



Community Planning and Development Department
Committee of Adjustment
Monday, May 06, 2024

Consent Application: B8-2024P

Municipal Address: N/A

**Legal Description: Part of Lot 167, Part of Lots 17, 18, 19 on Plan 717 –
Part 2 on Sketch**

Roll number: 2732 030 004 06200

Location of Lands and Purpose of Application:

The subject parcel, shown as Part 2 on the attached sketch, is an interior parcel of land situated north of Port Robinson Road, lying east of Pelham Street, being Part of Lot 167, Part of Lots 17, 18, 19 on Plan 717 in the Town of Pelham.

Application is made for consent to partial discharge of mortgage and consent to convey 1,060.70 square metres of land (Part 2), to be added to the abutting property to the east (Part 3) for future development. Part 1 is currently subject to applications for redline revision to the existing plan of subdivision and zoning by-law amendment. Part 1 will be retained for residential use.

Applicable Planning Policies:

Planning Act (Consolidated April 2022)

Section 51(24) of the *Planning Act* states that when considering the division of land, regard shall be had to the health, safety, convenience, accessibility and welfare of the present and future inhabitants of the municipality and among other matters, including:

- a) The development's effect on provincial matters of interest;
- b) Whether the proposed subdivision is premature or in the public interest;
- c) Whether the plan conforms to the Official Plan and adjacent plans of subdivisions, if any;
- d) The suitability of the land for such purposes;
- e) The number, width, location and proposed grades and elevations of highways, and the adequacy of them, and the highways linking the highways in the proposed subdivision with the established highway system in the vicinity and adequacy of them;
- f) The dimensions and shapes of the proposed lots;
- h) Conservation of natural resources and flood control;
- i) The adequacy of utilities and municipal services;

j) The adequacy of school sites;

Section 53 (1) states a landowner may apply for a consent and the council may, subject to this section, give a consent if satisfied that a plan of subdivision is not necessary for the proper and orderly development of the municipality.

The proposed boundary adjustment is to add remnant lands (Part 2) resulting from a proposed redline revision to a draft approved subdivision (located in Part 1) and adding the remnant lands to other lands (Part 3) owned by the applicant which supports provincial interest by facilitating the creation of a subdivision plan within the settlement area, and making more efficient use of those subdivision lands and increasing housing supply in the urban area. Parts 2 and 3 will be subject to future development applications consistent the *Planning Act* requirements and with the approved Official Plan

Provincial Policy Statement (PPS) (2020)

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

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

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

Policy 2.6.2 states that development and site alteration shall not be permitted on lands containing archaeological resources or archaeological potential unless the resources have been conserved. The Town’s Heritage Master Plan identifies this area as having high archaeological resource potential. It is noted that a Stage 1-2 Archaeological Assessment has been completed on Parts 1, 2 and 3 in 2020 and a Stage 3 Archaeological Assessment was completed on a portion of Part 1 as recommended by the Stage 1-2 Archaeological Assessment in 2021. No further archaeological assessments are recommended on Parts 1, 2 or 3.

The proposed parcel reconfiguration is being made to reconfigure existing lot lines and does not include any site alteration or construction. Planning staff are of the opinion the requested boundary adjustment is consistent with the PPS.

Growth Plan for the Greater Golden Horseshoe (2020)

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

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

The subject lands are designated 'Delineated Built-Up Area' according to the Growth Plan. The proposed conveyance facilitates a boundary adjustment and would not be considered development. Further, the proposed lot boundary adjustment will facilitate the future development of the lands to the east, resulting in a consolidated parcel that will increase the flexibility of future development options and be able to help the Town to meet or exceed its *delineated built boundary* intensification targets. Accordingly, Staff is of the opinion that the proposed boundary adjustment is in keeping with the policies of the Growth Plan.

Niagara Region Official Plan (2022)

The Niagara Region adopted a new Official Plan in June of 2022. The Official Plan was forwarded to the Province and received approval in November of 2022. The Regional Official Plan (ROP) designates the subject lands as 'Delineated Built-Up Area' in the 'Urban Area' designation.

Policy 2.2.2.5 now requires that across the Region 60% of all residential units occurring annually are to be in the Built-Up Areas and in Pelham, this translates into an annual intensification rate of 25% of new residential units are to be within the Built-Up Area. The principal objective is to increase housing choice and housing affordability across the Region to meet future housing needs.

Policy Section 2.3.1 provides the policy direction with regards to a mix a housing options and specifically policy 2.3.1.1 states that the development of a range and mix of densities, lot, and unit sizes, and housing types, including affordable and attainable housing, will be planned for throughout settlement areas to meet housing needs at all stages of life. Policy 2.3.2.3 sets that target that 20% of all new rental housing is to be affordable and 10% of all new ownership housing is to be affordable.

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 conservation standards, water efficient technologies, and low impact development.

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

Town of Pelham Official Plan (2014)

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

The subject lands are located within the East Fonthill Secondary Plan Area and designated East Fonthill - Low Density Residential in the Town's Official Plan. Permitted uses in the EF- Low Density Residential designation are single detached and semi-detached dwelling units; accessory apartments/secondary suites; accessory buildings and structures related to the primary residential dwelling unit; home occupations; places of worship; day nurseries; convenience retail and service commercial uses; parks, parkettes and open space linkages; and public uses and public and private utilities.

The East Fonthill Secondary Plan includes a Demonstration Plan for the intended land use of the area. The lands subject to the boundary adjustment are shown in the Demonstration Plan to have a roadway cut through the norther portion of the parcels.

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;
 - ✓ Unchanged. Future access to lands will be accessed from Port Robsinson Road.
- b) Will not cause a traffic hazard as a result of its location on a curve or a hill;
 - ✓ Unchanged.
- c) Is in keeping with the intent of relevant provisions and performance standards of the Zoning By-law;
 - ✓ Yes.
- d) Can be serviced with an appropriate water supply and means of sewage disposal;
 - ✓ Yes, in accordance with the East Fonthill Stormwater Management and servicing plans.
- e) Will not have a negative impact on the drainage patterns in the area;
 - ✓ Yes, in accordance with the East Fonthill Stormwater Management and servicing plans.
- f) Will not affect the develop ability of the remainder of the lands, if they are designated for development by this Plan;
 - ✓ Each land designation and zone are proposed to remain intact on their respective parcels. As a condition of consent, the Town will require the dedication of the lands making up the public laneway to the Town.

- g) Will not have a negative impact on the features and functions of any environmentally sensitive feature in the area;
 - ✓ No negative impact.
- h) Conforms with Regional lot creation policy as articulated in the Regional Policy Plan; and,
 - ✓ No objection from Region Development Services Division.
- i) Complies with the appropriate provincial Minimum Distance Separation Formulae, where applicable.
 - ✓ N/A.

Policy B.1.711.5 applies to lands in the East Fonthill Secondary Plan and indicates that landowners work together and enter into Developer's Group Agreements in order to implement the development of the plan area. The Developer's Group Agreements are the mechanism to fairly address matters related to assigning cost sharing and other responsibilities in a reasonable and equitable manner with regards to servicing and timing of construction to ensure the development of a neighbourhood can proceed in an orderly manner and in accordance with the policies of the Secondary Plan so that one developer does not hold up the ability of another developer to move forward with their plans.

Policy D5.2.2 sets the policy basis for boundary adjustments. The policy states: A consent may be permitted for the purpose of correcting conveyances, enlarging existing lots or through acquisition by a public body, provided no new building lot is created. In reviewing an application for a boundary adjustment, the Committee of Adjustment shall be satisfied that the boundary adjustment will not affect the viability of the use of the properties affected as intended by this Plan.

The viability of the both the benefiting and retained lands will be maintained. The viability of the retained lands for residential use remains intact. The viability of the benefiting lands is enhanced through a larger lot area for future residential development.

Town Planning staff are of the opinion the proposed lot boundary adjustment conforms to the local Official Plan subject to entering into a Developer's Group Agreement.

Town of Pelham Zoning By-law 4481 (2022)

Part 2 (the lands to be severed) zoned R2-137 according to Schedule 'C' of Zoning By-law 4481. Part 3 (benefitting lands) are zoned Residential Development (RD). Both the retained lands and the lands to be severed will comply with the Zoning By-law upon completion of the boundary adjustment.

Agency and Public Comments:

On April 9, 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
 - No comments.
- Public Works Department
 - The Summersides Village subdivision (Part 1) is currently discharging into Port Robinson and 125 Port Robinson which is designed to discharge onto Moody Street, temporarily discharges to Port Robinson Road.
 - Per Public Works comments on SP-08-2023- 125 Port Robinson Road, engineering approval of Summersides Village and AM-01-2024 Summersides Village Redline, stormwater management strategy have been flagged by Town staff. Due to the increase of density and development in the area, significant flows are going through the Town's storm infrastructure. Stormwater pipes are running at the maximum capacity on Port Robinson Road. Any additional flows can cause the infrastructure to surcharge or fail.
 - That the Applicant extend the required sanitary and water, along with the stormwater sewer, east from MH#10, through Part 2 and Part 3 in accordance with the Overall East Fonthill Stormwater Management Plan and servicing plan for the construction of Moody Street.
 - That the Applicant enter into a Development Agreement with the Town to ensure that Moody Street is constructed along the proposed road allowance in accordance with the East Fonthill Master Plan.
 - Public Works Staff request a Holding Zone be placed on Part 2 & Part 3 until the developer provides a suitable construction schedule for the construction of Moody Street.

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

- Stephen Fischer
 - Expressed concern the application jeopardizes the future road system of the Neighbourhood Plan; No objection in principal to applications; Expressed previous applications in the area (B1-B3-2022P) were required to dedicate a portion of the lands for the future road system (Moody Street); Requested a condition be included for the approval which requires dedication of lands making up the future road system (the extension of Moody Street); Encouraged the Town to support a Development Agreement with landowners in the East Fonthill area.
- Rachelle Larocque, The Biglieri Group Ltd (on behalf of 2836344 Ontario Inc.)
 - Expressed concern the consent does not show the future road connection; Requested a condition be included for the approval which requires dedication of lands making up the future road system (the extension of Moody Street).

Planning Staff Comments:

Based on the analysis in the sections above, Planning staff is of the opinion that the proposed boundary lot adjustment is consistent with the PPS and conforms to Provincial, Regional, and local plans. The resulting parcels comply with applicable Zoning By-law regulations and should not negatively impact the surrounding neighbourhood with respect to traffic, privacy, and stormwater management. The proposed boundary adjustment helps facilitate land consolidation and will be subject to future development applications. This land consolidation is the first step in the future development approval process and, therefore it can be supported by Staff.

With respect to the public comments received on this application, Staff are requiring the lands that will make up the future Moody Street be dedicated to the Town.

Planning Staff Recommendation:

Planning staff recommend that minor variance file B8/2024P **be approved** subject to the following condition(s):

THAT the applicant:

- Ensure Part 2 merges on title with Part 3.
- 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.
- That the Applicant extend the required sanitary and water, along with the stormwater sewer, east from MH#10, through Part 2 and Part 3 in accordance with the Overall East Fonthill Stormwater Management Plan and servicing plan for the construction of Moody Street.
- That the Applicant enter into a Development Agreement with the Town to ensure that Moody Street is constructed along the proposed road allowance in accordance with the East Fonthill Master Plan.
- Public Works Staff request a Holding Zone be placed on Part 2 & Part 3 until the developer provides a suitable construction schedule for the construction of Moody Street.
- 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 fee of \$436, payable to the Treasurer, Town of Pelham, be submitted to the Secretary-Treasurer. All costs associated with fulfilling conditions of consent shall be borne by the applicant.

Prepared and Submitted by:

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Planner

Recommended by:

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