

THIS AGREEMENT made in triplicate this day of

1983 A.D.

BETWEEN:

BERT MARISSEN

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.

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

AND WHEREAS the Owner is desirous of renovating the existing building to accommodate a restaurant and one residential apartment, in accordance with Schedule "B" attached hereto being plot plans filed in the Office of the Town;

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

NOW THEREFORE THIS AGREEMENT WITNESSETH that in the consideration of the sum of Fifteen (\$15.00) Dollars 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 DRAINAGE:

(a) The Owner shall, at its own expense, carry out storm drainage works on the lands described in Schedule "A". These storm drainage works are to adequately disperse storm water from the development to the satisfaction of the Town, and the Owner undertakes to repair and maintain the storm drainage works located on the lands described in Schedule "A" as may be required from time to time.

(2) SANITARY SEWERS

(a) The Owner shall, at its own expense, construct a sanitary sewer system within the development to adequately serve the units located therein, such construction shall be inspected and approved by the Town. The Owner further undertakes 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.

(3) HYDRO:

The Owner shall, at its own expense, install electric service as stipulated by Ontario Hydro and shall comply with all requirements of Ontario Hydro respecting the installation of the necessary power lines services to the building as described in Schedule "B".

(4) PARKING:

(a) The Owner shall provide and at all times maintain on the said lands, paved parking areas capable of accommodating a minimum of eleven (11) parking spaces to accommodate the retail area, each 2.5 metres by 5.5 metres, for motor vehicles to specifications approved by the Town.

(b) The Owner shall, at its own expense, and from time to time, construct and maintain driveways as shown on Schedule "B" to this agreement.

(c) The Owner shall, at its own expense, adequately light all driveways and parking areas in accordance with a plan filed in the Office of the Town.

(5) GRADING AND LANDSCAPING:

(a) The Owner shall, at its own expense, grade all lands not required for building or parking in accordance with the requirements of the Town 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, landscape the lands in accordance with Schedule "B" to this agreement.

(6) WATER:

The Owner, at its own expense, shall construct and install all internal water supply services necessary to serve the development. Such construction to be in accordance with the requirements of and with specifications and a design approved by the Building Department of the Town.

(7) SIDEWALKS:

(a) The Owner shall, at its own expense, construct and maintain sidewalks within the development according to Schedule "B".

(b) The Owner shall, at its own expense and at all times, clear all parking areas and sidewalks both within and abutting the proposed redevelopment of snow and ice in such a manner as to ensure the safety of the general public. The Owner further agrees not to deposit snow or ice on any public property or street.

(8) BUILDING AND SERVICES:

(a) The Owner shall reconstruct and the Town shall permit the reconstruction of the existing building on the lands described in Schedule "A" in accordance with Schedule "B" attached hereto to permit a restaurant and one residential apartment, in accordance with plans 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 approved by the Building Department of the Town.

(9) GENERAL:

(a) The Owner will at all times during any renovations 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.

(b) The Owner 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 Owner, its contractors, servants or agents on the lands described in Schedule "A", and such indemnify 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 a public area on the ground floor of the building so as to be visible to the outside, a mailing address and the telephone number of a person having authority to deal with all matters relating to the said building.

(e) The Owner 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 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 understandings 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 property 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.

(i) Notice of 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

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MAYOR

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CLERK

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