

**THE CORPORATION OF THE
TOWN OF PELHAM**

BY-LAW #2271(2001)

Being a by-law to convey a portion of the road allowance between Lots 4 and 5, Concession 4, Town of Pelham to David E. Flemming and Norma L. Flemming pursuant to Section 316 of the *Municipal Act*, R.S.O. 1990, c. M.45.

WHEREAS David E. Flemming and Norma L. Flemming (the "Owners") are the owners of lands known municipally as 2171 Effingham Street, Ridgeville, Ontario and more particularly described in a deed registered on the 16th day of September, 1964 as instrument No. 15063B (the "Flemming Lands");

AND WHEREAS there is a portion of the road allowance between Lots 4 and 5, Concession 4, Town of Pelham located within the Flemming Lands and more particularly described in Schedule "A" (the "Road Allowance Portion");

AND WHEREAS it appears that Sulphur Springs Drive was laid out and opened up in the place of the road allowance between Lots 4 and 5, Concession 4, Town of Pelham, or more particularly in place of at least the Road Allowance Portion;

AND WHEREAS it appears from a search of the records of The Corporation of the Town of Pelham and its predecessors that no compensation was ever paid to anyone for the laying out and opening up of Sulphur Springs Drive;

AND WHEREAS Section 316 (1) of the Act provides that "Where a highway for the site of which compensation was not paid has been laid out and opened in the place of the whole or any part of an original allowance for road, the owner of the land appropriated for the highway or a successor in title, if that person owns the land that abuts on such allowance, is entitled to the soil and freehold of it and, to a conveyance of it";

AND WHEREAS Section 316 (2) of the Act provides that "Where the land that so abuts is owned by more persons than one, each is entitled to and to a conveyance of the soil and freehold of that part of the allowance upon which that person's land abuts to the middle line of the allowance";

AND WHEREAS in addition to previous evidence given, the Owners have satisfied The Corporation of the Town of Pelham that the facts of this situation meet the requirements of Section 316 of the *Municipal Act*, R.S.O. 1990, c. M.45 (the "Act");

AND WHEREAS the subject Road Allowance Portion is abutted on the east by lands owned by Paula Louise Diamond (by instrument No. 750137 registered on July 24, 1998);

AND WHEREAS Section 316 (2) of the Act only entitles the Owners to that part of the road allowance upon which their lands abut to the middle point of the road allowance;

AND WHEREAS that the Road Allowance Portion includes lands beyond the middle point of the road allowance;

AND WHEREAS The Corporation of the Town of Pelham cannot convey any portion of the lands beyond the middle point of the road allowance to the Owners without the

consent of the abutting landowner;

AND WHEREAS the abutting landowner, Paula Louise Diamond, has given her written consent to the conveyance of the Road Allowance Portion to the Owners;

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

(1) **THAT** the portion of the road allowance between Lots 4 and 5, Concession 4, Town of Pelham, being more particularly described in Schedule "A", be hereby conveyed to David E. Flemming and Norma L. Flemming pursuant to Section 316 of the *Municipal Act*, R.S.O. 1990, c. M.45;


(2) **THAT** all costs associated with the conveyance and all other matters that have occurred related to the subject matter and to the conveyance including, but not limited to, legal fees and expenses, registration costs and other such expenses shall be the responsibility of David E. Flemming and Norma L. Flemming; and

(3) **THAT** the Mayor and Clerk be and are hereby authorized to execute all documents necessary to complete the conveyance of the relevant portion of the road allowance to David E. Flemming and Norma L. Flemming.

READ A FIRST, SECOND AND THIRD TIME

AND FINALLY PASSED BY COUNCIL THIS

2nd. DAY OF APRIL , 2001 A.D.


MAYOR - RALPH BEAMER


CLERK - CHERYL MICLETTE

SCHEDULE "A"

Part of the road allowance between Lots 4 and 5, Concession 4, Town of Pelham, Regional Municipality of Niagara, located within Part of Lot 5, Concession 4, Town of Pelham, Regional Municipality of Niagara, formerly Township of Pelham, County of Welland and more particularly described as follows:

COMMENCING at the north-west angle of said Lot 5;

THENCE south 1 degree 38 minutes and 20 seconds east in the westerly boundary of said Lot 5, 1530.4 feet to the northerly boundary of Effingham Road;

THENCE south 71 degrees 31 minutes and 50 seconds east in the said northerly boundary, 313.45 feet to an angle therein;

THENCE south 80 degrees 30 minutes and 30 seconds east continuing in the said northerly boundary 548.2 feet;

THENCE north 7 degrees 17 minutes and 50 seconds east 386.2 feet;

THENCE south 82 degrees 42 minutes and 10 seconds east 413.3 feet to a fence;

THENCE north 2 degrees 46 minutes east in and along the said fence 111.5 feet;

THENCE north 2 degrees 41 minutes east continuing in the said fence 124.7 feet;

THENCE north 2 degrees 52 minutes west continuing in the said fence 357.9 feet;

THENCE north 2 degrees 00 minutes east continuing in the said fence 280.7 feet;

THENCE north 3 degrees 25 minutes west continuing in the said fence 165.7 feet;

THENCE north 1 degree 24 minutes west continuing in the said fence 222.0 feet;

THENCE north 4 degrees 59 minutes west continuing in the said fence 62.7 feet;

THENCE north 6 degrees 59 minutes west continuing in the said fence 99.5 feet to a point in the southerly boundary of the said road allowance;

THENCE south 88 degrees, 33 minutes and 30 seconds west in the said last mentioned boundary 1,320.5 feet more or less to the place of beginning.

CONTAINING by admeasurement 47.34 acres more or less.////