



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

**Consent Application: B11-2024P**

**Municipal Address: 1395 Station Street**

**Legal Description: Firstly: Part Lots 15 and 16, Plan 717, Part 1 on Plan 59R-11979 and Part 4 on Plan 59R-17255; Secondly: Part Lots 14 and 15, Plan 717 - Part 1 on Sketch**

**Roll number: 2732 030 004 03400**

---

**Location of Lands and Purpose of Application:**

The subject parcel, shown as Part 1 on the attached sketch, has a frontage of 21.71m on the east side of Station Street, lying south of Summersides Boulevard in the Town of Pelham.

Application is made for consent to partial discharge of mortgage and consent to convey 1,173 square metres of land (Part 1), for future development. Part 2 is to be retained for future development. 1395 Station Street was previously a four-unit multi residential building that has been demolished. The subject property has historically been used for industrial purposes. Development of Part 2 will be subject to future Planning Act applications. Part 1 is exempt from future Planning Act applications due to recent amendments to the Planning Act, provided the existing zone regulations are met.

Surrounding land uses include low to medium density residential development.

**Applicable Planning Policies:**

Planning Act (Consolidated April 2022)

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

Provincial Policy Statement (PPS) (2020)

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

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

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

Infill development is an acceptable form of *intensification* so long as new development is compatible in nature, is compact, and avoids adverse impacts to provincial interest, public health, safety, and the quality of the human environment. Planning staff are of the opinion that the requested consent is consistent with the PPS. The consent will allow for appropriate development and *intensification* as part of future Planning Act applications on Part 2 and compliance with existing zone regulations on Part 1.

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. The applicant submitted an archaeological assessment with the application. No archaeological resources were identified through the Stage 2 property assessment and it was determined that no further archaeological assessment of the property is required. The applicant also appended the Ministry of Citizenship and Multiculturalism clearance letter.

Planning staff are of the opinion the application for consent 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 consent will facilitate the future development of the lands. The proposed consent will result in two separate parcels to allow development to proceed independently. Future redevelopment will be counted toward the Town’s *delineated built boundary* intensification targets.

Accordingly, Staff is of the opinion that the proposed application for consent 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 within the Built-Up Area. The principal objective is to increase housing choice and 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.

Future development applications will be reviewed for conformity with these policies. The current application proposes to separate the property into two parcels so they can be developed independently.

Regional staff provided comments and offered no objections to the consent 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 property, Part 1, is designated Urban Living Area/Built Boundary. Part 2 is within the East Fonthill Secondary Plan Area and within the "Built Boundary". Part 2 is designated Medium Density Residential on Schedule A5 East Fonthill Secondary Plan Area – Land use Plan.

Policy A2.2.2 Growth & Settlement – states that it is a goal of this Plan to encourage intensification and redevelopment within the *Urban Area* specifically in proximity to the Downtown.

Policy B1.1.3 states that in considering residential intensification proposals (only applicable to Part 1), 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;
  - ✓ Part 1 is located on Station Street, approximately 80 metres south of Summersides Boulevard which is identified as a Collector 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;
  - ✓ No redevelopment proposal is being considered at this time. Development will be required to comply with existing zone regulations unless further applications are made.
- 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;
  - ✓ Future development of Part 1 will be required to meet the zone regulations or conform to this Policy through future applications.
- 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;
  - ✓ At this time, no development proposal has been provided for Part 1.

- 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;
  - ✓ At this time, no development proposal has been provided for Part 1.
- f) The provision of affordable housing in intensification areas will be encouraged; and,
  - ✓ At this time, no development proposal has been provided for Part 1.
- 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 to the consent application.

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

- a) Fronts on and will be directly accessed by a public road that is maintained on a year-round basis;
  - ✓ Satisfied. Both the severed and retained parcels will have direct access from a public road.
- b) Will not cause a traffic hazard as a result of its location on a curve or a hill;
  - ✓ No traffic hazards are anticipated. Public Works staff did not identify any traffic concerns.
- c) Is in keeping with the intent of relevant provisions and performance standards of the Zoning By-law;
  - ✓ Satisfied. Both the severed and retained parcels are in keeping with the standards of the zoning by-law. Future Planning Act applications will be required to move forward with development of Part 2. Part 1 will be required to meet the zone regulations or make further Planning Act applications.
- d) Can be serviced with an appropriate water supply and means of sewage disposal;
  - ✓ Satisfied. Both the severed and retained lot will have an appropriate or planned water supply and means of sewage disposal.
- e) Will not have a negative impact on the drainage patterns in the area;
  - ✓ A lot grading / drainage plan will be required as a condition of approval.
- f) Will not affect the developability of the remainder of the lands, if they are designated for development by this Plan;
  - ✓ Satisfied. The proposed consent will facilitate future development of both parcels. The proposed lot dimensions will not hinder future development.

- g) Will not have a negative impact on the features and functions of any environmentally sensitive feature in the area;
  - ✓ There are no environmental features identified on the subject lands.
- h) Conforms with Regional lot creation policy as articulated in the Regional Policy Plan; and,
  - ✓ Satisfied. Regional staff did not object as the proposal does not conflict with Provincial or Regional interests and planning policy.
- i) Complies with the appropriate provincial Minimum Distance Separation Formulae, where applicable.
  - ✓ Not applicable.

The Town's Cultural Heritage Master Plan identifies the subject lands as having composite potential for deeply buried archaeological resources. The applicant submitted an Archaeological Assessment with the application. No archaeological materials or features were located during the test pit survey, and as such no further archaeological assessment was recommended for the Study Area. The applicant also appended the Ministry of Citizenship and Multiculturalism clearance letter.

Town Planning staff are of the opinion the proposed severance conforms to the local Official Plan.

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

The lands are zoned Village Commercial (VC) and Residential Development (RD). The newly created lots will comply with the regulations of the Zoning By-law.

Future Planning Act applications will be required to develop Part 2. Part 1 will be required to meet existing zone regulations or make Planning Act applications.

On May 30, 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
  - Applicant should confirm that no existing utilities shall cross property line, relocation shall be the applicant's responsibility.
  - Please note that under Town's policy, only one service is allowed per lot.
  - 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
  - The consent application does not conflict with Provincial and Regional Urban Area policies. As such, Regional Growth Strategy and Economic Development staff offer no objection, provided a letter of reliance from a QP is provided with future development applications and a copy of the RSC is obtained prior to the issuance of a building permit.

One (1) public comment was received and is summarized as follows:

- Mary Tucker
  - Expressed concern with the future development of the lands – opposed to commercial or high-density development; Expressed concern with construction impacts; Expressed concern with infrastructure on Station Street (traffic, stormwater).

### **Planning Staff Comments:**

A pre-consultation meeting was held with the applicant of the property and staff from the Town and Niagara Region Planning & Development Services on May 16, 2024 to discuss the subject application. In addition, a consent sketch and planning justification brief was provided in support of the proposed development. Planning staff reviewed the planning justification brief and agreed with its conclusions.

The subject property has historically been used for industrial purposes and the proposal will introduce a more sensitive (residential) use. In accordance to the Environmental Protection Act, 1990 and Ontario Regulation 153/04 ("O. Reg. 153/04"), a change in use of this nature requires the filing of a Record of Site Condition ("RSC") on the Ministry of the Environment, Conservation and Parks' ("MECP") Environmental Site Registry to demonstrate that the site is suitable for this type of sensitive use. Accordingly, a Phase 1 and 2 ESA was prepared for the site. Field work was completed to remediate two areas of contaminants. No further remedial efforts are required.

Staff will require a letter of reliance from a qualified person be provided with future development applications for Part 2 and prior to issuance of a building permit on Part 1 to indicate that, despite any limitations or qualifications included in the Phase 1 and 2 ESA, the Region is authorized to rely on all information and opinions provided in the reports submitted.

With respect to the public comments received, Town staff recognize the importance of preserving existing character, analyzing impacts on infrastructure and services, and ensuring new development does not create adverse impacts in terms of traffic, drainage, and safety. Future development applications for Part 2 will be reviewed to ensure compatibility with the surrounding neighbourhood, to mitigate impacts on local infrastructure and ensure adequate capacity. Residents will have opportunities to participate in future public meetings, provide feedback, and voice concerns throughout the planning and development stages. It is the goal of Community Planning and Development staff to ensure new development aligns with the long-



term vision as outlined in the Town's Official Plan, balancing growth with neighbourhood character, and quality of life for existing and future residents of the Town.

In Planning Staff's opinion, the application for consent is consistent with the PPS and conforms to Provincial, Regional and Local plans.

**Planning Staff Recommendation:**

Planning staff recommend that minor variance file B11/2024P **be approved** subject to the following condition(s):

**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 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.
- 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.
- The applicant must submit a comprehensive Lot Grading & Drainage Plan demonstrating that the drainage neither relies, nor negatively impacts neighboring properties, and that all drainage will be contained within the respective lot, to the satisfaction of the Director of Public Works, or designate.
- The applicant shall provide the associated storm sewer oversizing fees for Part 1 (1,173 square metres) in the amount of \$11,556.32. The cost sharing fee for the remaining Part 2 (7,948 square metres) of 1395 Station Street is \$219,859.68. This will be required at time of development submission.
- That the applicant provide a payment of \$1000.00 to the Town for a Street tree to be planted on the boulevard in front of the property as part of the Station Street road reconstruction.

**Prepared and Submitted by:**

Andrew Edwards, BES  
Planner

**Recommended by:**



Shannon Larocque, MCIP, RPP  
Senior Planner