

THE CORPORATION OF THE
TOWN OF PELHAM

BY-LAW NO. 2747 (2006)

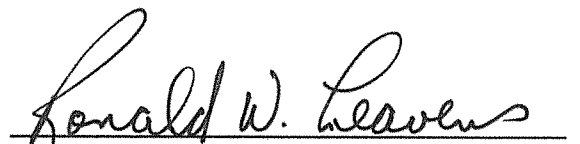
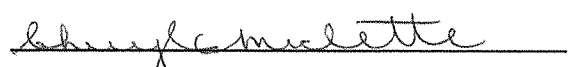
Being a by-law to authorize the Mayor and Clerk to enter into an Agreement with Huibertus Cornelius Breunissen, Kenneth Lawrence Overbeeke, Kenneth John Langendoen, Michelle Langendoen, Arber Developments Ltd. and The Regional Municipality of Niagara

WHEREAS the Council of the Corporation of the Town of Pelham deems it desirable to enter into a Development Agreement with Huibertus Cornelius Breunissen, Kenneth Lawrence Overbeeke, Kenneth John Langendoen, Michelle Langendoen, Arber Developments Ltd. and The Regional Municipality of Niagara with regard to the development of Lands on Cream Street.

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

- (1) THAT By-law 2715 (2005) be and is hereby repealed.
- (2) THAT the Development Agreement attached hereto and made part of this by-law between the Corporation of the Town of Pelham and Huibertus Cornelius Breunissen, Kenneth Lawrence Overbeeke, Kenneth John Langendoen, Michelle Langendoen, Arber Developments Ltd. and The Regional Municipality of Niagara, be and the same is hereby approved.
- (3) THAT the Mayor and Clerk be and each of them is hereby authorized and instructed on behalf of the Corporation of the Town of Pelham to execute the said Development Agreement and the Clerk is hereby authorized to affix the Corporate Seal thereto.

READ A FIRST, SECOND AND THIRD TIME
AND FINALLY PASSED BY COUNCIL THIS
6TH DAY OF MARCH, 2006 A.D.


MAYOR RONALD W. LEAVENS

CLERK CHERYL MICLETTE

BL 2747 (2006)

Properties

PIN	64031 - 0144 LT	<input checked="" type="checkbox"/> Affects Part of Prop
Description	PT LT 12 CON 9 PELHAM AS IN RO108575; PELHAM, SAVE AND EXCEPT PARTS 3 AND 4 ON PLAN 59R-12835.	
Address	FONTHILL	
PIN	64031 - 0145 LT	<input checked="" type="checkbox"/> Affects Part of Prop
Description	PT LT 12 CON 9 ; PELHAM, DESIGNATED AS PART 2 ON PLAN 59R-12835.	
Address	FONTHILL	

Consideration

Consideration \$ 1.00

Applicant(s)

The notice is based on or affects a valid and existing estate, right, interest or equity in land

Name	THE CORPORATION OF THE TOWN OF PELHAM
Address for Service	P. O. Box 400 20 Pelham Town Square Fonthill, Ontario L0S 1E0

This document is not authorized under Power of Attorney by this party.

This document is being authorized by a municipal corporation BY RONALD LEAVENS, MAYOR AND CHERYL MICLETTE, CLERK.

Statements

This notice is for an indeterminate period

Schedule: See Schedules

Signed By

Robert Bruce Smith	201-247 East Main St. PO Box 67	acting for Applicant(s)	Signed	2006 03 29
	Welland L3B 5N9			
Tel	9057355684			
Fax	9057353340			

Submitted By

LANCASTER BROOKS & WELCH	201-247 East Main St. PO Box 67	2006 03 29
	Welland L3B 5N9	
Tel	9057355684	
Fax	9057353340	

Fees/Taxes/Payment

Statutory Registration Fee	\$60.00
Total Paid	\$60.00

**TOWN OF PELHAM
DEVELOPMENT AGREEMENT**

THIS AGREEMENT made this *28th* day of *March*, 2006 and authorized by By-law No. 2747 (2006) of The Corporation of the Town of Pelham.

BETWEEN:

HUIBERTUS CORNELIUS BREUNISSEN and KENNETH LAWRENCE OVERBEEKE
hereinafter called the FIRST OWNERS

AND

KENNETH JOHN LANGENDOEN and MICHELLE LANGENDOEN
hereinafter called the SECOND OWNERS

(collectively the First Owners and Second Owners are referred to as the "OWNERS")

AND

ARBER DEVELOPMENTS LTD.

Hereinafter called the PURCHASER

AND:

THE REGIONAL MUNICIPALITY OF NIAGARA

hereinafter called the REGION

AND:

THE CORPORATION OF THE TOWN OF PELHAM

hereinafter called the TOWN

WHEREAS:

1. The First Owners represent and warrant that they are registered owners, in fee simple, of the lands described as Firstly in Schedule "A" and the Second Owners represent and warrant that they are the registered owners, in fee simple, of the lands described as Secondly in Schedule "A" (all of which lands are hereinafter collectively referred to as the "Lands");
2. The First Owners represent and warrant that they are the registered owners, in fee simple of the lands described as Part Lot 12, Concession 9, Town of Pelham, The Regional Municipality of Niagara, designated as Part 4 on Plan 59R-12835 (Proposed Severance Lands);
3. An application was made by the First Owners to the Town of Pelham Committee of Adjustment seeking consent to sever and convey the Proposed Severance Lands;
4. An application was made by the Second Owners to said Committee of Adjustment seeking consent to sever and convey Part of Lot 12, Concession 9, Town of Pelham, designated as Part 2 of 59R-12835 such that said Part 2 would merge with the adjoining land to the north and west;
5. The said Committee of Adjustment granted provisional consent of the applications; and
6. The provisional consent requires that a Development Agreement be entered into with the Town and the Region providing that no development shall occur until the Town's Official Plan is amended to provide for the future development of the Lands and surrounding lands in a comprehensive manner.

NOW THEREFORE, THIS Agreement witnesseth that in consideration of the mutual covenants and agreements herein contained and of other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties hereto covenant and agree with each other as follows:

1. DEFINITIONS

In this Agreement:

- (a) Chief Building Official means the Chief Building Official of the Town as appointed by by-law of the Council.

- (b) Director of Finance means the Director of Finance of the Town.
- (c) Director of Planning Services means the Director of Planning Services of the Town.
- (d) Director of Operations means the Director of Operations of the Town.
- (e) First Owners means Huibertus Cornelius Breunissen and Kenneth Lawrence Overbeeke.
- (f) Lands means the lands described in Schedule "A" attached hereto and made part of this Agreement.
- (g) Owners means collectively Huibertus Cornelius Breunissen, Kenneth Lawrence Overbeeke, Kenneth John Langendoen and Michelle Langendoen.
- (h) Purchaser means Arber Developments Ltd.
- (i) Region means The Regional Municipality of Niagara or any of its authorized full-time employees.
- (j) Required where not specified, means required by this Agreement and/or an appropriate authority.
- (k) Second Owners means Kenneth John Langendoen and Michelle Langendoen.
- (l) Town means The Corporation of the Town of Pelham or any of its authorized full-time employees.

2. DEVELOPMENT

- (a) The Owners covenant and agree not to develop the Lands until such time as the Town has amended its Official Plan to provide for the future development of the Lands and the surrounding lands in a comprehensive manner.
- (b) The Owners acknowledge and agree that the Town shall be under no obligation to permit development of the Lands and there shall be no development until such time as the Town's Official Plan is amended to provide for the future development of the Lands and surrounding lands in a comprehensive manner.
- (c) The Owners acknowledge and agree that the Town shall be under no obligation to issue a building permit on the Lands.
- (d) The Owners acknowledge and agree that, if and when the Lands are developed for residential purposes, it shall be by means of a registered plan of subdivision.

3. GENERAL

- (a) The Owners hereby constitute any successor-in-title to the Lands their agent with full authority to enter into any agreement with the Town to amend this Agreement from time to time.
- (b) The Owners agree that upon the execution of this Agreement, the Lands are charged with the performance of this Agreement.
- (c) It is understood and agreed that this Agreement and everything contained herein shall enure to the benefit of and be binding upon the heirs, executors, administrators, mortgagees, successors-in-title and assigns of each of the parties hereto as the case may be and shall constitute a covenant running with the Lands. The Owners hereby consent to registration of this Agreement on title to the Lands.

- (d) The Owners acknowledge and agree that all municipal taxes shall be paid in full prior to the execution of this Agreement and such payment shall be made from time to time as each such event may occur so that payments of municipal taxes are at all times up-to-date.
- (e) The cost, including legal, planning, engineering or other professional or administrative costs incurred by the Town, of any work affected by the Town pursuant to this Agreement shall be calculated by the Town, whose decision on the amount that is fixed shall be final. The cost of any such work shall be at the expense of the Owners. Any cost of such work shall be paid by the Owners to the Town forthwith upon demand thereof. In the event of failure by the Owner to pay such costs within thirty days of serving notice thereof by the Town upon the Owners, the Town shall have the right to recover such incurred costs by action or in like manner as municipal taxes.
- (f) In the event of any dispute respecting the interpretation of any Town standards, the matter is to be decided by the council of the Town and its decision is final and binding.
- (g) The Owners shall not call into question directly or indirectly in any proceeding whatsoever in law or in equity or before any administrative tribunal the right of the Town and Region to enter into this Agreement and to enforce each and every term, covenant and condition herein contained and this Agreement or this clause may be pleaded as an estoppel against the Owners in any such proceeding.
- (h) The obligations of the Owners pursuant to this Agreement shall be joint and several.
- (i) The parties to this agreement hereby acknowledge that it is the intention of the Owners to sell the Lands to the Purchaser. Upon the conveyance of the Lands to the Purchaser, the Purchaser agrees to assume all the liabilities and the obligations of the Owners pursuant to this agreement and this agreement shall thereafter be read by substituting the word "Purchaser" for the word "Owners". The Owners shall then be relieved of all obligations or liabilities pursuant to this agreement except any obligations or liabilities of the Owners which remain outstanding at the time of the transfer of the Lands to the Purchaser.
- (j) This Agreement shall be governed by the laws of the Province of Ontario.

4. NOTIFICATION

All notices required or permitted to be given by one party to the other shall be given in writing either by prepaid registered mail or delivered personally addressed,

In the case of the Town	20 Pelham Town Square P. O. Box 400 Fonthill ON L0S 1E0
in the case of the Region	2201 St. David's Road P. O. Box 1042 Thorold ON L2V 4T7
in the case of the First Owners	215 Welland Road R. R. 5 Fenwick ON L0S 1C0
In the case of the Second Owners	1128 Cream Street Fenwick ON L0S 1C0
In the case of the Purchaser	P. O. Box 142 Ridgeville ON L0S 1M0

or at such other addresses as may be given by any of them to the other in writing from time to time, and such notices shall be deemed to have been received, if mailed, on the third day following that on which it was so mailed and if delivered, on the day of such delivery.

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

Witness

Witness

Witness

Witness

Huibertus Cornelius Breunissen

OWNER

Kenneth Lawrence Overbeeke

OWNER

Kenneth John Langendoen

OWNER

Michelle Langendoen

OWNER

ARBER DEVELOPMENTS LTD.

Per: Arie De Haan

I have authority to bind the Corporation

Arie De Haan - President
Name

THE REGIONAL MUNICIPALITY OF NIAGARA

Peter Partington
Chair Peter Partington

Pam Gilroy
Clerk Pam Gilroy

THE CORPORATION OF THE TOWN OF PELHAM

Ronald W. Leavens
Mayor Ron Leavens

Cheryl Mickle
Clerk Cheryl Mickle

APPROVED FOR EXECUTION
[Signature]
LEGAL SERVICES