

File: 26T-18-23-01
Draft Approval Date: _____
Lapse Date: _____

Town of Niagara-on-the-Lake
Conditions of Draft Plan Approval

The conditions of draft plan approval and registration of “Opulence” Subdivision, File 26T-18-23-01 are as follows:

1. That approval applies to the “Opulence” Draft Plan of Subdivision, being Firstly: Part Township Lot 94 Niagara as in RO178996, Subject to an Easement as in RO190469, Together with an Easement as in RO190504, Subject to an Easement in Gross Over Part 6 Plan 30R13040 as in NR194732, Secondly: Part Township Lot 94 Niagara, Part 1 Plan 30R1154 and Part 3 Plan 30R16093, Niagara-on-the-Lake, Regional Municipality of Niagara, prepared by J.D. Barnes LTD., O.L.S., dated April 26, 2023, showing 28 lots for single-detached dwellings, Block 29 for a servicing easement and pedestrian walkway, and a public road (Street “A”).
2. That the owner enters into one or more agreements with the Town of Niagara-on-the-Lake (the “Town”) agreeing to satisfy all requirements, financial and otherwise, of the Town including the provision of services, roads, signage, grading, drainage, trees, sediment and erosion control, streetlighting, and sidewalks. The agreement shall also specifically prohibit development on the lands, save and except for model homes (as permitted by Town policy), until such time as grading and services are adequately provided, to the satisfaction of the Town.
3. That if final approval is not given to this plan within three (3) years of the draft approval date and an extension has not been granted, draft approval shall lapse. If the owner wishes to extend the draft approval, a complete application form and written explanation of the request must be received by the Town prior to the lapsing date.
4. That the subdivision agreement between the owner and the Town with regard to the subject lands be registered by the Town against the lands to which it applies, pursuant to the provisions of the *Planning Act*.
5. That the owner provides an undertaking to the Town agreeing that a properly executed copy of the transfer of the lands to the municipality will be deposited to the Clerk concurrently with the registration of the final plan of subdivision.
6. That the owner agrees in the subdivision agreement that any outstanding taxes will be paid prior to the registration of the final plan of subdivision.
7. That the owner receives final approval to an Official Plan Amendment and Zoning By-law Amendment to provide land use regulations for the development of the land in accordance with the Draft Plan of Subdivision.

8. That the owner provides a preliminary 30M plan and a letter to the Director of Community and Development Services stating how all conditions of draft plan approval have been satisfied at the time of request for condition clearance.
9. That the owner agrees in the subdivision agreement that, prior to the issuance of a building permit, each dwelling within the subdivision will be subject to the review and approval of the Director of Community and Development Services respective urban design considerations in accordance with the St. Davids Urban Design Guidelines.
10. That the owner pays 5% cash-in-lieu of parkland dedication to the Town pursuant to the provisions of the *Planning Act* based on the total value of the subject lands as determined by an appraisal prepared by a qualified person and approved by the Town. All costs associated with obtaining an appraisal are the responsibility of the owner.
11. That the detailed design drawings with calculations for the watermain system, the sanitary sewer system and the stormwater drainage system required to service this proposal be submitted to the Niagara Region, the Town's Operations Department and the Fire and Emergency Services Department for review and approval.
12. That the owner provides the cost of all on-site and off-site works as well as the number of working days required to complete the proposed works to establish the appropriate security deposits to be identified in the subdivision agreement.
13. That detailed servicing and overall lot grading plans, noting both existing and proposed grades including apron and top and foundation elevations and the means whereby overland flows will be accommodated across the site, be submitted to the Town's Operations Department and Fire and Emergency Services Department, and Niagara Escarpment Commission for review and approval. This requirement shall also be included in the subdivision agreement.
14. That the watermain to be constructed along "Street A" to service the proposed development be sized to a minimum 200 mm diameter.
15. That upon completion of the project, the design engineer shall certify that all grading, storm sewers, and stormwater management controls have been constructed in general conformity to the approved drawings.
16. That the public streets be dedicated to the Town free and clear of any mortgages, liens or encumbrances and named to the Town's satisfaction as the continuation of the existing roads to the east.
17. That the owner agrees to the following requirements in the subdivision agreement:
 - (a) That the owner agrees in the subdivision agreement to grant to the Town any required easements for services or utilities.

- (b) That all infrastructure works will be constructed to current Town specifications.
- (c) That all proposed infrastructure will be subject to the Town's inspection at the owner's expense including qualitative and quantitative testing of any materials used in the construction of any works.
- (d) That all construction plans and supporting reports shall be subject to a peer review at the owner's cost.
- (e) That sanitary and storm drainage area plans be submitted to the Town's Operations Department for approval.
- (f) That the owner be required to provide the appropriate securities and cash deposits prior to commencing the installation of infrastructure.
- (g) To construct a 1.5m wide sidewalk along the west side of "Street A", from the southern limit of the development connecting to the proposed servicing easement/walkway (Block 29). Sidewalks are to be installed as per the Town's Sidewalk Installation Policy for new developments (Policy CDS-PLG-004).
- (h) To construct a 1.5m wide sidewalk from the existing sidewalk at the intersection of Tanbark Road and Hickory Avenue, across the frontage of #144 Tanbark Road, connecting to the proposed servicing easement/walkway (Block 29). Sidewalks are to be installed as per the Town's Sidewalk Installation Policy for new developments (Policy CDS-PLG-004).
- (i) That a sediment control plan be submitted to the Town's Operations Department for review and approval.
- (j) That a comprehensive stormwater management plan be submitted to the Town's Operations Department for review and approval.
- (k) That detailed servicing plans, including plan and profile views, be submitted for review and approval by the Town's Operation Department.
- (l) That detailed calculations for this development be submitted to the satisfaction of the Town's Operations Department, confirming available sanitary sewer capacity within the existing sewer system.
- (m) That an overall lot grading plan be submitted for review and approval by the Town's Operation Department noting both existing and proposed grades including driveway apron and top of foundation elevations and the means whereby overland flows will be accommodated across the site.
- (n) That a streetscape plan of the internal streets illustrating the location of on-street parking, boulevard trees, pavement markings, community mailbox(s) locations,

hydrants, regulatory and no-parking signs, and street lighting be submitted to the Town's Operations Department for review and approval.

- (o) That all signage within the subject property (including all regulatory and no-parking signage) be installed at the owner's cost.
- (p) That a street lighting and photometrics plan be submitted to the Town's Operations Department for review and approval.
- (q) That the owner provides boulevard trees in the subdivision in accordance with Town policy respecting the number, location, species, and size of trees.
- (r) That access to the site for construction and servicing related works shall be from Tanbark Road via the future servicing easement to limit disturbance and reduce traffic through the adjacent subdivision, unless otherwise indicated.
- (s) That all offers, and agreements of purchase and sale shall contain a clause that the purchaser will be responsible to maintain the grassed boulevard and landscape roadway islands directly in front of and adjacent to their lot where they exist.
- (t) That the proposed road allowance is to be 18-metres in width and constructed to current Town standards.
- (u) That the proposed road allowance and servicing easement/walkway (Block 29) are transferred to the Town of Niagara-on-the-Lake free and clear of any mortgages, liens, and encumbrances.
- (v) That the proposed servicing easement/walkway (Block 29) for this development be designed and constructed to function as an emergency access. The emergency access is to be built by the developer to meet or exceed all applicable code requirements to the satisfaction of the Town. The emergency access needs to be designed with an appropriate width and turning radius to accommodate emergency vehicles, as well as include the necessary control measures to limit access to emergency vehicles only.
- (w) That Town Council approves a By-law to lift the reserve at the north end of Kenmir Avenue, where it abuts Street "A," upon the completion of Primary Services to provide legal access to those properties that will use Street "A" for access.
- (x) That during the construction the site will be kept in a reasonably tidy condition so that the raising of dirt and dust is kept to a minimum and further that all roads adjacent to and in the vicinity of the development are kept clean of mud and debris as per Town's Street Cleaning Policy for new developments (Policy CDS-PLG-005).

18. That the easement in gross over Part 6 of Plan 30R13040, registered as instrument NR194732, be discharged.

19. That the following clause be included in the subdivision agreement:

Should deeply buried archaeological remains/resources be found on the property during construction activities, all activities impacting the archaeological resources must cease immediately and the proponent must notify the Archaeology Programs Unit of the Ministry of Heritage, Sport, Tourism, and Culture Industries (416-212-8886) and contact a licensed archaeologist to carry out an archaeological assessment in accordance with the Ontario Heritage Act and the Standards and Guidelines for Consultant Archaeologists.

In the event that human remains are encountered during construction, all activities must cease immediately and local police as well as the Cemeteries Regulation Unit of the Ministry of Government and Consumer Services (416-326-8800) must be contacted. In situations where human remains are associated with archaeological resources, Ministry of Heritage, Sport, Tourism, and Culture Industries should also be notified to ensure that the site is not subject to unlicensed alterations, which would be a contravention of the Ontario Heritage Act.

20. That a Phase 1 Environmental Site Assessment (ESA), prepared by a Qualified Professional (QP) in accordance with the Environmental Protection Act and associated regulations as amended, as well as soil sampling analysis, be submitted to Niagara Region. If the soil sampling analysis does not meet current criteria and site condition standards as outlined by the Ministry of the Environment, Conservation and Parks for residential uses, the owner must file a Record of Site Condition on the MECP's Brownfield Environmental Site Registry prior to clearing this condition. A reliance letter from a QP shall be submitted to Niagara Region, to indicate that, despite any limitations or qualifications included in the above submitted reports/documents, the Region is authorized to rely on all information and opinions provided in the reports submitted, in order to clear this condition.

21. That the owner provides a written acknowledgement to Niagara stating that draft approval of this subdivision does not include a commitment of servicing allocation by Niagara Region as servicing allocation will not be assigned until the plan is registered and that any pre-servicing will be at the sole risk and responsibility of the owner.

22. That the owner provides a written undertaking to Niagara Region stating that all Offers and Agreements of Purchase and Sale or Lease, which may be negotiated prior to registration of this subdivision shall contain a clause indicating that servicing allocation for the subdivision will not be assigned until the plan is registered, and that a similar clause be inserted in the subdivision agreement between the owner and the Town of Niagara-on-the-Lake.

23. That prior to final approval for registration of this plan of subdivision, the owner shall submit the design drawings (with calculations) for the sanitary and storm drainage systems required to service this development to confirm capacity of the Regional infrastructure.
24. That the owner ensure that all streets and development blocks can provide an access in accordance with the Regional Municipality of Niagara Corporate Policy and By-laws relating to the curbside collection of waste and recycling throughout all phases of development.
25. That the owner submits a Landscape Plan including mature coniferous trees, to the satisfaction of the Niagara Escarpment Commission and Town Operations Department and Fire Chief of the Town of Niagara-on-the-Lake.
26. That the owner ensures the implementation of the recommendations of the Natural Heritage Constraints Analysis, prepared by Ecological and Environmental Solutions, dated February 2023.
27. That the owner ensures the implementation of the recommendations of the Tree Preservation Plan, prepared by Jackson Arboriculture, dated June 8, 2023.
28. The owner shall complete to the satisfaction of the Director of Operations of the Town of Niagara-on-the-Lake and Canada Post:
 - a) Include on all offers of purchase and sale, a statement that advises the prospective purchaser:
 - i) that the home/business mail delivery will be from a designated Centralized Mail Box; and
 - ii) that the developers/owners be responsible for officially notifying the purchasers of the exact Centralized Mail Box locations prior to the closing of any home sales.
 - b) The owner further agrees to:
 - i) work with Canada Post to determine and provide temporary suitable Centralized Mail Box locations which may be utilized by Canada Post until the curbs, boulevards and sidewalks are in place in the remainder of the subdivision;
 - ii) install a concrete pad in accordance with the requirements of and in locations to be approved by Canada Post to facilitate the placement of Community Mail Boxes;
 - iii) identify the pads above on the engineering servicing drawings. Said pads are to be poured at the time of the sidewalk and/or curb installation within each phase of the plan of subdivision; and

- iv) determine the location of all centralized mail receiving facilities in co-operation with Canada Post and to indicate the location of the centralized mail facilities on appropriate maps, information boards and plans. Maps are also to be prominently displayed in the sales office(s) showing specific Centralized Mail Facility locations.

29. That the subdivision agreement between the owner and the Town include the following clauses:

- a) *“The applicant shall contact Enbridge Gas Inc.’s Customer Connections department by emailing CustomerConnectionsContactCentre@Enbridge.com to determine gas availability, service and meter installation details and to ensure all gas piping is installed prior to the commencement of site landscaping (including, but not limited to: tree planting, silva cells, and/or soil trenches) and/or asphalt paving.”*
- b) *“If easement(s) are required to service this development and any future adjacent developments, the owner will provide all easement(s) to Enbridge Gas Distribution at no cost.”*
- c) *“If the gas main needs to be relocated as a result of changes in the alignment or grade of the future road allowances or for temporary gas pipe installations pertaining to phased construction, all costs are the responsibility of the applicant.”*

30. That the subdivision agreement between the owner and the Town include the following clauses:

- a) *The Owner acknowledges and agrees to convey any easement(s) as deemed necessary by Bell Canada to service this new development. The Owner further agrees and acknowledges to convey such easements at no cost to Bell Canada.*
- b) *The Owner agrees that should any conflict arise with existing Bell Canada facilities or easements within the subject area, the Owner shall be responsible for the relocation of any such facilities or easements at their own cost.*

Clearance of Conditions

Prior to granting final approval for the subdivision plan, the Town of Niagara-on-the-Lake Community and Development Services Department requires **written notification** from the following departments and agencies that their respective conditions have been met satisfactorily.

Department or Agency	Conditions
Town Community & Development Services	1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 18, 19
Town Corporate Services	4, 6, 10

Town Operations	10, 11, 12, 13, 14, 15, 16, 17, 18, 25, 28
Town Fire & Emergency Services	11, 13, 17(v), 25
Niagara Region	11, 19, 20, 21, 22, 23, 24
Niagara Escarpment Commission	13, 25, 26, 27
Canada Post	28
Enbridge Gas	29
Bell Canada	30

Clearance of the conditions of final approval should be coordinated with the following contacts:

Department or Agency	Contact Name	Address	Phone	Email
Town Community and Development Services	Kirsten McCauley, Director of Community and Development Services	1593 Four Mile Creek Road, P.O. Box 100, Virgil, ON, L0S 1T0	(905) 468-3266	Kirsten.mccauley@notl.com
Town Operations Department	Darren MacKenzie, Manager of Public Works	1593 Four Mile Creek Road, P.O. Box 100, Virgil, ON, L0S 1T0	(905) 468-3266	Darren.mackenzie@notl.com
Town Fire and Emergency Services	Jay Plato, Fire Chief	1593 Four Mile Creek Road, P.O. Box 100, Virgil, ON, L0S 1T0	(905) 468-3266 x321	jay.plato@notl.com
Town Corporate Services Department	Grant Bivol, Town Clerk	1593 Four Mile Creek Road, P.O. Box 100, Virgil, ON, L0S 1T0	(905) 468-3266	clerks@notl.com
Niagara Region	Amy Shanks, Senior Planner	1815 Sir Isaac Brock Way, P.O. Box 1042, Thorold, ON, L2V 4T7	(905) 980-6000 x3532	Amy.shanks@niagararegion.ca
Niagara Escarpment Commission	Janey Sperling, Senior Strategic Advisor	232 Guelph Street, Georgetown, ON L7G 4B1	(226) 668-5247	Janet.sperling@ontario.ca
Canada Post	Andrew Carrigan, Delivery Planning Officer	955 Highbury Ave. N. London, ON N5Y 1A3	(226) 268-5914	andrew.carrigan@canadapost.ca
Enbridge Gas	Enbridge Gas Inc.	500 Consumers Road, North York, ON M2J 1P8	(416) 495-5386	municipalplanning@enbridge.com
Bell Canada				planninganddevelopment@bell.ca

Review of Conditions

Should any of the conditions appear unjustified or their resolution appear onerous, requests to revise or remove conditions may be presented by the owner to the Committee

of the Whole. The Committee will consider requests to revise or delete conditions, subject to ratification by Town Council.