

**File:** 26T-18-24-02  
**Draft Approval Date:** \_\_\_\_\_  
**Lapse Date:** \_\_\_\_\_

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

The conditions of draft plan approval and registration of “Konik Estates Phase 2” Subdivision, File 26T-18-24-02 are as follows:

1. That approval applies to the “Konik Estates Phase 2” Draft Plan of Subdivision, being Part Township Lot 119 Niagara Part 1, 30R15177; Part Township Lot 119 as in RO334969; and, Part Township Lot 119 Niagara Parts 1 and 2, 30R15178 Except Plan 30M468, Niagara-on-the-Lake, Regional Municipality of Niagara, prepared by J.D. Barnes LTD., O.L.S., dated September 21, 2023, showing 52 lots for single-detached dwellings, Blocks 53-54 for 6 street townhouse units, Block 55 for a private condominium, and a public road (“Crossroads Drive”).
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 a model home (as permitted by Town policy and subject to any necessary agreements), 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 a 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 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.
10. 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.
  - c. Canada Post's multi-unit policy, which requires that the owner/developer provide the centralized mail facility (front loading lockbox assembly or rear-loading mailroom [mandatory for 100 units or more]), at their own expense, will be in effect for buildings and complexes with a common lobby, common indoor or sheltered space.

11. That the owner receive acceptance from the Ministry of Multiculturalism and Citizenship (MCM) for the archaeological assessment report titled Stage 1-2 Archaeological Assessment, prepared by Amick Consultants Ltd. (dated November 28, 2023). If the Ministry requires further archaeological work to be completed prior to acknowledging this report, these report(s) must also be submitted to and acknowledged by the Ministry, to the satisfaction of Niagara Region and Town of Niagara-on-the-Lake, prior to clearance of this condition. No demolition, grading or other soil disturbances shall take place on the subject property prior to the issuance of a letter from MCM through Niagara Region and the Town, confirming that all archaeological resource concerns have met licensing and resource conservation requirements.
12. That a Phase II Environmental Assessment (ESA) prepared by a Qualified Professional (QP) in accordance with the Environmental Protection Act and associated regulations, as amended, describing the current conditions of the lands assessed as part of the report titled Phase I Environmental Site Assessment (ESA), prepared by Soil-Mat Engineers & Consultants Ltd. (dated September 6, 2017), be submitted to the satisfaction of Niagara Region. 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.
13. That a letter (and/or updated Phase I ESA with soil sampling, at minimum) prepared by a Qualified Professional (QP) be submitted to the satisfaction of Niagara Region indicating that, in the opinion of the QP, the lands assessed as part of the report titled Phase I Environmental Site Assessment (ESA), prepared by Soil-Mat Engineers & Consultants Ltd. (dated December 14, 2023) are suitable for residential use. A Letter of Reliance 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.
14. That the subdivision agreement contain provisions whereby the owner agrees to implement the recommendations of the approved ESAs required by Conditions 12 and 13, if applicable.
15. That the owner agrees to include the following warning clause in all Agreements of Purchase and Sale or Lease or Occupancy, and that it also be included in the subdivision agreement:

*“These lands are in proximity to lands designated for agricultural uses. The lands may be subject to noise, odour, and/or dust from nearby agricultural operations, which may interfere with some activities of the dwelling occupants.”*

16. That the owner provides written acknowledgement to Niagara Region 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.
17. That the owner provide 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.
18. That prior to final approval for registration of this plan of subdivision, the owner submit design drawings (with calculations) for the sanitary and storm drainage systems required to service this development to confirm the capacity in the Regional system prior to the Town signing off on the CLI ECA forms.
19. That the owner ensures that all streets and development blocks can provide access in accordance with the Regional Municipality of Niagara's Corporate Policy for Waste Collection, and by-laws relating to the curbside collection of waste.
20. That the owner ensures, throughout all phases of development, that all streets and development blocks can provide an access in accordance with the Niagara Region's Corporate Policy for Waste Collection, and by-laws relating to the curbside collection of waste. Where a through street is not maintained, the owner shall provide a revised draft plan to show an appropriate temporary turnaround to permit Regional waste collection services.
21. That the subdivision agreement contain a condition that the owner/developer shall comply with the Niagara Region's Corporate Policy for Waste Collection, and complete the Application for Commencement of Collection and Indemnity Agreement.
22. That the owner submit engineering drawings for the proposed roads within the development to Niagara Region for review and approval to ensure the design can accommodate the Regional collection vehicles.
23. That the owner implements the recommendations of the Constraints Analysis, prepared by North-South Environmental Inc., dated October 2022.
24. That the owner submits an Arborist Report and Tree Preservation Plan for Lots 50-52, and Block 54.
25. That the owner provides a replanting and replacement plan to replace trees required to be removed to facilitate development, in accordance with Condition 23. The number of trees to be replaced, and amount of security fees will be determined by Town Staff once final tree removal requirements have been finalized.

26. That the owner implements the Tree Preservation Plan, as approved by Town Staff, in accordance with Condition 23.
27. That prior to final approval for registration of this plan, the owner shall obtain Ministry of the Environment, Conservation and Parks Certificates of Approval to the satisfaction of the Niagara Region for the necessary servicing (watermains, storm sewers, sanitary sewers and stormwater management Ponds) for this development.
28. That the 0.3 metre (1 foot) access reserve (shown as Block 58) on the Draft Plan be deeded to the Town free and clear of any mortgages, liens, or encumbrances.
29. That the access reserve shown as Block 65 (Frontier Drive) on Plan 30M-359 and the access reserve shown as Block 47 (Crossroads Drive) on Plan 30M-468 be lifted upon the registration of the Subdivision Agreement.
30. That the public streets, including all necessary daylighting triangles, be deeded to the Town free and clear of any mortgages, liens, or encumbrances.
31. That a road widening of 3 metres along Line 2 Road (shown as Block 56) and Concession 6 Road (shown as Block 57) be deeded to the Town free and clear of any mortgages, liens, and encumbrances to the satisfaction of the Town's Operations Department.
32. That the owner dedicates daylighting triangles on all lots or blocks abutting proposed intersections in accordance with Town standards and to be included in the roadway dedications of public streets to the Town.
33. That the existing turnaround at the terminus of Frontier Drive be removed to the satisfaction of the Town's Operations Department, and that:
  - a. Frontier Drive be extended to the east limit of the proposed development;
  - b. All affected fronting lots on Frontier Drive be restored, repaired, and reinstated, including any impacted driveways;
  - c. All existing curb and boulevard shall be extended to the east limit of the proposed development;
  - d. All existing sidewalk shall be extended to the east limit of the proposed development, to be installed at a minimum width of 1.5 metres.
34. That the watermain system be designed to the satisfaction of the Town's Operations Department, and the proposed watermain for Crossroads Drive be a minimum size of 200 mm diameter.
35. That detailed calculations be submitted, confirming available sanitary sewer capacity in the existing downstream system, to the satisfaction of the Town's Operations Department. The submitted sanitary analysis should confirm the proposed sanitary flows for the subject development align with the previously completed Virgil Sanitary

Sewer Capacity Impact Study, dated May 19, 2019, and that the proposed densities for the subject lands do not exceed the population figures utilized as part of the previous sanitary capacity analysis. The rectifying of any capacity issue identified through such calculations shall be cost shared by the Owner and future subsequent developments, and that the owner pays their proportionate share of costs of any sewer oversizing deemed necessary.

36. 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 Department for review and approval.
37. That prior to approval of the final plan, the owner submit to the Niagara Region and the Town's Operations Department a detailed stormwater management plan for the subdivision completed in accordance with the Ministry of the Environment documents entitled Stormwater Management Planning and Design Manual, March 2003 and Stormwater Quality Guidelines for New Development, May 1991, as amended, endorsed by a suitably qualified professional engineer. A copy of the stormwater management plan should also be submitted to the Niagara Region for its review and response, which is the clearance agency for this condition. Furthermore, that the owner agree in the Subdivision Agreement to implement the approved stormwater management plan.
  - a) Detailed lot grading, servicing and drainage plans, noting both existing and proposed grades and the means whereby overland flows will be accommodated across the site;
  - b) Detailed erosion and sedimentation control plans.
  - c) Consideration for Low Impact Development design features.
38. 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 drawing. Copies of the certification shall be circulated to the NPCA.
39. That detailed lot grading, servicing and drainage 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 for review and approval. This condition shall also be included in the Subdivision Agreement.
40. That the owner provides the following information to establish the appropriate security deposits to be identified in the Subdivision Agreement:
  - a. Cost of all on-site and off-site works; and,
  - b. Number of working days required to complete the proposed works.
41. 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 municipality any required easements for services or utilities.
- b. To construct a 1.5 m sidewalk along one side of internal streets in the subdivision at its own expense. Sidewalks are to be installed as per the Town's Sidewalk Installation Policy for new developments (Policy CDS-PLG-004)
- c. That road designs are to be to urban standards and turning circles must provide a minimum pavement center line radius of 12.5 m.
- d. That Crossroads Drive and the extension of Frontier Drive have a minimum road allowance width of 20 metres.
- e. That all roads are constructed to current Town urban design standards, which includes a 8.5 m wide pavement, concrete curb and gutter with barrier type curbs (O.P.S.D 600.04) and storm sewers to the satisfaction of the Town's Operations Department.
- f. The owner will provide the Town with calculations indicating the existing water supply pressure and proposed fire flows. The approval of the servicing plans will be subject to the delivery of adequate water system pressure and fire flows and approval by the Fire and Emergency Services. Upon completion of primary services and before any reductions to letters of credit the fire hydrants will be pressure and flow tested and marked with the appropriate colour flow rate identification disc, as per Fire Code requirements.
- g. The owner will be required to submit an overall lot grading plan to be approved by the Town's Operation Department and Building Department 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 and that the grading plan shall provide that the maximum height of the concrete showing on the foundation shall not be more than 30.48 cm (12 inches) above the final approved grade elevation.
- h. That all infrastructure works will be constructed to current Town specifications.
- i. That all construction plans and supporting reports will be subject to peer review at the owner's cost.
- j. That all the proposed infrastructure will be subject to the Town's inspection at the owner's expense, including qualitative and quantitative tests made of any materials used in the construction of any works.
- k. That a streetscape plan of the internal streets illustrating the location of on-street parking, street trees, pavement markings, community mailbox(s) locations, hydrants, regulatory and no parking signs and street lighting is submitted to the Town's Operations Department for approval.
- l. The owner agrees to consult with the Town's Operations Department to determine appropriate placement of no parking signage, to be installed along one side of all internal streets.
- m. That all required no parking and regulatory traffic signs be installed by the developer at their expense, prior to the issuance of the Preliminary Certificate of Completion of Primary Services.
- n. That a street lighting design/plan is submitted to the Town's Operations Department for approval and constructed to Town standards.

- o. That a site alteration and sediment control plan is submitted to the Town's Operations Department for approval.
- p. That a sanitary and storm drainage area plan be submitted to the Town's Operations Department for approval.
- q. That the owner be required to provide the appropriate securities and cash deposits prior to commencing the installation of infrastructure.
- r. That the owner be required to provide a maintenance security deposit of \$100,000 toward the cleaning of the stormwater management pond, the security deposit will be released upon completion of the development and the owner demonstrating that the pond has been cleaned, restored, and maintained, as applicable, to the approved original design specifications and Town Engineering Standards.
- s. That the owner will direct all stormwater flows from the proposed development's drainage area to the stormwater management pond constructed in Konik Estates Phase 1, in accordance with the Town's Engineering Standards;
- t. That the owner shall install the necessary storm sewer infrastructure to service the proposed development. The sewers shall be designed to accommodate all stormwater flows within the sub-catchment area as approved by the Town's Operations Department;
- u. The owner agrees to consult with Canada Post and the Town's Operations Department to determine suitable permanent locations for the community mailboxes, which shall be included on appropriate servicing plans.
- v. The owner shall retain a row of existing trees in the exterior side yard of Block 54 and the rear yards of lots 5 to 26, inclusive, subject to a Tree Preservation Plan assessing the condition and viability of retaining such trees. If the trees are required to be removed, the Owner agrees to plant a minimum of one (1) mature coniferous tree, or an alternative suitable tree as determined by the arborist to the satisfaction of the Town, that is a minimum of 50mm in caliper in the exterior side yard of Block 54, and the rear yards of lots 5 to 26, inclusive.
- w. If the trees are required to be removed in accordance with Condition 40 v., the owner shall install a fence along the exterior side yard of Block 54 and the rear yards of lots 5 to 26, inclusive, in accordance with the Town's Fence By-law.
- x. The owner acknowledges that the injuring of any boundary tree is subject to an application to the Town for a permit to injure a private tree. The injuring must be carried out by, or under the supervision of a Certified Arborist following approved industry standards. An Arborist Report must be received by the Town prior to the permit being issued, that clearly outlines the process, and that states that the tree can be safely retained following the injuring of the tree.
- y. The owner agrees that access to the site for construction and servicing shall be from Concession 6 Road. Consideration for alternative accesses shall be subject to approval from the Town's Operations Department.
- z. The owner agrees that all offers, and agreements of purchase and sale shall contain a clause that the purchaser will be responsible for their proportionate share of future maintenance of the Stormwater Management Pond as determined through the Ontario Drainage Act, s17, RSO1990.



- aa. The owner agrees 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 their lot where they exist.
- bb. That the owner agrees that during the construction of the development site that 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).
- cc. That the owner agrees that prior to the assumption of the development by the Town that the storm sewers, including catchbasins, will be flushed and inspected and the pond will be drained and cleaned of silt and sediment. This condition shall also be included in the Subdivision Agreement.

42. 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 where a current and valid easement exists within the subject area, the Owner shall be responsible for the relocation of any such facilities or easements at their own cost.*
- c. *Should deeply buried archaeological remains/resources be found during construction activities, all activities impacting archaeological resources must cease immediately, and the proponent must notify the Archaeology Programs Unit of the Ministry of Multiculturalism and Citizenship (MCM) (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 the 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, MCM 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.*

## 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, 11, 23, 24, 25, 26, 41(g, v, w, x), 42(c) |
| Town Corporate Services               | 9, 36  |
| Town Operations                       | 9, 10, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41    |
| Town Fire & Emergency Services        | 41(f)  |
| Niagara Region                        | 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 36, 37, 42(c)    |
| Canada Post                           | 10, 41(u)  |
| Bell Canada                           | 42(a, b)   |

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           |

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|----------------|---|---|----------------------|--------------------------------|
| Niagara Region | Amy Shanks,<br>Senior Planner                 | 1815 Sir Isaac Brock Way, P.O. Box 1042, Thorold, ON, L2V 4T7 | (905) 980-6000 x3532 | Amy.shanks@niagararegion.ca    |
| Canada Post    | Andrew Carrigan,<br>Delivery Planning Officer | 955 Highbury Ave. N. London, ON N5Y 1A3                       | (226) 268-5914       | andrew.carrigan@canadapost.ca  |
| 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.

