

AMENDMENT NO. 2
TO THE OFFICIAL PLAN
OF THE
PELHAM PLANNING AREA

MAY, 1977

Prepared by the Pelham Planning ~~Board~~ ^{COMMITTEE}

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CERTIFICATES
OFFICIAL PLAN
OF THE
PELHAM PLANNING AREA
AMENDMENT NO. 2

The attached Schedules 'A' and 'B' and explanatory text, constituting Amendment No. 2 to the Official Plan of the Pelham Planning Area, was prepared by the Pelham Planning ~~Board~~^{COMMITTEE} and was recommended to the Council of the Town of Pelham under the provisions of Sections 12 and 17 of The Planning Act, on the 5th day of APRIL, 1977.

F.R. PRATTEN
Chairman

L.C. HUNT (SEAL)
Secretary

This Amendment was adopted by the Corporation of the Town of Pelham by By-law No. 410 (1977) in accordance with Sections 13 and 17 of The Planning Act on the 2ND day of MAY, 1977.

J.O. WELDON
Mayor

L.C. HUNT (SEAL)
Clerk

This Amendment to the Official Plan of the Pelham Planning Area, which has been recommended by the Pelham Planning ~~Board~~^{COMMITTEE} and adopted by the Council of the Town of Pelham is hereby approved in accordance with Section 17 of The Planning Act, as Amendment No. 2 to the Official Plan of the Pelham Planning Area.

DATE: _____

Minister of Housing

CORPORATION OF THE
TOWN OF PELHAM
BY-LAW NO. 410(1977)

The Council of the Corporation of the Town of Pelham in accordance with the provisions of The Planning Act, R.S.O. 1970, hereby enacts as follows:

1. Amendment No. 2 to the Official Plan of the Pelham Planning Area, consisting of the attached Schedule and explanatory text, is hereby adopted.
2. That the Clerk is hereby authorized and directed to make application to the Minister of Housing for approval of the aforementioned Amendment No. 2 to the Official Plan of the Pelham Planning Area.
3. This By-law shall come into force and take effect on the day of the final passing thereof.

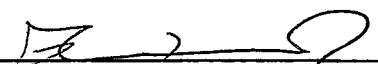
Enacted and passed this 2ND day of MAY, A.D., 1977.

Signed: "L. C. Hunt"
Clerk

"J. Weldon"
Mayor

(SEAL)

Certified that the above is a true copy of By-law No. 410(1977) as enacted and passed by the Council of the Town of Pelham on MAY 2ND, 1977.

Signed: 
Clerk of the Municipality

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SCHEDULE 'A'	Land Use Plan	(Following Text)
SCHEDULE 'B'	Land Use Plan	(Following Text)

SECTION 1

TITLE AND COMPONENTS OF THIS AMENDMENT

1. This Amendment shall be referred to as Amendment No. 2 to the Official Plan of the Pelham Planning Area. The Pelham Planning Area was established on January 1st, 1970 with the inception of the Regional Municipality of Niagara. The Town of Pelham forms a subsidiary Planning Area within the Regional Planning Area.
2. This Amendment applies to the Official Plan of the Pelham Planning Area as approved by the Minister of Housing on May 23rd, 1974.
3. Sections 1 to 6 inclusive and the attached Schedules 'A' and 'B' constitute this Amendment.

SECTION 2

PURPOSE OF THIS AMENDMENT

The purpose of this Amendment is to amend certain sections of the text of the Official Plan of the Pelham Planning Area as approved by the Minister of Housing, in order to provide rural policies that will permit certain non-farm rural development that is desired by the Council and general public. Such policies are in accordance with the policies of the draft Regional Official Plan which has been submitted by the Regional Municipality to the Ministry of Housing for approval. Some Open Space areas are deleted by this Amendment.

SECTION 3

LOCATION OF THIS AMENDMENT

Sections 1.9, 1.10, 1.11, 1.12, 1.39 and 1.40 of the Official Plan of the Pelham Planning Area will be deleted and replaced by Section 5 of this Amendment. As well, much of the Open Space designation will be changed to Rural as indicated on Schedule 'A' to this Amendment.

Recent changes in the policy areas of the Niagara Escarpment Commission are also reflected in this Amendment.

SECTION 4

BASIS OF THIS AMENDMENT

1. General

Section 5.4 of the Official Plan of the Town of Pelham Planning Area indicates that amendments may be made to the Official Plan to recognize changing conditions.

In the past seven years since the creation of the Regional Municipality of Niagara and the Town of Pelham, the local Council has become increasingly more aware of the need for modifying the planning of the rural area of the Town.

Since the adoption in December, 1973 by the Regional Council of the Policy Plan as the Official Plan of the Niagara Planning Area, the Council of the Town of Pelham has been able to review its local Official Plan in the light of Regional Planning Policies for rural areas. This review has led to this Amendment.

- (a) The Regional Policy Plan states that the Region will permit a limited amount of non-farm residential development in rural areas, with a reduced level of services on large lots, subject to the comprehensive planning guidelines and subject to detailed regulations by the area municipalities through their Official Plans.

It is the purpose of this amendment to set out the guidelines and detailed regulations to govern such limited amount of residential development in rural areas by severance applications only.

The Town of Pelham is desirous of permitting this type of development because:-

- (i) there is a substantial amount of land of marginal or no value for agriculture that can be put to an appropriate use in this way.
- (ii) the owners of such lands wish to put them to such a use and there is a large demand from people wishing to establish domicile in the Town on these lands.
- (iii) the Town is convinced that such use under proper controls will result in no objectionable consequences to the Town in general or to the existing residents of the areas concerned, or interfere with agricultural uses, or create a demand for municipal services.

- (iv) such development operates in the direction of maintaining the present and traditional mixture of rural and urban population in the Town. Without it, and if all new development is located within the urban area, the feeling is created among the rural areas that they will become an insignificant minority within the Town in total.
 - (v) the Town is convinced that good agricultural land will be preserved for agricultural use by directing the demand from the people desirous of establishing in the Rural Area to the marginal land of little or no agricultural value, and by reducing the breaking up of farms into 25-acre parcels.
 - (vi) it is desirable to have a limited choice of location available to those wishing to establish domicile within the Town as some families are very unhappy in an urban environment.
- (b) Extensive Open Space areas have been delineated adjacent to Hazard Lands on Schedule 'A1' to the Pelham Official Plan. The Town Council has been frustrated in its attempt to implement the Official Plan with a comprehensive Zoning By-law because of the arbitrary nature of the Open Space boundaries. The Niagara Peninsula Conservation Authority has indicated that in its opinion there is no apparent reason for the Open Space designations and would not be opposed to their deletion from the Plan.
 - (c) Since the approval of the Official Plan of the Pelham Planning Area and the delineation of Special Policy Area 1 and Special Policy Area 2 on Schedules 'A1' and 'A2' to that Official Plan, these Special Policy Areas have been superseded by a Niagara Escarpment Area of Development Control. This Amendment will delineate this development control area, which is in addition to and does not replace the various land use categories established within the Official Plan.

SECTION 5

THE AMENDMENT

The Official Plan of the Pelham Planning Area is hereby amended to give effect to the following:-

1. Subsections 1.9, 1.10, 1.11, 1.12, 1.39 and 1.40 are hereby deleted and the following substituted therefor:-

"The Rural Area

This area contains land with good agricultural soils and unique agricultural lands for tender fruit and grape production, subject to limitations of climate. It also contains areas of land of little or no use for agriculture and scattered existing strip residential, commercial and recreational uses, and existing hamlets.

1.9 Definition

1.9.1 The major uses permitted in the Rural Area are:-

1.9.1.1 agriculture, forestry and activities connected with the conservation of soil and wildlife, and

1.9.1.2 single family residences on a limited scale and at a very low density.

1.9.2 Ancillary uses that may be permitted in the Rural Area subject to Zoning By-law provisions are:-

1.9.2.1 apiaries, nurseries, greenhouses, institutional uses, churches, schools, public uses, recreational uses and clubs, cemeteries, and facilities for various public utility agencies, and

1.9.2.2 commercial and industrial uses on a small scale, provided such uses are related to and serve the surrounding agricultural area, such as a farm implement and supply use or a feed mill.

1.10 Policies

1.10.1 The general policy is to encourage the maintenance of the rural area for agriculture, in recognition of the growing emphasis by all levels of government and the public at large on the importance of the retention of high capability food production land for future needs.

1.10.2 Parcels of land to be used for agricultural purposes as defined in subsection 1.9 above will generally be of a large size consistent with their intended use. The minimum for a greenhouse enterprise, for example, will be two acres. The Zoning By-law will be used to regulate and control agricultural operations that require relatively small acreage parcels.

1.10.3 Rural non-farm residential development may be permitted on land not suited for agriculture, but only on a limited scale at a very low density according to strict controls specified in subsection 1.11.8 of this Plan. Such limited development will not require individual amendments to the Official Plan or to the implementing Zoning By-law.

1.10.4 The uses permitted in the Rural Area and regulations for such uses shall be set forth in the Zoning By-law. Regard shall be had to the protection of existing or permitted uses, especially in the case of different land uses. Provision will therefore be made for adequate setbacks from property lines, for lands to be set aside in certain cases for landscaping and buffering

purposes, and for prohibition of nuisances. The implementing Zoning By-law shall permit:-

- 1.10.4.1 the erection of a single family dwelling on any parcel of land existing as a separate lot at the date of passing of such By-law, and
- 1.10.4.2 the erection of a single family dwelling on any lot given consent by the Niagara Land Division Committee after the passing of such By-law, in accordance with the policies of this Plan and the provisions of The Planning Act.
- 1.10.5 New intensive animal operations shall comply with the Agricultural Code of Practice for Ontario (January, 1976, as revised) or alternate arrangements may be permitted by the Agricultural Engineer and incorporated in a Certificate of Compliance as set out in the Regional Policy Plan in 6.A15.
- 1.10.6 Policies applying to permitted small scale industrial and commercial uses within the area, which are preferred to locate in the existing hamlets.
 - 1.10.6.1 they shall be encouraged to locate on a Regional Road or Provincial Highway and on lands deemed to be not good for agriculture, subject to the provisions of the Zoning By-law.
 - 1.10.6.2 they shall be sited to minimize their effect on adjacent uses, particularly agricultural and residential.
 - 1.10.6.3 all permitted buildings shall be so designed and any lighting or signs so arranged as to harmonize with the general character of the adjacent uses.
- 1.10.7 In considering an amendment to this Plan, or to the complementing Zoning By-law involving development on lands in the vicinity of the Welland Airport, due regard shall be had to flight paths, possible runway extensions and heights of buildings or structures.

1.11 Consents Policy for Rural Areas

Consents will generally be restricted in rural areas. Regard shall be had to other policies of the Official Plan, to the matters set out in Section 33 (4) of The Planning Act, and to the following criteria when considering an application for consent:-

1.11.1 Financial Implications

Consents will not be granted where an extension of a municipal service or facility, such as a road, at municipal expense will be required.

1.11.2 Adjacent Uses

Regard shall be had to the compatibility of the proposed use with uses in adjacent areas and the effect of such use on the surrounding area.

1.11.3 Access

Consents should be granted only when the land fronts on an existing road which is maintained year round. Consents will not be granted for land adjacent to a road from which access is to be obtained where a traffic hazard would be created because of sight lines on curves or grades.

1.11.4 Services

All proposed uses shall have either a public water supply or other adequate supply of potable water, and adequate facilities for the disposal of sewage. The size of any parcel to be created by such consent shall be appropriate for the use proposed having regard to the public utilities available and the soil and drainage conditions of the land.

1.11.5 Good Agricultural Land

Only consents in 1.11.7 below will be permitted on such land.

1.11.6 Form of Development

Non-agricultural development should be encouraged to locate as infilling in or adjacent to existing hamlets.

1.11.7 Severance for Farm Related Residential Use

A severance for a farm related residential use should be considered in the following cases:-

1.11.7.1 when a farmer severs a lot for an immediate member of the family who assists in the operation of the farm, or

1.11.7.2 when two farms are amalgamated and a surplus house is created, or

- 1.11.7.3 when a farmer retires and sells his farm, but wishes to continue to live on a part of the farm, or the farmer dies and his widow wishes to sell the farm and continue to live on part of such farm.

Lots for such purposes shall be approximately one acre in size. Larger lots will be considered in special circumstances.

1.11.8 Severance for Non-Farm Related Residential Use

A severance for a non-farm related residential use not complying with 1.11.7 above:-

- 1.11.8.1 should be permitted only on a very restricted basis according to a quota to be established by Council in a by-law for that purpose.
- 1.11.8.2 should be permitted only after having regard to all other policies of this Plan.
- 1.11.8.3 should be granted only if the parcel in question is not in fruit production or cropland or considered to be suitable for such, and a home on the parcel is not considered to be in conflict with fruit or crops production on adjacent lands.
- 1.11.8.4 should be granted only after consideration is given by the Land Division Committee to:-
- (a) a site inspection of the land comprising the proposed severance,
 - (b) a report by the Town Building Inspector stating his opinion of the suitability of the location of the residence proposed for the parcel of land to be created by the consent, and
 - (c) a report by the Ministry of the Environment or its agent (at present, the Niagara Regional Health Unit) on the likelihood of a suitable water supply being available, and the suitability of the proposed location for a sewage disposal system meeting current regulations which report shall be submitted to the municipality before certificate of final completion is forwarded to the Regional Niagara Land Division Committee.
- 1.11.8.5 should be permitted only after it has been determined that the land comprising the severance is not subject to the danger of flooding, subsidence, erosion or other physical hazard and is suitable for the proposed use.

- 1.11.8.6 should be permitted on land comprising the severance that is clearly of little or no value for agricultural use, and is so certified by the local Ministry of Agriculture and Food representative for one or more of the following reasons:-
- (a) such land is covered by trees where trees were not grown as a crop, or
 - (b) if not covered by trees, the land is so covered and surrounded by trees, that the uncovered areas are not suitable for cultivation or are under two acres in size, or
 - (c) the land is too steeply sloped for the operation of modern agricultural machinery, or
 - (d) the land is too stoney for the satisfactory operation of modern agricultural machinery, or
 - (e) the land lies within certain areas of the Town having soil characteristics and climate that have permitted the successful cultivation of tender fruit, but which are now no longer economically suitable for such activity because the size of the parcel is too small for a mechanized operation. It is expected that such a condition will be included in the determination by the Ministry of Agriculture representative of the value of a particular area of land for agricultural use. For example, certain parcels of land on Canboro Road between Fonthill and Fenwick, and the south side Memorial Drive might be so regarded as unsuitable because they are under 10 acres in size and are not directly adjacent to other parcels of land 10 acres or larger which are suitable for agriculture.
- 1.11.8.7 should be suitably distant from, and protected from, incompatible land uses such as industry and intensive animal operations. In the case of intensive animal operations compliance with the Agricultural Code of Practice for Ontario for determination of a suitable distance is required,
- 1.11.8.8 should be granted only on the condition that desirable existing vegetation, particularly healthy robust stands of trees, shall be preserved wherever possible,
- 1.11.8.9 should be granted only on the condition that buildings on such lands shall be so located as to reduce their intrusion on the rural appearance of the area,

1.11.8.10 should be granted only if substantial spacing is provided between adjacent residences, and

1.11.8.11 should be granted only if the minimum lot size is two acres subject to the criteria of minimum lot area for satisfactory water supply and septic tank operation in 1.11.8.4. (c) above.

1.12 Development Monitoring

The Town will carry out a monitoring programme to determine the impact of residential development in the rural area, and the effectiveness of the criteria for decision making on severance applications. The Town will maintain a file for the collection, retention and periodic analysis of all operations, complaints, comments and requests received from owners of these new residential properties or existing adjacent properties. In particular, the Town will report annually to the Ministry of Housing, the Regional Planning Committee and the Ministry of Agriculture and Food whether these developments have resulted in:-

- (a) any demands for extension of any services,
- (b) any demands for improvement in the level of services, i.e. snow ploughing, grading, dust control, refuse pickup, speed controls, weed control, signing, etc.
- (c) any conflicts between agricultural and non-agricultural uses."

1.39 In the interim, the following policies will apply:

Niagara Escarpment Development Control Area

Under Bill 129, an Act to provide for planning and development of the Niagara Escarpment and its vicinity, the Minister of Housing was empowered to designate an Area of Development Control within the Niagara Escarpment Planning Area. The Area of Development Control was formally established on June 10, 1975 and Schedules 'A1' and 'A2' to the Official Plan delineates the Area.

Notwithstanding any other provision of this Official Plan, within the area designated "Niagara Escarpment Area of Development Control" on Schedules 'A1' and 'A2' to the Official Plan, only those exempted classes of use contained in Section 5 of Ontario Regulation 453/75 as amended are permitted without a development permit issued by the Niagara Escarpment Commission.

A Development Permit application for any other class of use must be made to the Niagara Escarpment Commission which will consider and respond to each proposal on its individual merit.

In the event that the development control area is decreased, the established land use policies of this Official Plan shall prevail subject to the policy of Section 1.38 hereof.

1.40 The lands affected by the "Niagara Escarpment Area of Development Control" are delineated on Schedules 'A1' and 'A2'.

2. Schedules 'A1' and 'A2', the Land Use Plan of the Official Plan are hereby amended by changing the designation of the area indicated on Schedules 'A' and 'B' to this Amendment from:-

"Open Space" to "Rural"

"Special Policy Area 1" to "Rural"

and "Special Policy Area 2" to "Rural" and "Hazard Lands"

the intent of these changes being to reinstate the land use designations that preceded the delineation of the Special Policy Areas.

3. Schedules 'A1' and 'A2', the Land Use Plan of the Official Plan are hereby amended by the addition of the area indicated on Schedules 'A' and 'B' to this Amendment as "Niagara Escarpment Area of Development Control".

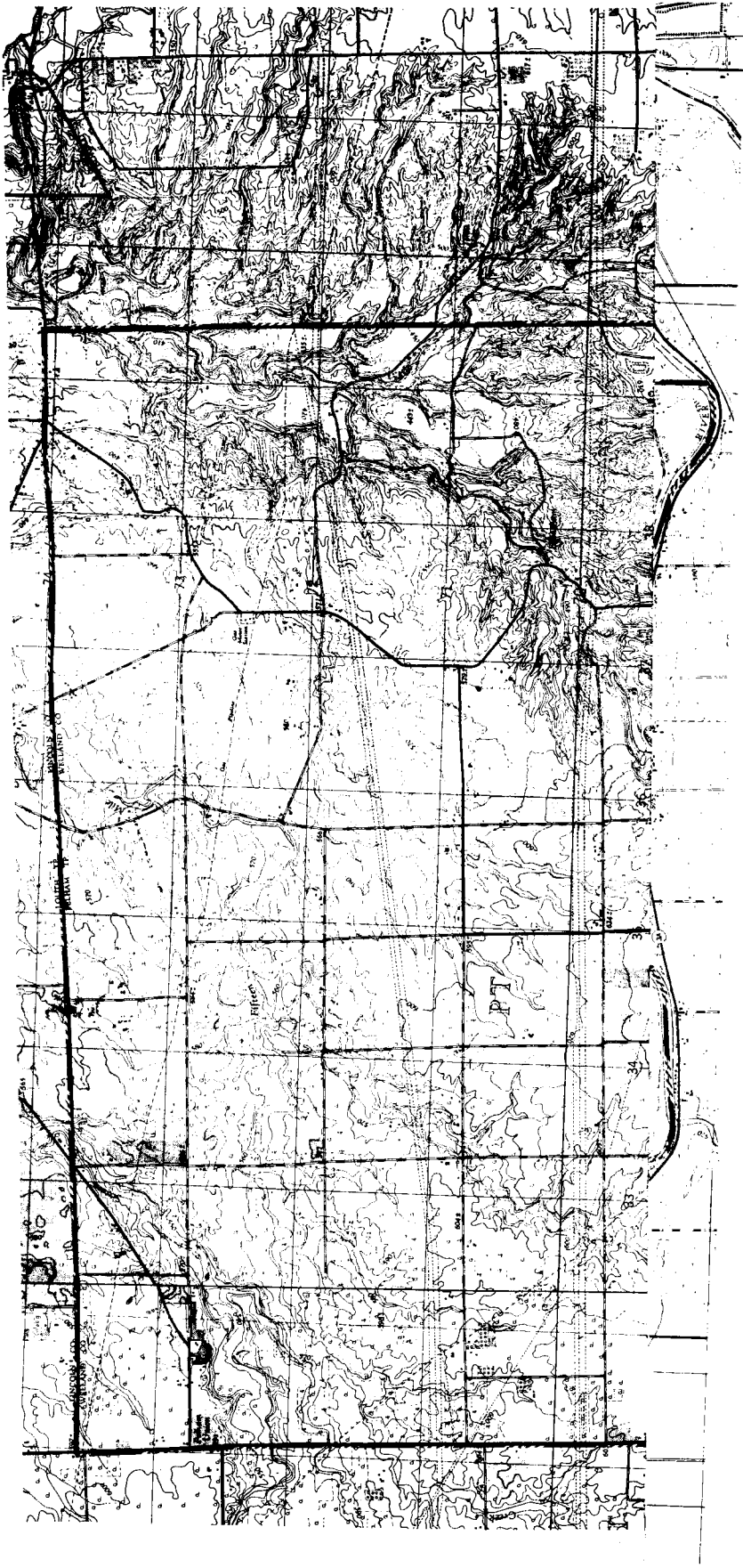
4. Section 5.2.3 is amended by adding the word "new" after "all" so that the sentence will read as follows:-

"After the date of adoption all new uses, buildings or structures referred to as ancillary in Section 1 would require a zoning amendment prior to development being permitted, unless existing zoning provisions permit such development."

SECTION 6

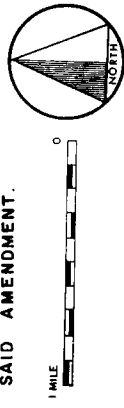
ADMINISTRATION

This Amendment will be administered and implemented in accordance with Section 5 of the Official Plan of the Pelham Planning Area.



THE OFFICIAL PLAN OF THE PELHAM PLANNING AREA

NOTE: THIS SCHEDULE 'A' FORMS PART OF
AMENDMENT NO. 2 TO THE OFFICIAL PLAN
OF THE PELHAM PLANNING AREA AND MUST
BE READ IN CONJUNCTION WITH TEXT OF
SAID AMENDMENT.



LEGEND

- INDUSTRIAL
- COMMERCIAL
- RURAL COMMERCIAL
- URBAN RESIDENTIAL
- RESOURCE EXTRACTION
- RURAL
- OPEN SPACE
- BOUNDARY OF RESTRICTED QUARRY AREA
- ~~SPECIAL POLICY AREA 2~~ delete
- HAZARD LANDS
- BOUNDARY OF URBAN SERVICE AREA

Schedule 'A2' Land Use

SCHEDULE 'B' TO AMENDMENT No. 2