

THE CORPORATION OF THE  
TOWN OF PELHAM

BY-LAW NO. 2141 (2000)

Being a by-law to authorize the Mayor and Clerk to enter into a Site  
Plan Agreement with the Trustees of Fonthill United Church

WHEREAS the Council of the Corporation of the Town of Pelham deems it desirable to enter into a Site Plan Agreement with Trustees of Fonthill United Church with regard to the construction of an addition to the existing parking lot.

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

- (1) THAT the Site Plan Agreement attached hereto and made part of this by-law between the Corporation of the Town of Pelham and Trustees of Fonthill United Church be and the same is hereby approved.
- (2) THAT the Mayor & 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 Site Plan 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  
7<sup>TH</sup> DAY OF FEBRUARY, 2000 A.D.

  
MAYOR RALPH BEAMER

  
CLERK CHERYL MICLETTE



FOR OFFICE USE ONLY

769733

CERTIFICATE OF REGISTRATION  
CERTIFICAT D'ENREGISTREMENT  
- NIAGARA SOUTH/SUD (50)WELLAND

00 05 30 15 04

ARBY

LAND REGISTRAR

New Property Identifiers

Additional:  
See  
Schedule ☐

Executions

Additional:  
See  
Schedule ☐

(1) Registry ☒

Land Titles ☐

(2) Page 1 of 11 pages

(3) Property  
Identifier(s)

Block

64066

64066

-

Property

0037 (R) Firstly

0038 (R) Secondly

Additional:  
See  
Schedule ☐

(4) Nature of Document

Site Plan Agreement

(5) Consideration

Dollars \$

(6) Description

FIRSTLY:

Part of Lot 84, Plan 717, Town of Pelham, formerly Village of Fonthill, Regional Municipality of Niagara and more particularly described in Schedule "A" being all of PIN 64066-0037 (R).

SECONDLY:

Lot 83 and Part of Lot 84, Plan 717, formerly Village of Fonthill, and Part of Lot 2, Concession 8, Town of Pelham, Regional Municipality of Niagara designated as Parts 1 and 2 on Plan 59R-7056.

(7) This  
Document  
Contains:

(a) Redescription  
New Easement  
Plan/Sketch ☐

(b) Schedule for:

Description ☒

Additional  
Parties ☐

Other ☒

(8) This Document provides as follows:  
See Site Plan Agreement attached.

The originals of the plans attached to the Site Plan Agreement are available at the offices of the Applicant being 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

THE CORPORATION OF THE TOWN OF PELHAM

Town/Applicant

by its solicitors Brooks, Bielby & Smith

Brooks, Bielby & Smith

PER:

2000 05 30

(R. Bruce Smith)

(11) Address  
for Service

20 Pelham Town Square, P. O. Box 400, Fonthill, Ontario, L0S 1E0

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

Name(s)

Signature(s)

Date of Signature

Y M D

TRUSTEES OF FONTHILL UNITED CHURCH

Owner

(13) Address  
for Service

P. O. Box 926, Fonthill, Ontario, L0S 1E0

(14) Municipal Address of Property

42 Church Hill  
Fonthill, Ontario  
L0S 1E0

(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 15<sup>th</sup> day of May, 2000 A.D.

BETWEEN:

TRUSTEES OF FONTHILL UNITED CHURCH

Hereinafter called the "Owner"

OF THE FIRST PART

- and -

THE CORPORATION OF THE TOWN OF PELHAM

Hereinafter called the "Town"

OF THE SECOND PART

WHEREAS the Owner purports to be the owner of the lands in the Town of Pelham described in Schedule "A" attached hereto;

AND WHEREAS the Owner is desirous of constructing a parking lot in conjunction with the Fonthill United Church in accordance with Schedules "B" and "C" attached hereto, being the Landscape Site Plan dated April 27, 1999, being drawing L1, and the Site Plan dated revised May 26, 1999, being drawing 99-012 SP;

AND WHEREAS the Town has agreed to permit the said construction subject to certain terms and conditions;

NOW THEREFORE THIS AGREEMENT WITNESSETH that in consideration of the sum of One Dollar (\$1.00) now paid by the Owner to the Town (the receipt whereof is hereby acknowledged), the Parties hereto mutually covenant and agree as follows: -

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.
- (c) "DIRECTOR" shall mean the Director of Operations 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) "CHIEF BUILDING OFFICIAL" shall mean the Chief Building Official of the Corporation of the Town of Pelham.
- (f) "DIRECTOR OF PLANNING SERVICES" shall mean the Director of Planning Services of the Corporation of the Town of Pelham.
- (g) "PROFESSIONAL ENGINEER" shall mean a Professional Engineer registered with the Association of Professional Engineers.
- (h) "PROFESSIONAL ARCHITECT" shall mean a Professional Architect registered with the Ontario Association of Architects.
- (i) "FACILITIES AND WORKS" means and includes those facilities and works which are shown on or referred to in any one or more of the plans, drawings and schedules to this Agreement.

2. The Owner agrees to develop and maintain the lands only in accordance with the terms and conditions contained herein and any other applicable by-law of the Town.

3. (a) The Owner agrees to perform any and all construction and installation on the lands in accordance with the terms and conditions contained herein and as shown on Schedules "B" and "C" attached hereto and forming part of this Agreement to the reasonable satisfaction of the Town.

(b) And further, the Owner agrees not to perform any construction or installation on the lands except in accordance with the terms and conditions contained herein and shown on said Schedules "B" and "C" attached hereto and forming part of this Agreement and to the reasonable satisfaction of the Town.

4. STORM DRAINAGE FACILITIES:

(a) The Owner shall, at its own expense, construct a storm system and outlet on the site to adequately serve the development proposed on the lands, such construction to be in accordance with the approved services plan attached hereto as Schedule "C" and filed in the Town of Pelham offices prior to the issuance of a building permit. The Owner further undertakes, at its own expense, to repair and forever maintain the storm system located on the said lands.

(b) The Owner covenants and agrees that roof water drainage from all of the buildings located on the said lands shall not be directed, via eavestroughs and roof water leaders, directly to the underground storm sewer system but shall be directed away from the building and towards the storm drainage collection system.

(c) The above noted stormwater management facility on the site shall be maintained in proper operating condition at all times.

5. LOT DRAINAGE:

(a) The Owner agrees to have prepared by an Ontario Land Surveyor or Professional Engineer, a detailed grading plan for the site, said plans to clearly indicate the existing drainage pattern on all adjacent lands originally flowing through, into or over the area of the site, to the street storm sewer system or other outlet approved by the Director. This grading plan shall be approved by the Director prior to the execution of this agreement. Minor changes to the lot drainage plan may be permitted subject to the approval of the Director.

(b) The Owner agrees to submit a certificate signed by an Ontario Land Surveyor or Professional Engineer which indicates that the grades as stipulated on Schedule "C" to this agreement have been complied with.

6. LANDSCAPING:

(a) The Owner shall, at its own expense, adequately landscape, plant and maintain all of the lands not required for parking or roads so as at all times to provide effective green areas enhancing the general appearance of the development contemplated herein, said planting and landscaping shall be in accordance with the approved landscape site plan attached hereto as Schedule "B". Minor changes to the landscape site plan may be permitted subject to the approval of the Director of Planning Services

(b) Unless otherwise approved or required by the Town, the Owner agrees not to alter the grades of or remove trees or other vegetation from the said lands until such time as this agreement is registered on title.

7. HYDRO:

(a) The Owner shall cause to be installed if required, at its own expense, an underground hydro system to serve the development, in accordance with the plans and specifications approved by Pelham Hydro. The Owner further agrees to be responsible for the cost of maintaining and repairing the underground hydro system located on said lands in perpetuity.

8. FLOODLIGHTING:

(a) The Owner shall ensure that any lighting facility used to illuminate any building or parking area shall be designed and installed as to deflect from adjacent buildings and streets.

9. PARKING, CURBING AND DRIVEWAYS:

(a) The Owner shall, at its own expense, provide and at all times maintain on the said lands, paved asphalt parking areas and driveways or such other form of hard surfacing acceptable to the Town.

10. BUILDING AND SERVICES:

(a) The Owner shall construct and the Town shall permit the construction of the parking lot on the lands described in Schedule "A", in accordance with Schedules "B", and "C" attached hereto, provided that all such uses shall comply with all building and zoning requirements of the Town.

11. ADMINISTRATIVE AND CONSULTING COSTS:

The Owner shall pay the Town's costs in connection with this agreement for preparation, processing, administration and supervision including, but not limited to, all legal and inspection costs.

12. DEPOSIT FOR FACILITIES AND WORKS:

(a) At the time of execution of this Agreement the Owner shall pay to the Town a deposit to guarantee their compliance with this Agreement in the amount of 100% of the estimated value of the facilities and works required pursuant to this Agreement (as such estimate is provided by the Owners and accepted by the Town), such estimated value being the sum of Ten Thousand Dollars (\$10,000.00) as set out in Schedule "D" attached hereto and forming part of this Agreement.

(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 from 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 the following clause in the event of the failure of the Owners to comply with the terms of this Agreement.

(d) Upon completion of the facilities and works, an Architect or Professional Engineer or both shall confirm in writing that the approved plans appended hereto have been complied with. When notice has been received of such compliance, the Chief Building Official shall confirm such compliance and such deposit, less any amounts expended to enforce compliance with the agreements and any amounts refunded or reduced as the work required by this agreement progresses, shall be returned to the Owner, without interest.

(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.

(f) The release of the deposit by the Town does not release the Owners from their obligation to maintain all of the facilities and works pursuant to this Agreement.

(g) The Owner agrees that all of the facilities and works required to be provided by the Owner shall be provided, installed or constructed by the Owner within one hundred and eighty (180) days after the date of substantial completion of the proposed development as determined by the Chief Building Official and shall be maintained at all times in good condition.

13. INSPECTION:

(a) For the purposes of this section the term "works" means any and all works required to be carried out within the road allowance of Church Hill.

(b) The Owner shall deposit with the Town the sum of \$500.00 to cover the expense of inspection of the works by the Director.

(c) 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.

(d) Any portion of the deposit not used to cover the expense of inspection shall be refunded to the Owner.

(e) The Town may demand an increase in the sum of the deposit in accordance with increases in the expense of performing the inspection.

14. GENERAL:

(a) The Owner shall maintain and keep in repair, driveways and access servicing the parking lot development.

(b) The Owner grants to the Town, its servants, agents and assigns permission to enter upon the lands for the purpose of inspection of any facilities and works referred to in this Agreement and for the purpose of the completion of any facilities and works in accordance with this clause and this Agreement.

(c) 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 by reason of the construction, maintenance or existence of any facilities and works done by the Owner, its contractors, servants or agents on the lands or which the Town may suffer or be put to for or by reason of the completion by the Town of any of the required facilities and works in accordance with this clause and this Agreement.

15. The Owner shall not call into question directly or indirectly in any proceeding whatsoever in law or in equity or before any administrative tribunal the right of the Town to enter into this Agreement and to enforce each and every term, covenant and condition herein contained and this Agreement may be pleaded as an estoppel against the Owner in any such proceeding.

16. The Owner covenants for itself, its 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.

17. The Owner agrees and consents to the registration of notice of this Agreement against the said lands described in said Schedules "A" attached hereto.

18. This agreement and the provisions hereof do not give to the Owner or any person acquiring any interest in the said lands (each hereinafter in this paragraph called "such person") or any other person any rights against the Town with respect to the failure of any such person to perform or fully perform any obligation under this agreement, or the failure of the Town to force any such person to perform or fully perform any obligation under this agreement or any negligence of any such person in the performance of the said obligation.

19. Notwithstanding any of the provisions of this agreement, the Owner, its successors and assigns, shall be subject to all of the by-laws, as amended, of the Town at the time of the issuance of a building permit required pursuant to the terms of the agreement or at the time of the execution of this agreement, whichever is applicable.

20. The Owner agrees that all plans shall be drawn by a Professional Architect or by a Professional Engineer and all surveys by an Ontario Land Surveyor, subject to the reasonable satisfaction of the Town.

21. 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

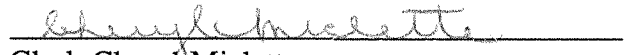
To the Owner at:

Trustees of Fonthill United Church  
P. O. Box 926  
Fonthill ON L0S 1E0

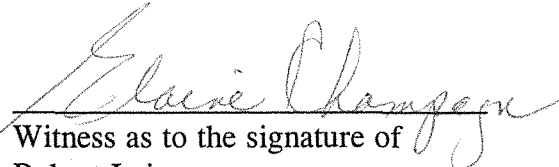
IN WITNESS WHEREOF the parties hereto have executed this agreement as of the date and year first above written.

THE CORPORATION OF THE TOWN OF PELHAM

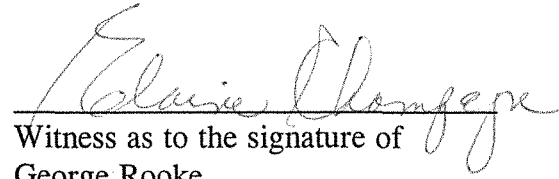
  
Mayor Ralph Beamer


  
Clerk Cheryl Miclette

TRUSTEES OF FONTHILL UNITED CHURCH

  
Witness as to the signature of  
Robert Laing

  
Robert Laing

  
Witness as to the signature of  
George Rooke

  
George Rooke