

THIS AGREEMENT made in triplicate this day of , 1981 A.D.

BETWEEN:

JOHN HAJCMAN
and
RAYMOND CHARLES GUNN

Hereinafter called the "Owners"
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 ENGINEERS" shall mean the Engineers 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 Owners purport to be the Owners of the lands in the Town of Pelham described in Schedule "A" attached hereto;

AND WHEREAS the Owners are desirous of erecting on the said lands a commercial building for the operation of a Plumbing Supply and other Commercial General uses in accordance with Schedule "B" attached hereto being plot plans and elevations filed in the Municipal Office;

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 Owners to the Town (the receipt whereof is hereby acknowledged) the Parties hereto mutually covenant and agree as follows:

(1) STORM SEWERS: ----

(a) The Owners shall, at their own expense, construct a storm sewer system on the lands described in Schedule "A". This storm sewer system is to adequately disperse storm water from the development into the existing municipal storm sewer, in accordance with specifications and a design approved by the Town Engineer and in accordance with a plan to be filed in the Office of the Town and signed by the Parties hereto, and the Owners undertake to repair and maintain the storm sewer system located on the lands described in Schedule "A".

(b) The Owners shall, at their own expense, carry out water-course improvements in accordance with the requirements of the Town

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Engineer from time to time.

(2) SANITARY SEWERS: ----

(a) The Owners shall, at their own expense, construct a sanitary sewer system on the said lands to adequately serve the building located thereon, such construction to be in accordance with specifications and a design approved by the Town Engineer and 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) In addition to the foregoing, the Owners shall at their own expense cause to be constructed a five inch sanitary sewer lateral from the existing sanitary sewer main to the property line to the specifications of the Works Superintendent for the Town of Pelham. The obtaining of all necessary permits and authorizations shall be the responsibility of the owners.

(3) HYDRO: ----

(a) The Owners shall, at their own expense, install electric service as stipulated by the Pelham Hydro-Electric Commission, and shall comply with all requirements of the Pelham Hydro-Electric Commission respecting the installation of the necessary power lines, services to the building as described in Schedule "B".

(b) Without limiting the generality of the foregoing in any way the Official Plan of the Pelham Planning Area requires all new developments to be serviced by underground hydro service and this must be adhered to.

(4) PARKING: ----

(a) The Owners shall provide and at all times maintain on the said lands, paved parking areas in accordance with section 7.12 of Restricted Area By-law #279 (1974), each 9 feet by 18 feet, for motor vehicles to specifications approved by the Town Engineer.

(b) The Owners shall, at their own expense, and from time to time, construct and maintain paved driveways as shown on Schedule "B" to this agreement and as required or permitted by the Town Engineer to serve the said parking areas at such locations and in accordance with specifications approved by the Town Engineer and where said driveways exit to a paved roadway, the driveway shall be paved, by the owners, from the lot line to the paved portion of the roadway.

(c) The Owners shall, at their own expense, adequately light all driveways and parking areas, in accordance with a plan filed in the Office of the Town Engineer and signed by the Parties hereto.

(d) All entranceways and parking areas are subject to the approval of the Ministry of Transportation and Communications.

(e) The Owners shall, at their own expense, plant with No. 1 Grade Merion Blue Grass the perimeter of all open parking areas so as to enhance the appearance of the parking area.

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(5) GRADING AND LANDSCAPING: ----

(a) The Owners shall, at their 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 Owners shall, at their own expense, in accordance with Schedule "B" attached hereto and to the satisfaction of Council of the Town of Pelham, adequately landscape, plant and maintain all of the lands described in Schedule "A" attached hereto not required for building, parking or entranceway so as at all times to provide effective green areas enhancing the general appearance of the development.

(6) WATER: ----

(a) The Owners shall, at their own expense, construct and install all necessary connections to existing watermains and all internal water supply services necessary to serve the development including fire hydrants, if required, such construction to be in accordance with the requirements of and with specifications and a design approved by the Works Superintendent and the Building Department of the Town,

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

(7) SIDEWALKS: ----

The Owners shall, at their own expense, construct and maintain sidewalks within the development according to Schedule "B".

(8) SIDEWALK CONTRIBUTION: ----

(a) The Owners agree that, in the event of the Council resolving to construct a sidewalk along the entire or any part of the southerly boundary of the lot described in Schedule "A", it will reimburse the Town for the entire cost of such construction in accordance with the Town's specifications for public sidewalks at such time.

(b) If any other sidewalk is required by the Owners and approved by the Town Engineer, it shall be constructed to the Town's specifications for public sidewalks at such time and at the sole cost of the Owners.

(9) BUILDING AND SERVICES: ----

(a) The Owners shall construct and the Town shall permit the construction of a Plumbing Supply and Commercial General facility on lands described in Schedule "A", in accordance with Schedule "B" attached hereto and plans filed in the Municipal Office of the Town and signed by the Parties hereto on the 19th day of January , 1981 and in accordance with plans and elevations approved by Council provided that such plans shall comply with all building and zoning requirements of the Town. Without limiting the generality of the foregoing, the material used in the exterior finish of the building shall be

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approved by the Building Department of the Town, and shall be: south elevation, brick; east, west and north elevations shall be concrete block painted co-ordinating colour.

(10) GENERAL: ----

(a) The Owners agree that the final building plans will be certified by the Ministry of Labour.

(b) The Owners will at all times during any construction on the lands described in Schedule "A" ensure that any mud or debris deposited on roadways, parking areas, or any Town owned land is cleaned up and removed prior to the end of each working day. In the event of failure to do so, the Town reserves the right to clean up and remove said mud or debris and further shall have the right to recover the cost thereof by action or in like manner as taxes.

(c) The Owners will at all times indemnify and save harmless the Town against and from all claims, demands, suits, losses, costs, damages, and injuries, and legal or adjusting or investigation costs incidental to the defence of such claims which the Town may suffer or be put to for or by reason of or on account of the construction, maintenance or existence of any work done by the Owners, their 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 Owners.

(d) In the event of the failure of the Owners to carry out any of the provisions of this Agreement on or before the 1st day of July, 1981, 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 Owners, 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.

(e) The Owners shall at all times keep posted in a public area on the ground floor of the building or otherwise prominently displayed, a mailing address and the telephone number of a person having authority to deal with all matters relating to the said building.

(f) The Owners shall not call into question directly, or indirectly, 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 Owners in any such proceedings.

(g) Notwithstanding any of the provisions of this Agreement, the Owners shall be subject to all of the by-laws of the Town.

(h) The covenants, agreements, conditions and understandings herein contained on the part of the Owners shall run with the land and shall be binding upon them and upon their successors and assigns as Owners and occupiers of the said lands from time to time.

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(i) The Owners agree that they shall, upon the sale and transfer by them 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 Owners and any such purchaser or transferee.

(j) This agreement shall be registered on the title to Schedule "A" in the Registry Office for the Regional Division of Niagara South.

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

(E. G. Bergenstern
(MAYOR
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(Murray Hackett
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