

Meeting #: CoA-02/2017
Date: Tuesday, February 7, 2017
Time: 4:00 pm
Location: Town of Pelham Municipal Office - Council Chambers
20 Pelham Town Square, Fonthill

Members Present James Federico
Brian DiMartile
Donald Cook

Staff Present Nancy Bozzato
Judy Sheppard

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

Noting that a quorum was present, Chair, James Federico 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. **Disclosure of Pecuniary Interest and General Nature Thereof**

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

4. **Requests for Withdrawal or Adjournment**

There were no requests for withdrawal or adjournment.

5. **Applications for Minor Variance**

5.1 File A4/2017P - Homes By Hendriks Inc.

Purpose of the Application

The subject land is zoned Agricultural A in accordance with Pelham Zoning By-law 1136(1987), as amended. The applicants are seeking relief of section 6.14(a) whereas no dwelling on any adjacent lot shall be located within 300 metres of a livestock or poultry operation, to reduce the minimum distance to 180 metres of

any livestock operation. The variance is requested to facilitate construction of a single detached dwelling.

Representation

Mr. Tom Richardson, Sullivan Mahoney LLP, authorized agent, appeared on behalf of this application.

Correspondence Received

1. Town of Pelham Planning Department
2. Town of Pelham Building Department
3. Town of Pelham Fire Department
3. Town of Pelham Public Works Department
4. Nestor & Tracey Chemerika
5. Frank Svob - January 24, 2017
6. Frank Svob - January 27, 2017

Applicant comments

Mr. Tom Richardson spoke on behalf of the applicant and his comments included, but are not limited to, the following:

Mr. Richardson's client is in agreement with the contents of the staff report and accepts the conditions contained in the Planning Staff's report. The subject lot was created by testamentary devise meaning it was created some 27 years ago when such a lot was permitted and it was done by Will, therefore, there were no planning processes involved.

Mr. Richardson commented that the ability to create lots by Will has been repealed however, lots that are already in existence are allowed to continue and to develop therefore, the lot is a lawful lot and meets all the requirements of a zoning by-law except the setback from livestock uses which is why we are here this evening.

On two occasions before removing the conditions on the offer to purchase, Mr. Richardson's client consulted with the Town Planning Department and was assured that a home could be built on the lot. The Town discovered the issue of the 300m setback after the deal had closed and a building permit was being processed.

Mr. Richardson commented that the Committee may hear from Mr. Svob who is the owner of the lot to the east of the subject lot because Mr. Svob is concerned that he will not be allowed to expand by constructing another barn on the west side of his farm. Mr. Richardson commented that if Mr. Svob wishes to construct another barn, he will need to seek a minor variance also.

Reference was made to the photos that were attached to the Planning Staff's report to indicate the MDS formula and requested that the committee accept the opinion that has been offered by the Town Staff as to why there is little likelihood of impact. Mr. Richardson's client has accepted the conditions which includes a warning clause for any future purchaser.

Public Comments

Mr. Wellenreiter spoke on behalf of Mr. Frank Svob and his company and his comments included, but are not limited to the following:

Mr. Hendricks comes into this picture with a knowing mind, that this is a farming operation situation. The opinion of the Town Planners suggest that a minor variance reducing from 300 metres to 180 metres is minor. The difficulty with the situation is that farming is growing and farmers have priority and not residences. When residential people move into the agricultural area, they are secondary and that is why the 300 metres distance was established. One has to consider what is minor and what is not minor. The farmers are expected to grow, and are not expected to move their buildings. When a significant developer like Mr. Hendriks comes into the picture, he comes with a knowing mind which says this is a risk that I am taking and therefore, that risk should not be transferred to the farmer. Mr. Svob has plans for expansion which is significant and it puts Mr. Hendriks on notice. Mr. Svob has an obligation to himself and his neighbours to indicate what he is doing so he is giving fair notice to Council and to Mr. Hendriks which should be taken into account by the Committee. The provincial legislation is established to protect the residences and the farmer. The fact that this sub-division was established through the most strange circumstances that are not repeated again does not give any plus to the situation but it says to any developer, this is a risk area. In summary, the farmer is going to have difficulty with his operation

Members Comments

There are already 9 existing homes within that 300 metres circle so what makes this proposed new dwelling so different.

Mr. Wellenreiter responded and advised that this proposed new dwelling is different because it is closer and will cause difficulty and it is like saying, "I have done this error three times and nobody has caught me, so I will do it a fourth time". You have to go back to Provincial Legislation and determine what is minor and one has to take into account the sophistication of the applicant and is he a risk-taker. You are asked to take the risk away and we object.

Mr. Richardson responded to Mr. Wellenreiter's comments and advised that there was a comment made that my client is a risk-taker, however, my client is

not taking a risk because he met with Town Staff twice before purchasing the property. The Town had advised that the lot could be built on so it is not appropriate to call my client a risk-taker. The 300 metres is not Provincial Legislation because the Province creates the MDS formula and the Town sets the minimum in its Zoning By-law. MDS is calculated on the number of livestock heads in the building so it's not appropriate for Mr. Wellenreiter to say this is Provincial Legislation because we are dealing with the Town's by-law of 300 metres.

Public Comments

1. Nester Chemerika

We were not aware that our house was within the 300 metres. We moved to the country to have privacy and understood that this could not be developed because of the 300 metres. Being an ex-farmer myself, I know where Frank is coming from.

Mr. Richardson responded to Mr. Chemerika's comments and advised that as a rural dweller, the zoning by-law allows residences on existing lots, as the staff report indicates, so that's an equally favored position. It's a use that is permitted in the zoning by-law. The MDS formula is there to protect both the resident and the farmer equally, that's why there are two MDS formulas. As for Mr. and Mrs. Chemerika seeking privacy, they are there and they are now saying don't let anybody else there and that's hardly reasonable.

Members comments

Member DiMartile had no questions other than to say he is aware of the sensitivity of this issue, particularly for farmers and open sprawl into the agricultural area. However, noting that other homes are in this area, he has no concern with the application.

Member Cook agreed with Member DiMartile's comments.

Member Federico clarified with Mr. Richardson that the lots were created more than 27 years ago and commented that he recognizes the concerns from the public but these lots are not new lots.

There were no other comments received from anyone present.

Moved

By Brian DiMartile

Seconded

By Donald Cook

Application for relief of section 6.14(a) whereas no dwelling on any adjacent lot shall be located within 300 metres of a livestock or poultry

operation, to reduce the minimum distance to 180 metres of any livestock operation, is hereby GRANTED.

The above decision is based on the following reasons:

1. The variance is minor in nature given the lack of nuisance complaints with several existing dwellings in close proximity and the prevailing west winds directing odour from the nearby poultry operation to the east, and given the presence of other nearby residential uses.
2. The general purpose and intent of the Zoning By-Law is maintained in that it would permit the construction of a single detached dwelling which is a permitted use on existing lots of record.
3. The intent of the Official Plan is maintained in that one single detached dwelling is permitted.
4. The proposal is desirable for the appropriate development and/or use of the land in that it will provide for the development of a single detached dwelling for which the lot was created.
5. This application is granted without prejudice to any other application in the Town of Pelham.
6. The Committee of Adjustment considered the written and oral comments and agrees with the minor variance report analysis and recommendation that this application meets the Planning Act tests for minor variance.

The above decision is subject to the following conditions:

1. That the applicant enter into a Development Agreement with the Town for the purposes of developing the lot to include but not be limited to:
 - o Obtaining an Entrance Permit from the Public Works Department for the installation of a driveway / culvert, as applicable, in accordance with Town standards. The applicant shall bear all costs associated with such, to the satisfaction of the Director of Public Works.
 - o Submission of a lot grading plan to the satisfaction of the Director of Public Works.
 - o An owner warning clause specifying that, “The owner acknowledges that their property is located within a calculated radius as determined by the Ministry of Agriculture, Food & Rural Affairs Minimum Distance Separation formulae & the Town’s Zoning By-law Minimum Distance Separation spatial requirement and that they may potentially, from time to time, experience unpleasant odors from an existing adjacent poultry barn operation”, to the satisfaction of the Niagara Region Planning and Development Services.
2. That all necessary permits are required prior to construction commencing, to the satisfaction of the Town of Pelham Chief Building Official.

Carried

6. Applications for Consent

6.1 File B3/2017P - Rosetta Nuziato

Purpose of the Application

Application is made for consent to partial discharge of mortgage and to convey 3398.23 square metres of land, to be merged with the abutting lands to the east (Part 7) for future plan of condominium development considerations. This application is being considered concurrently with Files B4/2017P, B5/2017P, B6/2017P and B7/2017P.

Representation

William Heikoop, Upper Canada Consultants, authorized agent, and Mr. Tony Nuziato, registered owner, appeared on behalf of this application.

Correspondence Received

1. Town of Pelham Planning Department
2. Town of Pelham Building Department & Drainage Superintendent
3. Town of Pelham Public Works Department
4. Bell
5. Peter & Yvonne Bulk. Peter & Yvonne Bulk

Agent's Comments

William Heikoop, Upper Canada Consultant, made a presentation to the Committee and his comments included, but are not limited to, the following:

This application is subject to zoning amendment approval which requests Council to consider re-zoning the lands from their current zoning to an R2 for the single detached dwellings and then an RM Multiple Use zone for future development purposes. Along with this application, there is a condition for replacement of the water main and sanitary sewer along the frontage of Claire Avenue and they accept all of the conditions. The applications conform to the Provincial Policy Statement and the Growth Plan as they are within the urban boundary and the built-up boundary designation for the Town of Pelham. In this area, residential uses are permitted with the provision of municipal services which they are proposing to do. The consents conform to the Town's Official Plan. The proposed detached dwelling units are compatible with the existing housing style of the adjacent and future development as they are similar in size and have road access to Quaker Road and Claire Avenue. Regarding the conditions for approval, they have no issues with the storm water

management drainage or with the replacement of the water main. Regarding the condition, the amendment to the zoning by-law will appear before Council on March 22nd and Mr. Heikoop reminded the public that it is a full public process and one can speak in front of Council and make their submissions at that point.

Public Comments

Terry Yockell

Mr. Yockell advised he is not opposed to the development however, he has a couple of concerns: Concern #1 - Quaker Road is already a very heavily traffic road and the increased traffic to serve as many as twenty townhouses with only one entrance to that area. There are many accidents on that corner and he suggested there be consideration given for a second point of entrance off Claire Avenue. Concern #2 – whether the sewer system is capable of handling the proposed development.

Mr. Heikoop responded to Mr. Yockell's comments and advised that the RM1 proposed zoning is subject to future requirements and as such, a traffic study would be required to determine whether that intersection can handle the extra traffic that would be generated by that development and that process is currently underway. Having had a preliminary session with their traffic consultant regarding traffic count, Mr. Heikoop advised that it does not appear to be a problem at this point.

Sandy Yockell

Ms. Yockell's was concerned about the school buses on that street because it involves two elementary schools and the traffic is really heavy and she is concerned for the safety of the children. There were stop signs installed on that corner but it doesn't alleviate the busy traffic and Ms. Yockell suggested that consideration be given to a cross guard.

Clint Milley

Mr. Milley is concerned about the traffic flow during construction which will be immediately beside his property on a daily basis. Mr. Milley reiterated that there needs to be another access point. Concern was also expressed regarding the building phase of condominiums and he inquired as to how soon will the barrier fencing be installed to filter the dust and dirt that will be created around his property.

Mr. Heikoop responded to Mr. Milley's comments and noted Mr. Milley's comments and commented that at such time when the zoning amendment is approved, they would have to enter into separate applications including a site plan agreement which dictates what type of fencing, what the entrances look like and any safety features. They are not in a position to comment on the quantity of units that will be developed until the zoning by-law amendment is approved.

Yvonne Bulk

Ms. Bulk expressed concern regarding privacy fencing and she advised that she had written a letter regarding the same.

Member Federico responded to Ms. Bulk's comment and advised that her letter was read into the record and that her concern will be dealt with during the Site Plan Agreement and Zoning By-law Amendment.

Mr. Heikoop responded to Ms. Bulk's comment and advised that the Applicant would be willing to construct a fence if the Committee would like to add that condition along the lot line. Mr. Heikoop reiterated that there is a positive Planning Report that is recommending approval and it does conform with all the Provincial and Town Policies.

Member DeMartile's comments

Mr. DeMartile commented that he understands the public's concerns at this particular time and assumes that they will be attending the meeting for the Zoning By-law Amendment to present their statements at that time. Mr. DeMartile had no questions because the applications do conform to the Provincial and Town Policies.

Member Cook's comments

Mr. Cook commented that he agrees this is an area that should be developed and agrees that the intensification that is being proposed is not overwhelming therefore, agrees the application conforms with the Provincial Policy Statement and the Town's Policy. One of his concerns with drainage is that the drainage in this area of the proposed development is imperfect. The applications on Claire Avenue will need to be serviced and he suggested the sewer be extended to the centre of Part 6 so the sanitary system comes out on a perpendicular angle rather than just inside the property line. A second concern is with an existing cast iron main on Claire Avenue and suggested a condition that the applicant be willing to replace the cast iron main from Quaker Road to the south limits

of Part 6. This concern will be addressed in the Development Agreement. Mr. Cook would also like to suggest a storm water management plan be prepared to include parts 1 to 7 in order for the storm water management plan to deal with some adjacent lands.

Mr. Heikoop responded to Member Cook's comments and advised that through the Zoning By-law amendment application, they have already prepared a Storm Water Management Plan for this and it is currently under review. The applicant is aware of the existing water main problems and they have agreed to the recommended condition from the Public Works Department to replace it along the frontage. At this point, the town have not indicated to them that there is a need to replace it all the way up to Quaker Road. Therefore, unless for some reason there was a problem with that existing stretch, they would not want to replace that extra piece.

The Committee Secretary-Treasurer responded to Member Cook's concerns and advised that the correspondence did indicate that there would be overall lot grading and drainage plans as a requirement as part of the Development Agreement therefore, there would not be individual plans for each of the parcels not taking into consideration the overall development that was indicated in the comments from the Public Works Department and through the requirement of the Development Agreement.

Regarding concerns relating to a condition completed on one of the files but not all of the files, there is a suggestion that the consent files all obtain final certification by the Secretary-Treasurer concurrently which means that the applicant couldn't go ahead and finalize, for example, part 5 without completing all of the conditions on all of the applications. In an effort to protect the Town's interest as well as the inhabitants of the community, the final certificate would not be issued on any of them.

There has been a great deal of thought and consultation with the applicant and there will be a Zoning By-law Amendment application that will come forward. The Zoning By-law Amendment meeting is the point that will require a Site Plan Agreement for the proposal and that is the appropriate mechanism for the Storm Water Management Plan and any Traffic Studies that would be required.

For the information of the members of the public, the circulation on a consent application is 60 metres and the circulation on a zoning by-law amendment application is 120 metres. There will be another public process which will involve members of Council for the Town of Pelham (Ward 3 – Councillors Papp and Durley) and it will provide another

opportunity to address concerns that relate to site plan, storm water management as well as other concerns.

There were no other comments received by anyone present.

**Moved By Donald Cook
Seconded By Brian DiMartile**

Application for consent to partial discharge of mortgage and to convey 3398.23 square metres of land, (Part 2), to be merged with the abutting lands to the east (Part 7) for future plan of condominium development considerations is hereby GRANTED.

This decision is subject to the following conditions:

- 1. Pursuant to Section 50(12) of the Planning Act, R.S.O. 1990, as amended, it is hereby stipulated that Section 50(3) or 50(5) shall apply to any subsequent conveyance of, or other transaction involving, the identical subject parcel of land. Therefore, once the subject parcel of land has been conveyed to the owner of the parcel abutting to the east (Part 7), the subject parcel and the said abutting parcel shall merge in title and become one contiguous parcel of land. A solicitor's written undertaking shall be provided to the Secretary-Treasurer indicating that the necessary steps to implement the conveyance will be taken, together with the registrable legal descriptions of the subject parcel and the consolidated parcel.**
- 2. That the Applicant receive final Zoning By-law Amendment approval to legalize any deficient zoning regulations on the severed and retained parcels to the satisfaction of the Director of Community Planning and Development.**
- 3. That the Applicant submit a comprehensive lot grading & drainage plan for all parcels to demonstrate that drainage does not negatively impact neighbouring properties to the satisfaction of the Director of Public Works.**
- 4. That consent files B3/2017P, B4/2017P, B5/2017P, B6/2017P and B7/2017P obtain final certification by the Secretary-Treasurer concurrently.**
- 5. 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.**
- 6. That the final certification fee of \$358, 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 with conditions fulfilled, will comply 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

6.2 File B4/2017P - Antonio & Rosetta Nuziato

Purpose of the Application:

Application is made for consent to partial discharge of mortgage and to convey 2310.8 square metres of land, to be merged with the abutting lands to the west (Part 2) for future plan of condominium development considerations. This application is being considered concurrently with Files B3/2017P, B5/2017P, B6/2017P and B7/2017P.

Representation

William Heikoop, Upper Canada Consultants, authorized agent, and Mr. Tony Nuziato, registered owner, appeared on behalf of this application.

Correspondence Received

1. Town of Pelham Planning Department
2. Town of Pelham Building Department
3. Town of Pelham Public Works Department
3. City of Welland
5. Bell
6. Liz and Ken Lucas

Agent's comments

William Heikoop, Upper Canada Consultant, made a presentation to the Committee and his comments included, but are not limited to, the following:

Mr. Heikoop commented that his application is subject to zoning amendment approval which requests Council to consider re-zoning the lands from their current zoning to an R2 for the single detached dwellings

and then an RM Multiple Use zone for future development purposes. Along with this application, there is a condition for replacement of the water main and sanitary sewer along the frontage of Claire Avenue and they are acceptable of all these conditions.

The applications conform to the Provincial Policy Statement and the Growth Plan as they are within the urban boundary and the built-up boundary designation for the Town of Pelham. In this area, residential uses are permitted with the provision of municipal services which they are proposing to do and the consents conform to the Town's Official Plan. The proposed detached dwelling units are compatible with the existing housing style of the adjacent and future development as they are similar in size and have road access to Quaker and to Claire Avenue.

Regarding the conditions for approval, they have no issues with the storm water management drainage or with the replacement of the water main.

Regarding the condition, the zoning by-law amendment application will be going before Council on March 22nd and Mr. Heikoop reminded everyone that it is a full public process and one may speak in front of Council and make their submissions at that point.

Public Comments

Terry Yockell

Mr. Yockell advised he is not oppose to the development however, heavy traffic road with many accidents, handle extra traffic which would be generated by new development. Mr. Yockell suggested there be consideration given for a second point of entrance off Claire Avenue.

A second concern is whether the sewer system is capable of handling the proposed development.

Mr. Heikoop responded to Mr. Yockell's comments and advised that the RM1 proposed zoning is subject to future requirements and as such, a traffic study would be required to determine whether that intersection can handle the extra traffic that would be generated by that development and that process is currently underway. Mr. Heikoop advised that he has had a preliminary session with their traffic consultant regarding traffic count and traffic does not appear to be a problem at this point.

Sandy Yockell

Ms. Yockell expressed concern regarding the school buses respecting the two elementary schools on that street and the traffic is really heavy. Ms. Yockell is concerned for the safety of the children and suggested that consideration be given to a cross guard.

Clint Milley

Mr. Milley expressed concern about the daily traffic flow during construction which will be immediately beside his property and reiterated that there needs to be another access point. Mr. Milley is also concerned regarding the building phase of condominiums and asked how soon will the barrier fencing be installed to filter the dust and dirt that will be created around his property.

Mr. Heikoop responded to Mr. Milley's comments and noted Mr. Milley's comments and advised that at such time when the zoning amendment is approved, they would have to enter into separate applications including a site plan agreement which dictates what type of fencing, what the entrances look like and any safety features. They are not in a position to comment on the quantity of units that will be developed until the zoning by-law amendment is approved.

Yvonne Bulk

Ms. Bulk expressed concern regarding privacy fencing and she advised that she had written a letter regarding the same.

Member Federico responded to Ms. Bulk's comment and advised that her letter was read into the record and that her concern will be dealt with during the Site Plan Agreement and Zoning By-law Amendment.

Mr. Heikoop responded to Ms. Bulk's comment and advised that the Applicant would be willing to construct a fence along the lot line if the Committee would like to add that condition. Mr. Heikoop reiterated that there is a positive Planning Report that is recommending approval and it does conform with all the Provincial and Town Policies.

Member DeMartile's comments

Mr. DeMartile commented that he understands the public's concerns at this particular time and assumes that they will be attending the meeting for the Zoning By-law Amendment to present their statements at that time.

Mr. DeMartile had no questions because the applications do conform to the Provincial and Town Policies.

Member Cook's comments

Mr. Cook commented that he agrees this is an area that should be developed and agrees that the intensification that is being proposed is not overwhelming therefore, agrees the application conforms with the Provincial Policy Statement and the Town's Policy. One of his concerns with drainage is that the drainage in this area of the proposed development is imperfect. The applications on Claire Avenue will need to be serviced and he suggested the sewer be extended to the centre of Part 6 so the sanitary system comes out on a perpendicular angle rather than just inside the property line. A second concern is with an existing cast iron main on Claire Avenue and suggested a condition that the applicant be willing to replace the cast iron main from Quaker Road to the south limits of Part 6. This concern will be addressed in the Development Agreement. Mr. Cook would also like to suggest a storm water management plan be prepared to include parts 1 to 7 in order for the storm water management plan to deal with some adjacent lands.

Mr. Heikoop responded to Member Cook's comments and advised that through the Zoning By-law amendment application, they have already prepared a Storm Water Management Plan for this and it is currently under review. The applicant is aware of the existing water main problems and they have agreed to the recommended condition from the Public Works Department to replace it along the frontage. At this point, the town have not indicated to them that there is a need to replace it all the way up to Quaker Road. Therefore, unless for some reason there was a problem with that existing stretch, they would not want to replace that extra piece.

The Committee Secretary-Treasurer responded to Member Cook's concerns

The correspondence did indicate that there would be overall lot grading and drainage plans as a requirement as part of the Development Agreement therefore, there would not be individual plans for each of the parcels not taking into consideration the overall development.

Regarding concerns relating to a condition completed on one of the files but not all of the files, there is a suggestion that the consent files all obtain final certification by the Secretary-Treasurer concurrently which means that the applicant couldn't go ahead and finalize, for example, part 5

without completing all of the conditions on all of the applications. In an effort to protect the Town's interest as well as the inhabitants of the community, the final certificate would not be issued on any of them.

There has been a great deal of thought and consultation with the applicant and there will be a Zoning By-law Amendment application that will come forward. It is at that point a Site Plan Agreement will be required for the proposal which is the appropriate mechanism for the Storm Water Management Plan and any Traffic Studies that would be required.

For the information of the members of the public, the circulation on a consent application is 60m and the circulation on a zoning by-law amendment application is 120m. There will be another public process which will involve members of Council for the Town of Pelham (Ward 3 – Councillors Papp and Durley) and it will provide another opportunity to address concerns that relate to site plan, storm water management as well as other concerns.

There were no other comments received from anyone present.

**Moved By Donald Cook
Seconded By Brian DiMartile**

Application for consent to partial discharge of mortgage and to convey 3398.23 square metres of land, (Part 2), to be merged with the abutting lands to the east (Part 7) for future plan of condominium development considerations is hereby GRANTED.

This decision is subject to the following conditions:

- 1. Pursuant to Section 50(12) of the Planning Act, R.S.O. 1990, as amended, it is hereby stipulated that Section 50(3) or 50(5) shall apply to any subsequent conveyance of, or other transaction involving, the identical subject parcel of land. Therefore, once the subject parcel of land has been conveyed to the owner of the parcel abutting to the east (Part 7), the subject parcel and the said abutting parcel shall merge in title and become one contiguous parcel of land. A solicitor's written undertaking shall be provided to the Secretary-Treasurer indicating that the necessary steps to implement the conveyance will be taken, together with the registrable legal descriptions of the subject parcel and the consolidated parcel.**
- 2. That the Applicant receive final Zoning By-law Amendment approval to legalize any deficient zoning regulations on the severed and retained parcels to the satisfaction of the Director of Community Planning and Development.**
- 3. That the Applicant submit a comprehensive lot grading & drainage plan for all parcels to demonstrate that drainage does not negatively**

impact neighbouring properties to the satisfaction of the Director of Public Works.

4. That consent files B3/2017P, B4/2017P, B5/2017P, B6/2017P and B7/2017P obtain final certification by the Secretary-Treasurer concurrently.

5. 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.

6. That the final certification fee of \$358, 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 with conditions fulfilled, will comply 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

6.3 File B5/2017P - Antonio & Rosetta Nuziato

Purpose of the Application:

Application is made for consent to partial discharge of mortgage and to convey 585.54 square metres of land, shown as Part 4 on the drawing submitted, being part of Lot 237, Geographic Township of Thorold, in the Town of Pelham. This application is being considered concurrently with Files B3/2017P, B4/2017P, B6/2017P and B7/2017P.

Representation:

William Heikoop, Upper Canada Consultants, authorized agent, and Tony Nuziato, Applicant, appeared on behalf of this application.

Correspondence Received:

1. Town of Pelham Planning Department
2. Town of Pelham Building Department
3. Town of Pelham Public Works Department
4. City of Welland.
5. Bell. Bell

Agent's comments

William Heikoop, Upper Canada Consultant, made a presentation to the Committee and his comments included, but are not limited to, the following:

Mr. Heikoop commented that his application is subject to zoning amendment approval which requests Council to consider re-zoning the lands from their current zoning to an R2 for the single detached dwellings and then an RM Multiple Use zone for future development purposes. Along with this application, there is a condition for replacement of the water main and sanitary sewer along the frontage of Claire Avenue and they are acceptable of all these conditions.

The applications conform to the Provincial Policy Statement and the Growth Plan as they are within the urban boundary and the built-up boundary designation for the Town of Pelham. In this area, residential uses are permitted with the provision of municipal services which they are proposing to do and the consents conform to the Town's Official Plan. The proposed detached dwelling units are compatible with the existing housing style of the adjacent and future development as they are similar in size and have road access to Quaker and to Claire Avenue.

Regarding the conditions for approval, they have no issues with the storm water management drainage or with the replacement of the water main.

Regarding the condition, the zoning by-law amendment application will be going before Council on March 22nd and Mr. Heikoop reminded everyone that it is a full public process and one may speak in front of Council and make their submissions at that point.

Public Comments

Terry Yockell

Mr. Yockell advised he is not opposed to the development however, he has a couple of concerns. Can Quaker Road, which is already a very heavy traffic road with many accidents, handle extra traffic which would be

generated by new development. Mr. Yockell suggested there be consideration given for a second point of entrance off Claire Avenue. A second concern is whether the sewer system is capable of handling the proposed development.

Mr. Heikoop responded to Mr. Yockell's comments and advised that the RM1 proposed zoning is subject to future requirements and as such, a traffic study would be required to determine whether that intersection can handle the extra traffic that would be generated by that development and that process is currently underway. Mr. Heikoop advised that he has had a preliminary session with their traffic consultant regarding traffic count and traffic does not appear to be a problem at this point.

Sandy Yockell

Ms. Yockell expressed concern regarding the school buses respecting the two elementary schools on that street and the traffic is really heavy. Ms. Yockell is concerned for the safety of the children and suggested that consideration be given to a cross guard.

Clint Milley

Mr. Milley expressed concern about the daily traffic flow during construction which will be immediately beside his property and reiterated that there needs to be another access point. Mr. Milley is also concerned regarding the building phase of condominiums and asked how soon will the barrier fencing be installed to filter the dust and dirt that will be created around his property.

Mr. Heikoop responded to Mr. Milley's comments and noted Mr. Milley's comments and advised that at such time when the zoning amendment is approved, they would have to enter into separate applications including a site plan agreement which dictates what type of fencing, what the entrances look like and any safety features. They are not in a position to comment on the quantity of units that will be developed until the zoning by-law amendment is approved.

Yvonne Bulk

Ms. Bulk expressed concern regarding privacy fencing and she advised that she had written a letter regarding the same.

Member Federico responded to Ms. Bulk's comment and advised that her letter was read into the record and that her concern will be dealt with during the Site Plan Agreement and Zoning By-law Amendment.

Mr. Heikoop responded to Ms. Bulk's comment and advised that the Applicant would be willing to construct a fence along the lot line if the Committee would like to add that condition. Mr. Heikoop reiterated that there is a positive Planning Report that is recommending approval and it does conform with all the Provincial and Town Policies.

Member DeMartile

Mr. DeMartile commented that he understands the public's concerns at this particular time and assumes that they will be attending the meeting for the Zoning By-law Amendment to present their statements at that time. Mr. DeMartile had no questions because the applications do conform to the Provincial and Town Policies.

Member Cook

Mr. Cook commented that he agrees this is an area that should be developed and agrees that the intensification that is being proposed is not overwhelming therefore, agrees the application conforms with the Provincial Policy Statement and the Town's Policy. One of his concerns with drainage is that the drainage in this area of the proposed development is imperfect. The applications on Claire Avenue will need to be serviced and he suggested the sewer be extended to the centre of Part 6 so the sanitary system comes out on a perpendicular angle rather than just inside the property line. A second concern is with an existing cast iron main on Claire Avenue and suggested a condition that the applicant be willing to replace the cast iron main from Quaker Road to the south limits of Part 6. This concern will be addressed in the Development Agreement. Mr. Cook would also like to suggest a storm water management plan be prepared to include parts 1 to 7 in order for the storm water management plan to deal with some adjacent lands.

Mr. Heikoop responded to Member Cook's comments

Mr. Heikoop commented that through the Zoning By-law amendment application, they have already prepared a Storm Water Management Plan for this and it is currently under review. The applicant is aware of the existing water main problems and they have agreed to the recommended condition from the Public Works Department to replace it along the frontage. At this point, the town have not indicated to them that there is a need to replace it all the way up to Quaker Road. Therefore, unless for some reason there was a problem with that existing stretch, they would not want to replace that extra piece.

The Committee Secretary-Treasurer responded to Member Cook's concerns and advised that the correspondence did indicate that there would be overall lot grading and drainage plans as a requirement as part of the Development Agreement; therefore, there would not be individual plans for each of the parcels not taking into consideration the overall development; that was indicated in the comments from the Public Works Department and through the requirement of the Development Agreement.

Regarding concerns relating to a condition completed on one of the files but not all of the files, there is a suggestion that the consent files all obtain final certification by the Secretary-Treasurer concurrently which means that the applicant couldn't go ahead and finalize, for example, part 5 without completing all of the conditions on all of the applications. In an effort to protect the Town's interest as well as the inhabitants of the community, the final certificate would not be issued on any of them.

There has been a great deal of thought and consultation with the applicant and there will be a Zoning By-law Amendment application that will come forward; that is the point that will require a Site Plan Agreement for the proposal. That would be the appropriate mechanism for the Storm Water Management Plan and any Traffic Studies that would be required.

For the information of the members of the public, the circulation on a consent application is 60m and the circulation on a zoning by-law amendment application is 120m. There will be another public process which will involve members of Council for the Town of Pelham (Ward 3 – Councillors Papp and Durley) and it will provide another opportunity to address concerns that relate to site plan, storm water management as well as other concerns.

The Director of Public Works addressed the Committee regarding concerns with sanitary sewer and water main extensions and her comments included, but are not limited to, the following:

The request for the sanitary services extension is from Quaker Road south so the request isn't related to the frontage of the lots but rather the servicing of the lots that are being proposed to be created and that is why the suggested condition from Public Works was to extend those sanitary works. Public Works had suggested that the extension be just inside the property line but fully support and agree with taking it to the mid-property

line so that the perpendicular service from sanitary in conformance with Town standards rather than having a sanitary lateral.

From the water perspective, the cast iron here is about 70 years old and we don't have any plans to replace it in the next decade due to capital prioritization we have with our water main because the development and the installation of the sanitary main might aggravate things since it is an area that is prone to breakage. In the interest of public health and existing Town assets, we propose to have that leg of water main that fronts the lots because it would minimize some of the potential risks with the cast iron. Public Works would be fully supportive of the suggestion to extend it from Quaker Road south which would greatly decrease the public health impact caused directly from the installation of the construction that is being proposed.

Mr. Heikoop responded to the Director of Public Works' comments and expressed concern why that issue was not addressed earlier in the application process. Mr. Heikoop was concerned that the neighbour at the corner would have access to that water main and as such, they would be paying for that frontage for no benefit plus there is an existing water main already in place. Mr. Heikoop commented that the reason why they are agreeing to extend the sanitary all the way is because there is no sanitary sewer currently and so they are of the opinion that their responsibility is the frontage.

Member Federico inquired to the Director of Public Works as to who covers the cost if the town digs a hole and installs a sewer system and the cast iron breaks.

The Director of Public Works responded to Member Federico and advised that currently, the Town covers the cost and that there is a liability due to the public health risk respecting drinking water. Several lengths of PVC replaced plastic main in between two legs of cast iron helps to reduce some of the risks related to tapping into the services that are servicing the new proposed lots. If it could be accommodated, it would be beneficial to the town to have that northern leg of cast iron replaced at the same time since the trench is already open for sanitary work happening in that area.

Member Cook's comments

Member Cook commented that since the Applicant is in agreement to replace the sanitary sewer, he will agree to withdraw his suggestion of replacement of the water main.

There were no other comments received from anyone present.

**Moved By Donald Cook
Seconded By Brian DiMartile**

Application for consent to partial discharge of mortgage and to convey 585.54 square metres of land, shown as Part 4 on the drawing submitted, being part of Lot 237, Geographic Township of Thorold, in the Town of Pelham, is hereby GRANTED.

This decision is subject to the following conditions:

- 1. That the Applicant receive all necessary final Zoning By-law Amendment approvals to legalize any deficient zoning regulations on the severed and retained parcels.**
- 2. That the Applicant submit a comprehensive lot grading & drainage plan for all parcels to demonstrate that drainage does not negatively impact neighbouring properties to the satisfaction of the Director of Public Works.**
- 3. That consent files B3/2017P, B4/2017P, B5/2017P, B6/2017P and B7/2017P obtain final certification by the Secretary-Treasurer concurrently.**
- 4. That the Applicant enter into a Development Agreement with the Town to include:**
 - Extension of the municipal sanitary sewer main along Clare Avenue southward from the most southerly manhole to a point within the frontage of the most southerly lot (Part 6), in accordance with Ministry of Environment, Region of Niagara and Town of Pelham requirements.**
 - The servicing works shall include that all lots be individually serviced with a sanitary lateral and water service in accordance with Town standards.**
 - The replacement of the existing cast iron watermain from the most northerly point fronting the lot shown as Part 3 to the most southerly point fronting the lot shown as Part 6.**
 - The owner shall bear all costs associated with these works (design, construction etc.).**
- 5. 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.**
- 6. That the final certification fee of \$358, 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 with conditions fulfilled, will comply 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

6.4 File B6/2017P - Antonio & Rosetta Nuziato

Purpose of the Application:

Application is made for consent to partial discharge of mortgage and to convey 585.54 square metres of land of for single family residential use. 688.75 square metres of land (Part 3) is to be retained for continued single family residential use for the dwelling known municipally as 1011 Clare Avenue.

This application is being considered concurrently with Files B3/2017P, B4/2017P, B5/2017P and B7/2017P.

Representation:

William Heikoop, Upper Canada Consultants, authorized agent, and Tony Nuziato, applicant, appeared on behalf of this application.

Correspondence Received:

1. Town of Pelham Planning Department
2. Town of Pelham Building Department
3. Town of Pelham Public Works Department
4. Town of Pelham. Town of Pelham
4. City of Welland
5. Bell. Bell

Agent's comments

William Heikoop, Upper Canada Consultant, made a presentation to the Committee and his comments included, but are not limited to, the following:

Mr. Heikoop commented that his application is subject to zoning amendment approval which requests Council to consider re-zoning the lands from their current zoning to an R2 for the single detached dwellings and then an RM Multiple Use zone for future development purposes. Along with this application, there is a condition for replacement of the water main and sanitary sewer along the frontage of Claire Avenue and they are acceptable of all these conditions.

The applications conform to the Provincial Policy Statement and the Growth Plan as they are within the urban boundary and the built-up boundary designation for the Town of Pelham. In this area, residential uses are permitted with the provision of municipal services which they are proposing to do and the consents conform to the Town's Official Plan. The proposed detached dwelling units are compatible with the existing housing style of the adjacent and future development as they are similar in size and have road access to Quaker and to Claire Avenue.

Regarding the conditions for approval, they have no issues with the storm water management drainage or with the replacement of the water main.

Regarding the condition, the zoning by-law amendment application will be going before Council on March 22nd and Mr. Heikoop reminded everyone that it is a full public process and one may speak in front of Council and make their submissions at that point.

Public Comments

Terry Yockell

Mr. Yockell advised he is not opposed to the development however, he has a couple of concerns. Can Quaker Road, which is already a very heavy traffic road with many accidents, handle extra traffic which would be generated by new development. Mr. Yockell suggested there be consideration given for a second point of entrance off Claire Avenue. A second concern is whether the sewer system is capable of handling the proposed development.

Mr. Heikoop responded to Mr. Yockell's comments and advised that the RM1 proposed zoning is subject to future requirements and as such, a

traffic study would be required to determine whether that intersection can handle the extra traffic that would be generated by that development and that process is currently underway. Mr. Heikoop advised that he has had a preliminary session with their traffic consultant regarding traffic count and traffic does not appear to be a problem at this point.

Sandy Yockell

Ms. Yockell expressed concern regarding the school buses respecting the two elementary schools on that street and the traffic is really heavy. Ms. Yockell is concerned for the safety of the children and suggested that consideration be given to a cross guard.

Clint Milley

Mr. Milley expressed concern about the daily traffic flow during construction which will be immediately beside his property and reiterated that there needs to be another access point. Mr. Milley is also concerned regarding the building phase of condominiums and asked how soon will the barrier fencing be installed to filter the dust and dirt that will be created around his property.

Mr. Heikoop responded to Mr. Milley's comments and noted Mr. Milley's comments and advised that at such time when the zoning amendment is approved, they would have to enter into separate applications including a site plan agreement which dictates what type of fencing, what the entrances look like and any safety features. They are not in a position to comment on the quantity of units that will be developed until the zoning by-law amendment is approved.

Yvonne Bulk

Ms. Bulk expressed concern regarding privacy fencing and she advised that she had written a letter regarding the same.

Member Federico responded to Ms. Bulk's comment and advised that her letter was read into the record and that her concern will be dealt with during the Site Plan Agreement and Zoning By-law Amendment.

Mr. Heikoop responded to Ms. Bulk's comment and advised that the Applicant would be willing to construct a fence along the lot line if the Committee would like to add that condition. Mr. Heikoop reiterated that there is a positive Planning Report that is recommending approval and it does conform with all the Provincial and Town Policies.

Member DeMartile

Mr. DeMartile commented that he understands the public's concerns at this particular time and assumes that they will be attending the meeting for the Zoning By-law Amendment to present their statements at that time. Mr. DeMartile had no questions because the applications do conform to the Provincial and Town Policies.

Member Cook

Mr. Cook commented that he agrees this is an area that should be overwhelming therefore, agrees the application conforms with the Provincial Policy Statement and the Town's Policy. One of his concerns with drainage is that the drainage in this area of the proposed development is imperfect. The applications on Claire Avenue will need to be serviced and he suggested the sewer be extended to the centre of Part 6 so the sanitary system comes out on a perpendicular angle rather than just inside the property line. A second concern is with an existing cast iron main on Claire Avenue and suggested a condition that the applicant be willing to replace the cast iron main from Quaker Road to the south limits of Part 6. This concern will be addressed in the Development Agreement. Mr. Cook would also like to suggest a storm water management plan be prepared to include parts 1 to 7 in order for the storm water management plan to deal with some adjacent lands.

Mr. Heikoop responded to Member Cook's comments and commented that through the Zoning By-law amendment application, they have already prepared a Storm Water Management Plan for this and it is currently under review. The applicant is aware of the existing water main problems and they have agreed to the recommended condition from the Public Works Department to replace it along the frontage. At this point, the town have not indicated to them that there is a need to replace it all the way up to Quaker Road. Therefore, unless for some reason there was a problem with that existing stretch, they would not want to replace that extra piece.

The Committee Secretary-Treasurer responded to Member Cook's concerns and advised that the correspondence did indicate that there would be overall lot grading and drainage plans as a requirement as part of the Development Agreement; therefore, there would not be individual plans for each of the parcels not taking into consideration the overall development; that was indicated in the comments from the Public Works Department and through the requirement of the Development Agreement.

Regarding concerns relating to a condition completed on one of the files but not all of the files, there is a suggestion that the consent files all obtain final certification by the Secretary-Treasurer concurrently which means that the applicant couldn't go ahead and finalize, for example, part 5 without completing all of the conditions on all of the applications. In an effort to protect the Town's interest as well as the inhabitants of the community, the final certificate would not be issued on any of them.

There has been a great deal of thought and consultation with the applicant and there will be a Zoning By-law Amendment application that will come forward which it is at that point that a Site Plan Agreement will be required for the proposal.

For the information of the members of the public, the circulation on a consent application is 60m and the circulation on a zoning by-law amendment application is 120m. There will be another public process which will involve members of Council for the Town of Pelham (Ward 3 – Councillors Papp and Durley) and it will provide another opportunity to address concerns that relate to site plan, storm water management as well as other concerns.

The Director of Public Works addressed the Committee regarding concerns with sanitary sewer and water main extensions and her comments included, but are not limited to, the following

The request for the sanitary services extension is from Quaker Road south so the request isn't related to the frontage of the lots but rather the servicing of the lots that are being proposed to be created because that is the extent of the sanitary sewer. Public Works has suggested to extend the sanitary sewer just inside the property line but fully support and agree with taking it to the mid-property line so that the perpendicular service from sanitary in conformance with Town standards rather than having a sanitary lateral.

From the water perspective, the cast iron here is about 70 years old and we don't have any plans to replace it in the next decade due to capital prioritization we have with our water main, as it is, because the development and the installation of the sanitary main might aggravate things since it is an area that is prone to breakage. In the interest of public health and existing Town assets, we propose to have that leg of water main that frontage the lots because it would minimize some of the potential risks with the cast iron and we would be fully supportive of the suggestion to extend it from Quaker Road south which would greatly

decrease the public health impact caused directly from the installation of the construction that is being proposed.

Mr. Heikoop responded to the Director of Public Works' comments and expressed concern why that issue was not addressed earlier in the application process and commented that the neighbour at the corner would have access to that water main and as such, they would be paying for that frontage for no benefit plus there is an existing water main already in place. Mr. Heikoop commented that the reason why they are agreeing to extend the sanitary all the way is because there is no sanitary sewer currently and so they are of the opinion that their responsibility is the frontage.

Member Federico inquired to the Director of Public Works as to who covers the cost if the town digs a hole and installs a sewer system and the cast iron breaks.

The Director of Public Works responded to Member Federico and advised that currently, the Town covers the cost and that there is a liability due to the public health risk respecting drinking water. Several lengths of PVC replaced plastic main in between two legs of cast iron helps to reduce some of the risks related to tapping into the services that are servicing the new proposed lots. If it could be accommodated, it would be beneficial to the town to have that northern leg of cast iron replaced at the same time since the trench is already open for sanitary work happening in that area.

Member Cook's comments

Member Cook commented that since the Applicant is in agreement to replace the sanitary sewer, he will agree to withdraw his suggestion of replacement of the water main.

There were no other comments received from anyone present.

Moved By Donald Cook

Seconded By Brian DiMartile

Application for consent to partial discharge of mortgage and to convey 585.54 square metres of land, shown as Part 5 on the drawing submitted, being part of Lot 237, Geographic Township of Thorold in the Town of Pelham, is hereby GRANTED.

The above decision is subject to the following conditions:

- 1. That the Applicant receive all necessary final Zoning By-law Amendment approvals to legalize any deficient zoning regulations on the severed and retained parcels.**

2. That the Applicant submit a comprehensive lot grading & drainage plan for all parcels to demonstrate that drainage does not negatively impact neighbouring properties to the satisfaction of the Director of Public Works.

3. That consent files B3/2017P, B4/2017P, B5/2017P, B6/2017P and B7/2017P obtain final certification by the Secretary-Treasurer concurrently.

4. That the Applicant enter into a Development Agreement with the Town to include:

- **Extension of the municipal sanitary sewer main along Clare Avenue southward from the most southerly manhole to a point within the frontage of the most southerly lot (Part 6), in accordance with Ministry of Environment, Region of Niagara and Town of Pelham requirements.**

- **The servicing works shall include that all lots be individually serviced with a sanitary lateral and water service in accordance with Town standards.**

- **The replacement of the existing cast iron watermain from the most northerly point fronting the lot shown as Part 3 to the most southerly point fronting the lot shown as Part 6.**

- **The owner shall bear all costs associated with these works (design, construction etc.).**

5. 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.

6. That the final certification fee of \$358, 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 with conditions fulfilled, will comply 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

6.5 File B7/2017P - Antonio & Rosetta Nuziato

Purpose of the Application

Application is made for consent to partial discharge of mortgage and to convey 635.58 square metres of land of for single family residential use. 688.75 square metres of land (Part 3) is to be retained for continued single family residential use for the dwelling known municipally as 1011 Clare Avenue.

This application is being considered concurrently with Files B3/2017P, B4/2017P, B5/2017P and B6/2017P.

Representation:

William Heikoop, authorized agent, Upper Canada Consultant and Tony Nuziato appeared on behalf of this application.

Correspondence Received:

- 1. Town of Pelham Planning Department**
- 2. Town of Pelham Building Department**
- 3. Town of Pelham Public Works Department**
- 4. City of Welland**
- 5. Bell. Bell**

Agent's comments

William Heikoop, Upper Canada Consultant, made a presentation to the Committee and his comments included, but are not limited to, the following:

Mr. Heikoop commented that his application is subject to zoning amendment approval which requests Council to consider re-zoning the lands from their current zoning to an R2 for the single detached dwellings and then an RM Multiple Use zone for future development purposes. Along with this application, there is a condition for replacement of the water main and sanitary sewer along the frontage of Claire Avenue and they are acceptable of all these conditions.

The applications conform to the Provincial Policy Statement and the Growth Plan as they are within the urban boundary and the built-up boundary designation for the Town of Pelham. In this area, residential uses are permitted with the provision of municipal services which they are proposing to do and the consents conform to the Town's Official Plan. The proposed detached dwelling units are compatible with the existing housing

style of the adjacent and future development as they are similar in size and have road access to Quaker and to Claire Avenue.

Regarding the conditions for approval, they have no issues with the storm water management drainage or with the replacement of the water main.

Regarding the condition, the zoning by-law amendment application will be going before Council on March 22nd and Mr. Heikoop reminded everyone that it is a full public process and one may speak in front of Council and make their submissions at that point.

Public Comments

Terry Yockell

Mr. Yockell advised he is not opposed to the development however, he has a couple of concerns. Can Quaker Road, which is already a very heavy traffic road with many accidents, handle extra traffic which would be generated by new development. Mr. Yockell suggested there be consideration given for a second point of entrance off Claire Avenue. A second concern is whether the sewer system is capable of handling the proposed development.

Mr. Heikoop responded to Mr. Yockell's comments and advised that the RM1 proposed zoning is subject to future requirements and as such, a traffic study would be required to determine whether that intersection can handle the extra traffic that would be generated by that development and that process is currently underway. Mr. Heikoop advised that he has had a preliminary session with their traffic consultant regarding traffic count and traffic does not appear to be a problem at this point.

Sandy Yockell

Ms. Yockell expressed concern regarding the school buses respecting the two elementary schools on that street and the traffic is really heavy. Ms. Yockell is concerned for the safety of the children and suggested that consideration be given to a cross guard.

Clint Milley

Mr. Milley expressed concern about the daily traffic flow during construction which will be immediately beside his property and reiterated that there needs to be another access point. Mr. Milley is also concerned regarding the building phase of condominiums and asked how soon will

the barrier fencing be installed to filter the dust and dirt that will be created around his property.

Mr. Heikoop responded to Mr. Milley's comments and noted Mr. Milley's comments and advised that at such time when the zoning amendment is approved, they would have to enter into separate applications including a site plan agreement which dictates what type of fencing, what the entrances look like and any safety features. They are not in a position to comment on the quantity of units that will be developed until the zoning by-law amendment is approved.

Yvonne Bulk

Ms. Bulk expressed concern regarding privacy fencing and she advised that she had written a letter regarding the same.

Member Federico responded to Ms. Bulk's comment and advised that her letter was read into the record and that her concern will be dealt with during the Site Plan Agreement and Zoning By-law Amendment.

Mr. Heikoop responded to Ms. Bulk's comment and advised that the Applicant would be willing to construct a fence along the lot line if the Committee would like to add that condition. Mr. Heikoop reiterated that there is a positive Planning Report that is recommending approval and it does conform with all the Provincial and Town Policies.

Member DeMartile

Mr. DeMartile commented that he understands the public's concerns at this particular time and assumes that they will be attending the meeting for the Zoning By-law Amendment to present their statements at that time. Mr. DeMartile had no questions because the applications do conform to the Provincial and Town Policies.

Member Cook

Mr. Cook commented that he agrees this is an area that should be developed and agrees that the intensification that is being proposed is not overwhelming therefore, agrees the application conforms with the Provincial Policy Statement and the Town's Policy. One of his concerns with drainage is that the drainage in this area of the proposed development is imperfect. The applications on Claire Avenue will need to be serviced and he suggested the sewer be extended to the centre of Part 6 so the sanitary system comes out on a perpendicular angle rather than just inside the property line. A second concern is with an existing cast iron

main on Claire Avenue and suggested a condition that the applicant be willing to replace the cast iron main from Quaker Road to the south limits of Part 6. This concern will be addressed in the Development Agreement. Mr. Cook would also like to suggest a storm water management plan be prepared to include parts 1 to 7 in order for the storm water management plan to deal with some adjacent lands.

Mr. Heikoop responded to Member Cook's comments and advised that through the Zoning By-law amendment application, they have already prepared a Storm Water Management Plan for this and it is currently under review. The applicant is aware of the existing water main problems and they have agreed to the recommended condition from the Public Works Department to replace it along the frontage. At this point, the town have not indicated to them that there is a need to replace it all the way up to Quaker Road. Therefore, unless for some reason there was a problem with that existing stretch, they would not want to replace that extra piece.

The Committee Secretary-Treasurer responded to Member Cook's concerns and advised that the correspondence did indicate that there would be overall lot grading and drainage plans as a requirement as part of the Development Agreement therefore, there would not be individual plans for each of the parcels not taking into consideration the overall development.

Regarding concerns relating to a condition completed on one of the obtain final certification by the Secretary-Treasurer concurrently which means that the applicant couldn't go ahead and finalize, for example, part 5 without completing all of the conditions on all of the applications. In an effort to protect the Town's interest as well as the inhabitants of the community, the final certificate would not be issued on any of them.

There has been a great deal of thought and consultation with the applicant and there will be a Zoning By-law Amendment application that will come forward. It is at that point that a Site Plan Agreement will be required for the proposal.

For the information of the members of the public, the circulation on a consent application is 60m and the circulation on a zoning by-law amendment application is 120m. There will be another public process which will involve members of Council for the Town of Pelham (Ward 3 – Councillors Papp and Durley) and it will provide another opportunity to address concerns that relate to site plan, storm water management as well as other concerns.

The Director of Public Works addressed the Committee regarding concerns with sanitary sewer and water main extensions and advised that the request for the sanitary services extension is from Quaker Road south so the request isn't related to the frontage of the lots but rather the servicing of the lots that are being proposed to be created because that is the extent of the sanitary sewer that's why the suggested condition from Public Works was to extend those works. Public Works had suggested to extend the sewer just inside the property line but fully support and agree with taking it to the mid-property line so that the perpendicular service from sanitary in conformance with Town standards rather than having a sanitary lateral.

From the water perspective, the cast iron here is about 70 years old and we don't have any plans to replace it in the next decade due to capital prioritization. The development and the installation of the sanitary main might aggravate things since it is an area that is prone to breakage therefore, in the interest of public health and existing Town assets, we propose to have that leg of water main that fronts the lots extended because it would minimize some of the potential risks with the cast iron. Public Works would be fully supportive of the suggestion to extend it from Quaker Road south which would greatly decrease the public health impact caused directly from the installation of the construction that is being proposed.

Mr. Heikoop responded to the Director of Public Works' comment and expressed concern why that issue was not addressed earlier in the application process and commented that the neighbour at the corner would have access to that water main and as such, they would be paying for that frontage for no benefit plus there is an existing water main already in place. Mr. Heikoop commented that the reason why they are agreeing to extend the sanitary all the way is because there is no sanitary sewer currently and so they are of the opinion that their responsibility is the frontage.

Member Federico inquired to the Director of Public Works as to who covers the cost if the town digs a hole and installs a sewer system and the cast iron breaks.

The Director of Public Works responded to Member Federico and advised that currently, the Town covers the cost and that there is a liability due to the public health risk respecting drinking water. Several lengths of PVC

replaced plastic main in between two legs of cast iron helps to reduce some of the risks related to tapping into the services that are servicing the new proposed lots. If it could be accommodated, it would be beneficial to the town to have that northern leg of cast iron replaced at the same time since the trench is already open for sanitary work happening in that area.

Member Cook's commented that since the Applicant is in agreement to replace the sanitary sewer, he will agree to withdraw his suggestion of replacement of the water main.

There were no other comments received from anyone present.

Moved By Donald Cook

Seconded By Brian DiMartile

Application for consent to partial discharge of mortgage and to convey 635.58 square metres of land, shown as Part 6 on the drawing submitted, being part of Lot 237, Geographic Township of the Town of Pelham, is hereby GRANTED.

The above decision is subject to the following conditions:

- 1. That the Applicant receive all necessary final Zoning By-law Amendment approvals to legalize any deficient zoning regulations on the severed and retained parcels.**
- 2. That the Applicant submit a comprehensive lot grading & drainage plan for all parcels to demonstrate that drainage does not negatively impact neighbouring properties to the satisfaction of the Director of Public Works.**
- 3. That consent files B3/2017P, B4/2017P, B5/2017P, B6/2017P and B7/2017P obtain final certification by the Secretary-Treasurer concurrently.**
- 4. That the Applicant enter into a Development Agreement with the Town to include:**
 - Extension of the municipal sanitary sewer main along Clare Avenue southward from the most southerly manhole to a point within the frontage of the most southerly lot (Part 6), in accordance with Ministry of Environment, Region of Niagara and Town of Pelham requirements.**
 - The servicing works shall include that all lots be individually serviced with a sanitary lateral and water service in accordance with Town standards.**
 - The replacement of the existing cast iron watermain from the most northerly point fronting the lot shown as Part 3 to the most southerly point fronting the lot shown as Part 6.**
 - The owner shall bear all costs associated with these works (design, construction etc.).**

5. 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.

6. That the final certification fee of \$358, 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 with conditions fulfilled, will comply 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

6.6 File B8/2017P - Eabe and Diana Devries

Purpose of the Application

Application is made for consent to convey 18.06 hectare of land for continued agricultural use. 1.00 hectare of land (Part 1) is to be retained for continued single family residential use for the dwelling known municipally as 238 Church Street.

Representation

Eabe Devries, registered owner and Anthony Wellenreiter, owner's solicitor, appeared on behalf of this application.

Correspondence Received

1. Town of Pelham Planning Department
2. Town of Pelham Building Department & Drainage Superintendent
3. Town of Pelham Public Works Department
4. Town of Pelham
5. Bell

Agent's comments

Mr. Wellenreiter referenced the Planning Staff's Report and commented that the Public Works Departments' comments refer to a grading and drainage plan that states there is to be no change to the characteristics of the house that is to be retained by the applicant nor the farm land. Mr. Wellenreiter stated that Svob Farms is running that land and there will be no change on any drainage that would necessitate spending that money for a lot grading and drainage plan and asked that the Committee would take that into consideration when making their decision. Mr. Willenreiter commented that all the land was farmed by a farmer and the house is located on a hill so there is no drainage needed, in his opinion.

Members' comments

Member DiMartile inquired regarding drainage and asked if it is mandatory for all consent applications to provide drainage plans.

The Secretary-Treasurer's response to Member DiMartile and advised that the Public Works Department has requested that a comprehensive overall lot drainage plan be done for all parcels to demonstrate that the drainage does not negatively impact neighbouring properties to the satisfaction of the Director of Public Works and Utilities. Should the Committee so desire, you could add the words, "if required" and that would leave room for the applicant to negotiate with the Director of Public Works in that regard.

Member DiMartile advised he had no concerns.

Member Cook advised he had no concerns.

Member Federico advised that he agreed with the suggestion to amend the resolution to add the words, "if required".

Moved By Brian DiMartile

Seconded By Donald Cook

Application for consent to convey 18.06 hectare of land, shown as Part 2 on the drawing submitted, being part of Lot 16, Concession 14, in the Town of Pelham, is hereby GRANTED.

This decision is subject to the following conditions:

1. That the Applicant submit a comprehensive lot grading & drainage plan demonstrating that no adverse impacts will occur to neighbouring properties to the satisfaction of the Director of Public Works, if required.
2. That the retained parcel known as Part 2 be rezoned to 'Agricultural Purposes Only' (APO) to preclude any further residential development through a Zoning By-law Amendment.
3. 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.
4. That the final certification fee of \$358, 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 applicant is aware that a separate entrance must be maintained for the subject parcel and should a new entrance be required, the owner will be required to obtain the necessary Entrance Permit through the Town of Pelham.
2. 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.
3. 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.
4. 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

6.7 File B9/2017P - Trustees of Fenwick United Church

Purpose of the Application:

Application is made for consent to convey 675 square metres of land for continued residential use for the dwelling known municipally as 1050 Church Street. 6,164 square metres of land (Part 2), is to be retained for continued use as a Church.

Representation

Brian Walker, authorized agent, appeared on behalf of this application.

Correspondence Received

1. Town of Pelham Planning Department
2. Town of Pelham Building Department & Drainage Superintendent
3. Town of Pelham Public Works Department
4. Bell

Agent's comments

Mr. Walker commented that the purpose of the severance is to get out of the real estate business. The two buildings have co-existed for 115 years old with no issues and the Applicant is surprised that the Town is asking for a comprehensive drainage plan because the two buildings have co-existed for over one hundred years with no issues. Town staff visited the site to advise of the desired location for the swale to be installed. The applicant received a report from the Town explaining what a comprehensive drainage plan entails however, the Applicant was disappointed that the report did not include the Applicant's current drainage system which, in Mr. Walker's opinion, included extensive upgrades in the past few years. Mr. Walker requested that the Committee take into consideration, the existing work improvements regarding drainage when making their decision.

Public comments

There were no comments received from the public.

Members comments

There were no comments received from any of the Members present.

Moved By Brian DiMartile

Seconded By Donald Cook

Application for consent to convey 675 square metres of land, shown as Part 1 on the drawing submitted, being part of Lot 1, on the West Side of Church Street, in the Town of Pelham, is hereby GRANTED.

This decision is subject to the following conditions:

- 1. That the Applicant submit a comprehensive lot grading & drainage plan for the dwelling lot (Part 1) and the area included within 5m south of the proposed lot line to demonstrate that drainage does not negatively impact neighbouring properties, to the satisfaction of the Director of Public Works.**
- 2. That the Applicant create a swale between the subject and remnant parcels, draining to the east, to the satisfaction of the Director of Public Works.**

3. That the Applicant adjust the proposed lot line between the existing buildings to ensure the existing services to the dwelling remain entirely on the property being serviced.
4. That all necessary Zoning By-law Amendments obtain final approval, for the subject and remnant parcels, to the satisfaction of the Director of Community Planning and Development.
5. 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.
6. That the final certification fee of \$358, 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 with conditions fulfilled, will comply 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

7. Minutes for Approval

7.1 January 10, 2017 Minutes

Moved By James Federico

Seconded By Donald Cook

That the minutes of the January 10, 2017, Committee of Adjustment Hearing be approved.

Carried

8. Adjournment

Moved By Donald Cook

Seconded By Brian DiMartile

BE IT RESOLVED THAT this Meeting of the Committee of Adjustment Hearing be adjourned until the next regular meeting scheduled for March 7, 2017 at 4:00 pm.

Carried

Wayne Lockey, Chair

Secretary-Treasurer, Nancy J. Bozzato