

THE CORPORATION OF THE
T O W N O F P E L H A M

BY-LAW #331 (1975)

Being a by-law to authorize the Mayor and Clerk
to execute a site plan agreement with Donald
Alsop for the construction of a multiple family
development on the south side of #20 Highway,
Part Block Y, Plan 25.

WHEREAS Council deems it desirable to enter into a site plan
agreement with Donald Alsop for the construction of a multiple family
development on the south side of #20 Highway, Part Block Y, Plan 25;

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

- (1) THAT the agreement attached hereto and made part of this by-law be
and the same is hereby approved.
- (2) THAT the Mayor and Clerk be and each of them is hereby authorized and
instructed on behalf of the Corporation to execute the said 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
18th. DAY OF August, 1975 A.D.


MAYOR


CLERK

THIS AGREEMENT made in triplicate this 18th day of August , 1975
BETWEEN:

DONALD AESOP,

Hereinafter called the "Owner"
of the FIRST PART,

- and

THE CORPORATION OF THE TOWN OF PELHAM,

Hereinafter called the "Town"
of the SECOND PART.

1. DEFINITIONS in this agreement:

- (a) "Town Clerk" shall mean the Clerk of the Corporation of the Town of Pelham.
- (b) "Council" shall mean the Council of the Corporation of the Town of Pelham.
- (c) "Town Engineer" shall mean the Engineer of the Corporation of the Town of Pelham.
- (d) "Treasurer" shall mean the Treasurer of the Corporation of the Town of Pelham.

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

AND WHEREAS the Owner is desirous of constructing on the said lands, an apartment complex containing 78 units and a 24 unit townhousing development, in accordance with Schedules "B" and "C" attached hereto, being a plot plan and engineering drawings filed in the office of the Town Building Inspector,

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

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

(1) STORM SEWERS:

(a) The Owner shall, at its own expense, construct a storm sewer system and outlet to adequately serve the development proposed on the lands described in Schedule "A", and as shown on Schedule "C" hereto attached, being engineering drawings filed in the office of the Town Engineer. Construction of said storm sewer shall be in accordance with specifications and a design approved by the Town Engineer and signed by the Parties hereto and the Owner undertakes to repair and maintain the storm sewer system located on the lands described in Schedule "A".

(b) The Owner shall, at its own expense, carry out watercourse improvements in accordance with the requirements of the Town Engineer from time to time, and as especially set out in the site plan. In the event that unforeseen storm damage difficulties arise, the Owner agrees to carry out the work that the Town Engineer's determine will alleviate any such difficulty.

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(2) SANITARY SEWERS:

(a) The Owner shall, at its own expense, construct a sanitary sewer system on the said lands, to adequately service each unit located thereon, totalling one hundred and two (102) units, such construction to be in accordance with specifications and a design approved by the Town Engineer and as shown on Schedule "C". Further, the Owner shall undertake to repair and maintain the sanitary sewer system located on the lands described in Schedule "A", and without limiting the generality of the foregoing, no storm, surface, or roof water shall be discharged into the sanitary sewer system.

(b) The Owner shall construct and maintain a pumping station designed to the Ministry of Environment standards and approved by the Ministry of Environment to serve Phase II, or the subsequent phases to Phase I as constructed upon said lands described in Schedule "A". No development shall be permitted over and above that development designated in Phase I until the municipality is satisfied that the pumping station is adequate, which shall be determined by the municipal engineers and when the Ministry of Environment approval is documented.

(3) WATER:

(a) The Owner shall, at its own expense, construct and install all necessary connections to water mains, and all internal water supply services necessary to adequately serve each unit located on the said lands, such construction to be in accordance with the requirements of and with specifications and a design approved by the Town Engineer, as shown on Schedule "C".

(b) The Owner shall construct a meter chamber and a six (6) inch watermain at the property line and install a compound meter, at such location as shown on Schedule "B" attached hereto.

(c) In the event that each dwelling unit should become individually owned, then individual water meters shall be installed to each dwelling unit at the expense of the owner of the unit.

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

(4) GRADING AND LANDSCAPING:

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

(b) The Owner shall, at its own expense, and in accordance with plans on file in the office of the Town, maintain existing vegetation on the lot where possible, and adequately

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landscape, plant and maintain all the lands described on Schedule "A" attached hereto, and more particularly described on Schedule "B", not required for building, parking or entranceway so as at all times to provide effective green areas enhancing the general appearance of the development.

(c) The minimum landscaping required shall be as shown on Schedule "B" attached hereto.

(5) PARKING:

(a) The Owner shall provide and at all times, maintain on the said lands, and at such locations as shown on Schedule "B", parking areas or structures capable of accommodating not less than 117 parking spaces for motor vehicles for the apartment complex and not less than 36 parking spaces for motor vehicles for the townhousing development, which shall include 1 space in a garage for each townhouse unit.

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

(6) GARBAGE DISPOSAL:

(a) The Owner shall, at all times provide adequate collection and disposal of garbage and sanitary refuse in accordance with the requirements and to the satisfaction of the Town Building Inspector. In the event of the failure to do so, the Town, its servants or agents, shall have the right to enter on the said lands, and, at the expense of the Owner, do such collection, etc. and further shall have the right to recover the cost thereof by action, or in like manner as municipal taxes.

(b) The Owner shall, in addition, provide storage space for garbage, at the locations shown on Schedule "B" and entirely screened by a six (6') foot high solid wood fence, or facsimile approved by the Town Building Inspector.

(7) FENCING:

(a) The Owner agrees to construct a six foot (6') high one inch (1") chain link fence or equally durable fence, on the said lands, at such locations as shown on Schedule "B" (east, west, and south boundary).

(b) The Owner further agrees to construct a chain link fence, or equally durable fence, around the perimeter of all tot-lots and the swimming pool, as shown on Schedule "B".

(8) CONSTRUCTION OF TOT-LOTS:

(a) The Owner shall, at the pleasure of Council, construct tot-lots at such locations, and in accordance with the design shown on Schedule "B" attached hereto. Said tot lots,

if required by Council, shall be adequately fenced, which shall be determined by the Town Building Inspector.

(9) SERVICE EASEMENTS:

(a) The Owner shall grant to the Town a 25 foot wide service easement along the entire easterly boundary of the property for storm drainage purposes. Any drainage facilities constructed along this easement shall be a piped system out-letting into the ravine, and all disturbed areas shall be restored to the original condition after construction of such system.

(10) SIDEWALKS:

(a) The Owner agrees to construct a four foot (4') wide concrete sidewalk along the northern boundary of the property, from the easterly limits of the property, to the #20 Highway entranceway, as shown on Schedule "B", and in accordance with a design and specifications approved by the Town Engineer.

(11) PHASING OF DEVELOPMENT:

(a) The Owner agrees that the development of this project shall proceed in at least two phases. The second phase of this project shall not proceed until the pumping station is constructed and operable and all engineering is to the satisfaction of the Town. No building permits will be issued until all services are completed and operational.

(b) The Owner agrees that Phase I shall be restricted to:

- (i) the construction of thirty-nine (39) apartment units, serviceable by existing services

- (ii) the construction of twelve (12) townhousing units, serviceable by existing services
- (iii) the construction of the entire fence along the east, west, and south boundaries as shown on Schedule "B"

- (iv) the construction of a four foot (4') wide concrete sidewalk along the entire northern boundary of the property from the easterly limits of the property to the #20 Highway entranceway.
- (v) the construction of at least 59 parking spaces for the apartment complex, and at least 18 parking spaces for the townhousing units, which shall include 1 parking space in a garage for each townhouse unit

- (vi) the construction of the water meter chamber at property line
- (vii) the construction of the tennis court and swimming pool, as shown on Schedule "B"

(c) The Owner agrees that Phase II or phases subsequent to Phase I, shall include:

- (i) the construction of thirty-nine (39) apartment units
- (ii) the construction of twelve (12) townhousing units

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- (iii) the construction of all necessary services, as shown on Schedule "C" to service Phase II, or phases subsequent to Phase I.
- (iv) the construction of a 6" watermain with a fire hydrant to service the garage building, at the location as shown on Schedule "C"
- (v) the construction of 59 additional parking spaces for the apartment complex, and 18 additional parking spaces for the townhousing units, which shall include 1 parking space in a garage for each townhouse unit, or at the rate of one and a half parking spaces for each dwelling unit added, as per the municipal Zoning By-law.

(12) EXPANSION AND RENEWAL FUND:

- (a) The Owner shall pay the Treasurer, a sum in the amount of Twenty Thousand, Four Hundred Dollars (\$20,400.00) for the purpose of expanding and renewing services in the Town. This fund shall become payable to the Treasurer in accordance with the following schedule:
 - (i) Phase I - Amount due - \$10,200.00 (payable upon signing of agreement by both parties, and, within forty-eight (48) hours after the Ontario Municipal Board has approved of the rezoning by-law for this development)
 - (ii) Phase II - Amount due - \$10,200.00 (payable upon issuance of any building permit for Phase II)
 - (iii) In the event of more than two phases, at a rate of \$200.00 per dwelling unit. (Payable at time of issuance of building permits for each dwelling unit in the subsequent phases to Phase I)

(13) CONTRIBUTION FOR PUBLIC PURPOSES:

- (a) The Owner shall pay the Treasurer, a sum in the amount of Four Thousand, Two Hundred Fifty Dollars (\$4,250.00) equaling 5% of the agreed current market value, for the expansion of public purposes in the Town. This fee shall be payable in accordance with the following schedule:
 - (i) Phase I - Amount due - \$2,125.00 (payable upon signing of the agreement by both parties, and, within forty-eight (48) hours after the Ontario Municipal Board approved of the rezoning by-law for this development)
 - (ii) Phase II - Amount due - \$2,125.00 (payable upon the issuance of a building permit for the construction of Phase II or any portion thereof)

(14) GENERAL:

- (a) The Owner agrees that the final building plans will be to the satisfaction of the Building Inspector and the Town Fire Chief.

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

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

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

(e) The Owner shall not call into question directly or indirectly in any proceedings whatsoever in law or in equity or before any administrative tribunal, the right of the Town to enter into this agreement and to enforce each and every term, covenant and condition herein contained, and this agreement may be pleaded as an estoppel against the Owner in any such proceedings.

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

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

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

The said assumption agreement shall be executed by the Town, the said Owner and any such purchaser or transferee.

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

SIGNED, SEALED AND DELIVERED

- In the presence of -

) THE CORPORATION OF THE TOWN OF
) PELHAM

✓ Adrian K. Gullett
MAYOR

CLERK


DONALD ALSOP

SCHEDULE "A"

ALL AND SINGULAR that certain parcel or tract of land and premises, situate, lying and being in the Town of Pelham, in the Regional Municipality of Niagara (formerly in the Village of Fonthill, in the County of Welland), and being composed of Block Y as shown in Registered Plan No. 25 for the said Village of Fonthill.