



Community Planning and Development Department
Committee of Adjustment
Tuesday, April 02, 2024

Consent Application: B4-2024P

Municipal Address: 201 Canboro Road

Legal Description: Part Lot 4, Concession 8 as in RO685205 (Part 1 on Sketch)

Roll number: 2732 020 010 10500

Location of Lands and Purpose of Application:

The subject parcel, shown as Part 1 on the attached sketch, has a frontage of 13.66m on the north side of Canboro Road, lying south of Highway 20 being Part Lot 4, Concession 8 in the Town of Pelham.

Application is made for consent to partial discharge of mortgage and consent to convey 380.9 square metres of land (Part 1), for future construction of a semi-detached dwelling. Part 3 is to be dedicated to the Town of Pelham for a road widening. Part 4 is to be retained for continued residential use.

The subject lands straddle the western boundary of the urban settlement area of Fonthill. The application proposes to sever the lands along the urban area boundary line and delineated boundary of the identified natural heritage features to create two new lots (Parts 1 & 2) for the construction of two semi-detached dwellings, for a total of four new residential dwelling units.

The lands currently contain three single detached dwellings and an existing detached garage. To facilitate the proposed development, the existing structures, save for the most westerly dwelling on Part 4 are proposed to be removed. In addition, a road widening of 3.0 metres (Part 3 on sketch) is proposed along the frontage of the remnant parcel, which is proposed to be transferred to the Town. Public Works staff have indicated they no longer require the road widening. As such, the retained parcel would constitute Parts 3 and 4 combined.

Part 1 is proposed to have a lot area of 380.9 square metres, with a frontage of 13.66 metres along Canboro Road. The applicant included a concept plan in addition to the severance sketch which shows the location of a proposed semi-detached dwelling on the lands. A minor variance is required to recognize a deficient rear yard setback.

Surrounding land uses include a woodland and intermittent tributary of Coyle Creek to the north, low density residential uses to the east and south, and agricultural uses to the west.

This application is being considered concurrently with Consent File B5-2024P, and minor variance applications A6-2024P and A7-2024P.

The applications were originally slated to be heard at the January 11, 2024 Committee of Adjustment hearing. At the January hearing the applicant requested the applications be deferred until such time as they were able to address comments received on the originally consent applications.

The proposal was revised to shift the rear lot line closer to the street to maintain a larger separation from the physical top of slope. As a result, the proposed lots are smaller in lot area than originally proposed, as the location of the rear lot line has shifted.

Applicable Planning Policies:

Planning Act

Applications for consent shall have regard to provincial interests and the *Planning Act* land division criteria, contained under Section 51(24) of the *Planning Act*:

- a) The development's effect on provincial matters of interest;
 - See PPS and Growth Plan analysis in sections below.
- b) Whether the proposed subdivision is premature or in the public interest;
 - Please refer to discussion below.
- c) Whether the plan conforms to the Official Plan and adjacent plans of subdivisions, if any;
 - See Official Plan discussion below.
- d) The suitability of the land for such purposes;
 - The lands are located within the urban area and will provide for gentle intensification.
- f) The dimensions and shapes of the proposed lots;
 - The dimensions of the proposed lot are compliant with the zoning by-law.
- h) Conservation of natural resources and flood control;
 - An Environmental Impact Study was prepared and submitted with the application. Please refer to planning comments below.
- i) The adequacy of utilities and municipal services;
 - There is an existing regional 300 mm diameter watermain along Canboro Road, which is considered adequate for domestic water supply to the four (4) semi-detached dwellings. The proposed lots will connect to this watermain via a 25 mm lateral connection. Sanitary services will be provided by extending an existing 75 mm diameter HDPE sanitary forcemain approximately 21 m to the west, to allow connection of the four (4) semi-detached dwellings.

- j) The adequacy of school sites;
 - Available nearby. School Boards did not comment on application.

Planning staff are of the opinion the applicant for consent does not have regard for the *Planning Act*.

Provincial Policy Statement (PPS) (2020)

The Provincial Policy Statement (PPS) provides policy direction on matters of provincial interest related to land use planning and development and sets the policy foundation for regulating the development and use of land. The PPS provides for appropriate development while protecting resources of provincial interest, public health and safety, and the quality of the natural and built environment.

Section 3 of the *Planning Act* requires that decisions affecting planning matters “shall be consistent with” policy statements issued under the Act. The PPS recognizes the diversity of Ontario, and that local context is important. Policies are outcome-oriented, and some policies provide flexibility provided that provincial interests are upheld. PPS policies represent minimum standards.

The PPS designates Parts 3 and 4 of the subject lands as Prime Agricultural Land. Section 2.1 of the PPS states that natural features and areas shall be protected for the long term.

According to the Provincial Policy Statement Parts 1 and 2 are located outside the Specialty Crop Area and are designated as a Settlement Area under the PPS. Policy 1.1.3.1 states that settlement areas shall be the focus of growth and development. 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.

Infill development is an acceptable form of intensification so long as new development is compatible in nature, is compact, and avoids adverse impacts to provincial interest, public health, safety, and the quality of the human environment.

Significant natural features are referenced in section 2.1 of the 2020 Provincial Policy Statement (PPS), namely: Significant Wetlands; Significant Woodlands; Significant Valleyland; Significant Wildlife Habitat (SWH); Significant Areas of Natural and Scientific Interest (ANSIs); Habitat of Endangered and Threatened Species; and Fish

Habitat. Per the Environmental Impact Study submitted with the application, the following were confirmed on site: significant woodlands, significant valleylands, significant wildlife habitat, and habitat of endangered and threatened species.

The PPS states that natural features and areas shall be protected for the long term (Policy 2.1.1) and that their diversity and connectivity be maintained, restored or, where possible, improved (Policy 2.1.2). The EIS submitted with the application states that no negative impacts to the Significant Woodland, Significant Valleyland, and candidate/confirmed Significant Wildlife Habitat are anticipated given implementation of the proposed development plan provided that the recommended mitigation measures of the EIS are implemented in full.

Planning Staff are of the opinion the proposed consent is consistent with the Provincial Policy Statement subject to the findings and implementation of the recommendations of the EIS.

Greenbelt Plan (2017)

The Greenbelt Plan, 2017 ("Greenbelt Plan") designates a portion of the subject lands as Protected Countryside. According to the Provincial Policy Statement, 2020 ("PPS") and Niagara Official Plan, 2022 ("NOP"), Parts 1 and 2 are located outside the Specialty Crop Area and are designated as a Settlement Area under the PPS and NOP, and as such, the policies of the Greenbelt Plan do not apply to the subject lands.

Growth Plan for the Greater Golden Horseshoe (2020)

This Plan informs decision-making regarding growth management and environmental protection in the Greater Golden Horseshoe (GGH). All decisions made after May 16, 2019, that affect a planning matter will conform to this Growth Plan, subject to any legislative or regulatory provisions providing otherwise. The policies of this Plan take precedence over the PPS to the extent of any conflict.

Within the Natural Heritage System for the Growth Plan, new development or site alternative will demonstrate that there are no negative impacts on key natural heritage features.

The Growth Plan contains various guiding principles which are intended to guide decisions of how land is developed. The guiding principles include building compact, vibrant, and complete communities, managing and encouraging development in appropriate locations, and optimizing the use of existing infrastructure.

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 additional residential lot will help the Town to meet or exceed its *delineated built boundary* intensification targets. The proposed lot will help contribute towards the municipal property tax base which helps financially support the maintenance of linear infrastructure and *public service facilities*. The lands will be required to connect to municipal services as a condition of consent approval.

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

Niagara Region Official Plan (2022)

The Region of Niagara adopted a new Official Plan on June 23, 2022. Approval was granted by the Province on November 7, 2022. The new Region of Niagara Official Plan ("NOP") provides the policy guidance for future development across the Region. The easterly portion of the Subject Lands are located within a Settlement Area under the PPS and are designated Delineated Built-Up Area in the NOP. The northerly portion of lands are designated Specialty Crop Area with a Natural Environment System Overlay containing Significant Woodlands, Other Wetlands and non-Provincially Significant Wetlands.

A pre-consultation meeting for the proposal was held on March 17, 2022, prior to the approval of the NOP by the Minister of Municipal Affairs and Housing on November 4, 2022. Policy 3.1.30.3.1 of the NOP states that, where a formal pre-consultation meeting has been completed within one (1) year of the approval of the NOP, and environmental requirements have been established through a signed pre-consultation agreement that has not expired, required environmental studies may be evaluated in accordance with the Regional policies that existed at the time the pre-consultation meeting was completed (provided the application is submitted within two years of the approval of the NOP). Accordingly, the environmental policies of the previous Regional Official Plan, 2014 ("ROP") apply to the proposal.

The eastern portion are located within a Settlement Area under the Provincial Policy Statement (PPS), designated Delineated Built-Up Area in A Place to Grow: Growth Plan for the Greater Golden Horseshoe (Growth Plan) and designated Urban Area (Built-Up Area) in the Regional Official Plan (ROP). Under the ROP, a full range of residential, commercial, and industrial uses are permitted generally within the Urban Area designation, subject to the availability of adequate municipal services and infrastructure, local official plan policies, and other ROP policies relative to land use compatibility and environmental conservation.

The western portion are designated as being within a Prime Agricultural Area, and more specifically within a Specialty Crop Area, under the Provincial Policy Statement (PPS), within the Protected Countryside, and more specifically within the Specialty Crop Area – Niagara Peninsula Tender Fruit and Grape Area, under the Greenbelt Plan, and within Prime Agricultural Lands under the Regional Official Plan (ROP). The ROP also identifies this portion of the subject property as being located outside the Urban Area Boundary for the Town of Pelham.

Parts 3 and 4 of the lands are within the Prime Agricultural Area in the Provincial Agricultural System under the A Place to Grow: Growth Plan for the Greater Golden Horseshoe. Prime agricultural areas, including speciality crop areas are intended to be protected for long term agricultural use. The use of the parcel is not proposed to change as the lands are intended to be retained for their existing residential use.

Town of Pelham Official Plan (2014)

The Town of Pelham Official Plan is the primary planning document that will direct the actions of the Town and shape growth that will support and emphasize Pelham's unique character, diversity, cultural heritage and protect our natural heritage features.

The lands have split land use designations. The easterly portion of the lands are designated Urban Living Area/Built Boundary, while the northerly and westerly portions of the lands are designated Environmental Protection Three (EP3), Specialty Agricultural, and having Greenbelt Natural Heritage Overlay.

A "Wooded Area" is shown through the rear of the Subject Property per Schedule B (Environmental Features) while a "Valleyland" is shown per Schedule B1 (Subwatersheds and Subwatershed Features).

Policy B3.4.4.1 states: new development and/or site alteration is not anticipated within the EP3 designation, and any proposal for development or site alteration within 120 m of any feature within the EP3 designation will be supported by an EIS, the primary purpose of which is to identify a self-sustaining vegetation protection zone. The EIS is to be prepared to the satisfaction of the Region in consultation with the Town and NPCA. The vegetation protection zone shall be determined at the time of a planning approval.

The lands are identified as containing Valleyland, per Schedule B1.

Policy B3.7.3.1 provides that no new development, site alteration or lot creation shall be permitted in areas located within the Valleyland designation. All development shall generally be directed to areas outside of the Valleyland designation. Lands within the Valleyland designation are encouraged to be maintained in a natural state with no disturbances of grades or existing vegetation. Where permitted, all new development, site alteration and lot creation shall ensure that overland drainage is directed away from valley slopes and that proper construction measures are taken to protect valley vegetation in accordance with NPCA requirements.

A slope stability assessment was submitted with the original application. Through a review of the application, the NPCA noted that the physical top of slope referenced in the report appeared not to be the top of slope identified in the concept plan. A site visit was conducted on January 24, 2024, to cross reference the drawings with the on the ground site conditions. Following the site visit the NPCA provided further comments requiring revisions to the slope stability assessment.

The natural heritage policy framework the application must meet is the test of “no negative impact” to the Significant Woodland, Significant Valleyland, and Significant Wildlife Habitat identified on site. An Environmental Impact Study was submitted with the application which concluded, upon the implementation of its recommendations, there would be no negative impact on the natural heritage features identified on site. Accordingly, it will be a recommended condition of approval that the owner enter into a development agreement with the Town to ensure that all recommendations of the EIS are implemented.

The concept plan shows a setback of 3.46 metres from the dripline to the rear lot line. The proposed semi-detached dwellings maintain a setback of 5.75 metres from the proposed lot line.

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

- a) Schedules A1 and A2 to this Plan identify a number of areas that may be good candidates for residential intensification. This does not preclude consideration for other sites in the Urban Living Area designation provided these sites abut arterial or collector roads or are located on a local road on a site that is no further than 100 metres from an intersection with an arterial or collector road;
 - ✓ N/A. The site is located on Canboro Road which is identified as an Arterial Road.
- b) Intensification and redevelopment proposals are encouraged to achieve a unit density and housing type that is in keeping with the character of the density of the neighbourhood where it is proposed. Within the identified intensification areas identified on Schedules A1 and A2 the implementing Zoning By-law may establish minimum and maximum densities of between 10 and 25 units per hectare;
 - ✓ The subject lands are not within an identified intensification area. However, they are located on an Arterial Road which is an appropriate location for gentle intensification.
- c) Residential intensification and redevelopment proposals located on lands which abut local roads shall maintain the unit density and unit type of the surrounding neighbourhood, but may through a Zoning By-law Amendment, increase the unit density by up to 25% of the existing gross density of lands located within 300 metres of the site, provided the resultant development will be characterized by quality design and landscaping, suitable building setbacks, and further that parking areas and traffic movements will not negatively impact the surrounding neighbourhood from the perspectives of safety or neighbourhood character;
 - ✓ N/A. The lands are located on an Arterial Road.
- d) Notwithstanding items (b) and (c), the creation of new freehold or vacant condominium infill lots through the consent process, for ground-oriented detached dwellings, may be permitted provided the proposed lot and unit type is similar to and compatible with the established character of the street or neighbourhood where it is proposed. The Zoning By-law shall establish

minimum lot area and frontages and minimum and/or maximum densities which are considered appropriate within the Urban Living Area designation;

- ✓ The scale of the proposed development is similar to and compatible with the established character along Canboro Road.
- e) The creation of accessory apartments and in-law suites within residential neighbourhoods is considered to be an appropriate form of residential intensification. The establishment of accessory apartments shall occur in accordance with Policy B1.1.4 and Council may reduce the application fee for such amendments under the Town's Tariff of Fees By-law;
 - ✓ Second dwelling units are permitted in semi-detached dwellings and accessory buildings subject to meeting the zoning by-law requirements for such uses. The proposed application is for a new semi-detached dwelling.
- f) The provision of affordable housing in intensification areas will be encouraged; and,
 - ✓ The new lot will allow for an additional residential dwelling unit. The Town does have policies that permit second dwelling units in semi-detached dwellings and accessory buildings that if employed would help foster housing affordability.
- g) The Town will consider innovations for responsive processing of applications and amendments in the future including tools such as Conditional Zoning Amendments implementing a Development Permit system and the streamlining of processing concurrent development applications.
 - ✓ N/A

Policy D5.2.1 states that for any consent application, the Committee of Adjustment shall be satisfied that (among other things) the proposed lot:

- a) Fronts on and will be directly accessed by a public road that is maintained on a year-round basis;
 - ✓ Canboro Road is a public road that is maintained year-round.
- b) Will not cause a traffic hazard as a result of its location on a curve or a hill;
 - ✓ No issues are anticipated given the existing sightlines along Canboro Road.
- c) Is in keeping with the intent of relevant provisions and performance standards of the Zoning By-law;
 - ✓ Yes, the severed lands meet the provisions of the Zoning By-law following approval of the concurrent minor variance application to address the deficient rear yard setback.
- d) Can be serviced with an appropriate water supply and means of sewage disposal;
 - ✓ Yes. Services exist and are available to service the development. The servicing strategy is outlined in the Functional Servicing Report.
- e) Will not have a negative impact on the drainage patterns in the area;
 - ✓ A Lot Grading & Drainage Plan was prepared and submitted with the application.
- f) Will not affect the developability of the remainder of the lands, if they are designated for development by this Plan;

- ✓ A concurrent application for consent is also being considered for the remainder of the portion of the lands in the Urban Area boundary.
- g) Will not have a negative impact on the features and functions of any environmentally sensitive feature in the area;
 - ✓ An Environmental Impact Study was submitted with the application which concluded, upon the implementation of its recommendations, there would be no negative impact on the natural heritage features identified on site. Accordingly, it will be a recommended condition of approval that the owner enter into a development agreement with the Town to ensure that all recommendations of the EIS are implemented.
- h) Conforms with Regional lot creation policy as articulated in the Regional Policy Plan; and,
 - ✓ The consent conforms with the Regional Official Plan. Please refer to Regional comments below.
- i) Complies with the appropriate provincial Minimum Distance Separation Formulae, where applicable.
 - ✓ N/A.

The Town's Cultural Heritage Master Plan identifies the subject lands as having composite potential for deeply buried archaeological resources. As such, the applicant submitted a stage 1-2 Archaeological Assessment which found no archaeological resources in the study area. No further archaeological assessment of the study area was recommended. The applicant provided a clearance letter (s) from the Ministry of Citizenship and Multiculturalism.

Town of Pelham Comprehensive Zoning By-law 4481 (2022)

The easterly portion of the subject lands within the settlement area are currently zoned Residential Two (R2) Zone and Environmental Protection One (EP1) Zone. The westerly portion of the site are zoned Environmental Protection One (EP1), Environmental Protection Three (EP3), and having Greenbelt Natural Heritage Overlay.

A semi-detached dwelling is a permitted use in the R2 zone. Section 1.5(b)(ii) of the Zoning By-law states: The Environmental Protection One (EP1), Environmental Protection Two (EP2), Environmental Protection Three (EP3) and Open Space (OS) Zones boundary generally reflects the natural features and the location of the boundary may be determined by lot line, road, rail line, or where the zone does not abut any of the above, by the scale of the map or as confirmed through an Environmental Impact Study.

Concurrent minor variance applications have been submitted with the revised proposal which are intended to address the deficient rear yard setbacks for the two new lots.

Submitted Materials:

An Environmental Impact Study prepared by Terrastory Environmental Consulting Inc. was submitted with the application. The study provides a description of the proposed development, identifies natural features with ecological and policy significance, and recommendations to avoid or minimize impacts. The following natural features were identified on site:

- A mature Carolinian deciduous forest identified as a Significant Woodland, and overlapping a Significant Valleyland;
- Significant woodland habitat for a provincially rare tree species and special concern bird species;
- An intermittent watercourse; and,
- An eastern flowering dogwood (endangered tree species).

A set of recommendations and mitigation measures was presented to achieve “no negative impact” and address applicable municipal, provincial, and federal policies. These included the preparation of a “Woodland Enhancement Plan” incorporating a diversity of native tree and shrub plantings (including Pignut Hickory), timing restriction on vegetation removal to protect nesting birds and roosting bats, and addressing Endangered Species Act requirements as they pertain to Eastern Flowering Dogwood.

Agency and Public Comments:

On March 6, 2024, a notice of public hearing was circulated by the Secretary Treasurer of the Committee of Adjustment to applicable agencies, Town departments, and to all assessed property owners within 60 metres of the property’s boundaries. To date, the following comments have been received:

- Building Division
 - A Building permit is required for proposed semi-detached dwelling on Part 1.
 - A Demolition permit is required for any structures being removed.
- Public Works Department
 - Please be advised that no sideyard walkways that impede sideyard swales shall be permitted
 - Please note that the Town does not allow any service connections for Part 4 as it is not within the urban boundary.
 - The 2 units in the proposed Part 1 lot are to be individually serviced with its own sanitary and water connections if permitted. This work is to be done by the owner, at the owner’s expense, and will require a Temporary Works Permit. Should these services cross property lines, Public Works will not support the consent to sever. These works are to be completed prior to consent and the applicant shall bear all costs associated with these works. Locate cards are to be provided to the Town once works are complete.
 - Site Servicing Plan is required for this application.
 - Town of Pelham Public Works Staff require that the applicant submit an overall lot grading and drainage plan to demonstrate that the

drainage does not negatively impact nor rely on neighboring properties.

- That the applicant confirm that no existing utilities currently cross the proposed new property line. Should any services cross this new property line, the applicant will be responsible for costs associated with their relocation and/or removal.
 - A Construction of new or modification of existing driveways requires a Driveway Entrance Permit. This permit is obtained through the Public Works Department. All associated costs with this permit are the responsibility of the owner.
- Niagara Region
 - Staff acknowledge that the applications for Consent are confined to the Settlement Area/Delineated Built-Up Area, where population growth will be accommodated primarily through intensification, and that no new lots or development are proposed in the Specialty Crop Area.
 - Regional staff recommend the inclusion of the standard archaeological clauses in the development agreement relating to deeply buried archaeological materials that may be encountered during grading and construction activities. Regional staff advise that any future development outside of the study area will require a separate Stage 1-2 archaeological assessment.
 - Staff is satisfied with the natural heritage and environmental system characterization of the subject lands and if the recommendations and mitigation strategy outlined in the EIS are implemented, the Region is satisfied that the ROP's policy test of 'no significant negative impact' to the CNHS has been achieved. However, the CNHS feature that has been characterized as high-functioning and the 0 metre setback is not sufficient to meet the 'no negative impact' test of the PPS. As such, the Region recommends the buffer width adjacent to the woodland/valleyland be maximized to extent possible to ensure no negative impacts to the adjacent woodland and valleyland. Staff, therefore, recommend that an updated Consent sketch be provided to the Region and Town for review that is consistent with and satisfactorily addresses the PPS test. Should the proposed lot fabric be deemed appropriate by the Committee, recommended conditions of approval relating to each proposed new lot are provided to ensure EIS recommendations and mitigation measures are implemented.
 - The only watermain available is a Regional hybrid watermain. The Region will require that detailed engineering plans be provided for the proposed water servicing for the two new lots. A Regional connection permit will be required for connections to the watermain. To obtain the connection permit a letter from the Town, detailed engineering drawings and a fee are required to be submitted to the Region. The applicant is responsible for the fees and the preparation of the detailed engineering drawings.

- Regional Private Sewage System staff conducted an on-site inspection on December 21, 2023. The property currently contains three dwellings that are privately serviced by sewage systems to the north. The existing septic tanks are located north of the dwellings and are to be decommissioned prior to the connection to municipal sewers or demolition. Staff advise that a tank decommissioning application issued by the Niagara Region will be required prior to demolition of the existing dwellings. Staff received additional information indicating that the retained parcel has a replacement sewage system area. A percolation test was completed on-site which concluded an inground sewage system could be installed on the property in the future. No defects were observed with the system at the time of inspection; however, this system is considered legal non-conforming as it contains a single chamber tank, and the bed is located in a steep slope. Any future changes to the dwelling on the retained parcel which increase sewage flows would require a new sewage system in the replacement area to be installed. Staff note that all trees and driveway surfaces will need to be removed to ensure that the minimum building code setback area is achieved as per the Ontario Building Code (O. Reg. 332/12). The setbacks include 1.5 m from the septic tank to a structure and 5m from the septic bed to a structure (driveway). Regional staff has no objection to the applications from a private servicing perspective, provided the two existing septic tanks are properly decommissioned and tank decommissioning applications are submitted to the Region.

- The subject property has frontage on Canboro Road, which is designated as part of the Regional Niagara Bicycling Network. If the bicycle routes are currently not established and identified with signage, it is the intent of the Region to make provisions for doing so when an appropriate opportunity arises. This may involve additional pavement width, elimination of on-street parking, etc.
- Niagara Peninsula Conservation Authority (NPCA)
 - Technical staff have had a review of the reviewed material and are satisfied that NPCA comments have been addressed.
 - As such, the NPCA can support the severance application.
 - Please note that any proposed development will require NPCA approval and possible work permits.

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

Planning Staff Comments:

A Pre-consultation Meeting was held on March 17, 2022 with staff from the Town, Niagara Region, and Niagara Peninsula Conservation Authority (NPCA) to confirm the overall submission requirements, which included a supporting EIS. A Terms of Reference (ToR) for the EIS was prepared and approved by the NPCA and Region.

Planning staff have reviewed all submitted materials, as well as reviewed all agency and public correspondence submitted to date and the policy context as it relates to this application.

As previously noted, a site visit was conducted on January 24, 2024, to cross reference the drawings with the on the ground site conditions. Following the site visit the NPCA provided further comments requiring revisions to the slope stability assessment. The concept plan was revised to address comments from NPCA staff following the site visit.

With the revised application, the applicant submitted a revised planning opinion letter, revised concept plan and severance sketch, the revised slope stability assessment, and supplementary slope stability assessment.

Notwithstanding the application contains lands with natural heritage features, the submitted Environmental Impact Study found no anticipated negative impacts to the Significant Woodland, Significant Valleyland, and candidate/confirmed Significant Wildlife Habitat given implementation of the proposed development plan provided that the recommended mitigation measures are implemented in full. A development agreement will be required to ensure the recommendation are implemented in full. The application, if approved, will result in the removal of an existing septic system within the valleyland, development will be further setback from the feature than the existing development, and the implementation of a Woodland Enhancement Plan that will ensure the ecological functions of the woodland/valleyland will be enhanced beyond existing conditions.

Generally, the redevelopment of this property for a semi-detached dwelling is a gentle form of residential intensification within an existing neighbourhood which will have minimal impact on adjacent land uses. The proposed severance is not considering more development than permitted by the current Zoning By-law.

Public Works staff have indicated that the proposed road widening is no longer required. As such, the Town will not require the road widening be dedicated to the town. The severance sketch should be updated to remove the widening.

Planning Staff Recommendation:

Planning staff recommend that Consent Application file B4/2024P **be approved** subject to the following conditions:

THAT the applicant:

- Provide the Secretary-Treasurer with a registerable legal description of the subject parcel, together with a copy of the deposited reference plan, if applicable, for use in the issuance of the Certificate of Consent.
- Provide the final certification free of \$436, payable to the Treasurer, Town of Pelham, submitted to the Secretary-Treasurer. All costs associated with fulfilling conditions of consent shall be borne by the applicant.
- That the applicant confirm that no existing utilities currently cross the proposed new property line. Should any services cross this new property line, the applicant will be responsible for costs associated with their relocation and/or removal.
- Town of Pelham Public Works Staff require that the applicant submit an overall lot grading and drainage plan to demonstrate that the drainage does not negatively impact nor rely on neighboring properties.
- 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.
- Enter into a Development Agreement with the Town for Part 1, to ensure that all recommendations of the Environmental Impact Study (dated November 29, 2023) are implemented to the satisfaction of the Director of Community Planning and Development, including but not limited to:
 - a) That a Tree Preservation Plan (TPP) be prepared, to the satisfaction of Niagara Region, that indicates any trees that need to be removed to allow for the development of Part 1. The TPP should be prepared in accordance with the Region's Woodland Conservation By-law (By-law 20-79).
 - b) That the development agreement contain wording wherein the owner agrees to implement the approved Tree Preservation Plan, prior to construction.
 - c) Any necessary tree removal and demolition of the existing buildings or structures will take place between October 1 and April 30 to avoid the active season for bats. Should minor tree removal be required

between May 1 and September 30, a qualified professional will complete an exit survey of suitable maternal roosting sites identified for removal a maximum of 24 hours before removal. The exit survey must make use of a bat detector and will occur for no less than the time period between sunset and 60 minutes after sunset. If an Endangered bat is identified during the survey, Ministry of the Environment, Conservation and Parks (MECP) should be contacted to obtain further direction prior to removal of the tree.

- d) If construction activities occur during the active bat season (i.e., May 1 and September 30), work will be restricted to daylight hours only and the use of artificial lighting will be avoided.
- e) Any lighting incorporated into the final building designs should be directed downward (i.e., towards the ground) and/or away from the adjacent woodlot (i.e., directed eastward) to the extent practicable.
- f) The removal of trees will be restricted to areas in direct conflict with the footprints of the proposed development features (e.g., residence, septic system, driveway, etc.) and grading, along with any hazardous trees in the immediate vicinity that pose an unacceptable risk to human life or property.
- g) All necessary vegetation removal will be completed outside the primary bird nesting period (i.e., to be completed between September 1 and March 31). Should minor vegetation removal be proposed during the bird nesting period, a bird nesting survey will be undertaken to confirm the presence or absence of nesting birds or bird nests within or adjacent to the areas subject to vegetation clearance. The survey is to take place within 48 hours of vegetation removal.
- h) Incorporation of Bird-Friendly Guidelines into the residence design such as those published in City of Toronto's "Best Practices for Bird-Friendly Glass" and "Best Practices for Effective Lighting" should be considered at detailed design.
- i) Any Landscape Plans prepared as part of the development approval should incorporate species native to the local landscape.
- j) That a light duty silt fence be installed at the limit of any excavation and grading to delineate the work area and help minimize impacts (e.g., sedimentation and accidental encroachment) to adjacent vegetation and that the silt fence be properly embedded (as per Ontario Provincial Standard Specification 805) into the ground to reduce any offsite movement of silt. The silt fence used should be one that does not include a mesh component, to avoid risk of entanglement of wildlife.
- k) That the contractor has a spill kit on site to minimize potential contamination from accidental spills. The equipment should be inspected for leaks and refueling be completed in accordance with best management practices and at least 30 m away from the woodland.
- l) That continuous, permanent fencing be installed along the rear property line, adjacent to the Significant Woodland, to delineate property boundaries to limit potential encroachment into the woodland.

- Enter into a Development Agreement with the Town for Part 4, to ensure that all recommendations of the Environmental Impact Study (dated November 29, 2023) are implemented to the satisfaction of the Director of Community Planning and Development, including but not limited to:
 - a) That a Woodland Enhancement Plan be prepared, to the satisfaction of Niagara Region, for the area indicated on Figure 3 of the EIS. The Plan shall consist of a diversity of native tree and shrub plantings and incorporate wildlife habitat enhancement elements. Plantings of Pignut Hickory shall be incorporated into the Woodland Enhancement Plan
 - b) That a Tree Preservation Plan (TPP) be prepared, to the satisfaction of Niagara Region, that indicates any trees that need to be removed to allow for the development of Part 4. The TPP should be prepared in accordance with the
 - Region's Woodland Conservation By-law (By-law 20-79).
 - c) That the development agreement contain wording wherein the owner agrees to implement the approved Tree Preservation Plan and Woodland Enhancement Plan, prior to construction.
 - d) That tree protection fencing be installed surrounding the Eastern Flowering Dogwood at the time of construction to avoid incidental mechanical damage to the trunk, branches, or roots.
 - e) Any necessary tree removal and demolition of the existing buildings or structure will take place between October 1 and April 30 to avoid the active season for bats. Should minor tree removal be required between May 1 and September 30, a qualified professional will complete an exit survey of suitable maternal roosting sites identified for removal a maximum of 24 hours before removal. The exit survey must make use of a bat detector and will occur for no less than the time period between sunset and 60 minutes after sunset. If an Endangered bat is identified during the survey, Ministry of the Environment, Conservation and Parks (MECP) should be contacted to obtain further direction prior to removal of the tree.
 - f) If construction activities occur during the active bat season (i.e., May 1 and September 30), work will be restricted to daylight hours only and the use of artificial lighting will be avoided.
 - g) The removal of trees will be restricted to areas in direct conflict with the footprints of the proposed development features (e.g., residence, septic system, driveway, etc.) and grading, along with any hazardous trees in the immediate vicinity that pose an unacceptable risk to human life or property.
 - h) All necessary vegetation removal will be completed outside the primary bird nesting period (i.e., to be completed between September 1 and March 31). Should minor vegetation removal be proposed during the bird nesting period, a bird nesting survey will be undertaken to confirm the presence or absence of nesting birds or bird nests within or adjacent to the areas subject to vegetation clearance. The survey is to take place within 48 hours of vegetation removal.
 - i) Any Landscape Plans prepared as part of the development approval should incorporate species native to the local landscape.

- j) That a light duty silt fence be installed at the limit of any excavation and grading to delineate the work area and help minimize impacts (e.g., sedimentation and accidental encroachment) to adjacent vegetation and that the silt fence be properly embedded (as per Ontario Provincial Standard Specification 805) into the ground to reduce any offsite movement of silt. The silt fence used should be one that does not include a mesh component, to avoid risk of entanglement of wildlife.
- k) That the contractor has a spill kit on site to minimize potential contamination from accidental spills. The equipment should be inspected for leaks and refueling be completed in accordance with best management practices and at least 30 m away from the woodland.
- That the following archaeological advisory clause be inserted in the Development Agreement between the landowner and Town of Pelham:

"Should deeply buried archaeological remains/resources be found during construction activities, all activities impacting archaeological resources must cease immediately, and the proponent must notify the Archaeology Programs Unit of the Ministry of Citizenship and Multiculturalism (MCM) (416-212-8886) and contact a licensed archaeologist to carry out an archaeological assessment in accordance with the Ontario Heritage Act and the Standards and Guidelines for Consultant Archaeologists."

"In the event that human remains are encountered during construction, all activities must cease immediately and the Niagara Regional police as well as the Cemeteries Regulation Unit of the Ministry of Public and Business Services Delivery (416-326-8800) must be contacted. In situations where human remains are associated with archaeological resources, the MCM should also be notified to ensure that the site is not subject to unlicensed alterations which would be a contravention of the Ontario Heritage Act."

- That final approval of all necessary zoning approvals be obtained for Part 1, through the approval of minor variance application A6-2024P.
- 2 units in the proposed Part 1 lot are to be individually serviced with its own sanitary and water connections if permitted. This work is to be done by the owner, at the owner's expense, and will require a Temporary Works Permit. Should these services cross property lines, Public Works will not support the consent to sever. These works are to be completed prior to consent and the applicant shall bear all costs associated with these works. Locate cards are to be provided to the Town once works are complete.
- Town staff will require a Site Servicing Plan, to the Satisfaction of the Director of Public Works.
- A Construction of new or modification of existing driveways requires a Driveway Entrance Permit. This permit is obtained through the Public Works Department. All associated costs with this permit are the responsibility of the owner.
- Apply for and receive approval for NPCA work permits, if necessary.

Prepared and Submitted by:

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Recommended by:

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