

**AMENDMENT NO. 54**  
**TO THE OFFICIAL PLAN**  
**FOR THE TOWN OF PELHAM**

**PART 1 - PREAMBLE**

**1.1 TITLE**

This Amendment when approved shall be known as Amendment No. 54 to the Official Plan for the Town of Pelham.

**1.2 COMPONENTS**

This Amendment consists of explanatory text only. This preamble does not constitute part of the actual Amendment, but is included as background information.

**1.3 PURPOSE**

The purpose of the Amendment is to amend the Town of Pelham Official Plan policies to facilitate the expansion of the Fenwick Urban Area Boundary and to permit residential development in closer proximity to an existing livestock operation.

**1.4 LOCATION**

The Amendment affects lands on the west side of Church Street, lying north of Foss Road. The lands are legally described as part of Lot 19, Registered Plan No. 16, in the former Township of Pelham, now in the Town of Pelham.

**1.5 BASIS**

The basis of the Amendment is to permit the expansion of the Fenwick Urban Area in order to better accommodate a residential subdivision. The Amendment is also intended to permit development in closer proximity to an existing livestock operation located on adjacent lands. The proposed Amendment conforms with the requirements of the Provincial Policy Statement and the Regional Policy Plan.

## **PART 2 - THE AMENDMENT**

### **2.1 PREAMBLE**

All of this part of the document, entitled PART 2 - THE AMENDMENT, consisting of explanatory text and the attached map, identified as Schedule 'A', constitutes Amendment No. 54 to the Official Plan of the Town of Pelham.

### **2.2 DETAILS OF THE AMENDMENT**

#### **Map Amendment**

Schedule 'A' to the Official Plan of the Town of Pelham is hereby amended by changing the land use designation of the lands, shown as Part 1 of the subject lands on Schedule 'A' attached hereto and forming part of this Amendment, from Good General Agricultural to Special Village Residential.

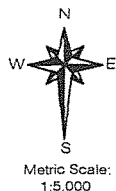
#### **Text Amendment**

The following subsection is added to Section 1.14.2:

- "i) Notwithstanding Policy 1.14.2 above, residential development of the lands occupying part of Lot 19, Registered Plan No. 16, located on the west side of Church Street lying north of Foss Road and comprising an area of approximately 2.7 hectares shall not be restricted by the application of Minimum Distance Separation Formulae from operations existing on the date of passing of this Amendment.."

### **2.3 IMPLEMENTATION**



This Amendment will be implemented by the enactment of an amending Zoning By-law to reflect the general intent of this Amendment.



# SCHEDULE 'A'

## Official Plan Amendment No. 54

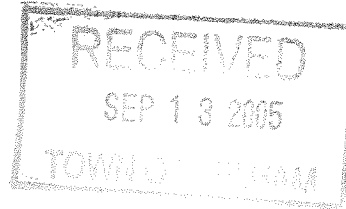


Subject Lands:    Part 1     Part 2 

September 8, 2005

File: D.10.M.19.21 (54)

Mrs. Cheryl Miclette  
Clerk  
Town of Pelham  
P.O. Box 400, 20 Pelham Town Square  
Fonthill, Ontario L0S 1E0



Dear Mrs. Miclette:

Re: **Official Plan Amendment No. 54**  
**Redesignate to Special Village Residential Area**  
**The Orchards Plan of Subdivision**  
**Town of Pelham**

---

No appeals of the decision by Regional Council on the above Amendment were received during the prescribed period for submitting such appeals. Therefore, Regional Council's decision to approve Amendment No. 54 to the Town of Pelham's Official Plan is now final.

Two copies of the Official Plan Amendment as approved by the Region are enclosed for your records.

Yours truly,

A handwritten signature in cursive script, appearing to read "David J. Farley".

 David J. Farley  
Director of Planning and Development

BD/

BD\PELHAM\Official Plan Amendments\OPA 54 The Orchards Subdivision & Urban Boundary Expansion\Final Approval-OPA 54-Letter to Pelham Clerk.doc

**THE REGIONAL MUNICIPALITY OF NIAGARA**


**OFFICIAL PLAN AMENDMENT NO. 54**

**The Orchards Subdivision & Urban Boundary Expansion**

**Town of Pelham**

Amendment No. 54 to the Official Plan of the Town of Pelham, which was adopted by the Council of the Town of Pelham, is hereby approved under Section 17 of the Planning Act.

DATE: September 7, 2005

  
\_\_\_\_\_  
David J. Farley  
Director of Planning and Development  
Regional Municipality of Niagara

**AMENDMENT NO. 54**

**TO THE**

**OFFICIAL PLAN**

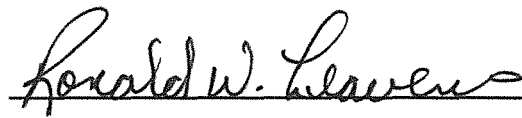
**CERTIFIED COPY OF**

**BY-LAW NO. 2677 (2005)**

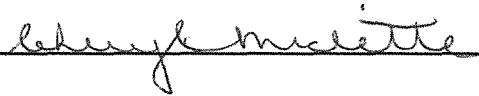
**ADOPTING OFFICIAL PLAN AMENDMENT NO. 54**

**TOWN OF PELHAM  
CERTIFICATE  
OFFICIAL PLAN OF THE  
TOWN OF PELHAM  
AMENDMENT NO. 54**

The attached text and map constituting Amendment No. 54 to the Official Plan of the Town of Pelham, was prepared by the Pelham Planning Services Department and was adopted by the Corporation of the Town of Pelham by By-law No. 2677 (2005) in accordance with Section 17 of the Planning Act, R.S.O. 1990, as amended, on the 6th day of June, 2005.



MAYOR



CLERK



THE CORPORATION OF THE  
TOWN OF PELHAM

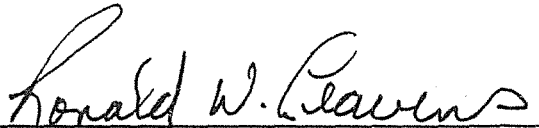
BY-LAW NO. 2677 (2005)

Being a by-law to adopt Amendment No. 54 to  
the Official Plan of the Town of Pelham.

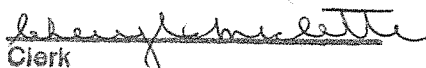
THE COUNCIL OF THE CORPORATION OF THE TOWN OF PELHAM  
ACCORDANCE WITH THE PROVISION OF THE PLANNING ACT, R.S.O. 1990, A  
AMENDED, HEREBY ENACTS AS FOLLOWS:

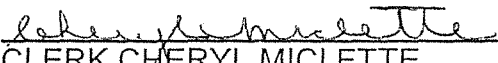
- (1) Amendment No. 54 to the Official Plan of the Town of Pelham, consisting of the attached text and Schedule A, is hereby adopted.
- (2) THAT the Clerk is hereby authorized and directed to make application to the Regional Municipality of Niagara for approval of the aforementioned Amendment No. 54 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.

READ A FIRST, SECOND AND THIRD TIME  
AND FINALLY PASSED BY COUNCIL THIS  
6TH DAY OF JUNE, 2005 A.D.

  
MAYOR RONALD W. LEAVENS

THE CORPORATION OF  
THE TOWN OF PELHAM  
CERTIFIED A TRUE COPY

  
Clerk

  
CLERK CHERYL MICLETTE

AMENDMENT NO. 54  
TO THE OFFICIAL PLAN  
FOR THE TOWN OF PELHAM

PART 1 - PREAMBLE

1.1 TITLE

This Amendment when approved shall be known as Amendment No. 54 to the Official Plan for the Town of Pelham.

1.2 COMPONENTS

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1.3 PURPOSE

The purpose of the Amendment is to amend the Town of Pelham Official Plan policies to facilitate the expansion of the Fenwick Urban Area Boundary and to permit residential development in closer proximity to an existing livestock operation.

1.4 LOCATION

The Amendment affects lands on the west side of Church Street, lying north of Foss Road. The lands are legally described as part of Lot 19, Registered Plan No. 16, in the former Township of Pelham, now in the Town of Pelham.

1.5 BASIS

The basis of the Amendment is to permit the expansion of the Fenwick Urban Area in order to better accommodate a residential subdivision. The Amendment is also intended to permit development in closer proximity to an existing livestock operation located on adjacent lands. The proposed Amendment conforms with the requirements of the Provincial Policy Statement and the Regional Policy Plan.

## PART 2 - THE AMENDMENT

### 2.1 PREAMBLE

All of this part of the document, entitled PART 2 - THE AMENDMENT, consisting of explanatory text and the attached map, identified as Schedule 'A', constitutes Amendment No. 54 to the Official Plan of the Town of Pelham.

### 2.2 DETAILS OF THE AMENDMENT

#### **Map Amendment**

Schedule 'A' to the Official Plan of the Town of Pelham is hereby amended by changing the land use designation of the lands, shown as Part 1 of the subject lands on Schedule 'A' attached hereto and forming part of this Amendment, from Good General Agricultural to Special Village Residential.

#### **Text Amendment**

The following subsection is added to Section 1.14.2:

- "i) Notwithstanding Policy 1.14.2 above, residential development of the lands occupying part of Lot 19, Registered Plan No. 16, located on the west side of Church Street lying north of Foss Road and comprising an area of approximately 2.7 hectares shall not be restricted by the application of Minimum Distance Separation Formulae from operations existing on the date of passing of this Amendment.."

### 2.3 IMPLEMENTATION

This Amendment will be implemented by the enactment of an amending Zoning By-law to reflect the general intent of this Amendment.



# SCHEDULE 'A'

## Official Plan Amendment No. 54



Subject Lands: Part 1  Part 2 

**CERTIFIED COPY OF**  
**OFFICIAL PLAN AMENDMENT NO. 54**

## PART 2 - THE AMENDMENT

### 2.1 PREAMBLE

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### 2.2 DETAILS OF THE AMENDMENT

#### **Map Amendment**

Schedule 'A' to the Official Plan of the Town of Pelham is hereby amended by changing the land use designation of the lands, shown as Part 1 of the subject lands on Schedule 'A' attached hereto and forming part of this Amendment, from Good General Agricultural to Special Village Residential.

#### **Text Amendment**

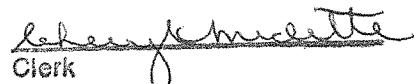
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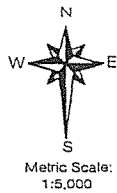
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This Amendment will be implemented by the enactment of an amending Zoning By-law to reflect the general intent of this Amendment.

THE CORPORATION OF  
THE TOWN OF PELHAM  
CERTIFIED A TRUE COPY


  
Clerk



# SCHEDULE 'A'

## Official Plan Amendment No. 54



Subject Lands: Part 1  Part 2 

### PART 3 - APPENDICES

- Appendix A Copy of all written submissions and comments and when they were received
- Appendix B Affidavit by an employee of the municipality certifying that,
- i) the requirements for the giving of notice and the holding of at least one public meeting or the alternative measures for informing and obtaining the views of the public set out in the official plan have been complied with, and
  - ii) the requirements for the giving of notice of adoption have been complied with
- Appendix C Affidavit of an employee of the municipality listing all persons and public bodies that made oral submissions at a public meeting
- Appendix D-1 Copy of the minutes of the public meeting held July 28, 2003  
D-2 Copy of the minutes of the public meeting April 26, 2004
- Appendix E-1 Copy of Planning report P-25/03, dated July 24, 2003  
E-2 Copy of Planning report P-07/05, dated March 2, 2005  
E-3 Copy of Planning report P-17/05, dated June 1, 2005
- Appendix F Affidavit certifying that the information required under Section 6 (2) and provided by the municipality is true
- Appendix G List of public bodies given notice of proposed plan or amendment but which did not respond
- Appendix H Information re Applicant Initiating the Amendment



## Appendix A

Copy of all written submissions and comments and when they were received

### Received

A-1	Bell Canada	June 9, 2003
A-2	Regional Niagara Planning and Development Department	June 26, 2003
A-3	Robert & Margareth Williams	Dated July 2, 2003
A-4	Regional Niagara Public Health Department	July 16, 2003
A-5	Niagara Peninsula Conservation Authority	July 22, 2003
A-6	Regional Niagara Public Works	August 7, 2003
A-7	Leo, Margaret & Dan DeVries	March 11, 2004
A-8	E. Cronier, Pelham Building and Enforcement Services	March 30, 2004
A-9	Rodney Wright	April 2, 2004
A-10	Phyllis and Dell Clark	April 15, 2004
A-11	Jan VanZanten	April 23, 2004
A-12	Richard Rybiak	April 26, 2004
A-13	Dr. John Backer (PhD)	April 26, 2004
A-14	Brian N. Lambie	April 26, 2004
A-15	Sandee Matthews	April 26, 2004
A-16	Petition	April 26, 2004
A-17	Niagara Peninsula Conservation Authority	April 29, 2004
A-18	Phyllis and Dell Clark and John Szydzowski	May 3, 2004
A-19	Regional Niagara Planning and Development Department	December 23, 2004
A-20	Niagara Peninsula Conservation Authority	January 13, 2005

  
**Bell**

Appendix A-1

JUN 9 2003



Right Of Way  
Floor 5, 100 Borough Drive  
Scarborough, Ontario  
M1P 4W2  
Tel: 416-296-6291 Toll-Free: 1-800-748-6284  
Fax: 416-296-0520

Wednesday, June 04, 2003

City of Pelham  
Planning Services  
20 Pelham Town Square, Municipal Building  
Pelham, Ontario  
LOS 1E0

Attention: Craig Larmour

Dear Sir/Madam:

RE: Draft Plan of Subdivision  
Church Street N. of Foss Road  
Your File No: 26T19-03002 AM-02/03  
Bell File No: 25016

- Thank you for your letter of Friday, May 23, 2003 requesting comments on the above-referenced application.

A preliminary review of the draft plan has been completed and a telecommunication facility easement may be required to service these lands.

The draft plan has been forwarded onto our Engineering department for detailed review and to determine Bell's specific requirements.

Until additional comments are issued by Bell Canada approval of the above-referenced application is premature.

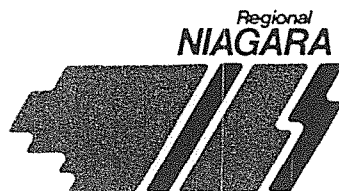
Should you have any questions please contact Jackie Wilkinson at 4156-296-6430.

Yours truly,



Janice Young  
Manager - Right of Way





**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

*JUN 26 2003*

June 24, 2003

Files: D.10.M.19.27  
D.11.M.19.24



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

Dear Mr. Larmour:

**Re: Preliminary Comments  
Proposed Zoning By-law Amendment and  
Draft Plan of Subdivision  
The Orchards Subdivision  
Church Street, north of Foss Road  
Town of Pelham  
Your Files: AM-02/03 & 26T-19-03002 (H. Breunissen)**

Regional Planning staff has reviewed available historical information on the Region's Urban Area Boundary for Fenwick, including the schedule to Pelham Official Plan Amendment No. 7, and we have the following comments for the Town's and the applicant's consideration.

This property is located partly within the Fenwick Urban Area Boundary according to the Regional Policy Plan while the balance of the site is designated as Good General Agricultural Area. Based on the historical information, it would appear that the westerly portion of the proposed development lies outside of the urban area. The urban boundary in this location is situated to the east of the westerly limits of the applicant's property (i.e. approximately 65 metres) and just to the west of the municipal drain bisecting this site. Accordingly, the proposed cul-de-sac bulb and Lots 1, 2, 3 and part of Lot 4 are outside of the Urban Area Boundary. This will, therefore, necessitate a revision to the draft plan to eliminate any urban development outside of the urban area. An amendment to the Regional Policy Plan to modify the Fenwick urban boundary would be required to allow the development to proceed as proposed. Regional Planning staff, however, is unable to comment on whether an application would be successful due to concerns that may arise during any Plan amendment process.

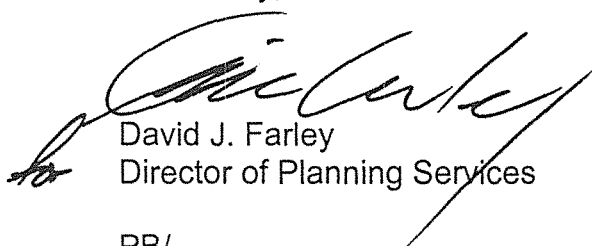
As previously indicated in our letter of awareness dated May 21, 2003 (copy attached), we also have concerns with the proposed roadway abutting the urban boundary on the north side. The appropriateness of the road location and alternate development concepts to avoid this situation should be considered further.

In addition, on a preliminary basis, the realignment of the Swayze Municipal Drain through this property, which is identified as an Important Type 2 fish habitat, would appear to require the approval of the Niagara Peninsula Conservation Authority on behalf of the Federal Department of Fisheries and Oceans and the Ministry of Natural Resources under the Lakes and Rivers Improvement Act.

In conclusion, these applications raise concerns with respect to the Urban Area Boundary for Fenwick as discussed above. These should be addressed before these applications are considered further. Regional Planning staff, therefore, is not in a position to provide final comments on these applications at this time.

Please do not hesitate to contact either Pat Busnello, Planner, or Eric Conley, Senior Planner, should you wish to discuss these items further.

Yours truly,



David J. Farley  
Director of Planning Services

PB/

c: Mr. R. Hodge, Upper Canada Consultants, 215 Ontario Street, St. Catharines,  
ON L2R 5L2  
Mr. P. Bond, Niagara Peninsula Conservation Authority  
Mr. J. Durst, Ministry of Natural Resources, Vineland Station  
Mr. W. Stevens, Regional Public Works

July 2, 2003

Clerk of the Town of Pelham  
20 Pelham Town Square  
P.O. Box 400  
Tonawanda, Ontario  
L0S 1E0

Attention: Craig Larmour, Planner  
& Mayor Ralph Beamer.

Dear Sirs:

This letter is in response to a public meeting that is being held on July 28, 2003. It concerns a proposed plan of subdivision and an amendment to the zoning by-law. The property is on the west side of Church Street and lying north of Foss Road that is owned by Hubertus Breunissen.

We (Robert and Margareth Williams) will not be able to attend this meeting and will be out of Town till the middle of August.

We would like to be able to respond to any or all proposals brought forward from this meeting as we are adjoining land owners to the south of this property.

Our concerns are ① the maintenance of the Swayze Drain with the increase of run off from proposed roadways, ② on the map, that was sent to us, on page 3 of the notice it shows Block 26. It straddles the Swayze Drain. In order for this emergency access to connect with Foss Road it must come across our property (823 Foss) and our neighbours west of us.

Last year we were approached by a real estate agent, who was representing Mr. Breunissen, about a possible severance or renting a right-of-way for services.

I (Robert) met with Craig Larmour, Jamie Hodge, and Nancy Boggato. I was informed, at that time, the Town would never allow a right-of-way on private property.

③ Our last concern is the water and sewers. Where will these services hook into and are they large enough to handle this proposed subdivision?

We would like a copy of the Technical Information Report and a copy of the minutes from the Public meeting on July 28.

We are not for or against this zoning by-law amendment or subdivision proposal at this time. We would like to be able to appeal or discuss the decisions after we return to Town around August 1<sup>st</sup>.

Yours,



Margareth N. Williams

823 Foss Rd.

R.R. #4

Fennick, Ontario

L0S 1C0

**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)

Rec'd  
July 16, 2003  
@

July 14, 2003

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

Attention: Craig Larmour, Planning Dept.

Dear Mr. Larmour:

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

---

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

Name of Owner/Applicant: Huibertus Breunissen

Location: West side of Church St., Pt Lot 19, Registered Plan No. 16

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

COMMENTS:

This department offers no objections at this time.

Yours truly,

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*



250 Thorold Road West, 3rd Floor Tel (905) 788-3135  
Welland, Ontario L3C 3W2 Fax (905) 788-1121  
E-mail: [npc@conservation-niagara.on.ca](mailto:npc@conservation-niagara.on.ca)  
July 18, 2003

Jun 22, 2003

File MPR 6.11.49

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

Dear Mr. Sir:

Subject: Preliminary Comments  
The Orchards Subdivision  
ZBA and Draft Plan Approval Application  
Pelham File 26T19-03002  
Church Street, north of Foss Road

Further to your request for review comment of the above noted plan of subdivision and zoning amendment application, we offer the following comments for your consideration.

The application is proposing a 25 lot (single detached) subdivision with a cul-de-sac. There is a 0.884 HA block (block 28) designated as "additional lands of the owner". A section of the Swayze Municipal Drain traverses the property, and the development proposes to re-align this drain.

The "Background Information Report" submitted with the applicants application (by Upper Canada Consultants) states that stormwater drainage will be conveyed to the Swayze Drain. The report also states that "A stormwater management plan" has been prepared for the development and shall be submitted to the Town under separate cover". To date, the NPCA has not received a stormwater management plan for review. Issues that should be addressed include stormwater quality and quantity.

The Swayze Drain has been designated as a Type 2 Important Fish Habitat. In general terms, re-location of the drain will require NPCA permitting, as well as fisheries review. A 15m buffer area on either side of the drain will be required as well. Natural channel design will be required.

Presently, the NPCA does not have sufficient information to comment in any greater detail. Detailed stormwater management design and channel realignment information is required for review.

Please do not hesitate to call should you require any clarification of the above.

Trusting the enclosed to be satisfactory.

Yours truly,

Paul Bond  
Watershed Planner (ext. 234)  
PEB

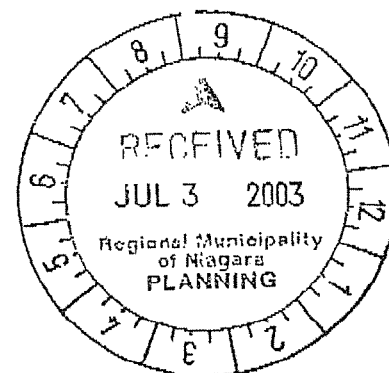
cc: Region of Niagara Planning and Development Dept. @ fax 905-641-5208  
Martin Heikoop, Upper Canada Consultants @ fax 905-688-5274





## THE REGIONAL MUNICIPALITY OF NIAGARA

## MEMORANDUM



DATE: June 27, 2003

TO: Pat Busnello  
Planner  
Planning and Development Department

SUBJECT: Draft Plan of Subdivision (26T19-03002) and  
Zoning By-law Amendment Application (AM-02/03)  
Applicant: Huibertus Breunissen  
Proposal: The Orchards Subdivision - 25 Single-Family Detached Lots  
Location: West side of Church Street, north of Foss Road  
In the Town of Pelham  
Our File: D.11.06.66.640290208 (ID#2259)

Regional Niagara Public Works Department has reviewed the above-referenced Draft Plan of Subdivision and Zoning By-law Amendment Application and provides the following comments:

## 1) Services


Servicing will be under the jurisdiction of the Town of Pelham. However, we would note that new sanitary and water lines must be created on the new street in order to service the subdivision. Connection of the lines would be to the existing services on Church Street.

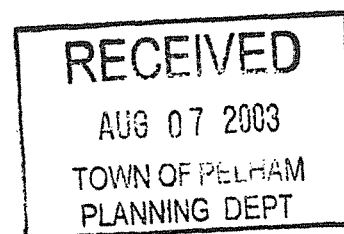
As a condition of draft plan, the Region must review and approve any new/extended services under the *Ministry of the Environment's Transfer of Review Program*. Drawings with calculations must be submitted to this department for approval.

## 2) Servicing Allocation

Draft approval does not include a commitment of servicing allocation, but will be assigned at the time of final approval/registration and any pre-servicing will be at the sole risk/responsibility of the developer.

We trust that the foregoing comments will be properly addressed by the Town in any subdivision agreement with the applicant.

  
William J. Stevens, C.E.T.  
Development & Approvals Manager  
Public Works Department  
Operational Support Services Division



WJS/cm  
L:\Engineering-Planning-and-Development\Olesevich-Carmen\Pelham\CORRESPONDENCE 2003\8346.p.busnello.doc



March 10, 2004

To whom it may concern,

We are writing in regard to the proposed subdivision ("The Orchards") to be located on the west side of Church Street.

In order for this to go ahead agricultural land must be rezoned residential.

As a Fruit Grower in Fenwick we are against this. Currently we rent orchard land from John Vanzanten. This land consists of apples and pears. We are in the process of establishing new plantings on the east side of this property and this borders directly against land of this proposed subdivision.

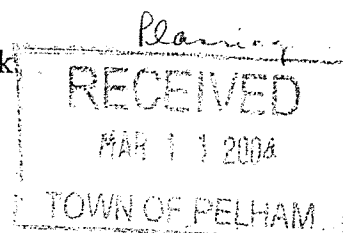
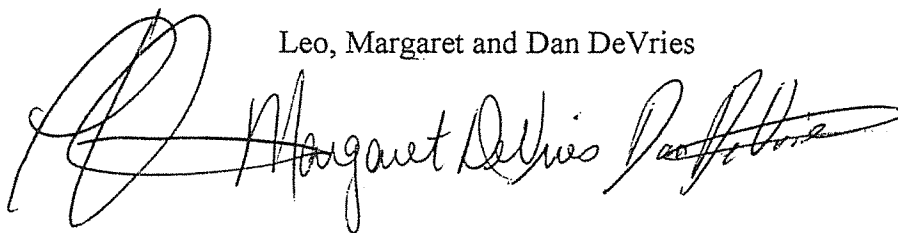
Our concern is water run-off and complaints from homeowners of this proposed subdivision. We control orchard pests and diseases by spray applications early in the morning and late evening. This creates noise and some spray drift.

We feel there is not much thought given to town planning. Prime agricultural land has already been rezoned residential. (For example- Old Stirtzinger property other wise now known as Edgewood Hills on Welland Avenue.) Water retention pond that doesn't work at the subdivision between Balfour and Maple. Municipal drains that are plugged with sand from construction zones. (Example- Brian Burkes farm which is extremely wet.)

It's sort of ironic that the name of the proposed subdivision is "THE ORCHARDS"!!! Someday there won't be any orchards in Fenwick.

Sincerely,

Leo, Margaret and Dan DeVries



DN

## MEMORANDUM

**TO:** Craig Larmour  
Director of Planning

**DATE:** March 30, 2004

**FROM:** Ernie Cronier, Director of Building & Enforcement Services

**Subject:** Breunissen, Draft Plan Approval, Official Plan and Zoning by-law Amendments

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The applicant is seeking approval of a plan of subdivision to create twenty- six (26) lots for single detached dwelling use, one (1) block for the accommodation of eight (8) street townhouse dwelling units, one (1) block for stormwater management and one (1) block for a 10 metre wide emergency access.

A portion of the lands is designated Good General Agricultural in the Official Plan and zoned Agricultural A zone in the zoning by-law necessitating an application for Official Plan and zoning By-law amendments.

The land adjacent to and north of the subject property is currently the subject of a rezoning application to recognize an animal operation which, if approved, may have an impact on the proposed subdivision. Although there has been a public meeting for the Clark application at 916 Church Street ( #AM-9/03) Council has not made a decision or passed the amending by-law to satisfy the request. Therefore, to date, the animal operation on the Clark property is not considered conforming to the zoning provisions.

Unfortunately, this poses a problem for all parties concerned. If the subject application from Breunissen forges ahead before the Clark application is completed there will be no impact on the subdivision proposal. If the Clark application is approved prior to the subdivision approval it will have a significant impact on the proposed land development on the Breunissen lands. It would appear that the most appropriate approach would be to run the applications simultaneously so that the all issues can be addressed at the same time and have an agreeable outcome for the applicants.

Mr. Clark had OMAFRA do an MDS II for the 3 animal units (3 beef cows with yard). Based on the 3 animal units I have calculated the MDS I for the subdivision and concluded that lots 1 through 8 would be affected by the Clark animal operation if it were legal. Is my interpretation that there should be no non-farm development within 90 metres of Mr. Clark's barn.

I also have concerns about the proposed lots or blocks which will be zoned Open Space OS zoning which I assume will designate Blocks 28 and 29 and possibly the extension of the emergency access to Foss Road. The lot areas for Block 28 and 29 are proposed to be 0.2 hectare and 0.04 hectare respectively whereas the by-law requires a minimum lot area of 0.8 hectare in the OS

zone. The addition of the southerly portion of the emergency access strip to Block 29 would bring that lot area to a total of 0.09 hectare. Block 29 also shows a lot frontage of 10 m whereas the by-law requires a minimum of 15m for the OS zone. These deficiencies should be dealt with through the zoning amendment.

Yours truly,

A handwritten signature in cursive script, reading "Ernie Cronier".

Ernie Cronier  
Director of Building & Enforcement Services

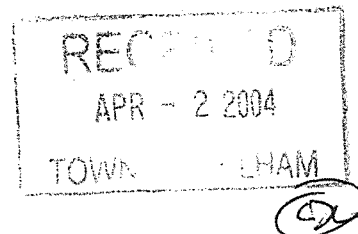
EC/sj

**Rodney Wright**  
**905 Canboro Road R.R.#1 Fenwick, Ont LOS 1C0**

---

March 29, 2004

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



Attention: Office of the Mayor

Dear Sir:

It has been brought to my attention that the group promoting the Orchards Subdivision on Church Street in Fenwick is requesting a change in the urban boundaries.

A few years ago I attended the hearings before the Ontario Municipal Board prior to the establishment of the present urban boundaries. Farmers from Pelham including myself requested that the boundaries be established so we could operate our farm businesses without interference. In order to make investments in our farm businesses and operate our farms economically on a scale enabling us to pay off debt and raise our families, we needed protection from urban encroachment.

These reasons are still relevant today and therefore I am opposed to any changes of urban boundaries especially when the movement of the boundaries place non agricultural residences adjacent to farm activities. The proposed subdivision will have a negative impact on the agricultural activities of Leo DeVries and John Van Zanten to the West and Dell and Phylis Clark to the North.

Allowing non agricultural residences to encroach on agricultural activities could result in curtailment of normal agricultural practices which would have a negative impact on the farm operator. The extent of this impact could include farmers losing their livelihoods and therefore the enjoyment of their property. It seems unconscionable that the Town of Pelham would consider changing boundaries that could negatively impact existing agricultural businesses for residences that currently do not exist in the community.

Yours truly,

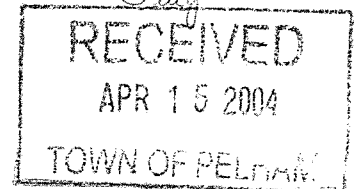
Rodney Wright  
cc Regional Municipality of Niagara

RE: Future Development  
Church Street north of Foss Road  
Town of Pelham

File# D.10.M.19.23  
D.13.RE.AM-192

The following comments are offered to the planning department for their consideration and for inclusion in an information report in regards to an application for urban boundary expansion, the proposed "The Orchards" subdivision. The comments were prepared by my wife and I, and although we are lay people in these matters, they are based on our honest and sincere understanding of the facts.

Please find enclosed ~~Appendix~~ <sup>MAP</sup> A, showing our property location and zoning, ~~appendix~~ <sup>MAP</sup> B showing drainage run offs and ~~Appendix~~ <sup>MAP</sup> C detailing pasture, barn and wooded areas.



**APPENDIX A Drainage**

There are five points where natural run off occurs. From the north following south, across our property. The volume is extremely high, particularly during heavy rains in the spring and fall. The natural run off originates in my neighbour's property (to the north), proceeding south in small open drains. In all it drains an area of 15 to 18 acres of agricultural land. This run off crosses my pasture where my three cows graze year round, and therefore this agricultural drainage would flow into the back yards of any re-zoned urban areas. I practice proper pasture management and do not excessively use agricultural chemicals. The retention of the agricultural zoning to the south would accommodate this run off through natural absorption and existing open drains. Any raising of existing land levels or changing of water tables, by urban development, would result in flooding and stress leading to irreversible damage to my pastures and the hundreds of mature trees on my property. To a lesser extent flooding would do harm to my animals, fences and out building. Again, I must emphasize that this run off can be very heavy.

~~APPENDIX B~~ Safety and Liability

The operation of heavy farm equipment on our agricultural land would present a danger to abutting properties. For example, my bush-hog has been known to throw items it strikes up to 25 feet. I also utilize a mower, heavy trimmer, and have rented a roto-tiller, which has a similarly dangerous effect. In addition my equipment is noisy. My cattle, although tame, are still large animals with a horn spread of 3 feet. Any unusual noises or situations which would naturally occur in an urban setting would cause them to defend themselves, and their natural reaction is to use their horns, hooves, or run. Small children and dogs have, in the past, frightened these cows. The cattle are contained by an agricultural electric fence which could prove harmful to said children and dogs, as well as being potentially harmful in electrical storms. Furthermore, on occasion, I use agricultural sprays on my trees, as well as spread rotted manure.

Our property is maintained in a park like setting (clearings, trees, ponds, etc.), which would naturally attract trespassers from urban areas in close proximity. Although most people are respectful, a higher urban concentration increases the likelihood of both trespassing and vandalism (At present my neighbour to the north is experiencing vandalism from bush parties and trespassers). The retention of the present urban property would give us peace of mind, provide a greater degree of security and ensure an area of safety from over use of agricultural land.



**APPENDIX C Property Enjoyment and Protection of Investment**

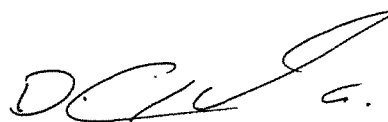
The decision to purchase our property in 1988 was made with the knowledge of the existing urban boundary zones and their implications. Our dream was to locate a property which would allow us to reside and develop a hobby farm, and to accommodate animals we already owned. The property chosen offered all we had hoped for and we felt secure in the assurances that any zoning changes would be an involved and difficult process. We subsequently built a barn, then a house, over the next 16 years and we have made a sizable investment in time, labour and money. We have spent approximately \$55,000 on the agricultural area mentioned above on such things as barn stables, roads, equipment, ponds and fences. The result has been an overall improvement to this agricultural property, which includes a sizable treed area, consisting of mainly pines, planted by the Ministry of Natural Resources about 40 years ago. The property as we have developed it, provides us with a great deal of happiness and is a source of comfort, pride and satisfaction. We are both retired, and our area has become a family gathering spot for our children, grandchildren and friends. Any altering of the zoning boundary would drastically alter the dynamics of our property, forcing us into an unbargained for and uncomfortable co-existence with an urban environment.

A secondary concern is that should development be allowed on newly rezoned agricultural lands, it would diminish the value in our property, to be presented as a developed hobby farm where animals are permitted, thus making it attractive to prospective buyers who desire these situations in this region.

In conclusion we are strongly opposed to any expansion of the established urban boundaries as they now exist. We are not, however, opposed to any well thought out and reasonable development where it is presently allowed. We are confident that the planning process will thoroughly address the needs of development with those who have invested in and live on its borders. The present urban/rural mix that exists in our neighbourhood is most valued by those of us who live here and it would be sad to see it destroyed through the aggressive, profit motivated dictates of land developers.

Sincerely,

  
Phyllis Clark

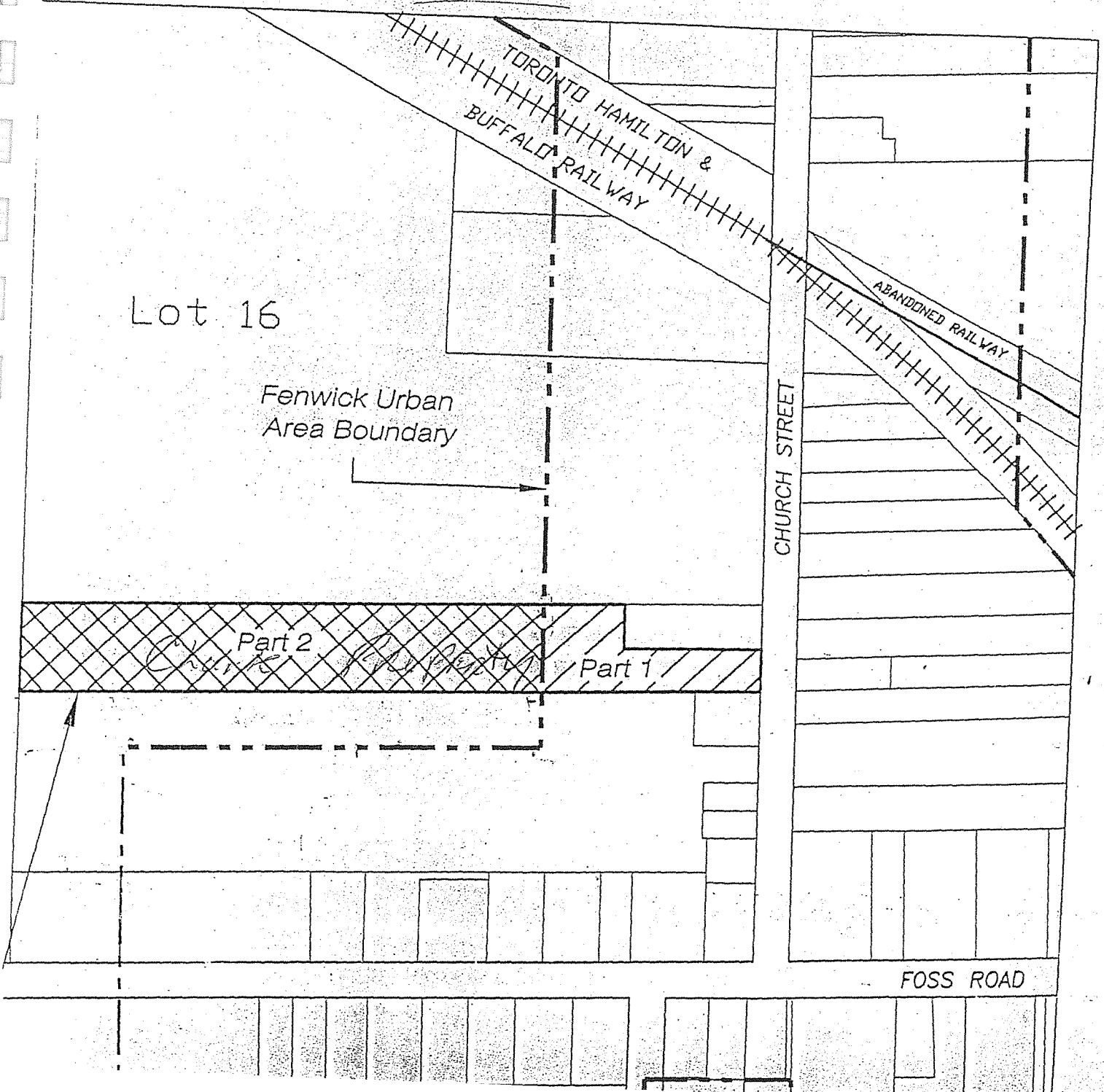
  
Dell L. Clark

916 Church St.  
FENWICK, ONT.

REPORT NO. )  
ATTACHMENT )  
PAGE NO. ///

# LOCATION MAP

*Map A*



MAP "B"

Property Boundary  
D.V.P. CLARK

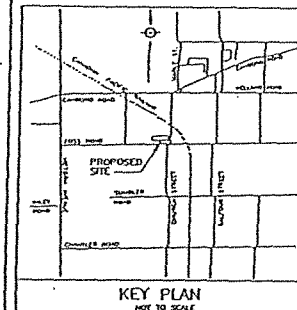
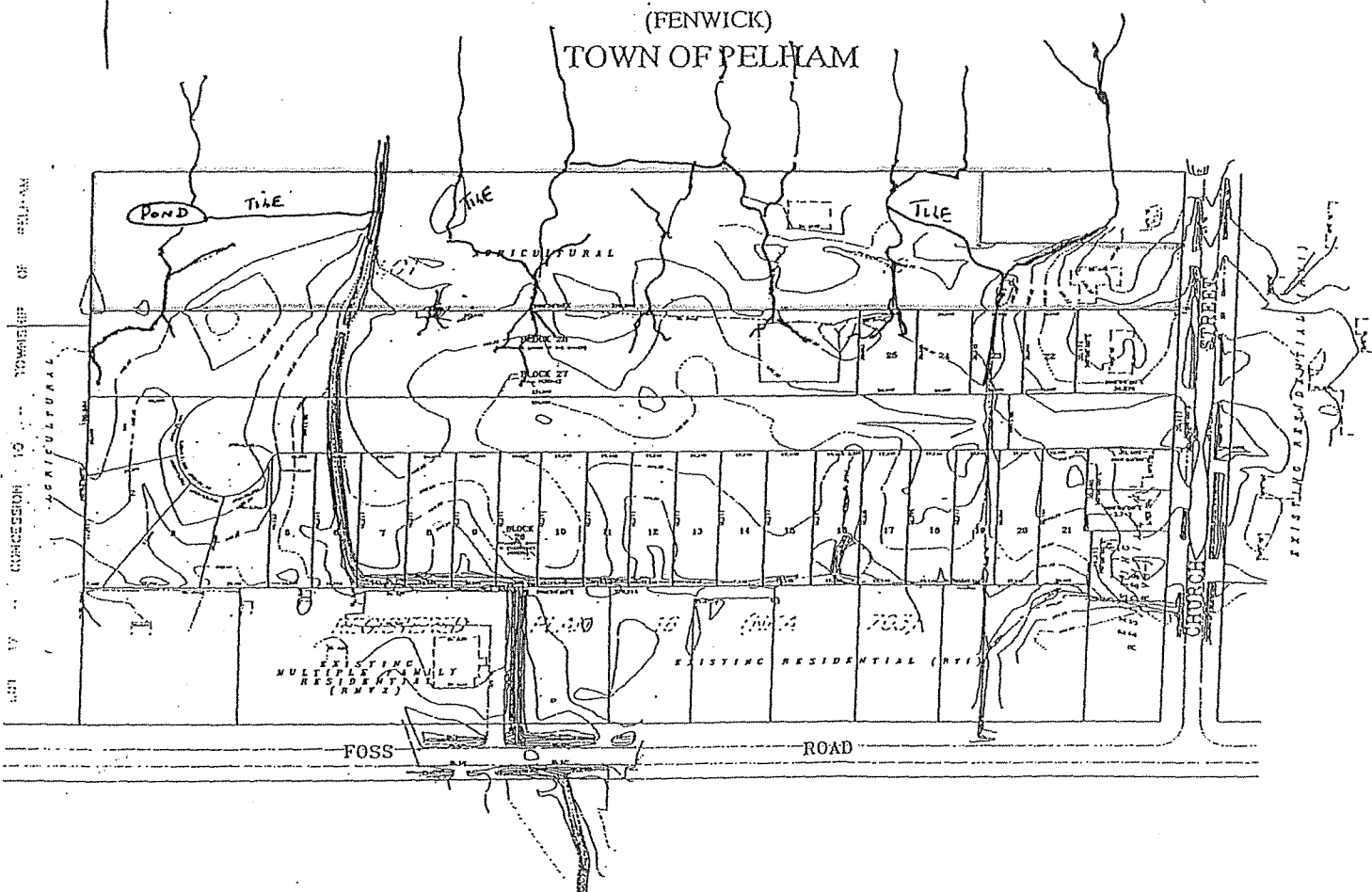
# THE ORCHARDS

RUN OFF  
DRAINAGE RUNS

(FENWICK)

TOWN OF PELHAM

SECTION 10 TOWNSHIP OF PELHAM



## DRAFT PLAN OF SUBMISSION

### LEGAL DESCRIPTION

PART OF LOT 18 ON THE  
WEST SIDE OF CHURCH STREET  
REGISTERED PLAN 18  
TOWNSHIP OF PELHAM  
FROM LOT 18

### TOWN OF PELHAM

### OWNER'S CERTIFICATE

I, THE REGISTERED OWNER, HEREBY  
AUTHORIZE MYSELF TO SUBMIT TO THE  
TOWNSHIP OF PELHAM THIS DRAFT PLAN OF  
SUBMISSION TO THE TOWN OF PELHAM  
FOR APPROVAL.

PLANNING DEPARTMENT DATE

### SURVEYOR'S CERTIFICATE

I HEREBY CERTIFY THAT THE BOUNDARIES OF THE LOTS  
AS SHOWN AND THEIR RELATIONSHIP TO THE ADJACENT  
LANDS ARE ACCURATELY AND CORRECTLY SHOWN.

F. DONALD ROSS, R.S.M. DATE

### REQUIREMENTS OF SECTION 51(17) OF THE PLANNING ACT

LOT	AREA	AREA	AREA
1	1.1	1.1	1.1
2	1.1	1.1	1.1
3	1.1	1.1	1.1
4	1.1	1.1	1.1
5	1.1	1.1	1.1
6	1.1	1.1	1.1
7	1.1	1.1	1.1
8	1.1	1.1	1.1
9	1.1	1.1	1.1
10	1.1	1.1	1.1
11	1.1	1.1	1.1
12	1.1	1.1	1.1
13	1.1	1.1	1.1
14	1.1	1.1	1.1
15	1.1	1.1	1.1
16	1.1	1.1	1.1
17	1.1	1.1	1.1
18	1.1	1.1	1.1
19	1.1	1.1	1.1
20	1.1	1.1	1.1
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25	1.1	1.1	1.1
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94	1.1	1.1	1.1
95	1.1	1.1	1.1
96	1.1	1.1	1.1
97	1.1	1.1	1.1
98	1.1	1.1	1.1
99	1.1	1.1	1.1
100	1.1	1.1	1.1

### LAND USE SCHEDULE

LAND USE	LOT/BLOCK	NO. OF UNITS	MEAN	DATE
WHOLE FARM	1-25	30	1.00	1.00
INDUSTRIAL /	BLOCK 26		1.00	1.00
COMMERCIAL /	BLOCK 27		1.00	1.00
AGRICULTURE	BLOCK 28		1.00	1.00
RECREATION	BLOCK 29		1.00	1.00
RESIDENTIAL	BLOCK 30		1.00	1.00
TOTAL		30	3.00	3.00

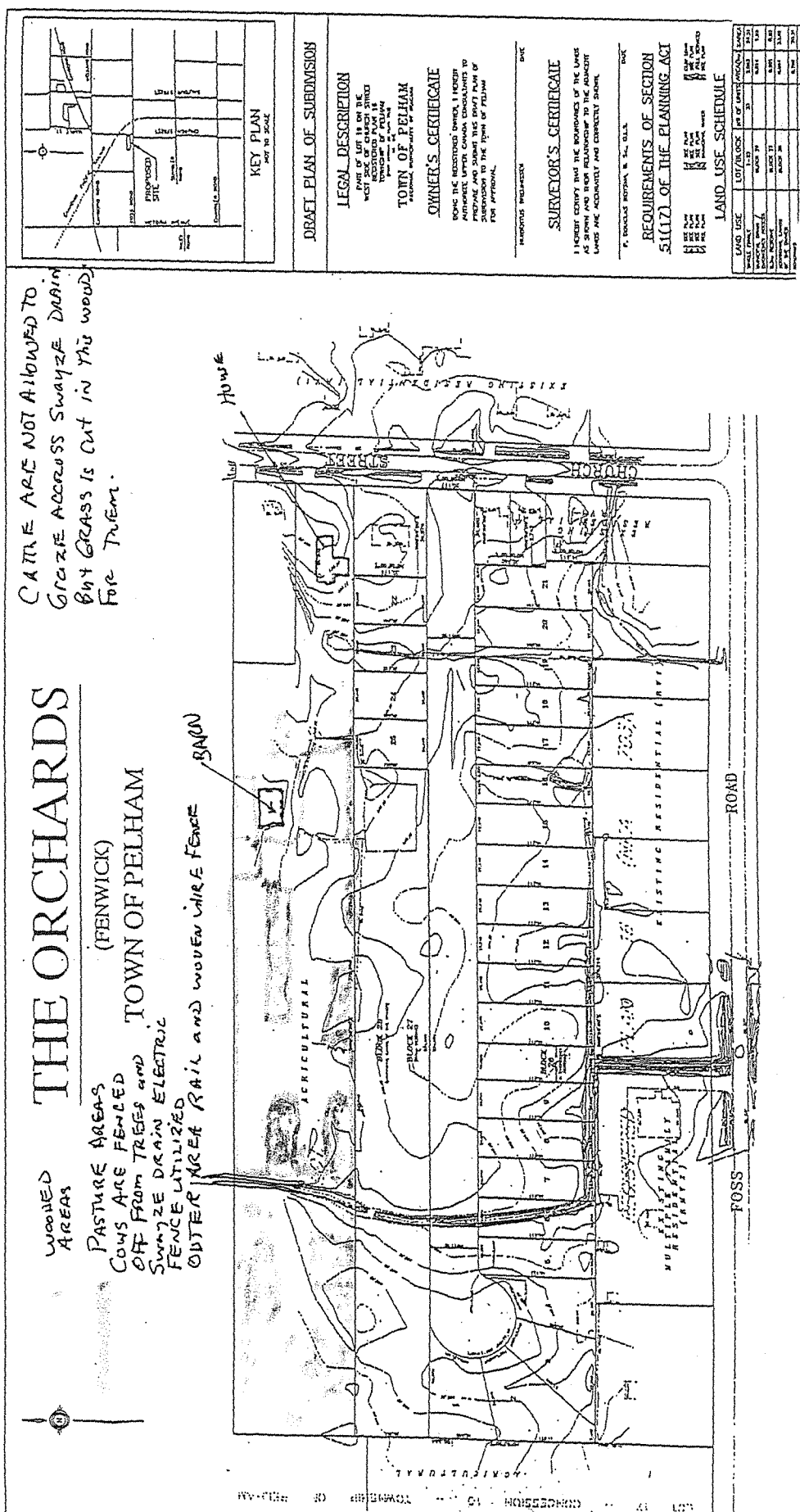
DENSITY 8,310 UNITS/Ha.

DATE: APRIL 3, 2003

SCALE: 1:750



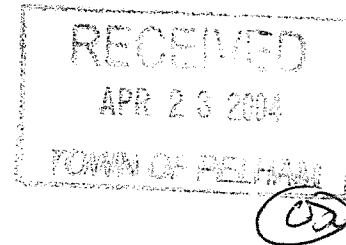
110000 CANADA



**Jan VanZanten**  
**879 Foss Road Fenwick, Ont L0S 1C0**

April 22, 2004

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



Attention: Office of the Mayor

Dear Sir:

We own and operate the greenhouse business situated at 879 Foss Rd, Fenwick. We are part of Lot 17, Concession 10. This is located on the west from the proposed *The Orchards* subdivision. The proposed *The Orchards* subdivision will have a direct negative impact on our greenhouse and fruit farm operation.

Our viability as a greenhouse business will be drastically restricted because:

1. When the need arises we will not be allowed to expand in the future, or we will be severely restricted. We are required to stay away from the houses a minimum 150 feet.
2. If we have to apply chemicals in the greenhouse it might create an unpleasant odour when we ventilate.
3. If we have to use artificial lighting in the winter months, we will be expected to use black shading to keep the light away.

We have two sons and one daughter. Our oldest son, twenty-two years of age, is already involved in the greenhouse operation. Most likely the need to expand will arise in the very near future. This is also the reason we purchased this property in 1990 so we had land to expand. We have about fifteen acres.

We also have fruit trees that are leased out to Mr. Leo deVries who also resides in Fenwick. Mr. Leo deVries does an excellent job in keeping it up and working the land. He has spent a considerable amount of money in replacing older trees with new ones and maintaining the orchard so it remains a viable operation.

Spraying of chemicals is done in the early morning or in the evening. The prevailing wind is southwest which would result in many complaints if the subdivision would be built.

(smell) Smell of the chemicals applied.

(noise) Turbine fan from the sprayer.

(noise) Noise of the tractor during harvest.

You may be well aware that the good agriculture zoning is our protection as a greenhouse and fruit farm operation.

This is our livelihood and also a big financial investment. The value of our greenhouse operation will be drastically reduced if the proposed subdivision will be granted, since there would be no opportunity for growth and expansion. We ask hereby, that the town will not grant permission to build the proposed subdivision, instead protect the good agricultural land, so that we are able to operate our business.

It only has a negative impact on the entire neighborhood. As an agricultural community there are no benefits to the proposed *The Orchards* subdivision plan.

Yours truly,

Jan VanZanten

Brief by Preservation of Agricultural Lands Society re Proposed Regional Policy Plan  
Amendment 192

On behalf of the Preservation of Agricultural Lands Society, (PALS), I am requesting that the proposed Amendment 192 to expand the Town of Pelham's urban area boundaries for the hamlet of Fenwick be opposed. These hamlet boundaries were developed with particular care to reduce impacts on the agricultural industry. The proposed urban expansion would create a new boundary, which would erode this protection, creating serious land use conflicts with residential neighbours.

It is unfortunate that the subject lands were excluded from the provincial greenbelt moratoria on urban boundary expansions. The boundary line is only a few hundred yards away. If this had altered to recognized the existing orchard in the vicinity of the expansion area, tonight's meeting under the Planning Act would not be possible to convene.

Fenwick should be bordered on all sides by a unique fruit land designation. It does not make could planning sense to eventually have the urban area of Welland extend into Fenwick. This could happen if the lands south of Fenwick are not designated as unique lands. The limit of the unique land area should extend around the entire hamlet of Fenwick. This would bring in all of the rural lands around Fenwick into the protected Greenbelt. In the past all of these lands were included within the Niagara Escarpment Plan area because of their location within the shadow fruit belt- an area where a substantial percentage of the land is in various fruit and grape crops.

The strongest reasons against the proposed urban expansion is that there is a hobby farmer with three cattle to the north and a greenhouse and orchard to the west. The current urban boundaries were developed to protect these agricultural uses and this protection would be compromised if the proposed amendment were approved.

The Town of Pelham recent underwent a massive process of approval and expansion of its urban boundaries. During this process it was said on several occasions that there would be no more expansions within the normal 20 year planning period. Since almost all of these lands are still undeveloped, these promises should be upheld and the expansion denied.

Sincerely,

(Dr) John Bacher (PhD)  
researcher, PALS

RECEIVED AT PUBLIC MEETING March 10th 2

*— people plan/live around the boundaries that exist.  
whether or not the boundaries make sense*

*Submitted at  
Meeting  
April 26, 2007  
re Brunisse*

## Comments to Town Council Regarding Application to Expand UAB:

My wife, Wieske, and I own apartment buildings located at 833 and 835 Foss Road, where we also reside. This property is immediately to the south of the subject lands of this application.

I originally moved into the property as a child in 1956, and was raised and educated locally. My parents have continued to own the property and have resided here until July of 2003, when Wieske and I purchased the property from them. In effect, this property represents my roots and has been my home for almost 50 years.

Further, the property is our major investment and income supporting us in our retirement.

Before outlining the specifics of our opposition to the application to expand the Urban Area Boundaries, there are some general comments I want to make:

First, we were surprised at the expansion in the scope of the application following the discussion that we had here in July of 2003, when we all heard concerns from neighbours about the smaller proposal for the subject lands presented at that time. It seems that the expression of those concerns had no impact on the developer's thinking as the revised proposal increases those aspects of the plan which gave rise to comments in the first place. Obviously, the same concerns are or will be expressed today, in addition to those



further concerns that are elicited by the additional elements of the proposal. We hope that views that are offered today will modify the proposal to something more acceptable to everyone, rather than worse, as in the case of this revised proposal.

Second, we are concerned by the general tone of the report submitted on behalf of the developer by Urban and Environmental Services, particularly as it likely reflects the attitudes and opinions of the developer. The report dismisses the impact of the proposed development and of expanding Urban Area Boundaries as insignificant, indeed dismisses surrounding existing uses as insignificant, and suggests that the proposal represents good urban planning. In fact, although the area of the subject lands is not large, what is being proposed is very significant. Significance is not based on scale, but on the impact on the lives of people, and is more often qualitative and subjective, not a matter of numbers or size. So, agricultural and other operations around the proposed development are not so insignificant, particularly to the people who rely on them, and Policy 5.6 hurdles to development are not so “unfortunate”, at least to people who pursue property uses that are consistent with current zoning and restrictions but which are threatened by a proposed development that needs to remove current zoning and restrictions in order to proceed.

We trust that Council sees through the rationale of positions taken within the report, and that comments made by surrounding property owners and residents today have a real place in consideration of this application.

Our opposition to the application to expand Urban Area Boundaries in the lands under discussion arises out of two issues:

1. Grave concerns about storm and runoff water management. This is an issue that represents real threat to our property; and,
2. The adverse potential that the entire development proposal, in its nature, size, and location, has to our property.

With respect to storm and water management:

The flow of water in the area is from north to south. Our property is on the south property line of the subject land. Our property is relatively low compared to contiguous properties, and was the natural path of the flow of water from the north in the past, and would be today were it not for drainage systems in place that have been constructed in the past.

There is an enormous amount of water that drains through the area from seasonal precipitation and from spring melt. The water table seems quite high and percolation seems quite slow in the entire area. Our property on its own is precariously close to flooding frequently, particularly at springtime, even without additional water that might encroach from the north if current systems were to be disturbed.

Our property was essentially a swamp from fall through spring every year until the Swaze Drain was deepened and redirected to its perimeter by my father around 1960. This act allowed the property to have a garden and lawn, place a basement under the original house there, and, ultimately, construct an income producing building in 1990. None of which would have been possible without managing the flow of water around the property.

The redirection of the water to the culvert provided an additional benefit to the area in that the stability of Foss Road was improved immensely. Foss Road theretofore was frequently impassable as a result of water's intractable desire to flow downhill.

We are hugely concerned about both the apparent lack of thought that has to date been exercised about how water is to be managed in the proposed subdivision, and even more concerned about the hints that appear in the reports. We don't know what the effect of grading the subject land to raise it to accommodate gravity flow of sewage, and covering it with even less absorbent surfacing, will have on water drainage patterns that will affect our property. In particular, the possibility that the Swaze Drain might be relocated further to the east, removing the stretch of drainage that currently blocks unfettered flow from the north, is upsetting. And the proposed use of block 28, on the high side of the plan, for storm water management, apparently requiring water to flow uphill from the balance of the lands in question to receive the benefit of management, just seems downright useless.

So we are gravely concerned that the impact of the development as proposed will return our property to the sad state in which we found it 50 years ago, when the property was virtually unusable and valueless.

As to the potential of an adverse impact of the proposal, in its nature, size and location, on our property value:

Our property is zoned as multi-residential and has two buildings: including a 10 suite apartment block constructed 15 years ago, and the original bungalow which was raised and expanded 45 years ago, and, on the reduction in the numbers of our family residing there over the years, converted to one major apartment and two smaller apartments.

There is considerable value there. In fact, we probably have as much invested in that property as the developer of the subject land has invested in his to date, and we are at least as concerned about maintaining our investment as the developer has in increasing his.

Part of the value of our property arises out of its attractiveness to renters. Our renters tell us that they prefer the rural and park like setting of our property, its views, and the peace and quiet of living in the country, the distance from the urbanism usually associated with apartment buildings. These qualities are seriously threatened by the proposal which is being presented by the developer.

The threat comes from three elements in the proposal:

- a) The loss of open areas as a direct result of expanding the UAB. We recognize that development within the current UAB would bring housing onto blocks immediately adjacent to our property in any case, but, if balanced by significant blocks zoned agricultural nearby, this would be less detrimental to our property value than if all the area was completely developed.
- b) The opportunistic and insensitive proposal to place townhouses on lots contiguous with our property. The Urban & Environmental Services Report appears to make the erroneous judgment that, if there should be a block in the development to be multi-residential, that it would be appropriate to place it right next to a multi-residential block that already exists. The reality is that this unimaginative option reduces the attractiveness, and therefore the value, of both blocks. The difference between a unique, interesting, and attractive rental building and a tenement district with a downwardly spiraling social ambiance, which is the unfortunately typical nature of multi-residential areas in urban settings, is the number of multi-residential units in the immediate area. If there is some need for a multi-residential block in the development, then some thought should be given to placing it somewhere in which it can enhance its own value as well as not diminishing the value of property around it.
- c) The sheer density of the proposal, which results in many small lots that are not consistent with other

properties in the immediate area. This causes further loss to the attractive rural aspect of our area, forcing us through location to become part of an urban like subdivision. This is not what our renters come to us for, and so impacts the value of our property and the rate of return on our investment.

Finally, the bottom line of these comments are about the bottom line. Clearly, the purpose of this application to expand Urban Area Boundaries is to improve the investment that the developer has made in the subject lands. Doubtless, when he made his investment, he understood the economic potential of his purchase in terms of the zonings and limitations that existed at the time. Hopefully, he is able to realize a fair return on his investment on the number and type of building lots that are allowable given current zoning, and, certainly, with imagination and sensitivity, we feel that there is plenty of potential for a good return on developing the property without changing zoning. But if not, then he may have made a poor investment. If so, it should not fall to us, his neighbours and broader community who make up the town, to improve the prospects of his investment by diminishing the value of our lives or property. The improvement of his investment should not be at the cost of our own.

Those are my comments, and I would be happy to answer any questions that anyone may have.

*Submitted at Public mtg  
April 26, 2004  
in Breunissen*

Brief by Preservation of Agricultural Lands Society re Proposed Regional Policy Plan Amendment 192

On behalf of the Preservation of Agricultural Lands Society, (PALS), I am requesting that the proposed Amendment 192 to expand the Town of Pelham's urban area boundaries for the hamlet of Fenwick be opposed. These hamlet boundaries were developed with particular care to reduce impacts on the agricultural industry. The proposed urban expansion would create a new boundary, which would erode this protection, creating serious land use conflicts with residential neighbours.

It is unfortunate that the subject lands were excluded from the provincial greenbelt moratoria on urban boundary expansions. The boundary line is only a few hundred yards away. If this had altered to recognized the existing orchard in the vicinity of the expansion area, tonight's meeting under the Planning Act would not be possible to convene.

Fenwick should be bordered on all sides by a unique fruit land designation. It does not make could planning sense to eventually have the urban area of Welland extend into Fenwick. This could happen if the lands south of Fenwick are not designated as unique lands. The limit of the unique land area should extend around the entire hamlet of Fenwick. This would bring in all of the rural lands around Fenwick into the protected Greenbelt. In the past all of these lands were included within the Niagara Escarpment Plan area because of their location within the shadow fruit belt- an area where a substantial percentage of the land is in various fruit and grape crops.

The strongest reasons against the proposed urban expansion is that there is a hobby farmer with three cattle to the north and a greenhouse and orchard to the west. The current urban boundaries were developed to protect these agricultural uses and this protection would be compromised if the proposed amendment were approved.

The Town of Pelham recent underwent a massive process of approval and expansion of its urban boundaries. During this process it was said on several occasions that there would be no more expansions within the normal 20 year planning period. Since almost all of these lands are still undeveloped, these promises should be upheld and the expansion denied.

Sincerely,

(Dr) John Bacher (PhD)  
researcher, PALS

*Submitted at Public mtg  
April 26, 2004  
re Bruenissen*

Law Office

**Brian N. Lambie**

Barrister & Solicitor

Voice (905) 708-7450

Fax (905) 835-5966

e-mail: blambie1@cogeco.ca

Brian N. Lambie, B.A., LL.B.

109 Adelaide Street  
Port Colborne, Ontario  
L3K 2W4

Monday, April 26, 2004

Craig Larmour, Director of Planning Services  
Town of Pelham  
20 Pelham Town Square  
P.O. Box 400  
Fonthill, ON L0S 1E0

Dear Mr. Larmour:

**Re: Proposed Amendment to the Regional Policy Plan, Pelham Official Plan and Zoning By-Law and Draft Plan of Subdivision - Huibertus and Helena Bruenissen, The Town of Pelham**

Please be advised I act for Mr. Joseph Rybiak.

The purpose of this letter is to make the Planning Services Committee and the applicant aware of an existing Site Plan Agreement, with the Town of Pelham and Joseph J. Rybiak, which requires the municipality to make its best efforts to collect a portion of the costs of the watermain from developers of multiple family developments which require the use of the watermain, when they are developed and to pay the sums collected to the Owner. In principal, we do not have issue with the proposed draft plan subdivision.

The watermain in question is a 150mm diameter main constructed within the road allowance of Foss Road from 835 Foss Road easterly to Church Street. The watermain was constructed by Joseph J. Rybiak in 1989 to service his apartment development at 835 Foss Road.

It is our understanding from the Notice of Public Meeting that the applicant is proposing a multiple family component in the form of eight (8) townhouse dwelling units, together with twenty six (26) single family lots which, in our opinion, falls within the intent of the above noted Site Plan Agreement.

We understand that it is the intent of the applicant to loop the watermain by way of Block 29 to the Foss Road watermain. The opportunity to connect to the Foss Road watermain benefits the applicant in that they avoid having to construct an additional length of watermain within Street 'A' to Church Street of approximately 133 m. We



appreciate that the existence of the 150mm watermain on Foss Road benefits everyone in that the looping will create a better system for the Town, the applicant and 835 Foss Road.

Based on the above, we respectfully request that the Committee direct planning staff to include in the condition of draft plan that the applicant be required to pay their fair share of a portion of the costs of the said watermain. For your further information the Site Plan Agreement states that, "The amount of construction costs is to be accurately determined by the Owner, verified by the Town Engineer and the final amount is to be placed on record with the Town."

Also, we respectfully request that this correspondence be received by the Committee and that we be notified of any Council or Committee meeting where this matter may be discussed.

Yours very truly



Brian N. Lambie

c.c. Joseph J. Rybiak  
Jack Bernardi

*Submitted at Public Mtg  
April 26, 2004  
re Breunissen*

Re: POLICY PLAN AMENDMENT #192  
FENWICK URBAN AREA EXPANSION  
CHURCH ST AND FOSS RD  
TOWN OF PELHAM

April 26, 2004

Dear Committee Members,

I am writing in response to the application before the town of Pelham and the Region of Niagara from Upper Canada Consultants on behalf of Huibertus and Helena Breunissen. I am a resident in the village of Fenwick and I have served as a Pelham Town Councilor for the last 9 years. The proposed amendment to the Town of Pelham official plan to redesignate Good General Agricultural land, to Village residential is **NOT** in keeping with the intent of development within the residential village of Fenwick. The Breunissen's being new to the area may not have been aware of the unique historical and agricultural history of our village and the planning of future growth. I appreciate this opportunity to convey my input and concerns.

More than 15 years of extensive studies and approvals have been attained in planning the urban development within the Town of Pelham. Several agencies as well as the public (including local farmers) were consulted to draft this plan to provide appropriate housing mix within the Town of Pelham. This plan is a 20-year plan that has just begun to be developed.

The land that the Breunissen's have acquired 2.5 hectares that is designated for urban use is not in question, but the 3.2 acres that they want to redesignate and use to increase the density is **OPPOSED**. The intent of residential development in the village of Fenwick was very planful. It was the intent to have additional developed lots sized in keeping with the Village to maintain a rural setting. For example in Cherry Ridge the lot size is approx 60' X 150'. What is the size of these proposed lots? To put 26 single detached houses as well as 8 town house dwelling units in this area is not good planning.

The Fenwick area continues to thrive with a mix of residential and agriculture land use. The ability for farmers to maintain their livelihood has remained a challenge. Many having to change, add or increase activity on their land in order to make a viable living. What loss will the neighbour to the west and east in the agricultural community have as a result of a change in land designation? It is the farmers right to be able to be productive on their land. Will future development on their land be impacted by this? What restrictions will the minimum distance separation formulae have if the residential area is changed?

During my years as councilor I have had complaints, when farmers proceed with their normal activity to maintain their crops and land.

- Manure complaints (odour)
- Spraying complaints (air quality)
- Noise complaints from large equipment, bird bangers
- Lights complaints from greenhouse operations
- Brush burning complaints

These are all normal daily activities in an agriculture area. We all rely on agriculture to live, lets not be short sighted and place intensified housing on this land and force our agriculture community out.

Intensified housing, especially high density housing, on the fringes of the village will create increased problem. This is an area without sidewalks; the sidewalk ends at the railway track. The roadway is narrow with deep ditches and minimal shoulders for bicycle or pedestrians traffic. The addition of high-density housing will increase pedestrian and bicycle traffic 4-5 fold. Intensified housing is more appropriately placed close to amenities with sidewalks, trails and parks.

Drainage has always been a concern on these lands. It is a low-lying area with Coyle Creek flowing through this area. The drainage ditches are constantly being improved and any alteration and intensity of land use would impact on drainage of the surrounding agricultural land. Maintaining these drainage ditches

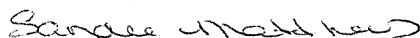
is a constant challenge and expense to the affected taxpayers. As keepers of the land we need to protect Coyle Creek and protect the fish habitat that rely on this tributary.

Increased traffic on Foss Road and Church St is also a concern. Intensified housing on the fringes will only add to these concerns. Needed upgrades to these roads are still 2 – 4 years away. With increased traffic there will be increased deterioration of these roads. There is only so much money available in the municipality for road improvements each year.

In conclusion it is essential that we keep the buffer between the present agriculture land and the residential area. Preserve the health of Coyle Creek. Consider the impact on the roads, the lack of sidewalks and the mentioned safety concerns.

There is no proven need to intensify the land use in this area. There is sufficient land in the urban area for this type of development.

Sincerely,



Sandee Matthews  
1116 Garner Ave  
Fenwick, ON  
L0S 1C0  
905.892.1750

*Submitted at  
Public Mtg April 26/04*

*re Breuniss*

**912 CHURCH STREET – PART LOT 19, PLAN 16**  
**(WEST SIDE OF CHURCH ST.)**

The Region has received a proposed amendment to the zoning of this 1.3 hectares of land, from Agricultural A to Residential Village (single houses) and Residential Village Multiple (townhouses).

We, the undersigned owners of property in Fenwick affected/concerned by the requested zoning amendment described above, do hereby protest against any changes which would zone the property to any classification other than agricultural.

Our reasons for protesting rezoning of this land are as follows:

- High density – 26 houses and 8 townhouses in the latest proposal, crammed in small area. This is inconsistent with the lot sizes already in the neighbourhood
- Changes in the water table
- Traffic impacts
- Aesthetics - destroying the very reason many people chose to live in this community - the view and housing/lot size mix.
- Loss of agricultural lands
- Heritage/cultural resource loss – fairgrounds had a significant impact in history of Fenwick, from 1800's until 1941 – artifacts still being found on this land, including that area requested as part of the zoning change

**IF YOU SHARE ANY OF THE CONCERNS NOTED ABOVE, PLEASE  
SIGN YOUR NAME/ADDRESS/PHONE NUMBER ON THE  
ATTACHED SHEET. THIS PETITION WILL BE PRESENTED TO THE  
REGIONAL COUNCIL OF NIAGARA AT A MEETING TO BE HELD  
APRIL 26, 2004**

Name	Address	Phone #
<del>J. McLean</del>	<del>91 Church St.</del>	<del>95-82-051</del>
J. Kennedy	809 Church St.	905-892-55
B. Kennedy	809 Church St.	905-892-55
C. BENDRY	931 Church St.	905-892-285
A. Gram	467 Welland Rd	905-892- <sup>683</sup> -
A. Levasseur	817 Foss Road	905-892-357
H. Squatley	748 Welland Rd	905-892-485
A. Haepke	962 Church St.	905-892-2365
K. MORRIS	938 Foss Rd.	905-892-7916
JACQUE SMITH	1094 BALFOUR	905-892-Y
Shelly Kurgin	760 CANBORO	905-892-433
Mary Summards	772 Welland	905-892-616
JOSIE MINOR	1202 BALFOUR	905-892-3980
<del>J. Munn</del>	790 Canboro Rd.	892-2365
CHAS Best	47 Summards Cr.	-880-
BOB WAGEE	530 Memorial Drive	892-5415
Jim Boil.	549 Canboro Rd.	892-6335
DAVID STEPAN	590 Canboro Rd.	892-9940
Hilda Glasbergen	807 Foss Rd.	892-3657
Christy Arsenault	963 Church St.	892-5038
Judy Dyck	928 Foss Rd.	892-4316
Gillian Latta	676 Welland Rd.	892-2217
John-Paul Crowe	1176 BALFOUR ST	892-6745
Charles C. Webb	811 Church St.	892-5074
L. O'Neill	957 Church	892-7570
Ja. Ceron	777 Canboro Rd.	892-2166
Rich Bell	3 ALSOP AVE. FENNVICK	892-907

Melanie Ogata	Fenwick, Ont	
Earl Ragsdale	RR #1 FENWICK	892-6193
John Pelinen	RD #3 FENWICK	892-9587
Nancy Jankowiak	Fenwick, Ont	
Sandra Mathew	Box 13 Fenwick	892-1750
Brad Dempsey	Fenwick Ont	
18 Johnson	Fenwick Ont	
J. Neenan	Fenwick Ont	
Mark Simmonds	FENWICK ONT	892-6160
<del>John Smith</del>	FENWICK	
Cathy Boydlaugh	FENWICK, ONT	892-2172
Andrew Costa	Fenwick Ont	892-6484
Margie Hadley	RR5 Fenwick Ont	892-4598
Mrs BIEUZ	FENWICK ONT	
John C. Burger	746 CANBORO RD FENWICK	892-3059
Judy Hays	R.R. #5 FENWICK ONT	892-4143
Richard J. Phillips	RR #4, 771 Fenwick, Ont	892-6731
HENRY NIEWO-0	810 CANBORO RD FENWICK	892-9179
Dave Sprue	1108 Broom St.	892-9718
Larry Pauline	716 Willard	892-9684
Paul Mc	7 FLOWERS RD FENWICK	892-6037
John Spelt	Willard Rd Box 71	892-6144
Reginald	FENWICK	892-8957
W. Mackay	Fenwick	892-6815
W. Heenan	Fenwick	892-3196
D.S.	Fenwick	892-8945

Name	Address	Phone #
George Iftody	639 Church St. Fenwick	905 892-2991
Jean Dayman	771 Church St Fenwick	
Jan van Zanten	879 Foss Rd Fenwick	905-892-1689
J. S. S. S.	930 Church St.	892-3313
Harion W. S.	951 Church St.	892-6573
Wm K. S.	951 Church St	892-6573
K. S.	716 Welland Rd Fenwick	892-9689
L. S.	716 Welland Rd. Fenwick	892-9689
LEO DELVRIES	825 Canboro Rd Fenwick	892-8724
Don Delvries	825 Canboro Rd Fenwick	892-8724
Don Delvries	819 Canboro Rd Fenwick	892-2140
Rodney Wright	RR#1 Fenwick	905-892-619
Elizabeth Wright	R.R. #1 Fenwick	905-892-619
Don Wright	RR#4 Fenwick	905 892-328
Jack Murphy	921 Church St Fenwick	905 892-787
Marla D. S.	923 Church St. Fenwick	905 892-6089
Brenda K. S.	910 Church St. Fenwick	905-892-396
Ray S.	909 Church St Fenwick	905-892-8008
Judy S.	909 Church St. Fenwick	905-892-8008
Don Iftody	RR. #1 Fenwick	905 892-299
Don Iftody	627 Church St. R.R.#1, Fenwick	905-892-641
W. S.	#39. 413 Linwell Rd. St Catharines	905-435-102
W. S.	968 Church St Fenwick	905 892 816
W. S.	920 Church St. Fenwick	905-892-643
W. S.	912 Church St Fenwick	905-892-8110
Rosemary S.	912 Church St. Fenwick	905-892-8110

Name	Address	Phone #
ADAM CARTER	908 Church St., Fenwick	892-0753
Lisa Carter	908 Church St., Fenwick	892-0753
Tracy Jay	963 Church St., Fenwick	892-2764
Graa Koorstia	907	892-3914
Norman Recchio	915 Church St Fenwick	892 8307
Gladys Recchio	915 Church St Fenwick	892-8307
Robert	919 Church Street, Fenwick	892-2799
Verma Copeland	906 Church St., Fenwick	892-636
Rich Finner	904 Church St	892-0575
Sandi Misener	917 Church St., Fenwick	892-4765
Rob Misener	" " "	"
Richard Schauf	938 Church St. "	892-2017
Patricia Schaub	938 Church St. "	892-2017
Judi Postman	920 Church St. "	892-6434
A. M. L.	792 Foss Rd	892-1337
Mary Hahn	792 Foss Rd Fenwick	892-1337
P. McNulty	777 Foss Rd. Fenwick	892-9269
D. McNULTY	777 FOSS RD	892-9269
K. van Weerden	770 FOSS RD.	892-0970
P. van Weerden	775 Foss Rd	892-0970
Lina Perriot	801 FOSS Rd.	892-3596
Cardyne Watts	788 Foss Rd.	892-3775
Nancy Hou	815 Church St.	892-0346
Dave Howard	801 Foss Rd.	892-3596
Diane Okota	809 Foss Rd	892-4556
Michele Kiehl	790 Church St.	892-2031
Mary Kiehl	790 Church St	892-2031



Dan Stets	11176 ARNER AVE	892-4465
A. Sutcliffe	938 Church St.	
C. Leonard	963 Church St	
P. Skelbourn	807 Foss Rd.	892-3657
Jerry Berts	919 Church St	892-2789
Tracey Davary	508 Memorial Dr	892-4062
Thomas Larocque	16 1/2 Sixth St	732-0355
Angela Greenwood	16 1/2 Sixth St	732-0355
Jane & Jutta	Maple St.	
Ch. Walbran	811 CANBORO RD. FENWICK	892-2089
Joan Hill	814 FOSS RD	892-8997
		386-6127
Er. K.	704 CANBORO RD. #107	892-3122
Walt Reinisch	963 Church St	933-2696

Name

Address

**Phone #**

DAN LAWRENCE	Henry St.	688-9708
Ralph Stollwood	269 Canboro RD.	892 3016
Ed. Moniczy	995 Balfour St	892-2719
Timothy Nause	33 Empire St.	714-1758
STEVE SIMMS	329 BECKETT CR	892-4398
DAVE CLARK	329 BECKETT CRT.	892-4398
Ricky Lynn Clark	329 BECKETT CR	892-4398
Wayne Buckner	360 CANBORO RD	892-9719

[illegible]



250 Thorold Road West, 3rd Floor Tel (905) 788-3135  
Welland, Ontario L3C 3W2 Fax (905) 788-1121  
E-mail: npca@conservation-niagara.on.ca

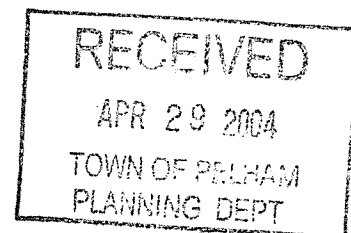
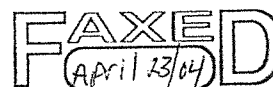
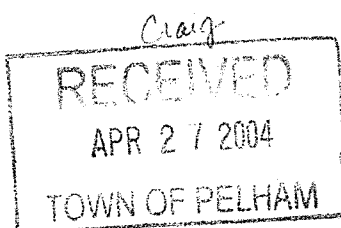
April 23, 2004

File MPR 6.11.49

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

Dear Mr. Sir:

Subject: The Orchards Subdivision  
RPPA 192, ZBA, OPA and Draft Plan Approval Application  
Pelham File 26T19-03002  
Church Street, north of Foss Road



Further to your request for comment on the above noted draft plan of subdivision, Official Plan Amendment, Zoning Amendment application, and Regional Policy Plan Amendment, we offer the following comments for your public information meeting. As a note, these comments are based upon the "Redline Revision – The Orchards Plan 26T19-03002" circulated with the notice of public meeting. This plan shows 26 singles, an 8 unit multiple family block, a stormwater management block, and an emergency access block.

The property is crossed by a section of the Swaze Drain, a municipal drain. The Ministry of Natural Resources has designated the Swayze drain as a Type 2 Important Fish Habitat. In general terms, re-location of the drain will require NPCA permits, as well as fisheries review and approvals. A 15m buffer area on either side of the drain will be required as well. Subject to consultation with the Municipal Drainage Superintendent, natural channel design may be required.

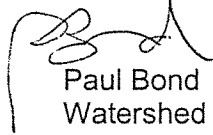
The draft plan circulated for review shows the Swayze drain in its present location, crossing through the proposed Block 27, Street "A", and lot 11. Further, lots are shown on the plan which are outside of the UAB (for which RPPA 192 is being made). Potential relocation of the drain, as well as the required 15m buffer on either side, will impact on the layout of the subdivision. With respect to the ZBA/OPA, we anticipate that the stream corridor will be zoned and designated in an Environmental Conservation/Hazard category.

Given that the configuration and density of the subdivision is dependant upon the urban area boundary adjustment and the final location of the Swayze Drain (with buffer areas), it is our opinion that the Draft Plan Application, the OPA and the ZBA are premature.

The NPCA has no issue with the proposed RPPA 192.

Please do not hesitate to call should you require any clarification of the above.

Yours truly,



Paul Bond  
Watershed Planner (ext. 234)  
PEB

cc: Drew Semple, Region of Niagara Planning and Development Dept. @ fax 905-641-5208  
Martin Heikoop, Upper Canada Consultants @ fax 905-688-5274

MEETING

26 APR. 2004

6. Mr. CRAIG LARMOUR  
PLANNING SERVICES DEPT.

RE ZONING BY-LAW AMENDMENT Am -02103  
PLAN Application 26T19-03002

Mr. Chairman and Members of the Committee, thank you for the privilege of addressing you.

My name is Dell Lewis Clark of 916 Church St. and I would like to read a prepared statement on behalf of my wife Phyllis and my neighbour Mr. John Szydzowski of 930 Church St. Fenwick. We own adjacent properties, in total approximately 31 acres of zoned "good agricultural" land (we own under 5 acres and Mr. Szydzowski owns 26 acres).

Ironically, our lands lay as close as 350 yards from lands to the north classified in the Pelham official plan as "unique agricultural". We are also located across the street some 30 yards from an operating cherry orchard. This is ironic in the sense that these "unique agricultural" lands are presently placed under a one year moratorium, freezing development, while the task force examines, among other things, urban expansion. Being virtually on the borderline of this classification and knowing we possess the same conditions is difficult. If we chose to do so we could employ the same agriculture as practiced there – and we would then NOT be having this meeting this evening.

As it is we fully utilize our agricultural land and care for it to the best of our abilities. We operate a small hobby farm with three registered Highland cattle, some gardening and a mature pine woodlot. Mr. Szydzowski has a sizeable apple and pear orchard, a large area planted in evergreens, beehives, and he raises exotic birds.

We purchased our property 16 years ago with the full knowledge of the urban boundaries. The 100' to the south and 200' across the back, which is agricultural land, influenced our decision to invest in and improve our land, secure in the knowledge that this offered us an adequate buffer zone from the existing homes on Foss Rd. During our occupancy for 14 years, this property was a flower growing and nursery operation. Mr. Szydzowski, who has lived on his property for 64 years, carried on the work of his father and further invested and fully utilized his lands secure in the fact his interests were protected as well by this boundary zoning. We were, therefore, very concerned but not surprised when we learned of the developers' individual approach to have the urban boundaries expanded and proposing to place numerous homes in a high-density subdivision on agricultural lands. Others in this community had previously been turned down in such requests, even for one or two lots. We feel the developer is out of line in this approach as any boundary expansion should be a major community undertaking not an individual one. In this case there are so many diverse interests. The greater community need has to be considered; what would be the impact on the immediate

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MAY 03 2004

TOWN OF PELHAM  
PLANNING DEPT

CD

community's happiness, not to underplay other concerns such as increased tax burdens to upgrade sewers, roads or services. Should this urban expansion be allowed in this manner, we see it as open season on the boundaries of Fenwick by developers.

We strongly object to any urban boundary expansion at this time for the following reasons:

1. Health and Safety:

It is our opinion that high-density subdivisions will create health and safety problems facing future homeowners at risk. For example, both Mr. Szydzowski and myself utilize power take-off equipment such as bush hogs and tillers that have been known to throw debris up to 30'. My pets (Highland cattle) are large animals with sharp horns and feet and if frightened by children or dogs could cause them harm as they would naturally defend themselves. The occasional use of agricultural sprays and electric fences also pose a problem.

There is a heavy natural run off draining my neighbour onto our property and my pastures and on occasion we fertilize our fields (draining North to South). The 100' buffer zone would once again adequately protect homes from these situations.

Backed up water, as a result of the development process would breed mosquitoes and other insects. Mr. Szydzowski keeps bees and on occasion his pheasants make loud noises to name only a few of the problems which could occur.

2. Liability:

Property damage increases with a high-density subdivision as the risk as does the risk to homeowners and ourselves because of the greater number of people in an area. At present, Mr. Szydzowski experiences damage to his fences, woods and beehives, mainly from trespassing teens. By retaining the present boundaries and allowing reasonable housing development this would greatly reduce future conflicts and liability issues between homeowners and property owners.

3. Flooding and the Altering of Natural Water Table Levels:

The retention of the agricultural zoning as it now exists would accommodate much of The extreme high volume of natural surface water run off occurring from fall to late spring. In this case an area of 30 to 35 acres or more drains south in a high volume ending up in the proposed subdivision. To place homes in this environment would be very unwise and difficult to do without flooding us or further flooding them at these times of high run off.

Any alteration of the Swayze drain is ill advised due to its high volume at certain times. Approximately 6 years ago during a January thaw, ice jammed in the culvert on Foss Rd. It was a Sunday afternoon when I noticed the water backing up. In short order the drain over-flowed its' sides and I ended up with 2' of water in my woods and fields.

It is also feared that any changed water courses or development close to my woods would affect the water table causing severe damage to our mature pine woods and pastures.

This proposed sub-division being heavily inundated with water would lead to increased and heavy use of sump pumps, putting a strain on our energy and costs to homeowners not to mention water related damage to properties.

4. Impact to the Existing Community and Surround Natural Resources:

Our area consists of a diverse mixture of older homes, new homes, agricultural operations, small businesses and an apartment complex. At present, it all works. A high-density sub-division would put an extreme strain on this relationship only made more acute by the adjusting of existing urban boundaries.

Mr. VanZanten should not lose his right to expand his greenhouse operation, nor should Mr. Devries not be allowed his orchards and to spray them. The approximately 15 acres or more of Carolinian forest (touching the back corner of this development) has been allowed to stay in its natural state by the owner should not be jeopardized. Mr. Szydzowski, who has lived most of his life here, deserves the right to enjoy his property for its agricultural values and be rewarded for his efforts in conservation. Our property, where a major cultural event, the Fenwick Fair, occurred for many years at the early part of the last century, should be maintained in an agricultural setting. We chose to live in this community and to maintain and respect the agricultural lands we have. In turn, we ask that the boundaries as they exist be maintained not only for us but also for others in our community.

My wife and I and Mr. Szydzowski, as average citizens and pensioners with limited resources at times have felt intimidated by the pressure of the development process to the our South. How can we compete with what appears to be a great amount of monies being expended toward some end? We do place a great deal of faith in the fair mindedness of our elected officials and are impressed with the professionalism displayed by the town staff, planning staff and regional staff. Conversely, my wife and I are deeply affected by the bullying techniques utilized by the agents of the owners of the proposed sub-division and we feel it is unacceptable.

Finally, by our count there appears to be numerous, properly zoned building lots in the Fenwick area. We have observed 9 houses built in the last 3 years alone on Foss Rd. between Regional Rd. 24 and Balfour St. We are not against reasonable development but in our view, this development and the demands to expand the urban boundaries are premature and not in the public interest.



Phyllis Clark  
916 Church St.  
Fenwick Ont.

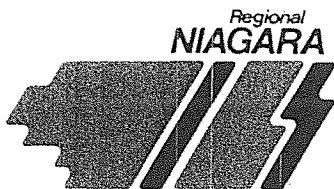


Dell Clark  
916 Church St.  
Fenwick Ont.



John Szydzowski  
930 Church St.  
Fenwick Ont.





## 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)

Appendix A-19

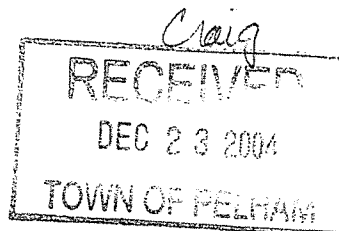
Page 1/4

December 22, 2004

File: D.10.M.19.24

(OPA) (AM-02/03)

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



Dear Mr. Larmour:

**Re: Preliminary Regional and Provincial Comments  
Proposed Official Plan and Zoning By-law Amendment  
The Orchards Revised  
Files: OPA, AM-02/03 & 26T-19-03002  
Huibertus Breunissen  
Church Street, north of Foss Road  
Town of Pelham**

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These applications propose the development of 3.84 hectares (9.49 acres) of land for a 22 single detached residential lot subdivision. An application to amend the Regional Policy Plan has also been submitted to expand the Fenwick Urban Area to include about 1.3 hectares (3.2 acres of land).

The following preliminary Regional and Provincial comments on the proposed development are provided for your consideration. More detailed comments and conditions on the related subdivision application will be provided under a separate letter. The final decision on these applications should not be made until the associated Regional Policy Plan Amendment No. 192 has been considered. It is important to note that other concerns may be identified following the review for the Regional Policy Plan Amendment.

### Regional Planning

The southern portion of this development is located within the Region's Urban Area Boundary for Fenwick and is designated Village Residential in Pelham's Official Plan. Approximately 1.3 hectares of the proposed development, the northern and western portions, lie outside of the Urban Area Boundary and is designated Good General Agricultural. Therefore, this proposal requires an amendment to the Regional Policy Plan, which will be considered by Regional Council in the near future.

The proposed urban boundary expansion will create an urban area that will have agricultural uses to the west and to the north. To the immediate west of the proposed subdivision is an existing orchard and greenhouse operation which may have some adverse impacts on the proposed homes through the spraying of herbicides and pesticides and the use of bird bangers to protect crops. In order to mitigate some of the concerns expressed by the neighbouring farmers the applicant is proposing a large residential (Lot 23) as a 0.94 hectare (2.33 acre)

buffer zone. To reinforce the buffer, the Town may wish to require the applicant to plant trees in Lot 23 to assist in physically separating the proposed residences from this adjacent land use and to help block any overspraying that may occur from the farm property. In addition, the Town should ensure that any future home constructed on Lot 23 be located towards the eastern half of the lot in order to establish a sufficient setback from the adjacent agricultural uses.

Alternatively, Regional Planning staff question whether this lot should be redesignated from Good General Agricultural to Urban. If the intent of Lot 23 is to act as a buffer to separate agricultural uses from the proposed subdivision, it may be best to leave Lot 23 outside of the urban area to ensure that it could not be more intensely developed in the future. Maintaining Lot 23 with a Good General Agricultural designation will still allow one house to be constructed if the applicant chooses to do so.

To the north of the Orchards site is a small hobby farm operation and Block 24 has been established to provide a 3 metre buffer from it and the proposed neighbouring residential use. In order to physically separate the proposed residences from this adjacent land use the Town may require the applicant to plant trees in Block 24. As well, the Town should retain the agricultural zoning of these lands.

Finally, it should be noted that the subject lands are now located within the Province's proposed Greenbelt Plan designated to come into effect December 16, 2004 but now postponed until March 9, 2005. The subject lands were not included in the original Greenbelt Protection Area established on December 16, 2003. Under the proposed Greenbelt Plan the expansion of the urban boundary and the introduction of a plan of subdivision would not be permitted.

### **Provincial Review**

- **Ministry of the Environment**

From aerial photography, Regional Planning staff identify an active Canadian Pacific rail line approximately 270 metres from the northern boundary of the subject site. Since the proposed development is situated within 300 metres of a rail line, a noise impact study is recommended which should outline various mitigation measures that will be required to meet the applicable Ministry of the Environment (MOE) guidelines as set out in MOE publication LU-131, "Noise Assessment Criteria in Land Use Planning".

The applicant has designated Block 25 as a stormwater management facility which will service the Orchards Subdivision. A detailed stormwater management plan will be required from the applicant to be prepared in accordance with MOE guidelines. Currently, the NPCA is reviewing the preliminary stormwater management information. The NPCA will be requested to review the final stormwater management plan on behalf of the Regional Planning and Development Department which should be implemented through the necessary subdivision agreement. Finally, the stormwater management block (Block 25) should be zoned open space.

- **Ministry of Natural Resources**

The Swayze Drain crosses through the western portion of this property. The Ministry of Natural Resources has identified this section of the Swayze Drain as an Important Type 2 fish habitat. The revised plan of subdivision shows that the Swayze Drain will cross the eastern portion of Lot 23 and into the Stormwater Management Block 25 where it will then proceed along the western perimeter of the emergency access route. Since the Swayze Drain is identified as an Important Type 2 fish habitat it will require a 15 metre buffer on either side which may impact the location of the single detached dwelling for Lot 13 and the location of the emergency access route to the south. If the Swayze Drain needs to be relocated than the applicant will need to seek

Department of Fisheries approval. An Environmental Impact Study should, therefore, be prepared to assess potential development impacts and to consider appropriate mitigation measures. As well, the Town should consider designating and rezoning the drain corridor and buffers under an Environmental Conservation/Hazard category.

The front of Lot 23 is traversed by the Swayze Drain. Since Lot 23 may be developed as a residential building lot, there is a possibility that a culvert will be needed. Due to the fact that permits are required in order to facilitate the construction of the proposed crossing, Niagara Peninsula Conservation Authority staff should be consulted to evaluate the feasibility of locating a culvert in any proposed location. If a culvert is proposed then the EIS should review the proposed crossing location to determine any impacts and/or mitigation measures that may be needed.

- **Ministry of Agriculture and Food**

The acceptance of this application hinges directly upon the approval of the Regional Policy Plan amendment which will, among other things, determine whether the proposed urban boundary expansion is justified in a Good General Agricultural Area and appropriate for this location.

To the immediate north of The Orchards site, on an adjacent property designated Good General Agricultural is located a small barn as part of a hobby farm operation housing three cows which are kept by the owners as pets. At the present time, the existing barn is a non-conforming use and there have been concerns that residents of the proposed homes (i.e. children) may adversely affect the cows.

In regards to Minimum Distance Separation I (MDS I) requirements, Ministry of Agriculture and Food staff feel that MDS I does not apply in this case since the urban boundary expansion for this application is relatively minor in nature and a building permit was granted for the construction of a shed and not a livestock facility. Also, the shed has not been there for a long length of time therefore the owner has not made a significant investment in the livestock facility.

### **Conclusion**

The proposed amendments to the Town's Official Plan and Zoning By-law are dependent on the approval of the associated Regional Policy Plan Amendment No. 192. Please note that there may be other concerns identified as the review of this proposal continues. This correspondence is offered to the Town as preliminary information and to formally respond to the circulation notice. The Official Plan and Zoning By-law amendments should not be approved until Regional Policy Plan Amendment No. 192 is finalized. Regional Planning staff will then forward Regional and Provincial comments and conditions for the draft plan of subdivision.

If there are any questions relating to these comments, please contact Brian Dick, Planner, or Peter Colosimo, Senior Planner, for assistance.

Yours truly,



*for* David J. Farley  
Director of Planning Services

BD/

- c: Mr. R. Hodge, Upper Canada Consultants, St. Catharines, ON.  
Mr. J. Durst, Ministry of Natural Resources, Vineland  
Mr. J. MacDonald, Ministry of Culture, London  
Ms. B. Ryter, Ministry of the Environment, Hamilton  
Ms. S. McInnes, MCIP, RPP, Niagara Peninsula Conservation Authority  
Mr. D. Semple, MCIP, RPP, Regional Planning and Development Department  
Mr. W. Stevens, Regional Public Works

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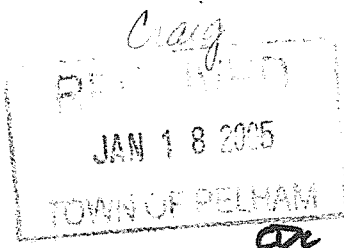


250 Thorold Road West, 3rd Floor Tel (905) 788-3135  
Welland, Ontario L3C 3W2 Fax (905) 788-1121  
E-mail: npca@conservation-niagara.on.ca

January 13, 2005

File MPR 6.11.44

Craig Larmour, Planner  
Town of Pelham  
Pelham Municipal Building  
20 Pelham Town Square  
Fonthill, ON L0S 1E0



Dear Mr. Larmour:

Subject: "The Orchards"  
Proposed Draft Plan of Subdivision, OPA, ZBA, Regional Policy Plan Amendment  
Pelham File 26T-19-03002  
Foss Road at Church Street, Town of Pelham

The NPCA had provided preliminary comment to the Town on two previous submissions for this development (letters dated July 18, 2003 and April 23, 2004). Since that time, the Province has introduced its Greenbelt Legislation which will impact development of this property. In addition, RPPA 192 which deals with the Urban Boundary expansion for this site has not yet been finalized. In light of these outstanding issues, the NPCA is providing these "interim" comments on the most recent submission to date. This includes our review of a preliminary stormwater management plan submitted by Upper Canada Consultants. These comments do not represent the Authority's final review, as we may have additional input once RPPA 192 and the Greenbelt Legislation is finalized. In this context, we offer the following comments.

As noted in our previous comments, this property is crossed by a section of the Swayze Drain, a Municipal Drain. The current proposal shows the drain to remain un-altered in its present location. This drain is designated a Type 2 Important Fish habitat by the Ministry of Natural Resources. A 15m naturally vegetated buffer is required on each side of the watercourse, measured from the top of bank (edge). Permits will be required from the NPCA/MNR/DFO for the proposed culvert crossing at Lot 23. This will impact the building envelope of Lot 13 (the lot has been oversized, presumably in anticipation of this). We would ask that the Swayze Drain corridor be zoned and designated in an appropriate protection category such as hazard/environmental protection. Where the drain is adjacent to developable lands within the subdivision (lots 13 and 23), the 15m buffer setback should be incorporated into the zoning provisions. Block 25 should be placed in an appropriate zone/designation (Open Space for example) to reflect its SWM use.

With respect to the preliminary SWM report submitted, the following is offered. These comments pertain to a review of the *'Preliminary Stormwater Management Plan – The Orchards, Town of Pelham'* (dated November 2004), as submitted by Upper Canada Consultants in support of the above noted development. The development proposes 23 residential lots complete with an associated internal cul-de-sac road and stormwater management facility (constructed wetland) on a 3.8 hectare parcel of land. Based upon our review, the NPCA offers the following comments:

- 1) Due to the fact that the drainage area upstream of the site is less than 125 hectares, the NPCA will not require that the 100 year regulatory floodplain to be generated for this development.
- 2) The NPCA requires that all stormwater be treated to a Normal (formally Level 2) standard prior to discharge into Coyle Creek. It appears that the proposed stormwater management facility contains adequate volume in order to meet this standard.
- 3) The NPCA requires that all post development peak flows be attenuated to pre-development levels for up to and including the 100 year storm event. It appears that the proposed stormwater management facility contains adequate volume in order to achieve these criteria.
- 4) The NPCA notes however, that the available freeboard in the proposed stormwater management facility appears to be marginal (4 cm) during the 100 year storm event. In order to mitigate the potential for erosion of the stormwater management facility, the NPCA will require at least 300mm of freeboard to be available between the top of the facility and the maximum design water level within the facility.
- 5) The NPCA requires that runoff from the 25mm storm event be detained and released over a period of 24 hours. It appears that the proposed stormwater management facility has been appropriately sized in order to achieve these criteria.
- 6) On the final design drawings, the NPCA will require that measures be undertaken in order to prevent clogging of the proposed 72mm diameter orifice.
- 7) On the final design drawings, the NPCA will require details of the plantings within the proposed constructed wetland.
- 8) Prior to construction, the NPCA will require that detailed grading, servicing, construction erosion control, and stormwater management plans be circulated to this office for review and approval.
- 9) Prior to construction, the NPCA will require that permits be obtained from this office for the installation of Lot 23's proposed culvert across Coyle Creek, and the proposed stormwater management facility's outfall into the drain.

It is noted that the SWM facility is intended to be a "constructed wetland". The NPCA will be requiring the submission of a plant material schedule/plan as well as a detailed maintenance schedule to be included in the future subdivision agreement.

Upon finalization of RPPA 192, and the Provincial Greenbelt Legislation, the NPCA will provide detailed conditions of Draft Plan Approval.

I trust the enclosed comments to be of assistance.

Yours truly,



Paul Bond  
Watershed Planner (ext. 234)  
PEB

cc: Mr. Drew Semple, Region of Niagara Planning and Development Dept. @ fax 905-641-5208  
Mr. Martin Heikoop, Upper Canada Consultants @ fax 905-688-5274

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. 54

PART OF LOT 19, REG. PLAN 16 (nka Plan 703)  
CHURCH STREET

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 requirements for the giving of notice and the holding of two public meetings have been complied with.
- (3) The requirements for the giving of notice of adoption have been complied with.

SWORN BEFORE ME AT THE TOWN OF PELHAM )  
IN THE REGIONAL MUNICIPALITY OF NIAGARA )  
THIS 10TH DAY OF JUNE, 2005 A.D. )

  
CHERYL MICLETTE, CLERK

  
CRAIG LARMOUR, MCIP, RPP

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

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. 54

PART OF LOT 19, REG. PLAN 16 (nka PLAN 703)  
CHURCH STREET

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 following members of the public made comments at the public meeting held on July 28, 2003:

Richard Rybiak, 835 Foss Road, Fenwick  
Jan VanZanten, 879 Foss Road, Fenwick  
Dell Clark, 916 Church St., Fenwick  
Rick Audit, 807 Foss Road, Fenwick  
Connie Blankenburg, 803 Foss Road, Fenwick  
Clarence Brown, 838 Foss Road, Fenwick  
Phyllis Clark, 916 Church St., Fenwick

The following members of the public made comments at the public meeting held on April 26, 2004:

Brian Lambie, 109 Adelaide St., Port Colborne  
Richard Rybiak, 835 Foss Road, Fenwick  
Dr. John Bacher, St. Catharines  
Sandy Misener, 917 Church Street, Fenwick  
Jan VanZanten, 879 Foss Road, Fenwick  
Sande Matthews, 1116 Garner Ave., Fenwick  
Dell Clark, 916 Church St., Fenwick  
Greg Beaulieu, 716 Welland Road, Fenwick

SWORN BEFORE ME AT THE  
TOWN OF PELHAM IN THE  
REGIONAL MUNICIPALITY OF NIAGARA  
THIS 10TH DAY OF JUNE, 2005 A.D.

  
CHERYL MICLETTE, CLERK

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

  
CRAIG LARMOUR, MCIP, RPP



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 Niagara and Town Staff will have to review the storm drainage report.

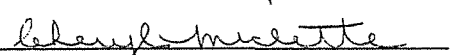
Chair, Councillor R. Hatt declared this portion of the public meeting closed.

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 Application 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



Meeting GC-12/04

## GENERAL COMMITTEE

April 26, 2004

Minutes of a regular General Committee meeting held on Monday, April 26, 2004 at 7:00 p.m. at Fonthill Fire Station #1, Highway 20, Fonthill. The meeting was called for the purpose of holding two public meetings under the Planning Act.

## ATTENDANCE:

## Council:

Mayor R. Leavens  
Councillor S. Cook  
Councillor M. Allen  
Councillor D. Urbanowicz  
Councillor U. Brand  
Councillor J. Durley  
Councillor P. Papp

## Staff:

Director of Planning Services C. Larmour  
Clerk C. Miclette  
Recording Secretary (Deputy Clerk) N. Bozzato

## Others:

Regional Councillor B. Baty  
Regional Senior Planner D. Semple  
Regional Planner B. Dick  
M. Heikoop, Upper Canada Consultants  
V. Muratori, Solicitor for Upper Canada Consultants  
Interested Citizens

## 1. CALLED TO ORDER:

The meeting was called to order by Mayor R. Leavens.

## 2. ADOPTION OF AGENDA:

**RECOMMENDATION - MOVED BY COUNCILLOR URBANOWICZ, SECONDED BY COUNCILLOR BRAND- THAT the agenda for the April 26<sup>th</sup>, 2004 regular General Committee meeting be adopted. CARRIED, CHAIR, MAYOR LEAVENS.**

## 3. DISCLOSURE OF PECUNIARY INTEREST AND THE GENERAL NATURE THEREOF:

There were no disclosures of pecuniary interest noted by members of Council.

At this point in the meeting, Mayor Leavens vacated the Chair and Councillor Durley resumed the Chair, as the Chair, Planning Services Division, General Committee.

## 4. PUBLIC MEETING UNDER PLANNING ACT:

GC-81/04

(A) 7:00 p.m. - JOINT PUBLIC MEETING - REGIONAL POLICY PLAN AMENDMENT, TOWN OF PELHAM OFFICIAL PLAN AND ZONING BY-LAW AMENDMENT APPLICATION AM-02/03 & DRAFT PLAN OF SUBDIVISION 26T-19-03002 - HUIBERTUS BREUNISSEN (AGENT: UPPER CANADA CONSULTANTS) - PART OF LOT 19, REGISTERED PLAN NO. 16, FORMER TOWNSHIP OF PELHAM, NOW TOWN OF PELHAM:

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

Chair, Councillor Durley then introduced Mr. Drew Semple, Senior Planner, Regional Municipality of Niagara, who provided an overview of the proposal for a Regional Policy Plan Amendment.

#### REGIONAL POLICY PLAN AMENDMENT:

Mr. Semple indicated that Regional Council has not yet made a decision on this application. A background information report was presented, Report DPD 43-2004, which provides some discussion on the planning issues raised by this application. The amendment to expand the Urban Boundary within Fenwick is being proposed to include a portion of land comprised of 1.3 hectares (3.2 acres) to be included with the 2.54 hectares (6.27 acres) presently situated within the Urban Area. The proposed Plan of Subdivision envisions single family residential lots as well as some townhouse development. The lands under consideration are presently designated Good General Agricultural in the Regional Policy Plan. They are presently vacant and in the past were used for cash crops, however are not farmed at the present time. To the north of the subject parcel there is a hobby farm, to the west an active apple, pear and greenhouse farm operation and to the south a residential development along the north side of Foss Road. The lands are drained north to south to the Swayze Drain which is a tributary of the Coyle Creek which is classified as a Type II, Important Fish Habitat system.

The criteria for review as contained in the Regional Policy Plan, Policy 5.6, was reviewed as contained on page 5 of DPD 43-2004. Mr. Semple classified this application as a boundary adjustment to the urban area in Fenwick. When a recommendation report is presented to the Regional Planning Committee, the Region will notify interested citizens of this meeting.

#### TECHNICAL INFORMATION REPORT P-21/04

Director of Planning Services C. Larmour provided an overview of the Town planning applications for the subject lands. The Official Plan Amendment criteria echoes the Regional Policy Plan requirements to include additional lands within Fenwick's Urban Area. The Zoning by-law Amendment is sought to permit expansion of the Urban Boundary to facilitate construction of a subdivision for single-detached dwellings as well as townhouses, Open Space lands required for drainage purposes and a Block of land for stormwater management purposes.

The Plan of Subdivision proposal envisions the creation of 26 single detached lots from west of Church Street and continuing westerly parallel with Foss Road. There is an additional 10-metre wide block fronting on Foss Road which is intended for an emergency access route only. Although

the Town's Official Plan does not specifically address urban expansions, in the past the Town has relied on the Regional criteria.

Mr. Larmour provided an overview of the applications, as detailed in Information Report P-21/04, which appends comments from Reporting Agencies as well as members of the public.

#### APPLICANT'S PRESENTATION:

Mr. Muratori stated that the key issues involved in this proposal surround the need for a Regional Policy Plan Amendment and the Official Plan Amendment needed to change the urban boundary of the applicant's holdings. Of the total 9.5 acre parcel, 6.3 acres are within the Urban Boundary and 3.2 acres are outside of it.

From the point-of-view of the agricultural sustainability of the 3.2 acres, the lands would be statistically insignificant. He considered the application to represent a boundary adjustment rather than an urban area expansion.

Mr. Muratori gave an historical overview of the lengthy Ontario Municipal Board Hearing process that occurred in 1979-1980 which established much of the Urban designations throughout the Region. He suggested that the existing Urban Area does not follow the principles normally used in determining the boundaries between agricultural and urban areas and suggested that the decision to determine if this boundary adjustment should be permitted rests on the question of whether or not the existing boundary makes sense.

Mr. Muratori suggested that the proposed Plan of Subdivision represents an efficient use of land, noting that conflicts between urban and agricultural land uses are present at every interface of these two zones. He suggested that if the lands revert to an agricultural use, there will be a conflict with the residential uses in the immediate vicinity. He stated that the impetus for this proposal is not the need for more land for residential or agricultural use, but deals with good urban design. He suggested that this proposal makes sense from a land use point-of-view.

Speaking from the perspective of a developer, Mr. Muratori noted that if the subject lands are excluded from the Urban Area, the development that will occur within the Urban Area will be situated on a single loaded roadway which is not the most cost effective method of development from a servicing access standpoint.

#### PUBLIC INPUT:

Mr. Brian Lambie, solicitor on behalf of Joseph J. Rybiak, submitted a letter dated April 26, 2004 to advise the applicant and Committee of an existing Site Plan Agreement requiring the municipality to make its best efforts to collect a portion of the costs of the watermain from developers of multiple family developments which require the use of the watermain. Mr. Larmour advised that the issue of servicing will be addressed by the Operations Department and that he would make the Director, Mr. Hodge, aware of the letter.

Mr. Richard Rybiak, 835 Foss Road, Fenwick, stated that he owns the buildings known municipally as 833 and 835 Foss Road, which are immediately south of the subject lands. He

submitted a detailed list of his concerns regarding the expansion of the Urban Area, summarized below.

Mr. Rybiak provided an historical overview of his property noting that it was purchased by his father in 1956. Extensive work to improve the drainage situation was done resulting in improvements to the drainage issues in the surrounding area and on Foss Road. Mr. Rybiak noted that the significance of surrounding agricultural properties should be measured on qualitative and subjective impacts on the lives of people and not just based on scale. With this in mind, he expressed his opinion the agricultural operations surrounding this development are not insignificant, particularly to those people who rely on them for their livelihoods.

The main points of Mr. Rybiak's objections concerned storm and runoff water management and the adverse potential the development would have on his property. More specifically, he detailed drainage patterns in the area. He noted that his property is low lying compared to contiguous properties. Until such time as the drainage systems now in place were established, the lands were wet and problematic. The water table is high in this area and Mr. Rybiak stated that percolation is slow. This property was historically swampy until the Swayze Drain was deepened and redirected in 1960. Redirection of water to the culvert provided additional benefit to the area and improved the stability of Foss Road.

Mr. Rybiak expressed concern regarding how the developer is proposing to manage the water in the proposed subdivision, specifically pertaining to the gravity flow of sewage and the impact on drainage patterns affecting his property. He noted that the lands depicted as Block 28 on the high side of the property being used for storm water management is not a viable alternative as the water would be forced to flow uphill.

Of additional concern is the nature, size and location of the proposal. Noting that they have made extensive financial investments into their apartment building, he expressed concern about the loss of attractiveness to renters if the rural atmosphere of the area is spoiled by this development. Recognizing that lands abutting his property are already designated for residential use, Mr. Rybiak opposed the expansion of this block, objecting to the placement of townhouses on the lot abutting his property, and expressing concern that placement of them next to the existing multi-residential use would be inappropriate. He stated that the proposed lot sizes are not consistent with the other existing residential properties in the area, this also contributing to the loss of a rural atmosphere.

Dr. John Bacher, on behalf of the Preservation of Agricultural Lands Society (PALS) voiced objection to the proposal. Noting that the lands are not within the Unique Agricultural designation presently under the protection of the newly proposed Provincial Greenbelt Legislation, there are however, agricultural uses surrounding the property. He suggested that the current urban boundaries were established to protect these agricultural uses and reduce conflicts between residential and agricultural uses. Dr. Bacher stated that during the recent urban boundary expansions, the Town stated its position that they would not be expanding the Urban Boundary any further in the foreseeable future and that there was no intent to expand it within Fenwick. He noted there are many instances whereby estate lots and hobby farms represent efficient land uses in their provision of a transition between urban and agricultural areas.

GC-84/04

Ms. Sandy Misener, 917 Church Street, presented a petition signed by 137 individuals in opposition to this proposal. Reasons cited in the petition were listed as the high density being inconsistent with the lot sizes presently established in the neighbourhood; changes in the water table, traffic impacts; aesthetics and the destruction of the rural atmosphere; loss of agricultural lands; and the heritage and cultural resource loss of lands that were once the Fairgrounds and had a significant impact in the history of Fenwick from the 1800's until 1941. She stated that artifacts were still being found on this land, including the lands subject of the rezoning application. She concluded that area residents consider greenspace to be an efficient use of the lands as it attracts people to the area.

Mr. Jan VanZanten, 879 Foss Road, Fenwick, advised that he is the owner and operator of a fruit farm and greenhouse operation situated to the west of the proposed subdivision. He expressed concern that the viability of his greenhouse operation will be restricted as any expansion needs will be diminished due to the required setback distances; chemicals used in the greenhouse operation may create an unpleasant odour when ventilation occurs; and artificial lighting used during the winter months may present a conflict to residential properties.

Mr. VanZanten also pointed out that there is a productive orchard on his property and a substantial investment has recently been made into replacement of older trees. He advised that prevailing winds are from the southwest, which would result in likely complaints regarding smell of chemicals applied to the fruit trees, noise from the turbine fan from the sprayer and noise of the tractor during harvest. He opposed the Plan of Subdivision for these reasons stated and submitted in his letter dated April 22, 2004.

Mrs. Sandee Matthews, 1116 Garner Avenue, Fenwick, noted that the land assembly for this development took place over the past few years in order to facilitate this development. However, she was concerned that the owners may not have been aware of the historical and agricultural history of this area and Fenwick in general. As a previous Councillor for the Town, Mrs. Matthews noted that urban area expansions within Pelham took place over a period of 15 years with a 20-year plan now being in place for residential development. She noted, as such, that there is no proven need to increase the Urban Area of Fenwick as there are lands available with the appropriate zonings to permit residential development.

Ms. Matthews also stated that no boundary lines were established without careful consideration and were struck to protect the agricultural operations inherent in the village. The Cherry Ridge subdivision in Fenwick was established with large lot sizes and thus should not be compared to this development. Mrs. Matthews voiced opposition to the proposed subdivision as the proposal is too dense and existing farmers will lose their viability or opportunity for future expansions. Mrs. Matthews stated that when she served as a Member of Council, she received many complaints from residential property owners regarding farming activities such as manure odours, spraying and the use of various pieces of farm equipment, (legal) brush burning, etc. She urged the Council to consider such conflicts when deliberating on this application and not to force the agricultural community out of this area. Also of concern, it was noted that the surrounding area has a narrow road, no sidewalks and deep ditches. The increase in traffic resulting from such a development will increase the potential for negative impacts on the safety of the area.

Drainage problems have always been of concern in this area. Coyle Creek flows through the area and this development may have a negative impact on the Creek. Mrs. Matthews also expressed concern regarding traffic issues and the impact on the roads and deterioration of the roads. She suggested that the agriculturally designated lands provide an appropriate buffer between agricultural and residential uses and as such should not be changed. She noted that there has been no proven need to intensify the area for residential use and that there is sufficient land available already within the Urban Area Boundaries of the Town.

Mr. Dell Clark, 916 Church Street, Fenwick spoke on behalf of himself and his neighbour, Mr. Szydlowski. The Clark's own a 5-acre parcel used as a hobby farm and the Szydlowski's own 26 acres that are designated Agricultural. The lands are fully utilized for agricultural purposes. The Clark's have a small hobby farm with 3 Registered Highland Cattle and Szydlowski's have an apple and pear orchard, evergreen trees, beehives and exotic birds. These parcels of land were purchased with full knowledge of their Agricultural designations.

Mr. Clark stressed that the lands under consideration for inclusion in the Urban Area provide a necessary buffer between the Foss Road residential dwellings and the nearby agricultural uses. He noted that Mr. Szydlowski has used his property agriculturally for some 64 years and thus, has a protected interest in what may occur on the lands subject of this application.

Also of concern to Mr. Clark is the density of this proposal, given that other area residents have been denied severance applications for only one lot due to the Agricultural designations. He requested Committee to consider the impact on community happiness and stated that if this application is approved, it would open the possibility for further increasing of the urban areas of Fenwick.

Mr. Clark stated that both his hobby farm and the nearby farms utilize heavy equipment such as bush hogs and tillers that tend to throw debris which could result in injuries to children or other residents of the new houses. Also, his cattle have horns and would not want to see anyone injured by these animals. He also cited such safety concerns as the use of sprays and runoff containing chemicals, electric fencing, spreading of fertilizer, etc. He suggested that the 100 foot buffer existing through the present zoning provides protection to the homeowners as well as the farms.

The Szydlowski's also run a bee-keeping operation and Mr. Clark suggested that with all of the nearby agricultural uses, liability issues could be increased with a high density subdivision being constructed. The Szydlowski property has been subjected to vandalism in the past and it was feared that this would increase with more residential housing lots in the immediate vicinity.

Flooding has been a historical problem in this area for many years. Mr. Clark suggested that any alteration to the Swayze Drain would be ill-advised, based on past experience. Any change to the water table will have a negative effect on his agricultural lands. Mr. Clark was of the opinion that construction of this high density proposal will strain the presently cohesive mix of agricultural, rural, small business and small apartment building uses. He echoed previous comments pertaining the historical validity of the fairground. He suggested that numerous properly designated lots are available in Fenwick and that this development is not in the public interest.

GC-86/04

Mr. Rybiak noted that the existing boundary is not an irrational division of the two designations. However, if one considers that the division line does not make sense, the fact remains that the line exists and many people have planned their lives around them.

Mr. Muratori addressed the issue of density, noting that the original proposal for the lands within the Urban Area suggested 44 units on 6.5 acres of land; a second proposal of 40 units; a third proposal of 28 units on 6.5 acres and this final proposal of 34 units on 9 acres equating to 3 units to a gross acre.

By increasing the urban area to include lands in this residential development, Mr. Muratori suggested that it would facilitate as efficient a use as possible in keeping with "Smart Growth" principles. He noted that the standard density for dwellings on full municipal services is 5.4 units per acre, and that this proposal is less dense in nature. The lots are proposed to be 68 to 72 feet wide, which are considerably large in an Urban Area. Mr. Muratori also suggested that by changing the designation of a portion of the applicant's lands, the 3.2 acre portion will not be sterilized and result in a large estate lot.

With regard to drainage concerns, Mr. Muratori noted that the Planning Act requirements dictate that post development flows do not exceed pre development flows and thus all drainage issues will be engineered and a stormwater detention pond will be incorporated into the development. By such design standards, the developer cannot negatively impact other lands. However, Mrs. Clark expressed concern that water in the Swayze Drain is not surface water and she equated this development to Cherry Ridge where there have been ongoing drainage issues. Mr. Muratori noted that the Town's Engineer and NPCA will review any drainage plans.

Mr. Muratori stated that the applicant would prefer to deal with all of his land holdings through the Plan of Subdivision process rather than by individual severance. He referred to the lands that require a zoning change as the remnant parcel and suggested they are best utilized as part of this subdivision proposal.

Mr. Rybiak noted that the owner has the right to develop the lands presently within the Urban area and he did not object to this. He also understood that all drainage concerns would be addressed by the Town's Engineer. He stressed, however, that the line should not be moved between these two areas because it might look better on a drawing or provide more lots for the subdivision. The boundary exists at the present and has meaning and relevance to existing properties and uses of land. He was of the opinion that this change in the boundary is not necessary to correct any previous mistake, but would result in the owner being able to maximize on his investment, albeit against the wishes of the existing neighbouring property owners.

Mr. Greg Beaulieu, 716 Welland Road, Fenwick, noted that the Urban Boundary exists whether or not it made sense when it was established. He stated that when he purchased his property, he counted on the protection that the boundary would not be expanded. Mr. Clark echoed these comments, noting they purchased their property based on their knowledge of the existing zone boundaries.

Mr. VanZanden also stated that he purchased his property based on the established border and was concerned that expanding the urban boundary would have a negative impact on any future expansion of his operation.

**COMMITTEE INPUT:**

Regional Councillor Baty requested clarification on the property sizes and frontages both along Foss Road and Church Street, as well as setback distances from various dwellings that would be in place should this proposal receive approval. Mr. Heikoop noted that the Foss Road frontage would be used for emergency access purposes only and that the dwelling meets the required setback distances for a Residential 1 R1 Zone.

Councillor Brand noted that the proposal represents an expansion to the Urban Area of the Town, however also pointed out that he has not yet heard any express need to increase the availability of developable lands. He questioned the amount of acreage presently within an Urban Area designation in Fenwick that could be developed. Mr. Larmour stated that there is a good supply of land with municipal services available. Councillor Brand raised several issues, specifically that channelization is not an appropriate way to deal with water and that the proposed storm water pond location did not appear to be a logical alternative as the water would need to flow northerly, which is against the natural drainage flow pattern.

Councillor Urbanowicz expressed concern regarding the detention pond and effectiveness of the water management plan. She noted that this area has always enjoyed a unique agricultural, rural, quite and safe atmosphere.

The public meeting was declared closed by the Chair at 8:45 p.m.

**RECOMMENDATION - MOVED BY COUNCILLOR PAPP, SECONDED BY COUNCILLOR ALLEN - THAT Report P-21/04 re Regional Policy Plan Amendment, Town Official Plan and Zoning By-law Amendment Application AM-02/03 and Plan of Subdivision Application 26T19-03002 - Huibertus Breunissen (Agent: Upper Canada Consultants) be received; AND THAT the recommendation contained therein be approved, as follows: "THAT the Committee recommend to Council that a Recommendation Report on this matter be presented at a subsequent meeting of the General Committee." CARRIED, CHAIR, COUNCILLOR DURLEY.**

**RECOMMENDATION - MOVED BY MAYOR LEAVENS, SECONDED BY COUNCILLOR BRAND - THAT the following communications submitted with respect to Regional Policy Plan Amendment, Town Official Plan and Zoning By-law Amendment Application AM-02/03 and Proposed Draft Plan of Subdivision Application 26T19-03002 - Huibertus Breunissen (Agent: Upper Canada Consultants) be received: Jan VanZanten; Region of Niagara Planning Department; Brian Lambie for Joseph Rybiak; Richard Rybiak; Dr. John Bacher; Petition from Sandra Misener; Sandee Matthews; Dell Clark (to follow). CARRIED, CHAIR, COUNCILLOR DURLEY.**



(B) 9:00 P.M. - PROPOSED ZONING BY-LAW AMENDMENT APPLICATION AM-05/02 & PROPOSED DRAFT PLAN OF SUBDIVISION 26T19-02004 - WEILAND HEIGHTS SUBDIVISION - OSCAR WEILAND (AGENT: UPPER CANADA CONSULTANTS):

Chair Durley recited the required form of notice as per the Planning Act with respect to a public meeting. Mr. Larmour introduced the application, noting the subject lands are situated on the west side of Haist Street, north of Highway #20. The lands are located in the expanded Urban Boundary of Fonthill, through Amendment 36 to the Official Plan. Mr. Larmour reviewed the specific policies for development of lands as contained in the Regional Policy Plan and the Town's Official Plan, as contained in Planning Report P-22/04.

Concerns previously expressed by Council have been considered and addressed through a reduction in density, reorientation of the proposed parcels and the provision of parkland and stormwater management blocks. Stormwater Management controls will be incorporated as required by the Niagara Peninsula Conservation Authority. The Official Plan policy requires the preparation of a Subwatershed Study and Environmental Impact Study for these lands as well as the lands subject of the Chestnut Ridge development which abuts to the west.

This study will be completed and recommendations and implementation measures for the Secondary Plan area will be to the NPCA satisfaction. Several conditions will be required to be met, including a peer review.

Mr. Larmour noted that the District School Board of Niagara has requested construction of a sidewalk along the west side Haist Street. Several other agency comments were received as well as some from neighbouring residents, which have been appended to the Planning report.

#### APPLICANT PRESENTATION:

Mr. Martin Heikoop presented an overview of this revised proposal, noting that this is the second public meeting for this particular development. One meeting was held last fall, however there were some unresolved issues that were suggested to be resolved. Consultation regarding the master drainage plan and subwatershed issues took place. The concept plan proposes a soakaway pit on every single-family lot and combined pits for the townhouse units. If a peer review is required by the NPCA the applicants are willing to comply with this condition.

Area for a park was not included in the original plan, however has since been incorporated. The design now includes single-family blocks, townhouse blocks, a park and a walkway to the abutting plaza. Grading plans will be prepared to demonstrate drainage systems designed to ensure there will be no negative impact on neighbouring property owners. Also incorporated into the subdivision will be the construction of fencing along the rear property lines of Haist Street properties. The owner has also agreed to limit the height of the dwellings to be constructed that will back on to existing dwellings to raised bungalows or backsplits.

Street townhouse units have been designed to contain a maximum of four (4) units per townhouse block. One block has been designated for single family or townhouse development and if the townhouse units are not acceptable, single family dwellings will be constructed. This may

GC-89/04

partially depend on the Regional requirements. The permanent access to this development will be via the abutting development to the north, however a temporary access will be incorporated to facilitate completion of this subdivision. The temporary access will not abut any existing residential dwellings.

PUBLIC INPUT:

Dr. John Bacher, 134 Church Street, St. Catharines, commended the co-operation shown regarding NPCA requirements and accepted the terms outlined in their correspondence. He questioned if any knowledge of baseline data had been obtained to date. The developer stated work has begun however they were unaware of any results to date. Dr. Bacher noted that Coyle Creek is also of significance for this particular development as drainage does not all flow to the Twelve Mile Creek. Mr. Heikoop noted that the Region is aware of this fact. Dr. Bacher noted that there is a heavy emphasis on the Twelve Mile Creek in the reports and questioned if more information was needed with regard to Coyle Creek.

Dr. Bacher was also concerned that he had not had any opportunity to review detailed plans regarding roads, catchbasin locations, etc. Mr. Heikoop indicated that grass swales will be incorporated into the subdivision. Drainage plans identifying this information are included as part of the Stormwater Management Plan. Continued discussion regarding specific design ensued, Mr. Heikoop advising that he would review the plans with Dr. Bacher.

Mr. John Lynn, Brock Street, Fonthill requested clarification on issues relating to the Fonthill Kame and recent newspaper articles regarding an overall groundwater project being conducted in Fonthill. He was of the understanding that the NPCA has not yet made final comments for the revision of the stormwater plan at the Weiland Heights Subdivision. He advised that he received this information from the Director of Water Management at the NPCA. Mr. Larmour stated that he met with representatives of the Conservation Authority who have indicated that information contained in their October 8, 2003 correspondence applies to this development. Mr. Lynn again stated that the NPCA has not signed off on the final design, however Mr. Larmour assured those present that this would not be done until such time as the development is approved and all concerns of the Conservation Authority will be incorporated into the development agreements. Approval of the proposal is needed prior to a final design being submitted for the Conservation Authority to approve. Mr. Larmour stated that the NPCA indicated to him that they did not see any need to update their comments regarding the revisions made to the design.

Mr. John Scott, 3054 Orchard Hill Drive, RR1, Fonthill, questioned if this subdivision proposal would proceed separately from Chestnut Ridge. Mr. Heikoop stated that a temporary road will be needed to begin this particular development but that it would likely proceed separate from the abutting subdivision. Sanitary and water connections are available from Haist Street. Once conditions of draft approval are satisfied, Mr. Heikoop stated that this development could proceed. In response to Mr. Scott's question on what factors would dictate whether townhouses or single family dwellings would be constructed on the undesignated block, Mr. Heikoop stated it will likely be market driven, noting that the Region prefers a townhouse development.

Mr. Joe Bouchard, 1515 Haist Street, Fonthill, questioned why one specific lot, Lot 15, is wider than others along Haist Street. Mr. Heikoop advised that a sanitary sewer system placement will require an easement for sewer connection to Haist Street. The easement will be 5 metres wide which will have an impact on the building envelope for this lot as there are setback distances that will be incorporated into the easement.

In response to further queries by Mr. Bouchard, Mr. Heikoop stated that the temporary access will be constructed over Lots 6 and 23 which are situated more northerly along Haist Street, removed from existing housing.

Noting that he was pleased with the recommendations and conditions required by the Region and NPCA, Mr. Bouchard expressed concern regarding the request by the District School Board of Niagara for a sidewalk along the west side of Haist Street. He noted that there is a sidewalk on the east side. The corner of Haist Street and Highway #20 is a very busy intersection and he was very concerned for the safety of school children crossing at this location. There is a pedestrian light on the east side and the residential uses on the east side contribute to a safer crossing of Highway 20. The entrance to Tim Horton's on Highway 20 from Haist Street's west side is very busy and particularly so during times when school children would be in the area.

Ann Stephenson, 1512 Haist Street, Fonthill, noted she was pleased with the developer providing fencing between existing and new houses. She also expressed concern regarding the sidewalk issue. Mrs. Stephenson noted that the water pressure in this area of Fonthill is very low and was concerned that this would decrease even further with the new subdivision. Councillor Cook concurred that the water pressure is very low. Mr. Larmour stated that he would bring the matter to the attention of the Director of Operations, and that there are Provincial Standards for matters such as this. Mrs. Janet Damude, 1509 Haist Street, Fonthill, said that she is a 40-year resident of Haist Street and the water pressure problem is not new. She echoed concerns regarding crossing at the Tim Horton's entrance on the northwest corner of Highway 20 and Haist Street, describing the area as treacherous.

Although pleased to see a statement that drainage plans would be designed to 'minimize the chance of basement flooding' for neighbouring residents, Mrs. Stephenson requested assurances that drainage designs would 'eliminate' this chance.

#### COMMITTEE INPUT:

Councillor Brand, noting that it has been a long time since this proposal began, stated that this proposal represents an improvement over the past design. He was pleased with the inclusion of fencing and the height of dwellings being reduced to minimize impact on existing residents. He questioned if the developer was aware of the conditions regarding infiltration of clean water and if the developer was in agreement with the requirements. If the conditions are properly met, Councillor Brand stated he would be able to support the proposal. He advocated for the peer review and suggested that Purchase Agreements include clauses regarding the need to maintain the infiltration systems and that they cannot be modified by subsequent homeowners. This is essential to the recharge of the system. Mr. Heikoop stated that this type of clause can be registered on title to remain in effect in perpetuity. Mechanisms to control this will be incorporated.

GC-91/04

Mr. Larmour advised that the Director of Operations is presently researching appropriate wording to protect municipalities in this regard, as well as having the correct provisions in place to provide unquestioned opportunity for the municipality to enter the property and repair if any modifications do occur.

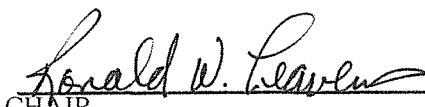
Chair, Councillor Durley closed the public meeting at 9:58 p.m.

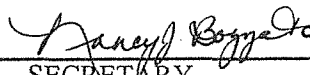
**RECOMMENDATION – MOVED BY COUNCILLOR COOK, SECONDED BY COUNCILLOR URBANOWICZ – THAT** Report P-22/04 re Proposed Zoning By-law Amendment Application AM-05/02 & Proposed Draft Plan of Subdivision Application 26T19-02004 – Weiland Heights Subdivision – Oscar Weiland (Agent: Upper Canada Consultants) be received; **AND THAT** the recommendation contained therein be approved, as follows: “**THAT** the Committee recommend to Council that a Recommendation Report on this matter be presented at a subsequent meeting of the General Committee.” **CARRIED, CHAIR COUNCILLOR DURLEY.**

**RECOMMENDATION – MOVED BY MAYOR LEAVENS, SECONDED BY COUNCILLOR BRAND – “THAT** the following communications submitted with respect to the proposed Zoning By-law Amendment Application AM-05/02 & Proposed Draft Plan of Subdivision Application 26T19-02004 – Weiland Heights Subdivision – Oscar Weiland (Agent: Upper Canada Consultants) be received: Dianne Gunter; Regional Niagara Public Health Department.” **CARRIED, CHAIR COUNCILLOR DURLEY.**

5. **ADJOURNMENT:**

**RECOMMENDATION - MOVED BY COUNCILLOR BRAND, SECONDED BY COUNCILLOR COOK - THAT** this regular meeting of General Committee be adjourned until the next regular meeting scheduled for MONDAY, MAY 3<sup>rd</sup>, 2004, unless sooner called by the Mayor. **CARRIED, CHAIR, COUNCILLOR DURLEY.**

  
CHAIR

  
SECRETARY

## PLANNING SERVICES REPORT

P-25/03

**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  
Zoning By-law Amendment Application AM-02/03  
Plan of Subdivision Application 26T19-03002  
Huibertus Breunissen (Agent: Upper Canada Consultants)

---

### RECOMMENDATION:

THAT the General Committee, Planning Services Division, receive Planning Services Report P-25/03 regarding Proposed Zoning By-law Amendment and Plan of Subdivision – The Orchards – Huibertus Breunissen, Part of Lot 19, Registered Plan No. 16, 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 west side of Church Street, lying north of Foss Road. The legal description is part of Lot 19, Registered Plan No. 16, former Township of Pelham, Town of Pelham.

#### 2. Background

The applicant's land holding consists of 3.84 hectares (9.49 acres) of which 2.95 hectares (7.3 acres) is proposed to be developed. The balance of the land is to remain in the ownership of the applicant.

The applicant proposes to subdivide the lands to permit the development of twenty-five (25) single detached dwelling lots (Lots 1 to 25), one (1) block (Block 26) for municipal drain/emergency access, one (1) block (Block 27) for 0.3 metre reserve and one (1) block (Block 28) identified as 'Additional Lands of the Owner.' A reduced preliminary plan of subdivision is included as Attachment No. 1 to this report.

The proposed lots measure between 16.8 metres and 20.8 metres in frontage and from 633 square metres to over 900 square metres in area.

Cont.../2

26T19-03002  
AM-02/03

-2-

P-25/03

The applicant also proposes 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 (H) holding provision.

### 3. Planning Act

Section 51 of the Planning Act contains various provisions concerning the subdivision of land, including Section 51(24) which requires that regard be had, among other matters, to health, safety, convenience and welfare of the present and future inhabitants of the municipality and to:

- (a) *the effect of development of the proposed subdivision on matters of provincial interest as referred to in Section 2;*
- (b) *whether the proposed subdivision is premature or in the public interest;*
- (c) *whether the plan conforms to the official plan and adjacent plans of subdivision, if any;*
- (d) *the suitability of the land for the purposes for which it is to be subdivided;*
- (e) *the number, width, location and proposed grades and elevations of highways, and the adequacy of them, and the highways linking the highways in the proposed subdivisions with the established highway system in the vicinity and the adequacy of them;*
- (f) *the dimensions and shapes of the proposed lots;*
- (g) *the restrictions or proposed restrictions, if any on the land proposed to be subdivided or the buildings and structures proposed to be erected on it and the restrictions, if any, on adjoining land;*
- (h) *conservation of natural resources and flood control;*
- (i) *the adequacy of utilities and municipal services;*
- (j) *the adequacy of school sites;*
- (k) *the area of land, if any, within the proposed subdivision that, exclusive of highways, is to be conveyed or dedicated for public purposes; and*
- (l) *the physical layout of the plan having regard to energy conservation.*

### 4. Provincial Policy Statement

It is required that a municipality shall have regard to policy statements issued under the Planning Act in considering development proposals. Policy 1.2 of the Provincial Policy Statement requires a municipality to provide a full range of housing types and densities to meet projected demographic and market requirements of current and future residents.

### 5. Regional Policy Plan

The lands subject to this application are primarily located within the Urban Area of Fenwick as identified in the Regional Policy Plan, however, a portion of the lands is designated Good General Agricultural. Policy 5.4 requires that individual urban development proposals within urban areas be dependent on the availability of adequate municipal services to meet the anticipated increased requirements resulting from the development. Policy 5.5 recognizes that the primary responsibility for regulating the types, locations and densities of land uses within defined urban areas rests with the local municipalities, through their official plans and zoning regulations. Each municipality is expected to prepare these plans with supporting information to regulate the development within their urban areas.

Cont...3

26T19-03002  
AM-02/03

-3-

P-25/03

6. Town of Pelham Official Plan

The lands proposed to be developed for residential use are designated Special Village Residential according to the Town of Pelham Official Plan. The predominant use of land in this designation shall be single-family dwellings. A limited number of multiple family dwellings which may also include senior citizen accommodations, may also be permitted on full services. Ancillary uses which shall also be permitted in the Village Residential designation are institutional uses, parks, schools, community facilities, and public utility uses.

Section 1.14 provides the following pertinent policies concerning development in this area:

- 1.14.1 All Village Residential development shall consist of larger than average lots to maintain a village atmosphere as opposed to typical small lot urban residential development. To this end the minimum lot size of full service lots shall be approximately 830 square metres. The minimum lot size of lots with private sewage facilities shall be approximately 3700 square metres.
- 1.14.2 Where the Village Residential boundary is close to an existing livestock operation new Village Residential development must maintain the minimum distance separation as determined from the Agricultural Code of Practice.
- 1.14.3 New development will be permitted by plan of subdivision or by consent which shall be in accordance with secondary plan(s) approved from time to time by Council. The need for a secondary plan in certain infilling situations may be waived at the discretion of Council based on the merits of each application. Existing dwellings and other buildings of architectural and historical interest should be conserved wherever possible and conservation of such structures may be a requirement in the approval of a plan of subdivision or consent.

7. Town of Peham Zoning By-law No. 1136 (1987)

The lands proposed to be subdivided are currently zoned Residential Village 1 RV1-171(H) in Zoning By-law No. 1136 (1987), as amended. The RV1 Zone permits the use of lands for single detached dwelling and uses, buildings and structures accessory thereto. Special provision RV1-171 affixed the (H) to the subject lands at such time in the past when a single detached dwelling was severed from the holding. The purpose of the holding provision was to ensure that no further development takes place until such time as Council approves an appropriate development proposal.

**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 submitted preliminary comments concerning a number of issues relating to the proposed development. A copy of their correspondence is included as Attachment No. 2.

Cont.../4

26T19-03002  
AM-02/03

-4-

P-25/03

- **Bell Canada** has informed that they require implementation of a condition of draft approval concerning underground servicing agreements.
- The **Regional Public Health Department**, the **Niagara District School Board of Niagara** and the **Niagara Regional Police Service** have advised that they have no objection to the proposed development.

## 2. Public Comments

Notice of the applications were 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 Church Street frontage. The following comment has been received to date:

- **Mr Robert and Mrs Magareth Williams** have submitted a letter of interest, 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. Preliminary Plan of Subdivision
2. Regional Planning & Development correspondence, dated June 24, 2003
3. Mr and Mrs. Williams correspondence, dated July 2, 2003

Prepared by,

  
Craig Larmour  
Planner

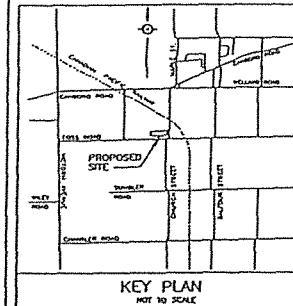
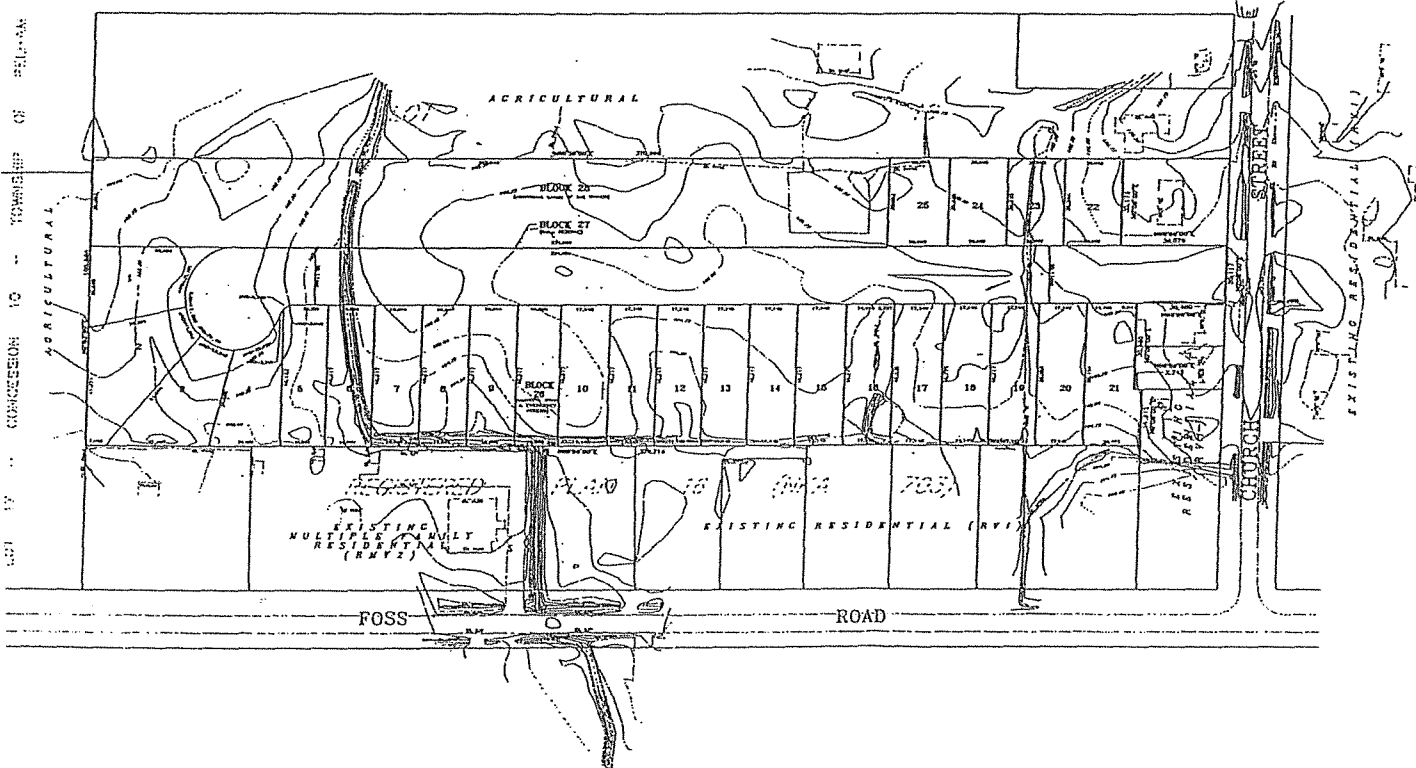
Approved and Submitted by,

Gord Cherney  
Chief Administrative Officer



# THE ORCHARDS

(FENWICK)  
TOWN OF PELHAM



## DRAFT PLAN OF SUBMISSION

### LEGAL DESCRIPTION

PART OF LOT 18 ON THE  
WEST SIDE OF CHURCH STREET  
REGISTERED PLAN 18  
TOWN OF PELHAM  
MUNICIPALITY OF PELHAM

### OWNER'S CERTIFICATE

BEING THE REGISTERED OWNER, I HEREBY  
AUTHORIZE UPPER CANADA CONSULTANTS TO  
PREPARE AND SUBMIT THIS DRAFT PLAN OF  
SUBMISSION TO THE TOWN OF PELHAM  
FOR APPROVAL.

REGISTERED BUREAU/ISSUER

DATE

### SURVEYOR'S CERTIFICATE

I HEREBY CERTIFY THAT THE BOUNDARIES OF THE LANDS  
AS SHOWN AND THEIR RELATIONSHIP TO THE ADJACENT  
LANDS ARE ACCURATELY AND CORRECTLY SHOWN.

P. DOUGLAS ROSSMAN, R. S. O. S.

DATE

### REQUIREMENTS OF SECTION 51(17) OF THE PLANNING ACT

TYPE	AREA	AREA	AREA
RESIDENTIAL	1.00	1.00	1.00
COMMERCIAL	1.00	1.00	1.00
INDUSTRIAL	1.00	1.00	1.00
RECREATION	1.00	1.00	1.00
OTHER	1.00	1.00	1.00

### LAND USE SCHEDULE

LAND USE	LOT/BLOCK	NO OF UNITS	AREA(M <sup>2</sup> )	AREA
SINGLE FAMILY	1-23	23	5,893	58.93
MULTI-FAMILY /	BLOCK 24		6,871	68.71
COMMERCIAL /				
INDUSTRIAL	BLOCK 27		6,881	68.81
RECREATION	BLOCK 20		6,786	67.86
OTHER				
TOTAL		23	5,893	58.93
DENSITY			6,310 UNITS/HA.	

REV	DESCRIPTION	DATE	BY
1			

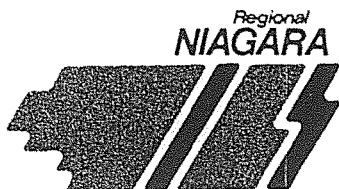
DRAWN BY: M.J.H. B.V. DATE: APRIL 3, 2003  
SCALE: 1:2500 DRAWING NO: 0703-0P



UPPER CANADA  
CONSULTANTS  
ENGINEERS/PLANNERS

2003-04-03  
1:2500  
0703-0P

Appendix E-1  
Page 5/9  
REPORT NO. P-25/03  
ATTACHMENT NO. 1  
PAGE NO. 1/1



**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

REPORT NO. P-25/03  
ATTACHMENT NO. 2  
PAGE NO. 1/2

Files: D.10.M.19.27  
D.11.M.19.24

June 24, 2003

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

Dear Mr. Larmour:

Re: Preliminary Comments  
Proposed Zoning By-law Amendment and  
Draft Plan of Subdivision  
The Orchards Subdivision  
Church Street, north of Foss Road  
Town of Pelham  
Your Files: AM-02/03 & 26T-19-03002 (H. Breunissen)

Regional Planning staff has reviewed available historical information on the Region's Urban Area Boundary for Fenwick, including the schedule to Pelham Official Plan Amendment No. 7, and we have the following comments for the Town's and the applicant's consideration.

This property is located partly within the Fenwick Urban Area Boundary according to the Regional Policy Plan while the balance of the site is designated as Good General Agricultural Area. Based on the historical information, it would appear that the westerly portion of the proposed development lies outside of the urban area. The urban boundary in this location is situated to the east of the westerly limits of the applicant's property (i.e. approximately 65 metres) and just to the west of the municipal drain bisecting this site. Accordingly, the proposed cul-de-sac bulb and Lots 1, 2, 3 and part of Lot 4 are outside of the Urban Area Boundary. This will, therefore, necessitate a revision to the draft plan to eliminate any urban development outside of the urban area. An amendment to the Regional Policy Plan to modify the Fenwick urban boundary would be required to allow the development to proceed as proposed. Regional Planning staff, however, is unable to comment on whether an application would be successful due to concerns that may arise during any Plan amendment process.

As previously indicated in our letter of awareness dated May 21, 2003 (copy attached), we also have concerns with the proposed roadway abutting the urban boundary on the north side. The appropriateness of the road location and alternate development concepts to avoid this situation should be considered further.

REPORT NO. P-25/03  
ATTACHMENT NO. 2  
PAGE NO. 2/2

In addition, on a preliminary basis, the realignment of the Swayze Municipal Drain through this property, which is identified as an Important Type 2 fish habitat, would appear to require the approval of the Niagara Peninsula Conservation Authority on behalf of the Federal Department of Fisheries and Oceans and the Ministry of Natural Resources under the Lakes and Rivers Improvement Act.

In conclusion, these applications raise concerns with respect to the Urban Area Boundary for Fenwick as discussed above. These should be addressed before these applications are considered further. Regional Planning staff, therefore, is not in a position to provide final comments on these applications at this time.

Please do not hesitate to contact either Pat Busnello, Planner, or Eric Conley, Senior Planner, should you wish to discuss these items further.

Yours truly,



David J. Farley  
Director of Planning Services

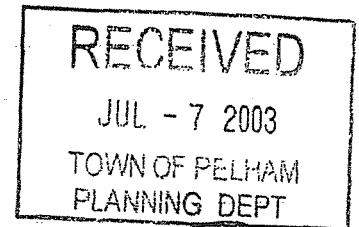
PB/

c: Mr. R. Hodge, Upper Canada Consultants, 215 Ontario Street, St. Catharines,  
ON L2R 5L2  
Mr. P. Bond, Niagara Peninsula Conservation Authority  
Mr. J. Durst, Ministry of Natural Resources, Vineland Station  
Mr. W. Stevens, Regional Public Works

REPORT NO. P-25/03  
ATTACHMENT NO. 3  
PAGE NO. 1/2

July 2, 2003

Clerk of the Town of Pelham  
20 Pelham Town Square  
P.O. Box 400  
Tonawanda, Ontario  
L0S 1E0



Attention: Craig Larmour, Planner  
& Mayor Ralph Beamer.

Dear Sirs:

This letter is in response to a public meeting that is being held on July 28, 2003. It concerns a proposed plan of subdivision and an amendment to the zoning by-law. The property is on the west side of Church Street and lying north of Zoss Road that is owned by Huibertus Bruemissen.

We (Robert and Margaret Williams) will not be able to attend this meeting and will be out of Town till the middle of August.

We would like to be able to respond to any or all proposals brought forward from this meeting as we are adjoining land owners to the south of this property.

Our concerns are ① the maintenance of the Swayze Drain with the increase of run off from proposed roadways.

② on the map, that was sent to us, on page 3 of the notice it shows Block 26. It straddles the Swayze Drain. In order for this emergency access to connect with Zoss Road it must come across our property (823 Foss) and our neighbours (west of ...).

Last year we were approached by a real estate agent, who was representing Mr. Breunissen, about a possible severance or renting a right-of-way for services.

I (Robert) met with Craig Larmour, Jamie Hodge, and Nancy Boggato. I was informed, at that time, the Town would never allow a right-of-way on private property.

③ Our last concern is the water and sewers. Where will these services hook into and are they large enough to handle this proposed subdivision?

We would like a copy of the Technical Information Report and a copy of the minutes from the Public meeting on July 28.

We are not for or against this zoning by-law amendment or subdivision proposal at this time. We would like to be able to appeal or discuss the decisions after we return to Town around August 15.

Yours,

Reht Ault

Margaret H. Williams

823 Foss Rd.

R.R. #4

Fennick, Ontario

L0S 1C0

PLANNING SERVICES REPORT

P-07/05

TO: Chair, Councillor John Durley, and Members of the General Committee, Planning Services Division

FROM: Craig Larmour, MCIP, RPP, Director of Planning Services

DATE OF REPORT: March 02, 2005

DATE OF MEETING: March 07, 2005

SUBJECT: Town Official Plan Amendment Application AM-02/03  
Huibertus Breunissen (Agent: Upper Canada Consultants)

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RECOMMENDATION

THAT the General Committee, Planning Services Division, receive Planning Services Report P-07/05 regarding Official Plan Amendment Application AM-02/03, The Orchards – Huibertus Breunissen;

AND THAT Official Plan Amendment Application AM-02/03 be approved for the purpose of expanding the Fenwick Urban Area;

AND FURTHER THAT Planning Staff be directed to prepare the necessary Official Plan Amendment for consideration by Council.

LOCATION, PURPOSE, BACKGROUND AND POLICY

1. Location

The subject lands are located on the west side of Church Street, lying north of Foss Road. The legal description is part of Lot 19, Registered Plan No. 16, former Township of Pelham, Town of Pelham.

2. Purpose

The purpose of this application is to amend the Town of Pelham Official Plan to permit the expansion of the Fenwick Urban Area.

3. Background

On April 26, 2004, the Town convened a Public Meeting to address applications to amend the Regional Policy Plan and the Town of Pelham Official Plan and Zoning By-law to accommodate a proposed plan of subdivision. The amendments proposed to expand the Fenwick Urban Area by approximately 30 metres (100 feet) to the north and about 60 metres (200 feet) to the west, encompassing an additional 1.3 hectares (3.2 acres) of land to be developed in conjunction with the 2.54 hectares (6.3 acres) of land already within the Urban Area.

The application for plan of subdivision proposed the creation of twenty-six (26) lots for single detached dwelling use, one (1) block for the accommodation of eight (8) townhouse dwelling units, one (1) block for stormwater management and one (1) block for a 10 metre wide emergency access. A copy of the plan of subdivision originally proposed is included as Attachment No. 1 to this Report.

In response to concerns expressed by a number of neighbours, the applicant revised the proposal by:

1. eliminating the proposed boundary expansion to the west;
2. relocating the stormwater management facility;
3. eliminating the townhouse block;
4. reducing the number of single detached dwelling lots; and
5. reducing the expansion to the north to provide a buffer between the proposed development and the adjacent agricultural operation to the north.

A copy of the revised plan of subdivision is included as Attachment No. 2 to this report.

The revised application requires consideration of an Official Plan Amendment to expand the Fenwick Urban Area by approximately 25 metres (82 feet) to the north, encompassing approximately 0.53 hectares (1.3 acres) of land to be developed in conjunction with the 2.54 hectares (6.3 acres) of land already within the Urban Area.

At this time, the applicant is seeking approval of the Official Plan Amendment only. Approval of the applications for Zoning By-law Amendment and Draft Plan of Subdivision are intended to proceed at such time as the Official Plan is appropriately amended.

#### 4. Provincial Policy Statement

It is required that a municipality shall have regard to policy statements issued under the Planning Act in considering development proposals.

Section 1 of the Provincial Policy Statement (PPS) provides policy promoting efficient, cost-effective development patterns. Policy 1.1.1 a) states:

*Urban areas and rural settlement areas (cities, towns, villages and hamlets) will be the focus of growth.*

Policy 1.1.2 a) states:

*The provision of sufficient land for industrial, commercial, residential, recreational, open space and institutional uses to promote employment opportunities, and for an appropriate range and mix of housing, to accommodate growth projected for a time horizon of up to 20 years.*

Policy 1.1.3 states, in part:

Long term economic prosperity will be supported by:

*providing a supply of land to meet long term requirements, in accordance with policy 1.1.2;*

## 5. Regional Policy Plan

The lands straddle the Fenwick Urban Area Boundary (UAB) as identified by the Regional Policy Plan. Lands outside of the UAB in this proximity are located within the Good General Agricultural Area as defined by the Regional Plan.

Concerning expansions to urban boundaries, Regional Policy 5.6 offers the following:

*Expansions to the urban boundaries are a significant community undertaking requiring Amendments to the Regional and local Official Plans. The Region expects, and will encourage and assist, the efficient use of land within the existing urban boundaries through infilling, redevelopment, and increased densities. Expansions into the Niagara Escarpment Plan area are not encouraged and if proposed will require an Amendment to the Niagara Escarpment Plan.*

*An assessment of proposed urban boundary changes will be based on the Regional Strategy for Development and Conservation in Section 3. Proposed expansions should be considered within the context of an overall municipal review.*

*Particular criteria for the review of proposed urban boundary expansions are:*

*the need for the proposed uses and the benefits and costs to the local and Regional community. The need assessment should consider the amount of developable land within existing urban areas, the demand for the type of development proposed in relation to the demographic forecasts for the local municipality and the Region, and opportunities for accommodating development within the existing urban areas;*

*the availability of suitable alternative locations within the municipality for proposals only serving local residents. For all other applications involving prime agricultural lands, the availability of suitable alternative locations also shall be considered;*

*compliance with the objectives and policies of this Plan including preference for poor quality agricultural lands for development, preservation of high quality agricultural land for agricultural uses, protection of natural resources, and support for physically separate urban communities;*

*the location and effect of the new boundary on those lands and activities remaining outside the urban area;*

*the availability and capability of servicing facilities; and  
the comments of local municipalities on the demonstrated need, the evaluation of local resources, and the opportunity for orderly, efficient and economic growth.*



6. Town of Pelham Official Plan

The Fenwick Urban Area Boundary (UAB) extends approximately 110 metres west of the Church Street road allowance and 120 metres north of Foss Road. The balance of the holding lies outside of the UAB and is designated Good General Agricultural.

The Village Residential policies are intended to permit the predominant use of land for single detached dwellings. Ancillary uses such as institutional uses, parks, schools, community facilities and public utility uses shall also be permitted. The policies require a minimum lot area of 830 square metres for lots provided with full services.

The Village Residential policies also state that where the Village Residential boundary is close to an existing livestock operation new Village Residential development must maintain the minimum distance separation.

The current Good General Agricultural designation on the lands does not permit the intended use of the lands

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

The subject lands are currently zoned Residential Village 1 RV1-171(H) and Agricultural A according to Zoning By-law No. 1136 (1987), as amended.

COMMENTS AND DISCUSSION

1. Agency Comments

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

- The Regional Niagara Planning and Development Department has indicated that detailed comments concerning the proposal will not be provided until such time as the Regional Policy Plan Amendment has been approved.
- The Town's Operations Department, the Regional Public Health Department, the District School Board of Niagara and the Niagara Regional Police Service have advised that they have no objection to the proposed amendment.

2. Public Comments

A Public Meeting was convened by the Town on April 26, 2004 at which meeting a number of area residents and concerned citizens attended. Correspondence received in response to the circulation of the application and attendance at the meeting is included as Attachment No. 3.

### 3. Staff Comments

The applicant is seeking approval of an Official Plan Amendment to expand the Fenwick Urban Area approximately 25 metres (82 feet) to the north, resulting in the addition of approximately 0.53 hectares (1.3 acres) of land.

As noted previously, the Fenwick Urban Area Boundary (UAB) extends approximately 110 metres west of the Church Street road allowance and 120 metres north of Foss Road. Unfortunately, the circumstances surrounding the delineation of the Boundary in this location are unclear. What is clear is that the amount of land currently designated does not afford an opportunity for the construction of a conventional municipal road with development of either side.

Proposals for the expansion of an urban area would typically be evaluated in accordance with the criteria provided for in the Regional Policy Plan, however, these policies generally provide for the consideration of more extensive expansions than that proposed in this particular situation. Regardless, justification is required in order to lend support to this minor expansion.

In this situation, the need for the proposed expansion would not necessarily be measured in terms of accommodating population growth, rather need is being measured in the ability of the owner to reasonably develop the lands for residential purposes.

While little effort can be given to the consideration of alternative locations, regard for impact on agriculture has been given. These considerations are reflected in the following revisions to the original proposal:

- abandonment of the proposed expansion to the west. This portion of the proposed amendment has been abandoned in consideration of the active orchard and greenhouse establishment operated by Mr Jan VanZanten. Furthermore, the applicant has discussed with Mr VanZanten opportunities for him to purchase the lands to add to the agricultural operation;
- reduction of the proposed expansion to the north from 60 metres to 55 metres in order to afford the provision of a five (5) metre buffer to be conveyed to Mr and Mrs Clark. Mr and Mrs Clark have requested consideration of the conveyance of the 5 metre strip to provide a landscaped buffer between the existing agricultural use and the proposed residential development. The applicant has consented to the requested conveyance.

Even with these concessions, a concern remains with the Official Plan policy relating to new development where the Village Residential boundary is close to an existing livestock operation. Mr and Mrs Clark's small-scale farm includes a barn that is located immediately north of Lots 5 and 6. While the three cows housed in the barn are technically considered a livestock operation, the minimum distance separation formula was not designed to address small-scale operations. In order to accommodate the proposed development it will be necessary for the Official Plan to be amended by deleting reference to this policy as it affects the Clark's operation. Provided Mr and Mrs Clark's operation remains small-scale, Planning Staff do not envision the creation of land use incompatibilities in this circumstance.

-6-

P-07/05

For Committee's information, Mr and Mrs Clark have filed an application for Zoning By-law Amendment to preserve their right to house their three cows. Planning Staff intend to bring forward their application at a subsequent meeting of Committee in concert with the Zoning By-law Amendment for this development proposal.

Concerning impact on municipal services, the Town's Operations Department has advised that municipal water and sanitary sewer services are both available and capable of accommodating the needs of the proposal.

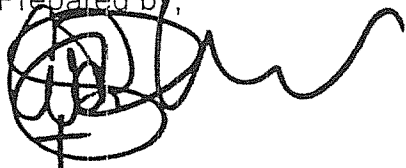
Planning Staff are of the opinion that the boundary expansion is minor in extent, is a logical extension of the existing urban boundary and does not intrude significantly into the agricultural area. Furthermore, Planning Staff are of the opinion that the proposed expansion will not negatively affect the structure or character of the Village nor the provision of municipal services within Fenwick.

On this basis, it is recommended that the application for Official Plan Amendment be approved.

#### ATTACHMENTS

1. Originally Proposed Plan of Subdivision
2. Currently Proposed Plan of Subdivision
3. Public Comments received to date

Prepared by,



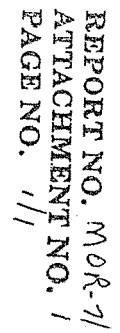
Craig Larmour, MCIP, RPP  
Director of Planning Services

Approved and Submitted by,



Gord Cherney  
Chief Administrative Officer

## TOWN OF PELHAM

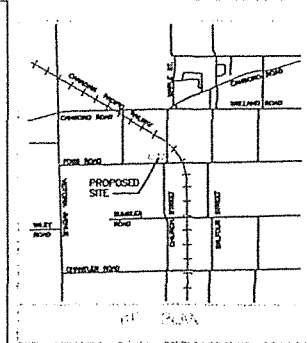


# REDLINE REVISION - THE ORCHARDS

## PLAN 26T19-03002

LOT 23  
10000.3  
sq.m.

916.9 sq.m.	811.1 sq.m.	791.3 sq.m.	791.3 sq.m.	791.3 sq.m.	791.3 sq.m.	791.3 sq.m.	791.3 sq.m.	791.3 sq.m.	837.0 sq.m.	836.9 sq.m.	836.9 sq.m.	836.9 sq.m.
13	12	11	10	9	8	7	6	5	4	3	2	1
<div> <div>945.4 sq.m.</div> <div> <div> <div>BLOCK 25</div> <div>2148.3 sq.m.</div> </div> <div> <div>BLOCK 25</div> <div>150.0 sq.m.</div> </div> <div>22</div> <div>836.5 sq.m.</div> <div>21</div> <div>836.5 sq.m.</div> <div>20</div> <div>836.5 sq.m.</div> <div>19</div> <div>836.5 sq.m.</div> <div>18</div> <div>836.5 sq.m.</div> <div>17</div> <div>846.3 sq.m.</div> <div>16</div> <div>902.1 sq.m.</div> <div>15</div> <div>897.9 sq.m.</div> <div>14</div> <div>961.9 sq.m.</div> </div> </div>												



DECLARATION OF SUBDIVISION

LEGAL DESCRIPTION  
PART OF LOT 19 ON THE  
WEST SIDE OF CHURCH STREET  
REGISTERED PLAN 18  
TOWNSHIP OF PELHAM  
part of lot 19 of plan 26T19-03002

OWNER'S CERTIFICATE

SURVEYOR'S CERTIFICATE

REQUIREMENTS OF SECTION  
51(17) OF THE PLANNING ACT

LAND USE SCHEME



UNOFFICIAL  
CONSULTATION

REPORT NO. mor-7/15  
ATTACHMENT NO. 2  
PAGE NO. 111

REPORT NO. MOR-071  
ATTACHMENT NO. 3  
PAGE NO. 1/17

July 2, 2000

Clerk of the Town of Pelham  
20 Pelham Town Square  
P.O. Box 400  
Tonawanda, Ontario  
L0S 1E0

Attention: Craig Larmour, Planner  
& Mayor Ralph Beamer

Dear Sirs:

This letter is in response to a public meeting that is being held on July 28, 2000. It concerns a proposed plan of subdivision and an amendment to the zoning by-law. The property is on the west side of Church Street and lying north of Foss Road that is owned by Hubertus Bruunissen.

We (Robert and Margareth Williams) will not be able to attend this meeting and will be out of Town till the middle of August.

We would like to be able to respond to any or all proposals brought forward from this meeting as we are adjoining land owners to the south of this property.

Our concerns are ① the maintenance of the Swayze Drain with the increase of run off from proposed roadways.

② on the map that was sent to us, on page 3 of the notice it shows Block 26. It straddles the Swayze Drain. In order for this emergency access to connect with Foss Road it must come across our property (823 Foss) and

REPORT NO. MR-07  
ATTACHMENT NO. 1  
PAGE NO. 2/17

Last year we were approached by a real estate agent, who was representing Mr. Breunissen, about a possible severance or renting a right-of-way for services.

I (Robert) met with Craig Larmour, Jamie Hed and Nancy Boggato. I was informed, at that time, the Town would never allow a right-of-on private property.

③ Our last concern is the water and sewer. Where will these services hook into and are they large enough to handle this proposed subdivision?

We would like a copy of the Technical Information Report and a copy of the minutes from the Public meeting on July 28.

We are not for or against this zoning by-law amendment or subdivision proposal at this time. We would like to be able to appeal or discuss the decision after we return to Town around August.

Yours,

Robert Adkins

Margaret H. Wil

823 Foss Rd.

R.R. #4

Fenwick, Ontario

L0S 1C0

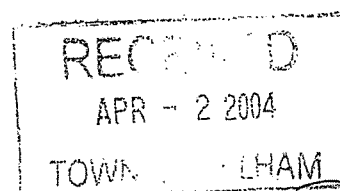
REPORT NO. MOR-071  
ATTACHMENT NO. 3  
PAGE NO. 3/17

Rodney Wright  
905 Canboro Road R.R.#1 Fenwick, Ont LOS 1C0

---

March 29, 2004

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



Attention: Office of the Mayor

Dear Sir:

It has been brought to my attention that the group promoting the Orchards Subdivision on Church Street in Fenwick is requesting a change in the urban boundaries.

A few years ago I attended the hearings before the Ontario Municipal Board prior to the establishment of the present urban boundaries. Farmers from Pelham including myself requested that the boundaries be established so we could operate our farm businesses without interference. In order to make investments in our farm businesses and operate our farms economically on a scale enabling us to pay off debt and raise our families, we needed protection from urban encroachment.

These reasons are still relevant today and therefore I am opposed to any changes of urban boundaries especially when the movement of the boundaries place non agricultural residences adjacent to farm activities. The proposed subdivision will have a negative impact on the agricultural activities of Leo DeVries and John Van Zanten to the West and Dell and Phyllis Clark to the North.

Allowing non agricultural residences to encroach on agricultural activities could result in curtailment of normal agricultural practices which would have a negative impact on the farm operator. The extent of this impact could include farmers losing their livelihoods and therefore the enjoyment of their property. It seems unconscionable that the Town of Pelham would consider changing boundaries that could negatively impact existing agricultural businesses for residences that currently do not exist in the community.

Yours truly,

Rodney Wright  
cc Regional Municipality of Niagara



REPORT NO. MOR-01  
ATTACHMENT NO. 3  
PAGE NO. 4/17

March 10, 2004

To whom it may concern,

We are writing in regard to the proposed subdivision ("The Orchards") to be located on the west side of Church Street.

In order for this to go ahead agricultural land must be rezoned residential.

As a Fruit Grower in Fenwick we are against this. Currently we rent orchard land from John Vanzanten. This land consists of apples and pears. We are in the process of establishing new plantings on the east side of this property and this borders directly against land of this proposed subdivision.

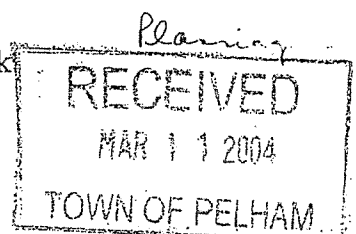
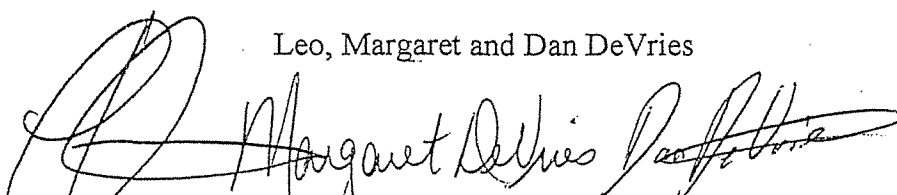
Our concern is water run-off and complaints from homeowners of this proposed subdivision. We control orchard pests and diseases by spray applications early in the morning and late evening. This creates noise and some spray drift.

We feel there is not much thought given to town planning. Prime agricultural land has already been rezoned residential. (For example- Old Stirtzinger property other wise now known as Edgewood Hills on Welland Avenue.) Water retention pond that doesn't work at the subdivision between Balfour and Maple. Municipal drains that are plugged with sand from construction zones. (Example- Brian Burkes farm which is extremely wet.)

It's sort of ironic that the name of the proposed subdivision is "THE ORCHARDS"!!! Someday there won't be any orchards in Fenwick.

Sincerely,

Leo, Margaret and Dan DeVries



OR

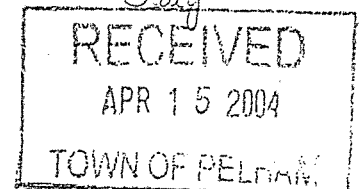
REPORT NO. MK-0  
ATTACHMENT NO.  
PAGE NO. 5/17

RE: Future Development  
Church Street north of Foss Road  
Town of Pelham

File# D.10.M.19.23  
D.13.RE.AM-192

The following comments are offered to the planning department for their consideration and for inclusion in an information report in regards to an application for urban boundary expansion, the proposed "The Orchards" subdivision. The comments were prepared by my wife and I, and although we are lay people in these matters, they are based on our honest and sincere understanding of the facts.

Please find enclosed ~~Appendix~~ <sup>MAP</sup> A, showing our property location and zoning, ~~appendix~~ <sup>MAP</sup> B showing drainage run offs and ~~Appendix~~ <sup>MAP</sup> C detailing pasture, barn and wooded areas.



REPORT NO. MR-0716  
ATTACHMENT NO. 3  
PAGE NO. 6/17

APPENDIX A Drainage

There are five points where natural run off occurs. From the north following south, across our property. The volume is extremely high, particularly during heavy rains in the spring and fall. The natural run off originates in my neighbour's property (to the north), proceeding south in small open drains. In all it drains an area of 15 to 18 acres of agricultural land. This run off crosses my pasture where my three cows graze year round, and therefore this agricultural drainage would flow into the back yards of any re-zoned urban areas. I practice proper pasture management and do not excessively use agricultural chemicals. The retention of the agricultural zoning to the south would accommodate this run off through natural absorption and existing open drains. Any raising of existing land levels or changing of water tables, by urban development, would result in flooding and stress leading to irreversible damage to my pastures and the hundreds of mature trees on my property. To a lesser extent flooding would do harm to my animals, fences and out building. Again, I must emphasize that this run off can be very heavy.

REPORT NO. MOR-0:  
ATTACHMENT NO. -  
PAGE NO. 7/17

APPENDIX B Safety and Liability

The operation of heavy farm equipment on our agricultural land would present a danger to abutting properties. For example, my bush-hog has been known to throw items it strikes up to 25 feet. I also utilize a mower, heavy trimmer, and have rented a roto-tiller, which has a similarly dangerous effect. In addition my equipment is noisy. My cattle, although tame, are still large animals with a horn spread of 3 feet. Any unusual noises or situations which would naturally occur in an urban setting would cause them to defend themselves, and their natural reaction is to use their horns, hooves, or run. Small children and dogs have, in the past, frightened these cows. The cattle are contained by an agricultural electric fence which could prove harmful to said children and dogs, as well as being potentially harmful in electrical storms. Furthermore, on occasion, I use agricultural sprays on my trees, as well as spread rotted manure.

Our property is maintained in a park like setting (clearings, trees, ponds, etc.), which would naturally attract trespassers from urban areas in close proximity. Although most people are respectful, a higher urban concentration increases the likelihood of both trespassing and vandalism (At present my neighbour to the north is experiencing vandalism from bush parties and trespassers). The retention of the present urban property would give us peace of mind, provide a greater degree of security and ensure an area of safety from over use of agricultural land.

REPORT NO. *MOR-07/01*  
ATTACHMENT NO. *3*  
PAGE NO. *8/17*

APPENDIX C Property Enjoyment and Protection of Investment

The decision to purchase our property in 1988 was made with the knowledge of the existing urban boundary zones and their implications. Our dream was to locate a property which would allow us to reside and develop a hobby farm, and to accommodate animals we already owned. The property chosen offered all we had hoped for and we felt secure in the assurances that any zoning changes would be an involved and difficult process. We subsequently built a barn, then a house, over the next 16 years and we have made a sizable investment in time, labour and money. We have spent approximately \$55,000 on the agricultural area mentioned above on such things as barn stables, roads, equipment, ponds and fences. The result has been an overall improvement to this agricultural property, which includes a sizable treed area, consisting of mainly pines, planted by the Ministry of Natural Resources about 40 years ago. The property as we have developed it, provides us with a great deal of happiness and is a source of comfort, pride and satisfaction. We are both retired, and our area has become a family gathering spot for our children, grandchildren and friends. Any altering of the zoning boundary would drastically alter the dynamics of our property, forcing us into an unbargained for and uncomfortable co-existence with an urban environment.

A secondary concern is that should development be allowed on newly rezoned agricultural lands, it would diminish the value in our property, to be presented as a developed hobby farm where animals are permitted, thus making it attractive to prospective buyers who desire these situations in this region.

In conclusion we are strongly opposed to any expansion of the established urban boundaries as they now exist. We are not, however, opposed to any well thought out and reasonable development where it is presently allowed. We are confident that the planning process will thoroughly address the needs of development with those who have invested in and live on its borders. The present urban/rural mix that exists in our neighbourhood is most valued by those of us who live here and it would be sad to see it destroyed through the aggressive, profit motivated dictates of land developers.

Sincerely,

*Phyllis Clark*  
Phyllis Clark

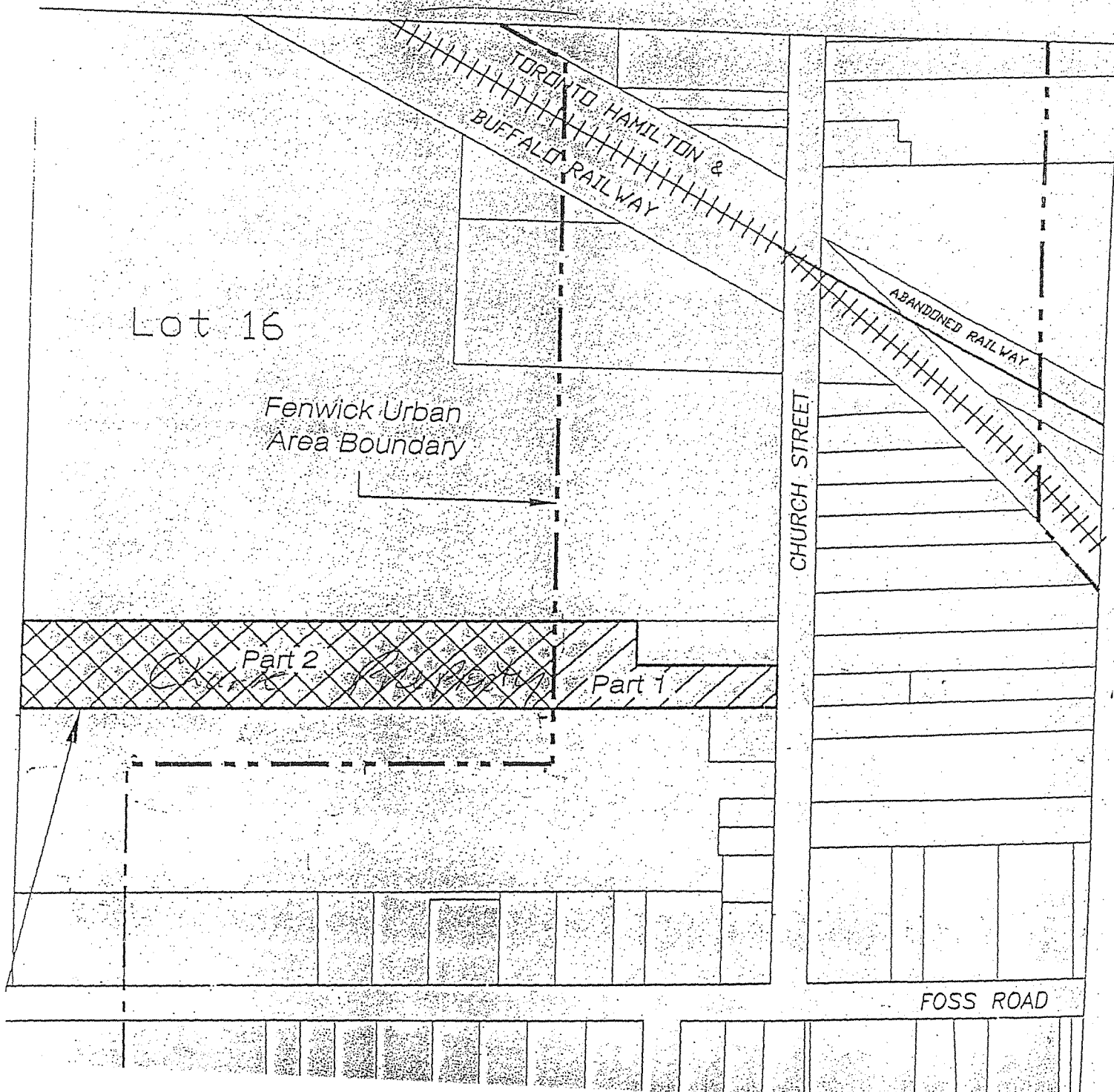
*Dell I. Clark*  
Dell I. Clark

# LOCATION MAP

REPORT NO. 7  
ATTACHMENT NO. 1  
PAGE NO. 1/1

REPORT NO. MOR-07  
ATTACHMENT NO. 3  
PAGE NO. 9/17

*Map A*



REPORT NO. 0102-0711  
ATTACHMENT NO. 3  
PAGE NO. 10/17

PROPERTY BOUNDARY  
D. & P. CLARK

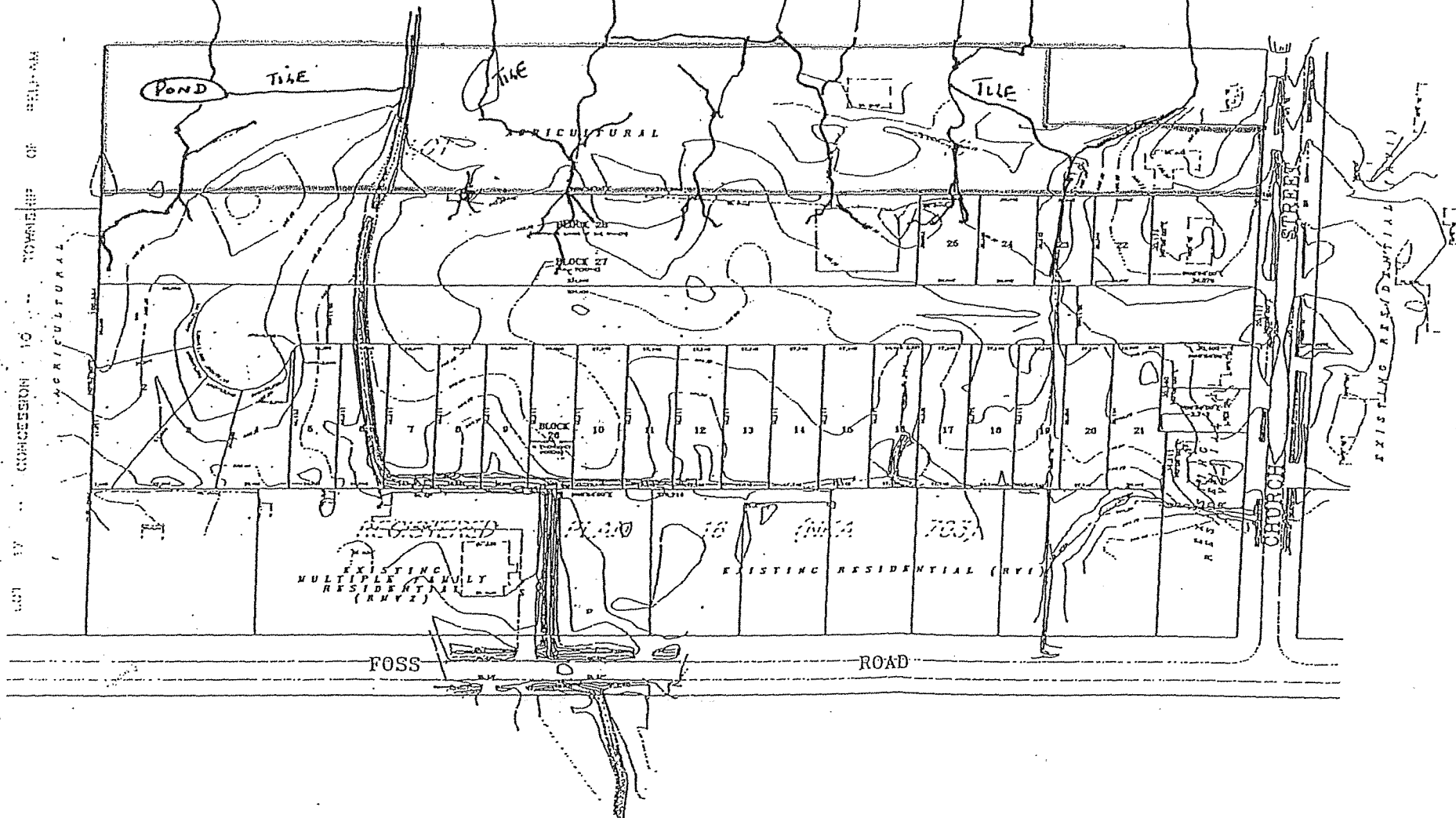
MAP "B"

# THE ORCHARDS

Run off  
Drainage runs

(FENWICK)

TOWN OF PELHAM



MAP C

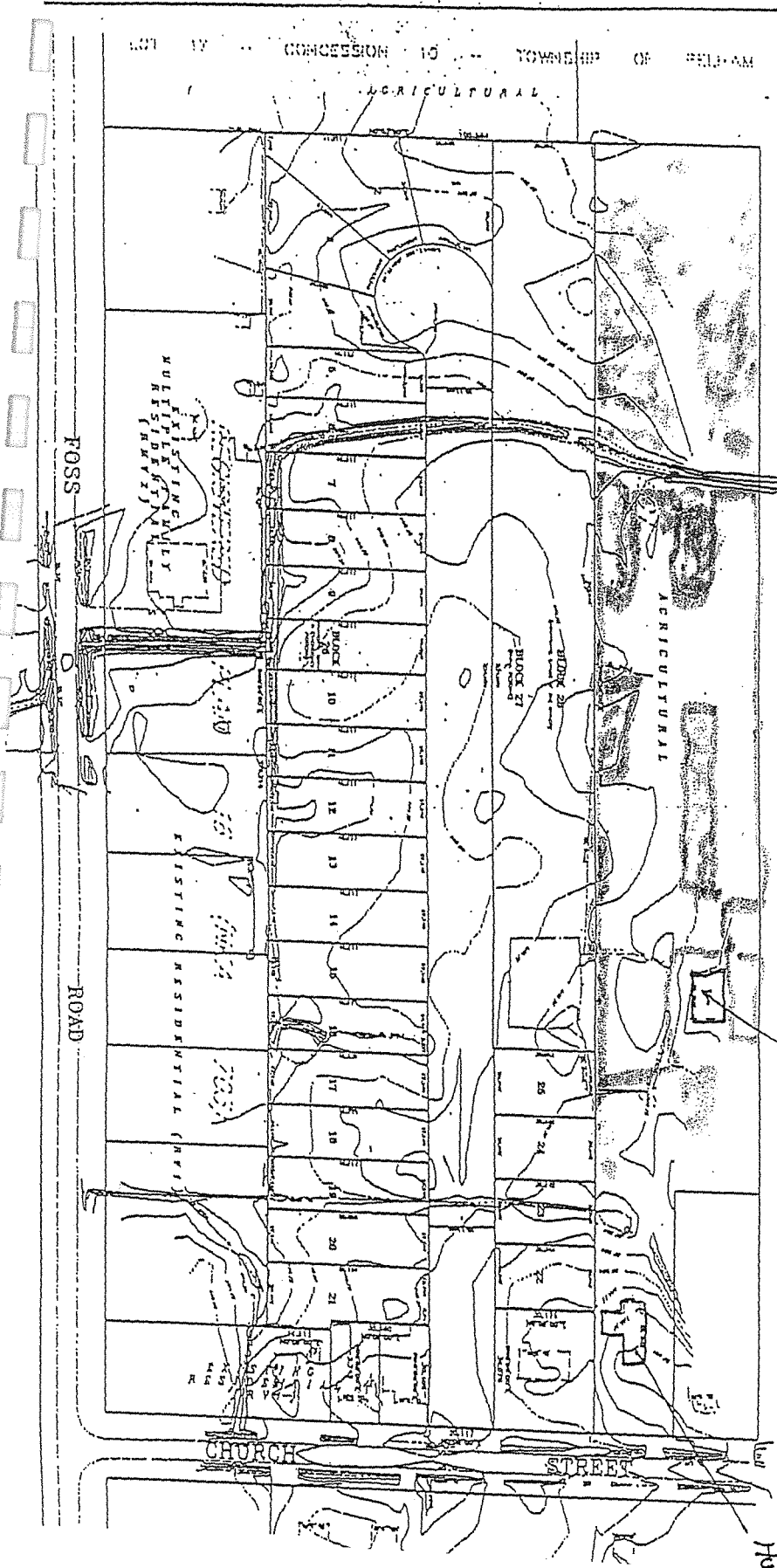
PASTURE AREAS

(FENWICK)

COWS ARE FENCED  
OFF FROM TREES and  
TOWN OF PELHAM

HENCE UTILIZED  
OBTAIN WIRE TENSILE  
RAN

CATTLE ARE NOT ALLOWED TO GRAZE ACROSS SWAY, BUT GRASS IS CUT IN FOR THEM.



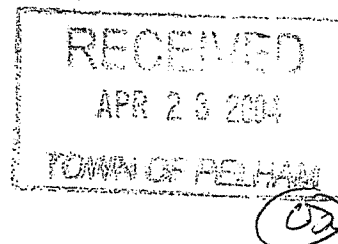


REPORT NO. *MOB-1*  
ATTACHMENT NO.  
PAGE NO. *12/17*

Jan VanZanten  
879 Foss Road Fenwick, Ont L0S 1C0

April 22, 2004

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



Attention: Office of the Mayor

Dear Sir:

We own and operate the greenhouse business situated at 879 Foss Rd, Fenwick. We are part of Lot 17, Concession 10. This is located on the west from the proposed *The Orchards* subdivision. The proposed *The Orchards* subdivision will have a direct negative impact on our greenhouse and fruit farm operation.

Our viability as a greenhouse business will be drastically restricted because:

1. When the need arises we will not be allowed to expand in the future, or we will be severely restricted. We are required to stay away from the houses a minimum 150 feet.
2. If we have to apply chemicals in the greenhouse it might create an unpleasant odour when we ventilate.
3. If we have to use artificial lighting in the winter months, we will be expected to use black shading to keep the light away.

We have two sons and one daughter. Our oldest son, twenty-two years of age, is already involved in the greenhouse operation. Most likely the need to expand will arise in the very near future. This is also the reason we purchased this property in 1990 so we had land to expand. We have about fifteen acres.

We also have fruit trees that are leased out to Mr. Leo deVries who also resides in Fenwick. Mr. Leo deVries does an excellent job in keeping it up and working the land. He has spent a considerable amount of money in replacing older trees with new ones and maintaining the orchard so it remains a viable operation.

REPORT NO. *MOR-0*  
ATTACHMENT NO.  
PAGE NO. *13/17*

Spraying of chemicals is done in the early morning or in the evening. The prevailing wind is southwest which would result in many complaints if the subdivision would be built.

(smell) Smell of the chemicals applied.

(noise) Turbine fan from the sprayer.

(noise) Noise of the tractor during harvest.

You may be well aware that the good agriculture zoning is our protection as a greenhouse and fruit farm operation.

This is our livelihood and also a big financial investment. The value of our greenhouse operation will be drastically reduced if the proposed subdivision will be granted, since there would be no opportunity for growth and expansion. We ask hereby, that the town will not grant permission to build the proposed subdivision, instead protect the good agricultural land, so that we are able to operate our business.

It only has a negative impact on the entire neighborhood. As an agricultural community there are no benefits to the proposed *The Orchards* subdivision plan.

Yours truly,

Jan VanZanten

REPORT NO. MOR-0:  
ATTACHMENT NO. 3  
PAGE NO. 14/17

Brief by Preservation of Agricultural Lands Society re Proposed Regional Policy Plan  
Amendment 192

On behalf of the Preservation of Agricultural Lands Society, (PALS), I am requesting that the proposed Amendment 192 to expand the Town of Pelham's urban area boundaries for the hamlet of Fenwick be opposed. These hamlet boundaries were developed with particular care to reduce impacts on the agricultural industry. The proposed urban expansion would create a new boundary, which would erode this protection, creating serious land use conflicts with residential neighbours.

It is unfortunate that the subject lands were excluded from the provincial greenbelt moratoria on urban boundary expansions. The boundary line is only a few hundred yards away. If this had altered to recognized the existing orchard in the vicinity of the expansion area, tonight's meeting under the Planning Act would not be possible to convene.

Fenwick should be bordered on all sides by a unique fruit land designation. It does not make could planning sense to eventually have the urban area of Welland extend into Fenwick. This could happen if the lands south of Fenwick are not designated as unique lands. The limit of the unique land area should extend around the entire hamlet of Fenwick. This would bring in all of the rural lands around Fenwick into the protected Greenbelt. In the past all of these lands were included within the Niagara Escarpment Plan area because of their location within the shadow fruit belt- an area where a substantial percentage of the land is in various fruit and grape crops.

The strongest reasons against the proposed urban expansion is that there is a hobby farmer with three cattle to the north and a greenhouse and orchard to the west. The current urban boundaries were developed to protect these agricultural uses and this protection would be compromised if the proposed amendment were approved.

The Town of Pelham recent underwent a massive process of approval and expansion of its urban boundaries. During this process it was said on several occasions that there would be no more expansions within the normal 20 year planning period. Since almost all of these lands are still undeveloped, these promises should be upheld and the expansion denied.

Sincerely,

(Dr) John Bacher (PhD)  
researcher, PALS

## PLANNING SERVICES REPORT

P-17/05

**TO:** Mayor, Ronald Leavens, and Members of Council  
**FROM:** Craig Larmour, Director of Planning Services  
**DATE OF REPORT:** June 01, 2005  
**DATE OF MEETING:** June 06, 2005  
**SUBJECT:** Official Plan Amendment No. 54  
The Orchards – Huibertus Breunissen  
West Side of Church Street, Lying North of Foss Road

---

### RECOMMENDATION

THAT Council receive Planning Services Report P-17/05, regarding  
Official Plan Amendment No. 54.

### LOCATION AND BACKGROUND

#### 1. Location

The subject lands are located on the west side of Church Street, lying north of Foss Road. The legal description is part of Lot 19, Registered Plan No. 16, former Township of Pelham, Town of Pelham.

#### 2. Background

Regional Policy Plan Amendment No. 192 was approved by Regional Council on April 07, 2005 and was declared after no appeal was received by May 04, 2005. The Amendment expands the Fenwick Urban Area by approximately 25 metres (82 feet) to the north of the existing boundary, encompassing approximately 0.53 hectares (1.3 acres) of land to be developed in conjunction with the 2.54 hectares (6.3 acres) of land already within the Urban Area.

Concerning the associated amendment to the Town of Pelham Official Plan, Council approved the application on March 21, 2005, in ratifying the General Committee recommendation of March 07, 2005. A copy of Planning Services Staff Report No. P-07/05 is included for Council's information and reference.

### STAFF COMMENTS

On tonight's agenda under the heading 'By-laws', Council is considering a By-law to adopt Town of Pelham Official Plan Amendment No. 54.

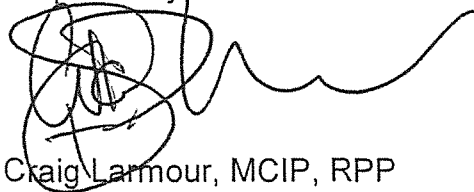
Cont.../2

For Council's information, presentation of the Amendment has been delayed until this time awaiting final approval of Regional Policy Plan Amendment No. 192.

**ATTACHMENT**

1. Planning Services Staff Report No. P-07/05

Prepared by,




Craig Larmour, MCIP, RPP  
Director of Planning Services

/CL

Approved and Submitted by,



 Anne Louise Heron, MBA, MHSc  
Chief Administrative Officer

## PLANNING SERVICES REPORT

TO: Chair, Councillor John Durley, and Members of the General  
Committee, Planning Services Division

FROM: Craig Larmour, MCIP, RPP, Director of Planning Services

DATE OF REPORT: March 02, 2005

DATE OF MEETING: March 07, 2005

SUBJECT: Town Official Plan Amendment Application AM-02/03  
Huibertus Breunissen (Agent: Upper Canada Consultants)

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### RECOMMENDATION

THAT the General Committee, Planning Services Division, receive Planning Services Report P-07/05 regarding Official Plan Amendment Application AM-02/03, The Orchards – Huibertus Breunissen;

AND THAT Official Plan Amendment Application AM-02/03 be approved for the purpose of expanding the Fenwick Urban Area;

AND FURTHER THAT Planning Staff be directed to prepare the necessary Official Plan Amendment for consideration by Council.

### LOCATION, PURPOSE, BACKGROUND AND POLICY

#### 1. Location

The subject lands are located on the west side of Church Street, lying north of Foss Road. The legal description is part of Lot 19, Registered Plan No. 16, former Township of Pelham, Town of Pelham.

#### 2. Purpose

The purpose of this application is to amend the Town of Pelham Official Plan to permit the expansion of the Fenwick Urban Area.

#### 3. Background

On April 26, 2004, the Town convened a Public Meeting to address applications to amend the Regional Policy Plan and the Town of Pelham Official Plan and Zoning By-law to accommodate a proposed plan of subdivision. The amendments proposed to expand the Fenwick Urban Area by approximately 30 metres (100 feet) to the north and about 60 metres (200 feet) to the west, encompassing an additional 1.3 hectares (3.2 acres) of land to be developed in conjunction with the 2.54 hectares (6.3 acres) of land already within the Urban Area.

REPORT NO. P-17/05  
ATTACHMENT NO. 1  
PAGE NO. 2/8

-2-

P-07/05

The application for plan of subdivision proposed the creation of twenty-six (26) lots for single detached dwelling use, one (1) block for the accommodation of eight (8) townhouse dwelling units, one (1) block for stormwater management and one (1) block for a 10 metre wide emergency access. A copy of the plan of subdivision originally proposed is included as Attachment No. 1 to this Report.

In response to concerns expressed by a number of neighbours, the applicant revised the proposal by:

1. eliminating the proposed boundary expansion to the west;
2. relocating the stormwater management facility;
3. eliminating the townhouse block;
4. reducing the number of single detached dwelling lots; and
5. reducing the expansion to the north to provide a buffer between the proposed development and the adjacent agricultural operation to the north.

A copy of the revised plan of subdivision is included as Attachment No. 2 to this report.

The revised application requires consideration of an Official Plan Amendment to expand the Fenwick Urban Area by approximately 25 metres (82 feet) to the north, encompassing approximately 0.53 hectares (1.3 acres) of land to be developed in conjunction with the 2.54 hectares (6.3 acres) of land already within the Urban Area.

At this time, the applicant is seeking approval of the Official Plan Amendment only. Approval of the applications for Zoning By-law Amendment and Draft Plan of Subdivision are intended to proceed at such time as the Official Plan is appropriately amended.

#### 4. Provincial Policy Statement

It is required that a municipality shall have regard to policy statements issued under the Planning Act in considering development proposals.

Section 1 of the Provincial Policy Statement (PPS) provides policy promoting efficient, cost-effective development patterns. Policy 1.1.1 a) states:

*Urban areas and rural settlement areas (cities, towns, villages and hamlets) will be the focus of growth.*

Policy 1.1.2 a) states:

*The provision of sufficient land for industrial, commercial, residential, recreational, open space and institutional uses to promote employment opportunities, and for an appropriate range and mix of housing, to accommodate growth projected for a time horizon of up to 20 years.*

Policy 1.1.3 states, in part:

Long term economic prosperity will be supported by:

*providing a supply of land to meet long term requirements, in accordance with policy 1.1.2;*

-3-

REPORT NO. P-17/05  
ATTACHMENT NO. 1 P-07/05  
PAGE NO. 3/8

## 5. Regional Policy Plan

The lands straddle the Fenwick Urban Area Boundary (UAB) as identified by the Regional Policy Plan. Lands outside of the UAB in this proximity are located within the Good General Agricultural Area as defined by the Regional Plan.

Concerning expansions to urban boundaries, Regional Policy 5.6 offers the following:

*Expansions to the urban boundaries are a significant community undertaking requiring Amendments to the Regional and local Official Plans. The Region expects, and will encourage and assist, the efficient use of land within the existing urban boundaries through infilling, redevelopment, and increased densities. Expansions into the Niagara Escarpment Plan area are not encouraged and if proposed will require an Amendment to the Niagara Escarpment Plan.*

*An assessment of proposed urban boundary changes will be based on the Regional Strategy for Development and Conservation in Section 3. Proposed expansions should be considered within the context of an overall municipal review.*

*Particular criteria for the review of proposed urban boundary expansions are:*

*the need for the proposed uses and the benefits and costs to the local and Regional community. The need assessment should consider the amount of developable land within existing urban areas, the demand for the type of development proposed in relation to the demographic forecasts for the local municipality and the Region, and opportunities for accommodating development within the existing urban areas;*

*the availability of suitable alternative locations within the municipality for proposals only serving local residents. For all other applications involving prime agricultural lands, the availability of suitable alternative locations also shall be considered;*

*compliance with the objectives and policies of this Plan including preference for poor quality agricultural lands for development, preservation of high quality agricultural land for agricultural uses, protection of natural resources, and support for physically separate urban communities;*

*the location and effect of the new boundary on those lands and activities remaining outside the urban area;*

*the availability and capability of servicing facilities; and  
the comments of local municipalities on the demonstrated need, the evaluation of local resources, and the opportunity for orderly, efficient and economic growth.*



-4-

REPORT NO. P-17/05  
ATTACHMENT NO. 1  
PAGE NO. 4/8  
P-07/05

6. Town of Pelham Official Plan

The Fenwick Urban Area Boundary (UAB) extends approximately 110 metres west of the Church Street road allowance and 120 metres north of Foss Road. The balance of the holding lies outside of the UAB and is designated Good General Agricultural.

The Village Residential policies are intended to permit the predominant use of land for single detached dwellings. Ancillary uses such as institutional uses, parks, schools, community facilities and public utility uses shall also be permitted. The policies require a minimum lot area of 830 square metres for lots provided with full services.

The Village Residential policies also state that where the Village Residential boundary is close to an existing livestock operation new Village Residential development must maintain the minimum distance separation.

The current Good General Agricultural designation on the lands does not permit the intended use of the lands

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

The subject lands are currently zoned Residential Village 1 RV1-171(H) and Agricultural A according to Zoning By-law No. 1136 (1987), as amended.

COMMENTS AND DISCUSSION

1. Agency Comments

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

- The Regional Niagara Planning and Development Department has indicated that detailed comments concerning the proposal will not be provided until such time as the Regional Policy Plan Amendment has been approved.
- The Town's Operations Department, the Regional Public Health Department, the District School Board of Niagara and the Niagara Regional Police Service have advised that they have no objection to the proposed amendment.

2. Public Comments

A Public Meeting was convened by the Town on April 26, 2004 at which meeting a number of area residents and concerned citizens attended. Correspondence received in response to the circulation of the application and attendance at the meeting is included as Attachment No. 3.

-5-

REPORT NO. P-17/05  
ATTACHMENT NO. 1 P-07/05  
PAGE NO. 5/8

### 3. Staff Comments

The applicant is seeking approval of an Official Plan Amendment to expand the Fenwick Urban Area approximately 25 metres (82 feet) to the north, resulting in the addition of approximately 0.53 hectares (1.3 acres) of land.

As noted previously, the Fenwick Urban Area Boundary (UAB) extends approximately 110 metres west of the Church Street road allowance and 120 metres north of Foss Road. Unfortunately, the circumstances surrounding the delineation of the Boundary in this location are unclear. What is clear is that the amount of land currently designated does not afford an opportunity for the construction of a conventional municipal road with development of either side.

Proposals for the expansion of an urban area would typically be evaluated in accordance with the criteria provided for in the Regional Policy Plan, however, these policies generally provide for the consideration of more extensive expansions than that proposed in this particular situation. Regardless, justification is required in order to lend support to this minor expansion.

In this situation, the need for the proposed expansion would not necessarily be measured in terms of accommodating population growth, rather need is being measured in the ability of the owner to reasonably develop the lands for residential purposes.

While little effort can be given to the consideration of alternative locations, regard for impact on agriculture has been given. These considerations are reflected in the following revisions to the original proposal:

- abandonment of the proposed expansion to the west. This portion of the proposed amendment has been abandoned in consideration of the active orchard and greenhouse establishment operated by Mr Jan VanZanten. Furthermore, the applicant has discussed with Mr VanZanten opportunities for him to purchase the lands to add to the agricultural operation;
- reduction of the proposed expansion to the north from 60 metres to 55 metres in order to afford the provision of a five (5) metre buffer to be conveyed to Mr and Mrs Clark. Mr and Mrs Clark have requested consideration of the conveyance of the 5 metre strip to provide a landscaped buffer between the existing agricultural use and the proposed residential development. The applicant has consented to the requested conveyance.

Even with these concessions, a concern remains with the Official Plan policy relating to new development where the Village Residential boundary is close to an existing livestock operation. Mr and Mrs Clark's small-scale farm includes a barn that is located immediately north of Lots 5 and 6. While the three cows housed in the barn are technically considered a livestock operation, the minimum distance separation formula was not designed to address small-scale operations. In order to accommodate the proposed development it will be necessary for the Official Plan to be amended by deleting reference to this policy as it affects the Clark's operation. Provided Mr and Mrs Clark's operation remains small-scale, Planning Staff do not envision the creation of land use incompatibilities in this circumstance.

-6-

REPORT NO. P-17/05  
ATTACHMENT NO. 1  
PAGE NO. 6/8 P-07/05

For Committee's information, Mr and Mrs Clark have filed an application for Zoning By-law Amendment to preserve their right to house their three cows. Planning Staff intend to bring forward their application at a subsequent meeting of Committee in concert with the Zoning By-law Amendment for this development proposal.

Concerning impact on municipal services, the Town's Operations Department has advised that municipal water and sanitary sewer services are both available and capable of accommodating the needs of the proposal.

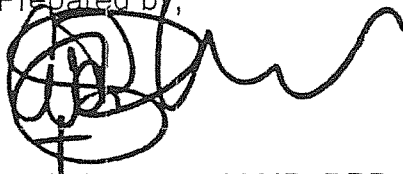
Planning Staff are of the opinion that the boundary expansion is minor in extent, is a logical extension of the existing urban boundary and does not intrude significantly into the agricultural area. Furthermore, Planning Staff are of the opinion that the proposed expansion will not negatively affect the structure or character of the Village nor the provision of municipal services within Fenwick.

On this basis, it is recommended that the application for Official Plan Amendment be approved.

#### ATTACHMENTS

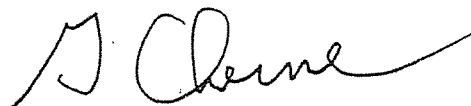
1. Originally Proposed Plan of Subdivision
2. Currently Proposed Plan of Subdivision
3. Public Comments received to date

Prepared by,



Craig Larmour, MCIP, RPP  
Director of Planning Services

Approved and Submitted by,



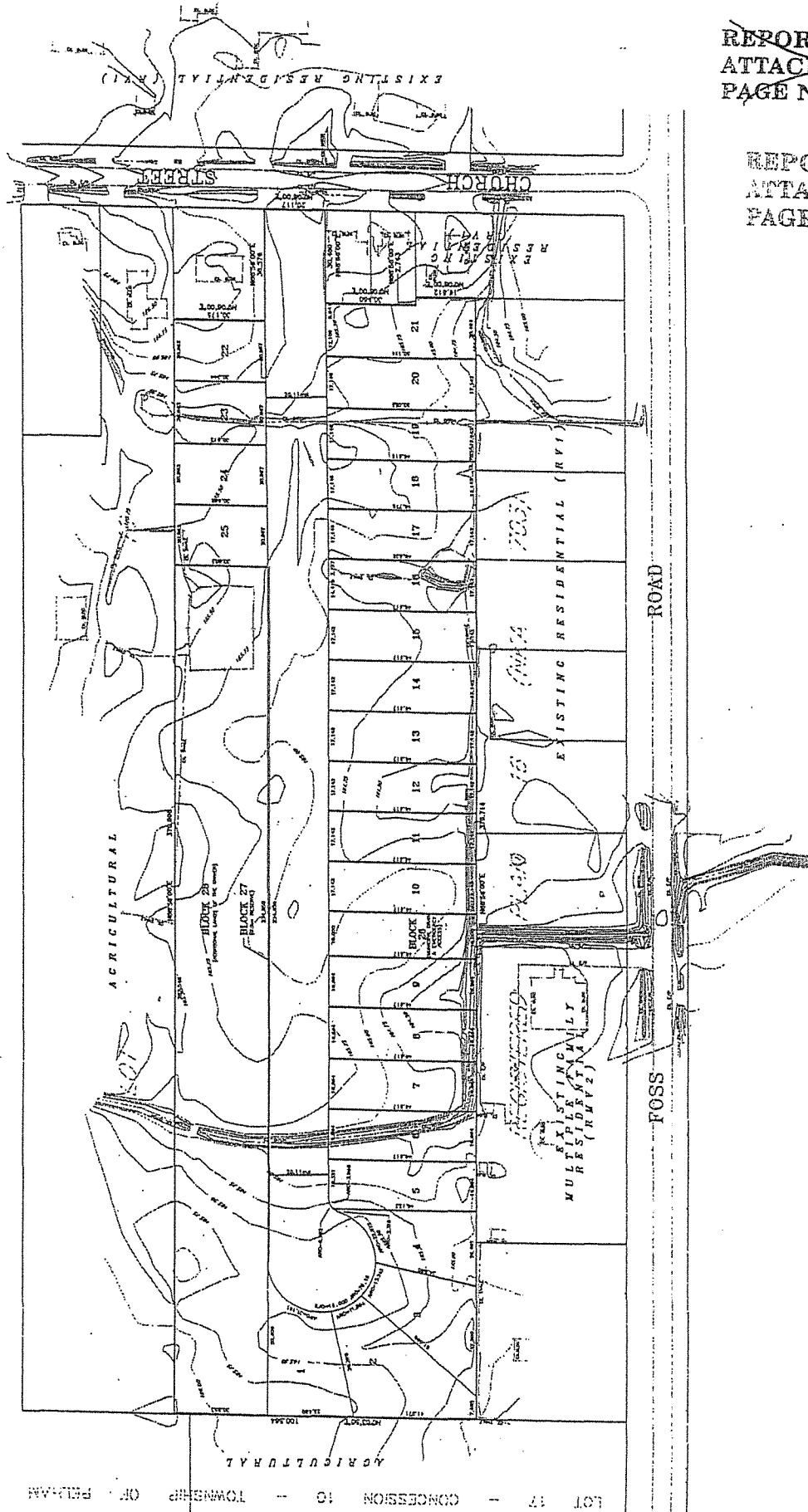
Gord Cherney  
Chief Administrative Officer

REPORT NO. MOR  
ATTACHMENT NO.  
PAGE NO. 1/1

REPORT NO. P-17  
ATTACHMENT NO.  
PAGE NO. 7/8

# THE ORCHARDS

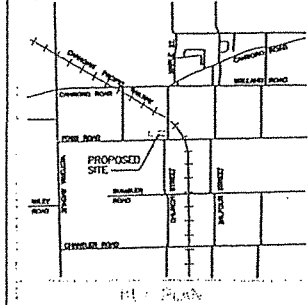
(FENWICK)  
TOWN OF PELHAM



LOT 17 - CONCESSION 10 - TOWNSHIP OF PELHAM

# REDLINE REVISION - THE ORCHARDS

## PLAN 26T19-03002



### STATE PLAN OF SUBDIVISION

#### LEGAL DESCRIPTION

PART OF LOT 18 ON THE  
WEST SIDE OF CHURCH STREET  
REGISTERED PLAN IS  
TOWNSHIP OF PELHAM  
First Series of Plan 198

#### TOWN OF PELHAM

#### OWNER'S CERTIFICATE

#### SURVEYOR'S CERTIFICATE

#### REQUIREMENTS OF SECTION 51(17) OF THE PLANNING ACT

#### LANDLORD'S SIGNATURE



REPORT NO. P-17105  
ATTACHMENT NO. 1  
PAGE NO. 8/8

REPORT NO. M02-7105  
ATTACHMENT NO. 2  
PAGE NO. 1/1


945.4  
sq.m.

916.9 sq.m.	811.1 sq.m.	791.3 sq.m.	791.3 sq.m.	791.3 sq.m.	791.3 sq.m.	791.3 sq.m.	791.3 sq.m.	791.3 sq.m.	837.0 sq.m.	836.9 sq.m.	836.9 sq.m.	836.9 sq.m.
13	12	11	10	9	8	7	6	5	4	3	2	1
BLOCK 25 2148.3 sq.m.		BLOCK 25 350.0 sq.m.	22  836.5 sq.m.	21  836.5 sq.m.	20  836.5 sq.m.	19  836.5 sq.m.	18  836.5 sq.m.	17  846.3 sq.m.	16  902.1 sq.m.	15  897.9 sq.m.	14  961.9 sq.m.	

LOT 23  
10000.3  
sq.m.

AFFIDAVIT

- (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, amended to O.Reg. 260/00*, attached as Schedule "A" is provided and is true.

  
CRAIG ARMOUR MCIP RPP

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

## SCHEDULE A

1. The Town of Pelham Council is submitting the official plan amendment.
2. The proposed Amendment does not replace an existing official plan.
3.
  - (i) The lands are described as part of Lot 19, Registered Plan 16, former Township of Pelham, now Town of Pelham.
  - (ii) The area of the land covered by the proposed Amendment is 2.95 hectares.
  - (iii) The proposed Amendment does not replace or delete a policy in the Official Plan.
  - (iv) Not applicable.
  - (v) The proposed Amendment adds a policy to the Official Plan.
  - (vi) The purpose of the policy Amendment is to amend the Town of Pelham Official Plan policies to facilitate the expansion of the Fenwick Urban Area Boundary and to permit residential development in closer proximity to an existing livestock operation.
  - (vii) The subject land is designated Good General Agricultural according to the Town's Official Plan. The predominant use of land shall be all types of agriculture, which shall include the raising of livestock. Compatible uses such as forestry and conservation shall also be permitted. Residential uses relating to agriculture are also permitted subject to the other policies in this Plan.
  - (viii) The proposed Amendment does not change or replace a designation.
  - (ix) Not applicable.
  - (x) The proposed amendment is to permit the expansion of the Fenwick Urban Area in order to better accommodate a residential subdivision. The Amendment is also intended to permit development in closer proximity to an existing livestock operation located on adjacent lands. The proposed Amendment conforms with the requirements of the Provincial Policy Statement and the Regional Policy Plan.
  - (xi) The subject land is the subject of applications for plan of subdivision and zoning by-law amendment. The adjoining land to the north is the subject of a zoning by-law amendment application.
  - (xii) The file number for plan of subdivision for the subject land is 26T19-03002 and zoning by-law amendment #AM-2/03. The approval authority considering these applications is the Town of Pelham. The purpose of the zoning by-law amendment application is to Both applications are in process.

The file number of the zoning by-law amendment application for the adjoining property is #AM-9/03 and the Town of Pelham is the approval authority. The lands affected are part of Lot 19, Registered Plan No. 16, now known as Plan No. 703 in the Town of Pelham with the purpose being to recognize the existing use and location of a barn. The application is in process and will have no effect on this proposed official plan amendment.

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

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

ATTN PENNY CHRISTIE  
MUNICIPAL ASSESSMENT CORP  
P O BOX 1270  
ST CATHARINES ON L2R 7A7

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

CLERK  
CITY OF WELLAND  
411 EAST MAIN ST  
WELLAND ON L3B 3X4

MANAGER LAND SERVICES  
ENBRIDGE CONSUMERS GAS  
P O BOX 650  
TORONTO ON M1K 5E3

MS BARB RYTER  
MINISTRY OF ENVIRONMENT  
119 KING ST W 12<sup>TH</sup> FLOOR  
HAMILTON ON L8P 4Y7

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

CHIEF OF POLICE  
REG NIAGARA POLICE DEPT  
68 CHURCH ST  
ST CATHARINES ON L2R 3C6

DIRECTOR OF OPERATIONS  
TOWN OF PELHAM

MR PAUL REMISCH  
DELIVERY SERVICES OFFICER  
CANADA POST  
300 WELLINGTON ST  
LONDON ON N6B 3P2

DIRECTOR OF FIRE SERVICES  
TOWN OF PELHAM

LAND USE PLANNING SECTION  
REAL ESTATE SERVICES  
HYDRO ONE NETWORKS INC  
483 BAY ST 15<sup>TH</sup> FLR  
TORONTO ON M5G 2P5

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



## Appendix H

AMENDMENT BEING INITIATED BY:

APPLICANT - Upper Canada Consultants  
261 Martindale Road, Unit 1  
St. Catharines ON L2W 1A1  
(905) 688-9400

REGIONAL APPROVAL FEE OF \$800 TO BE PAID BY APPLICANT

