

THIS AGREEMENT made in triplicate this 5th day of April, 1974.

BETWEEN:

DOMENIC COTRONEO

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.
- (c) Town Engineer shall mean the Engineer of the Corporation of the Town of Pelham.
- (d) Treasurer shall mean the Treasurer of the Corporation of the Town of Pelham.
- (e) Minister shall mean the Minister of Treasury, Economics & Intergovernmental Affairs.

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

AND WHEREAS the Owner is desirous of erecting on the said lands, a steakhouse with residence accommodations for his family in accordance with Schedules "B" and "C" attached hereto being plot plans and building elevations, filed in the office of the Town Engineer;

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

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

(1) STORM SEWERS:

(a) The Owner shall, at its own expense, construct a storm sewer system and outlet to adequately serve the development proposed on the lands described in Schedule "A" and as shown on Schedule "B", such construction to be in accordance with specifications and a design approved by the Town Engineer and in accordance with a plan to be filed in the office of the Town Engineer and signed by the Parties hereto, and the Owners undertake to repair and maintain the storm sewer system located on the lands described in Schedule "B".

(b) The Owner shall, at its own expense, carry out water-course improvements in accordance with the requirements of the Town Engineer from time to time, and as especially set out in the site plan

(c) The Owner, recognizing its land to be in the Big Creek Drain, and that the drain requires cleaning and maintenance from time to time, agrees not to oppose any improvements made at any time to the drain.

(2) SANITARY SEWERS:

(a) The Owner shall, at its own expense, at the time sanitary sewers become available, construct a sanitary sewer system on the said lands to adequately serve the building located thereon, such construction to be in accordance with specifications and a design approved by the Town Engineer and undertake to repair and maintain the sanitary sewer system located on the lands described in Schedule "A", and without limiting the generality of the foregoing, no storm, surface or roof water shall be discharged into the sanitary sewer system.

(3) PARKING:

(a) The Owner shall provide and at all times maintain on the said lands, paved parking areas or structures capable of accommodating not less than 23 parking spaces for motor vehicles as per Schedule "B". Said parking areas are to be paved within 12 months of the opening of the business.

(b) The Owner shall, at its own expense, construct and maintain paved driveways to serve the said parking areas at such locations as shown on Schedule "B" and in accordance with specifications approved by the Town Engineer.

(c) The Owner shall, at its own expense, adequately light all entrances and parking areas, such lighting to be mercury vapour lights and of wattage not less than 125 watts.

(d) The Owner shall, at its own expense, fence the east boundary of the parking lot, as per Schedule "B" and plant with shrubs the perimeter of all open parking areas so as to effectively screen such areas from view from adjacent lands or highways.

(4) GRADING AND LANDSCAPING:

(a) The Owner shall, at its own expense, grade the said lands in accordance with the requirements of the Town Engineer and in such a manner as to prevent ponding on the said lands and on lands adjacent thereto.

(b) The Owner shall, at its own expense, and in accordance with plans on file in the office of the Town Engineer, adequately landscape, plant and maintain all the lands described in Schedule "B" attached hereto not required for building, parking or entrance-way so as at all times to provide effective green areas enhancing the general appearance of the development.

(5) GARBAGE DISPOSAL:

(a) The Owner shall at all times provide adequate collection and disposal of garbage and sanitary refuse in accordance with the

requirements and to the satisfaction of the Town Engineer, and in the event of the failure to do so, the Town, its servants or agents shall have the right to enter on the said land and, at the expense of the Owner, do such collections, etc. and further shall have the right to recover the cost thereof by action or in like manner as municipal taxes. The Owner shall, in addition, provide properly screened storage space for garbage in a location designated by the Town Engineer and such enclosed storage space shall be of a design approved by the Town Engineer.

(6) WATER:

(a) The Owner at its own expense, at the time water becomes available, shall construct and install all necessary connections to watermains and all internal water supply services necessary to serve the development, such construction to be in accordance with the requirements of and with specifications and a design approved by the Town Engineer, providing such services are available at the property line, or within a reasonable distance thereto.

(b) The Owner shall comply with the Ontario Water Resources Commission Act (1970) and Regulations made thereunder, on all internal water supply services which shall be enforced by the Plumbing Inspector.

(7) SIDEWALKS:

(a) The Owner shall at its own expense, construct and maintain sidewalks within the development according to Schedule "B" in accordance with specifications and design approved by the Town Engineer.

(b) The Owner, recognizing the sidewalks fronting the property, shall, at the time the sidewalks are reconstructed, repaired, or replaced, resume his share of costs with no objection.

(8) ROAD WIDENING:

(a) The Owner shall dedicate to the Town road widening as required below:

Nil

(9) BUILDING AND SERVICES:

(a) The Owner shall construct, and the Town shall permit the construction of an addition to the original structure, and various renovations required to the interior of the building, as to allow for a restaurant and residence facilities, on the lands described in Schedule "A", in accordance with Schedules "B" and "C" attached hereto and plans filed in the office of the Town Engineer and signed by the Parties hereto. Such plans shall comply with all building and zoning requirements of the Town. Without limiting the generality of the foregoing, the material used in the exterior finish of the building shall be approved by the Town Engineer.

(10) EXPANSION AND RENEWAL FUND:

(a) The Owner shall pay the Town the sum of \$1,330.00 for this commercial development for the purpose of expanding and

renewing services within the Town limits.

(b) The sum to be paid shall be paid to the Treasurer of the Town of Pelham on the date of signing this agreement and no building permits shall be issued until the expansion and renewal fund is paid in full.

(11) GENERAL:

(a) The Owner agrees that the final building plans will be to the satisfaction of the Building Inspector.

(b) The Owner will at all times indemnify and save harmless the Town of and from all losses, costs, damages, and injuries which the Town may suffer, be at or be put to for or by reason of or on account of the construction, maintenance or existence of any work done by the Owner, its contractors, servants or agents on the lands described in Schedule "A" and such indemnity shall constitute a first lien and charge on the said lands of the Owner.

(c) In the event of the failure of the Owner to carry out any of the provisions of this Agreement, then the Town, its servants or agents shall, on fifteen (15) days' notice in writing of its intention, and forthwith in cases of emergency, have the right to enter on the said land and, at the expense of the Owner, do any such work as contained herein, and further shall have the right to recover the cost thereof by action or in like manner as taxes.

(d) The Owner shall at all times keep posted in the building or otherwise prominently displayed, a notice indicating the ownership of the said building, a mailing address and a telephone number of a person having authority to deal with all matters relating to the said buildings.

(e) The Owner shall not call into question directly or indirectly in any proceedings 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 proceedings.

(f) Notwithstanding any of the provisions of this Agreement, the Owner shall be subject to all of the by-laws of the Town.

(g) The covenants, agreements, conditions and understandings herein contained on the part of the Owner shall run with the land and shall be binding upon it and upon its successors and assigns as owners and occupiers of the said lands from time to time and shall be appurtenant to the adjoining highways in the ownership of the Regional Municipality of Niagara.

(h) The Owner agrees that it shall, upon the sale and transfer by it of the lands described in Schedule "A" annexed hereto, or any part or parts thereof, require the purchaser or transferee thereof, as a condition of such sale or transfer to execute an agreement satisfactory in form to the Town Solicitor, agreeing to assume this agreement and to be bound by and to fulfill the terms, conditions

and covenants herein set forth and containing a like covenant to this effect. The said assumption agreement shall be executed by the Town, the said Owner and any such purchaser or transferee.

IN WITNESS WHEREOF the Parties hereto have hereunto affixed their Corporate Seals under the hands of their officers duly authorized in that behalf.

SIGNED, SEALED AND DELIVERED)

In the Presence of)

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DOMENIC COTRONEO

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THE CORPORATION OF THE TOWN
OF PELHAM

SCHEDULE "A"

LAND DESCRIPTION

All and singular that certain parcel or tract of land and premises situate, lying and being in the Town of Pelham, in the Regional Municipality of Niagara, formerly in the Village of Fenwick, in the County of Welland and being composed of a part of Lot 3A on the north side of West Canboro Road in the said Village according to Registered Plan No. 16 for the Township of Pelham, described as follows:

PREMISING that the north limit of Lot 15, Concession 10 in the said Township has an astronomic bearing of north 88 degrees 44 minutes east and relating all bearings herein thereto;

COMMENCING at an iron bar planted at the south-west angle of said Lot #3A;

THENCE North 88 degrees 34 minutes 30 seconds east along the southerly boundary of said lot a distance of 7.93 feet to an iron bar planted at a bend therein;

THENCE North 88 degrees 44 minutes east continuing along said southerly boundary 97.38 feet to a bend therein;

THENCE North 61 degrees 16 minutes 30 seconds east continuing along said southerly boundary 80.72 feet to an iron bar planted therein distant 18.5 feet measured westerly therein from the south-west angle of Lot 2A according to said Plan No. 16;

THENCE North 2 degrees 10 minutes 30 seconds west parallel to the westerly limit of said Lot No. 2A, 309.98 feet to an iron bar planted in the northerly limit of said Lot 3A distant westerly therein 93.5 feet from the north-east angle of said Lot 3A;

THENCE South 87 degrees 14 minutes 30 minutes west along said northerly limit, 167.06 feet to an iron bar planted therein at the intersection with the northerly production of the line between said Lot 3A and Lot 4 according to said Plan No. 16;

THENCE South 0 degrees 27 minutes 30 seconds east along said last mentioned line, 342.86 feet to the point of commencement

AND CONTAINING by admeasurement 1.33 acres be the same more or less.