that the proposed use of the property for the church satisfies Provincial Plans and Policies as well as Regional and Local Official Plan policies. The requested reduction to the parking stall width will still result in functional parking spaces. Planning staff are of the opinion that the requested zoning change is reasonable and should be supported.

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**Submitted Reports:**

*Planning Justification Report prepared by NPG Planning Solutions dated April 2023*

The report concludes that the proposed development is an example of adaptive re-use of existing buildings in an ecologically sensitive area. In particular, the proposed place of worship will support the protection of the Provincially Significant Wetland (PSW), while removing existing commercial and industrial use from the Subject Lands. The report author's opinion is that the proposed Official Plan and Zoning By-law Amendments represent good land use planning, are in the public interest and should be approved.

*Stormwater Management Brief prepared by LandSmith Engineering and Consulting Ltd. dated November 9, 2022*

*Site Servicing and Grading Plan prepared by LandSmith Engineering and Consulting Ltd. dated February 6, 2023*

The brief recommends that the development be serviced for stormwater by:

- providing stormwater quantity and quality control for the environmentally sensitive wetland outlet;
- Stormwater quantity control can be provided through a 125mm diameter pipe orifice and surface storage within the proposed parking area; and
- Stormwater quality control can be provided through the proposed CB Shields for the roadside ditch outlet and a bioswale for the wetland outlet.

The accompanying site servicing and grading plan shows how the servicing and grading will occur to avoid negative impact to adjacent properties and the wetland.

*Scoped Agricultural Impact Assessment prepared by Colville Consulting Inc. dated October 2022*

The assessment indicates that most potential impacts have been avoided by not developing on active agricultural lands. Recommended mitigation measures for minor potential impacts include ensuring traffic/parking does not impede the use of the shoulders along Webber Road by farm machinery; and ensuring that Ministry of the Environment and Climate Change (MOECC) guidelines are adhered to during construction to control dust and noise. No net impacts are expected with the implementation of these mitigation measures. The Region has requested that

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clauses requiring implementation of the mitigation measures be included in the future site plan agreement.

*Environmental Impact Study (EIS) prepared by Myler Ecological Consulting dated April 2023*

This EIS proposes to restore the Provincially Significant Wetland (PSW) and Woodland by reversing historical intrusion. An additional buffer and vegetative protection zone (VPZ) is recommended adjacent to the restored features along with mitigation measures to protect the features. The EIS focuses on the northern portion of the property and recommends that the PSW and variable-width VPZ be placed into an appropriate protective environmental zoning. The study concludes that there will be “no negative impact” to the natural heritage features as a result of the development subject to the recommended mitigation measures.

*Phase One Environmental Site Assessment prepared by Hallex Environmental Ltd. dated January 21, 2022*

The assessment recommended a limited Phase Two Environmental Site Assessment (ESA) to determine the presence/absence of potential contaminants of concern in the soil resulting from the heating oil tank. The Phase Two ESA will be addressed as part of the site plan approval and any recommended site remediation works would be required to be completed prior to building permit approval for the change of use.

*Phase Two Environmental Site Assessment prepared by Niagara Soils Solutions Ltd. dated November 18, 2022*

The assessment concludes that no additional environmental soil investigations are required.

*Private On-site Wastewater Servicing Report prepared by T.I. Services dated December 12, 2022 & Tertiary Sewage System Design dated August 16, 2022*

The report recommends a tertiary septic system to service the proposed development. It estimates projected use based on occupancy and office space is 9,360 L/day. It is expected the actual maximum daily sewage flows will not reach this high. The leaching bed proposed is a Raised Sand Dispersal Bed given the existing raised leaching bed and the nearby wetland indicating high potential for temporal subsurface conditions. The proposed Raised Sand Dispersal Bed is further away from

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the existing Provincially Significant Wetland (PSW) and given the additional treatment this will improve the quality of effluent being discharged and increase protection of the groundwater and PSW. It is noted that septic system that generate less than 10,000l/day/site of effluent are approved by the Region of Niagara and those that generate 10,000/day/site or more require provincial MOECP approval.

The report concludes that overall, this proposed Tertiary Septic System will be an improvement compared to the existing septic system and will be able to meet all required Ontario Building Code requirements to ensure groundwater resources are protected and the site is properly serviced for the long-term.

*Stage 1-2 Archaeological Assessment prepared by Detritus Consulting Ltd. dated May 24, 2022*

The Stage 1 background research indicated that the Study Area exhibited moderate to high potential for the identification and recovery of archaeological resources. As such, a Stage 2 assessment was recommended for the grassed lawn areas. The subsequent Stage 2 assessment resulted in the identification and documentation of no archaeological resources; therefore, no further archaeological assessment of the Study Area was recommended.

An acknowledgement letter from the Ministry of Tourism, Culture and Sport will be required prior to site plan approval. Regional staff have provided conditions respecting archaeology warning clauses that will also be included in a future site plan agreement.

**Agency Comments:**

The applications were circulated to commenting agencies and Town Departments. The following comments have been received:

*Niagara Peninsula Conservation Authority (NPCA):*

The NPCA has no objections to the approval of this OPA/ZBA application and can review more of the site-specific details at future application phases.

*Niagara Region Growth Strategy and Economic Development (NRGSED):*

NRGSED staff support the proposed applications, in principle, provided the fulsome

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Stage 2 Environmental Site Assessment report is circulated to the Region for review prior to approval and that the appropriate Vegetation Protection Zone is reflected in the future Site Plan application.

*Public Works:* No comments or concerns.

**Public Comments:**

On June 16, 2023 a public meeting notice was circulated to all property owners within 120 metres of the property's boundaries. In addition, a public notice sign was posted facing Webber Road. A public meeting was held on July 12, 2023. The following comments have been received as of the date of writing of this report:

*Niagara Central Dorothy Rungeling Airport*

No objection to the applications but advise that noise from current and future expanded operations could impact the sanctity of the church services.

*Moe Beaudoin*

Concerned that the church use may impede future use of property for commercial business; that current business operations may result in complaints from church; traffic impacts to large commercial vehicles from nearby businesses; shared driveway has resulted in some issues; questions about private servicing.

**Staff Comments:**

As noted, the applicant revised the site plan to demonstrate that the parking area could be located in compliance with the Zoning By-law and that required accessible parking and bicycle spaces could be provided. The applicant's response is attached to this report as Appendix A.

Comments from the Niagara Central Dorothy Rungeling Airport Commission were considered under the analysis of the Provincial Policy Statement. As discussed, the church is amenable to a warning clause regarding noise impacts from current and future airport operations being included in the future site plan agreement.



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With respect to the comments from Mr. Beaudoin regarding potential impacts to his business operation, Planning staff note that his property is zoned Agriculture (A), Environmental Protection 1 (EP1) and Environmental Protection 2 (EP2) in Zoning By-law 4481(2022). The property was previously zoned General Industrial (M2) in Zoning By-law 1136 (1987) but was changed to conform with the Town of Pelham Official Plan (2014) which designates the property Good General Agricultural, Environmental Protection One and Environmental Protection Two. Planning staff note that the existing business operation is grandfathered in and can continue to operate. Expanded future commercial use would have to comply with permitted uses in the zoning (i.e., home industry) or be subject to a *Planning Act* application.

Planning staff spoke with Mr. Beaudoin to better understand his business operation. Based the information provided, it is not clear whether the current operation would be considered industrial or an expanded home industry with outdoor storage which is accessory to the dwelling. While the properties directly abut one another, the existing business operation and the proposed church are located more than 200 metres apart and separated by trees and wooded area. Heavy use of the church is expected primarily on Sundays for a few hours while it is expected that the business would generate peak traffic through the week (though a 7-day operation). Peak odour impacts due to topsoil mixing are anticipated approximately 4 times per year. It is recommended that a warning clause with respect to noise, odour and dust be included in the future site plan agreement to protect the neighbouring property owner and business from potential future complaints. Further, it is recommended that additional landscape buffer be provided along the west property line between the neighbouring driveway and church parking lot to protect from dust due to large vehicles and equipment using the driveway.

Private servicing concerns are addressed through the Private Servicing Report that was provided with the application. Regional private servicing staff have reviewed the report and design and have offered no concerns at this time.

Traffic concerns were primarily with respect to the existing shared driveway but also additional vehicular traffic from the church interfering with commercial vehicles and trucks entering, exiting and travelling along Webber Road related to the commercial businesses. The Region is requiring the second driveway access (shared) to be removed and reinstated as part of the future site plan approval application which should eliminate these issues. Webber Road is a Regional road which is designed to



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convey large volumes of vehicles. Regional Transportation staff indicated that a Traffic Impact Study was not requested for the applications as the increased number of trips caused by the shift from the commercial use to a place of worship was not expected to exceed the threshold for a study (greater than 100 during peak hours). Regional Transportation staff have reviewed the applications and offered no concerns subject to future requirements to be addressed through the site plan agreement.

Planning staff have considered the public comments received regarding the applications and believe that the concerns can be mitigated through the future site plan agreement. The recommended mitigation measures that will address the public comments including removal of the shared second driveway access, warning clauses respecting the potential noise from the airport operation and potential noise, odour and dust impacts from the neighbouring commercial business operation as well as additional landscaping along the west property line to mitigate visual and dust impacts due to commercial vehicles using the driveway. These mitigation measures would be in addition to clauses or requirements from commenting agencies to address archaeology, protection of natural heritage features and protection of surrounding agricultural operations.

Based on the policy analysis contained in this report and the discussion included in this report, Planning staff recommend that the applications be supported. It is Planning staff's opinion that the applications conform to Provincial, Regional and Local Official Plan(s) and policies. The proposed development provides for the reuse of rural lands to an appropriate land use that can be suitably integrated with the surrounding area and without adverse land use impacts on the surrounding natural heritage features. The site can be safely serviced with private on-site sewage and water systems and there is capacity in the road system to accommodate and support the use.

**Alternatives:**

Council could choose not to approve the applications or Council could choose to approve the applications with modifications.



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**Attachments:**

Appendix A            Letter from Niagara Planning Group

**Prepared and Recommended by**

Shannon Larocque, MCIP, RPP  
Senior Planner

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

**Reviewed and Submitted by:**

David Cribbs, BA, MA, JD, MPA  
Chief Administrative Officer

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August 9<sup>th</sup>, 2023

Shannon Larocque,  
Senior Planner  
Community Planning & Development  
20 Pelham Town Square Fonthill,  
ON L0S 1E0

Dear Shannon

**550 WEBBER ROAD, PELHAM**  
**WELLAND BIC CHURCH**  
**OFFICIAL PLAN AND ZONING BY-LAW AMENDMENT APPLICATION**  
(File Nos.: OP-AM-01-23 & AM-04-2023)

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We are pleased to provide supporting information associated with the property at 550 Webber Road, in the Town of Pelham. The application for Zoning By-law Amendment was submitted to the Town of Pelham on April 11<sup>th</sup>, 2023, and was deemed complete on May 24, 2023.

Since our initial submission, we received comments from staff that were subsequently addressed via a Response Letter dated June 3<sup>rd</sup>, 2023. Since then, we received additional comments from Niagara Central Airport Commission and from the neighbour to the west (located at 566 Webber Road). A Public Meeting was also held on July 12<sup>th</sup>, 2023, where comments and feedback were received from Council. This letter aims to address the matters brought up before us via the airport agency, the neighbour and Council at the July Public Meeting.

**Comments from Niagara Central Airport Commission**

Niagara Central Dorothy Rungeling Airport is located approximately 570 metres east of the Subject Lands, as shown in Figure 1 of this letter. NPG received a letter from the Airport Facility Operator informing their interest in the approval process due to the proximity of the established airport facility to the intended place of worship.

There are concerns that potential noise from the airport's current operations could negatively impact the sanctity of the worship services. Additionally, future development and increased air traffic at the airport could have further impacts. The facility is not objecting to the proposed rezoning application, and further, welcomes the place of worship as a neighboring institution. However, the request is to address any potential concerns related to noise and future airport development.

The Environmental Noise Guideline for Stationary and Transportation Sources (NPC-300) defines a noise sensitive institutional purpose building as follows:

*“a building used for an institutional purpose, including an educational facility, a day nursery, a hospital, a health care facility, a shelter for emergency housing, a community centre, a place of worship and a detention centre. A place of worship located in commercially or industrially zoned lands is not considered a noise sensitive institutional purpose building.”*

The proposed place of worship is in a Rural Employment Zone as per Zoning By-law 4481 (2022). The permitted uses in this zone include a variety of commercial, industrial and agricultural-related uses. Based on NPC-300, the proposed place of worship located in a commercial/industrial zone is not considered to be noise sensitive. A level of noise is expected within this zone, nearby the airport. Additionally, Niagara Region has assessed the compatibility of the proposed use with surrounding uses (through their comment letter dated May 5<sup>th</sup>, 2023) and has not raised any concerns regarding land use compatibility. Therefore, based on these considerations, there is no further need for analysis of NPC-300 with respect to the airport.

We are not opposed to the use of a warning clause similar to Type B of NPC-300, to make tenants aware of the presence of the airport and occasional air traffic noise.

#### **Adjacent Operation at 566 Webber Road**

566 Webber Road is located immediately west of the Subject Lands as shown in Figure 1 below. Prior to the Public Meeting, the owner of the neighbouring property informed staff of their construction business and their key concerns about the proposed development, which is listed below:

- Effect of the proposed development on the future use of the property at 566 Webber Road and potential concerns related to dust, dirt, and odors from the construction operation, leading to complaints.
- Absence of the second driveway entrance connecting to 550 Webber Rd in the proposed site plan, causing difficulties for accessing the house and business at 566 Webber Rd.
- Concerns about how the proposed development may impact their business in the future due to traffic issues caused by church visitors using the shared entrance. Inquiry about whether a traffic study has been conducted.
- Inquiry about whether an environmental study, particularly regarding the septic system and leaching problems, has been done, and about the type of septic system the church will install to accommodate the number of people attending.

NPG was provided with the following information from Town Staff regarding the use at 566 Webber Road:

1. Dump trucks, float with excavator, and other heavy machinery use the driveway around 10 times a day.
2. The construction business employs approximately 5 people.

3. The construction operation is active seven days a week.
4. The operation involves composting and topsoil activities throughout the year. Compost deliveries occur approximately four times a year, and topsoil mixing takes place during these periods. As a result, there are around 8 days per year (2 days each during four delivery periods) when the composting activity peaks, potentially leading to increased odour levels.

The property is zoned Agriculture, with an overlay of Environmental Protection Two – EP2 as per Zoning By-law 4481 (2022), permitting agricultural uses, single detached dwelling, home industry, existing uses, among others. It is noted that a single-detached dwelling exists on site, and appears to be primarily residential in nature with the business operating similar to a home industry, with outdoor storage.

The D6 Guidelines (Compatibility between Industrial Facilities) are intended to prevent or minimize the encroachment of sensitive land uses upon industrial land uses and vice versa, due to the possible adverse effects on sensitive land uses created by industrial operations. A church is generally considered to be a sensitive land use for the purpose of the D6 Guidelines, however a home industry is not generally considered to be an industrial land use under the Guidelines. The Town's Zoning By-law defines an industrial use as:

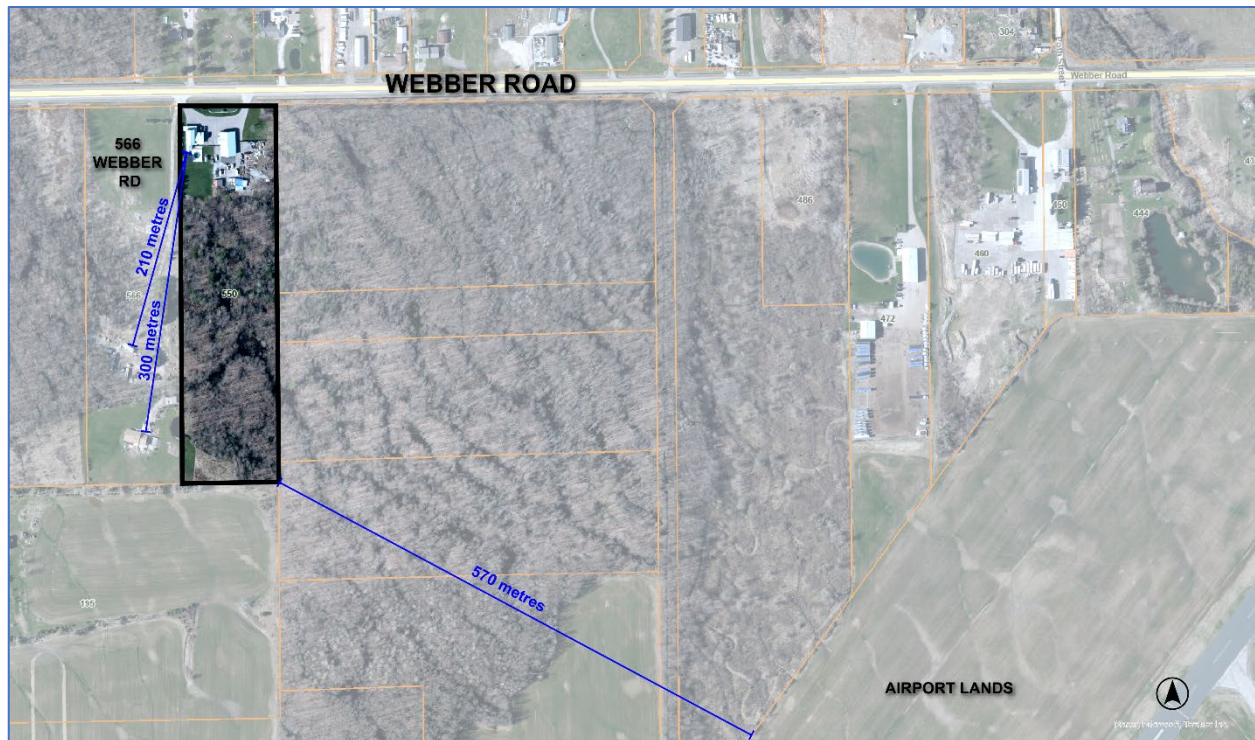
*INDUSTRIAL USE means the use of land, building or structures for the manufacturing, processing, fabricating or assembly of raw materials or goods, warehousing or bulk storage of goods and related accessory and ancillary uses.*

The use at 566 Webber does appear to have “bulk storage of goods” however this is not the primary use of the property. The primary use is residential with the business operating similar to a home industry, with outdoor storage. NPG does not consider the use of the property to be a Class I, Class II, or Class III Facility under the D6 Guidelines. However, we have reviewed the functionality of both sites and noted potential mitigation measures to address comments received, below:

- The distance between the business at 566 Webber and the existing building on the Subject Lands is approximately 210 meters, as depicted in the figure below. This is greater than the minimum separation distance of 70 metres found in the D6 Guidelines, even if the business were considered a Class II Facility. The operation is sufficiently screened from the Subject Lands due to the separation distance. It is further buffered by the existing treed area between the two properties having little to no visibility of the commercial operation on the adjacent lands.
- The proposed development will exclusively utilize the driveway on the east side of the site. The westerly driveway will be solely used by 566 Webber. The separation of access points ensures a clear distinction between the two properties and their respective traffic flow. The new driveway arrangement will prevent any

potential vehicle conflicts with the adjacent operation, ensure smoother traffic flow and enhance overall safety in the area.

**Figure 1. Distance of Adjacent Facilities from the Subject Lands**



- Peak traffic volumes will correspond with Sunday morning services, suggesting increased traffic volumes will be limited in duration and occur during off-peak periods of the operation at 566 Webber. The proposed development demonstrates compatibility with the surrounding uses from a traffic perspective. A traffic study was not requested at the Pre-consultation meeting.
- Currently, the western portion of the Subject Lands is bordered by dense coniferous trees near the front yard, which are intended to be preserved. Additional landscaping could be provided extending to the front property line to mitigate potential impacts related to noise and dust from vehicles. Landscaping also provides a visible buffer between the uses.
- Lastly, information related to the new septic system can be found in the Private Onsite Wastewater Servicing Report, prepared by T.I. Services dated December 12, 2022, included with the original submission package. There are no concerns anticipated due to the proposed septic system on the adjacent lands and their operation.

In summary, there are no concerns with respect to the introduction of the church use adjacent to the home industry operating at 566 Webber Road. Adequate separation distance exists between the uses and potential vehicle conflicts are eliminated by closing

the westerly driveway to the church. Additional landscaping could further mitigate any potential impacts from the adjacent operation.

### **Revised Site Plan**

At the Public Meeting held on July 12, 2023, feedback was received from Councilors regarding the provision of accessible spaces and bike parking spaces. Organica Studio's revised Site Plan, dated July 25<sup>th</sup>, 2023, is enclosed, illustrating the requested changes. These changes make the development more compliant with the Town's new Zoning By-law. The Draft Zoning By-law Amendment was also revised accordingly, in which the previously requested variances are no longer required. Please find the revised copy of the Draft Zoning By-law Amendment appended to this letter.

Changes made to the Site Plan are as noted below:

1. Barrier Free Spaces

The previous site plan showed two (2) Type A accessible spaces, measuring 3.9 x 5.8 metres. The Town's current Zoning By-law (Section 4.1.3) requires three (3) accessible spaces, which includes 1 Type A space, measuring 3.4 x 5.8m, and 2 Type B spaces, measuring 2.4 x 5.8 metres and a 1.5-metre access aisle. The additional accessible spaces have been incorporated into the revised Site Plan.

2. Bike Parking Spaces

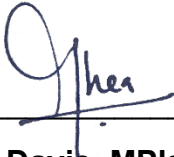
Section 4.1.4.8 of the Town's new Zoning By-law requires seven (7) bike parking spaces in total, where six (6) are intended to be short-term and one (1) for long-term bike parking. A small bike rack near the Proposed Ministry Building has been included on the revised Site Plan.

3. Parking Area Location on Lot

Previously, the northern parking lot (Parking Area A) was setback 0.798 metres from the north property line at the pinch point. The Zoning By-law requirement for such a setback is 0.9 metres to a street line, in accordance with Section 4.1.4.2. Organica Studio's Site Plan demonstrates the increased setback of 0.9 metres from the north property line.

We trust the above information sufficiently addresses comments received. Should you require anything further or have any questions, please do not hesitate to contact the undersigned.

Yours Truly,



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**Rhea Davis, MPlan**  
Intermediate Planner  
**NPG Planning Solutions Inc.**  
E: [rdavis@npgsolutions.ca](mailto:rdavis@npgsolutions.ca)



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**Aaron Butler, MCIP, RPP**  
Principal  
**NPG Planning Solutions Inc.**  
E: [abutler@npgsolutions.ca](mailto:abutler@npgsolutions.ca)



## Appendix: Draft Zoning By-law

### BY-LAW NO. 4481 - XX

**Being a by-law to amend Zoning By-law 4481 (2022), as amended, for land located at 550 Webber Road (Regional Road 29) from a site-specific Rural Employment (M1-72) zone to a Site-Specific Rural Employment (RE-XX) zone, in part, and Environmental Protection One (EP-1) zone.**

**WHEREAS** Section 34 of the Planning Act, RSO 1990, as amended provides that the governing body of a municipal corporation may pass by-laws regulate the use of lands and the character, location and use of buildings and structure;

**WHEREAS** the Council of the Town of Pelham has recommended that such a by-law be enacted;

**AND WHEREAS** the Council of the Town of Pelham has deemed it to be in the public interest that such a by-law be enacted;

**NOW THEREFORE, THE COUNCIL OF THE CORPORATION OF PELHAM ENACTS AS FOLLOWS:**

1. **THAT** Schedule 'A' to Zoning By-law 4481 (2022), as amended, is further amended by the following exception, as described in Schedule A of this by-law. Site-specific Rural Employment (M1-72) zone to a Site-Specific Rural Employment (RE-XX) zone, for the northern portion of the Subject Lands, and Environmental Protection One (EP-1) zone, for the environmentally designated portion of the Subject Lands.
2. **THAT** Section 10 – Exceptions of By-law 4481 (2022), as amended, is further amended by the following exception:  
RE – XX  
Notwithstanding Section 5.3 of the Rural Employment (RE) zone the following site-specific regulations shall also apply:  
**Permitted Uses:**

(r) A Place of Worship

#### **Zone Requirements for Rural Employment Uses:**

Dwelling Unit	Notwithstanding the provisions of the Rural Employment Zone, one dwelling unit internal to the existing building shall be permitted accessory to the uses permitted within the Rural Employment zone.
---------------	---

Notwithstanding Section 4 of the Parking and Loading Requirements the following site-specific regulations shall also apply:

Width of Parking Spaces 2.4 m

3. **THAT** this By-law shall come into effect and force from and after the date of passing thereof, pursuant to Section 34 (21) and 34 (30) of the Planning Act, RSO 1990, as amended  
**Enacted, signed and sealed this XX day of MONTH, YEAR.**

---

MAYOR MARVIN JUNKIN

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CLERK HOLLY WILLFORD

## SCHEDULE A

# SCHEDULE A TO ZONING BY-LAW AMENDMENT ##

HWY 29 (Webber Road)




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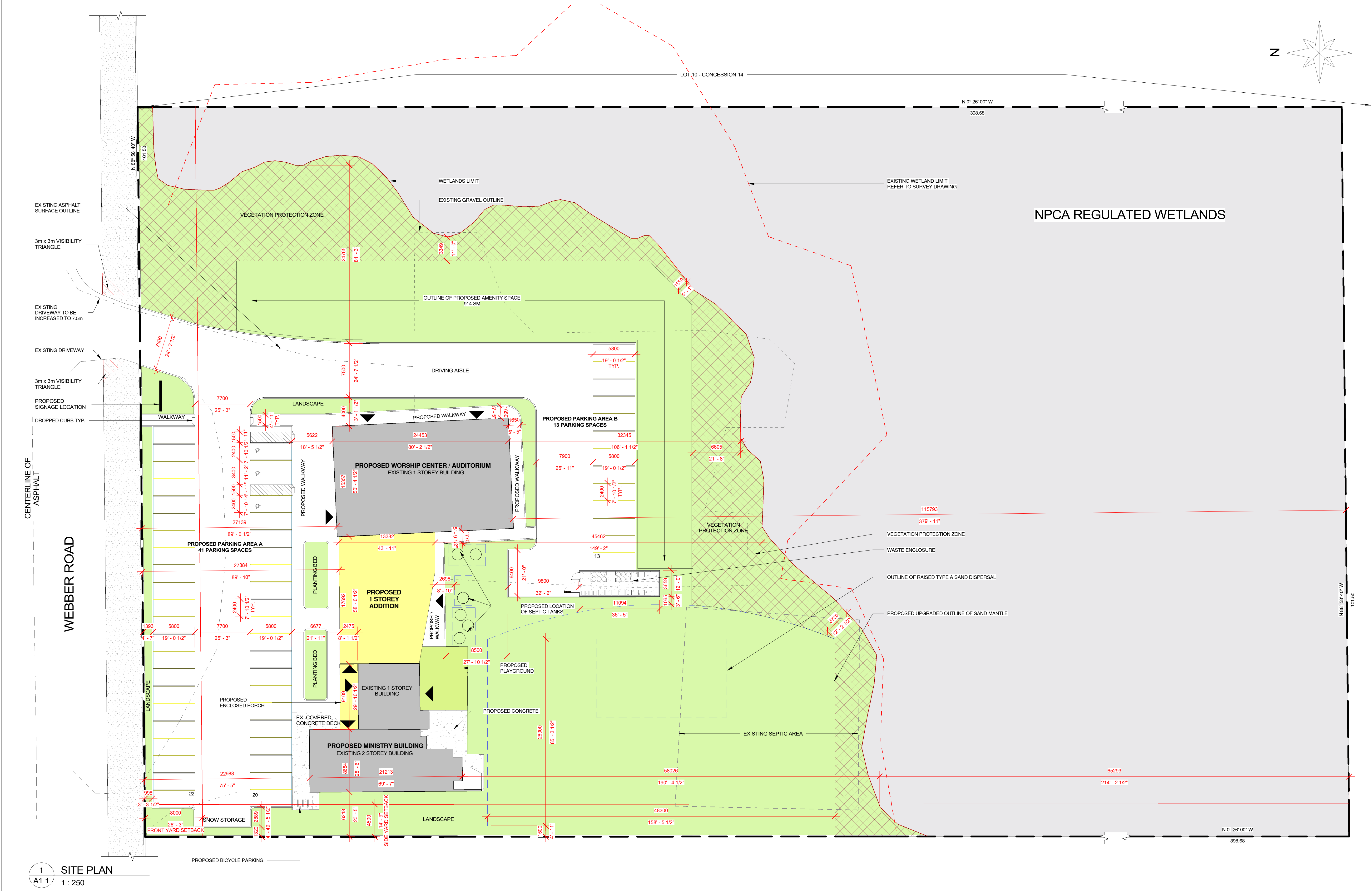


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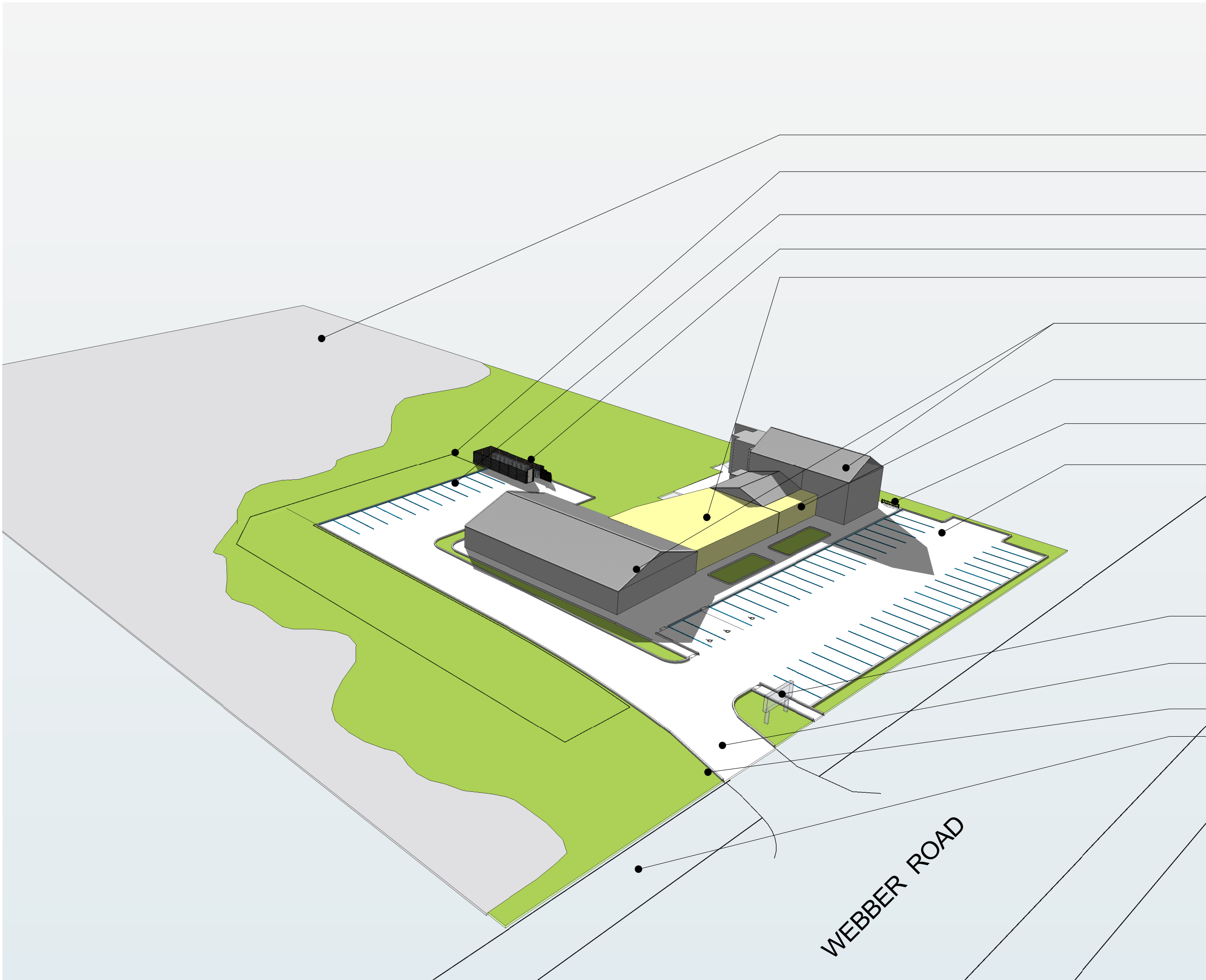
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-  Site-specific Rural Employment RE Zone (RE-XX)
-  Environmental Protection One Site Specific Zone (EP1 - XX)
-  Rural Employment RE Zone (RE-72)

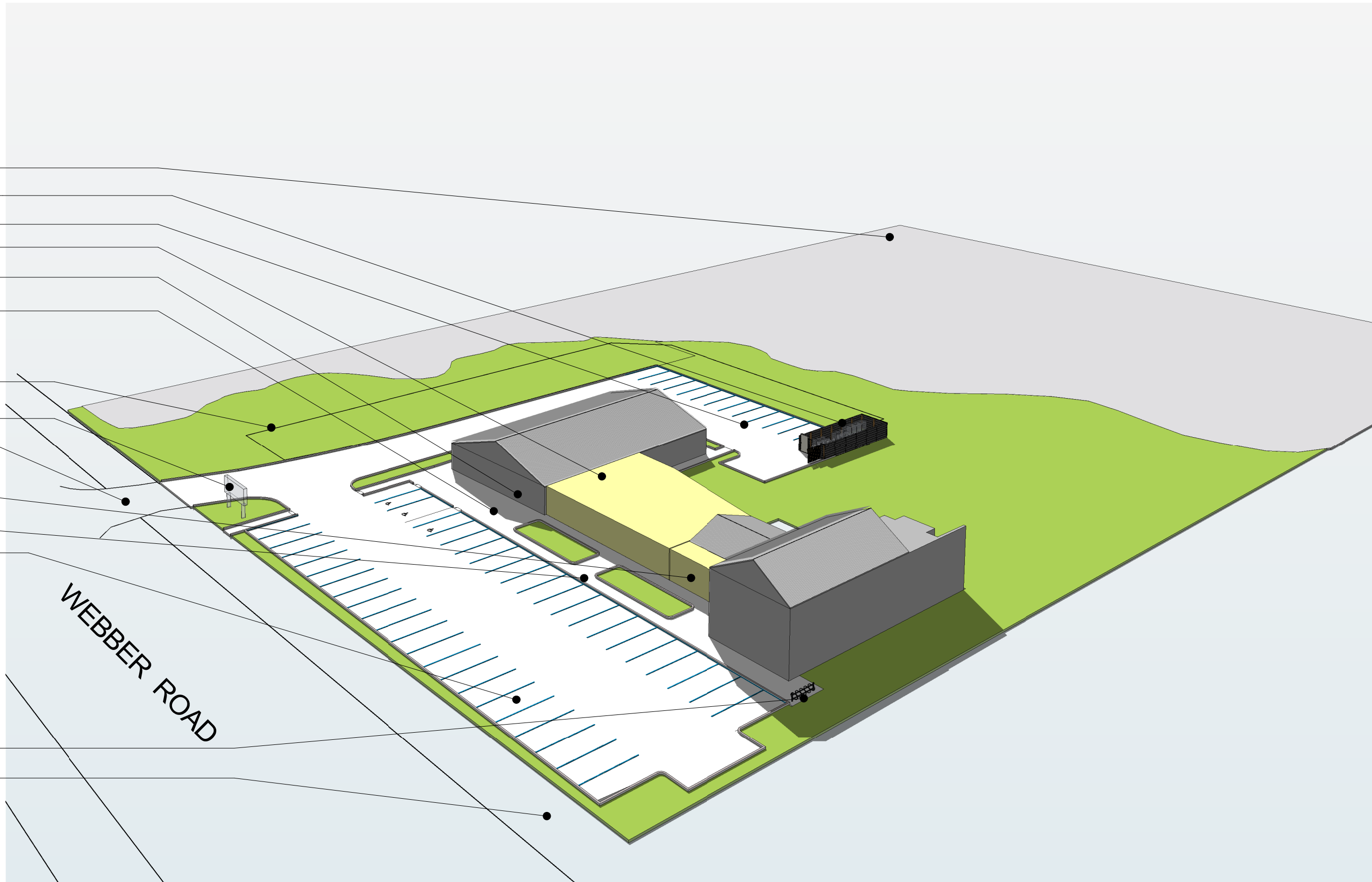


NOTES	
PERMITTED CART QTY FOR CURBSIDE PICK UP:	
- 8 WASTE BAGS OR CANS OF GARBAGE EVERY-OTHER-WEEK	
- 8 BLUE/GREY CARTS PER WEEK	
- 8 GREEN CARTS PER WEEK	
CART SIZES	
MAXIMUM GARBAGE CONTAINER:	
- HEIGHT: 91 cm (36")	
- DIAMETER: 61 cm (24")	
- WEIGHT: 22.7 kg (50 lbs) WHEN FULL	
GREY/BLUE RECYCLING CARTS:	
- HEIGHT: 114.6 cm (45")	
- DEPTH: 65.7 cm (26")	
- WIDTH: 72.9 cm (29")	
ORGANICS CARTS:	
- HEIGHT: 95.3 cm (38")	
- DEPTH: 61.2 cm (24")	
- WIDTH: 47 cm (18.5")	
PROVIDED CART QTY:	
4 QTY - GREEN CARTS	
6 QTY - GREY CARTS	
6 QTY - BLUE CARTS	
12 QTY - GARBAGE CARTS	
LEGEND:	
	PROPOSED BUILDING
	LANDSCAPE AND PLANTING AREA FOR NPCA
	EXISTING BUILDING
	EXISTING/PROPOSED CONCRETE FINISH
	ROAD WIDENING
	PROPOSED SOFT LANDSCAPING
	EXISTING NPCA WETLANDS
	PEDESTRIAN/VEHICULAR ENTRANCE POINT
	PROPERTY LINE
	EXISTING VINYL FENCE
	ZONING SETBACKS
	EXISTING GRAVEL SURFACE OUTLINE
	EXISTING ASPHALT SURFACE OUTLINE
	PROPOSED UPGRADED SEPTIC SYSTEM
	PROPOSED 6" CONCRETE CURB
SITE INFORMATION	
INFORMATION TAKEN FROM SURVEY PREPARED BY CHAMBERS AND ASSOCIATES SURVEYING LTD REGISTERED PLAN CITY OF PELHAM DATE: 13 APR 22	
SITE STATISTICS AND INFORMATION	
GROSS SITE AREA	40,469 SM
EXISTING BUILDING AREA	578 SM
PROPOSED ADDITION	229 SM
NET SITE AREA ON NORTHERN PORTION (EXCLUDING WETLANDS AND VPZ)	6592 SM
EXISTING NET COVERAGE ON NORTHERN PORTION	8.8%
PROPOSED NET COVERAGE ON NORTHERN PORTION	13.2%
LANDSCAPE NET COVERAGE ON NORTHERN PORTION	48.0%
EXISTING AUDITORIUM FLOOR AREA	360 SM
EXISTING BUILDING HEIGHT	6.2 M
EXISTING 1 STOREY BUILDING FLOOR AREA	62 SM
EXISTING BUILDING HEIGHT	3.6 M
EXISTING MINISTRY BUILDING FLOOR AREA LEVEL 1	166 SM
EXISTING BUILDING HEIGHT	158 SM
EXISTING BUILDING HEIGHT	6.5 M
PROPOSED ADDITION FLOOR AREA	229 SM
PROPOSED BUILDING HEIGHT	6.5 M
TOTAL GROSS FLOOR AREA	995 SM
NET SITE AREA (EXCLUDING WETLANDS AND VEGETATION PROTECTION ZONE)	6591.86 SM
PROPOSED LOT COVERAGE	13.2%
LANDSCAPE NET COVERAGE	48.0%
PARKING REQUIREMENTS:	
PARKING PROVIDED:	
STANDARD PARKING PROVIDED (2.4M x 5.8M)	52 SPACES
TYPE A ACCESSIBLE PARKING PROVIDED (3.4M x 5.8M)	1 SPACES
TYPE B ACCESSIBLE PARKING PROVIDED (2.4M x 5.8M)	2 SPACES
TOTAL PARKING PROVIDED	55 SPACES
REQUIRED BICYCLE PARKING	
SHORT TERM BICYCLE PARKING (996SM x 0.25) / 100) + 3)	6 SPACES
LONG TERM BICYCLE PARKING (996SM x 0.1) / 100)	1 SPACE





- NPCA WETLANDS
- OUTLINE OF PROPOSED AMENITY AREA
- PARKING AREA B
- WASTE/RECYCLING/ORGANICS BIN STORAGE AREA
- PROPOSED 1 STOREY ADDITION
- EXISTING BUILDING
- PROPOSED ENCLOSED PORCH
- SHORT TERM BICYCLE PARKING
- PARKING AREA A
- PROPOSED SIGNAGE
- EXISTING SITE ACCESS
- PROPOSED WALKWAY
- ROAD WIDENING



- NPCA WETLANDS
- WASTE/RECYCLING/ORGANICS BIN STORAGE AREA
- PARKING AREA B
- PROPOSED 1 STOREY ADDITION
- PROPOSED AUDITORIUM ENTRANCE
- PROPOSED AUDITORIUM PROMENADE
- OUTLINE OF PROPOSED AMENITY AREA
- PROPOSED SIGNAGE
- EXISTING SITE ENTRANCE
- PROPOSED ENCLOSED PORCH
- PROPOSED WALKWAY
- PARKING AREA A
- SHORT TERM BICYCLE PARKING
- ROAD WIDENING

#### NOTES

##### PERMITTED CART QTY FOR CURBSIDE PICK UP:

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- 8 BLUE/GREY CARTS PER WEEK
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##### PROVIDED CART QTY:

- 4 QTY - GREEN CARTS
- 6 QTY - GREY CARTS
- 6 QTY - BLUE CARTS
- 12 QTY - GARBAGE CARTS

##### LEGEND:

- PROPOSED BUILDING
- LANDSCAPE AND PLANTING AREA FOR NPCA
- EXISTING BUILDING
- EXISTING/PROPOSED CONCRETE FINISH
- ROAD WIDENING
- PROPOSED SOFT LANDSCAPING
- EXISTING NPCA WETLANDS
- PEDESTRIAN/VEHICULAR ENTRANCE POINT
- PROPERTY LINE
- EXISTING VINYL FENCE
- ZONING SETBACKS
- EXISTING GRAVEL SURFACE OUTLINE
- EXISTING ASPHALT SURFACE OUTLINE
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- PROPOSED 6" CONCRETE CURB

##### SITE INFORMATION

INFORMATION TAKEN FROM SURVEY PREPARED BY  
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REGISTERED PLAN  
CITY OF PELHAM  
DATE: 13 APR 22

##### SITE STATISTICS AND INFORMATION

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##### PARKING PROVIDED:

STANDARD PARKING PROVIDED (2.4M x 5.8M)	52 SPACES
TYPE A ACCESSIBLE PARKING PROVIDED (3.4M x 5.8M)	1 SPACES
TYPE B ACCESSIBLE PARKING PROVIDED (2.4M x 5.8M)	2 SPACES
TOTAL PARKING PROVIDED	55 SPACES
REQUIRED BICYCLE PARKING	
SHORT TERM BICYCLE PARKING (996SM x 0.25) / 100) + 3)	6 SPACES
LONG TERM BICYCLE PARKING (996SM x 0.1) / 100)	1 SPACE

**Subject:** Council Vacancy Policy

**Recommendation:**

**BE IT RESOLVED THAT Council receive Report #2023-0188 Council Vacancy Policy, for information;**

**AND THAT Council adopt the attached Council Vacancy Policy to be utilized in the event of a vacancy occurring on Council, whereby Council would fill any vacancies by appointment pursuant to the policy.**

**Background:**

Councils in Ontario are elected to four-year terms. Over the course of a term of Council there are circumstances where vacancies amongst the Council membership occur.

These vacancies can take place for a variety of reasons including but not limited to resignations, retirements and the death of a member. Pelham has experienced vacancies over the last few terms of Council for reasons of similar nature.

Staff believe that it would be advantageous for Council to adopt a policy to clearly establish the process should a future vacancy occur, regardless of the reason.

Having a policy would allow for a seamless transition to filling the vacancy, while removing the emotional impacts of the immediate vacancy. It would allow Council to proceed on a set path regardless of the circumstances and be fully transparent to the community, as well. It would also help prevent criticism that Council is responding in a haphazard fashion when a vacancy occurs.

**Analysis:**

Under the *Municipal Act, 2001* (the Act), Council must declare the seat vacant and then determine how the vacant seat be filled. The Act allows for both filling of the seat by appointment or by a special by-election.

There are specific and time sensitive elements that must be adhered to by Council when dealing with a vacancy of one of its members.

In the past, the Town has opted for a by-election. Staff would suggest that this is an expensive and time-consuming endeavour that could easily be replaced by a well thought out and comprehensive policy on appointment.

For all intents and purposes, a by-election, requires as much staff time and financial resources as conduction of a regular municipal election. This is especially the case should the vacancy be for the Mayor's position which is conducted at large across the entire Municipality.

In the past few circumstances, by-elections were conducted utilizing Town-owned vote tabulators. Going forward this is not a viable option. The tabulators have reached the end of their useful life and cannot reasonably be relied upon for conducting another election. This would require the leasing of tabulators for conducting the by-election.

There will be a subsequent report in the future from Staff on voting options and the need to replace tabulators if the current voting method is maintained. In any event, it is fairly expensive to run byelections (which are never in the budget and always unplanned) hence the proposal for a Council Vacancy Policy. Staff have developed a draft policy for discussion purposes that establishes an appointment procedure for filling vacancies on Council during the regular term. Staff welcome amendments from Council on the policy.

The policy itself may seem somewhat complicated at first read, however the actual implementation would be a straightforward process, not unlike the process used for filling advisory committees for the Town. Preference would be given to candidates who also ran in the last regular election and met a required threshold of votes to receive appointment consideration.

### **Financial Considerations:**

As noted, conducting a by-election is expensive both in cost and staff resources. It would essentially tie-up the Clerk's Department resources for a third to one quarter of a year. During this time, it would be difficult for the Clerk's team to do other tasks important to the regular advancement of the Municipal business and achieving the goals established within the Strategic Plan adopted by Council recently.

A by-election would also require the leasing of vote counting tabulators, or the hiring of a significant number of election workers to undertake the election. Staff do not believe that this is an efficient use of taxpayer options when a more cost-effective means utilizing appointment is available and permissible under the Act.

Holding a by-election, would likely cost 50-75 percent of a regular election, which is not budgeted.

**Alternatives Reviewed:**

1. Council could not adopt a policy and deal with any vacancies that occur during a regular term of Council, making a determination on which methodology to fill a vacancy to use as permitted by the Act.
2. Council can instruct staff to develop a policy to proceed with the budgeting and planning for the conducting of a by-election should a vacancy occur.
3. Council could develop a hybrid policy that allows for appointments in year 3 or 4 of a regular term of Council but mandates a municipal by-election should a vacancy occur in years 1 or 2 of a Council term.

**Strategic Plan Relationship: Enhancing Capacity and Future Readiness**

By establishing a policy whereby Council and the community are aware of the transparent and consistent methodology of appointment to fill any vacancies on Council, it would enhance Council's ability to deal with such vacancy in a time efficient and cost-effective manner.

**Consultation:**

Other municipal jurisdictions policies were reviewed and analyzed for consideration in the development of the draft policy presented to Council for consideration.

The Chief Administrative Officer was consulted and provide valuable input to the development and review of the policy under consideration.

**Other Pertinent Reports/Attachments:**

1. Draft Council Vacancy Policy

**Prepared and Recommended by:**

William Tigert  
Town Clerk

**Prepared and Submitted by:**

David Cribbs, BA, MA, JD, MPA  
Chief Administrative Officer





<b>Policy Name: Council Vacancy Policy</b>	<b>Policy No: S201-XX</b>
Committee approval date:	-
Council approval date:	-
Revision date(s):	-
Department/Division:	Council

## 1. Purpose

- 1.1. The purpose of this policy is to provide for an accountable and transparent process for filling a Vacancy on Town Council in accordance with the *Municipal Act, 2001*, S.O. 2001, c. 25, as amended ("the Act") and the *Municipal Elections Act, 1996*, S.O. 1996, c.32, as amended ("the MEA").
- 1.2. This policy will be applied to any Council office declared Vacant on Town of Pelham Council during the Term of Office.

## 2. Statement of Principle

- 2.1. In accordance with the Act, when the seat of a Member of Council becomes Vacant during the Term of Office, Council may fill the Vacancy by appointing a person who has consented to accept the office, or by requiring a By-election to be held to fill the Vacancy in accordance with the MEA.
- 2.2. Section 264 of the Act specifies that the person appointed or elected to fill a Vacancy shall hold office for the remainder of the term of the person they replaced.
- 2.3. Any person filling a Vacancy on Council must be an Eligible Elector in the Town of Pelham and meet all other eligibility requirements in accordance with the Act and the MEA.

## 3. Definitions

**"Appointment"** means the process of Council appointing a qualified individual to fill a Vacancy for the remainder of the current Term of Office.

**"By-election"** means an election, other than a regular election, to fill a Vacancy on Council, conducted in accordance with the *Municipal Election Act, 1996*.



**“Candidate”** means an individual seeking to be appointed to fill a Vacancy in the office of Mayor or Councillor, having met the eligibility requirements and who has completed the requisite documentation as required by this procedure.

**“Chair”** means the Member of Council presiding at the Council meeting to appoint an individual to fill a Council Vacancy.

**“Clerk”** means the Town Clerk of the Town of Pelham, or their designate.

**“Council”** means the Council of Town of Pelham.

**“Councillor”** means a person elected or appointed as a Member of Council, other than the Mayor.

**“Eligible Elector”** has the same meaning as subsection 17(2) of the *Municipal Election Act, 1996*:

- a) who is a resident of the Town of Pelham, or an owner or tenant of land in Pelham or the spouse of such an owner or tenant;
- b) who is a Canadian Citizen;
- c) who is at least 18 years old; and
- d) who is not prohibited from voting under any other Act or from holding municipal office.

**“Mayor”** means the Head of Council, elected, or appointed, for the Town of Pelham.

**“Member of Council”** means the Town of Pelham’s elected representatives, comprised of the Mayor, Deputy Mayor and Councillors.

**“Regular Election Year”** means the year established for a regular municipal election in accordance with the *Municipal Election Act, 1996*.

**“Term of Office”** means the period of time a member is elected to hold office for which they are elected in accordance with the *Municipal Election Act, 1996*.

**“Town”** means the Corporation of the Town of Pelham.

**“Vacant” or “Vacancy”** means when a seat on Council has become Vacant in a manner described by the *Municipal Act, 2001*.



#### **4. General Provisions**

- 4.1. Council is first required to declare the seat Vacant in accordance with section 262(1) of the Act. A person must be appointed to fill the Vacancy, or a by-law must be passed requiring a By-election be held to fill the Vacancy, within 60 days after the day the declaration of Vacancy is made.
- 4.2. In accordance with section 65(2) of the MEA, no By-election shall be held to fill an office that becomes Vacant after March 31 in the year of a regular election. Further, in accordance with section 263(5)(b) of the Act, if a Vacancy occurs within 90 days before voting day of a regular election, the municipality is not required to fill the Vacancy.
- 4.3. The vote to appoint a member to fill the Vacancy shall occur at an open meeting of Council.
- 4.4. Council may waive this Council Vacancy Policy at any time, requiring a two-thirds majority vote to carry.
- 4.5. The Clerk has the authority to make minor technical amendments to this Policy as may be required from time-to-time.

#### **5. Declaring a Vacancy**

- 5.1. Council is required to declare a seat Vacant in accordance with section 262(1) of the Act.
- 5.2. In accordance with the Act, if a Vacancy occurs within 90 days before voting day of a Regular Election Year, the municipality is not required to fill a Vacancy on Council.
- 5.3. Council shall determine whether to fill the Vacancy, within 60 days after the day a declaration of Vacancy is made, in accordance with section 263 of the Act, as amended by either:
  - a. Appointing a person who has consented to accept the office if appointed; or
  - b. Passing a by-law requiring a By-election be held to fill the Vacancy.
- 5.4. Exceptions to section 263 of the Act include:



5.4.1. Section 65(2) of the Act, that no By-election shall be held to fill an office if the Vacancy occurs after March 31 in the year of a regular election; and

5.4.2. Section 263(5)(b) if a Vacancy occurs within 90 days before voting day of a regular election, the municipality is not required to fill the vacancy.

5.5. The vote to appoint a Candidate to the Vacancy shall occur at an open meeting of Council.

5.6. In making its determination, Council shall consider the costs and timelines associated with filling a Vacancy by Appointment or By-election.

## **6. Eligibility Requirements**

6.1. Any appointed individual filling a Vacancy must meet the eligibility requirements of office as outlined in the MEA, as an Eligible Elector.

## **7. Appointment**

7.1. Due to the expense in both time and cost in conducting a By-election preference will be given to the of filling Council Vacancies through the Appointment processed as outlined in Section 8 of this Policy.

7.2. However, should Council determine to conduct a By-election to fill a Vacancy on Council, rather than making an Appointment pursuant to this Policy, Council may do so by a two-thirds majority vote, following the formal declaration of the Vacancy as specified in Section 9 of this Policy.

## **8. Appointment Process**

### **8.1. Appointment Procedure to Fill a Council Vacancy in the Office of the Mayor**

8.1.1. Council shall declare the seat of the Mayor to be Vacant in accordance with the Act.

8.1.2. The vote to appoint a Member of Council to the position of Mayor shall occur at an open meeting of Council.

8.1.3. Any Member of Council wishing to be considered for Appointment to the Vacancy shall advise the Clerk in writing by 72 hours, prior to the meeting of



Council to be included in the agenda.

8.1.4. At the open meeting of Council, the following process shall take place:

8.1.4.1. The Clerk will preside over the portion of the meeting and will make an opening statement and outline the order of business for the meeting.

8.1.4.2. The Clerk will read into the record and provide the list of names of those Members of Council who have indicated their interest in being appointed to the Vacancy for Mayor.

8.1.4.3. Each Candidate will be provided an opportunity to address Council for up to five (5) minutes. The order of speaking will be determined alphabetically by surname.

8.1.4.4. Upon hearing all the submissions of the Candidate(s), Council will proceed to vote as follows:

- a. In conducting the vote, the Clerk shall call the names of the Members of Council, in alphabetical order according to their surnames, and each such member shall, after their name is called, verbally indicate the applicant of their choice.
- b. The Clerk shall keep count of the votes received for each applicant. The Clerk shall announce the results after each vote. If after all votes are cast, no applicant receives the majority of votes cast, the applicant receiving the least number of votes shall be eliminated.
- c. If the applicants with the least number of votes receive an equal number of votes, the Clerk shall place the names of these applicants, on equal size pieces of paper, in a suitable container and draw one name. The name drawn shall be eliminated.
- d. Council shall proceed to vote again until an applicant receives the majority of votes cast, at which time Council shall pass a resolution appointing that person to fill the Vacancy.
- e. If there are only two (2) applicants left and they each receive the same number of votes, the Clerk shall place the names of the two (2) applicants, on equal size pieces of paper, in a ballot box and draw one name. The name drawn shall be selected to fill the Vacancy, at which time Council shall pass a resolution appointing that person to fill the Vacancy.



- f. Should only one (1) Member of Council, (1) Candidate, put their name forward for consideration for the appointment to the fill Vacancy for Mayor, a motion duly moved and seconded will be required and successfully carried by the majority of Council present to confirm the appointment.
- g. The Clerk shall act as Chair for the consideration of the motion. The Clerk will declare whether the appointment bylaw was carried or lost.
- h. In the event that the motion to appoint the sole candidate be lost, Council shall then immediately, before rising from the meeting, pass the necessary bylaw for the calling of a By-election for position of Mayor.
- i. The appointment of the Candidate will be made by by-law. A by-law confirming the appointment will be enacted by Council.

8.1.5. If no Member of Council advises of their interest to be considered for the Appointment, Council shall then without delay or comment pass a by-law for the calling of a By-election for the Office of Mayor in accordance with the provisions of the MEA.

## **8.2. Appointment Procedure to Fill a Vacancy in the Office of Councillor**

8.2.1. Council shall declare the seat of the Councillor to be Vacant in accordance with the Act.

8.2.2. Once declared, the Vacancy shall be filled in the manner set out below, unless Council chooses to proceed with a By-election, by a two-thirds vote, pursuant to section 9 of the Policy:

### **8.2.2.1. Offered to the Runner-up**

- a. The Vacant position will be offered to the Candidate that finished in the runner-up position in the last Regular Municipal Election for the position of the applicable Ward Councillor. If the Ward Councillors were acclaimed in the last regular election, proceed to section 8.2.2.2 of this Policy.
- b. For the runner-up Candidate to qualify, that individual's total number of votes must be greater than 50 percent of the number of votes achieved by the candidate who finished directly before them. If the



individual does not agree to fill the position or is no longer eligible to hold office, proceed to section 8.2.2.2 of this Policy.

#### **8.2.2.2. Advertisement Asking for Applications of Interest**

- a. The Clerk shall place advertisement(s) asking interested eligible individuals to apply by application process to fill the Vacant Councillor seat. The deadline for submitted applications shall be established by the Clerk.
- b. The names of the eligible individuals who submit an application will be made public after the closing date of applications.
- c. Eligible applications may be reviewed in a closed session of Council. Council may reduce the list of names for consideration by vote in an open session of Council.
- d. The remaining applicants, if more than one, will then be notified to appear at a meeting of Council. Each applicant shall make a presentation of up to ten minutes. The order of speaking will be determined alphabetically according to surname. Council is permitted to ask questions of the Candidate on their interest in serving on Council.
- e. Council may meet in a closed session for a final review of the remaining applicants.
- f. The vote to fill the Vacancy shall occur at an open session of Council. Each member of Council shall have one (1) vote. The Clerk will preside over the vote.
- g. In conducting the vote, the Clerk shall call the names of the Members of Council, in alphabetical order according to their surnames, and each such member shall, after their name is called, verbally indicate the applicant of their choice.
- h. The Clerk shall keep count of the votes received for each applicant. The Clerk shall announce the results after each vote. If after votes are cast, no applicant receives the majority of votes cast, the applicant receiving the least number of votes shall be eliminated.



- i. If the applicants with the least number of votes receive an equal number of votes, the Clerk shall place the names of these applicants, on equal size pieces of paper, in a ballot box and draw one name. The name drawn shall be eliminated. Council shall proceed to vote again until an applicant receives the majority of votes cast, at which time Council shall pass a resolution appointing that person to fill the Vacancy.
- j. If there are only two (2) applicants left and they each receive the same number of votes, the Clerk shall place the names of the two (2) applicants, on equal size pieces of paper, in a ballot box and draw one name. The name drawn shall be selected to fill the Vacancy, at which time Council shall pass a resolution appointing that person to fill the Vacancy.

## **9. By-Election**

9.1. Should Council make the determination to proceed to fill a Vacancy on Council utilizing a By-election rather than by Appointment and having passed the requisite resolution the following process will then apply:

- 9.1.1. According to section 263(5) of the Act, Council shall pass a by-law calling for a By-election within 60 days of declaring a Vacancy on Council.
- 9.1.2. All other procedures regarding a By-election shall be administered by the Clerk in accordance with section 65 of the MEA.
- 9.1.3. According to MEA, section 65(4)(1)(i), the Clerk shall fix nomination day to be a day not more than that 60 days after the Town calling for a By-election and voting day for a By-election shall be 45 days after nomination day.





## The Corporation of the Town of Pelham

By-law No. 48-2023

### **Being a By-law to regulate signs in the Town of Pelham and to repeal By-law No. 4199(2020)**

**WHEREAS** section 8 of the *Municipal Act, 2001*, S.O. 2001, c. 25 ("*Municipal Act, 2001*" or "the statute") provides that the powers of a municipality under the statute or any other Act shall be interpreted broadly so as to confer broad authority on the municipality to enable the municipality to govern its affairs as it considers appropriate and to enhance the municipality's ability to respond to municipal issues;

**AND WHEREAS** section 9 of the *Municipal Act, 2001* provides that a municipality has the capacity, rights, powers and privileges of a natural person for the purpose of exercising its authority under the statute or any other Act;

**AND WHEREAS** section 11 of the *Municipal Act, 2001* provides that a lower-tier municipality has the authority to pass by-laws respecting the economic, social and environmental well-being of the municipality, the health, safety and well-being of persons, the protection of persons and property and structures including fences and signs;

**AND WHEREAS** section 63 of the *Municipal Act, 2001* provides that a by-law may prohibit the placing or standing of an object on or near a highway and may provide for the removal of any such objects;

**AND WHEREAS** section 99 of the *Municipal Act, 2001* provides rules that apply to a by-law respecting advertising devices including signs;

**AND WHEREAS** section 391 of the *Municipal Act, 2001* authorizes a municipality to impose fees and charges on persons for services or activities provided or done by or on behalf of the municipality;

**AND WHEREAS** section 425 of the *Municipal Act, 2001* provides that a municipality may pass by-laws providing that a person who contravenes a by-law of the municipality is guilty of an offence;

**AND WHEREAS** section 429 of the *Municipal Act, 2001* authorizes a municipality to establish a system of fines for offences under its by-laws;

**AND WHEREAS** section 434.1 of the *Municipal Act, 2001* authorizes a municipality to establish a system of administrative monetary penalties to assist the municipality in promoting compliance with its by-laws;

**AND WHEREAS** section 436 of the *Municipal Act, 2001* authorizes a municipality to pass by-laws providing that the municipality may enter on land at any reasonable time for the purpose of carrying out an inspection to determine compliance with a by-law, direction or order of the municipality;

**AND WHEREAS** section 444 of the *Municipal Act, 2001* provides that a municipality, if satisfied that a contravention of a by-law has occurred, may make an order requiring the person who contravened the by-law or caused or permitted the contravention or the owner or occupier of the land on which the contravention occurred, to discontinue the contravening activity;

**AND WHEREAS** section 445 of the *Municipal Act, 2001* provides that a municipality, if satisfied that a contravention of a by-law has occurred, may make an order requiring the person who contravened the by-law or caused or permitted the contravention or the owner or occupier of the land on which the contravention occurred, to do work to correct the contravention;

**AND WHEREAS** section 446 of the *Municipal Act, 2001* provides that where a municipality has authority to direct or require a person to do a matter or thing, the municipality may also provide that, in default of the matter or thing being done by the person directed or required to do it, it shall be done at the person's expense;

**AND WHEREAS** the Council of The Corporation of the Town of Pelham deems it necessary and desirable to regulate signs in the Town of Pelham to enact this By-law for that purpose;

**NOW THEREFORE** the Council of The Corporation of the Town of Pelham enacts as follows:

## **1. Purpose**

1.1. The purpose of this By-law is to regulate signs within the Town of Pelham so as to authorize and permit signs that:

- (a) are proportionate to the property, activity or use to which they pertain;
- (b) are appropriate in size, number and location;
- (c) provide reasonable and appropriate means for the public to locate and identify facilities, businesses and services;
- (d) are compatible with their surroundings;
- (e) preserve or enhance the aesthetic features and visual character of the property on which they are located;
- (f) minimize adverse impacts on nearby properties;
- (g) are consistent with the planning, urban design and heritage objectives of the Town; and
- (h) do not create a distraction or safety hazard for the public.

## **2. Definitions**

2.1. In this By-law:

**"Abandoned Sign"** means a Sign located on a Property that becomes vacant or unoccupied for a period of more than ninety (90) days or any Sign that pertains to a business, purpose or event that is no longer applicable.

**"Accessory Structure"** means an Accessory Structure as defined in the Zoning By-law.

**“Administrative Monetary Penalty”** means an Administrative Monetary Penalty issued pursuant to Town of Pelham Administrative Penalty Process By-law No. 4352(2022), as amended from time to time.

**“Alter”** means to change a Sign, Sign Structure or Sign Face, other than to Maintain it or to modify Copy that is specifically designed and intended to be changed or rearranged from time to time, and **“Alteration”** and **“Altered”** have corresponding meanings.

**“Applicable Law”** means all applicable by-laws of the Town and Niagara Region and all applicable provincial and federal statutes and regulations.

**“Awning”** means a frame system, moveable or fixed, covered with non-rigid material attached to and projecting from a Building or structure but not forming an integral part thereof and does not include a Canopy.

**“Awning Sign”** means a Sign that is printed on or otherwise affixed to the surface of an Awning and that does not project from the Awning in any direction.

**“Banner Sign”** means a Temporary Sign made of lightweight non-rigid material affixed to a Building or Ground Sign and is not an Awning Sign, Canopy Sign, Flag, Inflatable Sign or Window Sign.

**“Billboard”** means an Offsite Sign with Modifiable Copy that is owned by a Person engaged in the business of renting or leasing Sign Face Area for advertising purposes.

**“Building”** means a building as defined in the *Building Code Act, 1992* and the *Building Code*.

**“Building Code Act”** means the *Building Code Act, 1992*, S.O. 1992, c. 23.

**“Building Code”** means the *Building Code*, O. Reg. 332/12.

**“Business Sign”** means a Sign that identifies, advertises or promotes a business or commercial enterprise.

**“Canopy”** means an overhead structure, unenclosed by walls, that may attach to and project from a Building or may be freestanding.

**“Canopy Sign”** means a Sign that is printed on or otherwise affixed to any surface of a Canopy and that may hang from the underside of the Canopy.

**“Clerk”** means the Clerk of the Town or designate.

**“Congratulatory Sign”** means a Temporary Sign that is Displayed in relation to a private special occasion and does not advertise or promote a business or commercial enterprise.

**“Construction Enclosure Sign”** means a Construction Sign affixed to a fence or enclosure around a construction site that provides information about the Building or Structure under construction and may include the builder or trades.

**“Construction Sign”** means a Temporary Sign that includes information that relates to, advertises or promotes a residential, commercial or other development in the Town.

**“Copy”** means the visual content of a Sign including letters, numbers, symbols, images, characters and Logos but does not include letters or numbers used to identify the municipal address of a Property.

**“Council”** means the Council of the Town.

**“Daylighting Triangle”** means a triangular-shaped area of land free of buildings or structures or other visual obstructions, the size of which is prescribed by the Town of Pelham Municipal Engineering Design Manual, as updated or amended from time to time, and which is determined by measuring from the point of intersection of street lines on a corner lot and along each such street line to a required distance and joining such points with a straight line. Where the two street lines do not intersect at a point, the point of intersection shall be deemed to be the intersection of the projection of the street lines or the intersection of the tangents to the street lines.

**“Directional Sign”** means a Sign that provides directions to be followed to reach a specific destination, which may include Copy that identifies the destination and/or directs vehicular or pedestrian traffic but shall contain no other advertising Copy.

**“Director”** means the Director of Fire and By-law Services of the Town or designate.

**“Display”** means to attach, affix, build, construct, erect or place a Sign on any Property and **“Displaying”** and **“Displayed”** shall have corresponding meanings.

**“Downtown Area”** means an area designated as "Downtown" under the Town of Pelham Official Plan, as updated or amended from time to time.

**“Enforcement Authority”** means a by-law enforcement officer of the Town, the Director and any Person appointed or otherwise delegated the authority of administration and enforcement of this By-law.

**“External Illumination”** means Illumination directed toward a Sign from a light source that is not affixed to or otherwise part of the Sign.

**“Feather Flag Sign”** means a Temporary Sign made of lightweight non-rigid material that is supported by a freestanding base not affixed to the ground and that can be easily carried or transported.

**“Fees and Charges By-law”** means Town of Pelham By-law No. 4411(2022), as enacted and amended from time to time.

**“Flag”** means a Sign made of lightweight non-rigid material that can be attached by one edge to a flagpole and that is not used for commercial purposes.

**“Front Lot Line”** means the Lot Line(s) along a Highway.

**“Frontage”** means the horizontal distance between the Side Lot Lines of a Lot as measured along the Front Lot Line.

**“Grade”** means the average surface elevation of the ground where it is in contact with any Building, Sign or Structure.

**“Ground Sign”** means a Sign with a maximum Height of 3.0m that is supported by a freestanding base affixed directly to the ground in a fixed location and does not include a Mobile Sign.

**“Height”** means the vertical measurement from the Grade at the base of a Sign to the highest point of the Sign Structure or Sign Face, as the case may be.

**“Highway”** means a highway as defined in the *Highway Traffic Act*, R.S.O. 1990, c. H.8.

**“Illuminate”** means the act of lighting a Sign by way of artificial light, which may be internal or external to the Sign, and **“Illuminated”** and **“Illumination”** shall have corresponding meanings.

**“Incidental Sign”** means an Onsite, non-Business Sign of minor size and consequence and includes a Sign bearing the municipal address of a Property and similar identifying Signs.

**“Industrial Park Sign”** means a Ground Sign that provides information about the industrial park and the businesses and commercial enterprises located within it and is limited to Logos, directions and/or distances.

**“Inflatable Sign”** means a Temporary Sign filled with air or gas.

**“Information Sign”** means a Sign that provides information relating to public order or public safety or that provides for public education relating to the surroundings of the Sign.

**“Interactive Copy”** means Copy that changes to communicate directly and specifically with an observer of the Sign.

**“Internal Illumination”** means Illumination from a light source within a Sign.

**“Logo”** means an image, graphic representation or symbol of the name, abbreviation and/or trademark of a business or commercial enterprise.

**“Lot”** means a parcel or contiguous parcels of land designed and registered at the Registry Office as one parcel of land in one ownership.

**“Lot Line”** means any boundary of a Lot.

**“Maintain”** means to preserve or prevent the deterioration of an existing Sign, Sign Structure or Sign Face but does not include Alterations and **“Maintained”** and **“Maintenance”** shall have corresponding meanings.

**“Menu Board Sign”** means a Sign that is Displayed at a drive-through facility and is used to depict and order products and services available at the drive-through business.

**“Mobile Sign”** means a Sign that is specifically designed and intended to be readily moved from one location to another and that does not rely on a Building, fixed foundation or Structure other than the Sign Structure for support.

**“Modifiable Copy”** means Copy that is specifically designed and intended to be modified, changed or rearranged from time to time by manual or electronic means and includes Illuminated Copy that is programmed to change in a set rotation or sequence.

**“Niagara Region”** means the Regional Municipality of Niagara.

**“Occupant”** means a Person that lawfully occupies a Property and includes Owners and lessees.

**“Official Sign”** means a Sign required by and Displayed in accordance with any Applicable Law.

**“Offsite Sign”** means a Sign that identifies or directs attention to a facility, business, service, event or activity that is not conducted, sold or offered at the Property on which the Sign is Displayed.

**“Onsite Sign”** means a Sign that identifies or directs attention to a facility, business, service, event or activity that is conducted, sold or offered at the Property on which the Sign is Displayed.

**“Owner”** means the registered owner of Property.

**“Parapet”** means any part of the wall of a Building that rises above the roof level of the Building.

**“Parking Space”** means an area of land set aside for the temporary parking of a single motor vehicle and normally designated by lines or other suitable markings painted or marked on the land surface.

**“Permit”** means a permit issued in accordance with this By-law.

**“Person”** means an individual, corporation, partnership or association.

**“Pole Sign”** means a Sign with a Height of greater than 3.0m that is supported by a freestanding base affixed directly to the ground in a fixed location and does not include a Mobile Sign.

**“Poster”** means a Sign printed directly on paper or similar material that is suitable and/or intended for Temporary Display.

**“Private Property”** means Property owned by a Person other than the Town, Niagara Region, the Province of Ontario or Canada.

**“Projecting Sign”** means a Sign that is affixed to the exterior wall of a Building and that projects horizontally in a predominantly perpendicular direction and does not include an Awning Sign or Canopy Sign.

**“Property”** means any land or premises within the Town.

**“Public Property”** means Property under the ownership or jurisdiction of the Town, Niagara Region, the Province of Ontario or Canada.

**“Public Road Allowance”** means a Highway in the Town under the jurisdiction of the Town, Niagara Region or the Province of Ontario.

**“Public Sidewalk”** means any portion of the Public Road Allowance that designated for pedestrian use and that is paved or otherwise improved for use by pedestrian traffic.

**“Public Utility Sign”** means an Official Sign that is Displayed by the supplier of a public utility as defined in the *Public Utilities Act*, R.S.O. 1990, c. P.52.

**“Real Estate Open House Sign”** means a Temporary Sign not anchored to the ground that identifies and/or provides direction to a Property that is offered for sale, rent or lease and is open for viewing by any Person.

**“Real Estate Sales Office Sign”** means a Temporary Sign that advertises a residential development in which one or more Properties are offered for sale and that is Displayed at a Property within the residential development that serves as a model home or sales office.

**“Real Estate Sign”** means a Temporary Sign that advertises and is Displayed at a Property that is offered for sale, rent or lease but does not include a Real Estate Open House Sign or a Real Estate Sales Office Sign.

**“Residential Zone”** means a Residential Zone under the Zoning By-law.

**“Roof Sign”** means a Sign that is attached or affixed to or supported by the roof of a Building and is Displayed on or above the roof or Parapet of the Building.

**“Sequential Sign”** means a Sign that is part of a series of two (2) or more Signs used to convey a single message with each Sign message being dependent upon at least one (1) other Sign message.

**“Side Lot Line”** means a Lot Line other than a Front Lot Line or the Lot Line opposite to the Front Lot Line.

**“Sidewalk Sign”** means a Temporary Sign not anchored to the ground that can be easily repositioned or relocated without mechanical aid.

**“Sign”** means any device, object or thing used to convey information and that is Displayed on any Property to direct attention to a specific subject matter for identification, information or advertising purposes, including but not limited to all types of Signs specifically described in this By-law.

**“Sign Face”** means the portion of a Sign, other than the Sign Structure and any border or frame around the perimeter of the Sign, that contains or is capable of containing Copy.

**“Sign Face Area”** means the height of the Sign Face multiplied by the length of the Sign Face, with both measurements being taken from the interior of any border or frame around the perimeter of the Sign or, where there is no border or frame, from the edges of the Sign.

**“Sign Owner”** means the Person who owns the Sign or holds a Permit for the Sign and includes any Person whose name, address, telephone number or email address appears on the Sign or who benefits from the information conveyed by the Sign and, for greater certainty, there may be more than one (1) Sign Owner.

**“Sign Structure”** means any support, framework, bracing or structure that supports or did support a Sign and that is affixed to or supported by the ground or by a Building or Structure.

**“Special Event Lawn Sign”** means a Temporary Sign that promotes or advertises a public festival, charitable function or other non-profit event that is anchored in shallow ground and is capable of being easily removed or relocated.

**“Structure”** means anything built, constructed or erected with a fixed point on or in the ground or attached to a Building or other Structure that has a fixed point on or in the ground.

**“Temporary”** means a Sign that is not intended or designed for Display on a long-term or permanent basis or that may be Displayed for a limited time in accordance with a Permit or this By-law.

**“Town”** means The Corporation of the Town of Pelham or the geographic area of the municipality, as the context requires.

**“Wall Sign”** means a Sign that is attached or affixed to or supported by the wall of a Building or Structure.

**“Window Sign”** means a Sign that is attached or affixed to the window of a Building or Structure but that does not obstruct any door, window or opening required for light, ventilation, egress or access to the Building or Structure.

**“Yard Sale Sign”** means a Temporary Sign that promotes or advertises a private event commonly described as a garage sale, lawn sale or yard sale, that is affixed to any Structure or anchored in shallow ground and is capable of being easily removed or relocated.

**“Zoning By-law”** means Town of Pelham Zoning By-law No. 4481(2022), as enacted and amended from time to time.

### **3. Application**

3.1. This By-law does not apply to the following Signs:

- (a) any Sign or Poster on Public Property that is Displayed by the Town;
- (b) Offsite Signs at recreational facilities owned by the Town and Displayed pursuant to a written contract between the Sign Owner and the Town;
- (c) Offsite Signs at recreational facilities on Private Property that are not visible past any boundary of the Private Property;
- (d) any Sign or Poster within a Building that is not visible past any boundary of the Property on which the Building is located;
- (e) Incidental Signs;



- (f) Official Signs;
- (g) Public Utility Signs;
- (h) Election Signs within the Town as defined in and regulated by Town of Pelham Election Sign By-law No. 3310(2012).

3.2. The exemptions prescribed by subsection 3.1 do not prohibit any other municipality or government authority from regulating Signs or from requiring a permit or approval for any Sign under other Applicable Law.

#### **4. General Prohibitions**

- 4.1. No Person shall Display any Sign or cause or permit any Sign to be Displayed on any Property except in accordance with this By-law and all Applicable Law.
- 4.2. Without limiting the scope or application of subsection 4.1, where a Permit is required under this By-law, no Person shall Display any Sign or cause or permit any Sign to be Displayed except in accordance with the conditions of the Permit.
- 4.3. Notwithstanding any other provision of this By-law, any Sign that is lawfully Displayed on or before the day on which this By-law comes into force but does not comply with this By-law is permitted to remain and may be Maintained but shall not be Altered or moved to a new Display location except in accordance with this By-law.

#### **5. Prohibitions by Sign Type and Location**

- 5.1. Where a Sign is not exempted from or expressly permitted by this By-law, it shall be deemed to be prohibited.
- 5.2. Without limiting the scope or application of subsection 5.1, the following Signs are strictly and expressly prohibited:
  - (a) any Sign that does not comply with Applicable Law, including but not limited to the *Human Rights Code*, R.S.O. 1990, c. H.19, the *Building Code Act*, the *Building Code*, the *Electricity Act*, 1998, S.O. 1998, c. 15, Sched. A, and the *Electrical Safety Code*, O. Reg. 777/21;
  - (b) Abandoned Signs;
  - (c) Billboards;
  - (d) Business Signs on Property in a Residential Zone unless specifically permitted under this By-law;
  - (e) Offsite Signs unless specifically permitted under this By-law;
  - (f) Sequential Signs;
  - (g) Roof Signs unless specifically permitted under this By-law;
  - (h) any Business Sign or Offsite Sign affixed or attached to or painted on a vehicle or trailer that is parked and not used for transportation for more than five (5) consecutive days, other than vehicles or trailers associated with new construction that are parked on the Property where construction is occurring;

- (i) any Sign that bears all or any part of the Logo, crest or seal of the Town without the express written permission of the Town;
- (j) any Sign that contains Interactive Copy;
- (k) any Sign that emits sound, odour, gas, liquid or solid;
- (l) any Sign that uses flashing or rotating Illumination such that it resembles an emergency light;
- (m) any Sign that moves or appears to move unless specifically permitted under this By-law;
- (n) any Sign that projects Copy onto a surface other than the Sign surface unless specifically permitted under this By-law;
- (o) any Sign affixed or attached to or painted on an Accessory Structure unless specifically permitted under this By-law;
- (p) any Sign that obstructs any door, window or opening required for light, ventilation, egress or access to a Building or Structure;
- (q) any Sign that interferes with utility lines, electrical wires, telecommunications cables or similar installations or with any structure appurtenant to such installations;
- (r) any Sign that requires or uses above-ground electrical wiring;
- (s) any Sign that obstructs or impedes maintenance operations of the Town;
- (t) any Sign that is located on or encroaches upon Public Property without the express written permission of the Town;
- (u) any Sign that overhangs or is within a horizontal distance of 0.6m or less of a Public Sidewalk;
- (v) any Sign attached or affixed to an Official Sign, a utility pole or an appurtenant structure unless specifically permitted under this By-law;
- (w) any Sign attached or affixed to a tree, fence, gate or railing unless specifically permitted by Town of Pelham Fence By-law No. 4157(2019);
- (x) any Sign located within a Daylighting Triangle;
- (y) any Sign that obstructs or is situated within a Parking Space;
- (z) any Sign attached or affixed to a traffic control device or appurtenant structure without the express written permission of the Town;
- (aa) any Sign that interferes with or obstructs the visibility of any Official Sign or traffic control device;
- (bb) any Sign that obstructs or interferes with pedestrian or motor vehicle traffic so as to create a safety hazard; and
- (cc) any Sign that creates or constitutes a danger or hazard to the public.

5.3. Nothing that is prohibited under this By-law shall be authorized by way of minor variance.

## 6. Permit Requirements

6.1. The following Signs may be Displayed or Altered without a Permit provided that they comply with all other applicable requirements of this By-law:

- (a) memorial, commemorative or heritage designation Signs;
- (b) the Flag of any civic, educational or religious organization;
- (c) the Flag of any commercial or corporate organization that is Displayed at a Height no greater than 7.5m and with a Sign Face Area no greater than 2.7m<sup>2</sup>, and provided that no more than three (3) Flags are Displayed on any one (1) Property;
- (d) Temporary Banner Signs;
- (e) Temporary Feather Flag Signs;
- (f) Information Signs that pertain exclusively to public safety or that exclusively indicate maximum headroom with a Sign Face Area no greater than 0.35m<sup>2</sup>;
- (g) Directional Signs;
- (h) Mobile Signs with a Sign Face Area no greater than 0.6m<sup>2</sup>;
- (i) Window Signs;
- (j) non-Illuminated Wall Signs permanently attached or affixed to a Building or Structure with a Sign Face Area no greater than 0.6m<sup>2</sup>;
- (k) the Business Sign of a construction, renovation, landscaping or other contractor that is temporarily Displayed at the Property where the contractor is actively working with a Sign Face Area no greater than 0.6m<sup>2</sup>;
- (l) Real Estate Signs with a Sign Face Area no greater than 0.6m<sup>2</sup>;
- (m) Real Estate Open House Signs;
- (n) Real Estate Sales Office Signs;
- (o) Special Event Lawn Signs;
- (p) Sidewalk Signs;
- (q) Construction Signs with a Sign Face Area no greater than 10.0m<sup>2</sup>;
- (r) Construction Enclosure Signs that do not extend beyond the structure of the construction enclosure;
- (s) non-Illuminated "*No Trespassing*" or similar warning signs with a Sign Face Area no greater than 0.2m<sup>2</sup>;
- (t) Yard Sale Signs; and
- (u) Congratulatory Signs Displayed on Private Property for no more than seventy-two (72) consecutive hours.

6.2. The permit exemptions prescribed by subsection 6.1 do not prohibit any other municipality or government authority from requiring a permit or approval for any Sign under other Applicable Law.

6.3. The following Signs may not be Displayed or Altered without a Permit:

- (a) Banner Signs;
  - (b) Ground Signs;
  - (c) Industrial Park Signs;
  - (d) Inflatable Signs;
  - (e) Menu Board Signs;
  - (f) Mobile Signs with Modifiable Copy;
  - (g) Pole Signs;
  - (h) Projecting Signs;
  - (i) Wall Signs other than those described in paragraph 6.1(j);
  - (j) Roof Signs; and
  - (k) where subsection 6.1 prescribes a maximum Sign Face Area and/or maximum Height for a Sign to be Displayed or Altered without a Permit, any Sign of that type that exceeds the applicable requirement(s).
- 6.4. Any Person may apply to the Town for a Permit to Display or Alter a Sign for which a Permit is required under subsection 6.3.
- 6.5. An application under subsection 6.4 shall be made in writing to the Director in the form determined by the Town and/or the Director from time to time and shall include:
- (a) the name, address, telephone number and email address of the Person making the application;
  - (b) where the Person making the application does not own the Property where the Sign will be Displayed or Altered:
    - i. the name, address, telephone number and email address of the registered owner(s) of the Property; and
    - ii. written approval of the application by the registered owner(s) of the Property.
  - (c) confirmation of any other municipal or government authority approval(s) required under Applicable Law;
  - (d) a site sketch or location plan drawn to scale that clearly identifies the location, dimensions and configuration of the Property where the Sign will be Displayed or Altered including all existing Buildings, structures and/or Signs on the Property and that clearly illustrates the shortest distance(s) from the Property line(s) for any existing Signs and the proposed Sign;
  - (e) drawings or plans drawn to scale that clearly demonstrate the dimensions, configuration and particulars of the proposed Sign including construction and Illumination details for the Sign and Sign Structure or an existing Structure on which the Sign will be mounted, and identifying the construction material, length, width, height, area and weight of the Sign, which shall be signed and sealed by a licensed Professional Engineer or Architect where the proposed Sign is:
    - i. a Pole Sign Displayed more than 3m above the ground;
    - ii. a Roof Sign; or
    - iii. a Projecting Sign fastened in any way to a Parapet; and

- (f) sufficient information for the Chief Building Official of the Town to determine that the Sign has been designed and will be Displayed or Altered in compliance with the Building Code.
- 6.6. An application under subsection 6.4 shall be accompanied by the applicable fee as established by the Fees and Charges By-law, which is non-refundable irrespective of the outcome of the Permit application.
- 6.7. Upon receipt of an application that contains all information required under subsection 6.5, the Director shall review and determine the application and may impose such terms and conditions on a Permit as the Director considers appropriate.
- 6.8. The Director may cancel an application for a Permit for a proposed Sign where the application remains incomplete or is inactive for ninety (90) days after it is made.
- 6.9. The Director may refuse to issue a Permit where the proposed Sign or any existing Sign on the Property where the proposed Sign will be Displayed or Altered does not comply with this By-law or other Applicable Law.
- 6.10. The Director may revoke a Permit where:
  - (a) the Permit was issued in error;
  - (b) the Permit was issued based on information in the application that was false, incorrect, mistaken or misleading;
  - (c) the Display or Alteration of the Sign has not commenced within six (6) months of Permit issuance;
  - (d) the Person to whom the Permit was issued contravenes any provision of this By-law or other Applicable Law;
  - (e) the Person to whom the Permit was issued fails to comply with any term or condition of the Permit;
  - (f) the business, product, activity or service to which the Sign relates ceases to operate or is no longer available; and/or
  - (g) the Person to whom the Permit was issued requests in writing that it be revoked.
- 6.11. Where a Permit is revoked the Person to whom it was issued shall immediately remove the Sign to which the Permit relates.
- 6.12. Permits are not transferable.

## **7. Sign Requirements**

- 7.1. The Sign Owner and/or the Owner of Property where a Sign is Displayed shall ensure that the Sign and any Sign Structure(s) are maintained in a proper state of repair and do not become unsafe, structurally unsound, unsightly or dangerous.
- 7.2. Where a Sign becomes unsafe, structurally unsound, unsightly or dangerous or otherwise fails to comply with this By-law, the Sign Owner and/or the Owner of Property where the Sign is Displayed shall immediately remove the Sign.

- 7.3. In addition to the foregoing, the Sign Owner shall ensure that all requirements applicable to a particular Sign as set out in sections 7.4 to 7.21 of this By-law are satisfied.
- 7.4. Where this By-law permits Illuminated Modifiable Copy on a Sign, the following requirements apply:
- (a) the duration of each message shall be not less than ten (10) seconds and the Sign shall transition immediately to the next message;
  - (b) during message transition, the Sign shall not include any blinking, flashing or intermittent light;
  - (c) all Illuminated Modifiable Copy shall be equipped with dimming technology that automatically adjusts the brightness of the Sign in direct correlation with ambient light conditions; and
  - (d) the Sign shall be designed so as to cease operating in the case of a malfunction.
- 7.5. Where this By-law permits a Sign to be Illuminated, the following requirements apply:
- (a) External Illumination shall not be directed toward adjacent Lots or Public Road Allowances;
  - (b) External Illumination shall not be directed toward oncoming vehicular traffic;
  - (c) if the Sign is located in a Downtown Area, it shall not have Internal Illumination unless it is a Business Sign with Internal Illumination that was lawfully Displayed on or before the date on which this By-law came into force or that replaces such a Sign provided that the replacement Sign is Displayed by the same Sign Owner in the same location;
  - (d) if the Sign is located within a Residential Zone or within 30.0m of a Residential Zone, it shall not be Illuminated between the hours of 10:00 p.m. and 7:00 a.m. unless it is an Onsite Sign associated with a lawful business that operates during those hours and only while the business is in operation; and
  - (e) if the Sign is located in an area other than as described in paragraph 7.5(d), it shall not be Illuminated between the hours of 11:00 p.m. and 7:00 a.m. unless it is an Onsite Sign associated with a lawful business that operates during those hours and only while the business is in operation.
- 7.6. The following requirements apply to Banner Signs over 0.6m<sup>2</sup>:
- (a) the Sign must be situated entirely on the Property to which it pertains and not on or over a Public Road Allowance without the express written permission of the Town; and
  - (b) the number of Signs on a single Building is limited to one (1) for every 20.0m of Building Frontage.
- 7.7. The following requirements apply to Feather Flag Signs over 0.6m<sup>2</sup>:

- (a) the Sign must be situated entirely on the Property to which it pertains and not on or over a Public Road Allowance; and
- (b) the number of Signs on a single Building is limited to one (1) for every 20.0m of Building Frontage.

7.8. The following requirements apply to Construction Signs:

- (a) a Permit is required for any Sign with a Sign Face Area greater than 10.0m<sup>2</sup>;
- (b) the Sign must be situated entirely on the Property to which it pertains;
- (c) the Sign shall be located no closer to any Lot Line than the minimum setback distance for a Building on the Property under the Zoning By-law or 3.0m, whichever is less;
- (d) the area of any side or visible face of the Sign shall not exceed 20.0m<sup>2</sup>; and
- (e) the number of Signs on a Property is limited to one (1) for every 20.0m of Frontage.

7.9. The following requirements apply to Ground Signs:

- (a) the Sign must be situated entirely on the Property to which it pertains;
- (b) the Sign shall be located no closer to any Lot Line than the minimum setback distance for a Building on the Property under the Zoning By-law or 3.0m, whichever is less;
- (c) the Height of the Sign shall not exceed 3.0m;
- (d) the area of any side or visible face of the Sign shall not exceed 9.0m<sup>2</sup>;
- (e) in Residential Zones, the area of the Sign shall not exceed 0.3m<sup>2</sup>;
- (f) the Sign shall be located more than 6.0m from any driveway entrance or the intersection of two (2) streets where the setback is less than the height of the Sign; and
- (g) the number of Signs on a single Property is limited to one (1) for every 20.0m of Frontage.

7.10. The following requirements apply to Pole Signs:

- (a) the Sign must not be situated in any Residential Zone;
- (b) the Sign must be situated entirely on the Property to which it pertains;
- (c) the Sign shall be located no closer to any Lot Line than the minimum setback distance for a Building on the Property under the Zoning By-law or 3.0m, whichever is less;
- (d) the Height of the Sign shall not exceed 9.0m;
- (e) the area of any side or visible face of the Sign shall not exceed 20.0m<sup>2</sup>; and
- (f) the number of Signs on a single Property is limited to one (1) for every 60.0m of Frontage and where a Lot has less than 60.0m of Frontage, no such Sign is permitted.

7.11. The following requirements apply to Mobile Signs:

- (a) the Sign must not be situated in any Residential Zone;
- (b) the Sign must be situated entirely on the Property to which it applies;
- (c) the Sign shall be located no closer than 1.0m to any Lot Line and, where the Sign height exceeds 1.0m, no closer than 2.0m from any Lot Line adjacent to a Public Road Allowance;
- (d) the Height of the Sign shall not exceed 2.4m;
- (e) the area of any side or visible face of the Sign shall not exceed 4.6m<sup>2</sup>;
- (f) the Sign shall have no more than two (2) sides or visible faces;
- (g) the number of Signs on a single Property is limited to one (1) for every 30.0m of Frontage;
- (h) the Sign may be Illuminated provided that the requirements of subsection 7.5 are met;
- (i) all electrical components of every nature or kind attached or affixed to the Sign or in any way related to the Sign must comply with this By-law and all Applicable Law;
- (j) the Sign shall be located more than 6.0m from any driveway entrance or the intersection of two (2) streets where the setback is less than the Height of the Sign;
- (k) the Sign shall be Displayed only for the period of time set out in the Permit, which shall not exceed a total of one hundred and twenty (120) days in any calendar year, which may be allocated as follows:
  - i. four (4) periods of thirty (30) days, with an interval of not less than thirty (30) days between each period; or
  - ii. two (2) periods of sixty (60) days, with an interval of not less than thirty (30) days between each period.
- (l) notwithstanding paragraph 7.11(k), the Director may grant a Permit for a new business to Display a Business Sign for a continuous period of ninety (90) days from the opening day of the business to advertise and promote the new business; and
- (m) the Sign and any Sign Structure(s) must be removed from the Property, stored in a Building or structure or adequately screened from view by fencing or landscaping during the intervals when the Sign is not on Display and after the Display period indicated on the Permit has elapsed.

7.12. The following requirements apply to Projecting Signs:

- (a) the Sign shall be fastened to a structural component of the Building to which it is attached or affixed in accordance with good engineering practice and subject to the approval of the Chief Building Official;



- (b) no part of the Sign may project beyond any Property line of the Property on which it is situated or encroach on or over any other Property; and
- (c) the Sign shall have a minimum clearance of 2.4m between the bottom of the Sign and Grade.

7.13. The following requirements apply to Roof Signs:

- (a) the Sign shall be situated entirely on the Property to which it applies;
- (b) the Sign shall have a minimum setback of 1.0m from the Building face;
- (c) the Sign shall be constructed of non-combustible materials;
- (d) the Sign shall have a minimum clearance of 1.22m from the bottom or underside of the Sign to the roof of the Building; and
- (e) the Height of the Sign shall not exceed the maximum Building height from Grade as prescribed by the Zoning By-law.

7.14. The following requirements apply to Sidewalk Signs on Private Property:

- (a) the Sign must pertain to a lawful commercial business actively operating in the Town;
- (b) the Sign must be situated entirely on the Property of the business to which it applies and must not encroach on or over Public Property;
- (c) the Sign must not impede pedestrian or vehicular traffic or cause a traffic visibility hazard;
- (d) the width of the Sign shall not exceed 1.2m;
- (e) the height of the Sign shall not exceed 0.6m;
- (f) the depth of the Sign shall not exceed 0.9m;
- (g) the Sign shall be Displayed only while the business is open to the public and shall be removed when the business is closed; and
- (h) the Sign Owner accepts and assumes all liability for all personal injury or property damage caused or contributed to by the Display, presence or condition of the Sign.

7.15. The following requirements apply to Sidewalk Signs on Public Property:

- (a) the Sign must pertain to a lawful commercial business actively operating in the Town;
- (b) the Sign may be situated on Public Property only where it is not possible to situate the Sign on Private Property;
- (c) the Sign shall be situated on Public Property adjacent to the Frontage of the Property where the business operates;
- (d) the number of Signs on a single Property is limited to one (1) sign for each business operating at premises on the ground floor of a Building on the Property;

- (e) the Sign shall be located no closer than 0.3m to the travelled portion of any Highway;
- (f) the Sign must not impede pedestrian or vehicular traffic or cause a traffic visibility hazard;
- (g) if the Sign is located on a Public Sidewalk, it shall have a minimum clearance of 1.2m on each side to allow pedestrians to pass;
- (h) the width of the Sign shall not exceed 0.6m;
- (i) the height of the Sign shall not exceed 1.2m;
- (j) the depth of the Sign shall not exceed 0.9m;
- (k) the Sign shall be Displayed only while the business is open to the public and shall be removed when the business is closed;
- (l) the Sign Owner shall obtain and maintain one or more policies of commercial general liability insurance with limits of not less than two million dollars (\$2,000,000) and naming the Town as an additional insured; and
- (m) the Sign Owner accepts and assumes all liability for all personal injury or property damage caused or contributed to by the Display, presence or condition of the Sign.

7.16. The following requirements apply to Special Event Lawn Signs:

- (a) the Sign shall be Displayed for not more than thirty (30) days prior to the event to which it pertains and not more than five (5) days after the event to which it pertains;
- (b) the height of the Sign shall not exceed 0.75m from Grade;
- (c) the area of any side or visible face of the Sign shall not exceed 0.37m<sup>2</sup>;
- (d) the Sign shall have no more than two (2) sides or visible faces;
- (e) the Sign may be situated on the boulevard between a Public Sidewalk and a Highway;
- (f) the Sign must be set back at least 0.5m from the edge of the travelled portion of any roadway;
- (g) the Sign Owner shall immediately remove the Sign upon request by the Owner or Occupant of a Property abutting the boulevard where the Sign is Displayed.

7.17. The following requirements apply to Wall Signs:

- (a) the Sign must be situated on the Property to which it applies;
- (b) subject to paragraph 7.17(c), the Sign shall be attached to an exterior front-facing wall of a Building on the Property;
- (c) despite paragraph 7.17(b), the Sign may be attached to a rear-facing wall of a Building where the rear side of the Building abuts a Public Road Allowance and the Sign complies with all other requirements of this subsection;
- (d) the Sign shall not project more than 0.3m from the exterior wall of the Building to which it is attached;

- (e) the Sign shall not project above the eaves or Parapet of the Building to which it is attached;
- (f) if the Sign is attached to Building that contains a single unit:
  - i. the width of the Sign shall not exceed eighty percent (80%) of the linear measurement of the width of the wall to which it is attached; and
  - ii. the Height of the Sign shall not exceed twenty-five percent (25%) of the height of the wall to which it is attached;
- (g) if the Sign is attached to a Building that contains multiple units, the requirements of paragraph 7.17(e) apply to each individual unit;
- (h) where two (2) or more Signs are permitted and attached to the same Building wall, the Signs shall be consistent in their appearance and shall be Displayed at the same horizontal alignment and vertical height;
- (i) in Residential Zones, the Sign Area shall not exceed 0.3m<sup>2</sup>;
- (j) if the Sign projects more than 100mm, it shall have a minimum clearance of 2.4m between the underside of the Sign and Grade;
- (k) if the Sign is an Awning Sign:
  - i. it shall project no more than 1.2m from the Building wall to which it is attached; and
  - ii. it shall not contain Changing Copy;
- (l) if the Sign is a Canopy Sign:
  - i. it shall project no more than 1.2m from the Building wall to which it is attached; and
  - ii. it shall not contain Changing Copy.

7.18. The following requirements apply to Real Estate Open House Signs situated over or on Public Road Allowances:

- (a) subject to paragraph 7.18(b), the Sign shall be Displayed no earlier than 4:00 p.m. on a Friday and shall be removed no later than 9:00 a.m. of the following Monday;
- (b) where a Friday or Monday is a statutory holiday, the time period during which the Sign may be Displayed may be extended to the extent necessary to include the holiday;
- (c) the Sign shall not be placed on the Public Road Allowance in any location that interferes with pedestrian or vehicular traffic or otherwise creates a hazard;
- (d) the Sign shall be located no closer than:
  - i. 0.3m to the travelled portion of any roadway;
  - ii. 10.0m to any transit stop;
  - iii. 3.0m to any driveway entrance; or
  - iv. 1.0m to a Public Sidewalk.

7.19. The following requirements apply to Real Estate Sales Office Signs:

- (a) the Sign must pertain to a residential development that is actively under construction or in which one (1) or more Properties are offered for sale;
- (b) the Sign must be situated entirely on the Property of the business to which it applies and must not encroach on or over Public Property;
- (c) the Sign must not impede pedestrian or vehicular traffic or cause a traffic visibility hazard;
- (d) the width of the Sign shall not exceed 1.2m;
- (e) the Height of the Sign shall not exceed 0.6m;
- (f) the depth of the Sign shall not exceed 0.9m;
- (g) the Sign shall be Displayed only while the model home or sales office is open to the public and shall be removed when the model home or sales office is closed; and
- (h) the Sign Owner accepts and assumes all liability for all personal injury or property damage caused or contributed to by the Display, presence or condition of the Sign.

7.20. The following requirements apply to Yard Sale Signs:

- (a) the Sign shall be Displayed for not more than one (1) day prior to the event to which it pertains and not more than one (1) day after the event to which it pertains;
- (b) the Height of the Sign shall not exceed 0.75m from Grade;
- (c) the area of any side or visible face of the Sign shall not exceed 0.37m<sup>2</sup>;
- (d) the Sign shall have no more than two (2) sides or visible faces;
- (e) the Sign may be situated on the boulevard between a Public Sidewalk and a Highway;
- (f) the Sign must be set back at least 0.5m from the edge of the travelled portion of any roadway;
- (g) the Sign Owner shall immediately remove the Sign upon request by the Owner or Occupant of a Property abutting the boulevard where the Sign is Displayed.

## **8. Sign By-law Variance**

- 8.1. Any Person may apply to the Town for a minor variance to any provision of this By-law.
- 8.2. An application under subsection 8.1 shall be made in writing to the Director, in the form determined by the Director from time to time, and shall be accompanied by the applicable fee as established by the Fees and Charges By-law, which shall be non-refundable irrespective of the outcome of the application.
- 8.3. The Director may authorize a minor variance if in the opinion of the Director the proposed variance is minor in nature and the general intent and purpose of this By-law are maintained.

- 8.4. Notwithstanding subsection 8.3, the Director shall not authorize a variance if it would result in the Display or Alteration of a Sign that is prohibited under this By-law.
- 8.5. In considering a variance application the Director shall have regard to:
- (a) any special circumstances or conditions relating to the land, Building or use identified in the application;
  - (b) whether strict application of this By-law, in the context of the special circumstances applying to the land, Building or use, would result in practical difficulties or unnecessary and unusual hardship for the applicant, inconsistent with the general intent and purpose of this By-law;
  - (c) whether such special circumstances or conditions are pre-existing and not created by the Sign Owner or applicant;
  - (d) whether the Sign that is the subject of the variance will alter the essential character of the area in which the Sign will be located; and
  - (e) design guidelines for Signs or neighborhood character set out in secondary plans and area-specific policies of the Town of Pelham Official Plan.
- 8.6. The Director may impose terms, provisions or restrictions as conditions of granting a minor variance to provisions of this By-law which shall be deemed to be conditions of the associated sign Permit.
- 8.7. Where an application for a variance is not in the prescribed form, is incomplete, provides insufficient information or is not accompanied by the requisite fee, the Director may refuse to accept the application or may return the application.
- 8.8. The applicant for a minor variance may appeal the decision of the Director to Council by submitting a written appeal request to the Clerk within twenty-one (21) days of the Director's decision.
- 8.9. The Clerk shall fix a hearing date and shall give the applicant not less than seven (7) days' notice. If the applicant fails to attend at the appointed time and place the hearing may proceed and the applicant shall not be entitled to further notice of the proceedings.
- 8.10. The decision of Council is final.
- 8.11. A variance granted by the Director shall expire ninety (90) days from the issuance of the associated Permit if the Sign is not Displayed within that period.
- 8.12. A variance granted by the Director shall expire if the Sign for which the variance was granted is Altered, removed or relocated.

## **9. Enforcement**

- 9.1. This By-law shall be administered and enforced by the Town, the Director and Enforcement Authorities.

- 9.2. An Enforcement Authority may, for the purpose of enforcing this By-law, exercise any power, authority or remedy granted to the Town pursuant to the *Municipal Act, 2001*.
- 9.3. No Person shall obstruct or hinder, or attempt to obstruct or hinder, an Enforcement Authority in the exercise of a power or the performance of a duty under this By-law.
- 9.4. Where a Sign is Displayed on or over Property owned by or under the jurisdiction of the Town, the Town may immediately remove the Sign without notice or compensation to the Sign Owner.
- 9.5. Where a Sign is Displayed or Altered in contravention of this By-law, the Town may immediately remove any Sign that the Director or an Enforcement Authority determines constitutes a safety hazard without notice or compensation to the Sign Owner.
- 9.6. An Enforcement Authority may, at all reasonable times, enter upon and inspect any land to determine if this By-law is being complied with.
- 9.7. For the purposes of an inspection under subsection 9.6, an Enforcement Authority may require the production for inspection of documents or things relevant to the inspection, inspect and remove relevant documents or things for the purpose of making copies or extracts, and/or require information from a Person concerning a matter related to the inspection.
- 9.8. Where an Enforcement Authority is satisfied that a Sign has been Displayed or Altered in contravention of this By-law, he or she may make an Order requiring the Person who contravened the By-law or caused or permitted the contravention and/or the Owner of the Property where the Sign is Displayed to bring the Sign into compliance with this By-law.
- 9.9. An Order made under subsection 9.8 shall set out the address of Property where the Sign is Displayed, reasonable particulars of the non-compliance and the date by which there must be compliance with the Order.
- 9.10. An Order made under subsection 9.9 may be served by regular mail, registered mail or hand delivered to the last known address of the Person to whom it is issued, by email to the last known email address of the Person to whom it is issued, or by posting the Order at Property where the contravention occurred.
- 9.11. Where a Person fails to comply with an Order made under section 9.8 by the prescribed date, the Town may, at the expense of the Person in default of the Order, do any matter or thing necessary to bring the Sign into compliance with this By-law and/or may remove the Sign without notice or compensation to the Sign Owner.
- 9.12. The Town may recover the cost of any matter or thing done under subsection 9.11 by adding the cost to the tax roll for the Property where the Sign was Displayed and collecting it in the same manner and with the same priority as municipal taxes.

- 9.13. Signs removed by the Town in accordance with this By-law shall be stored by the Town for a period of not less than thirty (30) days, during which time the Sign Owner may reclaim the Sign and any appurtenant Sign Structure upon payment of a storage fee in the amount of \$50.00 per day from the date of removal to the date of reclamation.
- 9.14. Where a Sign has not been reclaimed within thirty (30) days of its removal, the Town may dispose of it forthwith.
- 9.15. Where a Sign has been removed and stored by the Town and has not been claimed, all costs and charges for the removal, care and storage of the Sign under this By-law are a lien against it that may be enforced by the Town as provided for under the *Repair and Storage Liens Act*, R.S.O. 1990, c. R.24.
- 9.16. The Town shall not be liable to compensate any Person by reason of anything done by or on behalf of the Town in the reasonable exercise of its powers under this By-law.

## **10. Penalty**

- 10.1. Every Person who contravenes any provision of this By-law is guilty of an offence and upon conviction is liable to such penalties as are provided for in the *Municipal Act, 2001* and the *Provincial Offences Act*, R.S.O. 1990, c. P.13.
- 10.2. Administrative Penalty Process By-law No. 4352(2022) applies to each Administrative Monetary Penalty issued pursuant to this By-law.
- 10.3. Every Person who contravenes any provision of this By-law shall, upon issuance of a penalty notice in accordance with Administrative Penalty Process By-law No. 4352(2022), be liable to pay to the Town an Administrative Monetary Penalty in the amount of two hundred and fifty dollars (\$250.00) for each day on which the contravention occurs or continues, unless otherwise provided for in Schedule "A", which is attached hereto and forms part of this By-law.

## **11. General**

- 11.1. The short title of this By-law is the "Sign Regulation By-law".
- 11.2. All measurements used in this By-law shall be subject to rounding such that decimals with a value of less than 0.5 or 0.05, as the case may be, shall be rounded down to the next whole unit and decimals with a value of 0.5 or greater or 0.05 or greater, as the case may be, shall be rounded up to the next whole unit.
- 11.3. Ratios and percentage figures shall not be subject to rounding.
- 11.4. This By-law shall be read with all changes in number or gender as are required by context.
- 11.5. If any provision of this By-law is found by any court or tribunal of competent jurisdiction to be illegal or inoperative, in whole or in part, the balance of the By-law shall not be affected and shall remain in full force and effect.

- 11.6. If there is a conflict between a provision of this By-law and a provision of any other By-law of the Town, the provision that establishes the higher standard shall prevail.
- 11.7. Any reference to legislation in this By-law includes the legislation and any amendment, replacement, subsequent enactment or consolidation of such legislation.
- 11.8. The Town Clerk is hereby authorized to effect any minor modifications or corrections solely of an administrative, clerical, numerical, grammatical, semantical or descriptive nature or kind to this By-law as are determined to be necessary.

**12. Repeal and Enactment**

- 12.1. By-law No. 4190(2020), being a by-law prohibiting and regulating signs and regulating the placing of signs upon highways and buildings, is hereby repealed and replaced.

**13. Effective Date**

- 13.1. This By-law shall come into force on the date that it is enacted.

Read, enacted, signed and sealed this 06th day of September, 2023.

\_\_\_\_\_  
John Wink, Deputy Mayor

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William Tigert, Town Clerk



**Schedule "A"**  
**Administrative Penalties**

Section	Description	Penalty
6.1(u)	Display Congratulatory Sign more than seventy-two (72) hours	\$50.00
7.16(a)	Display Special Event Lawn Sign more than thirty (30) days prior to event	\$75.00
7.16(a)	Display Special Event Lawn Sign more than five (5) days after event	\$50.00
7.18(a)	Display Real Estate Open House Sign on Public Road Allowance before 4:00 p.m. on non-holiday Friday	\$75.00
7.18(a)	Display Real Estate Open House Sign on Public Road Allowance after 9:00 a.m. on a non-holiday Monday	\$75.00
7.20(a)	Display Yard Sale Sign for more than one (1) day prior to event	\$50.00
7.20(a)	Display Yard Sale Sign for more than one (1) day after event	\$50.00



## The Corporation of the Town of Pelham

By-law No. 49-2023

**Being a by-law to amend By-law 29-2023, confirming various appointments to Advisory Committees of the Town of Pelham for the 2022-2026 Term of Council and to appoint and appoint Member(s) to the Pelham Active Transportation Committee.**

**WHEREAS** the Council of the Corporation of the Town of Pelham deems it necessary and desirable to appoint and remove members to Advisory Committees;

**AND WHEREAS** on December 5, 2022, Council established the creation of the Pelham Active Transportation Committee;

**AND WHEREAS** on May 3, 2023, Council passed By-law 29-2023 providing for the appointment of individuals to the Pelham Active Transportation Committee;

**NOW THEREFORE** the Council of the Corporation of the Town of Pelham enacts appointments as follows in the attached schedule, as listed below:

- 1. THAT** appointment to the Pelham Active Transportation Committee confirmed as listed in Schedule "A" attached hereto and forming part of this By-law.
- 2. THAT** from time to time, changes to Schedule "A" are necessary due to vacancies created for various reasons, it shall be deemed acceptable for Council to do so by resolution. The resolution be in effect only until the new appointments by-law is brought forward at the usual time at which Council strikes and confirms its appointments, and at which time a new by-law is enacted.

### **3. Effective Date**

- 3.1. This By-law shall come into force on the date that it is enacted.

Read, enacted, signed and sealed this 06th day of September 2023.

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John Wink, Deputy Mayor

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William Tigert, Town Clerk

Schedule "A" to By-law 49-2023

Advisory Committee

**Pelham Active Transportation Committee**

Regional Council Representative: Councillor Diana Huson

Council Representative                      Councillor Brian Eckhardt

Public Representatives                      Brian Baty  
Frank Adamson  
Lori Lehne  
Patrick O’Hara  
Rhys Evans  
Thom Hounsell  
Adam Carter



## The Corporation of the Town of Pelham

By-law No. 50-2023

### **Being a by-law to adopt, ratify and confirm the actions of the Council at its regular meeting held on the 06th day of September 2023.**

**WHEREAS** section 5(3) of the *Municipal Act, 2001*, S.O. 2001, c. 25 ("*Municipal Act, 2001*" or "the statute") provides that, unless otherwise authorized, the powers of Council shall be exercised by by-law;

**AND WHEREAS** it is deemed desirable and expedient that the actions of the Council as herein set forth be adopted, ratified and confirmed by by-law;

**NOW THEREFORE** the Council of the Corporation of the Town of Pelham enacts as Follows:

- 1.** (a) The actions of the Council at its meeting held on the 06th day of September, 2023, including all resolutions or motions approved, are hereby adopted, ratified and confirmed as if they were expressly embodied in this by-law.  
  
(b) The above-mentioned actions shall not include:
  - i. any actions required by-law to be taken by resolution; or
  - ii. any actions for which prior Ontario Municipal Board approval is required, until such approval is obtained.
- 2.** The Mayor and proper officials of the Corporation of the Town of Pelham are hereby authorized and directed to do all things necessary to give effect to the above-mentioned actions and to obtain approvals where required.
- 3.** Unless otherwise provided, the Mayor and Clerk are hereby authorized and directed to execute and the Clerk to affix the seal of the Corporation of the Town of Pelham to all documents necessary to give effect to the above-mentioned actions.
- 4.** This By-law shall come into force on the date that it is enacted.

Read, enacted, signed and sealed this 06th day of September, 2023.

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John Wink, Deputy Mayor

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William Tigert, Town Clerk