

OFFICIAL PLAN AMENDMENT NO. 46

1. Section 1, Land Use, Subsection 1.10.1(e) be amended by deleting the following:

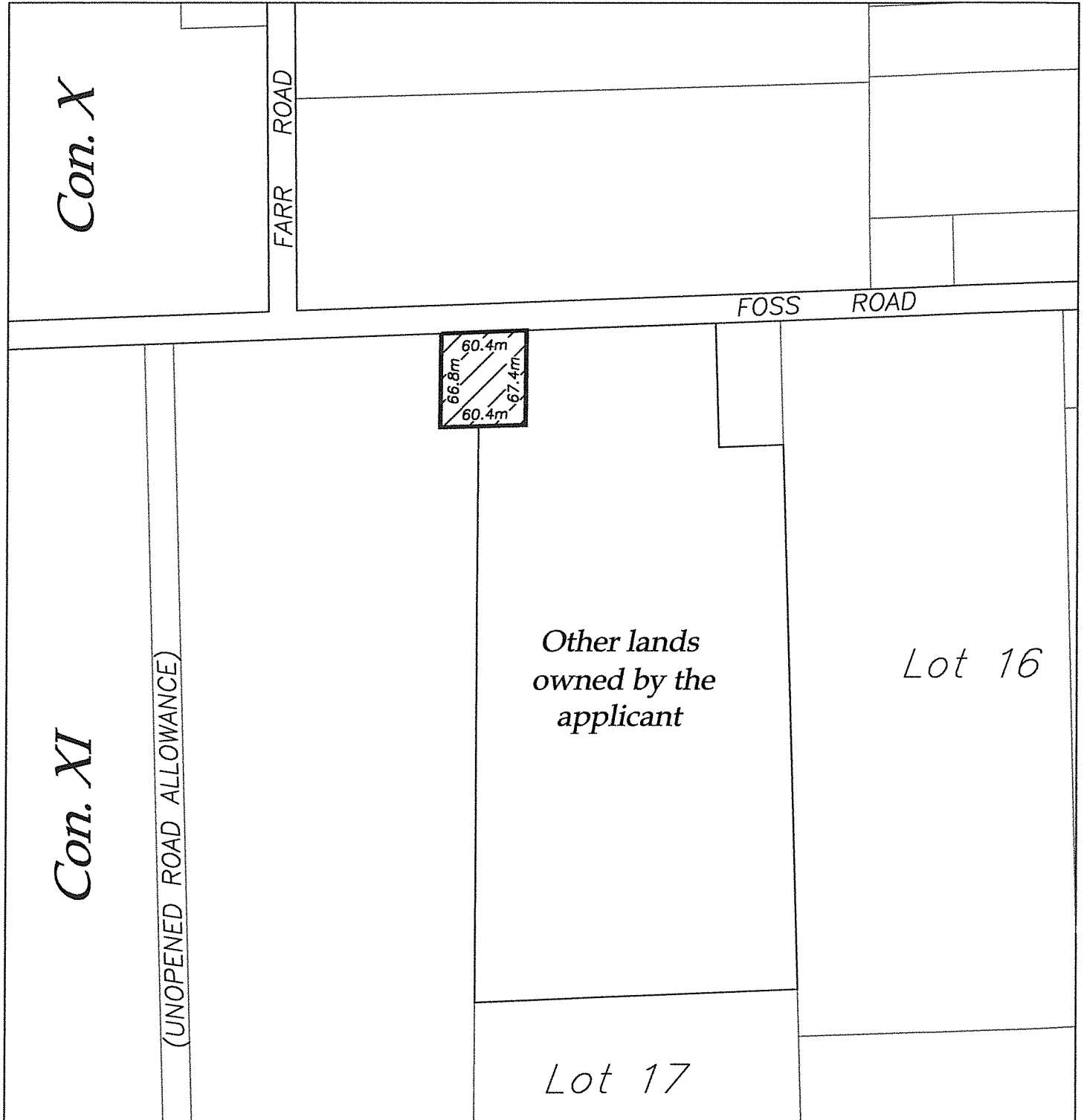
" , on a temporary basis pursuant to By-law No. 2048 (1998) and the provisions of Section 39 of the Planning Act,"



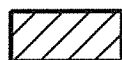
Metric Scale:  
1:4,000

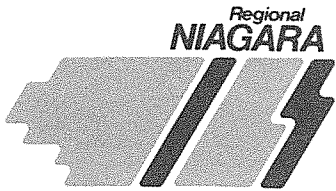
# SCHEDULE 'A'

Official Plan Amendment No. 46



*Subject Lands*





**OFFICIAL PLAN AMENDMENT NO. 46**  
**PERMANENT FLEA MARKET IN AN AGRICULTURAL AREA**  
**TOWN OF PELHAM**

The Amendment No. 46 to the Official Plan of the Town of Pelham, adopted by the Council of the Town of Pelham, is hereby modified under the provisions of subsection 17 (34) of the Planning Act, R.S.O. 1990, as follows:

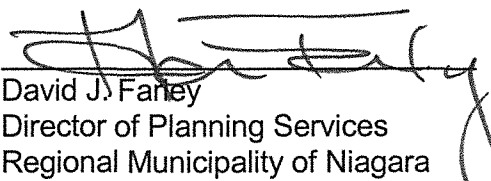
1. PART B, THE AMENDMENT, is hereby revised by deleting Section 1 and replacing it with the following:

"Section 1, Land Use, Subsection 1.10.1 (Agricultural & Rural Areas – Permitted Uses and Policies) be amended by deleting subsection e) and adding the following subsection:

- e) In addition to the permitted uses of the Good General Agricultural designation, lands located on part of Lot 17, Concession 11 in the Town of Pelham and known municipally as 878 Foss Road may be used for a flea market. For the purpose of this subsection, a flea market is defined as a building or part of a building where new and second hand goods, articles and antiques are offered or kept for sale at retail to the general public. Further, operation of the flea market is limited to Fridays, Saturdays and holiday Mondays".

As thus modified, Amendment No. 46 to the Official Plan for the Town of Pelham is hereby approved under subsection 17 (34) of the Planning Act, R.S.O. 1990.

DATE: Aug 17/04  
August 17, 2004


  
David J. Farley  
Director of Planning Services  
Regional Municipality of Niagara


**AMENDMENT NO. 46  
TO THE  
OFFICIAL PLAN  
OF THE  
TOWN OF PELHAM**



TOWN OF PELHAM  
CERTIFICATE  
OFFICIAL PLAN OF THE  
TOWN OF PELHAM  
AMENDMENT NO. 46

The attached text constituting Amendment No. 46 to the Official Plan of the Town of Pelham, was prepared by the Pelham Planning Services Committee and was adopted by the Corporation of the Town of Pelham by By-law No. 2522 (2003) in accordance with Section 17 of the Planning Act, R.S.O. 1990, as amended, on the 20th day of October, 2003.

  
MAYOR

  
CLERK

THE CORPORATION OF THE  
TOWN OF PELHAM

BY-LAW NO. 2522 (2003)

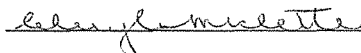
Being a by-law to adopt Amendment No. 46 to the  
Official Plan of the Town of Pelham.

THE COUNCIL OF THE CORPORATION OF THE TOWN OF PELHAM IN  
ACCORDANCE WITH THE PROVISION OF THE PLANNING ACT, R.S.O. 1990, AS  
AMENDED, HEREBY ENACTS AS FOLLOWS:


- (1) Amendment No. 46 to the Official Plan of the Town of Pelham, consisting of the attached text and Schedule A, is hereby adopted.
- (2) THAT the Clerk is hereby authorized and directed to make application to the Regional Municipality of Niagara for approval of the aforementioned Amendment No. 46 to the Official Plan of the Town of Pelham.
- (3) THAT this by-law shall come into force and take effect on the day of the final passing thereof.

ENACTED AND PASSED THIS 20TH DAY OF OCTOBER, 2003 A.D.

  
MAYOR RALPH BEAMER

  
CLERK CHERYL MICLETTE

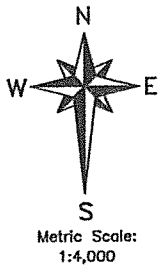
THE CORPORATION OF  
THE TOWN OF PELHAM  
CERTIFIED A TRUE COPY

  
Clerk

OFFICIAL PLAN AMENDMENT NO. 46

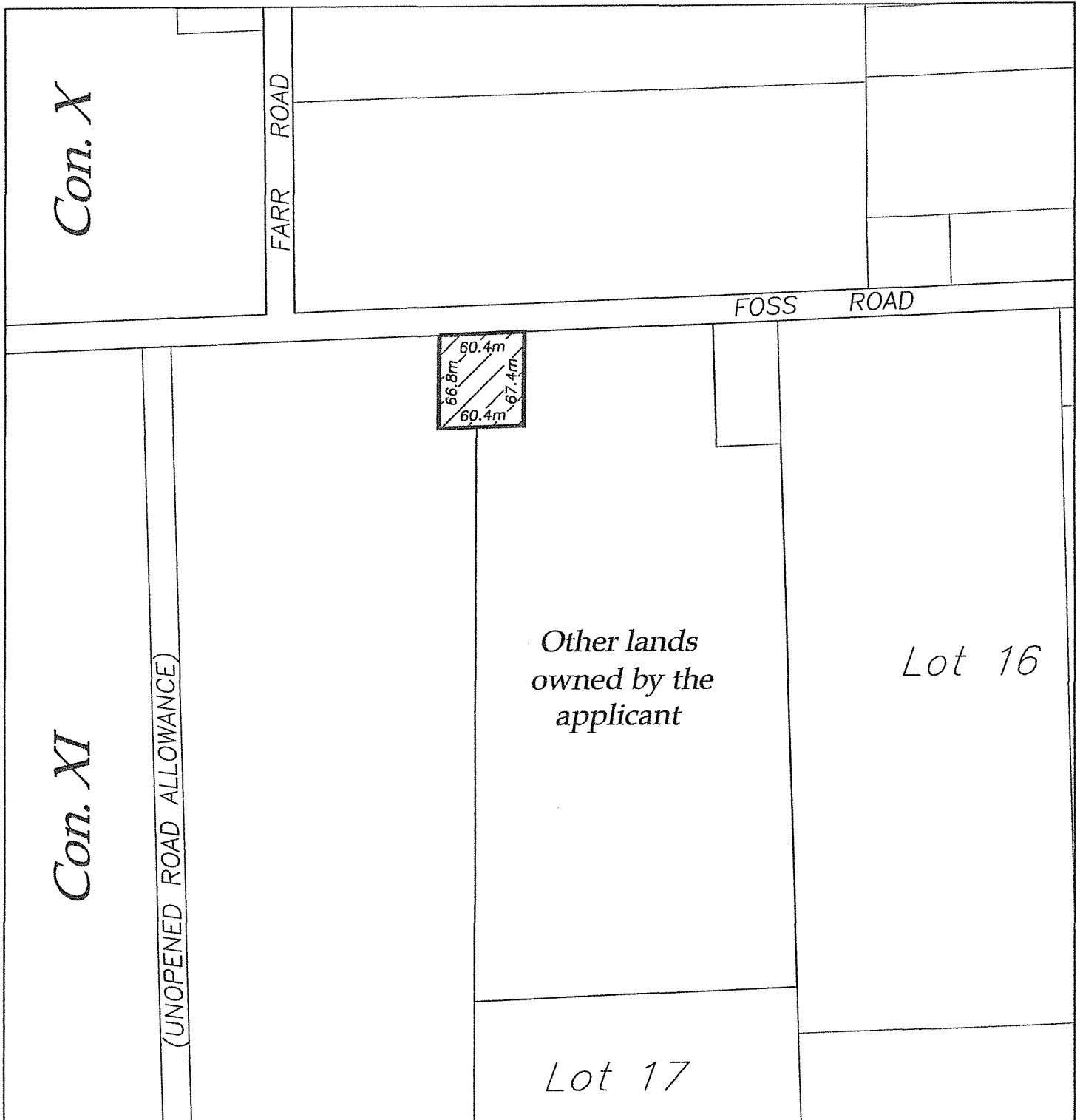
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", on a temporary basis pursuant to By-law No. 2048 (1998) and the provisions of Section 39 of the Planning Act,"

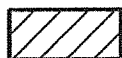


# SCHEDULE 'A'

## Official Plan Amendment No. 46



*Subject Lands*





AMENDMENT NO. 46  
TO THE OFFICIAL PLAN  
FOR THE TOWN OF PELHAM  
PLANNING AREA

## TABLE OF CONTENTS

### PART A - PREAMBLE

Introduction to the Official Plan Amendment

- i) Purpose
- ii) Location
- iii) Basis

### PART B - THE AMENDMENT

The Amendment which will be incorporated into the Town of Pelham Official Plan.

### PART C - BACKGROUND

Background material relevant to the Official Plan Amendment.

### NOTE:

Parts A and C are explanatory sections providing information regarding the Amendment and do not form a part of the body of the Official Plan Amendment. Only Part B constitutes the actual Amendment to the Official Plan of the Town of Pelham.

**PART A**

**PREAMBLE**

# **PART A**

## **PREAMBLE**

## PART A

### PURPOSE

The Purpose of this amendment is to:

- ▶ Redesignate the land from temporary use exception to permanent use Agricultural exception

### LOCATION

The lands that are the subject of this amendment are located on the south side of Foss Road, west of Church Street. The legal description of the property is Part of Lot 17, Concession 11.

### BASIS

The basis of this amendment is to:

- ▶ Facilitate the rezoning of a specific area of the subject land to permit the permanent use of selling new and used goods, including but not limited to clothing, glassware, farm equipment, parts and implements.

**PART B**

**THE AMENDMENT**

## THE AMENDMENT

1. Section 1, Land Use, Subsection 1.10.1(e) be amended by deleting the following:

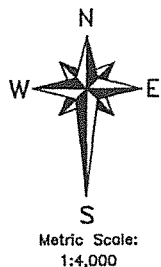
" , on a temporary basis pursuant to By-law No. 2048 (1998) and the provisions of Section 39 of the Planning Act,"

### MODIFICATION

NO. 1  
UNDER SECTION 17(34) OF  
THE PLANNING ACT, 1990

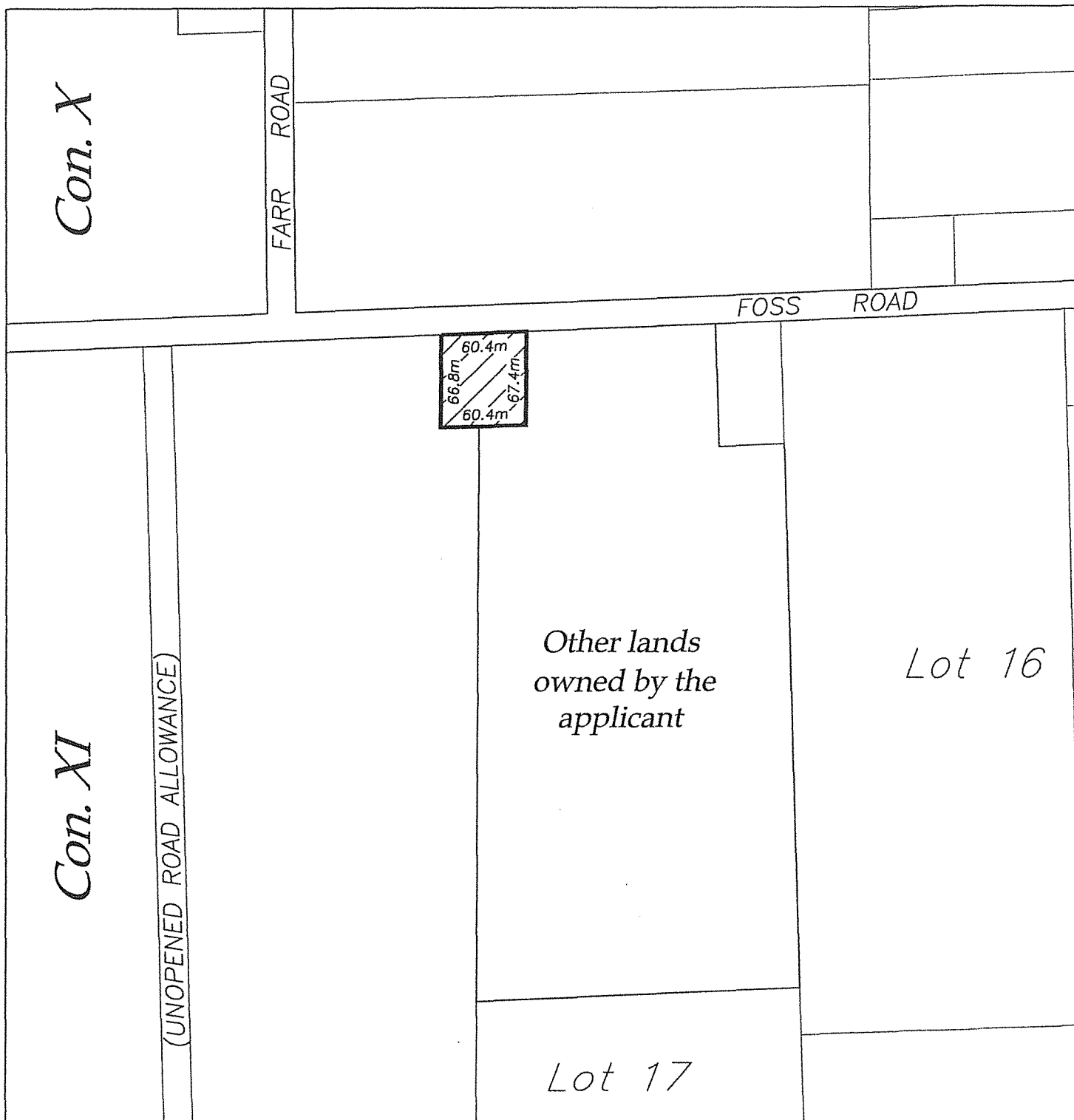
THE CORPORATION OF  
THE TOWN OF PELNAM  
CERTIFIED A TRUE COPY

Debra M. M. M. M. M.  
Clerk

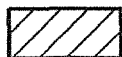


# SCHEDULE 'A'

Official Plan Amendment No. 46



*Subject Lands*







# **PART C**

## **APPENDICES**

## LIST OF APPENDICES

- Appendix A-1 Notice of Public Meeting June 26, 2003  
A-2 Affidavit re  
- Giving Notice of Public Meeting  
- Giving Notice of Adoption
- Appendix B-1 Minutes of General Committee Meeting July 28, 2003
- Appendix C Written Submissions or Comments and when they were received  
C-1 Willowbrook Nurseries Inc. Mar. 31, 2003  
C-2 Urban & Environmental Management Inc. May 2, 2003  
C-3 Regional Niagara Planning & Development Dept. July 7, 2003  
C-4 Regional Niagara Public Health Department July 16, 2003  
C-5 VanZanten Greenhouses July 28, 2003
- Appendix D-1 Affidavit re  
- List re Oral Submissions at Public Meeting
- Appendix E-1 Planning Report dated July 24, 2003  
E-2 Planning Report dated September 30, 2003
- Appendix F-1 Affidavit re  
- Information under Section 6(2) of Ont. Reg. 198/96 is provided  
and is true
- Appendix G-1 List of Public Bodies Given Notice Which Did Not Respond
- Appendix H-1 Information re Applicant Initiating the Amendment



TOWN OF PELHAM  
20 PELHAM TOWN SQUARE  
P.O. BOX 400  
FONTHILL ON L0S 1E0  
905.892.2607 (tel.)  
905.892.5055 (fax)

June 26, 2003  
File No. AM-03/03

## NOTICE OF PUBLIC MEETING

### THE CORPORATION OF THE TOWN OF PELHAM

PROPOSED AMENDMENTS TO THE OFFICIAL PLAN AND ZONING BY-LAW OF THE CORPORATION OF THE TOWN OF PELHAM PURSUANT TO SECTIONS 17 AND 34 OF THE PLANNING ACT, R.S.O. 1990, AS AMENDED.

The Public Meeting will be held as follows:

DATE: Monday, July 28, 2003 TIME: 7:00 P.M.

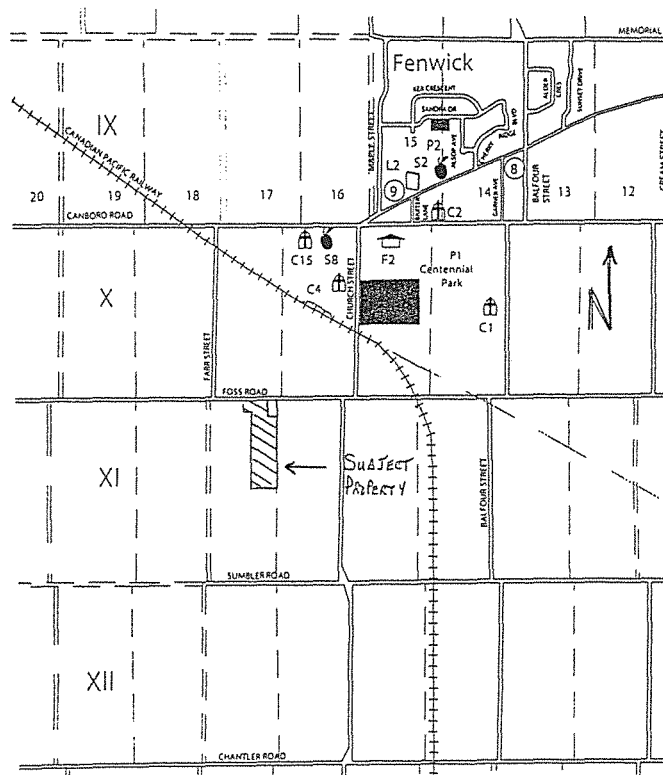
LOCATION: COUNCIL CHAMBERS  
Town of Pelham Municipal Offices  
20 Pelham Town Square, Fonthill, Ontario

The proposed Official Plan Amendment and Zoning By-law Amendment involve the following lands:

OWNER: Gilles and Mary Overbeeke

AGENT: Rick Brady, Urban & Environmental Management Inc.

LOCATION: South side of Foss Road, lying west of Church Street  
Part of Lot 17, Concession 11, Former Township of Pelham  
878 Foss Road, Town of Pelham



### EXPLANATION OF THE PURPOSE AND EFFECT OF THE APPLICATION

The lands are currently designated Good General Agricultural with a special exception to permit a temporary use by-law to permit the sale of new and used goods, including but not limited to, clothing; glassware; farm equipment, parts and implements within an existing building. The Official Plan Amendment was adopted by Council in December of 1998.

The lands are zoned Agricultural A-144 according to Town of Pelham Zoning By-law No. 1136 (1987) allowing the same temporary use. The By-law was first approved in December of 1998 to permit the use for a period of three years. A subsequent By-law was approved in December of 2001 recognizing the continued use for an additional period of three years, expiring in December of 2004.

The purpose of this application is to amend the Official Plan and Zoning By-law to permit the permanent use of lands for the sale of new and used goods, including but not limited to, clothing; glassware; farm equipment, parts and implements within an existing building.

### THE PROCESS

The General Committee, Planning Services Division, has not yet made a decision regarding this application.

All persons interested in this application are invited to attend the Public Meeting to comment on the proposed amendment. Written comments are also appreciated and are to be forwarded to the Planning Services Department.

A Technical Information Report, prepared by the Planning Services Department, will be available to the public on Friday, July 25, 2003. The matter will be further considered at a subsequent meeting of the General Committee, Planning Services Division, at which time comments submitted at the Public Meeting will be considered along with a Recommendation Report, prepared by the Planning Services Department. Any recommendation from that Committee meeting will be considered at a following meeting of Council.

If a person or public body that files an appeal of a decision of the Town of Pelham in respect of the proposed Official Plan Amendment and Zoning By-law Amendment does not make oral submissions at a Public Meeting, or make submissions to the Town of Pelham before the Official Plan Amendment and Zoning By-law Amendment are adopted, the Ontario Municipal Board may dismiss all or part of the appeal.

If you do not attend the Public Meeting but wish to be notified of the adoption of the proposed Official Plan Amendment and Zoning By-law Amendment, you are required to make a written request to the Clerk of the Town of Pelham at 20 Pelham Town Square, P.O. Box 400, Fonthill, ON L0S 1E0 . Such request should include the name and address of the person or public body to whom notice should be sent.

Further information regarding the application may be obtained by contacting the undersigned.

Craig Larmour, extension 16  
Planner  
[clarmour@town.pelham.on.ca](mailto:clarmour@town.pelham.on.ca)

THE CORPORATION OF THE TOWN OF PELHAM

IN THE MATTER OF SECTION 17 OF THE  
PLANNING ACT, R.S.O. 1990, AS AMENDED

TOWN OF PELHAM OFFICIAL PLAN AMENDMENT NO. 46

Part Lot 17, Concession 11  
878 Foss Road

A F F I D A V I T

I, CRAIG LARMOUR, DIRECTOR OF PLANNING SERVICES OF THE TOWN OF PELHAM, IN THE REGIONAL MUNICIPALITY OF NIAGARA, MAKE OATH AND SAY AS FOLLOWS:

- (1) I am the Director of Planning Services of the Corporation of the Town of Pelham and as such I have knowledge of the matters herein set forth.
- (2) On the 26th day of June, 2003, I did cause to be sent by prepaid First Class Mail and in envelopes addressed to the respective public bodies whose names and addresses are shown on the list attached hereto and marked as Schedule "A" to this Affidavit, and to the respective persons whose names and addresses are shown on the list attached hereto and marked as Schedule "B" to this Affidavit, a notice of the public meeting.
- (3) On the 26th day of June, 2003, I did cause to be sent by Regional Courier and in envelopes addressed to the respective public bodies whose names and addresses are shown on the list attached hereto and marked as Schedule "C" to this Affidavit, a notice of the public meeting.
- (3) On the 21st day of October, 2003, I did cause to be sent by prepaid First Class Mail and in envelopes addressed to the respective persons whose names and addresses are shown on the list attached hereto and marked as Schedule "D" to this Affidavit, a copy of the Notice of Adoption of Official Plan Amendment No. 46.

SWORN BEFORE ME AT THE TOWN OF PELHAM )  
IN THE REGIONAL MUNICIPALITY OF NIAGARA )  
THIS 27TH DAY OF OCTOBER, 2003 A.D. )  
)  
)  
)  
)  
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)

  
\_\_\_\_\_  
CRAIG LARMOUR

  
\_\_\_\_\_  
CHERYL MILETTE, CLERK

CHERYL MILETTE, Clerk,  
Town of Pelham, a Commissioner,  
for taking Affidavits in the  
Regional Municipality of Niagara

**SCHEDULE "A"**

ATTN MANAGER  
PLANNING & TRANSPORTATION  
DIST SCHOOL BRD OF NIAGARA  
191 CARLTON ST  
ST CATHARINES ON L2R 7P4

D MANICCIA MGR OF OPERATIONS  
NIAGARA CATHOLIC DISTRICT  
SCHOOL BOARD  
427 RICE RD  
WELLAND ON L3C 7C1

PRESERVATION OF  
AGRICULTURAL LANDS  
BOX 1090  
ST CATHARINES ON L2R 7A3

MANAGER LAND SERVICES  
ENBRIDGE CONSUMERS GAS  
101 CONSUMER DRIVE  
WHITBY ON L1N 1C4

ATTN SECRETARY  
ENBRIDGE CONSUMERS GAS  
P O BOX 1051  
THOROLD ON L2V 5A8

CROSSINGS CO-ORDINATOR  
ENBRIDGE PIPELINES INC  
801 UPPERCANADA DRIVE  
P O BOX 128  
SARNIA ON N7T 7H8

LAND USE PLANNING SECTION  
REAL ESTATE SERVICES  
HYDRO ONE NETWORKS INC  
483 BAY ST 12<sup>TH</sup> FLR NORTH TOWER  
TORONTO ON M5G 2P5

TECHNICIAN I  
RIGHT-OF-WAY DEPT  
TRANSCANADA PIPELINES LTD  
P O BOX 1000 STN M  
CALGARY AB T2P 4K5

SCHEDULE "B"

GILLES & MARY OVERBEEKE  
878 FOSS ROAD  
R R #4  
FENWICK ON L0S 1C0

RICK BRADY  
U & E MANAGEMENT  
4701 ST CLAIR, SUITE 301  
NIAGARA FALLS ON L2E 3S9

EILEEN MARY KOWALSKI  
841 FOSS ROAD  
R R #4  
FENWICK ON L0S 1C0

JAN & KITTY VAN ZANTEN  
R R #4  
FENWICK ON L0S 1C0

DOMINIC & JOHN CONTINELLI  
69 WINSLOW CRES  
THOROLD ON L2V 3S3

CLARENCE BROWN  
838 FOSS RD  
R R #4  
FENWICK ON L0S 1C0

MYRON & MARY SIELSKI  
868 FOSS RD  
R R #4  
FENWICK ON L0S 1C0

MARY & RON BOUWERS  
1164 BALFOUR ST  
FENWICK ON L0S 1C0

LARRY & JEANNE MURRAY  
894 FOSS ROAD  
R R #4  
FENWICK ON L0S 1C0

SCHEDULE "C"

REGIONAL CLERK (PLANNING)

REGIONAL NIAGARA  
THOROLD ON L2V 4T7

REGIONAL NIAGARA HEALTH  
SERVICES  
573 GLENRIDGE AVE  
ST CATHARINES ON L2T 4C2



SCHEDULE "D"

MAILING LIST FOR NOTICE OF PASSING OF  
OFFICIAL PLAN AMENDMENT NO. 46

GILLES & MARY OVERBEEKE  
878 FOSS ROAD  
FENWICK ON L0S 1C0

RICK BRADY  
URBAN & ENV MANAGEMENT  
4701 ST CLAIR SUITE 301  
NIAGARA FALLS ON L2E 3S9

MARK TEMPLE  
756 BALFOUR ST  
FENWICK ON L0S 1C0

C E BROWN  
838 FOSS ROAD  
FENWICK ON L0S 1C0

MARLA DOMINEY  
923 CHURCH ST  
FENWICK ON L0S 1C0

JACK BEAUDRY  
921 CHURCH ST  
FENWICK ON L0S 1C0

VERNA COPELAND  
906 CHURCH ST  
FENWICK ON L0S 1C0

CONNIE BLANKENBURG  
803 FOSS ROAD  
FENWICK ON L0S 1C0

RON AUDIT  
807 FOSS ROAD  
FENWICK ON L0S 1C0

NOEL LARMET  
15 FAIRBURN AVE  
ST CATHARINES ON L2T 1B1

DELL & PHYLLIS CLARK  
916 CHURCH ST  
FENWICK ON L0S 1C0

KAREN BEAULIEU  
716 WELLAND RD  
FENWICK ON L0S 1C0

ED KORIECZNY  
995 BALFOUR ST  
FENWICK ON L0S 1C0

LARRY MURRAY  
894 FOSS ROAD  
FENWICK ON L0S 1C0

FRED E WHITE  
301 HWY. 20 WEST  
FENWICK ON L0S 1C0

JOAN & DAVID CALLOW  
65 WANDA  
ST CATHARINES ON L2T 1S7

DOUG & LOIS HALL  
421 EFFINGHAM ST  
R R #5  
WELLAND ON L3B 5N8

O MARR  
63154 WILFORD  
WAINFLEET ON L0S 1V0

J J RYBIAK  
835 FOSS RD  
FENWICK ON L0S 1C0

MYRON & MARY SIELSKI  
868 FOSS RD  
FENWICK ON L0S 1C0

JAN VANZANTEN  
879 FOSS RD  
FENWICK ON L0S 1C0

TOM RICHARDSON  
SULLIVAN MAHONEY  
40 QUEEN ST  
ST CATHARINES ON L2R 6Z2

Meeting GC-19/03

GENERAL COMMITTEE

July 28, 2003

Minutes of a regular General Committee meeting held on Monday, July 28<sup>th</sup>, 2003 at 7:00 p.m. in the Municipal Council Chambers, 20 Pelham Town Square, Fonthill. The meeting was called for the purpose of holding public meetings under the Planning Act with respect to two applications.

ATTENDANCE:

Council: Acting Mayor, W. B. Walker  
Councillor G. Berkhout  
Councillor U. Brand  
Councillor R. Hatt  
Councillor S. Matthews

Regrets: Mayor R. Beamer  
Councillor C. Kuckyt

Staff: CAO/Director of Financial Services G. Cherney  
Planner C. Larmour  
Recording Secretary (Clerk) C. Miclette

Media: Sarah Murrell, The Voice of Pelham  
Greg Furminger, Pelham News

Other: Interested Citizens

1. CALL TO ORDER:  
The meeting was called to order by Acting Mayor W. B. Walker.

2. ADOPTION OF AGENDA:  
**RECOMMENDATION - MOVED BY COUNCILLOR R. HATT,  
SECONDED BY COUNCILLOR S. MATTHEWS - THAT the agenda for the July  
28<sup>th</sup>, 2003 regular General Committee meeting be adopted. CARRIED, CHAIR,  
ACTING MAYOR W. B. WALKER**

3. DISCLOSURE OF PECUNIARY INTEREST & GENERAL NATURE  
THEREOF:  
There were no disclosures of pecuniary interest noted by members of the  
Committee.

At this point in the meeting, Acting Mayor W. B. Walker vacated the Chair and Councillor R. Hatt assumed the Chair, as Chair of the Planning Services Division.

4. PUBLIC MEETING UNDER PLANNING ACT:

(A) Proposed Official Plan and Zoning By-law Amendment Application #AM-03/03 - Gilles & Mary Overbeeke, South Side of Foss Road, lying West of Church Street (Agent: Rick Brady, Urban & Environmental Management Inc.):

Chair, Councillor R. Hatt recited the required form of notice as per the Planning Act with respect to a public meeting.

Chair, Councillor Hatt then introduced Mr. Craig Larmour, Planner for the Town of Pelham who provided an overview of the application and technical information report which had been circulated to members of Council prior to the public meeting for their information.

Mr. Larmour noted that the lands are currently designated Good General Agricultural, with a special exception to permit a temporary use by-law to permit the sale of new and used goods, including but not limited to, clothing, glassware, farm equipment, parts and implements within an existing building. He also stated that Official Plan Amendment 34 was adopted by Council in December of 1998 which permitted this temporary use. He further stated that the lands are currently zoned Agricultural A-144 according to the Town of Pelham Zoning By-law which allows the same temporary use, which was first approved in 1998 and subsequently in December, 2001 an additional period of three years was approved which recognized the continued use, which is due to expire in December of 2004.

Mr. Larmour stated that the purpose of the application before Committee this evening was to amend the Official Plan and Zoning By-law to permit the permanent use of the lands for the sale of new and used goods, including but not limited to, clothing, glassware, farm equipment, parts and implements within an existing building.

Mr. Larmour then outlined the various planning documents which will be taken into consideration when reviewing the above noted application, i.e. Provincial Policy Statement, Regional Policy Plan, Town of Pelham Official Plan and Town of Pelham Zoning By-law.

In closing, Mr. Larmour noted the agency comments which had been received with respect to this application from Regional Niagara, Planning & Development Department, Director of Operations for the Town and the Regional Niagara, Public Health Department, as well as a letter from Mr. John Langendoen of Willowbrook Nurseries.

APPLICANT'S PRESENTATION:

Mr. Rick Brady of Urban & Environmental Management Inc. made the presentation on behalf of his clients, Gilles & Mary Overbeeke.

Mr. Brady noted that in his opinion it is a legally established use as evidenced by the recognizing of the use and approval of same in 1998 and again in 2001.

He noted that he had filed, with the Planning Department, approximately 28 letters from farmers in support of the application, and, as well he indicated that an additional letter from Jan VanZanten, in support of the application had been supplied to him this evening.

Mr. Brady further noted that the Overbeeke's are not looking to expand the operation, just to continue with what is contained in Official Plan Amendment 34, except for the statement "on a temporary basis".

Mr. Brady also noted that they were not aware of the requirement for a Regional Policy Plan Amendment until two weeks ago, but that they would be speaking with the Region on this matter, and he indicated that they would still like to proceed with the application before the Committee this evening.

Mr. Brady also stated that this type of operation fits in with the agricultural community and that same is supported by their neighbours, as well as the agricultural community.

Mr. Brady also noted that the 25 acres will be continued to be farmed.

In closing, Mr. Brady noted that they would like to finalize the local Official Plan and Zoning By-law Amendment application and then submit to the Region for approval and that he would appreciate receiving a copy of the recommendation report by Town Staff as soon as possible after same has been prepared for consideration by Committee.

**PUBLIC INPUT:**

**Mr. Jan VanZanten, 879 Foss Road** - indicated that it is a nice, clean business and that there are no problems with noise and/or parking and he fully supports the application.

**Myron Sielski, 868 Foss Road** - indicated that he fully supports the application and that to his knowledge there is no other business of this type and therefore it is not hurting another business. In closing, he also noted that it will increase the business tax base for the Town.

**Larry Murray, 894 Foss Road** - indicated that there are no problems that he can see with this operation and that they are a very hardworking couple who run a clean business. He also noted that it does not affect his property and that he is very supportive of same.

**Noel Larmet, 15 Fairburn Avenue, St. Catharines** - indicated that this operation sells good, clean stuff and that he fully supports the continuance of this operation at this location.

**Clarence Brown, 838 Foss Road** - indicated that as a result of this operation, the traffic on Foss Road has increase greatly and he questioned whether the taxpayers of this municipality would have to pay for the repaving of the highway due to the increase in traffic as a result of this operation. He also questioned what could be implemented to slow the traffic on this road.

St. Catharines Resident - indicated that he attends this operation frequently and that they have good clean study which is quite reasonable to purchase. In closing, he stated that he supports the application.

Joan Callow, St. Catharines - indicated that when she attends this operation, she also shops in other stores located in the Pelham Area and therefore she sees this type of operation as an asset to the municipality.

COMMITTEE INPUT:

In response to a question raised by Councillor Matthews, CAO/Treasurer G. Cherney advised that, if this application is approved, there will be a change in assessment from "Residential" to "Commercial".

In response to a question raised by Councillor Walker, Planner C. Larmour advised that it would be site specific.

In response to a question raised by Councillor Brand, Mr. R. Brady noted that in their mind the need and desirability has been proven through the many support letters received.

In response to a question raised by Councillor Brand, Mr. R. Brady noted that this property was used earlier as a venue for selling apples and therefore there is no conflict with neighbouring properties.

In response to a question raised by Councillor Brand, Mr. R. Brady noted that there has been no social impact and it is their opinion that there are no environmental impacts.

In response to a question raised by Councillor Brand, Mr. R. Brady noted that no further agricultural lands are being taken out of production.

In response to a question raised by Councillor Brand, Planner C. Larmour advised that the issue of outside storage could be addressed through the zoning by-law and Mr. R. Brady further stated that it was not their intention to change storage and that it will continue as it presently exists.

Chair, Councillor R. Hatt declared the public meeting on this application closed at approximately 7:35 p.m.

**RECOMMENDATION - MOVED BY COUNCILLOR U. BRAND, SECONDED BY COUNCILLOR S. MATTHEWS - THAT the Committee recommend to Council that the letter received from Jan & Kitty VanZanten, 879 Foss Road with respect to the Official Plan and Zoning By-law Amendment Application by Gilles & Mary Overbeeke be received for the information of the Committee. CARRIED, CHAIR, COUNCILLOR R. HATT**

RECOMMENDATION - MOVED BY COUNCILLOR S. MATTHEWS, SECONDED BY COUNCILLOR G. BERKHOUT - THAT Report P-24/03 re Information Report - Official Plan and Zoning By-law Amendment Application - Gilles & Mary Overbeeke (Agent: Urban and Environmental Management) be received; AND THAT the recommendation contained therein be approved, as follows: - "THAT a recommendation report on this matter be presented at a subsequent meeting of the General Committee." CARRIED, CHAIR, COUNCILLOR R. HATT

(B) Proposed Plan of Subdivision 26T19-03002 & Zoning By-law Amendment Application #AM-02/03 - Huibertus Breunissen, West side of Church Street, lying north of Foss Road (Agent: Upper Canada Consultants, Martin Heikoop):

Chair, Councillor R. Hatt recited the required form of notice as per the Planning Act with respect to a public meeting.

Chair, Councillor Hatt then introduced Mr. Craig Larmour, Planner for the Town of Pelham who provided an overview of the application and technical information report which had been circulated to members of Council prior to the public meeting for their information.

Mr. Larmour noted that the applicant's land holdings consist of 3.84 hectares (9.49) of which 2.95 hectares (7.3 acres) is proposed to be developed.

Mr. Larmour further noted that the applicant proposes to subdivide the lands to permit the development of 25 single detached dwelling lots, one block for municipal drain/emergency access, one block for a reserve and one block identified as "additional lands of the owner". He further noted that the lots measure between 16.8 metres and 20.8 metres in frontage and from 633 square metres to over 900 square metres in area.

Mr. Larmour stated that the applicant proposed to rezone a portion of the lands from Residential Village 1 (RV1-171 (H)) to permit a reduction in lot frontage from 18 metres to 16.86 metres and in lot area from 836 square metres to 600 square metres and to remove the holding provision.

Mr. Larmour mentioned the various planning documents, i.e. Section 51 of the Planning Act, Provincial Policy Statement, Regional Policy Plan, Town of Pelham Official Plan and Zoning By-law which will be taken into consideration when reviewing the application and preparing a recommendation report for consideration by the Committee.

Mr. Larmour also made mention of the comments which were received from Regional Niagara, Planning & Development Department, Bell Canada, Regional Niagara, Public Health Department, Niagara District School Board of Niagara and the Niagara Regional Police Service. He also noted written comments which were received from Robert & Margaret Williams.

In closing, Mr. Larmour noted the concern raised by Regional Niagara,

Planning & Development with respect to the Urban Area Boundary for Fenwick.

APPLICANT'S PRESENTATION:

Mr. Martin Heikoop of Upper Canada Consultants made a presentation to Committee on behalf of his client, Mr. Huibertus Breunissen. Mr. Heikoop noted that the proposed lots on the south side of the development will back onto existing residential properties and he noted that a variance was being requested on the four lots on the north side of the development because of the road and drainage configurations.

Mr. Heikoop also noted the concern raised by Regional Niagara, Planning & Development Department with respect to the Urban Area Boundary which they now being told is different and this issue will have to be worked out.

In closing, Mr. Heikoop noted that the Stormwater Management Report was filed with the application and that it is in the hands of the Town's Planning Department.

PUBLIC INPUT:

Mr. Richard Rybiak, 835 Foss Road - indicated that they are not against the development but that there are two issues which he would like to note:

- (1) the emergency/utility access through 833 Foss Road is still outstanding, there has been no settlement with respect to this matter
- (2) would request that a wall be constructed in order to eliminate annoyance to the neighbours during construction

Mr. Jan VanZanten, 879 Foss Road - inquired as to whether or not there would be water to the 25 lots and he questioned whether other property owners could tap into this watermain.

Dell Clark, 916 Church Street - indicated that he has no objection to the application, but he asked the Committee to review Policy 1.14.1 with respect to lot sizes with services which should be 830 square metres and any reduction would take away from the atmosphere of Fenwick. Mr. Clark also noted a possible environmental impact due to the possible construction of a home on the drain located in this area.

Mr. Clark noted that over the past few years, little or nothing has been done to this lot and the property has been let go.

Mr. Clark also noted that he too would like to see a wall constructed to prevent dust, noise, etc. during the construction period which will probably take many years.

In closing, Mr. Clark noted that possibly this development could impact the animals which are located on his property.

Rick Audit, 807 Foss Road - inquired as to how the drainage issue will be handled and he expressed his concerns with flooding in the area. In closing, he indicated that he has sold his home due to the fact that he does not want rear neighbours.

Connie Blankenburg, 803 Foss Road - stated that in her opinion it looks like the drain located on Lot 23 will be filled in and therefore she is concerned about the drainage/flooding in this area.

Clarence Brown, 838 Foss Road - noted that the course of a natural drain cannot be changed or altered. He also inquired as to whether or not the system from Welland which services this area with water and sewers can handle the capacity.

Phyllis Clark, 916 Church Street - noted that a natural drain, as well as the Swayze Drain run through this property.

COMMITTEE INPUT:

Councillor Walker noted his concern with respect to the reduced lot sizes, due to the fact that he was part of the Council which established the sizes for the Fenwick Area in order to keep with the character of the area. Councillor Walker also asked for clarification with respect to the erection of a wall as requested by a couple of the residents in attendance this evening.

Councillor Matthews shared the comments of Councillor Walker with respect to the reduced lot sizes and she inquired as to how the defined need was determined and how will it impact agricultural lands in the area. She also noted her concern regarding flood control, as well as the impact on the water and sewer systems.

Planner C. Larmour, in response to the concerns raised by Councillors Walker and Matthews, that the lands in question were designated for this purpose in 1981 and that only 4 of the 25 lots on the north side are deficient in lot size. He also noted that discussions have been held between the applicant's agent, Director of Operations L J. Hodge and the Drainage Superintendent R. Bradley with respect to the drainage course.

In response to a question raised regarding the impact on the water and sewer systems, M. Heikoop of Upper Canada Consultants noted that there is enough capacity in the system for these lands and that the intention was to loop water through to Foss Road via the Rybiak property.

Councillor Berkhout noted that, in his opinion, this development will change the look and character of the Fenwick area and he also expressed concerns regarding the issue of drainage.

Councillor Brand asked for clarification with respect to the concern raised by Regional Niagara, Planning & Development Department regarding the Urban Area Boundary line and he questioned who established the line and where it the line. Councillor Brand also questioned as to why a "holding" provision was put on the lands to which Mr. C. Larmour responded that when the property in the northeast corner of the lot was severed off, it was recommended that a "holding" provision be placed on the remainder of the property until a suitable plan was put forth. In closing, Councillor Brand asked whether or not the increased surface flow will find its way into the Coyle Creek.



In response to questions raised by members of Council, Mr. Heikoop noted that the Niagara Peninsula Conservation Authority, the Regional Municipality of Niagra and Town Staff will have to review the storm drainage report.

Chair, Councillor R. Hatt declared this portion of the public meeting closed.

Receipt of Correspondence from Robert & Margareth Williams - RECOMMENDATION - MOVED BY COUNCILLOR G. BERKHOUT, SECONDED BY COUNCILLOR S. MATTHEWS - THAT the correspondence received from Robert & Margareth Williams, 823 Foss Road re Zoning By-law Amendment and Proposed Plan of Subdivision - H. Breunissen be received for the information of the Committee. CARRIED, CHAIR, COUNCILLOR R. HATT

Report P-25/03 re Information Report - Zoning By-law Amendment Application #AM-02/03 and Plan of Subdivision Application 26T19-03002 - Huibertus Breunissen (Agent: Upper Canada Consultants) - RECOMMENDATION - MOVED BY COUNCILLOR U. BRAND, SECONDED BY COUNCILLOR S. MATTHEWS - THAT Report P-25/03 re Information Report - Zoning By-law Amendment Application #AM-02/03 and Plan of Subdivision Applicatoin 26T19-03002 - Huibertus Breunissen (Agent: Upper Canada Consultants) be received; AND THAT the recommendation contained therein be approved, as follows: - "THAT a recommendation report on this matter be presented at a subsequent meeting of the General Committee." CARRIED, CHAIR, COUNCILLOR R. HATT

(5) ADJOURNMENT:  
RECOMMENDATION - MOVED BY COUNCILLOR R. HATT, SECONDED BY COUNCILLOR G. BERKHOUT - THAT this regular meeting of the General Committee be adjourned until the next regular meeting scheduled for MONDAY, AUGUST 11<sup>th</sup>, 2003, unless sooner called by the Mayor. CARRIED, CHAIR, ACTING MAYOR, W. BRIAN WALKER

  
CHAIR

  
SECRETARY



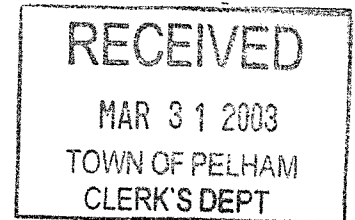
**WILLOWBROOK NURSERIES INC.**

935 VICTORIA AVE., R.R. #4  
FENWICK, ON CANADA L0S 1C0  
TEL: (905)892-5350/(800)661-5237  
FAX: (905)892-3790

Appendix C-1

March 22, 2003

Mayor Beamer  
Town of Pelham  
Fonthill, Ontario  
L0S 1E0



Dear Mayor Beamer,

I would like to reconfirm my endorsement of the continued operation of "Fenwick Flea Market". Since they have been granted continuance in 2001 by the Town, they have been a valuable resource for our business. Their product line of both used and new goods certainly allows us to make good price comparisons when purchasing and their extremely varied product line has been very convenient for us. So many times you purchase a new product which is seldom used, when purchasing a used product for a lost less cost, would have been more then adequate.

The Barn Sale provides a unique "stewardship" service in our community, providing new and second-hand goods for home-owners, businesses, and agriculture.

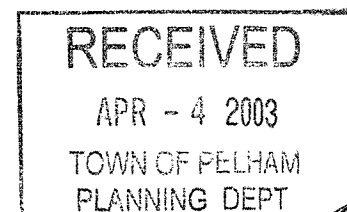
Their part-time operation in my opinion has not interfered or detracted from our neighborhood, instead it has taken several unused buildings and put them to good use. It has a friendly atmosphere where neighbors frequently bump into each other and chat over coffee.

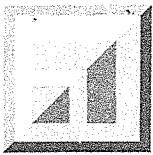
I encourage you and council to allow this business to continue on in business.

Sincerely,

John Langendoen  
President

JL/jcl





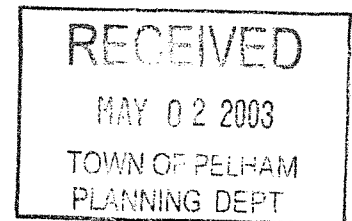
URBAN &  
ENVIRONMENTAL  
MANAGEMENT INC.  
PROFESSIONAL CONSULTING SERVICES

Appendix C-2

4701 St. Clair Avenue, Suite 301, Niagara Falls, Ontario L2E 3S9  
phone 905.371.9764 fax 905.371.9763  
uemconsulting.com

April 29, 2003  
Project No. 03-U04

Mr. Craig Larmour, RPP  
Town Planner  
Town of Pelham  
P.O. Box 400  
20 Pelham Town Square  
Fonthill, ON L0S 1E0



Dear Mr. Larmour:

**Re: Official Plan Amendment and Zoning By-Law Amendment  
For Overbeeke Flea Market at 878 Foss Road**

On November 29, 2001, the Overbeeke family signed an undertaking as part of seeking an extension to a temporary use of their lands as a Flea Market. The undertaking stated:

*"We wish to pursue the present application for extension of the temporary use by-law and undertake that this will be to last application by us for a temporary use as a flea market for this property under Section 39 of the Planning Act.*

*Should we determine that we wish to pursue the flea market use on a permanent basis on this property, we undertake to file an application for the re-zoning pursuant to Section 34 of the Planning Act within the next three (3) year period of the temporary use extension, if so granted."*

The temporary use was granted by Town of Pelham Council on December 3, 2001. Therefore, to have the use to continue beyond 2004, my client has chosen to apply for an amendment to the Official Plan and Zoning By-Law.

Regional Planning staff in their report dated October 10, 2001, stated that:

*"The Town should require the applicant to justify why there is a need to extend the 'temporary use' given the stated purpose for such a by-law. Alternatively, if the applicants and the Town believe that these particular uses are supportable on this site in the long term, these appropriate amendments should be sought to the relevant planning documents to legalize the uses on a permanent basis."*

It is through the enclosed application that the appropriate amendments outlined by Regional Planning staff are being sought.

## **Regional Planning Amendment**

There are two arguments that are both independently valid for not requiring a Regional Plan Amendment to approve of the proposed Official Plan Amendment and Zoning By-Law.

The first is based on precedence. When the Regional planning staff reviewed the 1998 Official Plan Amendment to the Town of Pelham's plan permitting the establishment of the permitted use, there was no requirement for a Regional Plan Amendment. All of the issues were dealt with through the changes to the local planning documents with comments and concurrence by Regional planning staff. The use of the property (albeit temporary) is now considered to be in conformity with the Regional Plan via the specifics mechanisms of the Planning Act. The only change that is being sought with these applicants is to remove the temporary nature of the site. There is no intensification being sought nor contemplated.

The second is based on Policy 12.6 of the Regional Policy Plan. The Overbeeke Flea Market is a legally established use that has characteristics of both commercial and agricultural uses. Clearly legally established uses are permitted to continue to operate within the context of the Regional Plan. Furthermore, regional planning staff reviewed the establishment of the use in 1998.

Policy 12.6     Other policies of this Plan notwithstanding, the Plan shall not Prohibit the continued operation of legally established residential, industrial, business, agricultural, and institutional facilities. Further, this Plan shall not prohibit the reasonable expansion or change in the use of such facilities provided Urban Area Boundaries are not superseded; the expansion does not involve a major intensification of land use; or result in the intrusion of new incompatible uses; and subject to:

- (1) the need and desirability of the operation;
- (2) regard for environmental, agricultural, and other policies of this Plan;
- (3) compatibility with existing surrounding uses;
- (4) access and servicing requirements being met; and
- (5) not additional municipal services being required.

Further policies guiding the continued operation and possible expansion of such existing uses should be included in local official plans. In addition, with the Niagara Escarpment Plan area, the Niagara Escarpment Plan Policies in Section 7.H apply to existing uses.

It is through the enclosed applications that the appropriate amendments as outlined by Regional planning staff in their October 10, 2001 letter, are being sought.

## **Official Plan Amendment**

There have been several planning reports prepared on the use of this site as a Flea Market. One of the earliest reports prepared on October 15, 1998 by G. Barker of BLS Planning Associates Inc. established the "collective evaluation criteria" for the review of the application seeking permission to permit the Flea Market to continue as a use on the subject site. This "collective evaluation criteria" was based on Regional Policy Plan,

Pelham Official Plan and Provincial Policy statement criteria and they were utilized by both the Town and Region to review the 1998 proposal:

- "a) the need for and desirability of the proposed use,*
- b) the quality of the agricultural land involved and the degree of preservation,*
- c) the impact of surrounding land uses,*
- d) the efficient use of the land, and*
- e) alternative locations for the proposed use."*

As outlined above, there are five tests that can be used to judge the desirability of the use. These tests can be applied to the proposed Official Plan Amendment and the Region as both a commenting and implementing agency for local Official Plan Amendment can have direct control of the planning process.

For clarification, it should be noted that the Official Plan Amendment adopted in 1998 by Pelham Council and implemented by Regional Council is being proposed to be modified by removing four words *"on a temporary basis"* all other provisions of the Official Plan Amendment remain.

#### **Official Plan Amendment # AM-5/98**

*"Notwithstanding the uses permitted by Policy 1.10.1 the lands occupying Part of Lot 17, Concession 11 in the Town of Pelham and municipally known as 878 Foss Road, may be used, on a temporary basis, for the sale of new and used goods such as clothing; glassware, farm equipment, parts and implements within an existing barn."*

I will evaluate each of the criteria in turn based on past comments for local planning staff, area neighbour input, clients of the Flea Market input and my own observations and opinions. In addition, the need for services and the ability of the existing buildings to be utilized for the proposed use is reviewed.

#### **a) The need for and desirability of the proposed use**

The 1998 BLS report states that *"A commercial flea market is not a farm related use and therefore does not provide a service or fulfill a need directly related to the surrounding agricultural area."* The Region in its October 19, 2001 letter on this matter states that, *"the Town should require the applicants to justify why there is a need....."*

Need is often justified in planning studies by the use of socio-economic data to identify a market or clarify that a certain use would be needed by some group in society. Since we have an existing legal use, we are provided a luxury that rarely exist in future looking planning studies. We can ask the users of the flea market if a need for the market exists.

The attachment to this letter report includes 28 letters prepared by current users of the flea market. Clearly these letters establish that in the view of the current market users there is a need for the Flea Market.

These users of the Flea Market are farmers. Some are farm small holdings while others are large commercial farmers. Their comments include:

*"We are fully aware that the flea market is situated on agricultural land but we also fee that it caters to many of the agricultural business and farms in the area."*

*"Many of the items we purchase are used on our farm."*

*"We are farmers in Smithville and buy merchandise from the Fenwick Flea Market to use on our dairy farm."*

*"I would like to say that we are fortunate in our area to have a flea market of this caliber in the Overbeeke Flea Market, there were many articles that have been purchased by the farm and our employees."*

*"We pick up farm supplies at the Fenwick Flea Market for our poultry farm."*

The farmers that use the Flea Market are from Fenwick, Pelham, Wainfleet, West Lincoln, Sherkston, Welland and Port Colborne. The market includes most of the agricultural area of the southern part of Regional Niagara.

By the estimate of the Overbeeke's as reported in the past to Pelham Council, at least 50% of the people that use the Flea Market are farmers and from the agricultural community. These clients are repeat buyers and have grown to rely on this establishment to serve their agricultural needs.

This recent analysis shows that the 1998 BLS planning report was inaccurate when it did not include that this Flea Market does serve farmers and farms and does provide a service to the surrounding agricultural area.

The need for this Flea Market is based on the existing clients and type of service that has been provided to the agricultural community. Clearly the farming community views that there is a need for this Flea Market to continue to serve their needs at this location.

#### **b) Quality of Agricultural Land Involved and Degree of Preservation**

The site is classified as Good General Agricultural in both the Town of Pelham and Regional Niagara Policy Plan. Both the Regional Plan and Town Plan designate the majority of the area outside the urban boundaries as either Unique Agricultural land or Good General Agricultural land, there is only a small portion of lower quality agricultural land in association with the Welland-Pelham airport.

The highest priority is given to the preserving of unique agricultural land within both the Region and Town Official Plans. Good General Agricultural land is considered a second priority. (see policy 6.A.2).

In the 1998 Town planning report, it was acknowledged that:

*"the subject proposal will not remove land from agricultural production as existing structures, parking areas and access areas are to be used for the 1 acre (0.4 hectare) site."*

The Overbeeke's have additional land (over 25 acres) that have continued to be use for active agriculture. It is their intention to continue to farm this acreage. In the future, they have plans to develop these lands for more intense agricultural development including nursery stock. These uses do not require amendments to planning documents.

c) **Impact on Surrounding Land Uses**

The surrounding land uses consist of rural residential to the west, active agriculture to the north and south. Within relatively close proximity are commercial greenhouses.

Since 1998, there have been no complaints by neighbouring users. Several of the supporting letters appended to this report expressed support for the Flea Market and clearly identified that there are no compatibility issues.

In dealing with compatibility issues the Ontario Municipal Board has cited:

*"compatible means being mutually tolerant and capable of coexisting together in harmony in the same area. 'Being compatible with' is not the same as 'being similar to'. 'Being similar to' means having resemblance to another thing; they are like one another, but not identical. 'Being compatible with' means nothing more than being capable of coexisting in harmony."* (bolding added by report author)

This use has been legally in existence since 1998. No further changes to the use are being sought except to change the use from temporary to permanent.

It is noted in the Town's planning report in 1998 that *"the existing commercial use appears not to be creating any land use conflict at this time"*. This continues to be the case in 2003. The Town's report goes on to state that *"land use incompatibility, may result if the form, function and intensity of use increases over time."* This has not occurred in the past 5 years and it is the Overbeeke's intention and commitment to not change their existing operation. While it is always difficult to see the future, if the past is any indication, there should not be incompatibility issues with this Flea Market and its neighbours.

d) **Efficient Use of the Land**

There are no plans to expand the Flea Market. The existing buildings which were previously under utilized are now more efficiently used as a Flea Market. To not permit this use to continue could lead to a less efficient use of the buildings and ultimately the land.

In 1998, the existing buildings were inspected to ensure that they met the building code. A substantial amount of investment was placed in the buildings as a result of

these inspections. To date the buildings meet building code for the Flea Market and have been inspected by the Town to meet these standards.

**e) Alternative Locations**

Flea markets are not a type of land use that is often found in an urban area. A review of Flea markets in Niagara shows that the majority are located in rural areas in association with existing buildings or structures.

While the Town of Pelham has provided for commercial areas and sites, the majority are in urban settings and that does not meet the locational characteristics of this form of land use.

This Flea Market services the agricultural and rural community with some urban oriented clients. As can be seen from the attached letters, farmers and rural landowners drive considerable distances to this site. Clearly they find the current site to be convenient to their needs by their behaviour.

It would be difficult, if at all possible for a Flea Market with characteristics of Overbeekes to find a suitably large site within an urban environment and provide the level of service that is currently provided.

There is always a concern that a change in land use will establish some sort of precedent that can have impacts well beyond the site under consideration. This is a valid planning issue, however the review process as mandated by the Planning Act is very comprehensive and relevant issues particular to any application can be vetted and reviewed on a case by case basis, as is the case for all planning applications.

**f) Servicing**

The site is currently serviced by existing on-site sanitary and water services. There is no intent to intensify the use as a result of the application. The existing services have functioned effectively for the past 5 years of operation.

**In Conclusion...**

The current applications to amend the Town of Pelham's Official Plan and Zoning by-Law do not represent an intensification of an existing legal land use. Throughout the past five (5) years this Flea Market has effectively functioned in its current location with no report instances of land use incompatibility. Quite to the contrary, neighbours have prepared letters of support for the continued use of the Flea Market.

The neighbouring agricultural community has rallied to the support of this use. The attached 28 letters were independently prepared in support of the continued use of the Flea Market. It has become a valuable service to the agricultural community, albeit it also serves urban residents as well.

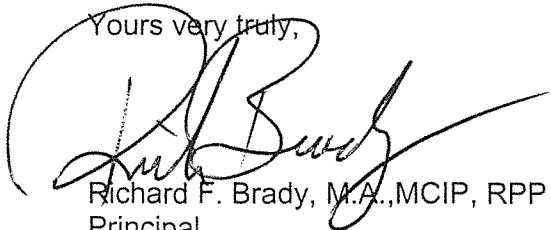
The temporary use By-Law has completed its purpose of providing a trial use of the property for the Flea Market. It is now appropriate to remove the temporary use of the Flea Market as agreed upon by the Overbeeke's in 2001.



April, 2003

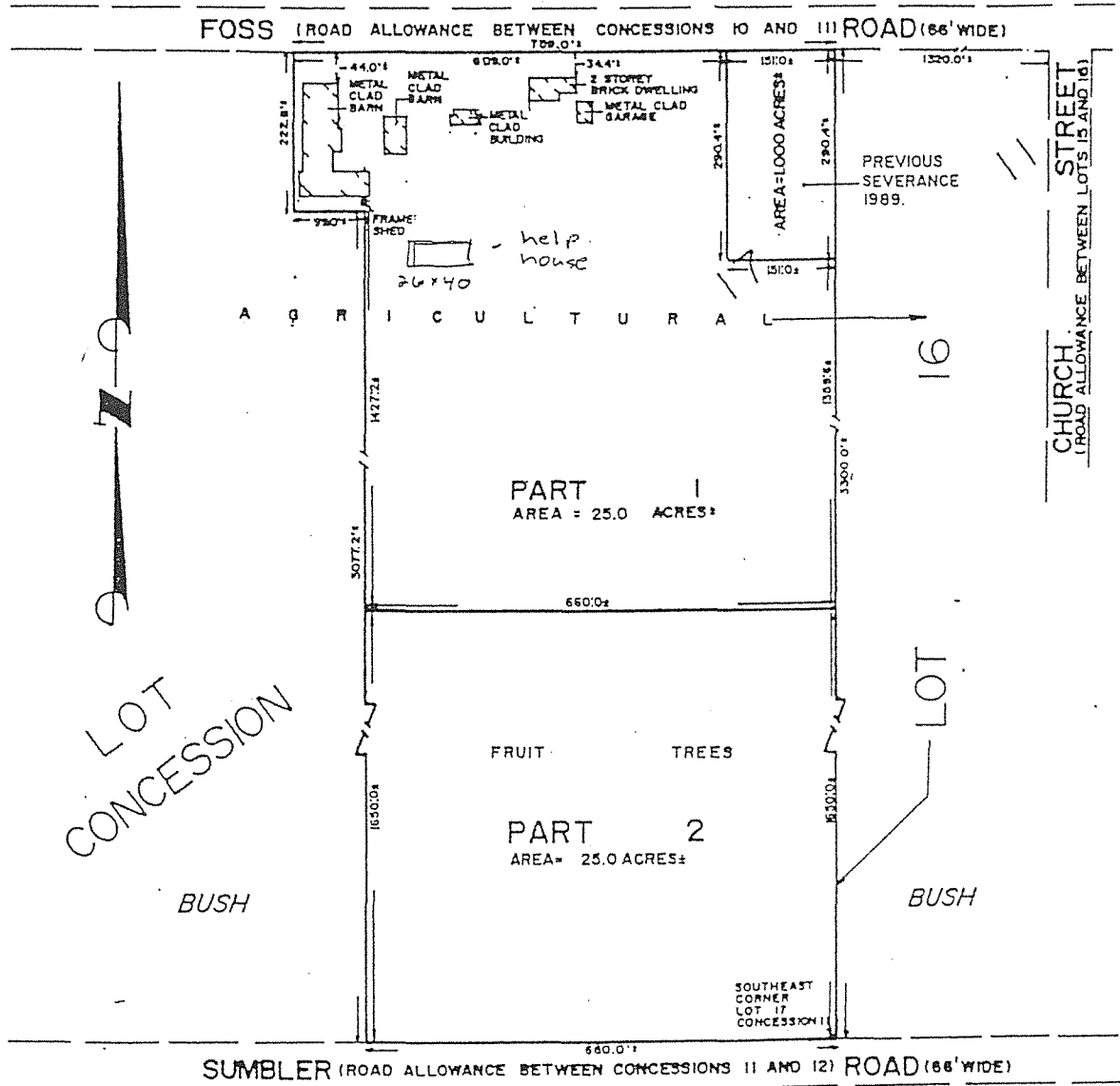
I believe all issues that have been raised in the past by local and regional planning staff have been addressed. If you have any questions, please contact me directly at 905-371-9764, ext. 240.

Yours very truly,



Richard F. Brady, M.A., MCIP, RPP  
Principal

Z:\UEM\Projects\03-Uor\2003\April\Letter to c. Laumour



# SKETCH

PREPARED FOR SEVERANCE APPLICATION  
SCALE: 1" = 200'  
1989 © COPYRIGHT

NOTE: THIS SKETCH IS PREPARED FROM COMPILED AND CALCULATED INFORMATION, NOT FROM AN ACTUAL SURVEY

CAUTION: THIS IS NOT A PLAN OF SURVEY AND SHALL NOT BE USED FOR TRANSACTION OR MORTGAGE PURPOSES

"THIS IS NOT AN ORIGINAL COPY UNLESS EMBOSSED WITH SEAL"

PART OF LOT 17  
CONCESSION II  
TOWNSHIP OF PELHAM  
NOW THE  
TOWN OF PELHAM  
REGIONAL MUNICIPALITY OF NIAGARA

*P. Douglas Reitsma*  
P. DOUGLAS REITSMAN B.Sc. O.L.S.  
P. D. REITSMAN SURVEYING LTD.

HEAD OFFICE  
203 EAST MAIN STREET (Upper)  
WELLAND ONTARIO  
L3B 3W7 (416) 735-7841, 384-9424

CONSULTATION OFFICE  
17 HIGHWAY 20 WEST  
FORTHILL ONTARIO  
L0S 1E0 (416) 892-2570

DATE: APRIL 3, 1990 FILE N° 89-79-90



## WILLOWBROOK NURSERIES INC.

935 VICTORIA AVE., R.R. #4  
FENWICK, ON CANADA L0S 1C0  
TEL: (905)892-5350/(800)661-5237  
FAX: (905)892-3790

March 22, 2003

Mayor Beamer  
Town of Pelham  
Fonthill, Ontario  
L0S 1E0

Dear Mayor Beamer,

I would like to reconfirm my endorsement of the continued operation of "Fenwick Flea Market". Since they have been granted continuance in 2001 by the Town, they have been a valuable resource for our business. Their product line of both used and new goods certainly allows us to make good price comparisons when purchasing and their extremely varied product line has been very convenient for us. So many times you purchase a new product which is seldom used, when purchasing a used product for a lost less cost, would have been more then adequate.

The Fenwick Flea Market provides a unique "stewardship" service in our community, providing new and second-hand goods for home-owners, businesses, and agriculture.

Their part-time operation in my opinion has not interfered or detracted from our neighborhood, instead it has taken several unused buildings and put them to good use. It has a friendly atmosphere where neighbors frequently bump into each other and chat over coffee.

I encourage you and council to allow this business to continue on in business.

Sincerely,

John Langendoen  
President

LSIO Vaughan R.O.  
RR#2 St. Hnns  
Ontario

200 140

28th March 2000

To whom it may concern,  
It has been brought  
to our attention that the 'Fenwick Flea  
Market' may be asked to close its  
doors permanently, due to agriculture  
laws.

We own a farm on  
Vaughan road, & if the closure were to  
take place, it certainly would be missed  
by us, & other farmers & the community  
in general. Its convenient location  
& diversity of the products sold make  
it a very useful store, we therefore  
hope you will allow this store to remain  
in business as is,

Sincerely,

Steve & Leann Atkin

Boyle Tractor Limited  
1293 Boyle Rd., R.R. #1  
Fenwick, Ontario  
L0S 1C0  
Phone: 905-386-7105  
Fax: 905-386-0240

March 27, 2003

To Whom It May Concern:

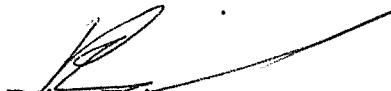
It has come to our attention that Fenwick Flea Market is applying for permanent status.

We at Boyle Tractor Limited buy many tools, hardware and other necessities for our business at the flea market. We use them to refurbish farm equipment. We, along with the flea market, recycle and sell parts thus reducing waste in our landfill sites.

We are fully aware that the flea market is situated on agricultural land but we also feel that it caters to many of the agricultural businesses and farms in the area. It also brings many people into the area and thus benefits other local businesses.

I would just like to take this oppourtunity to personally ask you for your support on this matter.

Sincerely,




Brian Thiessen  
Owner  
Boyle Tractor Limited

To Whom it may concern:

We own a farm at 63377 Concession 6 in Wainfleet and are regular shoppers at the Fenwick Fleamarket.

Many of the items we purchase are used on our farm. They have items other hardware stores do not carry and many things are also at discounted prices.

The Fleamarket has been operating for approximately six years and we hope we can shop there for many more years. It is a great asset to the agriculture area.

  
John Hessels

Funk Farms Ltd.  
3017 R.R. 1 8<sup>th</sup> Ave  
Jordan, Ontario  
L0R 1S0  
905-562-4207


To whom it may concern:

During my recent visit to the Fenwick Flea Market, it was brought to my attention that an application for permanent status has taken place.

We would fully support this applicant, because we are in the business of farming, and buy products for use on our farm, as well as the many other local people and farmers who also buy products from the Fenwick Flea Market.

At this time I would ask that you support this matter as it is a worth while asset to the local community.

Sincerely,

  
Doug Funk  
President  
Funk Farms Ltd.

To Whom it may Concern,

The Fenwick Flee Market services the community and farmers in the area with quality products. Over the years they have built up and maintained a good, friendly relationship with all of their customers. As a local farmer in the community, I do a fair amount of business with them and would like to see Brian and Joyce along with their family, continue their business in it's current location, servicing the many farmers and other surrounding residents of the community.

Sincerely,  
Rudy Boverhof



Apr. 4 2003

To whom it may concern;

We the undersigned do not feel that the "Flea Market" on Foss Rd. in Fenwick is a threat to the agricultural community. On the contrary, they serve the farming community with many parts and products at a reasonable price.

We would very much like to see them stay where they are!

Sincerely,

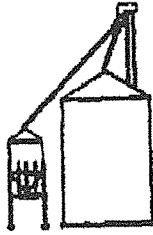
HUIZTEIN FARMS INC.

41387 REG. RD. 23.

WAINFLEET, ONT. L0S 1V0

Henry Huizinga

Margaret Huizinga



ANDY VEENSTRA FARMS LTD.  
R.R. 1  
SHERKSTON, ONT. L0S 1R0  
(905) 894-4030

March 28, 2003

TO WHOM IT MAY CONCERN:

We had the pleasure of visiting the Fenwick Flea Market this afternoon and were glad to see their large inventory of farm parts/supplies/machinery related hardware. There are no such reasonably priced outlets of this nature in our area.

It would be beneficial to the surrounding area if they would be able to do business at this site.

Thank you,

Andy & Dorothy Veenstra

*Dorothy Veenstra*

Re: Flea Market Apr 04-03

We farm on 1353 Balfour  
are farmers & buy many  
farm related items.  
& wish to continue doing  
so.

Please help to keep this  
flea market open

Thank  
Laurie  
Ouellet

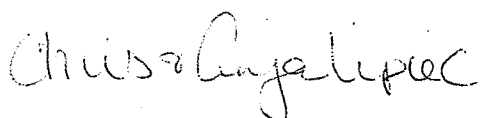
March 19, 2003

To Whom it may concern,

We own and operate a beef and cash crop farm in West Lincoln. We have purchased many items for our farm from the Fenwick Flea Market. Offering great deals and a variety of items that we as farmers might have to pay a great deal more for somewhere else.

We hope that you can see what an asset the Fenwick Flea Market is not only to the farming community, but to the community as a whole.

Sincerely,

A handwritten signature in cursive script, appearing to read "Chris & Anja Lipiec".

Chris and Anja Lipiec  
Grassie, Ontario

To whom it may concern:

We are farmers in Smithville and buy merchandise from the Fenwick Flea Market to use on our dairy farm. We would be happy to see this flea market continue in operation.

Jim + Janice Otten  
6714 Smithville Rd.  
RR#1 Smithville, ON.  
LOR 2A0

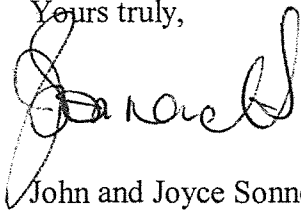
Saturday, March 08, 2003

To Whom It May Concern:

We would like to show our support for the Fenwick Flea Market, operated by Brian and Joyce Overbeek.

We buy some of our farm supplies there, because of it's convenient location, and hope it will be allowed to remain in operation.

Yours truly,

A handwritten signature in cursive script, appearing to read "John and Joyce Sonneveld". The signature is written in dark ink and is positioned above the printed name.

John and Joyce Sonneveld  
River Bend Farms  
558 River Rd RR 3  
Welland ON L3B 5N6

Fenwick Flea Market  
878 Foss Road,  
Fenwick, Ontario  
L0S 1C0

March 5, 2003


Dear: Fenwick Flea Market

We wish to let you know that we enjoy going to your place every week to pick up things for our farm and home. We can purchase things that we need and my wife can find things for her as well. You are close and we do not have to drive into Welland or Smithville. You carry everything from nuts and bolts to house wares to things no one would think of. As well as being close, your prices are better than the local stores and you have more stock in.

Thank you

John Rusin and Family

KELLY-LANE HOLSTEINS  
OFA # 836270



March 20/03

Hi, my name is Ron Breckelman, My farm is located at 3265 Tintern Rd. Vineland, Ont.

I am writing in regards to the Flea Market that is run by Brian + Joyce Overbeke.

We hope (my brother and I) we can continue to do business in the future, since there are many farm related items. Some of these items include, tools, nuts + bolts + parts for machinery etc. Many of these products are at a very reasonable price, compared to the hardware stores.

If any more Information is needed, please call at 1-905-562-7574



Ron Breckelman



TEL. (905) 892-2681  
FAX (905) 892-2803  
1-800-667-4075

R.R. #5, FENWICK  
ONTARIO L0S 1C0

# YOUNG OD FARMS INC.

LOCAL GROWERS OF QUALITY TURF

Mixed  
Bluegrass  
Sod

February 28, 2003

Special  
Shade  
Blend  
Sod

To Whom It May Concern:

Re: Fenwick Flea Market  
878 Foss Road, R.R. 4  
Fenwick, ON

Field  
Pick-up

We have been dealing with this business and Overbeeke's for a number of years now, purchasing from them everything from tractor rims to tow cables. We feel this is an excellent use of this property and have never once experienced any traffic problems associated with this business.

Radio  
Dispatched  
Delivery

Sincerely,



Robert Young

Fertilizers

Seed

Top Soil

LOCATIONS:

360 Foss Road, Town of Pelham • Poth Road, R.R. #1, Lowbanks

FEBRUARY 28, 2003

TOWNSHIP OF PELHAM  
TOWN COUNCIL

HONOURABLE MEMBERS

I AM WRITING THIS LETTER TO SHOW MY  
SUPPORT FOR THE "FENWICK FLEA MARKET."

ALTHOUGH I AM A RESIDENT OF WAINFLEET,  
I AM THE OWNER OF 38 ACRES OF LAND,  
BUILDINGS, EQUIPMENT AND MACHINERY.

OVER THE YEARS I HAVE FOUND THE FLEA  
MARKET TO BE EXTREMELY HELPFUL TO MYSELF  
AND OTHER MEMBERS OF MY FAMILY FOR THE  
PURCHASES OF NEW AND USED HARDWARE, TOOLS,  
EQUIPMENT, HOUSEHOLD ITEMS, FURNITURE AND  
PAINT AT REASONABLE PRICES.

MY WEEKLY TRIP TO THE FLEA MARKET HAS  
CONTINUED SINCE ITS OPENING BY KEN OVERBEEKE  
AND NOW BY BRIAN + JOYCE OVERBEEKE. I BELIEVE  
THE FLEA MARKET TO BE A VALUABLE ASSET  
TO THE COMMUNITY AND SURROUNDING AREAS AND  
LOOK FORWARD TO YEARS OF CONTINUING PATRONAGE

YOURS TRULY - *Michael May*

MICHAEL MAY, 52423 WILFORD RD, WAINFLEET

March 5, 2003

To whom it may concern

We have lived beside the Overbecke family for nearly thirty years. They have always been good neighbours. At present Brian and his family are operating a flea market which we are in favour of.

They have provided parking on their property which does not flow out onto the road in front of the neighbours. We live to the west and are not offended or inconvenienced with this. After each day of business they clean up the yard and put any equipment or other rubbish back into the barn.

We have purchased several farm related articles for example a pressure sprayer, wheel barrel, snow fencing, seed storage barrels, fittings and so forth.

We would not be against Brian opening his business more than the usual Friday and Saturday. It is convenient for us to go there first before proceeding to another place of business.

It is more efficient to go to a subdivision during a weekend of garage sales which is always congested,

confusing, cars lined up on both sides of the street which can be dangerous.

My husband and I totally agree and support Brian and his growing family in continuing to have their flea market.

Sincerely  
Jeanne Lavy Murray  
894 Iron Rd, RR#4  
Kenwick, Or  
97143  
(905) 892-6048

To Whom It may concern.

We pick up farm supplies  
at the Fenwick Flea Market  
for our poultry farm. We hope  
to be able to continue to pick  
up supplies at this location.

Sincerely, Bill VanDoren  
Bill VanDoren Dairy Farms Ltd  
905-899-2211

51830 Forks Rd  
RR #3 Wainfleet Ont.  
L0S 1V0

## BLUEBERRY KNOLL BERRY FARM

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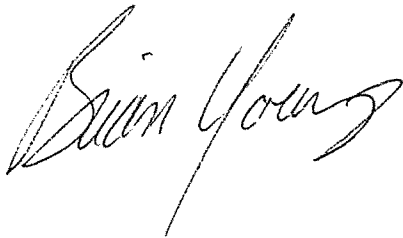
1091 Hutchinson Road  
Lowbanks, Ontario  
N0A 1K0  
905-774-7732, 905-774-7850 fax  
bbknoll@hotmail.com

February 27, 2003

To Whom It May Concern;

We would like to verify that we have purchased items from the Fenwick Flea Market at 878 Foss Road for use on our farm. Irrigation equipment and tools are the main items to date.

Sincerely,

A handwritten signature in cursive script, appearing to read "Brian Young". The signature is written in dark ink and is positioned below the word "Sincerely,".

To Whomever it May Concern,

We feel very strongly that the Fenwick Free Market should remain open. For local businesses it is an asset. Many small farms (and large) in the area also benefit ~~for~~ from many useful tools etc. Please consider keeping this Market open for our community and the surrounding communities.

The Bartels Family  
RR#3 Wainfleet.

To whom it may concern!

I am a farmer located at lot 18, con. 9. Town of Pelham. I purchase hardware and small tools from Fenwick Flea Market, and hope to be able to continue to do so.

The location is not only convenient but they also carry goods not available from local merchants.

Rodney Wright.



Alfred and Christine Otten

63331 Marr Rd. #34

Wellandport, Ont. L0R 2J0

To whom it may concern,

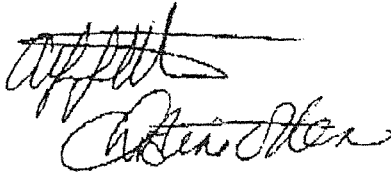
We are writing this letter in regards to the business owned and operated by Brian and Joyce Overbeeke and family. As farmers, we see and are able to use their Flea Market as a place where we can purchase some farm related tools and other products at discounted prices.

The business benefits the local farmers, because of its location, and also because of the supplies and tools that can be purchased so reasonably there. We have been able to use some of the supplies in our own barns, and also in our home.

We appreciate the location on Foss Road, in Fenwick, and enjoy browsing through the different products that their business carries. It is a benefit to those who live in this area.

Sincerely,

Alfred and Christine Otten

Handwritten signatures of Alfred and Christine Otten. The signature of Alfred is on top, and the signature of Christine is below it.

**Bieda Farms Limited**


952 Foss Road R.R. #4  
Fenwick, ON L0S 1C0

Apr 22, 2003

Fenwick Flea Market  
Brian Overbeek  
878 Foss Road  
Fenwick, ON L0S 1C0

I understand that the Town of Pelham is considering not renewing your temporary bylaw amendment which would force you to close your doors at the Fenwick Flea Market. I would just like to make it known that I myself and our staff frequent your business every week for supplies on our farm and around the dealership and find your service extremely helpful and necessary. We would certainly miss the convenience and good service that you extend to us should you be forced out of business.

Sincerely,



Stephen Bieda

892-0397

APRIL 13/03

To Whom it may Concern

I have over the past few years bought many recycled parts, tools, and materials at the barn flea market on Fox Road in Fenwick. I find it convenient, economical and feel really good being able to recycle many items for use on my farm.

I really hope you will allow this business to continue.

Thank you

Best Regards

KEN &amp; LYSE EDWARD

RIDGE BERRY FARM

393 CAMDEN RD

RIDGEVILLE

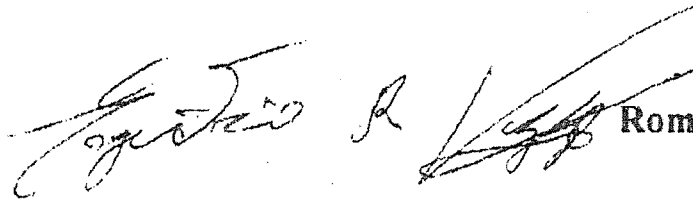


Romano Vizza  
1010 Foss Road  
Fenwick Ontario.

To Whom it may Concern:

My name is Romano Vizza. I own a farm at the intersection of Foss Road and Regional Road 24.

I buy product at the Fenwick Fleamarket and use it to repair equipment and farm buildings on my farm. I would like to see the fleamarket stay open so I can still shop there.

 Romano Vizza

April 11, 2003.

9388 Concession 2,  
RR # 3  
Caistor Centre, ON  
L0R-1H0

Re: Fenwick Flee Market -- Foss Road, Fenwick, ON.

To whom it May Concern:

I am writing this letter in support of the Fenwick Flee Market's bid to remain at its present Foss Road location. We reside on a 40-acre property located just outside Caistor Centre. At present, our fields are planted to winter wheat. The rest of our acreage is in managed woodlot.

Over the last several years, I have purchased many farm related items from the Fenwick flee market. These items include air hoses, Oxy acetylene hoses, carts, tractor parts, a snow blower, a chainsaw, and a rototiller. There have been many other hardware related and one-of-a-kind items that are too numerous to mention. Many of these are used in my day-to-day operations.

If I am hoping that you will see your way clear to allow this business to remain in its present location. I am sure that there are many other individuals and businesses in the rural community who buy farm related items from this location.

Thank you



Edward Stark

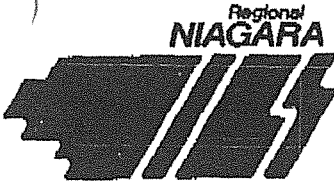
To Whom it may concern

This to certify that fenwick flea market which opens only Friday and Saturday of the week has been very beneficial to the farming and other local Community, they have been providing good service also let locals to go out and shop whatever their needs are. I highly recommend in favor of the flea market stay open as they have been in past, Thanks.

Virk & Chaudary Poultry Farm inc.

  
Akhtar Chaudary

Received

**PLANNING AND DEVELOPMENT DEPARTMENT**

The Regional Municipality of Niagara  
 3550 Schmon Parkway, P.O. Box 1042  
 Thorold, Ontario L2V 4T7  
 Telephone: (905) 984-3630  
 Fax: (905) 641-5208  
 E-mail: plan@regional.niagara.on.ca

Appendix C-3

July 7, 2003

File: D.10.M.19.27

Mr. Craig Larmour  
 Planner  
 Town of Pelham  
 20 Pelham Town Square  
 P.O. Box 400  
 Fonthill, ON  
 L0S 1E0

Feuillets de transmission par télécopieur		Date	No. of pages
Post-It™ Fax Note 7671B		July 7/03	2
To / À	From / De		
Craig Larmour	Pat Busnello		
Co./Dept. / Cie/Service	Co. / Cie		
Town of Pelham	Region		
Phone # / N° de tél.	Phone # / N° de tél.		
Fax # / N° de télécopieur	Fax # / N° de télécopieur		

Dear Mr. Larmour:

**Re: Proposed Official Plan and Zoning By-law Amendments**  
**Permanent Flea Market**  
**Foss Road, west of Church Street**  
**Town of Pelham**  
**Your File: AM-03/03 (G. & M. Overbeeke)**

This application proposes to amend the Town's planning documents in order to permit the permanent use of lands for the sale of new and used goods including but not limited to clothing, glassware, farm equipment, parts and implements within an existing building.

This property is designated as Good General Agricultural Area by the Regional Policy Plan. Policy 6.A.8 of the Regional Plan states that non-agricultural uses should not be located in Agricultural Areas due to their adverse impact on the agricultural and natural resources. Applications for individual non-agricultural uses may be received and will be reviewed through a Regional Policy Plan Amendment using several review criteria set out in Policy 6.A.8.

This use was initially established without planning approvals but was subsequently permitted to remain on a temporary basis through Official Plan Amendment No. 34 and a temporary use by-law, which has been extended once. The legal status of this use would, therefore, be in jeopardy were the temporary use by-law to expire. Regional Planning staff in considering the appropriateness of recognizing this use even on a temporary basis was concerned about the entrenchment of this use within the Agricultural area. This could lead to further intensification of the use and result in adverse effects on surrounding agricultural uses, and possibly in other similar situations elsewhere in Niagara. For instance, conflicts with agriculture could arise as a result of outdoor activities often associated with flea markets, such as the operation of outside stalls and outdoor storage.

On the understanding that the use was to be temporary only and based on extenuating circumstances, Regional Planning staff were not opposed to the approval of

Amendment No. 34. This application, however, now proposes to entrench this use in the Agricultural area permanently. This is contrary to Policy 6.A.8 which discourages the establishment of non-farm uses in Agricultural areas. Amendment No. 34 would likely not have been supported by Planning staff if a permanent use had been proposed at that time.

In conclusion, Regional Planning staff is unable to support the approval of this application at this time as it would entrench what was previously understood to be a temporary, non-agricultural use in the Agricultural area. An amendment to the Regional Policy Plan would be required to allow this use on a permanent basis. Regional Planning staff, however, is unable to comment on whether such an application would be successful due to unforeseeable circumstances that can often arise during any Plan amendment process.

Please send notice of the Town's decision on this application.

Yours truly,

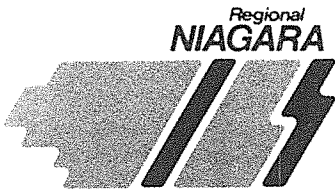


*for* David J. Farley  
Director of Planning Services

PB/

c: Mr. R. Brady, MCIP, RPP, Urban & Environmental Management Inc., 4701 St.  
Clair Ave, Suite 301, Niagara Falls, ON L2E 3S9 *Superd*  
Mr. W. Stevens, Regional Public Works





## Public Health Department

The Regional Municipality of Niagara  
INSPECTION DIVISION  
573 Glenridge Avenue  
St. Catharines, Ontario L2T 4C2  
Telephone: 905-688-3762, Toll Free: 1-800-263-7248  
Fax: 905-641-4994  
E-mail address: [inspect@regional.niagara.on.ca](mailto:inspect@regional.niagara.on.ca)

Appendix C-4

July 14, 2003

JUL 16 2003

*(Signature)*

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

Attention: Craig Larmour, Planning Dept.

Dear Mr. Larmour:

RE: Proposed Amendment to the Official Plan and Zoning By-law

---

Our Public Health Inspector has reported on the above-mentioned transaction and has provided the following details:

Name of Owner/Applicant: Gilles and Mary Overbeeke

Location: 878 Foss Road, Pt of Lot 17, Conc. 11

In the City, Town or Township of: Town of Pelham

COMMENTS:

This department offers no objections at this time.

Yours truly,

*Gerry Murray*

Gerry Murray, C.P.H.I.(C)  
For: Robin Williams, M.D., D.P.H., F.R.C.P.(C)  
Medical Officer of Health

GJM:vd

*...Dedicated to achieving a Healthier Niagara*

Received at Public Meeting July 28, 2003. ca

# VanZanten Greenhouses

## Freesias & Asters

879 Foss Road.  
Fenwick, ON. L0S 1C0  
Canada

Phone 905 892 1689

Fax 905 892 3963

Date: July-25-03

Send to: Town off Pelham.


Comments: To whom it may concern.

We the undersigned have no objection to the Fenwick Free Market We support it by word and deed. If we need it and they have it we will buy it.

Never in any way have they caused us any Problems. There is no parking problem; no noise Problem. And after the sale it it always cleaned up nicely.

We are Jan and Kitty van Zanten. Direct neighbours across the road from the Overbecker. We live on the North side 879 Foss Rd. and own and operate the greenhouse.

Respectfully submitted.

Jan van Zanten 

Kitty van Zanten.  1



PLANNING SERVICES REPORT

P-24/03

**TO:** Chair, Councillor Rick Hatt and Members of the General Committee, Planning Services Division

**DATE OF REPORT:** July 24, 2003

**DATE OF MEETING:** July 28, 2003

**FROM:** Craig Larmour, Planner

**SUBJECT:** INFORMATION REPORT  
Official Plan and Zoning By-law Amendment Application  
Gilles and Mary Overbeeke (Agent: Urban and Environmental Management)

---

**RECOMMENDATION:**

**THAT** the General Committee, Planning Services Division, receive Planning Services Report P-24/03 regarding Proposed Official Plan and Zoning By-law Amendments, Gilles and Mary Overbeeke, Part of Lot 17, Concession 11, former Township of Pelham, now Town of Pelham;

**AND FURTHER THAT** a Recommendation Report on this matter be presented at a subsequent meeting of the General Committee.

**LOCATION, BACKGROUND AND POLICY**

**1. Location**

The subject lands are located on the south side of Foss Road, lying east of Church Street. The legal description is part of Lot 17, Concession 11, former Township of Pelham, Town of Pelham. The lands are known municipally as 878 Foss Road. A map illustrating the general location of the lands is included as Attachment No. 1.

**2. Background**

The lands are currently designated Good General Agricultural with a special exception to permit a temporary use by-law to permit the sale of new and used goods, including but not limited to, clothing, glassware, farm equipment, parts and implements within an existing building. Official Plan Amendment 34 was adopted by Council in December of 1998.

The lands are currently zoned Agricultural A-144 according to Town of Pelham Zoning By-law No. 1136 (1987) allowing the same temporary use described previously. The amending By-law was first approved in December of 1998 to permit the use for a period of three (3) years. A subsequent By-law was approved in December of 2001 recognizing the continued use for an additional period of three years, expiring in December of 2004.

Cont.../2

The purpose of this application is to amend the Official Plan and Zoning By-law to permit the permanent use of lands for the sale of new and used goods, including but not limited to, clothing, glassware, farm equipment, parts and implements within an existing building.

### 3. Provincial Policy Statement

Section 3 of the Planning Act requires that, in exercising any authority that affects planning matters, planning authorities "shall have regard to" policy statements issued under the Act. To this end, the Town shall have regard for the policies of the Provincial Policy Statement (PPS).

Policy 2.1.1 of the Statement states:

*Prime agricultural areas will be protected for agriculture. Permitted uses and activities in these areas are: agricultural uses, secondary uses, and agriculture-related uses. Proposed new secondary uses and agriculture-related uses will be compatible with, and will not hinder, surrounding agricultural operations.*

The PPS provides definitions of above noted terms in order of their use as follows:

*Prime Agricultural Area means an area where prime agricultural land predominates. Prime Agricultural areas may also be identified through an alternative agricultural land evaluation system approved by the Province.*

*Prime agricultural land means land that includes specialty crop lands and/or Canada Land Inventory Classes 1, 2 and 3 soils, in this order of priority for protection.*

*Agricultural uses means the growing of crops , including nursery and horticultural crops; raising of livestock and other animals for food, or fur, including poultry and fish; aquaculture; agroforestry; maple syrup production; and associated on-farm buildings and structures.*

*Secondary uses means uses secondary to the principal use of the property, including home occupations, home industries, and uses that produce value-added agricultural products from the farm operation on the property.*

*Agriculture-related uses means those farm related commercial and farm related industrial uses that are small scale and directly related to the farm operation and are required in close proximity to the farm operation.*

### 4. Regional Policy Plan

The lands are identified as lying within the Good General Agricultural Area of the Regional Policy Plan. The predominant use of land in this category is intended to be for all types of agriculture, including livestock operations. Compatible uses such as forestry and conservation of plant and wildlife are also permitted.

Policy 6.A.8 provides for the following in consideration of proposed non-agricultural uses:

*Non-agricultural uses should not be located in Agricultural areas. The introduction of new non-agricultural development of all types into the Agricultural Areas has an adverse impact on the agricultural and natural resources and shall be strictly limited. However, applications for individual non-agricultural uses may be received. These applications will be reviewed through a Regional Policy Plan Amendment using the following review criteria:*

- (a) the quality of the agricultural land including soils, climate and the nature of agricultural activity in the area. It is expected that Rural Areas will be preferred, that poorer general agricultural lands will be the next preference and that Good General Agricultural lands will be less preferred for such uses. These uses are not permitted on Unique Agricultural lands;*
- (b) the need for and desirability of the proposed use to the community;*
- (c) the availability of alternative sites in Urban Areas and Rural Areas;*
- (d) non-agricultural uses shall not be permitted in Unique Agricultural Areas. Furthermore, estate residential development is not permitted in Agricultural Areas and/or in close proximity to agricultural activity;*
- (e) the degree of conflict with surrounding agricultural uses. This would depend on the size and nature of the proposed use, the existing agricultural uses, and on any buffering factors between them. For example, creeks, roadways, and other prominent features would be helpful in defining and screening a non-agricultural use from surrounding farms;*
- (f) impact on the environment and on rural resources such as forestry and fisheries; and*
- (g) compliance with other policies contained in the Regional Policy Plan.*

**5. Town of Pelham Official Plan**

The lands are designated Good General Agricultural according to the Town's Official Plan. The Agricultural policies are intended to preserve and protect the predominant use of land for all types of agriculture, including the raising of livestock. Compatible uses such as forestry and consideration are also permitted. Ancillary uses which maybe permitted in the Agricultural Area are small-scale commercial and industrial uses directly related to and serving the Agricultural Area.

As stated previously, Official Plan Amendment No. 34 provides a special exception to permit a temporary use by-law to permit the sale of new and used goods, including but not limited to, clothing, glassware, farm equipment, parts and implements within an existing building.

**6. Town of Pelham Zoning By-law No. 1136 (1987)**

The subject lands are currently zoned Agricultural A-144 in accordance with Town of Pelham Zoning By-law No. 1136 (1987), as amended. The A Zone permits the following use of land under subsection 7.1:

1. Agricultural uses, including greenhouses;
2. Seasonal or permanent farm help houses on farms larger than 10 hectares;
3. One single detached dwelling on one lot;
4. Home occupations;
5. Kennels;
6. Animal hospitals;
7. Uses, buildings and structures accessory to the foregoing permitted uses; and
8. Forestry and conservation uses.

In addition to the permitted uses of the Agricultural A Zone, special provision A-144 permits the selling of new and used goods, including but not limited to, clothing, glassware, farm equipment, parts and implements provided:

1. the temporary use authorized shall be in effect for a period of three (3) years from the date on which this by-law is passed;
2. the temporary use shall be carried on within the existing westerly metal clad building "A" as indicated on Schedule "A" attached hereto, with minimal outside storage; and
3. there shall be no enlargements, additions or extensions of building "A" as indicated on Schedule A for the temporary use.

## COMMENTS AND DISCUSSION

### 1. Agency Comments

The applications were circulated to all internal departments and external agencies having an interest in this application. The following comments have been received to date:

- The **Regional Planning and Development Department** has provided detailed information concerning the history of the proposal as well as conformity with the various policies of the Regional Policy Plan. A copy of their correspondence is included as Attachment No. 2.
- The **Town's Director of Operations** and the **Regional Public Health Department** have advised that they have no objection to the proposal.

### 2. Public Comments

Notice of the application was mailed to all assessed property owners within 120 metres of the boundaries of the subject lands. Additionally, a Public Notice sign was posted on the lands at the Foss Road frontage. The following comments have been received to date:

- **Mr John Langendoen** (Willowbrook Nurseries Inc.) has submitted correspondence in support of the application, a copy of which is included as Attachment No. 3.

3. Staff Comments

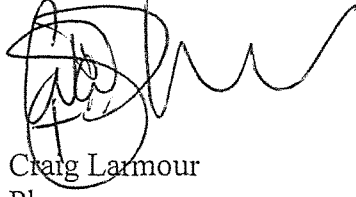
The purpose of this report is to make the Committee and public aware of the intent of the applications, the applicable policies and agency comments and to facilitate discussion between the interested parties.

A Recommendation Report will be prepared and presented to this Committee at a subsequent meeting following this Public Meeting.

**ATTACHMENTS**

1. General Location Map
2. Regional Planning and Development Department correspondence, dated July 7, 2003
3. Mr John Langendoen correspondence, dated March 22, 2003

Prepared by,



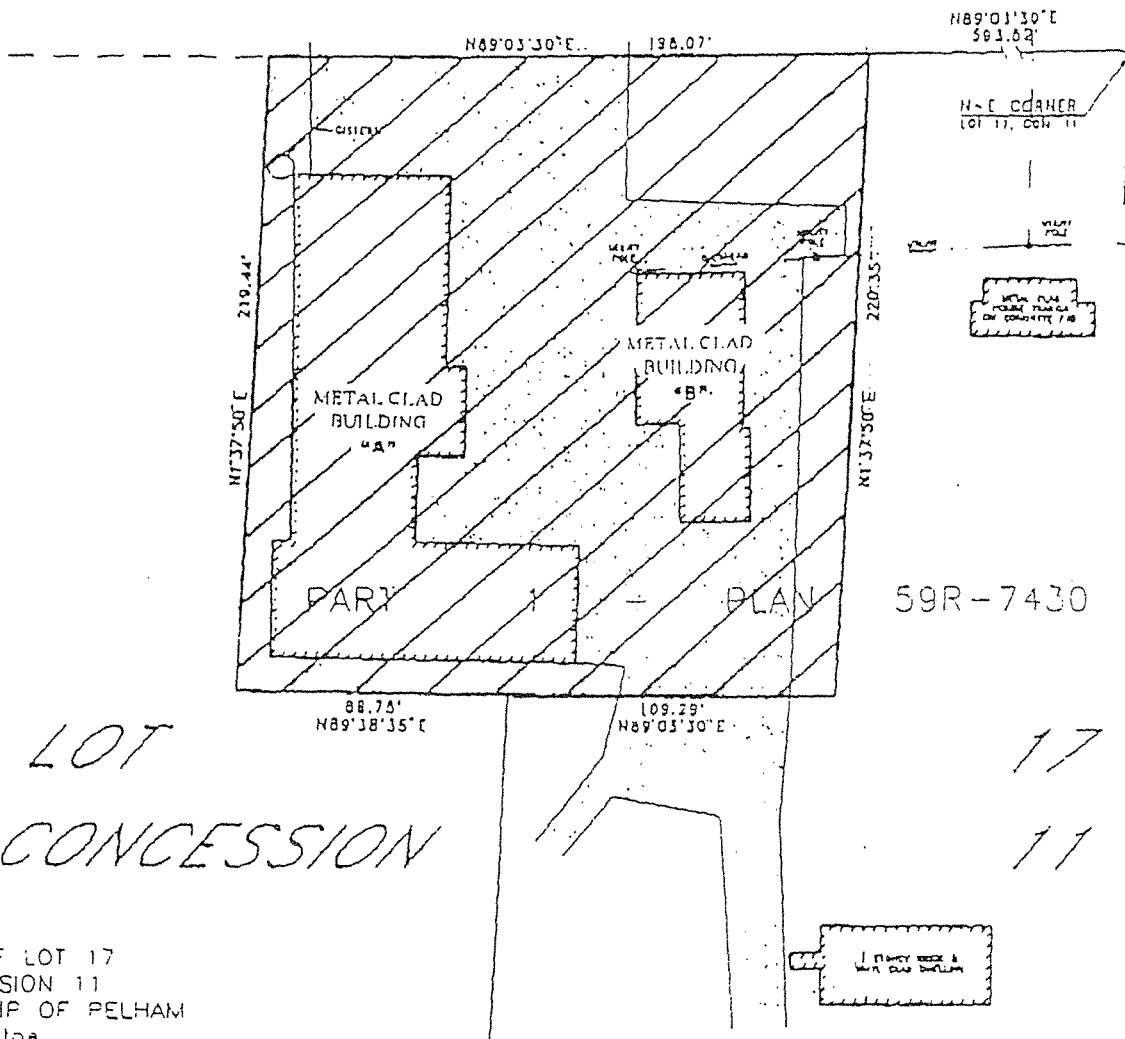
Craig Larmour  
Planner

Approved and Submitted by,

Gord Cherney  
Chief Administrative Officer



# FOSS ROAD ALLOWANCE BETWEEN CONCESSIONS 10 AND 11 ROAD



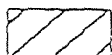
*LOT*  
*CONCESSION*

PART OF LOT 17  
CONCESSION 11  
TOWNSHIP OF PELHAM  
now in the  
TOWN OF PELHAM  
REGIONAL MUNICIPALITY OF NIAGARA

59R-7430

*17*  
*11*

## TOWN OF PELHAM



CHANGE FROM A ZONE TO A-144 ZONE.

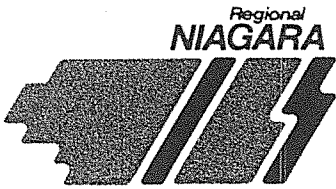
THIS IS SCHEDULE "A" TO BY-LAW No. 2048 (1998)  
PASSED THIS 7th DAY OF December, 1998

1"=60'  
SCALE

MAYOR

CLERK

*R. B. Brown*  
*Mary [Signature]*



## PLANNING AND DEVELOPMENT DEPARTMENT

The Regional Municipality of Niagara  
3550 Schmon Parkway, P.O. Box 1042  
Thorold, Ontario L2V 4T7  
Telephone: (905) 984-3630  
Fax: (905) 641-5208  
E-mail: [plan@regional.niagara.on.ca](mailto:plan@regional.niagara.on.ca)



July 7, 2003

File: D.10.M.19.27

Mr. Craig Larmour  
Planner  
Town of Pelham  
20 Pelham Town Square  
P.O. Box 400  
Fonthill, ON  
L0S 1E0

REPORT NO. P-24/03  
ATTACHMENT NO. 2  
PAGE NO. 1/2

Dear Mr. Larmour:

**Re: Proposed Official Plan and Zoning By-law Amendments  
Permanent Flea Market  
Foss Road, west of Church Street  
Town of Pelham  
Your File: AM-03/03 (G. & M. Overbeeke)**

This application proposes to amend the Town's planning documents in order to permit the permanent use of lands for the sale of new and used goods including but not limited to clothing, glassware, farm equipment, parts and implements within an existing building.

This property is designated as Good General Agricultural Area by the Regional Policy Plan. Policy 6.A.8 of the Regional Plan states that non-agricultural uses should not be located in Agricultural Areas due to their adverse impact on the agricultural and natural resources. Applications for individual non-agricultural uses may be received and will be reviewed through a Regional Policy Plan Amendment using several review criteria set out in Policy 6.A.8.

This use was initially established without planning approvals but was subsequently permitted to remain on a temporary basis through Official Plan Amendment No. 34 and a temporary use by-law, which has been extended once. The legal status of this use would, therefore, be in jeopardy were the temporary use by-law to expire. Regional Planning staff in considering the appropriateness of recognizing this use even on a temporary basis was concerned about the entrenchment of this use within the Agricultural area. This could lead to further intensification of the use and result in adverse effects on surrounding agricultural uses, and possibly in other similar situations elsewhere in Niagara. For instance, conflicts with agriculture could arise as a result of outdoor activities often associated with flea markets, such as the operation of outside stalls and outdoor storage.

On the understanding that the use was to be temporary only and based on extenuating circumstances, Regional Planning staff were not opposed to the approval of

Amendment No. 34. This application, however, now proposes to entrench this use in the Agricultural area permanently. This is contrary to Policy 6.A.8 which discourages the establishment of non-farm uses in Agricultural areas. Amendment No. 34 would likely not have been supported by Planning staff if a permanent use had been proposed at that time.

In conclusion, Regional Planning staff is unable to support the approval of this application at this time as it would entrench what was previously understood to be a temporary, non-agricultural use in the Agricultural area. An amendment to the Regional Policy Plan would be required to allow this use on a permanent basis. Regional Planning staff, however, is unable to comment on whether such an application would be successful due to unforeseeable circumstances that can often arise during any Plan amendment process.

Please send notice of the Town's decision on this application.

Yours truly,



*for* David J. Farley  
Director of Planning Services

PB/

c: Mr. R. Brady, MCIP, RPP, Urban & Environmental Management Inc., 4701 St. Clair Ave, Suite 301, Niagara Falls, ON L2E 3S9  
Mr. W. Stevens, Regional Public Works



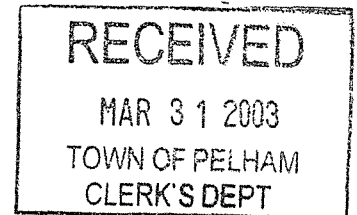
**WILLOWBROOK NURSERIES INC.**

935 VICTORIA AVE., R.R. #4  
FENWICK, ON CANADA L0S 1C0  
TEL: (905)892-5350/(800)661-5237  
FAX: (905)892-3790

REPORT NO. P-24/03  
ATTACHMENT NO. 3  
PAGE NO. 1/1

March 22, 2003

Mayor Beamer  
Town of Pelham  
Fonthill, Ontario  
L0S 1E0



Dear Mayor Beamer,

I would like to reconfirm my endorsement of the continued operation of "Fenwick Flea Market". Since they have been granted continuance in 2001 by the Town, they have been a valuable resource for our business. Their product line of both used and new goods certainly allows us to make good price comparisons when purchasing and their extremely varied product line has been very convenient for us. So many times you purchase a new product which is seldom used, when purchasing a used product for a lost less cost, would have been more then adequate.

The Barn Sale provides a unique "stewardship" service in our community, providing new and second-hand goods for home-owners, businesses, and agriculture.

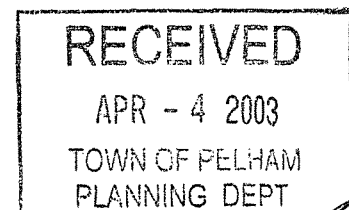
Their part-time operation in my opinion has not interfered or detracted from our neighborhood, instead it has taken several unused buildings and put them to good use. It has a friendly atmosphere where neighbors frequently bump into each other and chat over coffee.

I encourage you and council to allow this business to continue on in business.

Sincerely,

John Langendoen  
President

JL/jcl



PLANNING SERVICES REPORT

P-37/03

**TO:** Chair, Councillor Rick Hatt and Members of the General Committee, Planning Services Division

**DATE OF REPORT:** September 30, 2003

**DATE OF MEETING:** October 6, 2003

**FROM:** Craig Larmour, Director of Planning Services

**SUBJECT:** Official Plan and Zoning By-law Amendment Application  
Gilles and Mary Overbeeke  
(Agent: Urban and Environmental Management Inc.)

---

**RECOMMENDATION**

THAT the General Committee, Planning Services Division, receive Planning Services Report P-37/03 regarding Proposed Official Plan and Zoning By-law Amendments, Gilles and Mary Overbeeke, Part of Lot 17, Concession 11, former Township of Pelham, now Town of Pelham;

AND FURTHER THAT Zoning Amendment Application AM-03/03 be refused for reasons outlined in Staff Report No. P-37/03.

**LOCATION, BACKGROUND AND POLICY**

**1. Location**

The subject lands are located on the south side of Foss Road, lying east of Church Street. The legal description is part of Lot 17, Concession 11, former Township of Pelham, Town of Pelham. The lands are known municipally as 878 Foss Road. A map illustrating the general location of the lands is included as Attachment No. 1.

**2. Background**

The lands are currently designated Good General Agricultural with a special exception to permit a temporary use by-law allowing the sale of new and used goods, including but not limited to, clothing, glassware, farm equipment, parts and implements within an existing building. Official Plan Amendment 34 was adopted by Council in December of 1998.

The lands are currently zoned Agricultural A-144 according to Town of Pelham Zoning By-law No. 1136 (1987) allowing the same temporary use described previously. The amending By-law was first approved in December of 1998 to permit the use for a period of three (3) years. A subsequent By-law was approved in December of 2001 recognizing the continued use for an additional period of three years, expiring in December of 2004.

Cont.../2

The purpose of this application is to amend the Official Plan and Zoning By-law to permit the permanent use of lands for the sale of new and used goods, including but not limited to, clothing, glassware, farm equipment, parts and implements within an existing building.

The applicants' agent has submitted detailed correspondence in support of the applications, a copy included as Attachment No. 2.

### 3. Provincial Policy Statement

Section 3 of the Planning Act requires that, in exercising any authority that affects planning matters, planning authorities "shall have regard to" policy statements issued under the Act. To this end, the Town shall have regard for the policies of the Provincial Policy Statement (PPS).

Policy 2.1.1 of the Statement states:

*Prime agricultural areas will be protected for agriculture. Permitted uses and activities in these areas are: agricultural uses, secondary uses, and agriculture-related uses. Proposed new secondary uses and agriculture-related uses will be compatible with, and will not hinder, surrounding agricultural operations.*

The PPS provides definitions of above noted terms in order of their use as follows:

*Prime Agricultural Area means an area where prime agricultural land predominates. Prime Agricultural areas may also be identified through an alternative agricultural land evaluation system approved by the Province.*

*Prime agricultural land means land that includes specialty crop lands and/or Canada Land Inventory Classes 1, 2 and 3 soils, in this order of priority for protection.*

*Agricultural uses means the growing of crops, including nursery and horticultural crops; raising of livestock and other animals for food, or fur, including poultry and fish; aquaculture; agroforestry; maple syrup production; and associated on-farm buildings and structures.*

*Secondary uses means uses secondary to the principal use of the property, including home occupations, home industries, and uses that produce value-added agricultural products from the farm operation on the property.*

*Agriculture-related uses means those farm related commercial and farm related industrial uses that are small scale and directly related to the farm operation and are required in close proximity to the farm operation.*

### 4. Regional Policy Plan

The lands are identified as lying within the Good General Agricultural Area of the Regional Policy Plan. The predominant use of land in this category is intended to be for all types of agriculture, including livestock operations. Compatible uses such as forestry and conservation of plant and wildlife are also permitted.

Policy 6.A.8 provides for the following in consideration of proposed non-agricultural uses:

*Non-agricultural uses should not be located in Agricultural areas. The introduction of new non-agricultural development of all types into the Agricultural Areas has an adverse impact on the agricultural and natural resources and shall be strictly limited. However, applications for individual non-agricultural uses may be received. These applications will be reviewed through a Regional Policy Plan Amendment using the following review criteria:*

- (a) the quality of the agricultural land including soils, climate and the nature of agricultural activity in the area. It is expected that Rural Areas will be preferred, that poorer general agricultural lands will be the next preference and that Good General Agricultural lands will be less preferred for such uses. These uses are not permitted on Unique Agricultural lands;*
- (b) the need for and desirability of the proposed use to the community;*
- (c) the availability of alternative sites in Urban Areas and Rural Areas;*
- (d) non-agricultural uses shall not be permitted in Unique Agricultural Areas. Furthermore, estate residential development is not permitted in Agricultural Areas and/or in close proximity to agricultural activity;*
- (e) the degree of conflict with surrounding agricultural uses. This would depend on the size and nature of the proposed use, the existing agricultural uses, and on any buffering factors between them. For example, creeks, roadways, and other prominent features would be helpful in defining and screening a non-agricultural use from surrounding farms;*
- (f) impact on the environment and on rural resources such as forestry and fisheries; and*
- (g) compliance with other policies contained in the Regional Policy Plan.*

##### **5. Town of Pelham Official Plan**

The lands are designated Good General Agricultural according to the Town's Official Plan. The Agricultural policies are intended to preserve and protect the predominant use of land for all types of agriculture, including the raising of livestock. Compatible uses such as forestry and consideration are also permitted. Ancillary uses which maybe permitted in the Agricultural Area are small-scale commercial and industrial uses directly related to and serving the Agricultural Area.

As stated previously, Official Plan Amendment No. 34 provides a special exception to permit a temporary use by-law to permit the sale of new and used goods, including but not limited to, clothing, glassware, farm equipment, parts and implements within an existing building.

##### **6. Town of Pelham Zoning By-law No. 1136 (1987)**

The subject lands are currently zoned Agricultural A-144 in accordance with Town of Pelham Zoning By-law No. 1136 (1987), as amended. The A Zone permits the following use of land under subsection 7.1:

1. Agricultural uses, including greenhouses;
2. Seasonal or permanent farm help houses on farms larger than 10 hectares;
3. One single detached dwelling on one lot;
4. Home occupations;
5. Kennels;
6. Animal hospitals;
7. Uses, buildings and structures accessory to the foregoing permitted uses; and
8. Forestry and conservation uses.

In addition to the permitted uses of the Agricultural A Zone, special provision A-144 permits the selling of new and used goods, including but not limited to, clothing, glassware, farm equipment, parts and implements provided:

1. the temporary use authorized shall be in effect for a period of three (3) years from the date on which this by-law is passed;
2. the temporary use shall be carried on within the existing westerly metal clad building "A" as indicated on Schedule "A" attached hereto, with minimal outside storage; and
3. there shall be no enlargements, additions or extensions of building "A" as indicated on Schedule A for the temporary use.

## COMMENTS AND DISCUSSION

### 1. Agency Comments

The applications were circulated to all internal departments and external agencies having an interest in this application. The following comments have been received to date:

- The **Regional Planning and Development Department** has provided detailed information concerning the history of the proposal as well as conformity with the various policies of the Regional Policy Plan. A copy of their correspondence is included as Attachment No. 3.
- The **Town's Director of Operations** and the **Regional Public Health Department** have advised that they have no objection to the proposal.

### 2. Public Comments

A public meeting was convened by the Town of Pelham on July 28, 2003. The following comments have been received to date:

- **John Langendoen** (Willowbrook Nurseries Inc.) has submitted correspondence in support of the application, a copy of which is included as Attachment No. 4.



- **Jan VanZanten and Kitty VanZanten** (VanZanten Greenhouses) have submitted correspondence in support of the file. A copy is included as Attachment No. 5.

### **3. Staff Comments**

The purpose of the applications is to amend the Town's Official Plan and Zoning By-law in order to permit the permanent use of lands for the sale of new and used goods, including, but not limited to, clothing, glassware, farm equipment, parts and implements within an existing building.

The existing use was originally established without the benefit of the necessary amendments, however, was subsequently recognized as a permitted temporary use by way of Official Plan Amendment No. 34 and a temporary use by-law. Council approved the initial applications on compassionate grounds recognizing the plight of a family member. Since that time the extenuating circumstances relating to the family member no longer exist.

Planning Staff have reviewed this application in consideration of the general criteria provided by Policy 6.A.8 of the Regional Policy Plan as follows:

#### **Quality of Agricultural Land Involved and Degree of Preservation**

The lands are located within the Good General Agricultural Area as identified in the Regional Policy Plan and Pelham Official Plan. The Plans further identify the lands as containing soils Classed 1, 2 and 3 according to the Canada Land Inventory Soil Capability for Agriculture. Both Plans contain policies directing the protection and preservation of such lands for agricultural use. The Provincial Policy Statement also identifies the land as prime agricultural land to be protected.

It is understood that the proposal utilizes a structure formerly used for agricultural purposes and does not actually result in the elimination of productive agricultural land.

#### **Need**

The permanent establishment of this commercial operation is not considered to be an agriculture-related use as defined in the Provincial Policy Statement. The use is not directly related to a farm operation and does not require close proximity to farm operations in general. While the applicants have established a clientele and are apparently providing a service convenient to the area, the need for the business is not considered to be based on this particular location. In addition, the use is not considered to be a secondary use as defined by the Provincial Policy Statement as there is no principal agricultural use of the property.

#### **Alternative Locations**

The Town's Official Plan and Zoning By-law designate and zone five (5) Rural Commercial nodes throughout the municipality, in addition to the Fonthill and Fenwick urban areas. The policies of the Plan are intended to direct non-farm related commercial and industrial uses to these areas.

### Degree of Conflict

Surrounding lands are used for a combination of rural residential and agricultural uses. While the existing establishment appears to operate in harmony with the adjacent uses, its presence does present limitations on the use of surrounding lands for some agricultural uses including animal operations.

### Impact on the Environment and Rural Resources

Planning Staff are not aware of any direct impact or clear potential for impact on the environment or rural resources.

To conclude, Planning Staff are of the opinion that the commercial use is not agriculture-related and does not require close proximity to agricultural operations. On this basis Planning Staff are of the opinion that the application does not have regard for the Provincial Policy Statement and fails to comply with the purpose and intent of the Regional Policy Plan and the Town of Pelham Official Plan.

### ATTACHMENTS

1. General Location Map
2. Urban & Environmental Management Inc. correspondence dated April 29, 2003
3. Regional Planning and Development Department correspondence dated July 7, 2003
4. John Langendoen correspondence dated March 22, 2003
5. Jan and Kitty VanZanten correspondence dated July 25, 2003

Prepared by,



Craig Larmour  
Director of Planning Services

Approved and Submitted by,



Gord Cherney  
Chief Administrative Officer

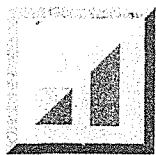


# LOCATION MAP

REPORT NO. P-37/03  
ATTACHMENT NO. 1  
PAGE NO. 1/1



Subject Lands —



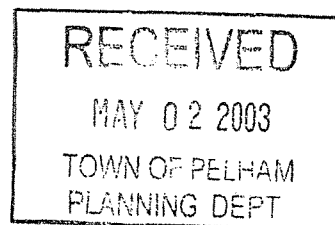
URBAN &  
ENVIRONMENTAL  
MANAGEMENT INC.  
PROFESSIONAL CONSULTING SERVICES

4701 St. Clair Avenue, Suite 301, Niagara Falls, Ontario L2E 3S9  
phone 905.371.9764 fax 905.371.9763  
uemconsulting.com

April 29, 2003  
Project No. 03-U04

REPORT NO. P-37/03  
ATTACHMENT NO. 2  
PAGE NO. 1/8

Mr. Craig Larmour, RPP  
Town Planner  
Town of Pelham  
P.O. Box 400  
20 Pelham Town Square  
Fonthill, ON L0S 1E0



Dear Mr. Larmour:

**Re: Official Plan Amendment and Zoning By-Law Amendment  
For Overbeeke Flea Market at 878 Foss Road**

On November 29, 2001, the Overbeeke family signed an undertaking as part of seeking an extension to a temporary use of their lands as a Flea Market. The undertaking stated:

*"We wish to pursue the present application for extension of the temporary use by-law and undertake that this will be to last application by us for a temporary use as a flea market for this property under Section 39 of the Planning Act.*

*Should we determine that we wish to pursue the flea market use on a permanent basis on this property, we undertake to file an application for the re-zoning pursuant to Section 34 of the Planning Act within the next three (3) year period of the temporary use extension, if so granted."*

The temporary use was granted by Town of Pelham Council on December 3, 2001. Therefore, to have the use to continue beyond 2004, my client has chosen to apply for an amendment to the Official Plan and Zoning By-Law.

Regional Planning staff in their report dated October 10, 2001, stated that:

*"The Town should require the applicant to justify why there is a need to extend the 'temporary use' given the stated purpose for such a by-law. Alternatively, if the applicants and the Town believe that these particular uses are supportable on this site in the long term, these appropriate amendments should be sought to the relevant planning documents to legalize the uses on a permanent basis."*

It is through the enclosed application that the appropriate amendments outlined by Regional Planning staff are being sought.

## Regional Planning Amendment

There are two arguments that are both independently valid for not requiring a Regional Plan Amendment to approve of the proposed Official Plan Amendment and Zoning By-Law.

The first is based on precedence. When the Regional planning staff reviewed the 1998 Official Plan Amendment to the Town of Pelham's plan permitting the establishment of the permitted use, there was no requirement for a Regional Plan Amendment. All of the issues were dealt with through the changes to the local planning documents with comments and concurrence by Regional planning staff. The use of the property (albeit temporary) is now considered to be in conformity with the Regional Plan via the specifics mechanisms of the Planning Act. The only change that is being sought with these applicants is to remove the temporary nature of the site. There is no intensification being sought nor contemplated.

The second is based on Policy 12.6 of the Regional Policy Plan. The Overbeeke Flea Market is a legally established use that has characteristics of both commercial and agricultural uses. Clearly legally established uses are permitted to continue to operate within the context of the Regional Plan. Furthermore, regional planning staff reviewed the establishment of the use in 1998.

Policy 12.6 Other policies of this Plan notwithstanding, the Plan shall not Prohibit the continued operation of legally established residential, industrial, business, agricultural, and institutional facilities. Further, this Plan shall not prohibit the reasonable expansion or change in the use of such facilities provided Urban Area Boundaries are not superseded; the expansion does not involve a major intensification of land use; or result in the intrusion of new incompatible uses; and subject to:

- (1) the need and desirability of the operation;
- (2) regard for environmental, agricultural, and other policies of this Plan;
- (3) compatibility with existing surrounding uses;
- (4) access and servicing requirements being met; and
- (5) not additional municipal services being required.

Further policies guiding the continued operation and possible expansion of such existing uses should be included in local official plans. In addition, with the Niagara Escarpment Plan area, the Niagara Escarpment Plan Policies in Section 7.H apply to existing uses.

It is through the enclosed applications that the appropriate amendments as outlined by Regional planning staff in their October 10, 2001 letter, are being sought.

## Official Plan Amendment

There have been several planning reports prepared on the use of this site as a Flea Market. One of the earliest reports prepared on October 15, 1998 by G. Barker of BLS Planning Associates Inc. established the "collective evaluation criteria" for the review of the application seeking permission to permit the Flea Market to continue as a use on the subject site. This "collective evaluation criteria" was based on Regional Policy Plan,

Pelham Official Plan and Provincial Policy statement criteria and they were utilized by both the Town and Region to review the 1998 proposal:

- "a) the need for and desirability of the proposed use,*
- b) the quality of the agricultural land involved and the degree of preservation,*
- c) the impact of surrounding land uses,*
- d) the efficient use of the land, and*
- e) alternative locations for the proposed use."*

As outlined above, there are five tests that can be used to judge the desirability of the use. These tests can be applied to the proposed Official Plan Amendment and the Region as both a commenting and implementing agency for local Official Plan Amendment can have direct control of the planning process.

For clarification, it should be noted that the Official Plan Amendment adopted in 1998 by Pelham Council and implemented by Regional Council is being proposed to be modified by removing four words *"on a temporary basis"* all other provisions of the Official Plan Amendment remain.

#### **Official Plan Amendment # AM-5/98**

*"Notwithstanding the uses permitted by Policy 1.10.1 the lands occupying Part of Lot 17, Concession 11 in the Town of Pelham and municipally known as 878 Foss Road, may be used, on a temporary basis, for the sale of new and used goods such as clothing; glassware, farm equipment, parts and implements within an existing barn."*

I will evaluate each of the criteria in turn based on past comments for local planning staff, area neighbour input, clients of the Flea Market input and my own observations and opinions. In addition, the need for services and the ability of the existing buildings to be utilized for the proposed use is reviewed.

#### **a) The need for and desirability of the proposed use**

The 1998 BLS report states that *"A commercial flea market is not a farm related use and therefore does not provide a service or fulfill a need directly related to the surrounding agricultural area."* The Region in its October 19, 2001 letter on this matter states that, *"the Town should require the applicants to justify why there is a need....."*

Need is often justified in planning studies by the use of socio-economic data to identify a market or clarify that a certain use would be needed by some group in society. Since we have an existing legal use, we are provided a luxury that rarely exist in future looking planning studies. We can ask the users of the flea market if a need for the market exists.

The attachment to this letter report includes 28 letters prepared by current users of the flea market. Clearly these letters establish that in the view of the current market users there is a need for the Flea Market.

These users of the Flea Market are farmers. Some are farm small holdings while others are large commercial farmers. Their comments include:

*"We are fully aware that the flea market is situated on agricultural land but we also fee that it caters to many of the agricultural business and farms in the area."*

*"Many of the items we purchase are used on our farm."*

*"We are farmers in Smithville and buy merchandise from the Fenwick Flea Market to use on our dairy farm."*

*"I would like to say that we are fortunate in our area to have a flea market of this caliber in the Overbeeke Flea Market, there were many articles that have been purchased by the farm and our employees."*

*"We pick up farm supplies at the Fenwick Flea Market for our poultry farm."*

The farmers that use the Flea Market are from Fenwick, Pelham, Wainfleet, West Lincoln, Sherkston, Welland and Port Colborne. The market includes most of the agricultural area of the southern part of Regional Niagara.

By the estimate of the Overbeeke's as reported in the past to Pelham Council, at least 50% of the people that use the Flea Market are farmers and from the agricultural community. These clients are repeat buyers and have grown to rely on this establishment to serve their agricultural needs.

This recent analysis shows that the 1998 BLS planning report was inaccurate when it did not include that this Flea Market does serve farmers and farms and does provide a service to the surrounding agricultural area.

The need for this Flea Market is based on the existing clients and type of service that has been provided to the agricultural community. Clearly the farming community views that there is a need for this Flea Market to continue to serve their needs at this location.

**b) Quality of Agricultural Land Involved and Degree of Preservation**

The site is classified as Good General Agricultural in both the Town of Pelham and Regional Niagara Policy Plan. Both the Regional Plan and Town Plan designate the majority of the area outside the urban boundaries as either Unique Agricultural land or Good General Agricultural land, there is only a small portion of lower quality agricultural land in association with the Welland-Pelham airport.

The highest priority is given to the preserving of unique agricultural land within both the Region and Town Official Plans. Good General Agricultural land is considered a second priority. (see policy 6.A.2).

In the 1998 Town planning report, it was acknowledged that:

*"the subject proposal will not remove land from agricultural production as existing structures, parking areas and access areas are to be used for the 1 acre (0.4 hectare) site."*

The Overbeeke's have additional land (over 25 acres) that have continued to be use for active agriculture. It is their intention to continue to farm this acreage. In the future, they have plans to develop these lands for more intense agricultural development including nursery stock. These uses do not require amendments to planning documents.

c) **Impact on Surrounding Land Uses**

The surrounding land uses consist of rural residential to the west, active agriculture to the north and south. Within relatively close proximity are commercial greenhouses.

Since 1998, there have been no complaints by neighbouring users. Several of the supporting letters appended to this report expressed support for the Flea Market and clearly identified that there are no compatibility issues.

In dealing with compatibility issues the Ontario Municipal Board has cited:

*"compatible means being mutually tolerant and capable of coexisting together in harmony in the same area. 'Being compatible with' is not the same as 'being similar to'. 'Being similar to' means having resemblance to another thing; they are like one another, but not identical. 'Being compatible with' means nothing more than being capable of coexisting in harmony."* (bolding added by report author)

This use has been legally in existence since 1998. No further changes to the use are being sought except to change the use from temporary to permanent.

It is noted in the Town's planning report in 1998 that *"the existing commercial use appears not to be creating any land use conflict at this time"*. This continues to be the case in 2003. The Town's report goes on to state that *"land use incompatibility, may result if the form, function and intensity of use increases over time."* This has not occurred in the past 5 years and it is the Overbeeke's intention and commitment to not change their existing operation. While it is always difficult to see the future, if the past is any indication, there should not be incompatibility issues with this Flea Market and its neighbours.

d) **Efficient Use of the Land**

There are no plans to expand the Flea Market. The existing buildings which were previously under utilized are now more efficiently used as a Flea Market. To not permit this use to continue could lead to a less efficient use of the buildings and ultimately the land.

In 1998, the existing buildings were inspected to ensure that they met the building code. A substantial amount of investment was placed in the buildings as a result of



these inspections. To date the buildings meet building code for the Flea Market and have been inspected by the Town to meet these standards.

**e) Alternative Locations**

Flea markets are not a type of land use that is often found in an urban area. A review of Flea markets in Niagara shows that the majority are located in rural areas in association with existing buildings or structures.

While the Town of Pelham has provided for commercial areas and sites, the majority are in urban settings and that does not meet the locational characteristics of this form of land use.

This Flea Market services the agricultural and rural community with some urban oriented clients. As can be seen from the attached letters, farmers and rural landowners drive considerable distances to this site. Clearly they find the current site to be convenient to their needs by their behaviour.

It would be difficult, if at all possible for a Flea Market with characteristics of Overbeeke's to find a suitably large site within an urban environment and provide the level of service that is currently provided.

There is always a concern that a change in land use will establish some sort of precedent that can have impacts well beyond the site under consideration. This is a valid planning issue, however the review process as mandated by the Planning Act is very comprehensive and relevant issues particular to any application can be vetted and reviewed on a case by case basis, as is the case for all planning applications.

**f) Servicing**

The site is currently serviced by existing on-site sanitary and water services. There is no intent to intensify the use as a result of the application. The existing services have functioned effectively for the past 5 years of operation.

**In Conclusion...**

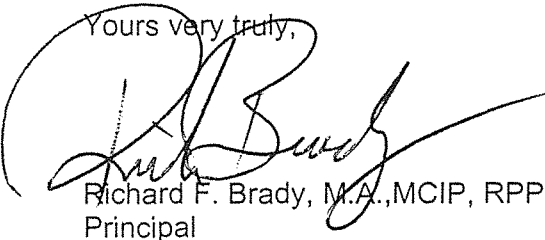
The current applications to amend the Town of Pelham's Official Plan and Zoning by-Law do not represent an intensification of an existing legal land use. Throughout the past five (5) years this Flea Market has effectively functioned in its current location with no report instances of land use incompatibility. Quite to the contrary, neighbours have prepared letters of support for the continued use of the Flea Market.

The neighbouring agricultural community has rallied to the support of this use. The attached 28 letters were independently prepared in support of the continued use of the Flea Market. It has become a valuable service to the agricultural community, albeit it also serves urban residents as well.

The temporary use By-Law has completed its purpose of providing a trial use of the property for the Flea Market. It is now appropriate to remove the temporary use of the Flea Market as agreed upon by the Overbeeke's in 2001.

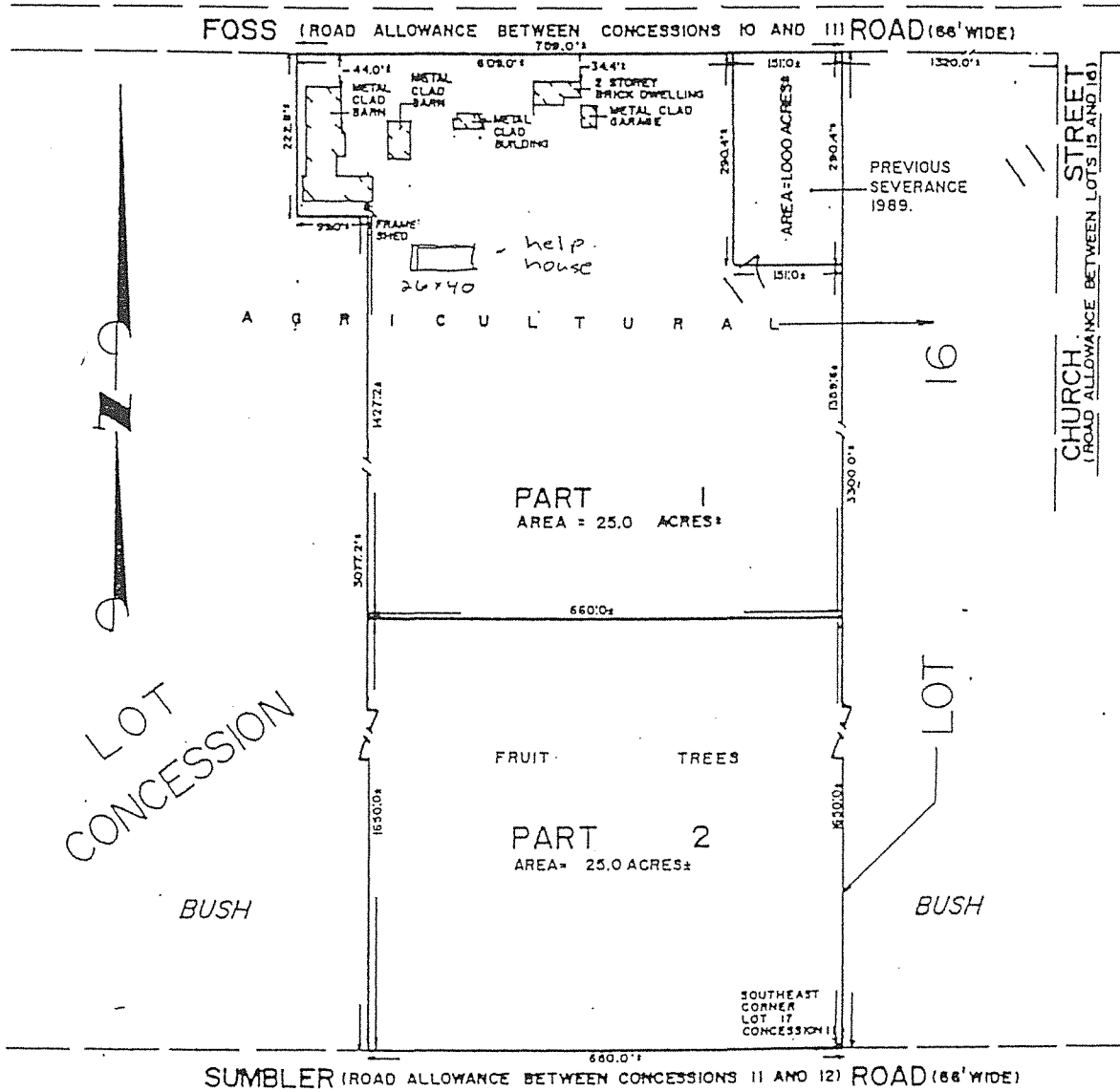
I believe all issues that have been raised in the past by local and regional planning staff have been addressed. If you have any questions, please contact me directly at 905-371-9764, ext. 240.

Yours very truly,



Richard F. Brady, M.A., MCIP, RPP  
Principal

Z:\UEM\Projects\03-Uor\2003\April\Letter to c. Laumour



# SKETCH

PREPARED FOR SEVERENCE APPLICATION  
SCALE: 1" = 200'  
1989 © COPYRIGHT

NOTE: THIS SKETCH IS PREPARED FROM COMPILED AND CALCULATED INFORMATION, NOT FROM AN ACTUAL SURVEY

CAUTION: THIS IS NOT A PLAN OF SURVEY AND SHALL NOT BE USED FOR TRANSACTION OR MORTGAGE PURPOSES

"THIS IS NOT AN ORIGINAL COPY UNLESS EMBOSSED WITH SEAL"

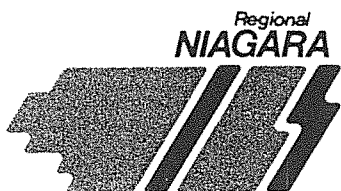
PART OF LOT 17  
CONCESSION II  
TOWNSHIP OF PELHAM  
NOW THE  
TOWN OF PELHAM  
REGIONAL MUNICIPALITY OF NIAGARA

*P. Douglas Reitsma*  
P. D. REITSMA SURVEYING LTD.  
P. D. REITSMA B. Sc. O.L.S.

HEAD OFFICE  
203 EAST MAIN STREET (Upper)  
WELLAND ONTARIO  
L3B 3W7 (416) 735-7841, 384-3424

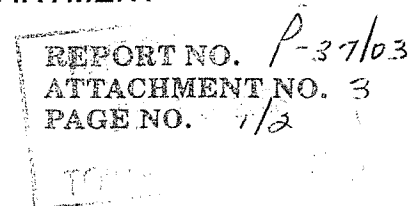
CONSULTATION OFFICE  
17 HIGHWAY 20 WEST  
FORTHILL, ONTARIO  
L0S 1E0 (416) 892-2570

DATE: APRIL 3, 1990 FILE N° 89-29-90



## PLANNING AND DEVELOPMENT DEPARTMENT

The Regional Municipality of Niagara  
3550 Schmon Parkway, P.O. Box 1042  
Thorold, Ontario L2V 4T7  
Telephone: (905) 984-3630  
Fax: (905) 641-5208  
E-mail: plan@regional.niagara.on.ca



July 7, 2003

File: D.10.M.19.27

Mr. Craig Larmour  
Planner  
Town of Pelham  
20 Pelham Town Square  
P.O. Box 400  
Fonthill, ON  
L0S 1E0

Dear Mr. Larmour:

**Re: Proposed Official Plan and Zoning By-law Amendments  
Permanent Flea Market  
Foss Road, west of Church Street  
Town of Pelham  
Your File: AM-03/03 (G. & M. Overbeeke)**

This application proposes to amend the Town's planning documents in order to permit the permanent use of lands for the sale of new and used goods including but not limited to clothing, glassware, farm equipment, parts and implements within an existing building.

This property is designated as Good General Agricultural Area by the Regional Policy Plan. Policy 6.A.8 of the Regional Plan states that non-agricultural uses should not be located in Agricultural Areas due to their adverse impact on the agricultural and natural resources. Applications for individual non-agricultural uses may be received and will be reviewed through a Regional Policy Plan Amendment using several review criteria set out in Policy 6.A.8.

This use was initially established without planning approvals but was subsequently permitted to remain on a temporary basis through Official Plan Amendment No. 34 and a temporary use by-law, which has been extended once. The legal status of this use would, therefore, be in jeopardy were the temporary use by-law to expire. Regional Planning staff in considering the appropriateness of recognizing this use even on a temporary basis was concerned about the entrenchment of this use within the Agricultural area. This could lead to further intensification of the use and result in adverse effects on surrounding agricultural uses, and possibly in other similar situations elsewhere in Niagara. For instance, conflicts with agriculture could arise as a result of outdoor activities often associated with flea markets, such as the operation of outside stalls and outdoor storage.

On the understanding that the use was to be temporary only and based on extenuating circumstances, Regional Planning staff were not opposed to the approval of

Amendment No. 34. This application, however, now proposes to entrench this use in the Agricultural area permanently. This is contrary to Policy 6.A.8 which discourages the establishment of non-farm uses in Agricultural areas. Amendment No. 34 would likely not have been supported by Planning staff if a permanent use had been proposed at that time.

In conclusion, Regional Planning staff is unable to support the approval of this application at this time as it would entrench what was previously understood to be a temporary, non-agricultural use in the Agricultural area. An amendment to the Regional Policy Plan would be required to allow this use on a permanent basis. Regional Planning staff, however, is unable to comment on whether such an application would be successful due to unforeseeable circumstances that can often arise during any Plan amendment process.

Please send notice of the Town's decision on this application.

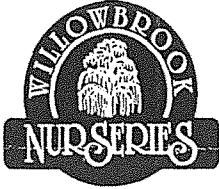
Yours truly,



*for* David J. Farley  
Director of Planning Services

PB/

c: Mr. R. Brady, MCIP, RPP, Urban & Environmental Management Inc., 4701 St.  
Clair Ave, Suite 301, Niagara Falls, ON L2E 3S9  
Mr. W. Stevens, Regional Public Works



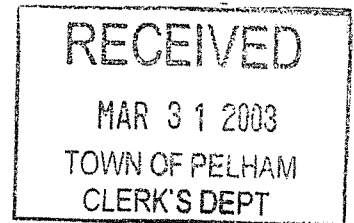
**WILLOWBROOK NURSERIES INC.**

935 VICTORIA AVE., R.R. #4  
FENWICK, ON CANADA L0S 1C0  
TEL: (905)892-5350/(800)661-5237  
FAX: (905)892-3790

REPORT NO. P-37/03  
ATTACHMENT NO. 4  
PAGE NO. 1/1

March 22, 2003

Mayor Beamer  
Town of Pelham  
Fonthill, Ontario  
L0S 1E0



Dear Mayor Beamer,

I would like to reconfirm my endorsement of the continued operation of "Fenwick Flea Market". Since they have been granted continuance in 2001 by the Town, they have been a valuable resource for our business. Their product line of both used and new goods certainly allows us to make good price comparisons when purchasing and their extremely varied product line has been very convenient for us. So many times you purchase a new product which is seldom used, when purchasing a used product for a lost less cost, would have been more then adequate.

The Barn Sale provides a unique "stewardship" service in our community, providing new and second-hand goods for home-owners, businesses, and agriculture.

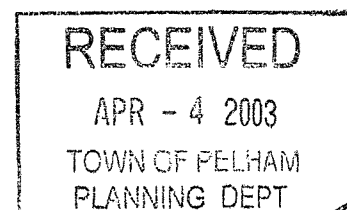
Their part-time operation in my opinion has not interfered or detracted from our neighborhood, instead it has taken several unused buildings and put them to good use. It has a friendly atmosphere where neighbors frequently bump into each other and chat over coffee.

I encourage you and council to allow this business to continue on in business.

Sincerely,

John Langendoen  
President

JL/jcl



ca

# VanZanten Greenhouses

## Freesias & Asters

879 Foss Road.  
Fenwick, ON. L0S 1C0  
Canada

Phone 905 892 1689  
Fax 905 892 3963

Date: July-25-03

Send to: Town of Pelham.


Comments: To whom it may concern.


We the undersigned have no objection to the Fenwick Flea Market. We support it by word and deed. If we need it and they have it we will buy it.

Never in any way have they caused us any problems. There is no parking problem; no noise problem. And after the sale it is always cleaned up nicely.

We are Jan and Kitty van Zanten. Direct neighbours across the road from the Overbecker. We live on the North side 879 Foss Rd. and own and operate the greenhouse.

Respectfully submitted.

Jan van Zanten 

Kitty van Zanten 

THE CORPORATION OF THE TOWN OF PELHAM

IN THE MATTER OF SECTION 17 OF THE  
PLANNING ACT, R.S.O. 1990, AS AMENDED

TOWN OF PELHAM OFFICIAL PLAN AMENDMENT NO. 46

Part Lot 17, Concession 11  
878 Foss Road

AFFIDAVIT

I, CRAIG LARMOUR, DIRECTOR OF PLANNING SERVICES OF THE TOWN  
OF PELHAM, IN THE REGIONAL MUNICIPALITY OF NIAGARA, MAKE OATH AND SAY  
AS FOLLOWS:

- (1) I am the Director of Planning Services of the Corporation of the Town of Pelham  
and as such I have knowledge of the matters herein set forth.
- (2) The information required under Section 6(2) of Ontario Regulation 198/96  
attached as Schedule "A" is provided and is true.

SWORN BEFORE ME AT THE TOWN OF PELHAM )  
IN THE REGIONAL MUNICIPALITY OF NIAGARA )  
THIS 27TH DAY OF OCTOBER, 2003 A.D. )

  
CRAIG LARMOUR

  
CHERYL MICLETTE, CLERK

CHERYL MICLETTE, Clerk,  
Town of Pelham, a Commissioner,  
for taking Affidavits in the  
Regional Municipality of Niagara



LIST OF PUBLIC BODIES GIVEN NOTICE OF PROPOSED PLAN OR AMENDMENT BUT  
WHICH DID NOT RESPOND

Niagara Catholic District School Board

District School Board of Niagara

Enbridge Consumers Gas, Thorold

Preservation of Agricultural Lands

Hydro One Networks Inc., Toronto

Enbridge Consumers Gas, Whitby

Enbridge Pipelines Inc., Sarnia

Transcanada PipeLines, Calgary

## Appendix H-1

### AMENDMENT BEING INITIATED BY:

APPLICANT - Gilles and Mary Overbeeke  
878 Foss Road  
Fenwick ON L0S 1C0  
(905) 892-1453

AGENT - Rick Brady  
Urban & Environmental Management  
4701 St. Clair, Suite 301  
Niagara Falls ON L2E 3S9  
(905) 371-9764

REGIONAL PROCESSING FEE TO BE PAID BY APPLICANT