

THE CORPORATION OF THE
TOWN OF PELHAM

BY-LAW NO. 2121 (1999)

Being a by-law to authorize the Mayor and Clerk to enter into
an Agreement with 851878 Ontario Inc.

WHEREAS the Council of the Corporation of the Town of Pelham deems it desirable
to enter into a Development Agreement with 851878 Ontario Inc. with regard to the development
of three (3) residential lots on Garner Avenue.

NOW THEREFORE THE COUNCIL OF THE CORPORATION OF THE TOWN
OF PELHAM ENACTS AS FOLLOWS:

- (1) THAT the Development Agreement attached hereto and made part of this by-law
between the Corporation of the Town of Pelham and 851878 Ontario Inc. be and the same is
hereby approved.
- (2) THAT the Mayor and Clerk be and each of them is hereby authorized and instructed
on behalf of the Corporation of the Town of Pelham to execute the said Development Agreement
and the Clerk is hereby authorized to affix the Corporate Seal thereto.

READ A FIRST, SECOND AND THIRD TIME
AND FINALLY PASSED BY COUNCIL THIS
18TH DAY OF OCTOBER, 1999 A.D.


MAYOR RALPH BEAMER


CLERK CHERYL MICLETTE



FOR OFFICE USE ONLY

767120

CERTIFICATE OF REGISTRATION
CERTIFICAT D'ENREGISTREMENT
NIAGARA SOUTH/SUD (59)WELLAND

'99 11 16

11 01

R. Bruce Smith
ACTING LAND REGISTRAR
REGISTRAR PROVISOIRE

(1) Registry ☒ Land Titles ☐

(2) Page 1 of 8 pages

(3) Property Identifier(s) Part of 64030-0430 (R) Block Property Additional: See Schedule ☐

(4) Nature of Document
DEVELOPMENT AGREEMENT

(5) Consideration
Dollars \$

(6) Description
Part Lot 17, east side of Garner Avenue, Plan 703, Town of Pelham, Regional Municipality of Niagara, designated as Parts 1, 2 and 3 on Plan 59R-7769.

(7) This Document Contains: (a) Redescription New Easement Plan/Sketch ☐ (b) Schedule for: Description ☐ Additional Parties ☐ Other ☒

New Property Identifiers Additional: See Schedule ☐

Executions Additional: See Schedule ☐

(8) This Document provides as follows:

SEE DEVELOPMENT AGREEMENT ATTACHED.

The original drainage plan attached as Schedule "B" to the development agreement is located at the Corporation of the Town of Pelham's offices at 20 Pelham Town Square, Fonthill, Ontario.

Continued on Schedule ☐

(9) This Document relates to instrument number(s)

(10) Party(ies) (Set out Status or Interest)

Name(s)	Signature(s)	Date of Signature Y M D		
851878 ONTARIO INC.				
(Owner)				

(11) Address for Service

P. O. Box 23012, Midtown Postal Outlet, St. Catharine, Ontario, L2R 7P6

(12) Party(ies) (Set out Status or Interest)

Name(s)	Signature(s)	Date of Signature Y M D		
THE CORPORATION OF THE TOWN OF PELHAM	BROOKS, BIELBY & SMITH			
(Applicant)	PER: <i>[Signature]</i>	1999	11	11
by its solicitors Brooks, Bielby & Smith	(R. Bruce Smith)			

(13) Address for Service

P. O. Box 400, Fonthill, Ontario, L0S 1E0

(14) Municipal Address of Property

NOT ASSIGNED

(15) Document Prepared by:

R. Bruce Smith
BROOKS, BIELBY & SMITH
247 East Main Street
Welland, Ontario
L3B 3X1

FOR OFFICE USE ONLY

Fees and Tax	
Registration Fee	
Total	

THIS AGREEMENT made in triplicate this *8th* day of *November*, 1999 A.D.
BETWEEN:

851878 ONTARIO INC.

Hereinafter called the "Owner"

OF THE FIRST PART

- and -

THE CORPORATION OF THE TOWN OF PELHAM

Hereinafter called the "Town"

OF THE SECOND PART

1. DEFINITIONS in this Agreement: -

(a) "TOWN CLERK" shall mean the Clerk of the Corporation of the Town of Pelham.

(b) "COUNCIL" shall mean the Council of the Corporation of the Town of Pelham.

(d) "TREASURER" shall mean the Director of Financial Services of the Corporation of the Town of Pelham.

(e) "DIRECTOR" shall mean the Director of Operations of the Corporation of the Town of Pelham.

2. WHEREAS the Owner purports to be the owner of the lands in the Town of Pelham described in Schedule "A" and have applied to the Land Division Committee of the Regional Municipality of Niagara for consent under applications B340/99, B341/99 and B342/99 and have obtained such consents subject to conditions;

AND WHEREAS the decision of the Land Division Committee was conditional upon, among other things, the entering into an Agreement by the Owner and the Town;

AND WHEREAS the Town requires the Owner, before final approval of the consents, to agree to certain terms and conditions for the development for which approval is sought;

NOW THEREFORE THIS AGREEMENT WITNESSETH that in consideration of the Town approving the said proposed development, and in consideration of the sum of One Dollar (\$1.00) of lawful money of Canada now paid by the Owner to the Town (the receipt thereof is hereby acknowledge), the Parties hereto mutually covenant and agree as follows:

(1) REGISTRATION:

(a) The Owner covenants and agrees to register this Agreement against every lot which has been created by the consents granted by the Land Division Committee of the Regional Municipality of Niagara.

(b) The Owner covenants for himself, his successors and assigns and the Owners from time to time of the said lands and the burden of the covenants contained in this Agreement shall be deemed to be negative and shall run with and be binding upon the lands described in said Schedule "A" to and for the Town, its successors and assigns.

(2) SEWER FRONTAGE CHARGES:

The Owner shall pay to the Town the sum of \$1,707.26 as payment for previous exempt now assessable sewer frontage charges along the entire frontage of Parts 1, 2 and 3 representing a total of 188 feet at the rate of \$9.08 per foot.

(3) PARKS DEDICATION:

The Owner shall pay to the Town the sum of \$6,000.00 as payment of cash in lieu of the conveyance of 5% of the land to the Town for parks purposes.

(4) DEVELOPMENT CHARGES:

The Owner shall pay to the Town the development charges in effect at the time of issuance of a building permit in accordance with Development Charges By-law No. 2104 (1999).

(5) NATURAL DRAINS:

The Owner shall not change or do any work that will prejudicially affect any natural watercourse or drainage ditch without making full and proper provisions for the continuance of such drainage facilities. The proposed proper provision to be made by the Owner shall be subject to approval of the Director. In the event changes are made, after having been approved by the Director, the Owner nevertheless shall be solely responsible for any damage caused thereto, and shall indemnify and save harmless the Town therefrom.

(6) TAXES:

The Owner agrees to pay all arrears of taxes outstanding against the property described in Schedule "A" to this agreement and shall pay all taxes on this property on the present basis of assessment, whether previously levied or not, until such time as the lands being subdivided have been assessed according to the parcels created by the consent. The Owner further agrees that when the said lands have been reassessed, to pay all current taxes as established by the reassessment, or any additional amounts as thereby required.

(7) WATER SERVICES:

The Owner shall at his own expense construct water connections (laterals) to each lot from the street main to the street line. Such laterals shall be constructed to Town Standards and be approved by the Town.

(8) SANITARY SEWERS:

(a) The Owner shall at his own expense construct sanitary connections (laterals) to each lot from the street sewer to the street line. The sanitary sewer lateral shall be a minimum of 125mm diameter building sewer pipe or equal acceptable to the Director.

(b) Domestic waste from any building constructed on any lot shall be discharged into the sanitary sewer system through a drain connected to the sanitary sewer system through a drain connected to the sanitary sewer lateral servicing each lot. Roof water, foundation and weeping tile sub-surface water from any building constructed on any lot shall not be discharged into the sanitary sewer.

(9) GENERAL:

(a)(i) For the purpose hereof the term "works" means any and all works required to be carried out within the road allowance of Garner Avenue.

(ii) At the time of the execution of this Agreement the Owner will pay to the Town a deposit to guarantee its compliance with this Agreement in the amount of One Hundred percent (100%) of the estimated value of the works required pursuant to this Agreement, as such estimate is provided by the Owner and accepted by the Town, such estimated value being the sum of \$6,000.00. Such works shall include all service laterals, driveway entrances, trees and road reinstatement.

(iii) Further, the Owner will pay to the Town the sum of \$1,000.00 to cover the expense of inspection of the works by the Director.

(b) Such deposit shall be paid to the Town in cash or in the form of an Irrevocable Letter of Credit from a chartered bank or a recognized lending institution, subject to the approval of the Treasurer.

(c) Such deposit may be used to pay for the cost of any work performed by the Town in accordance with sub-paragraph (a) above in the event of the failure of the Owner to comply with any terms of this Agreement.

(d) Such deposit, less any amounts expended to enforce compliance with this Agreement and any amounts refunded or reduced as the work required by this Agreement progresses, shall be returned to the Owner, without interest, when all the terms and provisions of this Agreement, except those relating to maintenance have been fulfilled to the reasonable satisfaction of the Town.

(e) The Town may, from time to time, demand an increase in the sum of the deposit in accordance with increases in the cost of performing the works required herein to be completed.

(10) DRIVEWAY ENTRANCES:

The Owner shall ensure that the excavation, stoning and paving of each driveway, from the travelled portion of the road to the lot line and to the full width of the driveway, is completed either by himself or by the builder, to the satisfaction of the Director. Paving shall consist of a hard surface such as asphalt, concrete, paving stones, paving bricks or other similar materials. Crushed brick is not a suitable alternative.

(11) (a) If, in the opinion of the Director, the Owner fails to carry out the provisions of this Agreement according to reasonable Engineering practices, then the Town, its agents or servants may notify the Owner or its agent in writing of the nature of the failure.

(b) If such default or failure is not remedied within thirty (30) days of such notice, then the Town shall have full authority, power and right to employ such workmen, and to use such equipment and machinery as is deemed necessary to complete and perform the work required to remedy the failure of default. In case of emergency or public safety, such work may be done without prior notice, but the Owner shall be notified forthwith thereafter.

(c) The cost of such work shall be calculated by the Director or authorized agent whose decision shall be final. The cost of such work shall be at the expense of the Owner and may be recovered from the deposits paid to the Town pursuant to this Agreement.

(d) The Owner will, at all times, indemnify and save harmless the Town from all loss, costs, damages and injuries which the Town may suffer or be put to for or my reason of the construction, maintenance or existence of any work done by the Owner, its contractors, servants or agents which the Town may suffer or be put to for or my reason of the completion by the Town of any of the required works in accordance with this clause and this Agreement.

(12) TREES:

(a) The Owner agrees to maintain as much of the existing tree cover on the lands as is practically possible.

(b) The Owner shall plant one (1) tree on each lot

(c) The tree as required under subsection (b) shall be of the following type: Norway Maple, Mountain Ash, Locust or Flowering Crab; 4m - 4.5m in height with a caliper of 3.8cm to 5cm and shall be sound, healthy, vigorous and free from plant diseases and insect pests or their eggs and shall have a normal healthy root system.

(13) SURFACE DRAINAGE PLAN:

The Owner shall be responsible for providing, at their expense, a surface drainage plan for the land described in Schedule "A" attached hereto; said plan to meet with the approval of the Director. The said plan shall show, among other things, the intended description of flow of storm water to, within and from each lot on the plan. Building restrictions shall be imposed upon each lot and included in each deed prohibiting a subsequent owner thereof from altering such flow or from impeding the same to an extent sufficient to cause ponding in another lot or adjacent property. The said drainage plan shall be attached to this Agreement as Schedule "B". All elevations shown on Schedule "B" shall be maintained after construction of any building or structure upon the lands affected, and this provision shall be included in the building restrictions hereinbefore referred to. Minor changes to the storm drainage system may be permitted subject to the approval of the Director.

(14) Any notice, demand, acceptance or request provided for in this agreement shall be in writing and shall be deemed to be sufficiently given if personally delivered or sent by registered mail (postage prepaid) as follows:

To the Town at:

Town Clerk
Town of Pelham
P. O. Box 400
20 Pelham Town Square
Fonthill ON L0S 1E0

To the Owner at:

851878 Ontario Inc.
Heritage Homes, Randy Gill
P. O. Box 23012, Midtown Postal Outlet
St. Catharines ON L2R 7P6

or as such other address as the party to whom such notice is to be given shall have last notified the party giving the notice in the manner provided in this paragraph 14. Any notice

delivered to the party to whom it is addressed in this paragraph 14 shall be deemed to have been given and received on the day it is so delivered at such address. Any notice mailed as aforesaid shall be deemed to have been given and received on the fifth day next following the date of its mailing.


IN WITNESS WHEREOF the parties hereto have executed this agreement as of the date and year first above written.

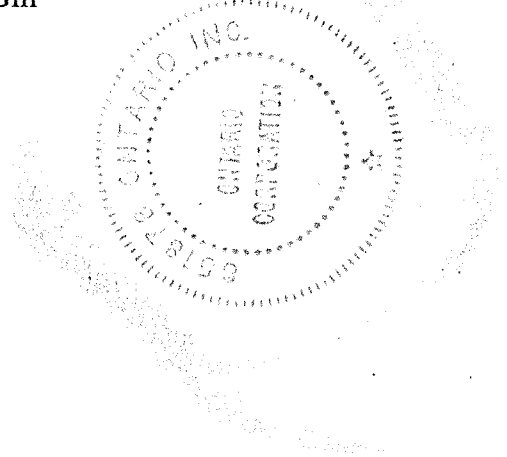
THE CORPORATION OF THE TOWN OF PELHAM

PER: 
Mayor Ralph Beamer

PER: 
Clerk Cheryl Miclette

851878 ONTARIO INC.

PER: 
Randy Gill



SCHEDULE "A"
LEGAL DESCRIPTION

**Part Lot 17, east side of Garner Avenue, Plan 703, Town of Pelham,
Regional Municipality of Niagara, designated as Parts 1, 2 and 3 on Plan
59R-7769.**