

**SITE PLAN AGREEMENT
4 HIGH STREET INC
1022 PELHAM STREET**

TABLE OF CONTENTS

<u>Title</u>	<u>Page #</u>
1. DEFINITIONS.....	1
2. GENERAL PROVISIONS	2
3. GRADING.....	2
4. SANITARY SYSTEM.....	3
5. WATER SUPPLY	3
6. SEWER SYSTEM.....	3
7. ROADS AND ACCESS.....	3
8. LANDSCAPING AND TREES	3
9. GARBAGE DISPOSAL.....	4
10. FLOODLIGHTING	4
11. PARKING, CURBING, DRIVEWAYS AND SIDEWALKS.....	4
12. BUILDING AND SERVICES	4
13. ADMINISTRATIVE AND CONSULTING COSTS	4
14. DEPOSIT FOR FACILITIES AND WORKS.....	4
15. DEFAULT	5
16. COVENANTS	6
17. REGISTRATION.....	6
18. OBLIGATION.....	6
19. BUILDING PERMIT	6
20. PLANS.....	6
21. NOTICES.....	6
22. SCHEDULES.....	7
23. BINDING EFFECT	7
 SCHEDULE A LEGAL DESCRIPTION.....	8
SCHEDULE B SITE PLAN.....	9
SCHEDULE C ELEVATIONS.....	10
SCHEDULE D SITE SERVICING, GRADING, AND DRAINAGE PLANS.....	15
SCHEDULE E LANDSCAPE PLAN.....	19
SCHEDULE F PHOTOMETRIC PLAN.....	20
SCHEDULE G COST ESTIMATES FOR FACILITIES AND WORKS.....	21

THIS AGREEMENT made this ____ day of _____, 2015 A.D.

BETWEEN:

4 HIGH STREET INC.

Hereinafter called the "Owner"
OF THE FIRST PART
- and -

THE CORPORATION OF THE TOWN OF PELHAM

Hereinafter called the "Town"

OF THE SECOND PART

WHEREAS the Owner represents and warrants that it is the owner of the lands in the Town of Pelham described in Schedule 'A' attached hereto (the "Lands");

AND WHEREAS the Owner has assumed and agreed to be bound by the terms and conditions of the Site Plan Agreement;

AND WHEREAS the Owner is looking forward to develop the parcel to a commercial use in accordance with Schedule 'B' attached hereto, being a Site Plan filed in the Town's offices;

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

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

1. DEFINITIONS

In this Agreement:

- (a) **CHIEF BUILDING OFFICIAL** shall mean the Chief Building Official of the Corporation of the Town of Pelham.
- (b) **CLERK** shall mean the Clerk of the Corporation of the Town of Pelham.
- (c) **COUNCIL** shall mean the Council of the Corporation of the Town of Pelham.
- (d) **DIRECTOR OF COMMUNITY PLANNING AND DEVELOPMENT SERVICES** shall mean the Director of Community Planning and Development Services of the Corporation of the Town of Pelham.
- (e) **DIRECTOR OF CORPORATE SERVICES** shall mean the Director of Financial Services of the Corporation of the Town of Pelham.
- (f) **DIRECTOR OF PUBLIC WORKS** shall mean the Director of Public Works of the Corporation of the Town of Pelham.
- (g) **FACILITIES AND WORKS** shall mean and includes those facilities and works which are shown on or referred to in any one or more of the plans, drawings and schedules to this Agreement.
- (h) **LANDS** shall mean the lands described in Schedule 'A' attached hereto.

- (i) **PROFESSIONAL ENGINEER** shall mean a Professional Engineer registered in good standing with the Association of Professional Engineers.

2. GENERAL PROVISIONS

- (a) The Owner shall develop and maintain the Lands only in accordance with the terms and conditions contained herein and any other applicable by-law of the Town.
- (b) The Owner shall perform any and all construction and installation on the Lands in accordance with the terms and conditions contained herein and as shown on Schedule 'B' attached hereto and forming part of this Agreement to the reasonable satisfaction of the Town.
- (c) The Owner shall not perform any construction or installation on the Lands except in accordance with the terms and conditions contained herein and shown on said Schedule 'B' attached hereto and forming part of this Agreement and to the reasonable satisfaction of the Town.
- (d) The Owner shall maintain and keep in good repair driveways and access servicing the buildings located in the development.
- (e) The Owner grants to the Town, its servants, agents, and assigns permission to enter upon the Lands for the purpose of inspection of any Facilities and Works referred to in this Agreement and for the purpose of the completion of any Facilities and Works in accordance with this Clause and this Agreement.
- (f) The Owner will, at all times, indemnify and save harmless the Town from all loss, costs, damages and injuries which the Town may suffer or be put to for or by reason of the construction, maintenance, or existence of any Facilities and Works done by the Owner, its contractors, servants or agents on the Lands or which the Town may suffer or be put to for or by reason of the completion by the Town of any of the required Facilities and Works in accordance with this clause and this Agreement.
- (g) The Owner 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 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 proceeding.

3. GRADING

- (a) The Owner shall have prepared by an Ontario Land Surveyor or Professional Engineer, a detailed Plan for the site, said Plan to clearly indicate the existing drainage pattern on all adjacent Lands originally flowing through, into, or over the area of the site, to the street storm sewer system or other outlet approved by the Director of Public Works. This Plan, attached hereto as Schedule 'D', shall be approved by the Director of Public Works prior to the execution of this Agreement. Minor changes to the Plan may be permitted subject to the approval of the Director of Public Works.
- (b) The Owner shall submit, upon completion of Facilities and Works, a certificate signed by an Ontario Land Surveyor or Professional Engineer which indicates that the grades as stipulated on Schedule 'D' to this Agreement have been complied with.
- (c) Unless otherwise approved or required by the Town, the Owner shall not alter the grades of the said Lands until such time as a Building Permit is issued for the construction of the buildings contemplated herein on the said Lands.

- (d) The Owner shall provide his Design Engineer's verification that all grading, drainage, and servicing provisions have been installed in conformance with the approved Site Grading Plan, Stormwater Drainage Area Plan, and the Site Servicing Plan prepared by Upper Canada Consultants, dated August 28, 2015, attached hereto as Schedule 'D'. The Owner shall provide a copy of the Design Engineer's verification to the Town.

4. SANITARY SYSTEM

- (a) The Owner undertakes to repair and forever maintain the private septic sewer system located on the said Lands and, without limiting the generality of the foregoing, no storm, surface or roof water or weeping tiles shall be discharged into the sanitary sewer system.

5. WATER SUPPLY

- (b) The Owner shall, at its own expense, forever maintain all necessary connections and all internal water supply services necessary to serve the development.
- (c) The operation of valves which cause the internal water supply service to be charged from existing municipal water mains shall **ONLY** be carried out by Town Staff certified in accordance with Ontario Regulation 128/04.
- (d) The Owner shall comply with the provisions of the *Ontario Water Resources Act and Safe Drinking Water Act* and amendments thereto and all regulations thereunder, on all internal water supply services, which said act and regulations shall be enforced by the Town.

6. SEWER SYSTEM

- (a) The Owner undertakes the installation, repair, and forever maintenance the private storm water system as identified in the Stormwater Management Plan prepared by Upper Canada Consultants, dated April 24, 2015, and approved by the Director of Public Works.

7. ROADS AND ACCESS

- (a) The Owner shall, at its own expense, prior to construction taking place within a Town Road Allowance, obtain a Town Temporary Works Permit from the Public Works Department.
- (b) The Owner shall, at its own expense, restore any curb cuts and/or reinstate with topsoil and nursery sod the boulevards within the Town Road Allowance to Town standards.
- (c) The Owner shall locate all private signs within the Owner's Lands. A Town Sign permit must be obtained from the By-law Enforcement Division, Department of Fire and Protection Services.
- (d) The Owner shall undertake the necessary turning lands and improvements at the intersection of Pelham Street and Welland Road in accordance with the Site Servicing Plan prepared by Upper Canada Consultants, dated August 28, 2015, attached hereto as Schedule 'D'.

8. LANDSCAPING AND TREES

- (a) The Owner shall, at its own expense, adequately landscape, plant and maintain all of the Lands not required for buildings, parking or roads so as at all times to provide effective green areas enhancing the general appearance of the development contemplated herein, said planting and landscaping shall be in accordance with the approved Landscape Plan prepared by Paula Berketo Landscape Architect, dated November 2, 2015, attached hereto as Schedule 'E'. Minor changes to the Plan may

be permitted subject to the approval of the Director of Community Planning and Development Services.

- (b) Unless otherwise approved or required by the Town, the Owner shall not remove trees or other vegetation from the said Lands until such time as a Building Permit is issued for the construction of the buildings contemplated herein on the said Lands.

- (c) The Owner shall, at its own expense, maintain plantings at the corner of Welland Road and Pelham Street that are located within the Town Right-of-Way as shown on the approved Landscape Plan, attached hereto as Schedule 'E'.

9. GARBAGE DISPOSAL

- (a) The Owner shall at all times provide adequate collection and disposal of garbage and sanitary refuse.

If it is the intention of the Owner to provide for Regional solid waste collection services within the proposed development, the Owner shall comply with the Niagara Region Waste Collections Policies.

10. FLOODLIGHTING

- (a) The Owner shall ensure that any lighting facility used to illuminate any building or parking area shall be designed and installed as to deflect from adjacent buildings and streets.

- (b) The Owner shall, at its own expense, provide exterior lighting in accordance with the Plan prepared by JAIN, dated July 6, 2015, attached hereto as Schedule 'F'. Minor changes to the Plan may be permitted subject to the approval of the Director of Community Planning and Development Services.

11. PARKING, CURBING, DRIVEWAYS AND SIDEWALKS

- (a) The Owner shall, at its own expense, provide and at all times maintain on the said Lands, paved parking and driveway areas acceptable to the Town.

12. BUILDING AND SERVICES

The Owner shall construct and the Town shall permit the construction of the buildings and other structures on the Lands in accordance with the Schedules attached hereto to permit the development provided that all such uses shall comply with all building and zoning requirements of the Town.

The Owner shall only develop four fuel station islands.

13. ADMINISTRATIVE AND CONSULTING COSTS

The Owner shall pay the Town's reasonable costs in connection with this Agreement for preparation, processing, administration and supervision including, but not limited to, all administrative, legal, inspection and consulting expenses.

14. DEPOSIT FOR FACILITIES AND WORKS

- (a) At the time of execution of this Agreement, the Owner shall pay to the Town a deposit to guarantee its compliance with this Agreement in an amount equal to the lesser of:
 - i. 20 % of the estimated cost of completing the Facilities and Works; or
 - ii. \$60,000.00; whichever is greater.

The parties have calculated that the estimated cost for completion to be Four Hundred Seventy Thousand Four Hundred and Thirty Two Dollars and Twenty Three Cents (**\$470,432.23**) excluding taxes as set out in Schedule 'G' attached hereto and forming part of this Agreement. Therefore, security in the amount of Ninety Four Thousand Eighty Six Dollars (**\$94,086.00**) shall be provided to the Town.

- (b) The deposit shall be paid to the Town in cash or in the form of an irrevocable letter of credit from a chartered bank or from a recognized lending institution, subject to the approval of the Director of Corporate Services and shall be held as security to ensure the completion of the Facilities and Works until such time as the Town permits its release as ordered herein. The deposit may be used to pay for the cost of any work performed by the Town in accordance with the following clause in the event of the failure of the Owners to comply with the terms of this Agreement.
- (c) Upon completion of the Facilities and Works, the Owner shall provide to the Town, at the Owner's expense, confirmation in writing by the Owner's Qualified Designer or Professional Engineer, or both, that the approved plans appended hereto have been complied with. When such confirmation has been received, the Chief Building Official shall confirm such compliance and the deposit, less any amounts expended to enforce compliance with the Agreement and any amounts refunded or reduced as the work required by this Agreement progresses, shall be returned to the Owner, without interest.
- (d) The Town may, from time to time, demand an increase in the sum of the deposit in accordance with increases in the cost of performing the Facilities and Works required herein to be completed and the Owner covenants and agrees to make such increase. At the sole discretion of the Chief Building Official the amount of the deposit may be reduced at any time after the Owner has reached the stage where the costs to complete the Facilities and Works is less than the amount of the deposit.
- (e) The release of the deposit by the Town does not release the Owner from their obligation to maintain all of the Facilities and Works pursuant to this Agreement.
- (f) The Owner agrees that all of the Facilities and Works required to be provided by the Owner shall be provided, installed or constructed by the Owner within one hundred and eighty (180) days after the date of substantial completion of the proposed development as determined by the Chief Building Official and shall be maintained at all times in good condition.

15. DEFAULT

Upon breach by the Owner of any covenant, term, condition or requirement of this Agreement, or upon the Owner becoming insolvent or making any assignment for the benefit of creditors, the Town, at its option, may declare the Owner to be in default. Notice of such default shall be given by the Town, and if the Owner shall not remedy such default within such time as provided in the notice, the Town may declare the Owner to be in final default under this Agreement. Upon notice of default having been given, the Town may require all work by the Owner, its servants, agents, independent contractors and sub-contractors to cease (other than any work necessary to remedy such default) until such default shall have been remedied, and in the event of final default, may require all work as aforesaid, to cease. Upon final default of the Owner, the Town may, at its option, adopt or pursue any or all of the following remedies, but shall not be bound to do so:

- (a) Enter upon the subject Lands by its servants, agents and contractors and complete any work, service, repair or maintenance wholly or in part

To the Owner at: 4 High Street Inc.
42 Cawthra Avenue
Toronto, ON M6N 5B3

or as such other address as the party to whom such notice is to be given shall have last notified the party giving the notice in the manner provided in this Section 21. Any notice delivered to the party to whom it is addressed in this Section 21 shall be deemed to have been given and received on the day it is so delivered at such address. Any notice mailed as aforesaid shall be deemed to have been given and received on the fifth day next following the date of its mailing.

22. SCHEDULES

The originals of the plans set out in Schedule 'B', 'C', 'D', 'E' and 'F' are available at the offices of the Town at the address set out in Section 21.

23. BINDING EFFECT

This Agreement shall be binding upon the parties hereto and their heirs, executors, administrators, successors, and assigns.

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

WITNESS

Joe Widjaja
(printed name)

[Signature]
(signature)

June 27/16
(date)

4 HIGH STREET INC.

Charles Dyer
(printed name)

[Signature]
(signature)

June 27/16
(date)

I have the authority to bind the Corporation

THE CORPORATION OF THE TOWN OF
PELHAM

[Signature]
Mayor Dave Augustyn

[Signature]
Clerk Nancy J Bozzato

SCHEDULE 'A'

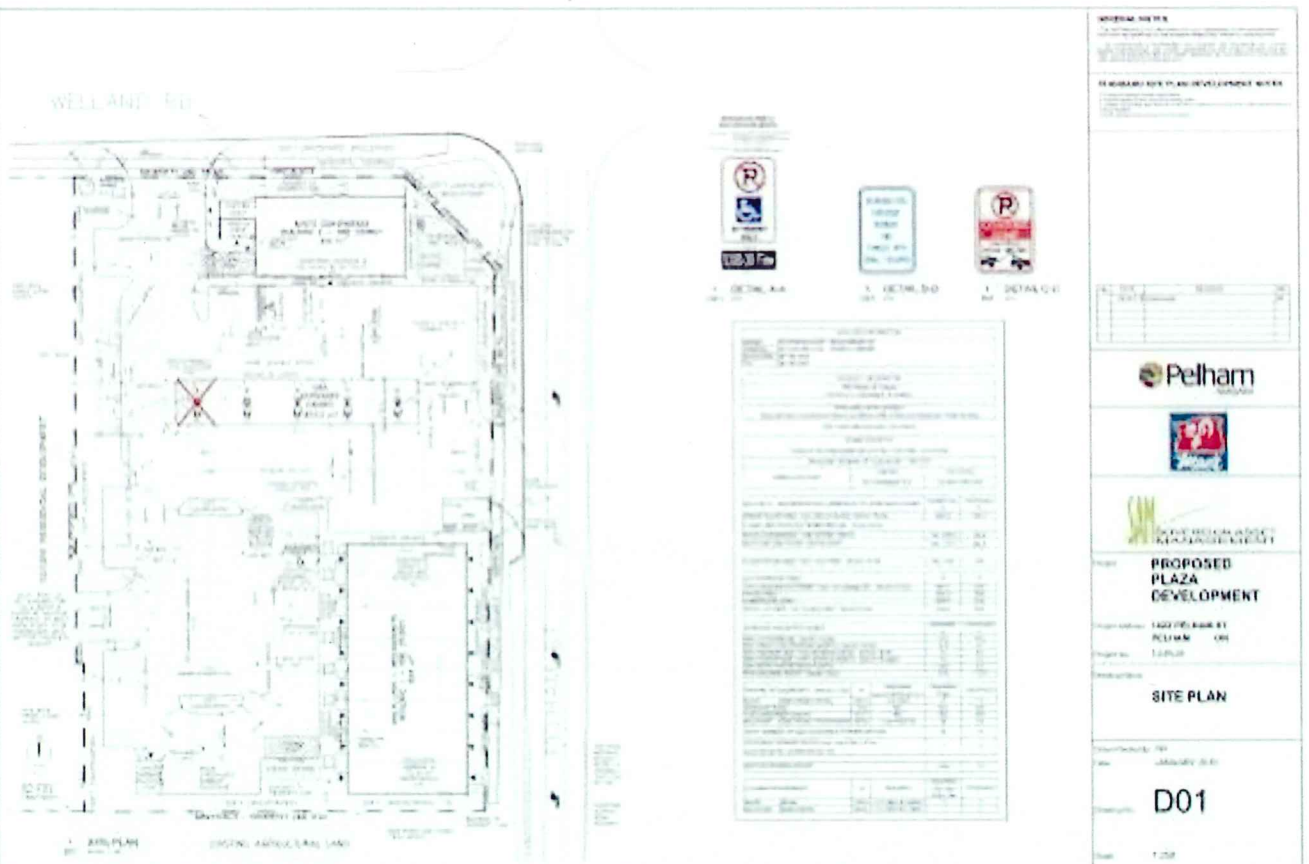
LEGAL DESCRIPTION

PIN 64398-0100 (LT)

Concession 10 Part Lot 1 Registered Plan 59R-10892; Parts 4 and 7.

SITE PLAN

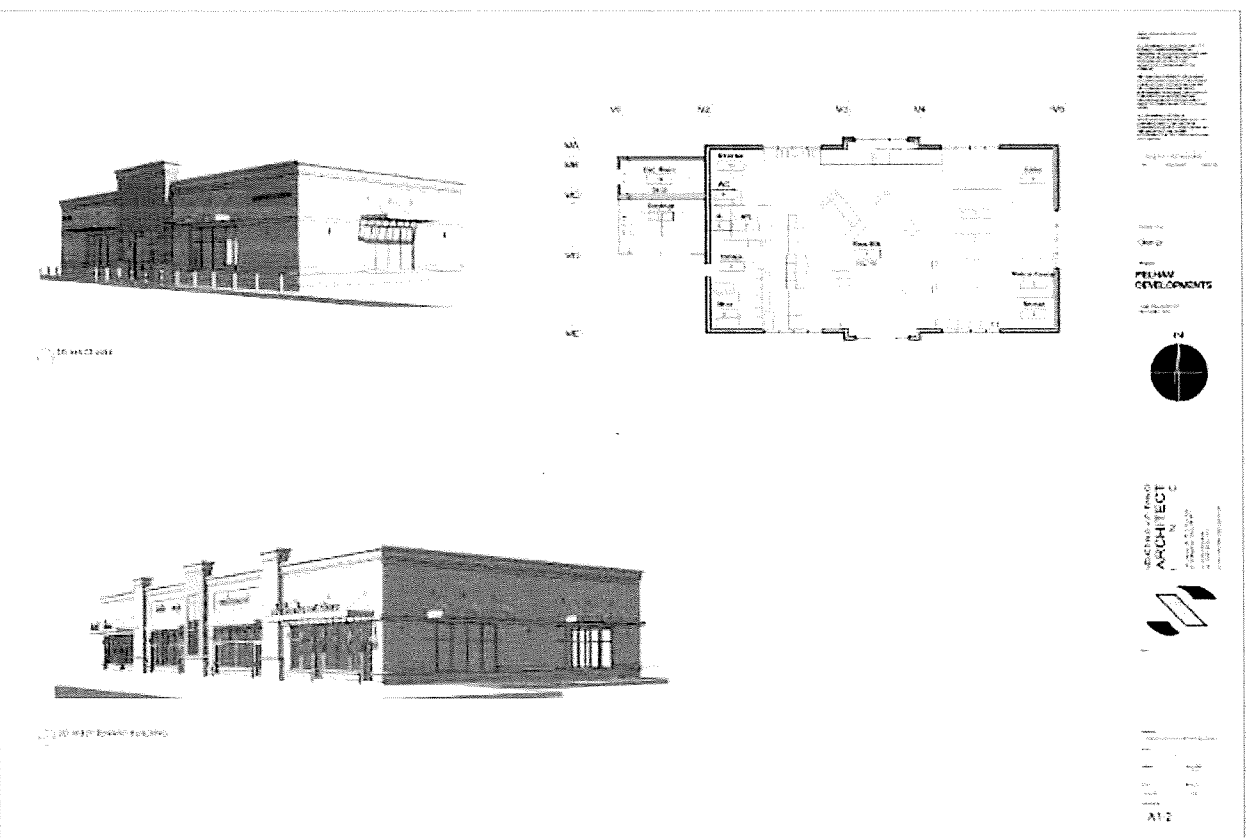
2015.



SCHEDULE 'C'

ELEVATIONS

Macs Milk Perspective, A1-2, prepared by Venerino V.P. Panici Architect Inc., dated April 13, 2015.



MT8 East & North Elevations, A4-1, prepared by Venerino V.P. Panici Architect Inc.,
dated June 6, 2015.



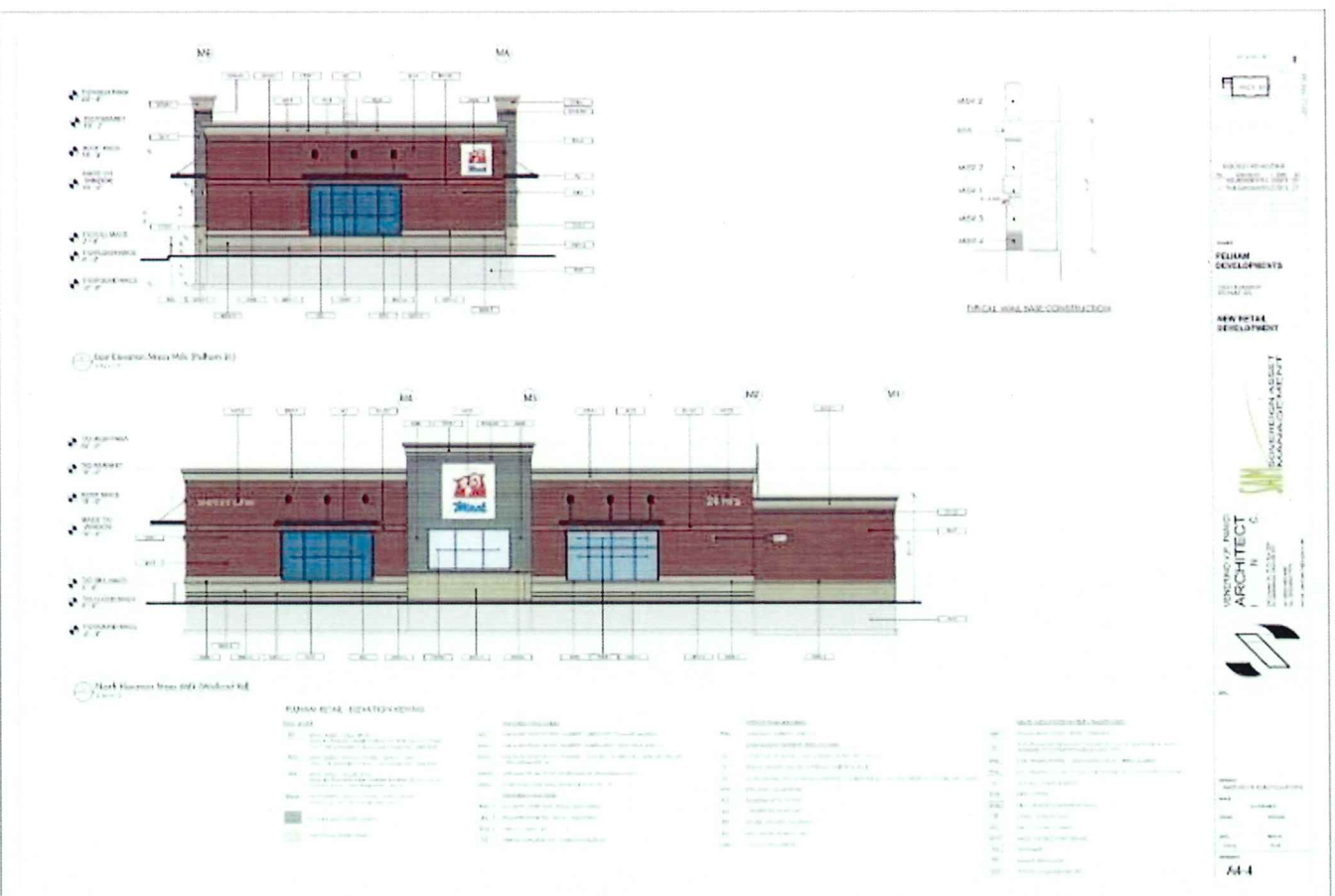
MT8 South & West Elevations, A4-2, prepared by Venerino V.P. Panici Architect Inc., dated June 6, 2015.



Macs North & West Elevations, A4-3, prepared by Venerino V.P. Panici Architect Inc., dated June 6, 2015.

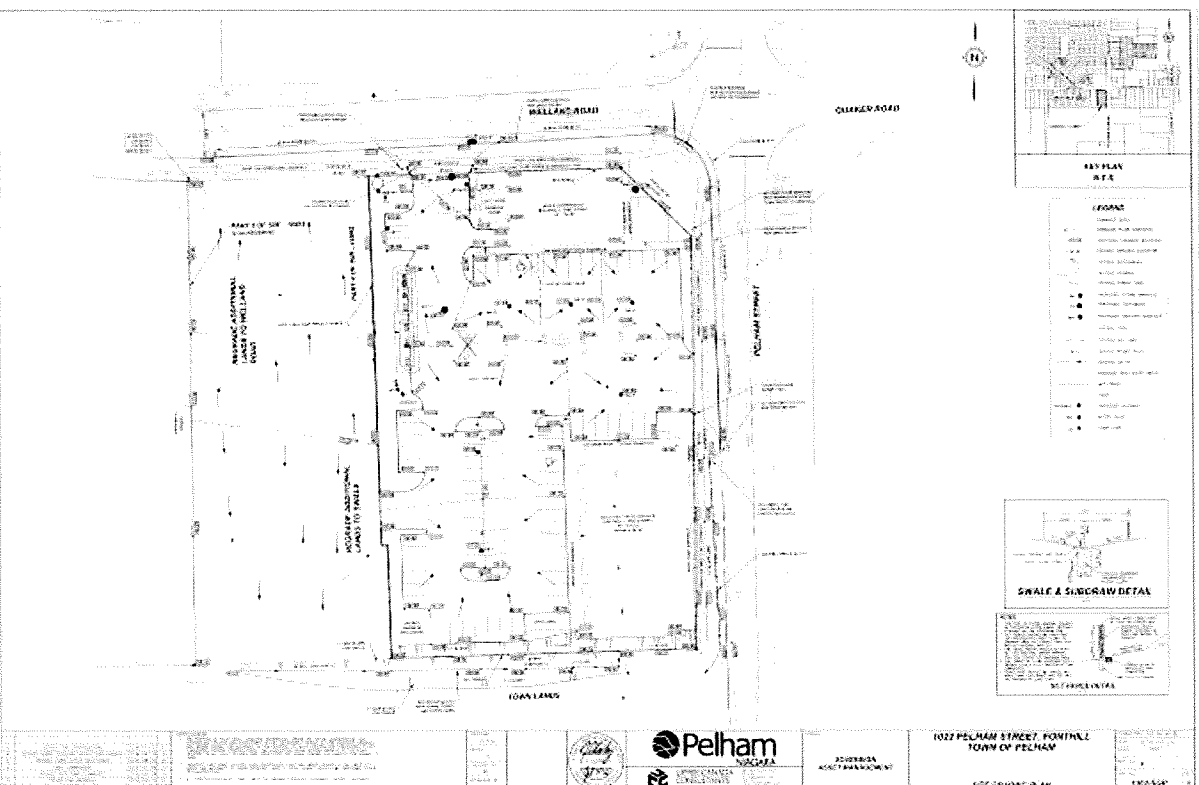


Macs South & East Elevations, A4-4, prepared by Venerino V.P. Panici Architect Inc., dated June 6, 2015.



SCHEDULE 'D'
SITE SERVICING, GRADING, AND DRAINAGE PLANS
GRADING PLAN

Site Grading Plan, 1362-SGP, prepared by Upper Canada Consultants,
dated July 7, 2016.

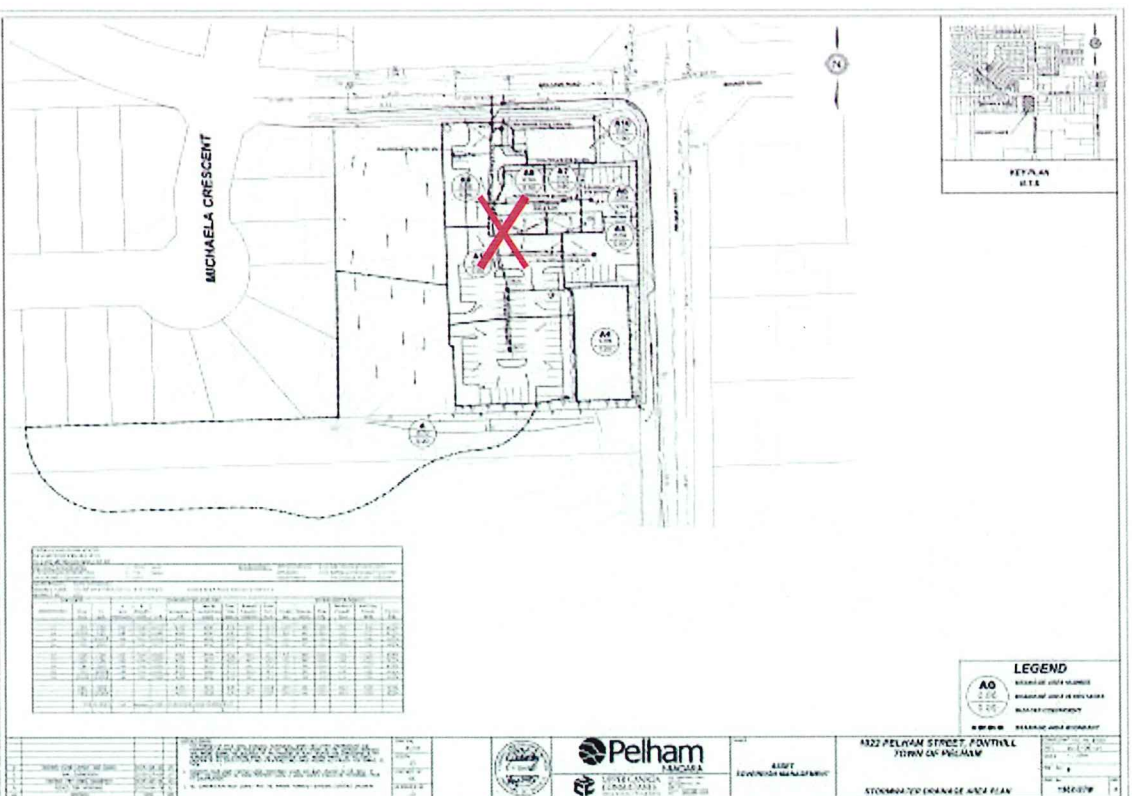


Site Servicing Plan, 1362-SSP, prepared by Upper Canada Consultants, dated July 7, 2016.



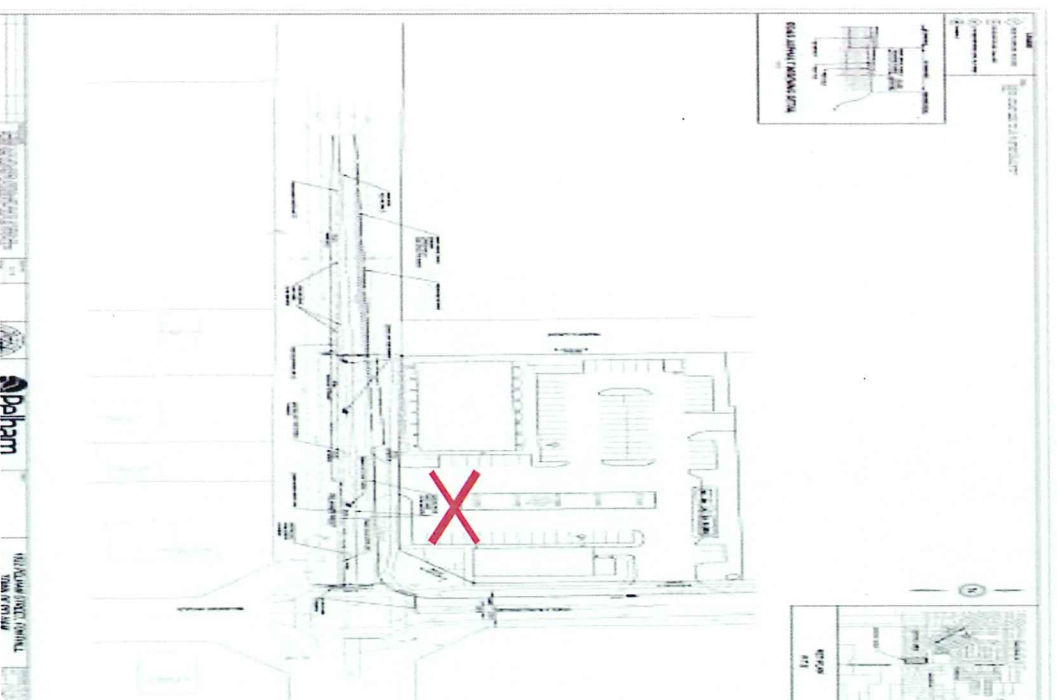
STORMWATER DRAINAGE AREA PLAN

Stormwater Drainage Area Plan, 1362-SSP, prepared by Upper Canada Consultants, dated August 24, 2015.



PELHAM STREET LINE PAINTING AND ASPHALT ROAD WIDENING PLAN

Pelham Street Line Painting and Asphalt Road Widening Plan, 1362-LINE, prepared by Upper Canada Consultants, dated July 7, 2016.



LANDSCAPE PLAN

LANDSCAPE PLAN

1022 PELHAM STREET COMMERCIAL DEVELOPMENT

PELIAN ST

HILLLAND RD

PAULA BERKETO LANDSCAPE ARCHITECT

PLANTING DETAILS

PLANTING NOTES

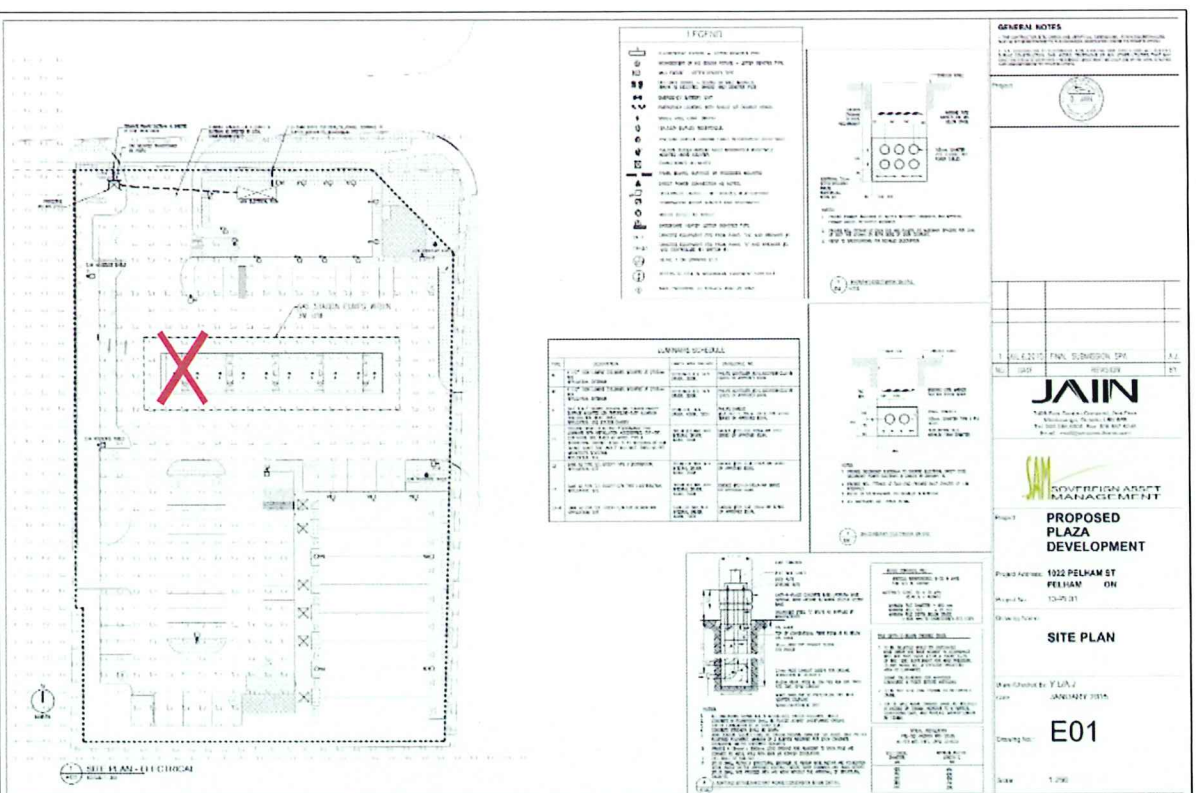
PLANT LIST

PHOTO FINISH AS GARAGE EXISTENCE DETAIL

SCHEDULE 'F'

PHOTOMETRIC PLAN

Site Plan, E01, prepared by JAIN, dated July 6, 2015.



SCHEDULE 'G'

COST ESTIMATES FOR FACILITIES AND WORKS

The on-site work cost estimates are as follows:

<u>Item</u>	<u>Cost Estimate</u>
1. General/Grading	\$3,787.50
2. Water System	\$25,960.00
3. Sanitary System	\$17,552.00
4. Storm System	\$65,458.00
5. Roads	\$184,047.00
6. External Works	\$51,550.00
7. Topsoil and Sod	\$4,550.00
8. Trees- deciduous and coniferous	\$16,100.00
9. Shrubs- deciduous and coniferous	\$10,350.00
10. Ornamental Grasses	\$3,060.00
11. Perennials	\$5,467.00
12. Wood Privacy/Chain Link Fencing	\$21,190.00
Sub-Total	\$409,071.50
Contingency and Engineering (15%)	\$61,360.73
Sub-Total	\$470,432.23
HST (13%)	\$61,156.20
TOTAL	\$531,588.43

In accordance with Section 14 (a) of this Agreement, that the estimated cost for completion shall be in the amount of Four Hundred Seventy Thousand Four Hundred and Thirty Two Dollars and Twenty Three Cents (\$470,432.23) excluding taxes.

Bylaw 3682 (2015)

LRO # 59 Notice

Received as SN47361 on 2016 08 02 at 12:51

The applicant(s) hereby applies to the Land Registrar.

yyyy mm dd Page 1 of 23

Properties

PIN 64398 - 0100 LT
Description PT LT 1 CON 10 PEL BEING PTS 4 & 7 ON 59R10892; S/T RO569551, RO570541, RO571768 & RO574280; PELHAM
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 Clerk
P. O. Box 400
20 Pelham Town Square
Fonthill, ON L0S 1E0

I, Dave Augustyn, Mayor and Nancy J. Bozzato, Town Clerk, have the authority to bind the corporation.

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

Statements

This notice is pursuant to Section 71 of the Land Titles Act.

The land registrar is authorized to delete the notice on the consent of the following party(ies) The Corporation of the Town of Pelham

Schedule: See Schedules

Signed By

Monica Evelyn Wolfe	39 Queen St. P. O. Box 24022 St. Catharines L2R 7P7	acting for Applicant(s)	Signed 2016 08 02
Tel 905-688-1125			
Fax 905-688-5725			

I have the authority to sign and register the document on behalf of the Applicant(s).

Submitted By

DANIEL & PARTNERS LLP	39 Queen St. P. O. Box 24022 St. Catharines L2R 7P7	2016 08 02
Tel 905-688-1125		
Fax 905-688-5725		

Fees/Taxes/Payment

Statutory Registration Fee \$62.85
Total Paid \$62.85

File Number

Applicant Client File Number : 43029